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Ethics beyond Immanence

Rupturing Law's Method through Sex Research

Victoria Brooks

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of the requirements of the University of Westminster
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Abstract

The law defines the sexuality of bodies in limited terms. The law draws lines across the body which force it into identification and categorisation (male, female, straight, gay, human, non-human). These definitions conflict with the materialities of the body and the materialities of the encounter of sex, which are inclined to 'push' at and reterritorialize these boundaries. Legal and ethical frames restrict the ability of law and of research to access the encounter of sex, where bodies push these limits by moving, touching, kissing, fucking, caressing and becoming. I claim that ethics as contextual laws that derive from encounters carry the potential to subvert the subjugation of bodies from law's inside. This subversion is dependant on establishing access to the encounter, which I argue is possible through methodologically radical sexuality research. The researcher's body is also a sexed body, and I claim that by situating, and tracing the process of situating the 'I' within research, the 'soul' of the individual finds itself connected to the collective, through lines drawn across it by law. These lines can be 'ruptured' through their reconnection to the encounter of sex, which draws law deeper into the encounter itself, such that law can be disrupted through desire into becoming radically 'ethical'. Through the deployment of Deleuzian Conceptual and Methodological Tools, I frame the basis through which law can become-ethical. The creation of this theoretical frame brings me and my thesis to wade through the 'waves' of real encounters with the field, at a nudist beach at Cap D'Agde in Southern France. In the course of doing so, I become reflexive and critical of the Deleuzian conceptual and methodological tools and whether even radical and immanent philosophy is equipped to assist the law in becoming-ethical in its judgment of sex. I claim that access to the encounter and to disrupting law towards radically bodily-sensitive judgment and 'measuring' of encounters is a 'practical' endeavour. This is the radically ethical responsibility of the Researcher-Practitioner: A lawyer-researcher body who is deployed into the field to subvert the spectres of law and sexuality through practice, which is traced presence within the real, fleeting, everlasting, intimate, joyful, painful, banal, profound, hot, heavy, fast, slow, violent, gentle and sand-drenched encounter of sex itself.

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I thank my beyond-immanence who appeared right at the end, or very near to the end, but also when he should. This is for you, my love, for hearing my pulse.

Declaration

This thesis is submitted to the Westminster Law School, University of Westminster, in partial fulfilment of the requirements for the degree Doctor of Philosophy. I declare that all the material contained in this thesis is my own work.

Signed:

Dated:

Fore-play

'This sand of 100,000 orgasms, just allowing me to sit, and how I desire just one of those at the hands of just one man, such a curious thing.'

Extract from field notes: 15 July 2014, 6.20am

Wave I: Sunrise at the Cap

‘...sometimes I laugh, sometimes I weep, depending on whether the wave makes me laugh or knocks me out, I am within the passion affects...’¹

This thesis is not about sexuality, but about sex. It is about the actual flesh and blood, fluid and solid, rhizomatic, assemblic, *real* encounter of sex between bodies. The term ‘sexuality’ cannot be removed from the encounter altogether though. Perhaps it could be said that sex is the *objective* encounter enjoyed and in some cases, suffered, by bodies, whereas sexuality is the *objective* relation that determines what *kind* of sex the body is likely to have. This term ‘sexuality’ is used by law as an instrument of regulation and control of encounters of sex. Both sexuality and sex are held out to be objective, and yet they can be convincingly argued as personal, both in terms of experience of *sex* as encounter, and embodiment of the relation that we have with ourselves through *sexuality*. Sexuality however, as being held to be universally applicable as that which conditions encounters, becomes the body of rules that we look to for direction, as well as control of other bodies – *to keep us safe, or to turn us on*.

The dilemma that emerges is how do we find our way into these radically personal and unique encounters, if they are so radically personal and unique? Is it not a tragedy, that so many gems of pleasure and tears of suffering are seemingly lost in these mysterious, enticing and fleeting moments, within some-body’s intimate world? It is more than tragic. It is a material loss for research, as well as the law, since these encounters of *sex* and their messy reality are the ethical way-in to the possibility of effective changes to the modes of regulation of *sexuality*. Between the terms, there is a space that allows for the personal unique encounter of sex to be the *ethical* path to accessing, and therefore questioning, the modes through which the collective is legally controlled. Finding the site of mixture between the personal and impersonal is difficult in a world that demands objectivity not only in law, but in *research* too. Finding such a space and translating it into change in the law therefore demands a deep change – which I shall argue, must be a change in method.

Through the coming ‘Waves’ I develop an understanding of the space between sex and sexuality. Emerging through this examination is the importance of other key

¹ Deleuze, G (1981) *Sur Spinoza Cours Vincennes* in Lambert, L (2013) *The Funambulist Pamphlets* Volume 1: Spinoza (New York, Punctum books) p71.

terms: law, ethics, method, bodies and space. These terms begin to condition the gap between what can be described as the encounter of *sex* and what can be described as socially, legally and politically loaded, and highly gendered *sexuality*. I have tested the reality of this gap, and the reality of this conditioning too. I argue that this 'testing', which must be through 'researching', is not only necessary in understanding the singularities which condition this gap, but also in developing an understanding of the uniqueness and effect of the connection between *law* and *sex/sexuality* respectively. I further argue that it is necessary to render this enquiry personal to the individual that enquires. In short, I argue for a 'partial'² and expressive mode of enquiry.³ Such a method allows for authentic connection to *sex* and a de-centering of a somewhat fetishized focus on *sexuality*. This also allows for what I argue to be the *necessary and lived-as-subject*⁴ conception of the connection between law and *sex/sexuality*.

The Waves

In testing the relationship between sex and sexuality and being 'partial', I was required to literally 'wade in', to be open to the confrontation of the waves of encounter, and to move with them.⁵ Sometimes the confrontation with the wave will mean that there are 'shock effects' because the presence within an encounter requires access to the 'first type of knowledge'.⁶ This wading-in results in presence within an

² The necessity and advantage of ascribing 'partiality' and therefore the recognition of an element of personal bias to research methodologies, including ethnography, forms part of the essential arguments of this thesis. This will be explored in depth in the following Parts. See for example, Haraway, D 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective' in Haraway, D (ed) (1991) *Simians, Cyborgs and Women: The Reinvention of Nature* (London, Free Association Books) in particular, pp190-194.

³ Not only do methods need to be radical in terms of their mode, but also in terms of their presentation. My thesis will go on to explore in depth the particular demand for such radical modes and presentation, particularly in the context of sexuality research. See an examples of critical and experimental methodology informed by Deleuzian thought in Hofsess, B and Sonenberg, J (2013) Enter: Ho/rhizoanalysis, *Cultural Studies*, 20:10, 1-10 and Honan, E (2007) Writing a Rhizome: An (im)plausible Methodology, *International Journal of Qualitative Studies in Education*, 20:5, 531-546.

⁴ 'lived-as-subject' is necessarily *joui-sans-jouissance* or the 'sheer lived' as defined by Kolozova, K (2011) The figure of the stranger: a possibility for transcendental minimalism or radical subjectivity, *Journal for Cultural and Religious Theory*, 11:3, 59-64 p60. My thesis will build on this position in order to construct a methodological mode of access to the fleeting 'sheer-lived' moment, which is necessary for law's ethical presence within the physical encounter of sex, as opposed to the purely legally 'stamped' and framed ethical encounter of sexuality. I explore this as an ethical methodological position in depth in *Wave III*.

⁵ Deleuze, G (1981) op. cit., at n.1, p70.

⁶ Ibid. at p71.

encounter that shocks, illuminates and exposes one to the possibility of beginning (at least) to know about both ourselves, and the encounter into which we enter.⁷

The field into which the researcher wades is comprised of the researcher themselves, research apparatus (text, theory, notes and maps), as well as the encounters that are there to wade into as the 'object' of research.⁸ Throughout my thesis, I attempt to chart my wading into the field as researcher. This process of charting brought me, and will bring the reader too, into encounters that 'shock'. I wade in, deeper and deeper, and am nearly knocked off of my feet (sometimes) by the strength of the waves of each encounter. The aim of my research is to access both myself as researcher, as well as the encounter. This access means the mode of research and the presentation of that research needs to be sensitive to both my body, and other bodies within encounters.⁹ This is a 'rhythm sense', and is attentive wading itself. This is the first wave of knowledge that allows sensitivity to not only the relationships I have with myself, but the relationships between the molecules of the wave: '[knowledge] does not happen anymore between the extensive parts, the wave's wet parts and my body's parts; it happens between and within the relationships. Relationships that compose the wave, relationships that compose my body'.¹⁰

Each wave is the careful and sensitive charting of an encounter as part of the encounter I have waded into as part of my thesis. The encounter may not be an encounter with the 'field' in terms of physical presence. The encounter will be between and with elements of the research assemblage.¹¹ This in turn leads to ways of both moving with the somewhat repetitious motion of waves, but always remaining open to the different ways in which they might affect us. Each wave that I encounter prompts an opening for knowing, as well as modes of knowing, the assemblage, and understanding sex and its relationship with ethics, law and sexuality - '*I am within the passion affects.*'¹² Each encounter in my thesis sees concepts

⁷ Id.

⁸ Fox, N and Alldred, P (2013) The sexuality assemblage, *The Sociological Review*, Vol. 61, p769-789, p780. The authors argue for a 'materialist' approach to sexuality research, where it is necessary to understand research as an 'assemblage'. This approach allows the researcher to access the connections between the various bodies, which in turn allows understanding of the processes by which something is understood to be sexual. I build on this position throughout and argue that the 'researcher' needs an explicitly situated place within such an assemblage. I examine 'assemblages in detail in *Wave II* and build upon this understanding in the context of research at the Cap through encounters in *Wave IV*.

⁹ I set out my conceptual framing of the body and of space and their impact on legal and ethical frames in this wave, Conceptual Tools II.

¹⁰ Deleuze, G (1981) op. cit., at n.6.

¹¹ I examine the assemblage as Conceptual Tool V in *Wave II*.

¹² Deleuze, G (1981) op. cit., at n.1.

build and take on a life of their own and form Conceptual Tools, and enter into relations with Methodological Tools. These eventually combine in the final two Waves, as Practical Methodological Tools for wading.¹³

In this first *Wave*, I set out the Conceptual Tools of (I) law and ethics and (II) body and space. I then apply these to the beach at Cap d'Agde ('the Cap') in order to understand the legal and ethical frameworks operating within the space. I then bring these Conceptual Tools into confrontation with sexuality research in order to develop what I claim to be the appropriate Methodological Tools for understanding the legal and ethical schemata at the Cap. I claim as the first Tool that the researcher must be explicitly situated, particularly in research which claims to access sex as encounter. This is necessary in order to understand the 'lived' ethical and legal codes that apply to such encounters, and why they apply. The Methodological Tools of Risk (II) and Method Mapping (III) come with this demand to 'get personal'.

In *Wave II*, I build on this by developing the Conceptual Tools of Sex to Sexuality (III) Immanence (IV), and Assemblages (V). As these concepts grow and enter into the field of sexuality research, I find further demands placed upon my method. Here I identify the limits of immanence and immanent methodologies in capturing the ethical demands of sex, due to its fleeting, hidden and intimate nature. This is the framing of my original contribution to knowledge: that in the course of conceiving of a 'wandering' sexual body, a space must be created for a radical form of research which must be able to inform the law. In *Wave III*, I identify restrictions placed on my research in the form of 'research ethics' which are both ethical and legal. In the course of the rare opportunity to examine an 'ethical code' closely, I find that the 'I' and the field are brought closer together through common sexual suffering, through the lines of law. In doing so, I further develop my conceptual frame through Conceptual Tool VI (the soul). The soul brings together the deep personal

¹³ These concepts take on a life of their own, as they wade with me into encounters with the Cap. I move with Deleuze's framing of the life' and 'personality' of concepts. See Deleuze, G and Guattari, F (2011) trans. Burchell, G and Tomlinson, H, *What is Philosophy?* (London, Verso) p69. Deleuze subverts Cartesian philosophy that separates concepts as instruments of reason from the bodies of philosophers: 'Conceptual personae are thinkers, solely thinkers, and their personalized are closely linked to the diagrammatic features of thought and the intensive features of concepts'. Concepts therefore grow and develop with the body that uses them as tools, such that the concepts themselves are embodied and performed and brought closer to my body, and mixed with my flesh. For my thesis in the context of the particular terrain I examine, this necessitates the subsequent development of these Conceptual Tools (I-VI) into Methodological Tools (I-III). While doing so, I must remain reflexive as to their limits, and the transformation and adaptation of these concepts in response to the waves of encounter, into Practical Methodological Tools (I and II).

relationship a researcher-body will have with sexuality (I examine my own closely in the course of my thesis), and the outer field of potentials which are complicit within encounters of sex.

My original contribution to knowledge develops into a demand for law to access a radical ethical schema, which should be informed through the 'act' of research. I claim that legal practice (ethics, or indeed judgment) ought to be unified with research practice, such that a hybrid Researcher-Practitioner body becomes the site of the becoming-sex of ethics (Practical Methodological Tools I). Researchers as open and enquiring bodies are uniquely placed in the field to determine the ethical balance within encounters of sex, and therefore uniquely placed to be a productive body in disrupting the law, and allowing it to be shaped by desiring bodies, in whatever form they may come. In *Wave IV* I examine the main challenge that such a body would have, especially within a field such as the Cap. This is a challenge to the researcher-practitioner, as well as a challenge to law its process of becoming-ethical. Such a challenge I claim is that sex is 'angelic', and therefore as elusive and fleeting as the 'reality' of the moment in which it occurs practically. This demands from law and its researcher-practitioner, a 'creative' act of measuring - or admitting that it cannot. This is my second and final Practical Methodological Tool, before I bring my thesis to a conclusion.

Since my thesis is a complex and personal enquiry into this space, I will begin by situating myself and my particular connection to the space which forms the auto-ethnographic site of my thesis. From the coming extract it is apparent that there are a number of specific theoretical tenets that form the basis of the discussion that comes. These theoretical aspects are not unequivocally distinct from one another and will build and develop throughout my thesis, as immanently as is necessary in representing what they are, and how they are used to describe what they relate to.¹⁴ My thesis is written along multiple strands, which are designed to represent the encounter that is the PhD itself. The text thereby becomes rhizomatic in its representation of the encounters and assemblages, through which it seeks to trace lines. My thesis will therefore be a blend of differing strands, from the academic to the personal, from philosophical to non-philosophical.¹⁵

¹⁴ This will be argued as a core 'ethical' concern when researching and representing research on law and sex/sexuality.

¹⁵ See Honan, E (2007), op. cit. at n.3, p533. The author undertook a similar endeavour, albeit within the very different field of teaching practice. She writes, 'I developed a text that was at one and the same time academic and personal, embodied and abstracted, poetic and rational.'

Nevertheless, it is important that some site of departure is formulated, in order to identify the conditions for the rhizome's emergence, and the *lines in the blood of its tubers*. Within a rhizome, the notion of 'start' is difficult in and of itself, since it can be difficult to pinpoint, and can become a fetishized origin which in turn becomes a 'false' site of orientation, and entrenchment of the hierarchical power that is negatively constructive of *sexuality*.¹⁶ One must write with and across a rhizome, rather than from and to, since the rhizomatic project does not lend itself to linear description.¹⁷ It is more accurate to say that there are multiple sites of 'beginning', or 'tubers'¹⁸ which do not necessarily coincide with the strictly linear temporal beginning of my thesis. I suggest the most notable intensity, or tuber, is represented in the following extract from my field diary produced at the Cap. This occasion is a place where multiple lines can be identified as emerging, combining, coalescing, flying gracefully, and flying death-ward.¹⁹

Sunrise/Or the story of the masturbating Frenchman

'At the beach ready for sunrise. My my, how wonderful it is and just before simply bursting with life, buzzing in the air, the day to come. All the energy from the night before, the days before and those to come, skulking below the horizon. Reflected in the surface of the sea. It is completely mad here, on my way here, I see to my left, doing some exercises, one of the guys cruising me yesterday. As I knew would happen, on this deserted beach at this time, he

¹⁶ See for instance Philippopoulos-Mihalopoulos, A and Webb, T (2015) *Vulnerable Bodies, Vulnerable Systems*, *International Journal of Law in Context*, 11:4, 444-46. See in particular p453, where the authors situate the body as constructed by, as well as constructing, a multitude of forces, and thereby a site of resisting potential. The radical emplacement of the body, as open and connected with other human and non-human bodies creates the possibility for recognising the occasions of inaccuracy in patriarchal constructions through social, political and legal forces. In line with this, I claim these sites of recognition frame the body as also event, a confluence of forces, and as *rhizomatic* 'tuber'. This theoretical position can also be practical and methodological, as I later argue. This is an applied way of moving away from the privileging of socially and legally accepted rules and as constitutive of norm, as well the determination of ethical and legal rules as to how the body must move within the field in the course of research.

¹⁷ Honan, E (2007), *op. cit.* at n.15.

¹⁸ *Id.*

¹⁹ See De Miranda, L (2013) *Is a New Life Possible: Deleuze and the Lines*, *Deleuze Studies*, 7:1, 106-152, p115. I explore the author's position in depth in *Wave III*. Law draws lines across a soul which can emerge in encounters as either a line of 'grace' or a line that brings about the 'death-drive'. This relates to my exposition of the researcher's 'inner-field' and how it relates to the field into which the researcher enters, and the related dilemma of determining the 'ethical balance' between multiple reflexive bodies.

starts to run over to me. I tell him I want to be on my own, he asks if he can walk with me, I say thanks but no. I want to be alone, with the sunrise, reflect with some beautiful music X gave to me that he said reminds him of us.

I sit a way up the beach, near to where I was yesterday, just at the moving edge of the sea. 10 mins and the guy comes running up to me, past and then turns back, sits next to me, too close. I explain again I want to be on my own, he says 'no speak, just meditation'. I nod, but doubtful of this. 2 mins later, he stands up and takes off his shorts and sits back down. I am conscious of this but do not look up, then see him reaching for my foot, erection in hand. I move away and say, I told you I wanted to be on my own, he says I just like being near you, and I say thanks and this is nice, but I want to be on my own, I get up, he asks me not to go but I walk off. I feel a bit bad, but this is my time for myself. I now see a fisherman, calmly walking in and out of the calm sea, just so stunning, magical. Another man with a metal-detector walks up to me and just says *c'est magnifique*, I say *oui, oui, c'est magnifique*. He walks off. One lone man also walks naked urgently around the beach.

We are the only people there.'

Extract from field diary: 15 July 2014, 6.20am

The Cap

The sites of enquiry that I set out in the opening paragraphs of this thesis emerge in the way I personally encountered them while at the Cap. This encountering was physical in the sense that I found myself a part of a powerful assemblage in which all bodies were heavily inscribed by sexuality and by law. I did not go to the Cap simply by accident in the course of exploration or experimentation, at least not solely. Rather I was there because I *wanted* to go there. Transparency to oneself as to the reasons for being-there, fucking-there, at such a place are essential to the close and valid enquiry of the subject matter itself.²⁰ Before I explore and attempt an understanding of the significance of the *draw* to the Cap, I first set out basic background of the site, before moving on to sketch a preliminary map. From this

²⁰ See Dean, T (2009) *Unlimited Intimacy: Reflections on the Subculture of Barebacking* (Chicago, University of Chicago Press). The author of this text is resolutely, honestly and explicitly situated within his project (see in particular p8). However, there seems to be a distinction between the self as 'vehicle' (albeit essential, productively and thoroughly exposed to the field) for 'carrying out' research, and being explicit about the findings that self-reflection bring concerning the field itself.

flows the theoretical tenets and methodological mode through which I explore the site of enquiry that is the connection/disjunction between law, sexuality and the act and encounter of sex itself.

The Cap is the coastal area of the French town of Agde. Much of the beach there is public and becomes extremely crowded during the hottest summer months, or 'peak season', which is July- September.²¹ However, the area is best known for the *Plage Naturiste* which attracts both naturists and swingers.²² Nudism and sex tourism in the Cap has its historical origins at the *Ile du Levant*, which is a small island on the French Riviera, slightly east of Toulon. This prompted the emergence of a substantial nudist subculture that was allowed to proliferate due to the economic benefits for the French economy.²³ Despite the troubles experienced by the culture's supporters, their behaviour was ultimately supported not only for the economic benefits, but because the practice seemed to correlate with an image of 'French liberty', which was seen to be in the French national interest.²⁴

In the 1960s, *Ile du Levant* became a destination for not only nudism, but also sex tourism for all kinds of sexual identities. The Cap took over this function in the 1970s. The economic dimension remains, and the Cap is undoubtedly a prosperous site for commercial enterprise.²⁵ However, what is particularly significant here is how the legal dynamics of the space have emerged. It is generally accepted in all jurisdictions that public sex is against the law, as well as public nudity. This is not just an incidental occurrence, since the very existence of the space and the activity which takes place there is dependent on such activity being unfettered by the enforcement of prohibitory law. Or rather, that the space is legitimised by some kind of legal framework. The legal framework that exists at the Cap is highly complex and takes this thesis into deep waters, or rather, deeply into the gap between sexuality and sex.

²¹ See Capd'Agdesales.com 'When to visit Cap d'Agde' <http://www.capdagdesales.com/when-to-visit-cap-dagde/> accessed 18 April 2016; and Capd'AgdeFrance.co.uk 'When to Visit Cap d'Agde' <http://www.capdagdefrance.co.uk/when-visit/> accessed 18 April 2016 for general information regarding the peak times for visiting the resort.

²² See Cap d'Agde Info.com 'Cap d'Agde Information about nudism, naturism, swingers, nightlife and nude beach' <http://www.capdagdeinfo.com/> accessed 18 April 2016.

²³ See Harp, S (2011) Demanding Vacation au naturel: European Nudism and Postwar Municipal Development on the French Riviera, *Journal of Modern History*, 83:3, 513-543 for an in-depth analysis of the historical and economic development of the space.

²⁴ Id.

²⁵ See Trachman, M (2012) The Pornographers Trade: A discredited professional group's rhetoric, *control and know-how*, 54:1.

To begin, I will set out the two regimes that seem to be present in terms of law at the space of the Cap: Law and Ethics.²⁶

Conceptual Tools I: Law and Ethics

The horizon of law tends to be a particular *ethical* framework. When we look toward law, we find that while it is sensitive to an encounter, it also has, as its horizon, a particular sexual schema. This schema tends to require the identification of bodies (for example male/female, dead/living, human/non-human). The schema is reflexive, yet repetitious in light of its fixation upon these particular horizons. The law is repetitious of its horizon, through its cumbersome, and ‘sometimes mechanistic application’.²⁷ This repetitious mechanism arises through somewhat simplistic modes of regulation that do not reflect the complex and fluid nature of the body. The law observes the body and says it must be (at least minimally) clothed at the beach, and it says that sex must not take place in public. Yet upon observation of the Cap, through physical presence as researcher, it is clear that these behaviours *do* take place. Upon observing the Cap, we then find the presence of *different* encounters to those that the law has (supposedly) imagined.²⁸ Yet even these encounters retain the ‘stamp’ of law, and are the paradoxical enactment of what the law claims to prohibit.

Philippopoulos-Mihalopoulos finds that through its presence within encounters, law retains its ‘immanence’ – this is how encounters retain the ‘stamp’ of law. This emplacement becomes the foundation of the law’s ability to access moments and

²⁶ The relation between law and ethics is an unsettled dynamic in law’s critique. It is clear through the examination of critiques of Levinasian, Spinozan and Deleuzian ethics that law is an imposing presence (see Lefebvre, A (2006) *We Do Not Yet Know What the Law Can Do*, *Contemporary Political Theory*, 5, 52-67, p65) in both its formation, influence and determination of ethics. Ethics can be considered the ‘physical encounter’ that law can never quite capture and judge justly (see Gurnham’s critique of Levinasian ethics, Gurnham, D (2004) *The Otherness of the Dead*, *Law and Literature*, 16:3, 327-351, p336), or indeed ‘rules for living’, see Philippopoulos-Mihalopoulos’ understanding of Spinoza in Philippopoulos-Mihalopoulos, A (2013) *Atmospheres of Law: Senses, Affects, Lawscapes, Emotion Space and Society*, 7, 35-44. Law can then be seen as that which tries to capture the rules of encounter and to establish a code that assumes (as well as assures as produces) the repetition of the encounter, through mechanistic and arbitrary judgments of encounters and determinations of what a body can, and should, do. The relation between law and ethics in the *ethical* context of sex/sexuality is the major focus of this thesis and I ask the question as to whether it is possible through the current regime of law (as it relates to ethics) to connect to this highly personal, and arguably inaccessible, place.

²⁷ Philippopoulos-Mihalopoulos, A (2015) *Spatial Justice: Body, Lawscape, Atmosphere* (Oxon, Routledge) p57.

²⁸ Id.

encounters it cannot observe, but *needs* to observe, judge and regulate.²⁹ This is the framing of the law's motion and method. Through ethics (those rules which are contingent upon encounters and context) law can flip back to the moment, through a line traced across the 'folds of repetition.'³⁰ Ethics firmly situate and place law in the physical encounter, which means the body brings law with it (for good or for bad) through necessarily embodied repetition – ethics always carries the stamp of law, as well as the possibility for a flight away through the power of bodies.³¹

Ethics are not however an escape from law, but they do hold the possibility for creation of an *alternative* horizon. Ethics are, as Philippopoulos-Mihalopoulos writes, 'inscribed in law's immanence', meaning that they are essential connective tissue between the encounter and what becomes law.³² This being so, what are ethics in relation to law? For Spinoza and for Philippopoulos-Mihalopoulos, it seems that they are the 'embodied-laws', or laws reflexive to the lived, but owned by the body – 'allowing its desire to carry on being and becoming, and becoming *stronger* as a body through encounters with other bodies.'³³ Initially, it appears that law is *inescapable* through ethics. This is indeed the case, and it is not my intention to escape law, but rather to question it from the *inside, or from within its immanence*.³⁴ My claim is that it is necessary to question law from the standpoint of the ethical – as this is where the encounter that embodies the law is located. Through this informed presence-ing in the course of research, it is possible and indeed demanded, that the experience of law be charted, in order to find the openings for change at the level of embodiment.

The *ethical* determination is a moment of decision, a moment of transformation, a moment of change, a moment of emergence, and a moment of the possibility of *understanding* ethics as embodied law. It is an event between bodies, who, in their turn, must be conceived of embodying the law. In this sense, there is no difference

²⁹ The retaining of 'immanence' for law is an essential position in allowing it to retain a presence within the encounters it regulates through its relation with ethics. That is not to say that immanence is the most useful position for law to retain in this regard. I continue to problematise this position throughout this thesis, see in particular *Wave II*.

³⁰ Philippopoulos-Mihalopoulos, A (2015), op. cit. at n. 27, p58.

³¹ I consider the 'joy of ethics' as a platform for re-casting research ethics as mapped onto the body of the researcher in the particular field, in *Wave III*.

³² Philippopoulos-Mihalopoulos, A (2015), op. cit. at n. 27, p57.

³³ Ibid. at p206. My emphasis. The 'ethical balance' would therefore appear to be an 'ethical judgment' that 'allows' bodies to become stronger, as opposed to weaker.

³⁴ See *Wave II* where I examine Immanence in depth as a theoretical and methodological tool.

between law and ethics: it becomes a question of attunement³⁵ and co-emergence. For Deleuze, this attunement, or moment, can be characterised as an encounter, and the ethical moment can either be an encounter of joy, affirmation or sadness and decomposition,

When a body 'encounters' another body, or an idea another idea, it happens that the two relations sometimes combine to form a more powerful whole, and sometimes one decomposes the other, destroying the cohesion of its parts...we experience joy when a body encounters ours and enters into composition with it, and sadness when, on the contrary, a body or an idea threatens our own coherence.³⁶

This moment places the body among other bodies in order to make a contingent decision, not a morally transcendent one. For law, the terms of an encounter must be attributed values in accordance with law's transcendent, morality-based, system of judgment. Yet through Deleuze, ethics emerge immanently, between bodies, and thereby law also finds its way to the encounter and within the encounter. There is a separation between the two, in the sense that if we think of law, we merely consider the interaction between impressions and images of bodies and make a determination in accordance with the law's moral commitments and conditions, which are images and representations attributed to bodies, *at once immovable and moveable through the physical*. This framing can be thought of also in terms of a relation between affect and effect. Affect is multi-directional – personally and impersonally generates and the pathway through which one body connects to another.³⁷ Affect is also that which is 'observed' by law and solidified into the particles of law.³⁸ If effect is the moment of observation and subsequent determination, then this is the moment of judgment. This judgment is based on preconceived terms and yet the law of affect (accessible through the ethical encounter) carries potential to produce alternative outcomes

³⁵ I will return to the notion of 'attunement' later in my thesis (*Wave IV*). I understand attunement as 'methodological sensitivity' to the encounter. See Stewart, K (2011) *Atmospheric Attunements, Environment and Planning D: Society and Space*, 29, 445-453 and *Wave IV* where I explore the demand to attune to the ethical balance relating specifically to the field in which the researcher is present and sexuality through Stewart's thesis.

³⁶ Deleuze, G (1988) trans. Hurley, R, *Spinoza Practical Philosophy* (San Francisco, City Light Books) p19.

³⁷ See n. 26.

³⁸ Brooks, V (2014) p294. Brooks, V (2014) *Confronting Law Affectively: Encounters of a Patpong Sex Tourist, Law and Critique*, 25, 289-309, p294. See also the effect of 'measuring' affects and encounters in this Wave, 'Ethics of the 'I' and later in relation to my final Practical Methodological Tool II in *Wave IV*.

through different encounters: 'the law is thereby *effective* as opposed to affective; *representative* as opposed to experimental.'³⁹

A Deleuzian re-conceptualisation of ethics as affects, rather than ethics as morality, allows us to encounter 'moveable' law. Ethics and law are indeed the same, but they occur at different levels of relations. It is no longer simply a contrast between good and bad, guilty and not guilty, liable and not liable, alive and dead, man or woman, gay or straight, subjective or objective, but rather, 'the qualitative differences of modes of existence.'⁴⁰ Qualitative modes are observable through encounters themselves. Almost counter-intuitively, it is actually law as it takes place on the level of the ethical that allows for the possibility of this observation, as Deleuze writes:

Law, whether moral or ethical, does not provide us with any knowledge; it makes nothing known. At worst it prevents the formation of knowledge (the law of the tyrant). At best, it prepares for knowledge and makes it possible (the law of Abraham or of Christ).⁴¹

Law can be conceived of as ethics, or it can be conceived of as morality, yet it makes no difference to the formation of the regime to which bodies find themselves subject. The encounter which takes place between bodies can be thought of as that which produces ethics, or law, but that which is then becomes distilled into the effective surface of law, or *reterritorialized*.⁴² It is then the power of the molecular encounter which is able to provide insight into its emergence, which for this thesis, becomes the 'ethical moment', characterised as love for Lefebvre,⁴³ or a moment of radical

³⁹ Id.

⁴⁰ Deleuze, G (1988), op. cit. at n.36, p24.

⁴¹ Id.

⁴² This term can be found in much of Deleuze's work. See for example, Deleuze, G and Guattari, F (2004a) trans. Hurley, R, Seem, M and Lane, H, *Anti-Oedipus* (London, Continuum) in particular p281. The term means for a mode or assumption in relation to bodies to be continuously 'embedded' by capitalism and its associated systems such as law to create a continuously moving, yet solid territory, for instance gender or sexuality. Deterritorialization is always possible however and flows from the reflexivity of these lines that are drawn - there is always the possibility for their collapse due to the volatile nature of the 'body' that they describe and define. The authors capture the relation as a law of 'falling tendency': 'That is why the law of the falling tendency - that is, limits never reached because they are always surpassed and always reproduced - has seemed to us to have a corollary and even as a direct manifestation, the simultaneity of the two movements of deterritorialization and reterritorialization.'

⁴³ Lefebvre, A, 'Human Rights in Deleuze and Bergson's Later Philosophy' in de Sutter, L and McGee, K (eds) (2012) *Deleuze and Law* (Edinburgh, Edinburgh University Press) p54.

innocence as conceptualised by Philippopoulos-Mihalopoulos.⁴⁴ Law and ethics are one and the same, yet the point here is the method of problematisation and access to the modes of liberating the subject, which emerge from the very encounter which produces the territorializing effect. This moment is akin to the Deleuzian conception of event, which for law is its moment of emergence and transformative potential embodied by the *line of flight*.⁴⁵ For law, the event, is the key to transformation of jurisprudence, as de Sutter and McGee write, that it subsumes this moment that melts the subjective and objective into a new universality, 'it is a peculiar and paradoxical universality: that of the event itself in all its inconsistency and adventurousness.'⁴⁶ It is the idea of adventure, of experiment that is attendant with the event as between bodies that has the potential of bringing the deterritorializing affect into the effective plane. Adventure and experiment thereby become the 'ethical' principles: as de Sutter and McGee argue, 'A case for universal jurisprudence is nothing but an event endowed with a principle, a principle derived only from the extension of the event, a principle of mobility impelling the Adventure.'⁴⁷ This universal jurisprudence is the returning of law to encounter, and simultaneous shifting of its ethical basis.

My claim is that this moment is all the more pronounced and difficult to negotiate in the context of sexual encounters. I will go on to say that sexuality is determined and determinative of lines in the soul,⁴⁸ which radically condition the space of affect that emerges in these encounters. This leads to the position that law, as a territorialization of affect, begins and emerges from that very same space.

⁴⁴ Philippopoulos-Mihalopoulos, A 'Law, Space, Bodies: The Emergence of Spatial Justice' in de Sutter, L and McGee, K (eds) (2012) *Deleuze and Law* (Edinburgh, Edinburgh University Press) p97.

⁴⁵ See Deleuze, G and Guattari, F (2004b) trans. Massumi, B, *A Thousand Plateaus* (London, Continuum) p10, where the authors describe a line of flight, 'The line of flight marks: the reality of a finite number of dimensions that the multiplicity effectively fills; the impossibility of a supplementary dimension, unless the multiplicity is transformed by the line of flight...' This line of flight can be productive if it is part of the process of deterritorialization and reterritorialization, if it manages to transform and recast the dimensions of a multiplicity. See also *Wave III* where I examine the potential of the *ethical* encounter as generative of a line of flight and transformative of *law*.

⁴⁶ de Sutter, L and McGee, K 'Postscript: A Brief Reflection on the Universality of Jurisprudence' in de Sutter, L and McGee, K (eds) (2012) p210.

⁴⁷ *Ibid.* at p211.

⁴⁸ The 'soul' for Deleuze is what brings together the inner and outer field. It is one surface, which is as deep as it is shallow, marked and made up of lines which connect the individual with, as well as withdraw it from, the collective. I examine this in depth in *Wave III*, Conceptual Tools VI.

I claim that in order to understand the deep relationship between law and sex, which often emerges as a surface relation between law and sexuality, it is necessary to understand both law and the encounter (sex) not only as co-emergent, but both theoretically, and through embodied experience. Law, as we have seen, is necessarily embodied through its emergence and connection and reflexivity to ethics as contingent upon encounter. It is my claim that through radical modes of research, it is possible to reach a deeper understanding of the dynamic between law and sex. In the course of doing so, it will be possible to determine whether its regulation of encounters produce negative effects on bodies that represent ignorance of its ethical immanence. However, in order to reach this site, it is necessary to delve into the actual relation of co-emergence. It is not enough to simply say that there is a co-emergence between bodies (that by the way are 'sexual'), space and law. It is also not enough to say that we can name the site of this co-emergence as the ethical and immanent domain of law. This proposition needs to be tested by a body. This body is sexual, and this is not something that can be simply taken as given, and not as radically conditioning the encounter itself.

Ethics are contingent upon context. They must be, for they are embodied and become-codes or rules through the difference of each encounter, and through their resistance to law. That is not to say this is a negative dynamic of resistance, but rather a productive playing and dancing with law, an act of mutual seduction and production, a mutual breath of immanence. The context here is that of sex and sexuality, or rather the gap between. Those who conduct sexuality research have noted the particular ethical demands of such a context.

Law and Ethics: The Cap

Authors such as Velton⁴⁹ have attempted, albeit inadvertently, to formulate an embodied law of the Cap. Such texts take the space as the context in which to develop a set of rules for the bodies that enter and engage with other bodies within the space. The ethics of the Cap are not simply formulated and articulated, since the body and dynamic between embodied laws/ethics, and between these and law, remain unsettled. These are the deepest questions that require answering. However, at this stage it is necessary to set out the 'state of mapping' as it is at the Cap, before continuing on to reach an understanding of ethics and of law at the Cap through the act of research.

⁴⁹ Velton, R (2003) *The Naked Truth about Cap d'Agde* (USA, Scarlett, Oh!).

There is both an ethical and legal regime at the Cap. First, in terms of law, at both the historical *Ile du Levant* and later the Cap as it is now, nudism⁵⁰ is subject to 'tolerance, rather than authorisation by municipal decree'.⁵¹ Similarly, the overt sexual encounters that took place later on were also never explicitly authorised by municipal French laws. Harp writes that: 'the municipality mostly turned a blind eye, neither defending, nor limiting sexual escapades there'.⁵² It seems that an informal *ethical* tolerance emerges with regard to the sexual activity that takes place at the Cap. The case then appears to be very simple in terms of law, in that the sexual activity and bodily exposure is simply constructively allowed by law. Law prohibits this activity, albeit not explicitly on this occasion, in this *particular space*. We therefore have an apparently simple, but in reality rather complex legal dynamic here.

The activity that takes place is clearly against the law, and yet it happens unfettered. This could be argued to be simply 'productive transgression', where we find a Foucauldian production of 'criminality' through the prohibition of the same behaviours and thus the perpetual production of transgression and perpetuation of the legal regime.⁵³ Law on the one hand, is productive of 'transgressive' behaviours, but also on the other, disingenuously ignorant of this production, as Glover claims: 'Regulation is always generative, producing the object it claims merely to discover or to find in the social field in which it operates'.⁵⁴ This dynamic is also translated spatially, in the form of the Foucauldian concept of 'Heterotopia'.⁵⁵ The translation

⁵⁰ See Barcan, R (2004) *Nudity* (New York, Berg) on nudity and the many ways in which humans have a deeply paradoxical and problematic relationship with nudity, where the naked body is historically, culturally, socially and philosophically inscribed. I will go on further to explore the sexed, naked body, particularly in relation to the body at the Cap, which instead of being erotic, becomes (mostly) through repeated exposure, another form or uniform or clothing (see *Wave IV*).

⁵¹ Harp, S (2011), op. cit. at n.23, p515.

⁵² Ibid. at p541.

⁵³ See Foucault, M (1998) *The Will to Knowledge: The History of Sexuality 1* (London, Penguin Books) and much commentary on this, particularly Butler, J (1992) as cited in Glover, D (2005) Foucault, Sexuality and Liberalism, *New Formations*, 55:1, 29-43. Later in this thesis I move away from this somewhat 'negative' framing of desire and the resulting negative constitution of spaces through desire, through the Deleuzian/Deleuzian-Guattarian position. The negative framing of desire holds true to Bataille's suggestion of 'eroticism' as 'essentially transgressive', see Bataille, G (2001) trans. Dalwood, M, *Eroticism* (London, Penguin Books), p29.

⁵⁴ Glover, D, (2005), op. cit. at n.53, p30.

⁵⁵ See in particular Foucault, M (1986) trans. Miskowiec, J, Of Other Spaces: Utopias and Heterotopias, *Diacritics*, 16:1, 22-27 as explained by Kotsakis, A (2011) 'Heterotopias of the Environment: Law's Forgotten Spaces' in *Law and Ecology: New Environmental Foundations* (Oxon, Routledge) pp193-214 on the production of such a space as a 'real, 'lived-in' place that function as 'counter-sites, a kind of effectively enacted utopia in which... other real sites... are simultaneously represented, contested and inverted...' He further writes, 'Armed with this peculiar spatial function, heterotopias expose and oppose, invert and divert,

of productive transgression to spatial sites allows for the recognition of bodies in the encounter of sex, to create the conditions for rendering visible, as well as altering, the horizons of 'acceptable' sexual experience. Through the enactment of utopic sexuality in Heterotopic sites, the problems and potentials of the regimes that produce these behaviours, are potentially exposed.⁵⁶ Two important questions are left open: first, desire remains at an impasse, as negatively constructed, as always in opposition to and cast in a position of always 'overcoming'. Secondly, how as researcher is it possible to be otherwise present within a site of Heterotopia? How is it possible to enter such a site and *not* enact law's utopic vision?

The mode of law is to regulate, but also to produce, which is a dynamic that is embodied. The body is thereby the site of conflict and production – it is the entity that is subsumed within the modes and functions of law and told what to do and what not to. It has also been empowered to become that which holds the potential to change these modes and functions, should they cause the body to become *weaker* and cause it to suffer. As we have seen, the problem of situating enquiry at the site of the body is that it can be seen to be *complicit* in the construction of legal regimes.

Conceptual Tools II: Body and Space

The body is heavily inscribed and represented by law, but most heavily and problematically so in relation to gender and sexuality.⁵⁷ Critical scholarship has long since turned away from accepting the body as fixed and accurately determined by law, and moved towards the sustained and necessary conception of the 'resisting' body, with the ability to determine itself and affect⁵⁸ regimes such as law, but also to

dissemble and upset legal and political choices by casting their preferred spaces in a different 'light'. See also my examination and critique in *Wave II* of Andriotis, K (2010) Heterotopic Erotic Oases: The Public Nude Beach Experience, *Annals of Tourism Research*, 37:4, 1076-1096, where the author applies the concept of 'Heterotopia' to a nude beach on which public sex takes place.

⁵⁶ Id.

⁵⁷ The critique of such legal colonization has been most robustly and successfully achieved through extensive feminist scholarship, particularly as part of an extensive project to rearticulate gender as a problematically embodied aspect of identity, thereby upsetting the dominating effect of masculine representations of gender. See also *Wave III* Conceptual Tools VI, which examines feminist resistance in the context of the connection between legal personhood and the disembodiment of the female researcher in the course of determining research ethics in the field.

⁵⁸ There is a substantial body of work concerning not only the body and its affects and capacity to affect, but also the unique properties of affect itself, as unpredictable and ripe for theorization and emanating from both human and non-human bodies; see for instance Blackman, L (2012) *Immaterial Bodies* (London, Sage) and Manning, E (2010) Always more than one: the collectivity of a life, *Body and Society*, 16:1, 117-127 on the potential for affects to

be affected and determined through experiences and interactions with others.⁵⁹ Feminist scholarship has been and remains particularly weighty in conceiving of the body beyond the modes and language of regimes of patriarchal power, and through radical and volatile, multi-directional other-worldly movements and trajectories.⁶⁰ Despite the considerable leaps and openings created for the body, the sexuality of the body remains hugely contested. Contested, that is, in terms of whether sexuality is determined *by*, or determined *for*, the body.

My thesis situates itself as Deleuzian.⁶¹ This in turn situates it as anti-Freudian, post-Marxist, post-structuralist and arguably, *posthumanist*.⁶² Such terms are heavily loaded when it comes to attributing them to the lens through which the body is viewed and then subsequently sketched. The consequence to accepting the Deleuzian/Guattarian cry that 'sexuality is everywhere'⁶³ means that we simultaneously depart from and hold true to the notion that sexuality is formed by and for the state, in order to sustain capitalist modes of production.⁶⁴ If sexuality is

produce new processes and to burst and transform established ones. See also Philippopoulos-Mihalopoulos, A (2013) *Atmospheres of Law: Senses, Affects, Lawscapes, Emotion Space and Society*, 7, 35-44 for the connection between law and affect in the production of atmospheres. See also Brooks, V (2014) for a theoretical framework demonstrating the connection between the affect of bodies and the territorializing 'effect' of law into stable 'states'. I go on to examine the power of affect in different ways throughout, but here it is necessary to firmly situate the 'body' as 'affecting'.

⁵⁹ See again Blackman, L (2012) for in-depth exploration of the body's ability to affect and be affected and also *Wave II* of this thesis in relation to affect, sexuality and co-extensiveness of the body with other bodies.

⁶⁰ See for instance Irigaray, L (1993) *An Ethics of Sexual Difference* (New York, Cornell University Press) on the 'difference' of feminine sexuality, see also Grosz, E (1994) *Volatile Bodies* (Indianapolis, Indiana University Press), Grosz, E (1995) *Space, Time and Perversion* (London, Routledge) and Gatens, M (1996) *Imaginary Bodies* (London, Routledge). See also *Wave III* where I explore this further in relation to legal personhood and the female researcher, and the shaping of the 'researcher-practitioner' body as subversive Practical Methodological Tool I.

⁶¹ This in itself is an answer to an *ethical* call and a decision which must be accounted for. I consider this in depth in *Wave III*.

⁶² See for example Beckman, F (2013) *Between Desire and Pleasure: A Deleuzian Theory of Sexuality* (Edinburgh, Edinburgh University Press), where the author develops Deleuzian theory towards 'post-human sexuality'. I examine conception as the foundation for developing a 'Radical Orgasmic Research Ethic' in *Wave IV*. See also embodied empirical methodological approaches which flow from this theoretical position in Fox, N and Alldred, P (2013) The sexuality assemblage, *The Sociological Review*, Vol. 61, p769-789 and Fox, N and Alldred, P (2015) The sexuality assemblages of young men: A new materialist analysis, *Sexualities*, 18:8, 905-920.

⁶³ See Deleuze, G and Guattari, F (2004a) trans. Hurley, R, Seem, M and Lane, H, *Anti-Oedipus* (London, Continuum) and also as acknowledged in applied approaches such as Fox, N and Alldred, P (2013) and Fox, N and Alldred, P (2015).

⁶⁴ Id.

indeed 'everywhere', then the call to interrogate how sexuality is lived through encounters of sex becomes that much more important to answer.⁶⁵

The '*cock of greasy philosophy*' considers itself capable of adequately thinking and determining the directions and gentle inclinations of individual sexual desire - *Alain Badiou fucking theories, numbers, a weeping member, the cock of greasy philosophy*.⁶⁶ It will therefore become necessary to remove even the fetters of philosophical thinking in favour of allowing the body to 'think' for itself.⁶⁷ Philosophy will need to be eschewed by the sex-y (as opposed to sexual body) in favour of the subject as more radically conceived - or as *lived and real*, in the moment, at sunrise, at 0620 on 15 July 2014 at the Cap, or any other space, at any other time, as any other body.⁶⁸ The problem with this mode of rearticulating the body (as holding the potential for resisting legal modes of identification and categorization, both conceptually and as-lived) is to determine the limit of the body, or its 'skin', and thereafter the point of distinction between one body and another, in order to 'place' the body within an ethical (and therefore legal) regime that connects to lived experience.

This limit is a *legal* concern because law's concern is to 'locate', to 'demarcate' and to 'identify' bodies.⁶⁹ If it is accepted that there is indeed such a limit, then what are the rules which allow for the co-existence of bodies and from where do they come? I argue that these rules ought to be radically conceived, as embodied law, or *ethics*. If this is the case, it is necessary to establish the relation between ethics as *embodied law* and *the body of law*, if indeed there is a relation, or an in-distinction.

⁶⁵ I develop the distinction and connection between sex and sexuality in the context of law and ethics in *Wave II*, Conceptual Tools III.

⁶⁶ See Rhymbu's poetic rejection of any authority as capable of determining feminine sexual experience:

the dead cock that protrudes from every philosophy
Alain Badiou fucking theories, numbers,
a weeping member, the cock of greasy philosophy
what are you good for, if you could only save us

Extract from Rhymbu, G (2016) 'Sex is a Desert'

<http://www.thewhitereview.org/poetry/sex-is-a-desert/> accessed on 26 April 2016

⁶⁷ See my examination of this 'practical' encountering position in *Waves III* and *IV*.

⁶⁸ I argue that radical, adventurous jurisprudence is possible only to produce where the radical legal practitioner (or true ethicist) becomes researcher. This is part of my claim that law can only become ethical once it reconnects with the real, lived encounter - which it can reach through a practical 'leap' into the field from radically conceived Deleuzian sexuality, into the real, lived field. I examine this methodological mode in depth in *Waves III* and *IV*.

⁶⁹ See Philippopoulos-Mihalopoulos, A (2015), op. cit. at n. 32, p46. While the body can be taken as having folded with law to produces limits and demarcations; 'all bodies are leaking'. The author means both human and non-human bodies, which due to their volatility are capable of shifting these limits. I explore this further in the context of research and sexuality at the Cap in the following *Wave II*.

Before moving on to articulate the relation between the site of the Cap and embodied law or ethics, it is necessary to reach an understanding of the role of space within this relation. This is because I am considering a particular space: the space of the Cap. The Cap is not only an area into which bodies enter; rather it is *also* a body and capable of participating within an encounter.

Since this thesis takes as its focus the law and the body (as sex-y, or sexual), then it must also take as its focus the space that is an 'active factor' and formative of the construction of bodies and law.⁷⁰ The issue that remains starkly open and enticingly unsettled is that of the limit and the 'zone of relationality' between the individual, the body as radically conceived, and space.⁷¹ Philippopoulos-Mihalopoulos critiques the concept of 'relationality' as capable even in and of itself to allow for what he argues to be the 'co-emergence' of bodies and space.⁷² Here lies the site of problematisation of the limit between bodies and spaces. This is in line with the post-human and new materialist project through which there is a call to de-centre the human body as the site and origin of emergence.⁷³ With the clearly legal concerns in mind of demarcation and limitation, as well as the concern of the lived-real of the body, the location of the limit must be continuously questioned and tested. I have and will continue to assert that in the context of sex/sexuality, and in the context even of research and of law, these conceptualisations must remain continually reflexive to the lived, in order to remain rooted in the body. I argue that 'embodied laws' or ethics as they might be conceived, are the access point to the zone of the lived, or to the encounter that is generative of *ethics* and therefore creative of the conditions for a challenge to *law*.

⁷⁰ Hubbard et al (2002) *Thinking Geographically: Space, Theory and Contemporary Human Geography* as cited in Philippopoulos-Mihalopoulos, A (2015) p40.

⁷¹ Id.

⁷² Id.

⁷³ The posthuman project (see for instance Braidotti, R (2013) *The Posthuman* (Cambridge, Polity Press) and Bennett, J (2010) *Vibrant Matter* (USA, Duke University Press) among many others, which I examine in depth for their contribution to the 'sexual' body in *Wave IV*. This project has sought to deepen the power of space and recast the relation between human and non-human bodies ontologically. See also *Object Oriented Ontology*: for instance Brassier, R (2007) *Nihil Unbound* (London, Palgrave Macmillan) and Bryant, L (2011) *Democracy of Objects* (Open Humanities Press), which I consider in the context of the limits of immanence as a conceptual tool. Such scholarship has sought to reshape the way that bodies and space relate, attempting thereby to assert the power of 'things' and non-human bodies to shape the world and relations within it. The project has only recently been connected with sexuality: see Beckman, F (2013) and research in sexuality, see Fox and Alldred (2013); (2015). This is telling in the sense that sexuality is so deeply entrenched, even philosophically, as a traditionally human concern and experience. I also consider in depth the relation between law and non-human bodies in *Wave IV*.

Body and Space: The Cap

The Cap is located to the south east of the small French city of Beziers and on the west side of a long 'spit' of land running from the town of Sète:

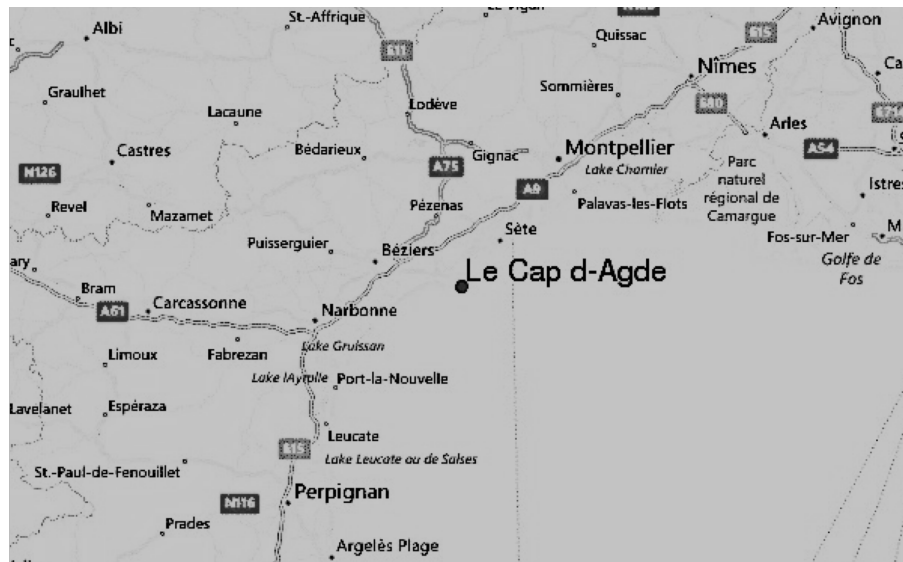


Figure 1: Location of Cap d'Agde⁷⁴

The 'Naked City' accompanied by the *plage naturiste* is located at the base of the Cap to the west of Port Ambonne as shown here:

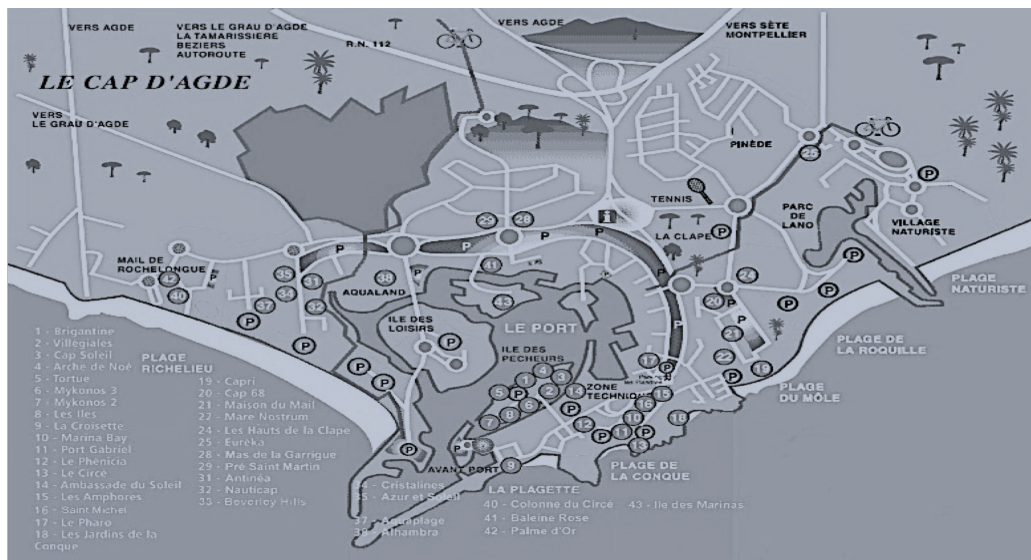


Figure 2: Location of *plage naturiste*⁷⁵

⁷⁴ Retrieved from <http://www.weather-forecast.com/locations/Le-Cap-d-Agde> accessed on 26 April 2016.

⁷⁵ Retrieved from <http://location-mer-capdagde.wifeo.com/la-residence.php> accessed on 26 April 2016.

Zooming further in to the resort itself, the proximity of the 'Naked City' is revealed to the beach upon where the majority of nudist and sexual behaviour takes place:



Figure 3: The Naked City and *plage naturiste*⁷⁶

These maps make it impossible, as a visitor to the space, to discern the locations or type of sexual activity that take place unless one is actually there to observe it and feel it. The obscuring of the nature of the space becomes all the more obvious, as well as frustrating when one looks at 'Google Street View'. First, interestingly, it is impossible to place the Street View cursor onto the nudist section of the beach. See fig.4 below where my body is unable to land on the beach, but is able to enter the resort itself:

⁷⁶ Retrieved from <http://www.capdagdefrance.co.uk/maps/> accessed on 26 April 2016.

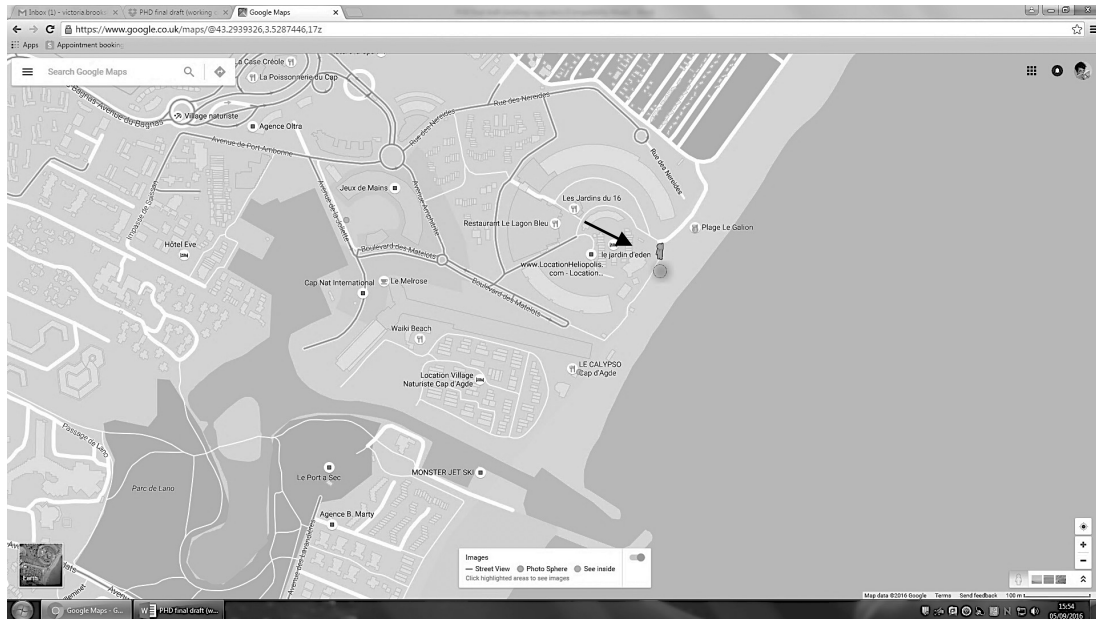


Figure 4: Attempted Beach View⁷⁷

The situation does not improve when one enters the resort. I am stopped at the point of entering the beach itself, as it is possible to see below. I am left only tantalised by a glimpse of the sea on the horizon:

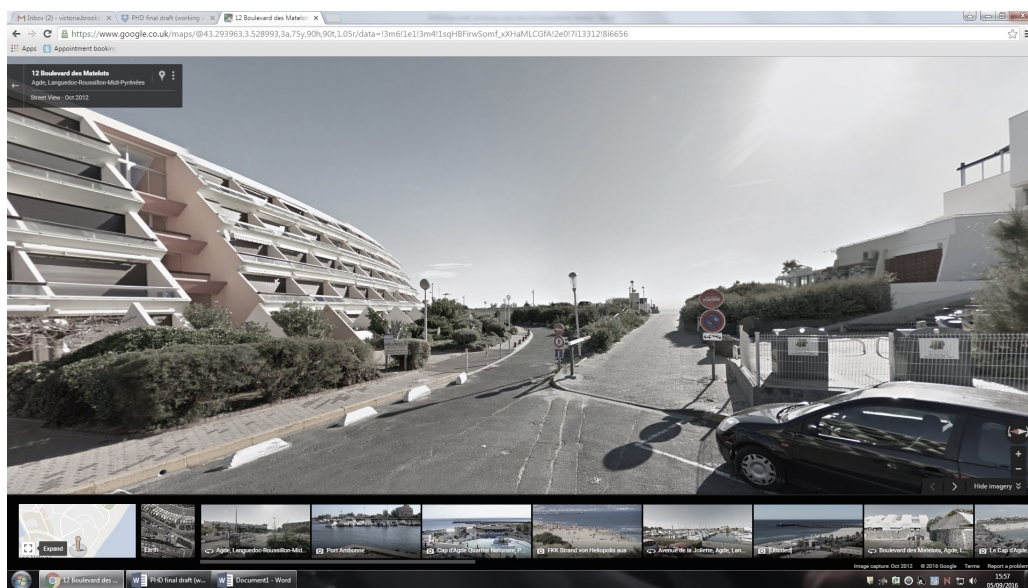


Figure 5: Horizons Only⁷⁸

⁷⁷ This view can be retrieved from Google Maps (Street View) at <https://www.google.co.uk/maps/@43.2945902,3.5285247,16z> accessed on 3 September 2016.

⁷⁸ This view can be retrieved from Google Maps (Street View) at https://www.google.co.uk/maps/@43.293963,3.528993,3a,75y,90h,90t/data=!3m6!1e1!3m4!1sqHBFirwSomf_xXHMLCGfA!2e0!7i13312!8i6656 accessed on 3 September 2016

I am left to walk in endless virtual circles, among the centre of the decaying resort, while constantly denied access to the beach:



Figure 6: Endless Circles⁷⁹



Figure 7: The Apartment⁸⁰

⁷⁹ This view can be retrieved from Google Maps (Street View) at https://www.google.co.uk/maps/@43.2951319,3.5290789,3a,75y,90h,89.44t/data=!3m6!1e1!3m4!1s_-WzQ_HsDnJEUvaKdYzvxQ!2e0!7i13312!8i6656 accessed on 3 September 2016.

⁸⁰ This view can be retrieved from Google Maps (Street View) at https://www.google.co.uk/maps/@43.2957336,3.5262069,3a,75y,90h,89.44t/data=!3m6!1e1!3m4!1s-ysoiZTVtR8_13tfn8UA!2e0!7i13312!8i6656 accessed on 3 September 2016.

It is possible to gain access to the outside of the very apartment in which I stayed (fig.7 above) which is the place second to the left. It could only be accessed through the gate in the foreground of the photo. This screen capture and the two above look incredibly alien due to their complete absence of naked human bodies. While I was there in peak season, the pathways and general public areas particularly in the resort itself were usually packed with bodies, yet Google has managed to represent a truly naked ghost-town. The situation is also similar when one approaches the resort by car. While it is possible to see signs to '*Plage Naturiste*' or the '*naturist village*', there is nothing to indicate or warn in relation to the kind of sexual activity you may find there. Rather, one is left to discover through word of mouth and reputation of the space. Once you enter the car park, you are unable to go into the resort itself until you pay for either a day or a week pass. At this point, you will also encounter a sign which proclaims '*nudite obligatoire*' and you pass through a gate (I personally found this a rather demanding and disquieting sign which I first encountered it - I almost wanted to keep my clothes on in order to infringe its rather presumptuous and invasive demand). While there is no enforcement of this flirtatious yet almost sinister rule, it became clear later in my stay at the Cap that indeed nudity *is* sometimes enforced on the beach itself. One can also access the the beach without passing through the official gate and buying a pass - this is by taking a rather long walk from *Marseillan Plage* which is towards Sète (see fig.1 above) to the east of *Plage Naturiste*. As one approaches this way, you will encounter barely noticeable signs which say '*nudist beach*' as you enter it. You will gradually then encounter an ever-thickening mass of increasingly more tightly packed naked bodies.⁸¹

The mapping of the space carries little in the way of traces of sexual activity. Upon researching the space, it is possible to discern that there is indeed a nude beach, on which open sexual activity occurs. Yet the mapping of the space actively obscures the beach from view. On an assessment of the literature, one can gain an impression that the resort boasts a wealth of sex clubs and saunas, as well as a thriving economy,

⁸¹ Informed by Extracts from field diary 13 July 2014 relating to my arrival and then a walk along the beach on 15 July 2014. See also *Wave IV* where I set out an occasion of enforcement of the nudity 'rule' and analyse the dynamic surrounding nudity in depth. See also Velton, R (2003) in particular pp13-30 for a brief overview of the reputation of the space, see also p42 onwards regarding entry to the site via the gates and the possibility of entering instead via *Marseillan Plage*. Interestingly, the author also congratulates the reader for 'having spat in the face of convention' (see p42). This is a position that this thesis argues against - the Cap is in fact very 'conventional', such that subversion of legal frames that create these conventions is a challenge to research.

especially during the peak summer months.⁸² The 'Naked City' (the resort depicted in the above Street View screenshots) is dedicated to the practice of nudism⁸³ and allows for 'free' expressions of sexuality.⁸⁴ The resort is located along the coastline which means it is accompanied by 2km of beach dedicated to the practice of nudism as well as open displays of sexuality, and has a reputation as being the partner-swapping capital of France.⁸⁵ Given the high amount of traffic and the multitude of practices which take place at the space, the lack of literature, academic or otherwise, is surprising.

Having considered the state of the map at the Cap, there is a parallel to be drawn between the simplicity of the legal schema and the simplicity of the visual representation of the space. I have set out the literature that relates to the emergence of the site itself, together with what exists in relation to the history of the space. I have also set out what is available in terms of maps that are designed to guide those who have not been to the space before and wish to understand how to navigate it. Maps will inevitably be representative of a spatial surface and will be drawn in a mode that is not designed to capture fully the intricacies and dynamics of movement between the multiplicity of bodies that build the space. However, the naked beach at the Cap is famous for the kind of open sex and nudism that takes place. The space is completely packed full of naked bodies during the peak summer months and the entire resort is built to provide opportunities for sex. The beach is a fundamental aspect of the resort, that is actually built around it. Yet the beach is impossible to access through any of the maps that exist. The bodies are absent from the map and the encounters themselves are absent from the literature. There are however, a couple of exceptions. There are two authors who through literature attempt to capture the encounters that take place on the beach, while also guiding the reader through parts of the space.⁸⁶

Velton comments that in the mid-1980s the beach itself and surrounding woodland and dunes were used as a site of exhibitionism, voyeurism, and group sexual

⁸² D'Orlando, F (2010) *Swinger Economics*, Working Paper, *Dipartimento di Scienze Economiche Università di Cassino*, 1/2010.

⁸³ See Harp, S (2011), *op. cit.* at n23 for a history of development of the nudist culture on the French Riviera area.

⁸⁴ D'Orlando, F (2010) *Swinger Economics*, Working Paper, *Dipartimento di Scienze Economiche Università di Cassino*, 1/2010, p298.

⁸⁵ Trachman, M (2012) *The Pornographers Trade: A discredited professional group's rhetoric, control and know-how*, 54:1.

⁸⁶ I focus here on Velton, R (2003), *op. cit.* at n.49. and D'Onofrio, SA (2011) *Bisexuality, Gaia, Eros: Portals to the Arts of Loving*, *Journal of Bisexuality*, 11:2-3, 176-194.

activity. This behaviour continued relatively untroubled by law until the mid-1990s when such behaviour was seen to be out of control, since it was taking place in full view of those who did not wish to partake in the scene, or who were on the beach with their families.⁸⁷ At this point, the police presence increased in order to restrict such openly transgressive behaviour during the peak summer months (July - early September). Velton writes of the beach that: 'police binoculars and horses have put an end to all but the most innocent of contact. In fact, given the often over-zealous enforcement of the hands-off rules by the police, during high season the swingers beach has in many respects become more puritanical than a Sunday School outing'.⁸⁸ While it seems the presence of the law is felt by those who travel to the beach to engage in sexual activity, nonetheless sexual activity *continues* to take place at certain times of day (late afternoon and early evening) and in certain areas of the beach, such as at the back of the beach, near the dunes, among the crowds and sometimes, in the sea.

D'Onofrio comments on the beach and the emergence of 'gatherings' of sexual activity for which it is famous: 'scenes with multiple partners, some BDSM and clusters of mildly aroused viewers forming around the most interesting action'.⁸⁹ She comments that this section of the beach is situated next to an area populated with participants who prefer a desexualised style of nudism, including families.⁹⁰ After having set out brief directions which connect with the space and *explicitly* inform the reader what they will find on the beach, she goes on to comment regarding the modus operandi of the space: 'all of this is not just tolerated: its legitimate... Mutual tolerance and relaxed discretion rule'.⁹¹ This is a significant comment regarding the *ethical* regime which regulates the bodies at the Cap.

It is interesting to note that Velton finds it necessary to comment on the apparent legal over-zealousness at the Cap particularly in the 1990s. This somehow indicates that one should expect on reading the text (the book was published in 2003) that one should not expect the level of sexual activity that is 'promised'. Having spent three weeks at the Cap during the peak summer months as part of this project (admittedly 10 years later) I can confidently say that there was no such policing, and the amount of bodies and encounters there, was in no way reduced nor in any way tamed. Quite the opposite. Encountering the beach at the Cap in the height of summer in the

⁸⁷ Velton, R (2003) op. cit. at n.49, p80-81.

⁸⁸ Id.

⁸⁹ D'Onofrio, SA (2011) op. cit. at n.86, p187.

⁹⁰ Id.

⁹¹ Id.

middle of the day, for the first time is an encounter one does not forget. Velton, in attempting to be a 'guide' through the Cap map has inadvertently rendered himself a lawyer. I claim that although the text is useful in gaining an overview of the space and in also identifying some of the rules of etiquette there, it is a necessarily limited representation.

There is nothing wrong with this and nothing wrong with being a lawyer. Velton's aim is not to understand the space, just as it is not the aim of the map to guide the reader through *encounters*. My claim is that such texts and such maps do not help us to understand anything about sexuality, nor about the reticence to represent it authentically. Nor does it help to explain the compulsion to hide it from view, yet paradoxically be drawn to it. It is my claim that this is paradox flows from active covering of ethical truths, at the hand of the law. Conversely, the methodological intent behind D'Onofrio's text is that of mapping the *whole* space. This is an endeavour which subverts the legal schema and carves a path into the encounter itself. This is achieved not merely through mapping differently, or choosing to talk about sex, but rather it is through making explicit the dynamic ('mutual tolerance and relaxed discretion rule') of encounter that is the secret of the Cap. The translation of this relaxed discretion into law however, might well be the reason why the bodies are absent from Google Street View.

Accordingly, one of the questions I address is why there seems to be this relaxation of legal code and tacit agreement between bodies on the accepted legality of their encounters. The most obvious answer to this would be the economic and political benefits of allowing the practice. This does not however explain the willingness of the participants themselves to engage in these acts, or non-participant's willingness to tolerate, nor does it explain why this set of circumstances occurs specifically at coastal sites, such as the Cap. It is clear that theoretically rich empirical research concerning sexual behaviour at the coast is far from adequately represented, yet examples of work that has been undertaken in this area indicate that this avenue of enquiry might have important implications in the study of sex/sexuality and law.

Ethical Space

There is an unspoken, tacit, co-emergence of ethics, law, space and bodies at the Cap. There is also a clear presence of sex and/or sexuality, and a connection between these elements too. The importance of method in understanding the dynamics of the space is becoming clear. The necessity of this flows from the need, as well as the

difficulty, in penetrating the silence and reaching the productive site of understanding the spatial dynamics, and how they are conditioned by sexuality.

Physical presence of the researcher at the space is an important methodological tool in relation to understanding the space and how it helps us to understand both its specific sexuality, and also how this helps us understand collective sexuality. Through presence, it is possible to produce a map that represents the dynamics which define the space and translate into movement. I am not able to add to the array of maps that assist the visitor in navigating the space and assist in finding the gateway to the beach. Rather, this thesis points to the modes through which representations of the space are produced.

In doing so, I ask for immersion. Immersion becomes subversion of the law and subversion of traditional academic research methods allow for access to the ethical dynamics of these spaces, through presence. Immersion allows for the gradual disintegration of the traditional map, disintegration the traditional literary representation, and the collapsing and problematisation of boundaries. This method follows the critique of law, and subverts the traditional mapping as well as legal method. While law and the map find themselves removed from the real context, there is also a refusal to *admit* this removal and therefore the limitations in accessing the reality of the context.⁹² In examining the reality of the legally mapped boundaries of the Cap I claim that it is possible to identify access points to the relationship between sexuality and law, and the problematic reality of its distance from, and blind judgment of, sex.

Sexuality is rich with boundaries, as is the Cap. Velton claims that there are clear demarcations of the beach in line with different types of sexuality:

Most of the activity in the dunes today is gay – at least the section of the dunes (about two-thirds of it) that stretches from the end of the swingers beach to where the nudist beach ends altogether. This stretch of sand is considered to be the gay beach.⁹³

Through my presence at the beach, I can confidently say that indeed there are loose demarcations between ‘types’ of sexuality. However, the boundaries are much

⁹² Philippopoulos-Mihalopoulos, A (2010) Spatial justice: law and the geography of withdrawal, *International Journal of Law in Context*, 6:3, 201-216, p7.

⁹³ Velton, R (2003), *op. cit.* at n.49, p161.

looser and fuzzy than represented by Velton. In addition, some of my most powerful encounters took place in apparently 'gay' section of the dunes. The following map indicates loosely demarcated and what could be tentatively claimed to be, tacit and fluid boundaries, or *limits*:

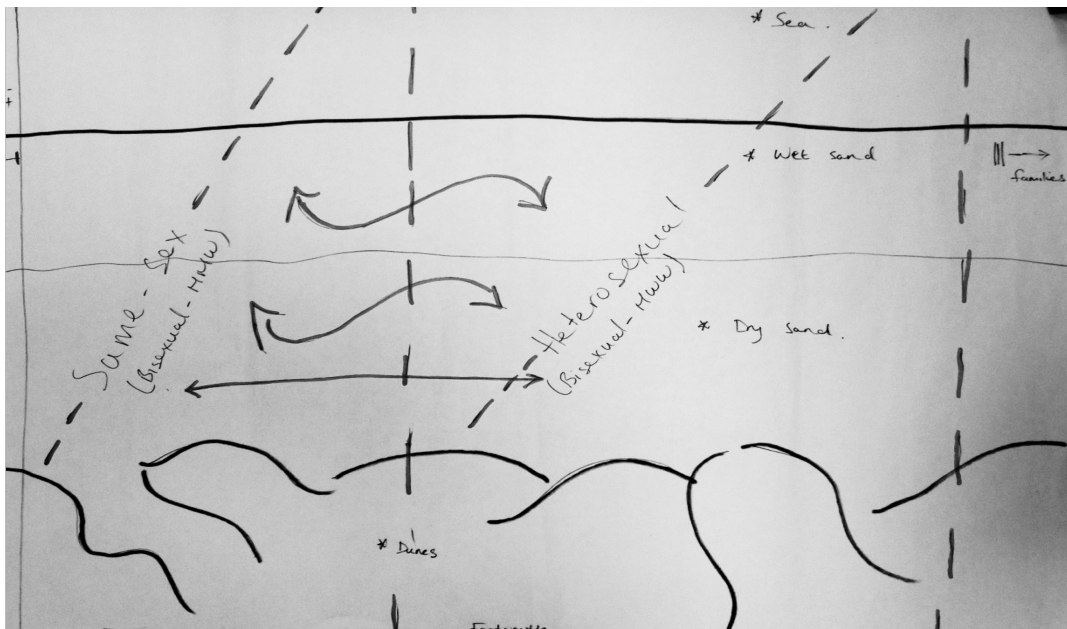


Figure 8: The Cap sexual 'boundaries'⁹⁴

This very simple map that I have produced shows the beach that runs alongside the resort. The beach is subject to rough boundaries which loosely demarcate sexual preferences. There is a section of beach that is utilised by homosexual men, which is adjacent to a section used for heterosexual encounters. However, not all encounters will fall within either category, with some encounters comprising bisexual pairings which most commonly might comprise a man with two women who interact with one another ('MWW'), and in the case of the same-sex part of the beach there might be a woman with two men ('MMW'), which I noted in the course of my time in the Field:

'I walk back to base and decide to move along. Now seated more towards the homosexual male part of the beach (if you can call it this) since there is fluidity between the 'sides'... 2 men suck each other while a woman is with them, caressing (bisexuality in men seems to be almost as common as in women).'

Extract from field diary: 15 July 2014, 3.45pm

⁹⁴ Diagram drawn as a result of my fieldwork at the Cap in July 2014.

I would argue that the 'secret' map runs deeper into the space and into the body, even than that represented through figs.1-7 above. For this thesis, the demand is to determine the co-emergence of the boundaries which become the ethical and/or legal dimensions of bodies and space. The act of 'determining' and accessing as I claim is necessary above, is not simple - particularly in the field of *sexuality*. It is not simple practically, ethically, personally nor legally.

Methodological Tools I: The entrance of 'I'

It is essential to situate oneself within the field of research, whether on sexuality or not, and to account for, and take responsibility for one's own affect and capacity to be affected in the field.⁹⁵ Research in the field of sexuality, and indeed of law, seeks to make findings and to give judgment upon collective and individual sexuality. This is a fundamental responsibility. Not only this, but the researcher is *amongst* the field. The 'mode' might be research, it might be academic, but whatever that mode, whatever the method adopted, we, as researchers are undeniably and inextricably part of the field and part of that world.⁹⁶ This necessity has been accepted in the field of sexuality research and lived through pioneering work such as that of Brown, Bech, Lambevski, Caceres and Dean.⁹⁷

⁹⁵See for instance Mauthner, N and Doucet, A (2003) Reflexive Accounts and Accounts of Reflexivity in Qualitative Data Analysis, *Sociology*, 37:3, 413-431. See in particular p415, where in the course of recognising that, as researchers, we bring to the field a multitude of assumptions and circumstances which condition our analysis, we must also reflect on the extent to which it is necessary to be 'reflexive': 'Can reflexivity be encouraged and enhanced by building it into our research methods and processes, and by creating appropriate times, spaces and contexts to be reflexive? At the same time, is there a limit to how reflexive we can be...' This claim demands that as researchers we have a responsibility to reflect on how our position within an assemblage, or rhizomatic milieu, conditions our findings *about* it. Research regarding sexuality (as I go on to examine) indicates that there is a demand for such reflection, and a radically fluid limit in relation to the extent of reflexivity needed in relation to the specific field of sexuality and law.

⁹⁶ See Dean, T (2009) op. cit. at n.20, p8 where the author acknowledges this and the responsibility to the field relating to 'self-disclosure' for this reason.

⁹⁷ See Brown, G (2008) Ceramics, clothing and other bodies: affective geographies of homoerotic cruising encounters, *Social and Cultural Geography*, 9:8, 915-932; Bech, H (1997) *When Men Meet: Homosexuality and Modernity* (Cambridge, Polity Press); Lambevski, A (2001) The flesh of gay sex and the surprise of affect, *International Journal of Critical Psychology*, 3, 29-48, Lambevski, A (1999) Suck My Nation - Masculinity, Ethnicity and the Politics of (Homo)sex, *Sexualities*, 2:4, 397-419; Caceres, C, 'Sexual and Reproductive Rights Policies in Peru: Unveiling False Paradoxes' in Parker, R et al (eds) (2007) *Sex Politics: Reports from the Front Lines* (New York, Sexuality Policy Watch) pp 127-167 and Dean, T (2009) op. cit. at n.20.

With the acceptance of this reality, there must also be acceptance and examination of the dynamic between the researcher and the field and the attendant and manifold ethical demands. The act of researching this way can be conceived of as an act of productively disruptive, as well as an act of testing. It is disruptive since it places the researcher as participant within the field, together with an accompanying demand for radical reflexivity on the researcher's position.⁹⁸ It is then necessary to determine the ethics of this positioning. Here emerges a site of possible limits, boundaries, demarcation (*law*), as well as a site of encounter of bodies and space, interaction, affect (*ethics*).

Ethics of Writing with Sex

Writing with sex thereby becomes a further mode of *participation* in the field. However, the subject matter has the potential to place the researcher in precarious positions in relation to ethics. Stein identifies such concerns in her auto-ethnographic project concerning civil rights and sexualities in the context of Christian communities in America.⁹⁹ The overtly legal concerns relating to privacy of research subjects are not simply addressed through maintaining the anonymity of subjects. Stein's study incorporated informant methodologies, interview, observation, and presentation through an auto-ethnographic method,

...vivid ethnographic description can clash with the ethical injunction to protect the privacy of our informants. This is particularly the case in writing about contexts where respondents know each other, such as a small town, as I found out while undertaking research on the conflict over sexual values and politics in a small American community.¹⁰⁰

Stein's piece reads as an open and radically ethically aware account of the requirement to take responsibility. Her piece is the unfolding of the ethical moment, where rupture and its trajectory are explicitly sketched. It seems that through the adoption of auto-ethnography, we find ground rich in ethical dilemmas and thereby a formation of the challenge towards objectivity in research. The root of the ensuing controversy was that she did not disclose her own agendas, which she admits to in the course of situating her project,

⁹⁸ I examine 'reflexivity' in depth through Methodological Tools II and III in this Wave.

⁹⁹ Stein, A (2010) Sex, Truths and Audiotape: Anonymity and the Ethics of Exposure in Public Ethnography, *Journal of Contemporary Ethnography*, 39:5, 554-568.

¹⁰⁰ Ibid. at p555.

Had I deceived my subjects? I explicitly told the residents of Timbertown that I was a sociologist writing a book about conflicts in their town, although I did not tell them my motivations for writing it or that I had a personal stake in those conflicts.¹⁰¹

She had kept a distance from her subjects, yet fully immersed herself. It is clear, however, that her own affect escaped the bounds of the assertion of objectivity and anonymity (in relation to herself as well as her subjects). She frames the disclosure of her own sexuality as being an obstacle to the free discussions she wished to have with her participants. Yet in the presentation of her findings, she fully acknowledges her own personal stake in carrying out her project.

Ethics of the 'I'

The act of taking responsibility for one's own presence in the field turns the researcher into a site of extreme internal, *bodily* conflict, which unfolds into productive questioning of the ethics of both method *and* presentation of researching sex. Take for instance Dean's early confession in his immersive examination of the sexual practice of barebacking:

I am HIV negative – a fact that I mention now because it has dawned on me that many of the men whom I have barebacked over the past decade, as well as many of this book's readers, have tended to assume that I am HIV positive... I would prefer that the reader not imagine that I am potentially infecting other men... It thus seems worth relinquishing the strategic desire to elude a certain positioning, with all the likely consequences of identification and disidentification that this entails, in order to forestall the violence of these particular reactions.¹⁰²

It is interesting to observe two things about Dean's 'confession' at the outset of his project. This is an open and explicit acknowledgement of the researcher's presence and responsibility within the field. Further, there is explicit acknowledgment that the one who researches is a body, with its own sexuality and desires. It is this act of self-disclosure that acknowledges and takes responsibility for the fact that, as researcher, we do and will affect the field, *even by simply looking and measuring*.¹⁰³ We

¹⁰¹ Ibid. at p565.

¹⁰² Dean, T (2009), op. cit. at n.20, p8.

¹⁰³ This is the basis for the requirement of 'reflexivity', see n. 95 above. This requirement for can also be aligned to fundamental *quantum* truths about how the effect of mere 'observing'

will affect the field and we will affect the reader who reads our research. We are part of the encounter and the field, and the audience to the research we present, know this too. We are both determinative of and responsible for the ethics of research as lived, performed, presented, read and felt. Our part as represented within this dynamic is an act of resisting 'closure' in research, allowing entrance and exit to the field and allowing us to think 'with/in a horizon of multiplicity'.¹⁰⁴

Methodological Tools II: Risk (because this is *fucking* personal)

Research in the field of sexuality suffers from depersonalisation, desexualisation and erotic impoverishment. It tends to be un-sexy, which is not to detract from its usefulness in the field of scientific and empirical enquiry, its rigour, or its importance in its own field. My concern here is *ethical*. Is it the case that in removing oneself from the field of sexual enquiry, in attempting to be solid, sober and objective, unaroused, that one makes the said enquiry artificial? Since any one person's experience of sex is deeply personal, it is the deepest, darkest, lightest, beautiful and tragic of dimensions of the soul, and yet it suffers the violence of schizophrenic and detached examination, both in method and presentation.¹⁰⁵

and 'measuring' can change the perceivable movements of particles. See Wendt, A (2015) *Quantum Mind and Social Science* (Cambridge, Cambridge University Press), in particular Chapter 2, pp43-54. Referring to the 'two-slit' experiment, the line between observer and the fundamental physical particles of the universe (photons) is blurred through the simple act of attempting to 'measure'. In this experiment, photons were passed from a single light-source through a panel with two slits. Those photons are then passed through those slits onto a photographic plate, where the effect is then observed as each photon travelling individually through the slits appearing as individual observable *particles*. If they are not observed, then the photon appears to behave as a wave, interfering with itself and passing through two slits simultaneously. The implication is then that particles materialize as *present* in space-time when they are observed, as Wendt writes on p46: '...the correct conclusion is that as long as the electron is not being observed it behaves as if it is a wave, and as soon as it is observed it behaves as if it is a particle. Measurement is somehow intrinsically connected to a change in our description of the electron. The implication is that in the quantum world, observer and observed form a single system, rather than being separable as in the classical world.' The responsibility of researcher as observer is therefore *quantum-ethical* since we as observers of phenomena are inextricably connected through the quantum terms and laws of visibility - simply through presence, through looking, we affect the conditions and appearance of the spatial-temporal. I later argue in *Wave IV* that the *sexual-photonic* is particularly sensitive - as researchers, we are literally looking at light as it passes through the slits of ethics through to law. This means that we must as researcher-practitioner internalise the physical reality that particles conceal their flows from us and who knows where they might go, how they might split and how they might self-dissolve and hide, before we are able to capture and measure them.

¹⁰⁴ See Hofsess, B and Sonenberg, J (2013) op. cit at n.3, p2.

¹⁰⁵ See for instance, Leap, W (2011) Language, Gay Pornography and Audience Reception, *Journal of Homosexuality*, 58:6-7, 932-952. Although this work is rigorous and of significance to the field, in terms of its findings in relation to both national as well as sexual identity and

Attending to this ethical concern carries with it a degree of risk. This is a risk that I run myself in the course of explicitly 'fucking'.¹⁰⁶ It turns out, that research in this field requires this risk to be taken, in order to produce research that adequately represents and writes-with the subject matter that is sexuality. Others have also undertaken work that seeks to do this and also which seeks to situate explicitly the 'I' within their research. This thesis takes as its object the ethics of the process of doing this, in the field of law and sexuality research. While a number of studies use field-work in order to undertake their enquiry, the majority of these are by men and examine homosexual practices. The demand in relation to sexuality for these scholars is significant, but also different, given the unavoidable assumptions about my gender and therefore my sexuality, which I explore in depth in *Wave III*. In terms of reflexivity in relation to sexuality and the description of the particular *kind* of affect produced in sexual encounters, the demand is the same.

Lambevski connects explicitly to the affects he experiences in his study of gay cruising spots in Sydney. His work is powerfully and unapologetically sexual in its raw affected-ness. Take for instance the opening account of his encounter with a beautiful (yet ultimately in-affective) body:

...The tanned polish of his skin, so radiant and delicious, summons the touch of a thousand hands and tongues. His face, so ruggedly sculpted in a few sharp gestures, looks like those rough, yet complete, Michelangelo sketches of beautiful young men. Slightly perched and full-bodied lips meet a perfectly straight nose. His cheeks form two shadowy canyons which allow his nose and deep black eyes to shine in their full glory. His whole face is framed with medium-length, straight, almond hair, this presenting a sublime gestalt. He shines with subdued contentedness, which makes him almost unbearably

the impact of pornography, its actual erotic affect is minimal. The analysis is complex and accomplished, but there is little in the way of reflection of the erotic and affective dynamic through the presentation of the text. Although there are empirical accounts of pornography viewers that are explicit, the erotics of the text disappear into distanced analysis and separation of the researcher from the field.

¹⁰⁶ See *Wave III* for development of this position in the context of my project, and in particular Bell, J 'Fucking Geography, Again' in Browne, K et al (eds) (2009) *Geographies of Sexualities: Theory Practices and Politics* (Surrey, Ashgate) for an analysis of the need for a re-evaluation and re-eroticisation of academic research and practices, or otherwise for research relating to sexuality to be 'fucked', see also Binnie, J 'Sexuality, the Erotic and Geography: Epistemology, Methodology and Pedagogy' in rowne, K et al (eds) (2009).

sexy...one man after another succumbs to his magic. He cruises for sex with confidence tinged with boyish innocence.¹⁰⁷

Lambevski proclaims himself an 'insider ethnographer', with his overriding aim being that the reader is able to 'feel' the data.¹⁰⁸ He writes that he 'validates' his observations with interviews, as well as adding that he 'interprets and fills' the silences through reading his own experiences and those of others against a framework of a 'shared symbolic world'.¹⁰⁹ He thereby builds a simultaneously objective, but also meaningfully personal methodological approach by addressing the intersection between personal experiences and dominant narratives in gay culture in Sydney. It is this method of reading the experience of sexuality that I will build on; yet there is something about the discomfort of any kind of personal account which remains unaddressed by studies such as this, which, I suggest, also points to elements which determine and are determined by sexuality itself. Thus, my methodology in this thesis in some aspects follows Lambevski's approach, in that I adopt the position of 'insider ethnographer' in the field of sexuality.

Brown's study of homoerotic spaces, specifically public toilets, moves along a similar theoretical trajectory as Lambevski's.¹¹⁰ Brown's field of enquiry examines the affect of both the material elements of spaces as well as the bodies within them, and how these connect and inform his own experience. He is supportive also of this 'insider ethnographer' approach. In fact, he is openly critical of scholarship (particularly in the field of queer theory) which enters the territory of depersonalised and distanced objectivity, and has become, as Binnie suggests,

assimilated into the academy - [such that it] has lost a radical cutting edge. It is rare to find much discussion of pervy sex or bodily fluids. Nowadays you would struggle to find much that is challenging within queer theory - or much to make straights squeamish.¹¹¹

The above suggestion that any writing that connects with the materiality of sexuality takes on an almost 'activist' tone, must be explored. It is certainly question-worthy that any writing that gives a highly sexual (and as I argue, necessarily personal)

¹⁰⁷ Lambevski, A (2001) The flesh of gay sex and the surprise of affect, *International Journal of Critical Psychology*, 3, 29-48, p1-2.

¹⁰⁸ Ibid. at p2.

¹⁰⁹ Id.

¹¹⁰ Brown, G (2008) Ceramics, clothing and other bodies: affective geographies of homoerotic cruising encounters, *Social and Cultural Geography*, 9:8, 915-932.

¹¹¹ Binnie, J (2004) 'The Globalization of Sexuality' as cited by Brown, G (2008) p915.

account of the experience of sexuality must therefore prompt suggestions of radicalisation. While it is not unusual to read radical accounts of sexuality, the fact that a personal account of sexuality must therefore be controversial is in itself suggestive of this provocative site of the unsaid in Lambevski's methodological framing.

Brown's work is also influential to my work here, since his theoretical approach constitutes a sexual encounter as not only an encounter between human bodies, but as 'an embodied geographical encounter'¹¹² which is one of my core theoretical concerns. Focusing only on his methodological approach for a moment, I would like to examine the way in which he pursues the implicit methodological approach which acknowledges the affective economy generated through both the *writing-of* and the *reading-of* his work. He cites again Binnie's critique of the distance between the act of sex and the distance created through cold representation of it in academic texts.¹¹³ He then goes on to say that this is an 'important ethical consideration' and that as such he will use his own rich descriptions as the evidence base for his ethnographic work. What he says next is, I suggest, of key importance for this thesis: '...If those descriptions provoke either squeamishness or titillation in my readers, then so be it. The intention here is to reveal the modes of encounter, being and becoming that operate through these spaces.'¹¹⁴

This statement is significant for what I set out to achieve in both heeding the ethical calls that are inherent within the course of this project, but also in terms of the presentation of this work that also must attend to the same call. It is not only the account that I produce from my field notes and an analysis of this through certain methodological and theoretical lenses; I also produce an *affect*. The words I use and the mode of writing that I use become as important as the affect that I produce as a body within the field. Therefore, my words, not only in the communication of my fieldwork, but in my application of all that is entangled with it, must recognise, and not turn away from their own affectivity.

With affect comes responsibility: the iteration of the affect inhering within the acts and lived experiences I examine here must be attuned to said affects. Such attunement must not regard the affects as a side-affect, or unwanted but unavoidable consequence - '*then so be it*'. Rather, the account of my sexual experience must

¹¹² Brown, G (2008), op. cit. at n.110, p916.

¹¹³ Binnie, J (2004) as cited by Brown, G (2008), op. cit. at n. 111, p917.

¹¹⁴ Brown, G (2008), op. cit. at n.110, p917, my emphasis.

acknowledge its origins, as well as its productive disintegration in the mist of its affects. It is not a case of setting out my findings, presenting my fieldwork, carrying out theoretical enquiry that I will not produce an affect. I will and I want to and I must.

The study of sexuality cannot be undertaken coldly, and the study of sexuality that is not undertaken coldly, can neither be presented coldly. Sex, let alone sexuality, calls to be taken seriously, and that is not to mean that we must present it in the same consistent way, either objectively or not. Rather, we must write with it. As researchers, such as Lambevski, Binnie and Brown have pointed to, we must write *with* sex and *for* it. The words must not shy away from the subject matter that we write with, and in order to do this, we must also not shy away from the responses to what we write with and for, within ourselves. We are not removed from sexual encounters, no matter what they might be or what form they might take. We find ourselves then at the point where method, and writing sex, must come from ourselves too, as participants and not distanced observers.¹¹⁵

As I have said at the outset of this section, I am, along with others taking a risk in producing this project. The writing itself does not follow a traditional format that one might expect from a PhD, especially in law, and therefore takes a risk in relation to the exam itself. The thesis unapologetically tells the law to fuck itself, as well as telling the academic conventions (as far as is practicable) to fuck themselves too, sometimes explicitly, with the words I use. I take a risk by being on the beach, I take a risk too in relation to my own self-disclosures, I also take a risk that is inherent always with a controversial topic like sexuality. I take risks in relation to ethical clearance (examined in depth in *Wave III*). These risks are essential to take in this field, given the conservative nature of the legal discipline, but also in relation to the continuing resistance of academic practice to properly shed its fear of sexuality.¹¹⁶

There is a link between the mode and presentation of research in the field of sexuality, and ethics. There is also a connection between the mode and presentation of research and in the field of sexuality, and law. If ethics is the place of productive tension with law, as law in context, then what is the law of the researcher in sexuality and why must their role and affect in the field be accessed and made explicit?

¹¹⁵ I consider the ethical call to 'participate' in depth in *Wave III*, together with the impossibility of merely 'observing'.

¹¹⁶ I consider this 'fear' in relation to 'straight' academia and in relation to Ethics Committees in *Wave III*.

Dean writes regarding a particular sexual practice - that of bare-backing, which, as he writes carries with it shock and risk. When writing about sexuality there is an increased possibility of 'shocking', as well as provoking disgust and judgment and possibly exclusion and even punishment at law. In his introduction, Dean writes,

This book represents an attempt to think publically about bareback sex without resorting to the moralism of trying to legislate others' sex lives. I'm claiming that thinking about bareback subculture happens most productively when judgments concerning whether it is good or bad are deferred.¹¹⁷

It is clear through reading his work in this area that he is dedicated to full, fearless and unfettered representation of the practice. In suspending judgment, or the anticipation of judgment, he removes the fetter of law. Instead, we are transported to the lived, and the writing-with, rather than 'about' not only the practice itself, but his own engagement and involvement with it.¹¹⁸ This opens a space for connection with the much sought immanence of law, to bring it back to the space of encounter, instead of recourse to morality, as Dean goes on to write, '...there is a crucial ethical space that may be accessed once we suspend questions of identification with the other, there is a vital margin between condemning and condoning bareback subculture.'¹¹⁹

In the course of recognizing the potential for some sexual practices to be radically demonised/fetishised ('it is not only "the other" who barebacks.'¹²⁰) Dean notes the particular challenges attendant with the particular *context and method* of researching such a practice:

...I contend that sexual ethics begins not with making judgments about (or trying to regulate) others' sex lives but with establishing others' freedom from interference, even as we recognize our mutual sexual interdependence. These ethics are especially challenging in the case of bareback subculture, because the prospect of intentional HIV transmission tends to illicit a visceral response.¹²¹

¹¹⁷ Dean, T (2009), *op. cit.* at n.20, p26.

¹¹⁸ See Dean, T (2009), *op. cit.* at n.20, his opening extract from Delany, S "Street Talk/Straight Talk" - 'What I am asking is that all of us begin to put forward the monumental analytical effort, in whichever rhetorical mode we choose, needed not to interpret what we say, but to say what we do.'

¹¹⁹ *Ibid.* at p26.

¹²⁰ *Id.*

¹²¹ *Ibid.* at pp26-27.

It would seem that the act of judgment, conceived of by Deleuze as the act of proclaiming through transcendence, materialises in the law's often commenced flight away from immanence. Judgment proclaims what a body can do.¹²² Judgment is that which takes place at the point of the territorialisation of affect – where the law says that this is right or wrong after it has assessed the encounter.¹²³ The practice of situating oneself within the field as Dean and others have done, is to enter the ethical space, where instead of demonising (or indeed condoning) that we write with and for the practice we do, enabling the problematisation of the zone of encounter itself, while allowing it to disgust and allowing it to titillate – *so be it*. We do this however, only through allowing ourselves to be part of the field – to remove ourselves from on-high-objectivity, and to be amongst, rather than outside.

Methodological Tools III: My Cap Confession and Method Mapping

One of the first entries in my field notes produced as a result of my formal study of the Cap is as follows:

'I cannot be sexually free because I don't want to be because I want to be free to have this man. So this trip now becomes about what produces this entanglement; why/what makes me want to have sex with this and that person, or just that person. What does sex at the Cap show me about this and what is there for me?'

Extract from field diary: 11 July 2014 8.45pm

This entry was written on the day before I departed for the Cap. At this time, not only was I contemplating the value and place of my research, but also why I was

¹²² See Deleuze, G and Guattari, F (2004b), op. cit. at n.45, p.177: 'You will be organized, you will be organism, you will articulate your body – otherwise you're just depraved. You will be signifier and signified, interpreter and interpreted – otherwise you're just a deviant...'

¹²³ As we have seen, the body has the power to use the law against itself, and to trigger the movement of 'anarchic' bodily strata and produce lines of flight, thereby using the law's mechanisms against themselves, see Deleuze, G trans. Smith, D and Greco, M (1997) *Essays Critical and Clinical* (Minnesota, University of Minnesota Press) p131: '... two bodies coexist, each of which reacts upon and enters into the other: a body of judgment, with its organization, its segments (continuity of offices) its differentiations (bailiffs, lawyers, judges ...), its hierarchies (classes of judges, or bureaucrats); but also a body of justice in which the segments are dissolved, the differentiations lost, the hierarchies thrown into confusion, a body which retains nothing but intensities that make up uncertain zones that traverse these zones at full speed and confront the powers in them ... on this anarchic body restored to itself.' I examine the scope of research practice to inform legal practices of judgment in depth in *Wave III*.

undertaking this project: after all there were many other things that I could have written about, or I could have elected not to undertake any fieldwork. I was also thinking about the personal consequences of undertaking this project and further, the significant consequences of going to the Cap - a powerful and disturbing place. My identity as researcher is and was not only academic, but also as a body, a soul, with a sexuality.¹²⁴ In the context of my personal life, I was in an unusual situation. I had been in a relationship a man for nine months, with whom I felt I had fallen in love. I felt that I wanted to spend my life with this man, however the relationship itself was unusual due to him being married. We were not able to be together in a conventional way. This brought to the fore a confusing and destructive dynamic in relation to the place of fidelity and faithfulness on my part, as the 'other woman'. For this reason, at the time, I was confused as to the sexual boundaries imposed on me on a number of levels in relation to this trip. In terms of what I would do once at the Cap in the course of research, I was aware that I had ethical approval from the University of Westminster to carry out a non-participant observation study of the Cap, but in full knowledge that I cannot ever be a 'non-participant' for significant reasons that I go on to encounter in *Wave III*. This reality also posed the question of whether I must not engage in sexual activity while I am there since this would be an act of unfaithfulness to the man I am in a relationship with, there is also the complex question of whether I even *wanted to*, and how the answer to this is conditioned by both my inner field, and the outer field.¹²⁵

In examining such a complex, assemblic and rhizomatic project, it is necessary to adopt a methodology which provides the tools in which to trace the lines that I have suggested are necessary in identifying the relation between law, ethics, and sex/sexuality. I have argued that the situation of the self is an *ethical* requirement. My method, and my writing, must therefore be *rhizomatic*, as Honan notes from her project, 'Writing rhizomatically afforded me not only the possibility of blurring the linguistic boundaries of what is formally known as a thesis text but also allowed me to write my[selves] in to the text...'¹²⁶

It is ethically necessary for the reasons I have set out, that I commence here a disclosure and confession. This is important since this will inevitably colour my experience of the field and my findings. For this reason, it is necessary to begin to trace the parts of my personal experience which I bring to the field and will be

¹²⁴ I consider the relationship between body, soul and research in depth in *Wave III*.

¹²⁵ I continuously trouble the boundary between the inner field of the researcher and the outer field into which the researcher enters. I consider this in depth in *Waves II and III*.

¹²⁶ Honan, E (2007), op. cit. at n.3, p535.

relevant to be observation of it, and the affect I produce, in the manner of Hofess and Sonenberg. The authors advocate a method which departs (or slips) from traditional research methods and thereby usurps the trap of their assumptions and horizons.¹²⁷ This in turn allows slippage from assumptions made about the data itself as 'stable, knowable, and collectible.'¹²⁸ In the course of this undertaking, the authors also found themselves reflecting necessarily upon their own presence and how this reveals the inherent 'mess' and 'flow' of seemingly stable data:

What is more, we found ourselves opening to our own traditions, horizons, multiplicitous narratives (visual artist, poet, educator, designer, playwright, researcher, performer, and . . .). In doing so, these three renderings took the form of a visual script, a script that performs and disrupts the roles of interviewer and interviewee as it unfolds, expands, and takes data off into lines of flight.¹²⁹

This translates into a different manner of observing. There is an acute awareness in their piece of the observer-effect of attempting to measure.¹³⁰ Instead, their method accepts the fluctuating nature of data as the only truth, prior to the state of observation. In their attempt to radically capture it, their text offers an opportunity to depart from the pre-occupation with 'capturing' data and instead they write *with-it, but also as-it*. This is in the hope that we might be able to accurately represent the bodies within the rhizome, but also the horizon of the multiplicity which could therefore be transformed by a *line of flight*:

These interludes offer a space to pause, to become reflexive, to take up the transformation of the text as a body moving, shifting, and transfiguring from rhizoanalysis to ho/rhizoanalysis to what you, the reader, might imagine comes next.¹³¹

On the method-map that follows, I now self-disclose and *pause*. I do this through incorporation of my disclosure of my sexuality, which is also obscured in part by 'angel wings' which represent the inevitable obscuring nature of reflections through

¹²⁷ Hofess, B and Sonenberg, J (2013), op. cit. at n.3, p1.

¹²⁸ Id.

¹²⁹ Ibid. p2.

¹³⁰ See Wendt, A (2015), op. cit. at n.103, p47: 'Prior to its measurement, the wave function constitutes a complete description of a quantum system; there is no definite reality hiding behind the wave function about which we could obtain further knowledge if only we had the means.'

¹³¹ Hofess, B and Sonenberg, J (2013), op. cit. at n.3, p2.

the passage of time. However, if we perceive it properly, the angel, as we later find is obscured *by* my reflections. The angel has a particular sex, that is both timeless and placeless and is right there among my words, had I looked hard enough.¹³² I then trace lines across and from this, toward the moment at the Cap at sunrise at 6.20am on 15 July 2014. On the passage to this moment are academic reflections too, which inform my path to that moment. This moment then becomes of thick tuber of the rhizome, which represents the confluence of various spatial-temporal conditions and morph into *ethical* co-emergence.

This demonstrates the inescapable connection between method, the personal, and the writing-up of research and the inevitable dynamic of affect and mutual enfolding. This mode of presentation hopes not only to capture this interdependence which is significant in itself for this thesis, but also to escape the impossibility of, as the writer, 'occupying the same spot' as the 'real'¹³³ moment.¹³⁴ We have to play and play, experiment and experiment and push at the limits of our ability to non-observe, to observe waves not particles, and to thereafter play with the way in which we write within our field:

We are also embracing our multiplicity, our multiple identities, while acknowledging the constraints of the discourse of scholarship. What can *become* on the written page is a structure that is both bounded, yet in which, we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . . we can still play . . .¹³⁵

¹³² See *Wave IV* for a deep analysis of the possibility of an 'angelic sex' and its theoretical importance for law's jurisprudential method, as a path to *becoming-ethical*.

¹³³ See *Wave II* for a full explanation of the necessity to reach the real in light of the limitations of immanence.

¹³⁴ Hofsess, B and Sonenberg, J (2013), op. cit. at n.3, p7.

¹³⁵ Ibid. at p9.

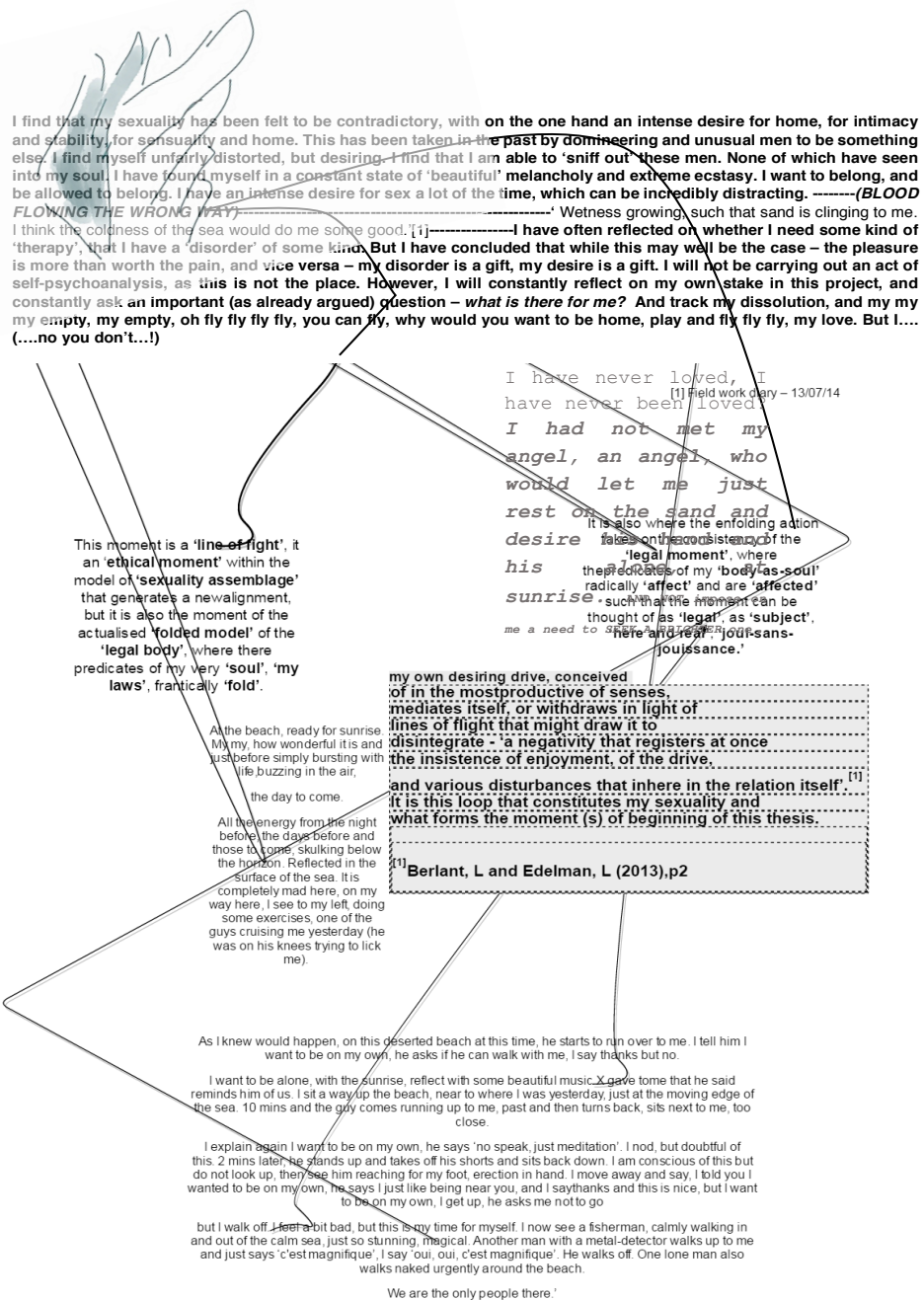


Figure 9: Method Map I: Confession¹³⁶

¹³⁶ See Hofsess, B and Sonenberg, J (2013), op. cit. at n.3 for examples of this mode of presentation, particularly in relation to interviews.

Methodological/unfolding-into/method

I have established the necessity of the methodological strategy to be open enough to accommodate the multitude of bodies complicit in the co-emergence of the space of the Cap for this thesis. However, it remains necessary to set out a framework for the unfolding of the methodological into the tools (or 'process'¹³⁷) that will be used among the 'real' encounter itself. In order to do so, I will set out a theorisation of the moment that produced the possibility of the realization of the methodological horizons as mapped. This moment is important in terms of setting out and constructing a convincing tool that will enable the researcher to be present, as well as to observe, to potentially participate, and to represent findings regarding the research questions. It is clear that my methodology must allow for the capturing of the dissolution of the researcher.

Autoethnographies

In attending so closely to my personal situation in the field, my thesis arrives in the space of auto-ethnography. Muncey claims that such a method allows for ethnography to discover the individual.¹³⁸ To communicate exactly what ethnography is, I use Ellis' (self-admittedly brief) definition,

'...research, writing, story, and method which connect the autobiographical and personal to the cultural, social and political. Autoethnographic forms feature concrete action, emotion, embodiment, self-consciousness, and introspection portrayed in dialogue, scenes, characterisation and plot. Thus, autoethnography claims the conventions of literary writing'.¹³⁹

The production of this autoethnographic study carries immense responsibility, both ethical and personal. The method is not without its challenges, which I also suggest point to aspects of the very questions this thesis is seeking to address. Muncey's work brings forth some of the contradictions that must be negotiated as a researcher in any field, to which one has a personal connection. I find myself in the same space

¹³⁷ In Deleuzian critical methodology studies, method must be a tool through which data produces flows, lines and cracks which constitute ruptures in assumed narratives. See Hofsess, B and Sonenberg, J (2013), op. cit. at n.3.

¹³⁸ Muncey, T (2010) *Creating Autoethnographies* (London, Sage).

¹³⁹ Ellis, C (2003) *The Ethnographic I: A Methodological Novel about Autoethnography* (California, AltaMira Press) p xix.

as Muncey. It is clear from reading her work that an auto-ethnographer finds herself on the precipice, the edge between what is ethical and what can be considered 'objective research'. Muncey's text is honest and strange, in the sense that in its attempt to unravel the methodological entanglement, more questions about its precarious place are posed than answered. Muncey sets out by giving permission to the reader to drop assumptions about ethnography, that it must be completely impersonal, and the 'I' must not only be acknowledged, but must be explored.¹⁴⁰ We then find that precise site of the border between the lived, experienced and encountered, and what is represented, or represent-able as law. Muncey writes,

experiences happen in a time and place, they have antecedents and consequences, they are subject to memory, they involve other people and there are certain aspects we may choose to ignore or which are buried in the unconscious. No writing occurs in a vacuum and in writing this text I am reflecting back on certain stages of my writing experience, at the same time as undergoing changes as I write.¹⁴¹

Muncey also suggests that the writing itself, the kind of writing I am doing right now, is also part of that entanglement. This brings us back to the point that Binnie makes in Brown's text, that in writing about sexuality, one must allow it, *allow it*, to penetrate our writing, and to build that affective relation between researcher and reader. The sex must leap off the pages, from my deep crease to yours, and for this to happen, my experience must be articulated in such a way that allows conditions for my experience, my hand, my words, to caress you.

It is often the 'missing story' that is absent from traditional ethnographic studies. These stories are missing since they are often deeply personal. However, these are also the stories that constitute the draw to the field, as well as conditioning the writing of the findings – in other words, the affect bursts through and through. As Muncey writes, her experience concerned teenage pregnancy, which she reveals is something she had experience of herself, as well as sexual abuse.¹⁴² The author told her own story in the course of her research since she felt disappointed by the lack of engagement of the research community in cases such as hers. She felt compelled to fill this void by placing herself at the centre of what was, after all, her own story.¹⁴³ She goes on to argue that the significance of the individual experience must not be

¹⁴⁰ Muncey, T (2010), op. cit. at n. 138, preface.

¹⁴¹ Ibid. at p xvi.

¹⁴² Ibid. at p6.

¹⁴³ Ibid. at p6-7.

underplayed, since it forms the resource of emotional and embodied experience of the subject of research.¹⁴⁴ She also highlights some of the significant challenges, mainly brought by those potential publishers of said research, who suggested that she present her experience as a 'case-study' and anonymise any personal information.¹⁴⁵

Presentation and expression

Works such as Muncey's articulate the value of embodied experience and embodied expression of that experience. Muncey does not take this exploration to the theoretical depth that this thesis will, but she points to the necessarily embodied, anti-Cartesian endeavour of researchers.¹⁴⁶ Yet this endeavour is rarely actualised in the context of articulating that experience of actually researching, and what it feels like, how the senses respond and create these moments of 'finding'. It is here that my auto-ethnography emerges. Muncey urges researchers to follow her method of constructing an embodied auto-ethnography by responding as she does to callings during her writing process from objects, memories and emotions brought by the very process of writing. She also suggests 'creative participation',¹⁴⁷ or in other words, total connection to what it is to be writing this story, with full attunement and expression of that which is being researched and the process of researching it.

Muncey's story is similar to Ellis', who also presents a convincing case for the auto-ethnographic method. Ellis examines closely the location of the 'I' within research.¹⁴⁸ She plays skilfully with the placing of the 'I' throughout her text, situating 'I' within the dynamics of affect, such that research becomes not only about the Other, but acts and is acted upon within the study.¹⁴⁹ She also follows the 'Ho/rhizanalysis' approach that this thesis also adopts, through the the inclusion of pauses and interludes throughout the instructional and academic text, where she reflects on her presence and affect.¹⁵⁰

¹⁴⁴ Ibid. at p14-23.

¹⁴⁵ Ibid. at p7.

¹⁴⁶ Ibid. at p63.

¹⁴⁷ Ibid. at p65-75.

¹⁴⁸ Ellis, C (2003), op. cit. at n.139.

¹⁴⁹ Ibid. at p xix.

¹⁵⁰ Id. See throughout the text where Ellis writes produces a methodological novel that also aims to 'instruct' in relation to auto-ethnography. The author's interludes are formed of academic commentaries which analyse a fictional narrative with 'characters' that teach and are taught on a graduate methodology course. Through the unfolding of the narrative and 'interludes' the reader is provided with the 'tools' that constitute auto-ethnography.

*The reader will note that in the course of writing, I reflect
on the presence of my 'I' as an interlude to the academic analysis, often as emotional,
sexual, visceral responses
to the process of writing,
or in response to reflecting on my time in the field.*

Lived experience of the Researcher

This examination of autoethnography translates into the conception of any research endeavour in the field, as being one of lived experience. This articulation of the experience of researching productively adds to the enquiry itself. This acknowledgment is essential in ethically situating oneself within the field, and part of the encounter that gives rise to ethical questioning. Stanley writes from this zone of ethical productivity in framing the experience of researching for, and writing, a PhD.¹⁵¹ Undertaking a research project such as a PhD should, as part of the ethical calling from the subject matter, '[draw] out themes from one's own lived experience but also the process of turning the analytical lens on oneself and engaging, critically, with one's own writing and positionality.'¹⁵² In doing so, one must recognise the multitude of narratives in which one finds oneself, the affective economy, what brings one to the process and what brings one to write and theorise in a particular way. Auto-ethnography, although in some respects a problematic challenge to traditional positivist and scientific modes of enquiry,¹⁵³ is also a productive place in which research methods might increasingly reach the essential and informative place of the 'lived experience' of the researcher.

This criticism is bound to find force within such a traditionally positivist and doctrinal field of study such as law, but in this sense it becomes all the more valuable in its disruptive effect. There is a clearly problematic place in terms of the perceived value of auto-ethnographic research in certain fields, as well as the value of such an approach for PhD research specifically.¹⁵⁴ This, as Doloriert and Sambrook argue, is partially due to the unique ethical challenges it brings.¹⁵⁵

¹⁵¹ Stanley, P (2015) Writing the PhD Journey(s): An Autoethnography of Zine-Writing, Angst, Embodiment, and Backpacker Travels, *Journal of Contemporary Ethnography*, 1-26.

¹⁵² Ibid. at p164.

¹⁵³ Doloriert, C and Sambrook, S (2011) Accommodating and Autoethnographic PhD: The Tale of the Thesis, The Viva Voce and the Traditional Business School, *Journal of Contemporary Ethnography*, 40:5, 582-615, p584.

¹⁵⁴ Id.

¹⁵⁵ See Doloriert, C and Sambrook, S (2009) Ethical confessions of the "I" of autoethnography: The student's dilemma. *Qualitative Research in Organizations and Management, an International*

There tends to be a fear in 'traditional disciplines' that such radical methodologies will detract from the rigour and quality of scholarship in the field.¹⁵⁶ Particularly in legal research, there is a strong emphasis not only on supporting one's claims with authority, but by using convincing authorities that are acceptable within the discipline (such as case law, statute and so on). It is also the case, that the legal discipline prizes reasonableness, rationality, objectivity and universality. It is through critical legal scholarship that these concepts have been broken apart so that law might be brought back to earth (or to space) and be researched from the ground.¹⁵⁷ In the course of doing this, it is a natural consequence that critical and adventurous methodological approaches will be increasingly used. Other disciplines find that such methodologies that chart the process of researching are more rigorous because of their reflexivity, their expression and their personally critical approach.¹⁵⁸

It is also paradoxically the case that ethical questions arising in the course of research, framed as radical ethical concerns that must be addressed in order to write 'with subjectivity', are only addressed through such methods. As I and many other researchers have identified,¹⁵⁹ there is an institutional fear of sexuality, and of personality and a-objectivity, and thus a fear of the authentic ethical questions that arise. While legal scholarship broadens its horizons through critical and critical socio-legal scholarship, the demand is all the more to attend to these demands; so too is the demand to respond to the field (or sexuality assemblage) as determinative of the ethical frame.

Autoethnography and Sexuality

The 'field' of sexuality is in a constant and volatile state of change and flow. Unsurprisingly, there is little in the way of auto-ethnographic studies in this field. Those that have been carried out tend to be in the field of homosexuality and carried

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¹⁵⁶ Doloriert, C and Sambrook, S (2011), op. cit. at n.153, p584.

¹⁵⁷ See for instance Philippopoulos-Mihalopoulos, A (2015), op. cit. at n.27, in particular p15 for an overview and critique of law's 'spatial turn'.

¹⁵⁸ See Stanley, P (2015) above. Parallels in terms of the personal, immersive auto-ethnographic approach can be drawn with critical methodological approaches, for instance Honan, E (2007) op. cit. at n.3, discussed above.

¹⁵⁹ See Methodological Tools I and II above.

out by men.¹⁶⁰ Slavin notes in his auto-ethnographic study of sexuality and drug use in Sydney, a plethora of ethical concerns in the following passage:

I once responded to an inquiry about my sexual identity by joking that I was a “queer as fuck inner city faggot,” which was greeted with hilarious approval, thus ironically finessing my “membership role” through cynicism. A more serious ambivalence on my part arose in relation to giving advice or intervening in risky situations in various ways. For example, when a participant revealed that he was engaging in risky sex and possibly unintentionally infecting others with HIV, I encouraged him to take a blood test as a step toward taking more responsibility. It was confirmed a few weeks later that he was in fact HIV positive. I then offered emotional support on an ongoing basis, a challenging but I believe necessary relationship for both of us.¹⁶¹

Concerns as to the articulation of his own identity to the field arise, together with the ethical responsibility in relation to emotional and intimate investment with those as part of the field. These concerns arise also with embodied forms of ethical demands associated with risky sex. Wrapped up in this are the core ethical concerns of an auto-ethnographic project in the field of sexuality. Slavin’s project is one of very few such projects in the field of sexuality, and I suggest that there are many underlying reasons, to which I have alluded here, and that constitute the basis for this. Slavin recognises that auto-ethnography brings to ethnography as a powerful tool for approaching and examining social and cultural practices,¹⁶² and then necessarily follows his powerful and persuasive a-objective confession:

My subjectivity deeply influenced my fieldwork experiences and informs my representations. I regard it nevertheless as an ethical duty on my part, as academic researcher located within an institutionally powerful frame, to give precedence to the stories of others into which I have been woven without denying the relational context that produced them¹⁶³

¹⁶⁰ This is an extremely important point. I will go on to discuss this further in the context of the ethical approval procedure I undertook as part of this study in *Wave II*.

¹⁶¹ Slavin, S (2004) Drugs, space and sociality in a gay nightclub in Sydney, *Journal of Contemporary Ethnography*, 33:3, 265-295, p271.

¹⁶² Ibid. at p272.

¹⁶³ Ibid. at p273.

Here we find the articulation of the dilemma in which I also find myself. The problematisation of the confluence of methodology, theory and translation into active research in the field is generative of the ethical questions that I have negotiated in the opening parts of this chapter. This 'institutionally powerful frame' compels resistance, the recognition of fear, and the determination of the material elements that condition the arising of the ethical question. It is suggested that auto-ethnography is a tool for addressing this, and a basis through which to problematise the power relations inherent within the process of determining any methodological frame. These questions are all the more potent in the field of sexuality, coupled with the simultaneously oppressive yet productively resisting relation between the substance of sexuality and the institution as erotophobic.¹⁶⁴ I claim that the auto-ethnographic method is a productive method, as well as theoretical base through which to potently and productively problematise research ethics, as well as ethical and legal dimensions of encounters between bodies.

The situating of the one who 'tests' is important to the validity of the inquiry itself in terms of adequately representing the field, since the researcher affects the field and *becomes the field*. In the coming *Wave II*, I explore this dynamic further in order to reach an understanding of the act of research and how the presence of law and sexuality affects and conditions this dynamic, and the materialisation of the body of *this* auto-ethnographer.

¹⁶⁴ This is a term I explore further in *Wave III* in relation to the ethical approval procedure for my thesis.

Wave II: My Wandering 'I'

So far, I have presented a conceptual framing of law and ethics. I have also situated the concepts of the terms body and space within this dynamic, and in relation to the legal and ethical frames at the Cap. I have also introduced my methodological approach which situates the 'I' within these frames. This has pointed to some of the heightened sensitivities relating to research in this particular field. This second Wave explores how this heightened sensitivity points to law's certain fear of the 'wandering' nature of bodies, sexuality, philosophy and the properties of space. In the process of exploring this, I find the genesis of a uniquely ethical space in the field of sexuality research.

The photo below in Fig.10 was taken at sunrise on the morning of 15 July 2014:



Figure 10: The Cap and 'I' at Sunrise¹

From looking at this photo, a number of boundaries or 'lines' emerge. There is an apparently static boundary between land and sea. There is a clear line to be traced along my calf and thigh, which makes my body distinct from the sand and the sea.

¹ I took this photo of myself and the beach, just before the incident as described on p4 which happened on 14 July 2014 at 6.20am.

The effervescent line of the horizon clearly divides the sky from the sea. Finally, the perspective of the photo places me as the observer in the foreground and centre, looking out into the distance and toward the rising sun, which also glows upon my body as I lie there on this sand of 100,000 orgasms.² The photo appears distinct from the method map set out in Fig. 9, and yet on deeper inspection, it does not, since the method map reveals what I brought to this moment. Through theorisation of the leaking boundaries between various bodies, the lines in the photo become increasingly capable of being blurred. The main boundary that seems to collapse, is that between myself as researcher, and the beach up which I lie. Coastal boundaries it seems if they can ever be drawn, do not just leak into the researcher's body, but also rush into, stick to, caress, and cause friction against the skin of this highly permeable body.

Obrador has noted that there is a stark absence of research on the significance of the beach as a body and participant in the determination of culture.³ This appears to be due to the drawing of this boundary between representable and non: or the impossibility of representing the haptic and tactile in an academic environment that is preoccupied with the visual.⁴ This places the beach in this zone of imperceptibility, or in the position of holding the very secrets that I hope to make explicit. The beach is in this zone because of the impossibility of reducing its mysterious and volatile affects to a 'visual logic'.⁵ The photo I have included here and corresponding footnote to my field notes show clearly the depth of this impossibility. The visual representation here conceals the tactile, haptic and sexual nature of the bodies that are present, while hinting at the 'reversibility' of the sensualities of vision and touch,⁶ through the affects of the photo itself.

The Wandering Sand

The depiction of the sand in this photo is deceptive. It appears as a solid and static piece of land which does not move, yet the separate and affecting bodies within this apparently *immovable* body and their materiality are almost infinite. It seems strange therefore to omit the impact of such a body on both the visible and explicable *effect* of this photo, as well as the hidden and volatile *affect* that produced this very effect

² Extract from field notes, 15 July 2014, 6.20am: 'This sand of 100,000 orgasms, just allowing me to sit, and how I desire just one of those at the hands of just one man, such a curious thing.'

³ Obrador, P Touching the Beach in Paterson, M and Dodge, M (eds) (2015) *Touching Space, Placing Touch* (Surrey, Ashgate) p47.

⁴ Id.

⁵ Ibid. at p48.

⁶ Id.

and which was integral to the research I undertook and the encounters I and other bodies were part of. See below various extracts from my Field Diary depicting the various encounters I had with sand:

The sand is so hot I cannot walk barefoot so I need my flip-flops on to set up the beach umbrella to make a base for myself. I am situated on the 'libertine' section of the beach (see fig.1). *Extract from Field Diary, 13 July 2014* I am sat directly on the dry sand. I would prefer to be nearer the sea but it is so packed this is impossible without sitting impossibly close to others (or maybe this is my Englishness). Seeing as I put a lot of sun lotion on the sand is clinging to my skin and I find it difficult to write. Couples of varying ages and a large amount of single men. One directly in front of me as I lay on my stomach on the sand, about 20m away. *Extract from Field Diary, 13 July 2014* Its nice, the feeling of sun and sand on my skin. *Extract from Field Diary, 13 July 2014* Thought suddenly occurs to me that there is semen on the sand I lay on. There must be surely. But can't see or feel it. *Extract from Field Diary, 13 July 2014* Going to walk up a bit, but struggling to remove the sand from my body - damned sun lotion. *Extract from Field Diary, 13 July 2014* A lot of people (in couples) running across the sand since it is so hot to tread on their way to the sea. This movement makes the flesh wobble nicely...the sand is clinging to me. I think the coldness of the sea would do me some good. *Extract from Field Diary, 13 July 2014* Several gatherings going on in the dry sand. *Extract from Field Diary, 13 July 2014* This sand of a 100,000 orgasms just allowing me to sit, and how much I desire, just one of those, at the hands of one man. So curious. *Extract from Field Diary, 14 July 2014* Lying in the sand face-down. The wind is blowing the sand across such that it looks like it is shifting, rising and sinking. *Extract from Field Diary, 15 July 2014* Sand all over us, in my mouth, I have to grab my shawl and wipe my mouth and her breast so I can carry on. *Extract from Field Diary, 15 July 2014* So I stroke her clit gently (which is also covered in sand). *Extract from Field Diary, 15 July 2014* So much sand. *Extract from Field Diary, 15 July 2014* A beautiful sunset, so so beautiful, the sea much calmer and the sand is now so cool and soft. So hungry. I miss X. *Extract from Field Diary, 15 July 2014* ...many more sandcastles and some impressive sand sculptures at the sea's edge. *Extract from Field Diary, 15 July 2014* ...cannot see what from my position which is on the dry sand, but on the edge near the damper sand. *Extract from Field Diary, 17 July 2014* I sit on the sand watching the sky. It then starts to rain, almost immediately a huge shower, large drops making holes in the sand, I run to the bar and huddle under a straw umbrella with a number of other people, all talking different languages *Extract from Field Diary, 25 July 2014*

It is apparent from these extracts that the sand is not a passive, heavily grounded and stuck-fast piece of land, but rather a serious presence within many encounters that I had, even to the extent that it disrupted the flow of one particular full-on sexual encounter between me and a woman and her partner –*the sand was the lump in my throat*.⁷ The reader will also notice that where I comment on the sand it is through a language of touch. I talk about ‘lying in’ as opposed to ‘on’ the sand, I talk about its heat and its clinginess, how it covers and how it shifts and reshapes, and how it absorbs and holds moisture. The sand clings to my body and becomes part of my body, but it also acts *upon* my body and impacts the directions and shape of the encounter itself. Since elements on the coast such as sand seem to impact upon bodies that are present there, it is curious as to why its contribution to the feel and overall dynamic of coastal experience is not represented in analysis of coastal spaces. Turning attention to literature that engages with the relation between the coastal materialities and sexual encounters at the beach, we find pointers to an ontological position in relation to sex that subverts and avoids the reality that human bodies are open to the sexual touch of matter.

Through a Foucauldian lens, Andriotis has examined homosexuality at a nude beach in Greece. His work is ethnographic while also using the Foucauldian concept of ‘Heterotopia’.⁸ Andriotis describes public nude beaches as spaces of ‘Deviant Heterotopia’, where individuals are able to exhibit behaviours commensurate with their preferred sexual practice, which might be considered outside of the sexual norm.⁹ While this is a valuable perspective as I have previously mentioned, it does not engage with the arrangement or properties of the space itself which might contribute to the behaviours which take place within it. The text undertakes an analysis of the boundaries and arrangement, but it does not engage deeply with the components of the terrain itself, such as sand, and its capacity to shape the sexual experience and boundaries of the space and bodies.

Studies such as these leave open the question of the presence of deep, material, radically individual sexuality and how such a presence might shape encounters

⁷ Particularly Extracts from above collage, which took place in the early evening of 15 July 14.

⁸ Andriotis, K (2010) Heterotopic Erotic Oases: The Public Nude Beach Experience, *Annals of Tourism Research*, 37:4, 1076-1096.

⁹ Ibid. at p1017-1078.

between bodies, or the rules which regulate them.¹⁰ However, there are projects which do not take for granted the nature of sexuality and the impact of active elements of the coast, such as sand. Obrador explores the sensual connection between bodies and beaches, in the context of nudism, although not what might be considered sexual nudism such as that at the Cap. Obrador finds that behaviour is produced by the materiality of the terrain through the production of sensory experience. He writes of the coast that: 'our bodies extend into things and they extend into us. Nudism is about the world touching us.'¹¹ This excerpt is of particular importance because it captures the presence of a material dynamic within encounters. This is also acknowledgment of the active tactility of coastal terrain: bodies extend into things through the touch of things. The affects of the terrain itself can be shaped through the presence of bodies and their encounters with the terrain. Yet, things are also able to shape the terrain of the coast: the coast is able to move and continuously so, shaping itself and producing its own *affects* and *effects*.

While Obrador undertakes a material reading of the coast, our perspectives diverge due to his understanding of how bodies participate in sex, or the constitution of sexuality. His text explores nudism and how it is performed on the coast, or rather, how the behaviour is drawn out *by* the coast. While nudism can be part of sexual encounters on the coast, it can also be completely asexual. That is, asexual in the sense that it is not a type of behaviour that is recognised or perceived to carry sexual meaning. Obrador's text suggests that this type of behaviour takes on a natural characteristic, in a way that explicitly sexual relations between bodies on the beach might not. He writes: 'The haptic confers a sense of authenticity and decorum on the nudist beach. Vision sexualises the beach, whereas tactility restores the aura of the place'.¹²

The words 'authenticity' and 'decorum' in the above extract require unpacking. The suggestion is that elements of the beach do not carry potential to participate within sexual encounters. The familial, seemingly a-sexual beach is Obrador's tactile authentic and decorous beach, whereas the Cap becomes the overly sexual, visual in-authentic beach. The use of the word 'decorum' is unusual, and seems to point to an 'ethical balance.' To suggest however that 'decorum' is the balance to be sought

¹⁰ See also Douglas, B and Tewkesbury, R (2007) *Theatres and Sex: An Examination of Anonymous Sexual Encounters in an Erotic Oasis*, *Deviant Behaviour*, 29:1, 1-17, and Douglas, J et al (1977) *The Nude Beach* (London, Sage Publications).

¹¹ Obrador-Pons, P (2007) A Haptic Geography of the Beach: naked bodies, vision and touch, *Social & Cultural Geography* 8:1, 123-141, p136.

¹² Id.

in relation to the ethics of nude beach, is problematic. This concept could indeed be useful in terms of assessing the ethical schema in relation to each individual nude coastal site. However, as it stands, 'decorum' sounds far too legal.¹³ That is, the suggestion is that because of the nature of tactility of the beach, decorum is easily found through the *absence* of sex. The ethical balance is therefore interfered with once the beach becomes sexualised. A beach that is sexualised however, still requires and indeed has an ethical balance. Through the analysis of my Field Diary we find the clear capacity for sand to establish a presence within sexual encounters. The grain of sand then, must be theoretically sketched as both *ethical* and *legal*. In relation to sexual encounters (as we see from my field diary) grains of sand can be warm, soft and arousing, or they can be scratchy, clingy and actively disruptive through creation of painful friction. Particles of sand become loaded with law through their physical presence within the encounter that must determine itself ethically. The ethical 'balance' within an encounter, cannot be simply considered as 'tactile decorum'. Rather, such a balance is contingent upon the *sexual* inclinations of *all* bodies, including sand.

¹³ The explicit link between this term and law, can be established through Foucault's 'Repressive Hypothesis' which finds that sexuality is repressed in order to retain and institutionalise decency and decorum, since this is necessary to sustain capitalism and bourgeois society: See Foucault, M (1998) *The Will to Knowledge: The History of Sexuality 1* (London, Penguin Books). This link can also be established through Deleuze and Guattari's work which builds upon this to critique such modes of oppression, in *Anti-Oedipus* (see the following section for further analysis of this). Law becomes one of these 'repressive', or 'Oedipal' forces. Such repression though, as Foucault finds, is also productive of transgression and increasing investment in our sexual lives and the ever increasing 'sexual discourse', see Smart, B (1985) *Michel Foucault* (London, Tavistock) p96. In a parallel reading of Deleuze and Guattari one could argue that this is not transgression in the negative sense, but actually productive and thereby an expression of submission and resistance within the positively desiring body - in which the organism submits, and the *Body without Organs* resists. See Deleuze, G and Guattari, F (2004b) trans. Massumi, B, *A Thousand Plateaus* (London, Continuum) p171, where the authors find it necessary to untie pleasure from desire through the constantly pleasure-suspending masochistic body - see also *Wave IV* relating to my position regarding the ethics of this necessity in the field. Also see the dynamic of submission and resistance inherent within the body on p176, 'The BwO [Body without Organs] howls "They've made me an organism! They've wrongfully folded me! They've stolen my body!" The judgment of God uproots it from its immanence and makes it an organism, a signification, a subject... it submits to the judgment, and the plane of consistency in which it unfurls and opens to experimentation.' I explore this further in *Wave II* relating to the erotics of this position. See also Deleuze, G (2011a) trans. Hand, S, *Foucault* (London, Continuum) where Deleuze finds sexuality at an 'impasse' through theorisation through Foucault of desire as caught within the dynamic of repression and transgression (see the following section for analysis of this dynamic). This dynamic between desire, sex (as encounter) and sexuality carries complex ethical consequences in the field. I focus on explicit ethical codes in relation to sexuality research at the Cap in *Wave III* and their mixture with personal codes in *Wave IV*.

Obrador's approach seems to reject the potentiality of sexual touching to reconnect with the terrain, and the presence of a sexual touch imparted by the terrain itself. Although here we are presented with an embodied model of sexual experience, the notion of sensual exchange between bodies (both human and non) is underplayed. This underplaying is again a vociferous absence. We are left with a text which teases, erotic in itself, but which does not deliver the much anticipated touch. The absence of real touch here means that the sensual is left un-politicised, a-legal, and as such, asexual, in that the account of the sensual landscape is somewhat untouched by the researcher, written about, but not written from within in order to determine the ethical schema of the coast as other than 'decorous'.

Lenček and Bosker find that the 'aura' is not at all a-sexual. Rather, the beach is a space which is not only central to our leisure activities, but one that is comprised of an 'aphrodisiacal cocktail of sun and water firing our slumbering hedonism',¹⁴ replete with 'erotic spectacles'.¹⁵ The coast is the quintessential meeting place, where land, water and humans coincide and as such, it is an intoxicating collision of different forces, an intensely physical space of elemental crashes: 'the scouring of the sand, the stroking of the wind, the slapping of water... orgasmic sensations'.¹⁶ Even the immersion of the body in water is a sexual excitation.¹⁷ The sea is a pulsating body of warm water, with occasional slugs of cold - which wraps its body around others to titillate, which renders even just swimming with the sea almost an act of fornication.¹⁸ *The sea is a violent body, subject to its own erotic thermodynamics - it tosses and turns in a state of permanent fractious arousal: 'We smile at each other as we are knocked by the waves. I walk slowly past him, out to sea.'*¹⁹

The coast holds a particularly earthy, erotic energy that draws bodies to it, as Douglas et al suggest: 'They find a sense of freedom and beauty in the sound of the waves, the smell of the salt, the feel of the soft sand under their bodies, and the feeling of the breeze on their bare flesh.'²⁰ The study by Douglas et al is ethnographic, and bursts with sensual description and appreciation of the wider implications and

¹⁴ Lenček, L and Bosker, G (1999) *The Beach: The History of Paradise on Earth* (London, Pimlico) p1.

¹⁵ Ibid. at p2.

¹⁶ Ibid. at p106.

¹⁷ Id.

¹⁸ Valéry, P (1956) *Collected Works*, as cited by Lencek, L and Bosker, G (1999), op. cit. at n. 14, p106.

¹⁹ Extract from Field Diary 14 July 2014, 3.15pm, which I analyse closely in this Wave, 'The Wandering Lines'.

²⁰ Douglas, J et al (1977), op. cit. at n.10, p30.

theoretical import of sexual transgression at coastal sites. Despite initially imagining that his observational studies determining social rules at the beach would only carry implications specific to the social structure of the 'nude beach scene', the authors write that they later came to see:

...the beach as a scene in which primal feelings and body communications are more exposed than in most life - at least more exposed to us, after carefully analysing it comparatively. Thus it is that the study grew on us, or happened to us, emerged around and within us... And thus it is that it became a focus of our quest to determine the foundations of human life - of nature in society ²¹

Their study acknowledges the complexity of the multitude of bodies which participate within encounters at the beach. He also recognises their cumulative and particular power to constitute conditions at both the level of encounter, and the level of society.

We find then the acknowledgement that the terrain can be sexual. We also find the potential of the beach for sensual crossing, from visual to haptic representation and mapping. We further find the cumulative power of this ability to cross from the *smallest* encounter, the domain of course of ethics - through to the widest encounter, to society, and of course, to law itself. The coast can be established as a participant - but how does it affect and what is the *effect* of the *affect* on what could be described as (ethically) sex, or indeed (legally) sexual.²² One significant affect that coastal material such as sand and sea seem to hold, is that of crossing and wandering - of constantly re-ascribing territory, boundary, jurisdiction and limit.

The big line that has still not been crossed however, is that between researcher and field.

This seems to be almost a taboo - can you hear/see/touch the silences? For now, I will suspend the examination and crossing of this line - in favour of humouring the authority of philosophy, for now. We'll rediscover sex shortly.

²¹ Ibid. at p16.

²² Throughout my thesis I develop and understanding of the disjunction and connection between the terms 'sex' and 'sexuality'. In *Wave I* it has been established that law retains a presence within encounters through its ethical attachment and judgment. In the coming sections I develop the connection between law and sexuality, which necessarily translates into conditions within encounters.

The Wandering Lines

The legal regime at the Cap has two levels (ethics and law) and this is reflective too of the regime of space. Deleuze and Guattari's smooth/striated modality of understanding space is relatively well-known and is most clearly set out in the 14th Chapter of *A Thousand Plateaus*. The authors helpfully set out various models and settings through which these characteristics of space can be appreciated, namely the Technological, Musical, Maritime, Mathematical, Physical and Aesthetic.²³ What emerges from all these manifestations of the smooth/striated paradigm is that the two aspects of space are by no means separate. While they can be considered a dualism in the strict sense, the terms are more than capable of folding into one another. Every time the presence of either smooth or striated is established, the authors find a way of bringing the terms back together - *Can we not displace the opposition again?*²⁴ As a starting point, striated space is constituted of points of departure and arrival: 'in striated space, lines or trajectories are subordinated to points: one goes from one point to another...'²⁵ These are the points that tend to guide encounters, and are effects or the result of production.

On the other hand, 'In the smooth, it is the opposite: the points are subordinated to the trajectory'.²⁶ In this sense, the movement and dynamic of affect between bodies, as opposed to the *destination* and effect, can be characterised as smooth. For example, if we observe a footprint in the sand, we can see the impression made, but this does not obscure the sand itself. We can see the shape and varying depths of sand that are created by the impact of the foot. This impression is the necessarily folded-becoming of smooth and striated space. Yet this impression which is created and intuitively observable also hides from view the mysterious hidden flows of the smooth. The smooth sand which is co-constitutive of the footprint contains in its particles the history and construction of the impression. On immediate observing of the print, the visual impression is clear, yet the tactility of its emergence is not so obviously perceptible. The direction and point of arrival, might well be determined by the heat of the particles of sand, for instance.

²³ See Deleuze, G and Guattari, F (2004b), op. cit at n. 13, pp 523-551.

²⁴ Ibid. at p525.

²⁵ Ibid. at p524.

²⁶ Id.

A lot of people (in couples) running across (striated/effect). the *sand* since it is so hot to tread (smooth/affect) on their way to the sea (striated/effect).

A lot of people (in couples) running across... on their way to the sea (points).

Figure 11: Sand in the Footsteps²⁷

The footprint created in the sand, in turn, is overcome by the influx of the ocean, or the movement of the beach. Striation is the more solid constituent of space, yet always open to its return to imperceptibility and re-folding back into the smooth. Striated space could be conceived of as boundaries, divisions and demarcations brought about by political and legal narratives; these lines that divide space into chunks are inherited through historical conflicts and jurisprudence. Coastlines are at the very edge of these boundaries that are imparted at the hands of these bodies of discourse. Yet the material properties of coastlines blur these lines, as Ryan writes:

At the coast, the 'solidity' of land is compromised, and is forced to become mobile, forced to respond to the liquidity of the sea. A relationship of give and take is formed; a taking of substance, and a returning of substance. The land becomes fluid, broken into small pieces to work with the insistence of water.²⁸

This mobility and returning inherent within coastal spaces is characteristic of the degree of uncertainty between the terms that constitute the Deleuzian/Guattarian spatial paradigm. Space demonstrates the elasticity of striation, as well as the productive and volatile resistance of the smooth. The space of the coast seems inherently capable of wandering and crossing, and characteristically capable of reterritorializing boundaries, as Ryan writes: 'materialities of the coast are defined by the creative and constructive acts of movement.'²⁹ Of the many elements and particles that construct the coast, none of them are static. The body of sand and the coastline move and submit to the sea, the sea submits to the weather and each is the product of the other. The coastline shapes itself; it builds its own spatial surface.

²⁷ Extract from field diary from 13 July 2014, presented in a form which highlights the difference between (through the lettering in grey) the striated/effect (direction/point of arrival) and the smooth/affect (trajectory). This also demonstrates what could be considered the most powerful yet also explicitly absent aspect of the space.

²⁸ Ryan, A (2012) *When Land Meets Sea* (Surrey, Ashgate Publishing) p15.

²⁹ Ibid. at p14.

These two points combine to bring a threat of incoherence to law, since law's points of departure and arrival are established on the basis of boundaries that demarcate jurisdictions. Law creates spaces of encounter, through the axiomatic assertion of spatial limits. In order to create these limits, law must be certain of its terrain. Simply put, it needs to accurately materialise and perceive the terrain in order to impart images through its syntheses. These images will form the legal constitution of perception and produce desired movements; but the necessary action in building these images is fleeting and reductive perception. Philippopoulos-Mihalopoulos characterises this act of perception in the following way: 'Law reduces space into law's saturable, controlled context while refusing to (admit that they) operate together in a folded becoming'.³⁰

The power of the coast lies in its possibility for crossing, as well as its fertility to encounter - and thereby the constant production (and anti-production) of new limits, new boundaries and new effects. Its potential is also in determining the sensory experience of sex (ethics) and thereby the determination of socially constructed sexuality (law). At the Cap we find these sites of resistance and wandering. Here we see the crossing of the sexual/spatial boundary that I have quickly taken as unsurprising. Here we have an encounter for encounter's sake: touching for touching's sake, no orgasm and no subsequent site of orientation, no fixed line of exclusion or inclusion, where the encounter is open to the enfolding of others:

'Now seated more towards the homosexual male part of the beach (if you can call it this) since there is fluidity between the 'sides'. A lot happening in the sea today x2W, 1WM, 1BM. The women are kissing, gently touching, men are just allowing this to happen, watching, chatting amongst themselves, not trying to elicit anything else. Another couple in the sea, kissing, grinding against one another. I stand a couple of metres behind the woman. The man is handsome, aviator sunglasses, he rubs her buttocks, pulls them gently apart. Meanwhile, some other single men start to notice, stopping in the sea and stroke themselves. Meanwhile, 3 other couples start to imitate couple 1's behaviour. A real energy in the sea as it cools. Blonde woman kneels to give man a blowjob, she is assisted by the sea in flowing movements, but at one point laughs as she is thrown off balance by a wave. I look back at earlier 4some, they have stopped and now just talking. Couple 1 also stop and walk

³⁰ Philippopoulos-Mihalopoulos, A (2010) Spatial justice: law and the geography of withdrawal, *International Journal of Law in Context*, 6:3, 201-216, p7.

off. Other couples continue. Ephemeral encounters, start and flow, stop and begin elsewhere; like the cooling breeze, that sometimes gusts.'

Extract from field diary: 15 July 14 3.45pm

The boundaries do not, however, disappear entirely. Indeed, some remain more fixed and more obvious than before. These are not the boundaries one would expect (such as attractiveness, for example). There is indeed a folded becoming. It is not without a sense of disquiet that I set out the note above, because it is not without a sense of 'exclusion'³¹ that I left the space. It is now then, that I return to one of the first questions I asked at the outset of my observations: 'where is the intimacy here?'³² What is the draw between each body, and between me and these bodies and with this space? This is the deepest question and takes us into increasingly deeper territory and fuzzier and surprising limits and boundaries and potential for, and actual, wandering.

My Wandering

My wandering at the Cap was never to seek out modes of sexuality or to find ways of simply explaining its enactment. Rather, it was to find out something fundamental to its nature and what its unique callings are – to hack into the mystery of the emergence of the encounter:

'My initial thoughts tell me that this intimacy is sought by all in *every* sexual encounter (gladness? enchantment?). Law may be saying that encounters are affirmed and produced (even in their apparently) deviant forms at the cap. But these are not the encounters we seek; it is ones of depth (affective and material surfaces rather than identifying the 'desirable'). Let's see.'

Extract from field diary 12 July 2014, 7.50pm

I know that there is a difference between sex and sexuality. I know that there is for Foucault, for Deleuze and Guattari and for every scholar in this field, a difference. It is clear that we can find the nature of sex to be that of wandering, of experimenting

³¹ I examine this sense closely in *Wave III*. This feeling of exclusion I will go on to suggest relates to the exclusion of intimacy and the exclusion and radical imperceptibility of feminine sexuality to heteronormatively masculine boundary, which points in a complex fashion to the distinction between ethics (sex) and law (sexuality).

³² Extract from field diary 11 July 2014, the evening before departure to the Cap.

and re-imagining the encounter. For me however, I find that participation and enjoyment of encounter is conditional upon there being some kind of resistance: resistance to institutional power.³³

Come on. You only have to look at my field notes. Constantly attention is wandering and I'm loving it. Loving it (what would the ethics committee say?) Just brimming with desire to cross that line – You. Just. Can't. Wait.

One must be cautious of such banal modes of resistance however, since there is a risk that these can serve to embed the very modes which resistance proclaims to subvert, and lead to their repetition.³⁴ This is reminiscent of the monotony of 'law-breaking' as resistance. The more that the law regulates, the more it produces the behaviours it prohibits, which is also the consequence of law retaining its power within encounters themselves, through ethics.³⁵ Through establishing ethics as encounter and law's subsequent connection with ethics, a more subtly resisting mode can be conceived. This mode would require the observing of 'every-day' resistance, which occurs through encounter and wandering. Resistance can be otherwise conceived as gentle openness and intimacy between bodies, where the resistance is not negative, but positively seeking the smell, touch, and melting into another body – or 'an increased ethical sensitivity'.³⁶ This 'ethic' was embodied by the 'I' in the course of my research. We can see this conflict between banal resistance and subtle ethical determination emerging in the Field Diary extract above. This appears explicitly, later on when on the beach itself:

³³ This would seemingly sit firmly within a Foucauldian analysis in line with the 'Repressive Hypothesis' (see n. 13). However, I argue in the coming section and throughout, that rather such desire can be aligned to a Deleuzian 'productive' desire which through its nature incorporates 'resistance'. Beckman articulates this through her analysis of 'sexuality' as conceived beyond that which is institutionalised. This is achieved by no longer: 'understanding the libido as repressed, sublimated'. See Beckman, F 'Beyond Sexuality' in Beckman, F (2011) (ed) *Deleuze and Sex* (Edinburgh, Edinburgh University Press) p231.

³⁴ Rather we must trace into embodied forms of resistance (see n.13) and carefully trace their lines of flight, through and across the field of sexuality.

³⁵ In the context of sexuality, it is contested whether this is a negative or productive dynamic. n.13 above. My position flows from my experience of the field and therefore follows the positive Deleuzian framing. This is also the way in which the ethical balance between a complex multitude of bodies within the research field can be reached sensitively, gently and in a way that brings a challenge to the law.

³⁶ See Beckman, F (2011), op. cit. at n.33, p231, where the author writes: 'Shifts in corporeal sensitivity may then give rise to an increased ethical sensitivity to otherness...' thereby, 'the erogenous body becomes part of an assemblage which has little resemblance to habitual understandings of desire and sexuality.'

'People generally quite relaxed. I see to my left, a couple, 30s or so. She strokes his quite large cock. In front of me two guys sitting together, a little too close to me, even for this part of the beach. Avoiding eye-contact or anything that could be construed as a come-on. Not really in the mood today. Pretty intense state of mind. Pre-occupied with things with X. Reached an intense stage. We are apparently not writing to each other for a week (what will this help with, I find the idea annoying, it is like he wants to make me do something I don't want). He is also in France with his family. I sense his presence and I miss him, *but he almost doesn't want me to*. I am in so much pain.'

Who cares about fucking on the beach.'

Extract from field diary 20 July 2014, 2pm

My mood changed, just under a week later. The weight of my personal world is heavy on my now sunburnt shoulders, the reality of my feelings and how this conflicts with my presence at this place, is troubling me. The affects are swirling, they come from all directions and threaten to overwhelm, like every seventh wave lapping at the shores of that beach upon which I took my notes. Just a note-taker. No one was affected by me, no one affected me, just a note-taker.

Here my position within the research-assemblage becomes an almost oppressive weight such that it is hyper-conscious of its inability to be affected, as well as to affect. There is a radical contingency here, although I have articulated what I thought, identified unknowingly the elements of the sexuality assemblage in which I am situated, I am also in the 'here', with my body sensitive to not only that which enters my consciousness, but importantly also, where I am. There is a multitude of ethical questions here: should I, ethically as in relation to my relationship with another, do I want to, should I want to, questions of distance arise too in terms of the impossibility of knowing, the intimacy of honesty, but it is also telling in other ways. It could be said that I sat there, overheating, on the sand in the midday sun, simply not being bothered, justifying my reasons for not, resisting a subtle compulsion to do so, but then wanting, unconsciously, wanting. This is an ethical encounter, where I take recourse to philosophy, to thinking, in the process of withdrawal, not prior to performance, but post-performance, six days earlier:

‘So relaxing walking in the waves, just checking out the way bodies are, feel the cool sea and the warm sun. We smile at each other as we are knocked by the waves. I walk slowly past him, out to sea. Kind of first time I feel like I am cruising as a lone female. I look at the guy from the back, he looks good. Eventually he turns and walks towards me, I’m about 5m away. He says something in French to me, I say sorry that I am English and do not speak French well. He asks me how long I have been here and I say three days. Silence for a while. He asks if I want to touch him, I say yes.’

Extract from field diary 14 July 2014 3.15pm

Its affect is seductive, the bodies, the naked bodies, are seductive, but all at once threatening and banal. Is it that I just want to transgress this boundary, the ethical one that said to me, no touching. Do I just want to get it off my back, to do it and be able to say that I have?

I never had an orgasm on that beach. I found it impossible. In my involvement, such that it was, with the encounters there I was never even mildly aroused, not even the slightest response in my body. And yet, sitting and laying there on the warm sand, playing with the glance and with the possibility of touch, I found myself overflowing with the desire to be touched, titillated by every naked body that I saw and that saw me. I found myself called to move and contemplate entering the situation whereby an ethical determination was necessary, by the touch of the sand, and by the movement of the sea. So long as touch only remained a possibility. The interesting point here is that my encounter was rather half-hearted. Yes, I touched him. It was a frenetic touch though, almost naïve in its inability to properly determine the ethical schema. It could be argued that indeed I broke the ethics of non-participation.³⁷ But my contention is, that the ethics of this encounter were indeed to touch as I did, and sadly, I had no other choice. My touch was in denial of its own power to be ethical, through soft material sexy power. Instead it was the sexual touch of law within the encounter, such that the its radical legal power remained only a possibility. My touch was mournful and symbolic of the imminent disintegration of my relationship – because it was completely impossible in the eyes of the Ethics Committee, and the eyes of my lover, that I could refuse.

³⁷ See *Wave III*, where I examine in-depth the explicit ethical code and conditions of being in the field, as determined by the Ethics Committee. I also include extracts from the correspondence relating to this, and these are attached at Appendix 1.

So why would I refuse? Go, fly, my love – you want to stay even with all that sex around you?! Ha! Impossible, you know nothing about your own body.

Conceptual Tools III: From Sexuality to Sex

Suffice to say, that I was left to go and make myself come later, with thoughts of intimacy, and world where I am allowed to love and to settle into gentle closure. The ethical balance that related to this moment is far from settled and I do not argue that I breached it, nor do I argue that I did not. I argue that assumptions were made about what my behaviour should be and what I ought to want to do, and those assumptions conditioned what I did in that encounter. The question as to what was ethical, in the radical schema that I argue for, is far more complex.³⁸ One aspect of the ethical call however, is to commence an investigation and discussion that subverts *assumptions* about sexuality. It is my claim that these assumptions are the that which condition the paternalistic imaginary which is perpetuated by not only the dynamic of my relationship, but which also more importantly conditioned the code of ethics that it is possible to argue that I breached. Such a breach can be argued to be the consequence of the inevitable transgression of embodied and harmful sexual assumptions.³⁹ I now continue to analyse the nature of the term ‘sexuality’ and how it has come to be problematically loaded with assumptions which do not hold true to the gently traced, sensitively embodied, ethical dynamics of sex as encounter.

Sexuality for Deleuze and Guattari begins with sex and not what can be described as ‘sexuality’. The word ‘sexual’ is problematic as a beginning point. This is due to the imagery, together with social, political, spatial and bodily baggage it holds. It is my position that for something to be ‘sexual’ it must find its mediatory point between those factors upon which it is contingent, that is, the individual bodies which are drawn together in an encounter. It is helpful to begin with Deleuze’s work with Guattari in *Anti-Oedipus*, together with the notes of Guattari alone in the *Anti-Oedipus Papers*, and Deleuze’s work on Foucault. In all of these works, we find a raging and clear attack upon the conception of sexuality as contingent upon familial relations and constructions of norm, which are built to facilitate the advancement of

³⁸ I begin the ‘tracing’ that is necessary through *Waves III* and *IV* in relation to explicit ethical codes relating to my research at the Cap and how they relate to sexuality generally, and their confluence with personal ethical codes. This tracing through the ethical is necessary to change the legal schema which is built of assumptions that can be crude and harmful to bodies, such as mine.

³⁹ I consider in depth the co-extensive nature of the governing forces (constitutive of the ‘ethical’ research code at the Cap) extensively in *Wave III*.

capitalism. In *Anti-Oedipus*, we find that the authors invite us to begin right then, back then, with a materialist method assemblage which is able to envisage desiring machines as combinations of indeterminate elements.⁴⁰ In doing so, we must listen to those who know how to be 'truly objective'. Yet, the critique is far more nuanced than this, and extends its reach into the 'soul' of the individual.⁴¹

Sexuality is a gesture of 'objectivity', bound up in which are assumptions that we must make about bodies, about fantasies, about 'the way the world works'. *Anti-Oedipus* is not only a critique of a Freudian model of sexuality, but also a critique of a method of analysis, specifically psychoanalysis, which bestows upon us the 'gift' of perversions. In the *Anti-Oedipus Papers*, we find Guattari's sometimes incoherent thoughts articulated in the course of chiselling the conceptual beginnings of *Anti-Oedipus*, which is useful in that the thread emerges, can be seen to emerge, with clarity and euphoria. This thread gives us the lingering gasp which is exactly the cry against 'sexuality'. It is apparent that there is a disjunction between 'Eros' and 'sexuality', or that there is some unjust appropriation of 'Eros' as 'sexual'. In the collection of notes on dreams, Guattari finds a site of anxiety which is produced between the maternal, familial, oedipal constructs, and the primordality of the erotic drive, which we are duped into believing must lead to madness in its following.⁴²

This dream confirms my intuition before the holidays: faithfulness to his mother (he is incapable of leaving the family home) amounts to his faithfulness to the 3 children's territoriality (the garden divided into 3). Its object is the hole, his sister's and his own, to be filled with the flow of mixed earth. It's the hole for the dead themselves produced as a transfinite flow of bodies. His Eros is expressed in earth and death flow in his oh so privatised relation to his sister and substrates. Nothing to do with Oedipus! (While his whole family is waiting for him to enter into it as soon as he finishes up with his childish political delinquencies.*) *Actually, he already adheres to the oedipal model through his particular kind of failure and mutilation behaviour.⁴³

⁴⁰ Deleuze, G and Guattari, F (2004a) trans. Hurley, R, Seem, M and Lane, H, *Anti-Oedipus* (London, Continuum).

⁴¹ I examine the 'Soul' in depth as Conceptual Tool VI in the following *Wave III*. For Deleuze, the soul is embodied and comprised both of the inner and outer field. It is both personal and impersonal and emerges as a singularity, conditioned by human and non-human 'inclinations' which appear as co-emergent lines of law. See in particular De Miranda, L (2013) Is a New Life Possible: Deleuze and the Lines, *Deleuze Studies*, 7:1, 106-152, p1.

⁴² Guattari, F (2006) *The Anti-Oedipus Papers* (New York, Semi text(e) p106.

⁴³ Id.

Here we find an illuminating dynamic which begins to build a working conception of sexuality. We find that there is an 'expression' of Eros which is articulated through forces which present us with a fixed model of transcendent sexuality already articulated in this thesis. We find the objectification and sexualisation of physical phenomena, such as 'the hole' both corporeal and earthly. We also find the flattening of the individual, not collapsing but flattening into simply a constituent part of the familial model which is maintained through sexual relations. None of this is surprising, but what is illuminating within this particular passage, is its affect. There is an indecisiveness, a dynamic between the two levels of interaction which creates a zone of indeterminacy of which force is originating from which zone, and indeed can we be sure that each is either, that is, is the familial the erotic, or the erotic the familial, or is one each and of itself? This unsettled dynamic between some kind of fleshly, material sexualness, and what we might deploy as the term 'sexuality' becomes clearly articulated in *Anti-Oedipus*, for it becomes apparent that sexuality is not either-or, but both. Sexuality encompasses both Oedipal sexuality, and the potential for it to 'slip' from its structural givens.

As Deleuze sets out in his work on Foucault, the task is not to play into and to remain within the knowledge-power dynamic which brings us to encounter sexuality as a fundamental relation to ourselves,⁴⁴ but to attune to the mechanism of folding which mixes the forces of power and sexuality.⁴⁵ This attunement however is no easy task. To express ourselves sexually as through our authentic self upon a plane of becoming is to dismantle an exceptionally robust fortress. *Anti-Oedipus* is a volume which cries out for this movement, to undo the smothering and repression of sexuality as a 'dirty little secret'⁴⁶ which must be sanitised, even in its perversion, and must be 'disinfected, treated in a psychoanalytic or scientific manner...'⁴⁷ It is such that even laying a claim to liberate sexuality, will mean submitting to and succumbing to the very forces which constitute the distortion and repression of sexuality, as Deleuze and Guattari write,

It is a lie to claim to liberate sexuality, and to demand its rights to objects, aims, and sources, all the while maintaining the corresponding flows within the limits of an Oedipal code (conflict, regression, resolution, sublimation of Oedipus), and while continuing to impose a familialist and masturbatory

⁴⁴ Deleuze, G (2011) trans. Hand, S, *Foucault* (London, Continuum) p86.

⁴⁵ Id.

⁴⁶ Deleuze, G and Guattari, F (2004a), op. cit. at n.40, p384.

⁴⁷ Id.

form or motivation on it that makes any perspective of liberation futile in advance.⁴⁸

It is not possible to dismantle the master's house with the master's tools. It is Deleuze's critique of Foucault's work that it does not create a passage out of this very impasse. For Deleuze, Foucault's sexuality remains within the power dynamic which it must escape for the necessary 'de-Oedipalisation'.⁴⁹ The impasse is the knots in our everyday lives, the constant brush with power, even in our intimacies, and in our 'smallest truths'.⁵⁰ Sexuality is therefore created by power dynamics, and Foucault has recognised this. The task then is not to escape or pass it, but rather to identify these moments where it is necessary to seek the ethical balance (*serenity*) – or *smallest truths* – within encounters, as Deleuze writes,

we run up against it in our smallest truths. This could be resolved only if the outside were caught up in a movement that would snatch it away from the void and pull it back from death. This would be like a new axis, different from the axes of both knowledge and power. Could this axis be the place where a sense of serenity would be finally attained and life truly affirmed?⁵¹

The axes of knowledge and power are inextricable from the axis of law.⁵² These axes therefore condition the encounter and the *ethical* decision. Deleuze refers briefly to the presence of law within this dynamic as he goes on to pose the question as to whether 'modern subjectivity rediscovers the body and its pleasures, as opposed to a desire that has become too subjugated by Law?'⁵³ The question is then whether the sexually desiring body can be conceived as 'un-subjugated'. Law very effectively subjugates sexuality through the way it constructs the sexual subject. Law tends toward the transcendent, that is, the sexual subject is constituted of transcendent terms that essentialise and describe sexuality. Through this way of talking-about, the

⁴⁸ Id.

⁴⁹ Deleuze, G (2011), op. cit. at n.44, p78.

⁵⁰ Ibid. at p79.

⁵¹ Ibid. at p80-81.

⁵² See Philippopoulos-Mihalopoulos, A 'Law, Space, Bodies: The Emergence of Spatial Justice' in de Sutter, L and McGee, K (eds) (2012) *Deleuze and Law* (Edinburgh, Edinburgh University Press) p100. Law exists as its own body, but is assemblic with other bodies, 'such as the economy, politics, science, revolution, gossip, fear, natural catastrophes and whatever else might enter into an encounter with law, thus generating intensive or extensive relations that redefine the plane of immanence on which the law finds itself.'

⁵³ Deleuze, G (2011), op. cit. at n.44, p87.

law constructs a seemingly stable and closed concept of what it is to be human.⁵⁴ The human subject thereby becomes universal, without capacity for variation in accordance with discrete, unique bodies or 'singular existent figures'.⁵⁵ The human subject is, of course, multifaceted. However, here I am concerned only with aspects of sexuality as folded by law, and in this context (using the law's transcendent and moral inclination) we are left with an essentially human, solid, sexuality. More than this, there is a universal human sexuality that is constructed through law, with law unresponsive or hyper-responsive to cases which do not accord with universal sexuality.

Law is embedded within the sexual subject and sex of any kind, is without doubt, a question of law and of transcendent terms. As Lambert writes, '*We all fuck like lawyers these days...* the entire question of fucking today is one of jurisprudence in four different areas: formally, practically, legally and ethically.'⁵⁶ MacCormack has also argued that it is difficult to frame sex as anything other than legal, no matter how hard or strangely it tries to fuck:

Even the most 'perverted' sexual subject is only so through the enunciation of a series of acts or evidences which affirms/forms that sexual subjectivity to another. Gender and perceived taste may be fluid but the subject nonetheless coalesces into an enunciated identify.⁵⁷

Law confirms its presence within sexuality as the eternal consideration (and paranoia) with the encounter. What am I doing? Who am I doing it with? Where am I doing it? Who is going to sue me? It is not merely a question of consent (although that is another dimension altogether) but particularly a concern of the legal dimensions of the sexual subject. The subject's sexual position is determined as being deviant/non deviant,⁵⁸ or as inside or outside the law, rather than

⁵⁴ Lefebvre, A, 'Human Rights in Deleuze and Bergson's Later Philosophy' in de Sutter, L and McGee, K (eds) (2012) p50.

⁵⁵ Patton, P (2005) 'Deleuze and Democratic Politics' as cited by Lefebvre, A (2012), op. cit. at n.54, p50.

⁵⁶ Lambert, G (2006) *Who's Afraid of Deleuze and Guattari?* (London, Continuum) p149, my emphasis.

⁵⁷ MacCormack, P 'Queer Posthumanism: Cyborgs, Animals, Monsters, Perverts' in Giffney, N and O'Rourke, M (eds) (2016) *The Ashgate Research Companion to Queer Theory* (New York, Routledge) p120.

⁵⁸ It is important to note that the law's treatment of supposedly 'deviant' sexuality has softened and changed over the centuries. See for instance Berkowitz, E (2012) *Sex and Punishment: Four Thousand Years of Judging Desire* (Berkeley, Counterpoint) where it is clear that law has become more generous in its judgement and punishment of sexual encounters. No longer, for example would one be punished so severely (by death on occasion) for

formulated through reflexive legal regimes that are actually and *in reality* open to the challenge brought by ethics as encounter. Even Lambert finds law within the ethical ('formally, practically, legally and ethically'). Yet as I have argued, if we formulate encounter as that which is empowered to organically and sensitively formulate its own 'ethical codes' then we find the possibility for softer law, and an un-subjugated sexual subject.

Through Lambert's question, it is possible to conceptualise how the sexual subject is formed. The range of answers to the strict disembodied 'question of fucking' is always limited, with the possibilities restricted by law to a narrow array of sexual couplings. It seems that your chosen sexual encounter must be with a human, it must be a human of appropriate age, sex, attractiveness and availability. The permitted coupling is inseparable from the question, as it provides the range of possible answers. These couplings that are present within the construction of the sexual subject undermine the material character of sexuality, which tends towards openness and connection with others. Grosz considers that a choice made outside of the range of couplings immediately made available, is an active expression of one's being, it is choosing an encounter because it offers pleasure to the body, not because it is through constructed need.⁵⁹ She writes: 'It is the enactment of a freedom that can refuse to constrain sexuality and sexual partners to any given function, purpose, or activity and that makes sexuality an open invention...'⁶⁰

This question of the ethical dimension of the subject opens the possibility for enquiry into the formative affect of the sexual encounter itself. But do we like 'fucking like lawyers', or rather do we have to - perhaps instead the challenge is to fuck like

adultery. The tenets of the sexual subject as defined by law are complex and on a surface level law is now far less conservative in sexual licence. However, looking at decisions in cases such as *R v Brown* [1994] 1 AC 212, *R v Emmett* [1999] All ER (D) 641, which hold to conservative views of sado-masochistic practices, it appears that on a much deeper level, the sexual subject remains entrenched as universally centred and co-ordinated as heteronormative in its modes and perceived preferences for expressions of desire. The judgments will always be the same, however different they appear. See also the recent case of *R v McNally* [2013] EWCA Crim 1051, when in a particularly conservative moment, the law decides that deception as to gender, over and above factors such as age, marital status, wealth and HIV status, is a valid factor that will vitiate consent (paras. 23-27 of the judgment). This manages to simultaneously embed gender categories, as well as privilege gender as a universal concern within sexual encounters (above such concerns as wealth, age, attractiveness and so on). On this basis, law will remain 'erotophobic' and disconnected from the truth of sexual encounters, as I go on to argue in the following chapter.

⁵⁹ Grosz, E 'Feminism, Materialism and Freedom' in Coole, D and Frost, S (2010) *New Materialisms* (USA, Duke University Press) p153.

⁶⁰ Id.

ethicists? The body has only with the critical, feminist spatial and post-structural turn been empowered to resist subjugation. As I have already said, such resistance must be carefully situated within encounters, so as to be sensitively, and ethically, radical enough to 'resist' through a 'corporeal sensitivity' that is beyond the horizons of law's envisaged modes of resistance and rebellion. This will allow for the 'increased ethical sensitivity to otherness' that such a legally incorporated corporeal sensitivity would require.⁶¹ Such a sensitivity is empowered not through legal mechanisms which are pre-occupied with setting out the terms of sexuality. Rather, such a sensitivity is reached through radical practice, which will disturb the 'comfortable' order of law.⁶²

Part of this sensitivity is in framing the struggle for subjectivity as striving for the right to difference, variation and metamorphosis.⁶³ In authentically and sensitively undertaking a project with these ethical aims, it is necessary to ensure that we track our journey into, through and out of, encounters. Encounters are where subjectivity is enacted and translated – it is where we meet the 'smallest truths' of our body. Sexuality is fixed in law, yet also reflexive to encounter. This attributes a particular onus of responsibility upon the research endeavour to enter into, to perceive, to feel, and to write with the wandering nature of sexuality. This is a way towards the gentle, ethical strategy which could inform a law which does not harmfully subjugate sex.

In *Anti-Oedipus*, Deleuze and Guattari lay the foundations for a subject that is not stable but constantly evolving in accordance with its encounters with other bodies. These other bodies have the potential to enter into an assemblage with the subject and bring sexuality into a field of alternative becoming to the one prescribed by law. In an interview with Deleuze and Guattari that forms part of the volume *Negotiations*, Deleuze says that: '[Oedipus] in its idealism, its domestic and theatrical idealism, it completely misses the unconscious character of sexuality.'⁶⁴ It is therefore apparent

⁶¹ See n.36.

⁶² See de Sutter, L (2012) *Deleuze and the Maiden: A Short Introduction to Legal Pornology*, *New York Law School Review*, 57, 125-135, p93. This disturbance is highly complex and must occur at the root of law's foundations. The disturbance for de Sutter is embodied by the figure of the 'girl' which through her unknowable and mysterious, wandering desire upsets the order of state constituted desire. This is a deep disturbance taking place at the level of the 'philosophical' foundations of law and can be aligned with the same power inherent within 'legal practice' as law's ethical path into the every-day encounter and expression of desire.

⁶³ Deleuze, G (2011), op. cit. at n. 44, p87.

⁶⁴ Deleuze, G (1995) trans. Joughin, M, *Negotiations* (West Sussex, Columbia University Press) p18.

that there is a construction of consciousness (Oedipalisation) that takes place at a legal, or state-constructed level, that finds the notion of all that is Oedipal to be the only productive form of sexuality. That is, this form of sexuality will sustain the state, the family, and the law in its current form, allowing thus all macro and micro relations, all encounters, all orgasms, to be controlled. Folded with Oedipal consciousness, as suggested by Deleuze, is the productive 'unconscious'. The 'unconscious character' of sexuality is that which Deleuze claims to be the productive place of sexuality, a place through which sexuality is either 'other-than' the Oedipal, or perhaps formative-of.

Deleuze goes on to list the effects of these types of Oedipal subjective instruments that control sexuality: '...the reduction of desiring production to a system of so-called unconscious representations, and to corresponding forms of causation and expression or explanation; the reduction of the factories of the unconscious to a piece of theatre'.⁶⁵ Deleuze's main critique of oedipal subjectivity is in relation to its reduction, and colonisation of the unconscious. Oedipal subjectivity is thereby deceptive: it seduces us into thinking that our responses, movements and chosen encounters derive from our own material unconscious. As Kemp writes, the subject is the result of 'a residue of the processes of coding and overcoding by which the flows and multiplicities of the social body are mapped and restrained.'⁶⁶ Subjectivity is brought about through controlling forces that shape the subject in line with Oedipal oppression in order to restrain it.

Building on Lambert's notion of the sexual encounter as contractual, I have said that the decision of who to encounter sexually is taken through consideration of 'legal perceptions' of bodies.⁶⁷ The perception of a body as a legal subject, is not *material* perception, that is, we do not encounter the body, but rather a superficially imposed universal, transcendent image of the subject, which we recognise. I have also said that, by using Braidotti's 'abstract organism', it is possible to reconcile consciousness and perception with a materially orientated ontology. The question in terms of the transcendent/immanent methodology is how consciousness can be situated in relation to the two seemingly interrelated terms. It is apparent from reading Deleuze's *Immanence: A Life*, that a materially abstract consciousness can be reached through the 'transcendental field', which is pure stream of a-subjective consciousness, a pre-reflexive, impersonal consciousness, a qualitative duration of

⁶⁵ Ibid. at p17.

⁶⁶ Kemp, J (2008) "Her lips were slightly parted": The Ineffability of Erotic Sociality in Muriel Spark's *The Driver's Seat*, *Modern Fiction Studies*, 54:3, 544-557, p551.

⁶⁷ See my discussion on the construction and ownership of 'Law's Body' below.

consciousness without a self.’⁶⁸ The transcendental field cannot be thought of as the transcendent; rather it is the plane of *immanence* that must become the basis of an immanently emplaced subject. While it can be said that law populates the transcendental field, it does so in a way that produces an act of transcendence which in turn produces a-material and disembodied enactments of subjectivity. It is therefore a question of the content of the transcendental field, and if this is formed of certain disembodied terms that law uses as reference points, then essentialised and denaturing subjectivity is a *fait-accomplis*. The transcendental field is virtual, and in being so, is constituted of potential, as Deleuze goes on to say: ‘it us an absolute immediate consciousness whose very activity no longer belongs to a being but is ceaselessly posed in a life.’⁶⁹ Consciousness in this form and all its enactments (inclusive of perception) is immanently virtual. If the virtual is to be conceived of as potential, then consciousness can be returned to a position of immanence, which in itself is a-subjective and without object. In order to actualise such potential, the way in which law implements forms of consciousness, which are translated into the formation of perception, must be rethought. Through subjectivication, law is the intermediary between consciousness and matter and consciousness and the matter of sexuality. Since subjectivication occurs predominately through transcendence, which results in material exclusion, it is necessary for law to review its use of the transcendental field, which it can only do through adopting an immanent position; that is, it must be able to actualise conscious subjects in line with their immanent lives. If law is able to situate itself immanently (in terms of all life, including consciousness) then it is possible for it to bring forth transcendent terms that are closer to its own origin - *that of life*.⁷⁰

⁶⁸ Deleuze, G (2001) trans. Boyman, A, *Pure Immanence: Essays on a Life* (Brooklyn, Zone Books) p25.

⁶⁹ Ibid. at p27.

⁷⁰ Deleuze writes of an immanent ‘ethic’, or an ethic that can emerge in encounters as personal, yet impersonal. This is clearly articulated in one of the last of his essays: *Immanence: A Life*. He gives the example of a dying Dickensian rogue is found by people who hold him in contempt. Despite their feelings of revilement, those who find him experience an eagerness for the slightest signs of life. As he returns to life however, they again turn mean and crude toward him. In this moment of death being immanent within life, a personal/impersonal moment emerges where all worlds meet to do what is best to make the rogue’s body *stronger*. This moment transcends the hatred they feel since personal consciousness dissolves into the encounter. See the example in Deleuze, G (2001) p28 and also for Deleuze’s summary of the ethical position, ‘The life of the individual gives way to an impersonal and yet singular life that releases a pure event freed from the accidents of internal and external life...’ I argue that this ethic can only emerge in the context of law and sexuality research where both the ‘internal’ and ‘external’ are brought to an analysis of the field encounters, where the two sides coalesce in mutual flow. I develop this position further in relation to research ethics specifically (*Wave III*) and the site of the Cap (*Wave IV*).

The Wandering Body

I have already said that the sexual encounter is predicated on the answer to a legal question: that of whether a sexual act is likely to be determined by law as deviant. This is a question to be answered by the conscious, and yet paradoxically formed by what might seem a 'masochistic' unconscious. I claim that deviance can be understood as the moment where the subject provides the wrong answer to law's question, that is, when they enact a deviant sexual encounter. The question itself is brought about by detectable narratives (such as oedipal law) which provide the content of the question and the range of answers.

Yet to answer the question of the question, or rather how the question is formed, it becomes necessary to undertake a slightly superficial exercise. In order to understand how material-sexual bodies would move in the absence of law, it is necessary to understand to what extent these laws are incorporeal, or seemingly misaligned with the body's inclinations. Through this, we find the point of resistance, temptation, desire and the line of flight. Gatens encourages us to recognise that bodies are formed through narratives, or rather our imaginings of bodies are produced through the persistence of these narratives. Gatens' text focuses in particular on the normative practices that tend to produce bodies that are gendered. Law is a mechanism that finds it necessary to carve bodies up: to decide which parts can be displayed and which cannot.⁷¹

Law's Body

In reading Hyde's *Bodies of Law*, it is apparent that there is not one part of the body that does not belong to law in some way. Hyde observes that law subsumes the body into its discourse through its particular language, and in so doing it enacts a

⁷¹ See for instance, Saartjie Baartman, the 'Hottentot Venus' who was displayed so she could be admired, stared and leered at, painted, worshipped and ridiculed. There was also a legal case where it needed to be established that she was displaying herself against her will, in order to liberate her from her slave keepers. This is a powerful historical example of the law's cumbersome and crude nature in focusing in on simple bodily states (dead/alive, naked/clothed, race) rather than the 'particular' suffering of an individual body (Saartjie was drawn into alcoholism and prostitution as a result of her experiences) see Holmes, R (2008) *The Hottentot Venus: The life and death of Saartjie Baartman Born 1789 buried 2002* (London, Bloomsbury) in particular p91-110. Her body, on her death, was brutally dissected and parts of her were then put on display, including her genitals, which at the time, was legitimate since her body was merely property, see 'Coming Home' (February 2001) retrieved at <https://www.theguardian.com/education/2002/feb/21/internationaleducationnews.highereducation> accessed on 10 September 2016.

very specific legal body. For Hyde, the overriding theme in legal discourse is that law tries to establish a level of proprietorship over the body. In addition, it also attempts to instil this same sense of property in one's own body. Simply put, for law, the body either belongs to you, or to itself, but usually it belongs to the law.⁷² For example, the law's intimate ownership is most explicitly established in the section of Hyde's book, 'Legal Vagina'.⁷³ Here, the law finds itself in a quandary, since the vagina is simultaneously formative of legal gender identity, as well as searchable and (often problematically) on display.⁷⁴ To only imagine the vagina through law, is to see it as its property, that is, not as a material body part belonging to a material body. Even when the law is saying that the vagina belongs to a woman, it has made her a woman, it does not belong to her. This is because the law still holds property in the vagina: it has used it as a manner of identification and comparing one body to another. These legal devices become enacted and embodied, which inform perceptions of bodies and how they should move and behave in encounters. The 'question of fucking' is inescapably formed by and answered through these legal practices. While law can be said to appropriate the body, the question then emerges as to whether the body can ever escape legal proprietorship, or indeed whether it must, or whether it wants. Latour writes that the body is 'an interface that becomes more and more describable as it learns to be affected by more and more elements.'⁷⁵ He goes on to write: 'there is no sense in defining the body directly, but only in rendering the body sensitive to what these other elements are'.⁷⁶ Latour's definition of the body is both tantalising and disturbing. It is the case that the body will always be appropriated by some normative sphere or another. Through Latour, the body is attributed a profound sensitivity to affect, which renders it vulnerable to subjugation.⁷⁷ Not only this, but law needs to categorise and punish bodies: Latour writes,

I want to show the immense difference it makes in body talk if one uses propositions (which are articulate or inarticulate) instead of statements (which are true or false). This will allow me to give back to the body all the material impedimenta that make it sensitive to differences.⁷⁸

⁷² Hyde, A (1997) *Bodies of Law* (West Sussex, Princeton University Press).

⁷³ *Ibid.* at pp165-173.

⁷⁴ *Ibid.* at p165.

⁷⁵ Latour, B (2004) How to talk about the Body? The Normative Dimension of Science Studies, *Body and Society*, 10, 205, p3.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

Law is the user of statements *par excellence*, since its lexicon is formed of verbal bodily constructions and dichotomies, such as male/female, black/white, legal/illegal, resident/non-resident, deviant/non-deviant, and so on. These statements can be said to mask the material articulation that is necessary to speak the body, or rather it is not possible to authentically speak of the body by describing them through binary language. While the sensitivity of Latour's definition of the body is worrying in the context of the material crudeness of law, the definition is also materially mobilising. If law were to adopt Latour's language of *articulation*, it could render itself more open to the ethical openings within encounters.⁷⁹ In this way, when bodies encounter sexually, the encounter must not be seen as captured through the language of law, as 'deviant' or not, but rather as an encounter between individual bodies, capable of articulating *themselves*. The body speaks, howls and screams, moans and whimpers, in ways that do not translate into legal modes of identification.

Sexuality - Eros - Sex

The law in assigning bodies stable identities and attributes, finds itself complicit in the erotic inclination and teleology of the body, as Grosz writes,

Libido or erotic desire involves a certain dis-quieting, troubling or unsettling of the body-image even while functioning in conformity with it. Rather than resolving itself, gratifying its urges as quickly and simply as possible, erotic craving seeks to prolong and extend itself beyond physiological need, to intensity and protract itself, to revel in pleasurable torment.⁸⁰

Law then enters into a dynamic not only of banal transgressive resistance, but of a more fundamental ontological resistance that can be characterised as 'erotic'.⁸¹ The encounter thereby becomes an increasingly important site of focus. We have seen that law is within encounters through its connection to ethics, but it also turns out that law is also connected through eroticism. Its complicit engagement with encounters is conditioned by eroticism, which appears to enjoy the obstacles it

⁷⁹ This point of production cannot be fetishized as an end 'goal', see Grosz, E 'Animal Sex: Libido as Desire and Death' in Grosz, E and Probyn, E (1996) *Sexy Bodies* (New York, Routledge) p285: 'Sexuality, desire cannot be seen in terms of function, purpose or goal, for this is to reduce it to functionality; materiality is always in excess of function or goal.'

⁸⁰ Id.

⁸¹ See also *Wave III*, where I frame this dynamic of law's oppression of the body as capable of subversion and release from oedipal judgment, to ensure the strengthening, rather than weakening of bodies.

encounters. The way that this erotic force will translate differently for each body and each encounter however – it might be microscopic – perhaps a gentle mixing between the particles of skin breathed by a nostril, which is unbearably fragrant, or it could be sand felt against the skin, but we carry on rubbing despite the pain, or it might not hurt at all – we can become stronger or we can become weaker as bodies.⁸² Law is erotically productive, because it is *within* the body. In recognising the body as the site of submission and resistance to the law, we find that law is not only the crude, controlling device that compels us to revolt.

As indicated above, parts of the body are privileged and located as erotic centres for the law.⁸³ Yet these facets of bodily description and identity are also folded into the blood of the body,

The face abstracts the body from its multidimensional, polyvocal corporeal code, beginning with the most visible surface, the head. After the head, the face deterritorializes hidden surfaces, like the genitals and the blood, subsuming them into its overall signification - subjective identity.⁸⁴

Blood is present within this superficiality, pulsating through the veins of the one whom we encounter. Blood can also be used by law to identify bodies through narratives such as family, purity and historical relations of power.⁸⁵ Through these narratives, we find the physical folding of law into the blood of the body. Blood produces responses of repulsion, fear and disgust,⁸⁶ and of oppression through the

⁸² Id.

⁸³ See Waldby, C 'Destruction: Boundary erotics and reconfigurations of the heterosexual male body' in See Grosz, E and Probyn, E (1996), *op. cit.* at n.79, pp274-275. The author argues that the 'skin' of the (feminine) body is assigned erotic as well as penetrable sites that signify its submission to the phallus. However, this is not a negatively framed critique, since she goes on to conceive of the 'phallus' as transferable 'property' that can be radically owned by any-body. Further than this, she encourages the feminist imaginary to draw on 'sexual practice' itself, in order to create its own modes of 'de-privatising' subjugating masculine desire, through thinking 'in and through pleasure, in order to think of ways of fantasising erotic surfaces and orifices, of relations between organs and parts... Maybe what theoretical feminism needs now is a strap-on'. The encounter itself becomes a way in which we can identify alternative surfaces, as well as an opportunity for bodies to 'own' and subvert laws creating their surfaces, that they are assumed to be submit or accord with.

⁸⁴ Riordan, G 'Haemosexuality' in Beckman, F (ed) (2011), *op. cit.* at n.33, pp70-71.

⁸⁵ Id.

⁸⁶ There is a particularly strong narrative of disgust, and historically, also a narrative of mystery surrounding menstrual blood in particular. This has resulted in sanitisation and deoderisation in both marketing and embodied practices, meaning menstrual blood is folded with taboo and shame: see Chrisler, J et al (2015) *Body Appreciation and Attitudes toward Menstruation, Body Image*, 12, 78-81, p78. There is also a historical narrative of mystery and subsequent fetishisation of the importance of menstrual blood and a somewhat complex and

privileging of one type of blood to another.⁸⁷ It is also connected to various sexual practices including BDSM, blood fetishism, and the pursuance of 'risky' sex such as 'bug chasing'.⁸⁸ Riordan poses the question of whether bloody sex-practices ('cutting, bleeding, fucking with and consuming blood')⁸⁹ might enable the stepping outside of oneself - to the point where the body as constructed by law, can be subverted to reach a deeper level of sexual encounter.⁹⁰ This suggestion stems from the character of such relations, as self-admittedly perverted, yet sensually experimental and bodily attuned.⁹¹ We find then that playing with blood can be erotic, and we also find that such practices can result in punishment and responses of disgust and concealment. Blood is a fundamental life-giving property, but it is not experienced in the same way, by every-body. Bodies and Eros can be brought together in their mutual ability to flow, and to rush and to clot. When the body is cut, blood runs and runs (despite the possibility of leaving the body maimed) extending the limit of the body and creating subversively erotised bodies. This focus on such practices which explicitly involve the body and parts that are not traditionally envisaged by law as erotic is necessary for determining the ethical balance in relation to encounters that involve sexual practices of any kind.

Goodrich also finds a relationship between law, bodies and Eros. He finds that the judgment of law in cases of love is a 'facilitator' for law to allow for 'diverse forms

strange medical discourse - see for example Hindson, B (2009) Attitudes towards Menstruation and Menstrual Blood in Elizabethan England, *Journal of Social History*, 43:1, 89-114. I would also argue that Chrisler et al's study could be built upon through critical methodological approaches which might expand the openings created by their qualitative approach by problematising, tracing and charting the relation that women have with menstrual blood. This is particularly so, since menstruation however does carry transformative potential for re-articulating the limits of the body, and can in itself become a bodily 'leak' which can inform an epistemological as well as ontological reimagining of femininity, see MacDonald, S (2007) Leaky Performances: The Transformative Potential of Menstrual Leaks, *Womens Studies in Communication*, 30:3, 340-357, p340-341. MacDonald's piece also calls for a connection to the performativity of the 'leak' to help us understand ways in which society can become more comfortable with 'flow' and 'leak', thereby subverting patriarchy and control (p357).

⁸⁷ Riordan gives the example of the Nazi privileging of Aryan blood, see Riordan, G (2011), op. cit at n. 84, p71.

⁸⁸ This is a practice among homosexual men where the encounter takes place with someone who is HIV positive, with the attendant eroticisation of the risk of contracting the disease. See also Dean, T (2009) *Unlimited Intimacy: Reflections on the Subculture of Barebacking* (Chicago, University of Chicago Press) for a comprehensive overview and analysis of the practice.

⁸⁹ Riordan, G (2011), op. cit. at n. 84, p79.

⁹⁰ Id.

⁹¹ Ibid. at p87.

of expressions of love.⁹² Judgment as a function of law is thereby cast as a positive instrument that both owns and releases bodies. Pain and suffering remain an intrinsic part of the process however,

...legal judgements take effect in a field of pain and suffering. The same is true of the laws of love. It is no accident that the first and last cases of love concerned not simply erotic melancholy but suicidal lovers who would prefer death to amorous disappointment or unrequited passion.⁹³

This indicates that law sweeps into a field that is maligned already, through bodies that just cannot help themselves. I claim that rather it is the case that law is not saviour, and it is not yet liberator either. Rather, the law is *complicit* within the dynamic that produces bodies that enter into encounters that require law's judgment. It is not judgment that liberates bodies but the body that liberates judgment. This is through the body's power to produce introspection and identification of points where the law capitalises on its erotic power to draw bodies into transgression – and make them suffer in a veiled attempt to protect them.⁹⁴

I will now begin to examine the erotic body of the researcher who through sexuality, through Eros, is trying to find sex. This particular body is difficult to access since it is often held out to be objective and any admission of its ability to dissolve into the field needs to be carefully justified.⁹⁵ I now analyse this line between researcher and field in more depth and in doing so will explore the difficulties of maintaining such a boundary. The inevitability of the crossing of this line in sexuality research poses

⁹² Goodrich, P (2002) Erotic Melancholia: Law, Literature and Love, *Law and Literature*, 14, 103-130, p127.

⁹³ Ibid. at pp127-128.

⁹⁴ See Sharon, M (2011) The State's Oversight: From Sexed Bodies to Erotic Selves, *Social Research*, 78:2, 509-532. where the author outlines ways in which law claims to protect women and yet has historically caused suffering through inadequate laws relating to divorce and sexual offences. The author cautions against conflating sexuality and state, although also makes a good case to the contrary. I claim that conceptual 'slippage' toward the 'erotic' preserves the power of the body and the self through encounter to continuously recast the ways in which the erotic is incorporated into law, in order to question whether it is the body, or the law that produces pain and suffering. This is the ethical domain which retains the possibility for this – the question that remains open is to law's capability of adopting an appropriate (a) sensitivity and (b) method of doing so. I explore the problematic paternalistic functions of law in the context of research ethics in *Wave III* which connects to the formation of conceptual basis for this method.

⁹⁵ This is the endeavour I undertake here, and I do not argue against the need to carefully justify such a personal presence, but rather I argue here for both the advantages to the field of sexuality of doing so. I also point to what this need to 'justify' and the perception that this is an ethical 'risk' points to in relation to boundaries drawn upon the body of the researcher.

deeper questions in relation to the embodied validity of the law which draws me to the field and to move within it.

The Wandering (sand drenched) 'I'

It is telling, as I have already noted that the researcher tends to be 'absent' in research concerning sexuality. When I say absent, I mean both in terms of explicit explanation of some 'problematic' subjective presence and impartation or receiving of affect, and in terms of expressing the connection between self and research. Even in sensually rich research as Obrador's there is this curious dismissive paragraph of the value of the presence of the partial perspective of the researcher, even though his work is autoethnographic:

By focussing on my own experiences as well as the experiences of others, I respond to one of the biggest challenges of my research, how to do participant *observation* without appearing *voyeuristic* or *narcissistic*, that is, how to look into the sensuous culture of the beach without adopting a dispassionate and detached point of view. This chapter is neither just about other people's bodies nor a self-absorbed reflection on my own practice and positionality as researcher. What I am doing here is using myself as an instrument of research... As a regular visitor of the beach, this is not as much a question of developing an insider perspective of an alien sensorium as a conscious effort to rationalise the sensory culture in which I dwell.⁹⁶

The author occupies a personal and partial perspective. It is difficult to rationalise volatile material and sensual experience. However, my argument is that this difficulty needs to be met head-on in order to avoid the lack of integrity which comes from attempting to absolutely rationalise such experience of the field, particularly in the field of sexuality. Obrador paradoxically and insightfully goes on to write that it is the material itself, the sand itself, in its plasticity that makes possible for something absent to attain a presence.⁹⁷ The sand is that which one would attribute the characteristic of being 'impersonal' in its tactility (as we have seen above). The way to establish integrity and ethical faithfulness to the field, is through establishing a presence between the personal and impersonal. The mode through which I argue this is possible is through access to the moment which can be theorised as *personal* as well as *impersonal*.

⁹⁶ Obrador, P (20150, op. cit. at n.3, p52.

⁹⁷ Ibid. at p57.

It is almost as if occupying the middle ground becomes a safe site of avoidance of the deeper truth not only about oneself, but about the relation between oneself and the 'object' of research. Here I am laying the groundwork for a fine ethical balance. I do therefore ask for you, as reader, or assessor, to join me as 'voyeur'. I am going through a lot of trouble in order to convince you that a personal approach to research is necessary, in order that you will find me credible. However, what I ask is that my credibility is not contingent upon my ability to be separate from the field and establish my objectivity. I ask that my credibility rest upon my ability to reach readers of my thesis and bring you into the inner and outer field that this thesis examines. My claim is that such credibility should rest upon articulating research experience in the objective field of ethics, law and sexuality, through authentic access *to* and *via* my experience in producing this piece. I ask you to become authentic voyeur, in following me, as I wade into the field.⁹⁸

I want to begin by setting out a theoretical schema for re-establishing the presence of the body of the researcher within such a field. I will now therefore trace carefully, and sensitively the path to this personal-impersonal space in the field. This is also the path accessing the field's ethical balance, which is inclusive of both field as a body, and the researcher.

Conceptual Tools IV: Enter Immanence

I have already pointed to the importance of immanence as a theoretical framing for law and its relation to ethics.⁹⁹ Immanence is the foundation of law's potential for entering the encounter (for good or for bad). Immanence is also sexuality's way into sex, or the real encounter. It is not the case that immanence is 'better', nor is it the case that one thing can be more immanent than another. Rather, I claim here that immanence is theoretical movement, or a methodological tool which allows access to the reality of concepts as lived in the field.

⁹⁸ It is important to mention in terms of the range of bodies that encounter my research; that some find it/have found it more difficult than others to succumb to its aims. In particular, I have in mind the Ethics Committee who were asked (perhaps not as explicitly as I ought to have) to come into the field with me. I doubt that I would have been granted approval if I had, however. This is a central aspect to my arguments and I explore this in depth in *Wave III*.

⁹⁹ See *Wave I*, Conceptual Tools I.

Immanence is a life and nothing more.¹⁰⁰ This is a simultaneously clear and infinitely complex proclamation of the relation of immanence to life, which is especially so since the meaning that Deleuze attributed to the term throughout his works was by no means consistent, nor simple.¹⁰¹ If the term is reduced to its simplest form, then it can be argued that it is the 'univocity of life'. It is all life, all of being and every aspect of life in its inexhaustible variety. Deleuze complexifies the term, which in a sense, almost accommodates the wealth and abundance of the potentialities of life – while at the same time, the meaning of the concept remains elusive and reflexive.¹⁰² The elusiveness of a reduction of the term in Deleuze's works, with and without Guattari, can be attributed to the inexpressible force that is within life itself, since such inexpressibility would preclude a programmatic description of what it is in concrete terms. Immanent life, for Deleuze, is not a unified life; rather it is all of the elements of life combining in the univocity of their presence.

This univocity is also diffused through difference. Colebrook writes: 'for life always has the power to produce further events of difference, to go on speaking.'¹⁰³ Life and being thereby split into an infinite number of planes and trajectories. All planes converge as the universal whole of life, yet each aspect carries the power of self-differentiating vitality, it is a matter of: all things being divided up within being in the univocity of simple presence ('the One-All').¹⁰⁴ Immanence is therefore life in its universal form, but also every different form and event in life; from the microscopic and the inorganic, to the organic and the massive, and that which is within all matter, and all life. So it seems that this description of immanence is, and must remain, slightly enigmatic. Deleuze's project was not necessarily to explain the mechanics of immanence, rather it was more to provide the *tools* with which to identify it; and to tell us where immanence '*par excellence*' can be found.¹⁰⁵ The one substance, and the one continuous, yet closed, plane of materiality is immanence and is life, as Cheah writes, 'for Deleuze, materiality is nothing other than a plane of immanence.'¹⁰⁶ The challenge for law is therefore to move away from transcendent formations and

¹⁰⁰ Deleuze, G (2006) trans. Hodges, A and Taormina, M, *Two Regimes of Madness* (New York, Semiotext(e) p385.

¹⁰¹ Kerslake, C (2009) *Immanence and the Vertigo of Philosophy: From Kant to Deleuze* (Edinburgh, Edinburgh University Press) p1.

¹⁰² Ibid. at p4.

¹⁰³ Colebrook, C (2002) *Understanding Deleuze* (Australia, Allen & Unwin) p32.

¹⁰⁴ Deleuze, G (1984) *Kant's Critical Philosophy: The Doctrine of the Faculties*, as cited by Colebrook, C (2002), op. cit. at n. 32, p33.

¹⁰⁵ Meillassoux, Q (2007) Subtraction and Contraction: Deleuze, Immanence, and Matter and Memory, *Collapse Philosophical Research and Development: III*, 63-107, pp65-66.

¹⁰⁶ Cheah, P 'Non-dialectical Materialism' in Coole, D and Frost, S (2010), op. cit. at n.59, p86.

instead identify as well as capture the forces of immanent materiality, or as I claim, the ethics which emerge as part of any given plane of immanence.

Deleuze elaborates on the idea that the principle foundation of immanence is life prior to translation of any kind; he writes that life is a 'pure event freed from the accidents of internal and external life, that is, from the subjectivity and objectivity of what happens.'¹⁰⁷ Yet the question remains as to how situating *life* as immanence, can allow for liberation from the shackles of subject/object relations, as well as accounting for the 'resistances and swerves'¹⁰⁸ that indicate the presence of a self-causality within material. Life emerges as a force that is within all substance, that is, within all beings, since they derive from the same universal substance. The identification of the origin of life as within substance has the effect of unifying all derivations of substance as containing the same force. In his work on Spinoza, Deleuze writes: 'That there is only one substance per attribute already suffices to confer unicity, self-causality, infinity, and necessary existence on each qualified substance.'¹⁰⁹ Attributes can be understood to be actualisations of material, or rather, materialisations. Substance can be conceived as a continuum that is compiled of an infinitude of essences, that hold the potential to form the vast and unthinkable array of materialities that are present within an immanent plane. Bennett writes that 'A life thus names a restless activeness, a destructive-creative force-presence that does not coincide with any specific body. A life tears the fabric of the actual without ever coming fully "out" in a person, place or thing.'¹¹⁰

Law then is the actualisation of the ethical breath of substance. There is a distinction between law and life, and that distinction is the unpredictability of substance to determine itself. The ethical could take any direction because of the multitude of bodies at play within the encounter, which means that then law retains its reflexivity and possibility for change and reformation. Revolution finds its possibility in a life lived, which is the zone of compliance with, and resistance to, law. The plane of immanence is a continuum replete with sites of resistance, meaning the breath of immanence is indeed resistance, is indeed life. The ethical challenge then, is in finding the ethical balance, within this plane of chaos.

¹⁰⁷ Deleuze, G (2001) trans. Boyman, A, *Pure Immanence Essays on a Life* (Brooklyn, Zone Books) p28.

¹⁰⁸ Bennett, J (2004) The Force of Things: Steps toward an ecology of Matter, *Political Theory*, 32:3, 347-372, p364.

¹⁰⁹ Deleuze, G (1988) trans. Hurley, R, *Spinoza Practical Philosophy* (San Francisco, City Light Books) p109.

¹¹⁰ Bennett, J (2010) *Vibrant Matter* (USA, Duke University Press) p54.

Immanence and Sex

It could initially appear that the terms immanence and transcendence are in opposition to one another, yet this is not how the terms operate. Rather, there is a productive tension. Lefebvre notes that there is a correlation between the terms: 'Transcendence is always a product of immanence.'¹¹¹ Yet transcendence distorts an immanent life, through its derivative nature, as Lefebvre suggests: '...transcendence is a function of immanence that 'denatures' itself. In other words, transcendence is essentially derivative...'¹¹² Immanence is not denatured by the act of transcendence as an external imposition, but rather, as the two fold into one another; they 'revel in pleasurable torment'.¹¹³

Transcendence comes to represent the production of the eternal paranoia (and seduction) within the 'question of fucking'.¹¹⁴ Law tends to introduce transcendence into sexuality through a process of derivation that proclaims to denature the assemblages that form it. Lambert can see no difference between sex and law:

I see no difference between fucking and jurisprudence. It is not by means of the body and its various elements (its blood, its saliva, its various discharges and ejaculations) that the sexual relation is formed out of the body's materiality, but rather by 'words and deeds'.¹¹⁵

Through law, as we have seen above, the body is carved up and represented as terms of a sexual contract. Such terms are formed by, and negotiated on the basis of, 'consensual mechanisms of control'¹¹⁶ employed by law. For Lambert, the framing of the question of sexuality as legal stems from a profound fear and misunderstanding of the wandering potential of sexuality.¹¹⁷ However, I disagree with this position. Rather, what I suggest is that the 'question of fucking' is the law's general inclination towards the morality of transcendence, which is perpetually and necessarily challenged by the ethical emergences within sex as an encounter. There is a mutuality to this exchange, in that the encounter of sex is not separate from, nor

¹¹¹ Deleuze, G (2006), *op. cit.* at n.100, p388.

¹¹² Lefebvre, A (2012), *op. cit.* at n.54, p50.

¹¹³ See above discussion in 'Sexuality-Eros-Sex'.

¹¹⁴ Lambert, G 'The 'Non-Human Sex' in Sexuality: What are Your Special Desiring Machines?' in Beckman, F (2011) *op. cit.* at n.33, pp135-153.

¹¹⁵ *Ibid.* at p93.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

would the bodies within the encounter desire such a separation, nor would it be possible.

Deleuze has claimed however that sexuality has the power to be other than state or legally constituted. He has claimed that sexuality is inherently packed with a wandering potential to overturn the law,

'microscopic transsexuality, resulting in the woman containing as many men as the man, and the man as many women, all capable of entering - men with women, women with men - into relations of production of desire that overturn the statistical order of the sexes. Making love is not just becoming as one, or even two, but becoming as a hundred thousand. Desiring-machines or the nonhuman sex: not one or even two sexes, but n sexes.¹¹⁸

This wandering is the foundation of an ethics of sexuality, which takes place in the encounter, where the body is open to the affects of other bodies: 'knowing how to love does not mean remaining a man or a woman; it means extracting from one's sex the particles, the speeds, the slownesses, the flows, the n sexes that constitute the girl of that sexuality.'¹¹⁹ Sexuality thereby literally holds within it the 'cosmic potential' of sex.¹²⁰ The encounter itself holds the potential to overturn law from within itself through opening up the possibility of a framework of sex-ethics.¹²¹

¹¹⁸ Deleuze, G and Guattari, F (2004a), op. cit. at n.40, p325.

¹¹⁹ Deleuze, G and Guattari, F (1987) *A Thousand Plateaus*, as cited by Riordan, G (2011), op. cit. at n.84, p87. It is also important to mention the authors' choice of the word 'girl'. I explore the subversive power of 'girlish' researcher desire as that which can harness the practical productivity and disruptive presence of the Deleuzian n sexes in *Wave III*.

¹²⁰ Bogue, R 'Alien Sex: Octavia Butler and Deleuze and Guattari's Polysexuality' in Beckman, F (ed) (2011) op. cit. at n.33, p33.

¹²¹ See detailed examination of this in *Waves III* and *IV*.

Wandering Being

'Laying in the sand face-down. The wind is blowing the sand across such that it looks like it is shifting, rising and sinking. People dispersed (sitting a little further up the beach now). Looking across as a couple of guys laying on one another, they both look over at me, I hold their gaze, they stroke each other and I do the same, just gently, no intentions to move. I then decide to go and sit next to a gathering happening further up towards the dunes.'

Extract from Field Diary 15 July 2014, 7pm

From: **Victoria Brooks** <victoria.brooks@my.westminster.ac.uk>

Date: 31 July 2014 at 15:50

Subject: Thoughts from the Cap

To: <my supervisor>

Thought I would write to you and let you know how things have been at the cap. Will travel home on Saturday, so I am winding down now, had a few days off and some time to think. A turbulent time here to be honest, mixed in with some painful moments too.

But on the up side, some moments of 'now I know what my phd is about', one time laying on my stomach on the sand, near the water's edge, looking back at people quite evenly spaced across the sand in front of me. about 5 metres in front of me, also to the left and to the right of me, people in various sexual moments, but relaxed, just gently and then a breeze, a strong breeze. It troubles the sand and it shifts, shifting sands, looks like it rises and falls. That's what sexual encounters are like at the cap, they come and go on the breeze as it lifts the sand, washed in and away by the waves.

I did not once see any encounters stopped by security, or by the police. To be honest, this became completely unimportant, that was never the law here, it was never a matter of whether the law looks away or not, whether it withdraws. The law is something else here, it is the same as the ephemeral encounters, its a contingent law, sexual, its on the wind, in the waves, re-written, Oedipus re-drawn (he never fades entirely) with each look and tentative touch, in each moment built of sand. Behind the dunes, its not the same. Law is needed more here, it emerges more as the urgency of the encounters increase, its scary back there (the ethics committee may have cried, but really important for me to have felt how it is back there). 'Give me space' I cried! And with that cry I was grateful for the law that emerged there.

Figure 12: Method Map II: Shifting Sands

There is methodological import in relation to the distinction between ethics and law, and sex and sexuality. There is a constant shift and determination in encounters, but what comes through in both my observations and in my informal yet heartfelt report to my supervisor is the productive presence of resistance, and my own realisation of this. But so what.

I claim that this moment of resistance is a moment of folding. This folding is that which connects the individual (the personal) with the non-human, but not as necessarily 'one' but through a relation of mutual becoming and, as Philippopoulos-Mihalopoulos has claimed, 'withdrawal'. I argue that the motion and action of folding requires resistance and pressure to produce the being that is. This resistance, might well be characterised as 'withdrawal', as Philippopoulos-Mihalopoulos writes, 'Desire captures; desire allows to withdraw. One withdraws by acting on desire, while at the same time acting against desire.'¹²² While I accept the position that there is indeed a 'withdrawal', what I would seek to add to this, is that it is in the very motion and operation of desire itself, to withdraw, because it must and because it wants to, and because in seeking fairer, and seeking different, it seeks the same in order to seek. It is the seeking that is desire and within that seeking is the deepest desire to move and to live, and to be placed within the possibility of ethical determination.

This is an ontological argument; so the question then becomes as to how I am able to access this ontological space and enter this argument from within. I claim that this is achieved through a methodological approach that is both formed by, and critical of, its philosophical position. I attempt through my method to translate my own withdrawals, foldings and becomings into arguments that inform what it means to be living and breathing the ontological position. Therefore, it is necessary to build from the position of immanence, into the theoretical foundations of method.

Bringing theory to method

Deleuze conceives of immanence as without object or subject, he also tells us that the immanent plane is populated by singularities, with such singularities combining in a multiplicity which coincide to become the 'One-All'.¹²³ Immanence cannot possibly be thought of as some featureless, impersonal life, rather, personal characteristics and lived experience are what form the richness of lived-life; they are the experiences which produce multiplicities and assemblages which burst from the immanent plane. Yet there is a circularity to this, since the impersonality of immanence emerges through personality. Immanence is only life, but it becomes intimate as soon as we become lost in a moment, where all we see is the flesh of another, where all we sense is the warmth of that body, the smell and taste of its skin and we feel the way we

¹²² Philippopoulos-Mihalopoulos, A (2015) *Spatial Justice: Body, Lawscape, Atmosphere* (Oxon, Routledge) p205.

¹²³ Deleuze, G (2001), op. cit. at n.107, p30.

feel, we experience, we ride the plane: 'The life of such individuality fades away in favour of the singular life immanent to a man who no longer has a name, though he can be mistaken for no other. A singular essence, a life...'¹²⁴

An immanent life is not lived in favour of a personal one; rather, immanence emerges through the subject, through its experience. It emerges through displays, presents itself to those who care to observe and forces itself through to reach those who do not, as Deleuze tells us in his demonstration of the insurpressability of immanence through the work of Charles Dickens.¹²⁵ It is for this reason then, that it is important for me to recount my experience of immanence, to set out where I found it, how it touched me and to explain why it is important that we pay attention to the assemblages and multiplicities which emerged through my encounter with it. It was this encounter with immanence, that drove me to try to understand what it was that I felt, why it was that I felt what I felt, and ultimately why this project comes to be. Similar to Saldanha and his ethnography of the Goan trance scene, it was subjective experience, sensing of the space, that drove me to explore sexuality at the Cap: 'I just wanted to make sense of what I encountered'.¹²⁶ In the following section I recount exactly the experience that compelled me in this way.

I am on the immanent plane, I am part of life, and not outside of it, but I am paradoxically providing the reader with an account, I am the one feeling the experience and suggesting that it is important, because I has it and I think it is important, but I suffer then the pain of not being able to express what I bring to the moment. The closest I feel that any encounter that I report can come to being represented is through the lens of uncanniness, which is a conceptual device that must be felt in the gut and in the heart, intuitively and in the moment of encounter itself.

My experiences of the field can easily be conceived as ones of 'Being'. I talk of 'important moments', moments of 'strangeness' which to the phenomenological eye would smack of uncanniness, or the moment where the void, or the simultaneous moment that nothingness and the essential openness of being is encountered,

¹²⁴ Ibid. at p29.

¹²⁵ See n. 70.

¹²⁶ Saldanha, A (2007) *Psychedelic White: Goa Trance and the Viscosity of Race*, (Minneapolis, University of Minnesota Press) p5.

In the clear night of the nothing of anxiety the original openness of beings as such arises: that they are beings - and not nothing...it brings Da-sein for the first time before beings as such.¹²⁷

Heidegger is not conceiving of the void as nihilistic - it is not, for example where beings become aware of their mortality; nor does it compel some kind of escape from that which is frightening or anxiety inducing. Rather, it makes possible the kind of openness which is essential to being.¹²⁸ Becoming aware of one's being, one's self and the potential for different ways of being is produced from this very moment of strangeness, it is a moment of compulsion, of being caught up in that moment and all of the assemblages that form it, of *immanent force*.¹²⁹

In these moments, Being also reaches forth, to connect with other beings, to being as a whole; or as can be tentatively suggested, constitutes Being as ontologically immanent, that is, immersed within and attuned to the affects of all life:

...such being attuned, in which we "are" one way or another and which determines us through and through, lets us find ourselves among beings as a whole.¹³⁰

For Heidegger then, the plane of being is populated by moments that induce us to Be, to find immanence. But this leaves open a number of questions. First, how are these moments of being (and Being) constituted as part of the subject, therefore making their transition from ethics to law? Second, with such a heavy phenomenological centre firmly situated within the conscious human-being, is it possible that it can be conceived of ontologically, that is, can personal experience of uncanniness be located within immanent experience itself? Deleuze suggests that it can. The first step is to conceive of being as folds of being, or being as the fold. For Deleuze, it is Being that is the very experience of folded subjectivity, it is finding immanent subjectivity, Being *is* the fold.¹³¹ This, although apparently simple, is a

¹²⁷ Heidegger, M, 'What is Metaphysics?' in Heidegger, M (2011) *Basic Writings* (Oxon, Routledge Classics) p52.

¹²⁸ Ibid. at p53.

¹²⁹ See Deleuze, G (2015) trans. Kleinherenbrink, A, *What is Grounding?* (Michigan, &&& Publishing) pp21-24, for an instance of Deleuze's rare engagement with Heidegger, and explicitly he joins Heidegger in meditating upon the 'void' as that brings us to 'claim' ground, as the 'reason for reason' and the ground to the ground, or rather; the deep ontological grounds for the 'claim'.

¹³⁰ Heidegger, M (2011), op. cit. at n.127, p50.

¹³¹ Deleuze, G (2011b) trans. Conley, T, *The Fold* (London, Continuum) p90.

highly complex suggestion, which is why I will unfold it in the following sections. The first step in order to make this proposition convincing, is to bring together Heideggerian Being, or the openness which compels the recognition of Das-ein (being-there), with the individuation that bursts from a Deleuzian plane of immanence.

Deleuze found that he was able to reconcile the seemingly static, yet all-encompassing notion of being with the movement of becoming, which is essential to the plane of immanence,

[it] is the transcendental principle (or better said perhaps, the transcendental potential) coextensive with the process of individuation at the heart of these individuals. Such a principle (the 'virtual'), Deleuze claims, is just as capable of destroying individuals as it is capable of constituting them temporarily. These 'individuating factors' are intrinsic to being, moving from one 'individual' to the next, circulating, and communicating beneath forms and matters.¹³²

Here we find the propulsion that is central to Deleuze's project, the force that dislocates the heavy centre of Heidegger's ontic, towards the ontological, without detracting from the strangeness of that moment of where a way of being presents itself. This moment of becoming is immanent within Being, Being is becoming. The moment of movement, of individuation, is where we are forced to constitute relations with ourselves (to enfold), where we reflect on the outside and bring it inside, where the movement of enfolding thrusts us forward into the glare of our becoming, 'to the extent that the fold of the outside constitutes a Self, while the outside itself forms a coextensive inside'.¹³³

This moment can also be thought of as connection to the transcendental field, 'Only when the world, teaming with anonymous and nomadic impersonal and pre-individual singularities, opens up, do we tread at last on the field of the transcendental.'¹³⁴ Not only can Being be thought of as the openness of one's situation in-relation-to, or as part of immanence, but also a mode of access to the very moment of removal (via continuum) from the pre-individual to the individual. at this point, it becomes necessary to recognise that there must be a place for

¹³² Id.

¹³³ Ibid. at p94.

¹³⁴ DeBeistegui, M (2012) *Immanence: Deleuze and Philosophy* (Edinburgh, Edinburgh University Press) p96.

consciousness within the fold, but consciousness as immanent, as part of the immanent plane.

For Heidegger, the individual is being. Yet the mode of understanding the individual is fundamentally different, since for Heidegger, ontology and phenomenology are synonymous. I would argue here, that although for many reasons Heidegger and Deleuze diverge in their philosophy of ontology, there is one particular commonality that is significant. Linck finds that the two projects diverge decisively at the point of the action of understanding being,

...shared is a refusal to engage in an ontology that seeks to delineate a being that would stand apart from all other beings and be responsible for beings as their cause and ground. In this respect, both adhere to an 'ontology of sense'.¹³⁵

In this regard, we find that both philosophers are intent on constructing an ontology which is responsible to in-contingent difference, that is that beings must distinguish themselves, but not conditioned upon any relatedness to other beings, or another supreme, universal standard of being. It is clear that being, however theorised, will always be different, and that is different in the radical sense, or positive difference. However, in each encounter, and in each being, we find resisted and produced repetitions that translate into law, and laws which are translated into us through the ethical.

Not Escaping Sexuality: Fucking Repetition

Following Deleuze's analysis of repetition and difference and applying it to the relation between law and ethics, it would appear that law is what governs the generality, speaks in general terms and judges encounters accordingly.¹³⁶ Ethics is the space created for the formation of immanent law, it retains the law's immanence through its requiring of law to flip back and back and then forward. Yet of course the damage has been done before – because the law is embodied, and the codes are brought to the encounter and thereby affecting it. Ethics too, as immanently formed, are *not good enough*. This is particularly true of sex, which is a highly charged,

¹³⁵ Linck, M (2008) Deleuze's Difference, *International Journal of Philosophical Studies*, 16:4, 509-532

¹³⁶ See Philippopoulos-Mihalopoulos, A (2015), op. cit. at n.122, and Philippopoulos-Mihalopoulos, A 'Repetition of the Awnings of Justice' in Ben-Dor, O (ed) (2011) *Law and art, justice, ethics and aesthetics* (London, Routledge) p52.

physically and emotionally present, transformative and intimate encounter. In this context, Irigaray has noted that ethics are in much need of revolution, to the extent that contemporary philosophy is also unable to touch what is needed to change, and to escape the '*cock of greasy philosophy*'.¹³⁷ It is only through, as Irigaray argues, reclaiming of a particular and authentically feminine space of embodiment, can ethics be reclaimed through love.¹³⁸ It is thereby necessary to address both the notion of difference, as well as repetition in seeking a sexual ethical code. Individuation is transient, as much as the 'fold' of the subject is a continuous and infinite process. The folds of the fold are never duplicated, the contours are inexhaustible in their variety of depth and the particular physiogenies of their creases. The subject is packed with folds and lives its life not only through them, but *within* them.¹³⁹ But what does it mean to be 'within' the folds, particularly with reference to these moments of individuation? Is it ever possible to escape the repetition, even within the ethical, as each fold is folded?

I claim that a particular ethical space needs to be reclaimed for sex as the space where the erotic becomes encounter. If judgment needs to be fucked, then as researchers in the field, we need to enter the space of encounter through a mode which is cautious of the legally constituted aspects of sexuality that I have explored. Encounters will necessarily, through ethics, repeat and produce these same metrics – law folds into the body as it enters the encounter. The Cap as a coastal space is a site where a multitude of assumptions can be deterritorialized and reterritorialized such that it becomes the physical, as well as metaphysical, ethical space. This can only happen if the conceptual underpinning of the theoretical method is built to 'wade-with' the shocking and subversive *fucking* power of the encounter.¹⁴⁰

Since the Cap has a uniquely visible and experienced legal and ethical frame, I claim that it is ripe for the kind of encounters that Lefebvre calls the requisite 'encounter or event to disrupt the subject.'¹⁴¹ The beach is a volatile space not just in terms of such encounters between human bodies, but also between human and non-human

¹³⁷ Rhymbu, G 'Sex is a Desert' retrieved at <http://www.thewhitereview.org/poetry/sex-is-a-desert/> accessed 11 May 2016.

¹³⁸ Irigaray, L (1993). I also go on to analyse the relationship between ethics and love in *Wave III*, together with Irigaray's 'angel'.

¹³⁹ Deleuze, G (2011), op. cit. at n.131, p101.

¹⁴⁰ See *Wave I*, p2: Preparing for the possibility of new ways of knowing requires entering the encounter and preparing oneself to be 'shocked' in the process. The 'wading in' allows for openness to the waves of transformative potential in relation to knowledge, at the hands of the real encounter. See also Bell, J 'Fucking Geography, Again' in Browne, K et al (eds) (2009) for a claim to the dire need for this process.

¹⁴¹ Lefebvre, A (2012), op. cit. at n.54, p54.

bodies. Human bodies are not the only bodies who are subject to the flows of Eros, or to the subjugation of law. Nor are they privileged with a more powerful ability to enter into encounters which disrupt the subject. Coastal bodies carry a uniquely volatile, fleeting, subversive and sensory power to determine the way in which law folds into and produces the *sexual* body.

Obrador attributes this heightened bodily sensitivity to the 'sun, sea and the sand, to the lively overflowing, material natures of the beach.'¹⁴² In particular, the coast is a touchable space, a space with elements that cling to the body; elements that ache and ask to be touched. Obrador attributes a profound hapticity to the coast: 'The beach is first and foremost a haptic geography. Being naked on the beach is a matter of feeling rather than seeing.'¹⁴³ It is a space that is experienced *through* its touchable materiality. It is experienced through the soft touch of the sand in the dunes, the grainy scratchiness of damp sand clinging to wet skin, the coolness of the surf, the unsteadiness that is experienced when the waves crash into bodies, the softness of the breeze, the warmth of the sun's rays.

It is a space of unusual sensations which make for an unusual experience, which Obrador would term an experience of 'enchantment'.¹⁴⁴ This experience of enchantment is the heightened sensitivity that is aroused within bodies, which is produced by the specific materialities of the coastal terrain, and the profundity of the connections it makes with these bodies, as Ryan writes: 'The coast is a material experience. The changes of physical substance that occur directly at this edge create an active materiality that can be viscerally experienced.'¹⁴⁵

The sea can, without warning, become boisterous and its once calm surface can become rough with unpredictable waves and spikes of swell.¹⁴⁶ This unpredictability and highly tactile movement characterises the presence of smooth space. Deleuze and Guattari go on to write: 'Smooth is both the object of a close vision par excellence and an element of haptic space (which may be as much visual or auditory as tactile).'¹⁴⁷ I have previously outlined the apparent hapticity of coastal spaces which is due to its material production of tactility through its special and volatile elements. The coast presents a particularly fleeting surface and while it is possible to perceive

¹⁴² Obrador-Pons, P (2007), op. cit. at n.11, p138.

¹⁴³ Ibid. at p134

¹⁴⁴ Id.

¹⁴⁵ Ryan, A (2012), op. cit. at n.28, p14.

¹⁴⁶ Id.

¹⁴⁷ Deleuze, G and Guattari, F (2004b), op. cit. at n.13, p544.

it in a certain state, while also demonstrating a capacity to generate perception – and become a participant within an encounter. Further, when one encounters the surface of the coast, it is not long before one is plunged into its depths, that is, that when bathing in the sea, or simply walking along the beach, one experiences the terrain not only through visually immediate perception, but through touch. Not only is the space experienced also through touch, but through close, attentive, visual and auditory perception.

An encounter with the coast is to encounter a continuum as opposed to a surface: one is aware that it will change without warning. Simply put, the physicality of the coast tends to emerge during an encounter with it, as Ryan writes: ‘The physical make-up of any piece of coast has a dramatic effect on the way that coast is understood by its inhabitants, for example, as useful, treacherous, as pleasurable and so on.’¹⁴⁸ When viewing the coast in this way, the smooth/striated paradigm almost collapses through conflation of its essential terms. This is because the physicality of the space holds within itself a myriad of ways in which to sense it. The surface is so fleeting, that before you know it, the smooth space of hapticity has surfaced.

Law regulates sensory experience; its jurisdictional boundaries are created through geographical mapping which relies on optically perceived lines. Law is quick to regulate what/who its subjects can see and where its subjects can move and in so doing it tends to reduce space, and thereby reduces its material and sense-producing affects. On the terrain of the coast, there is a degree of sensory changeability, through the continuous flux of the surface which presents a challenge to law’s reductive capacity. And yet, the challenge affirms the theoretical position that matter and law exist together in networks and assemblages, with materialisation emerging through a confederacy. While the coast can be thought of as any other space, the presence of particularly volatile elements confirms that the limits of material, or rather, the points where it is materialised in a system of law, remain reflexive.

Ryan suggests that when one encounters coastal spaces, one also encounters the uncertainty of coastal geometric dimensions: ‘Depth returns to surface, only to be returned below once again. Surface is submerged, becoming depth, in a regular oscillation.’¹⁴⁹ When encountering a coastal space, one perceives a surface, but is also aware that there is a hidden depth to this encounter with the surface. The sea is deeper than it appears, holds more bodies, hidden currents and dissolved territory.

¹⁴⁸ Ryan, A (2012), op. cit. at n.28, p14.

¹⁴⁹ Ibid. at p1.

It is a fractious body of vibrant elemental mixtures, which expands and contracts, and all the while, this volatile depth is presented as a sometimes calm surface. The volatility of the sea and its power to affect other elements is sometimes violently apparent: the sea stirs itself into a frenzy and engulfs defences, claims lives and obliterates villages, towns and even cities – as well as creating moments of calm openness and attentiveness.¹⁵⁰ The volatility of coastal elements indicates that it will be difficult for law to grasp them and produce and maintain an ethical ‘hold’ over them.¹⁵¹ The way in which law establishes such a hold is through attempting to chart and capture the movements of these various bodies as they enter into a relation with one another – and attach itself to their connection with one another.

Conceptual Tools V: Assemblages

For Deleuze an assemblage is: ‘first and foremost what keeps very heterogeneous elements together: e.g. a sound, a gesture, a position, etc., both natural and artificial elements.’¹⁵² It becomes apparent that the most important part of an assemblage is not the elements themselves, but rather the characteristics of the connection that takes place in-between them. There is an emergence of a consistency, or rather a material relation and sensory connection that arises from the coagulation of different bodies and things. This relation can be understood in the most material sense of the word ‘consistency’, as a connection between both materialised surfaces and matter itself. But this then presents the question as to what it means to be ‘materialised’. Bennett captures the way in which matter submits and resists to materialising forces,

On close inspection, the productive power that has engendered an effect will turn out to be a confederacy, and the human actants within it will themselves turn out to be confederations of tools, microbes, minerals, sounds and other ‘foreign’ materialities.¹⁵³

The confederacy that Bennett identifies demonstrates that wherever matter connects with human forces, concepts, ways of being, that it is not merely manipulated by the connection, but rather human being is inclusive of all that constitutes it; bodies, matter, sound, energy, all materiality. It may be the case that the system of law will position itself as other-than the elements that must be thought of as constituting it, but they cannot be thought of as anything other than a confederacy.

¹⁵⁰ Ibid. at p202

¹⁵¹ See *Wave I* pp8-15. The encounter, which is the place of emergence of ethical law, is also the place where law can retain its ‘stamp’ of judgment and control in relation to encounters.

¹⁵² Deleuze, G (2006), op. cit. at n.100, p179.

¹⁵³ Bennett, J (2010), op. cit. at n.110, p36.

This confederacy can be closely aligned with the Deleuzian assemblage, since an assemblage is a collection of heterogeneous elements, continually advancing and changing their character through the connections made between matter, bodies and points of resistance. In recognising that materialisation, events, arrangements and ways of being, are in fact not only produced by law, one must recognise the formative potential of each element that constitutes an assemblage. That is, in questioning the connection between matter and ourselves, the question of law's relationship with matter becomes a pointing towards ontological truth. Simply put, it is presumed that it is a question of law's (and our) relationship with matter, rather than a question of matter's relationship with law (and us). We are inextricably bound with matter and material actants through Bennett's material confederacy. Any relation or connection made between humans, is also with matter; as Philippopoulos-Mihalopoulos writes,

This is an open ecology, which is immanent, entirely closed yet infinite, continuous but interrupted by its own folds that become actualised as what Deleuze and Guattari have called assemblages, namely agentic couplings that emerge on the continuous material surface.¹⁵⁴

While the theorisation of material relations as immanent will be discussed in the following sections in the context of ethics, what is important to take from this suggestion is that the emergence of the confederacy takes place through assemblages, and this, whether we call it the 'cutting edge of deterritorialisation and re-territorialisation', whether we take it as enfolding, whether we name it a network, or an assemblage, whether we call it simultaneous closure and opening, it is always resistance, it is friction, a moment of rubbing up against between elements of the assemblage. The cutting edges of territorialisation and deterritorialization, or the 'friction' within the assemblage is the emergence of material self-determination, as a result of a relationship. There is an individuality and soul and substance to everybody, whether human or non-human, that rubs up against the soul of the other.¹⁵⁵ The co-extensiveness of each body with another, is not infinite and simple, but rather there are elements of each which desire to meet and desire to withdraw from the other. There is a mode, however, which underlies this space which is generative of the ethics of encounter and characteristic of law's grasp. The bringing forth to the

¹⁵⁴ Philippopoulos-Mihalopoulos, A (2014) Critical Autopoiesis and the Materiality of Law, *International Journal for the Semiotics of Law*, 27, 389-418, p399.

¹⁵⁵ See the incoming *Wave III* where I examine the 'soul' in depth as Conceptual Tool VI, and being that which connects and also separates bodies through lines of law.

brink of encounter is indeed the erotic motion and inclination, and get there is a simultaneous emergence of the ethics of this encounter, through the wandering and slippage of into one another and into encounters.

Sexuality Assemblages

Fox and Alldred claim that the conceptual tool of the assemblage must be incorporated into the researcher's methodological tools in sexuality research. In order to 'Explore how elements in assemblage affect and are affected, and assess what bodies and other things do: the capacities these affective flows produce; Identify territorializations and de-territorializations, and aggregating and singular flows within assemblages.'¹⁵⁶

Fox and Alldred offer a methodological approach through the use of assemblages, for practically placing the researcher in the field of sexuality. Sexuality is everywhere as we have seen above, and in *Anti-Oedipus*.¹⁵⁷ The authors suggest that any sexual assemblage is a body, in the sense of an amalgam of a multiplicity of elements, which moves through the world and takes on the consistency of being 'sexual',

A sexy body may do this or that: it can be attracted and aroused, it can kiss and suck and fuck, it can come; it can fall in love or leave the next morning, it can propose marriage or have a bit on the side; it can do hetero or homo, camp or butch; it can dominate or submit, it can exhibit or conceal; it can do things that might not seem sexual at all.¹⁵⁸

A sexuality assemblage is therefore an amalgam of the material body, traits, gender discourse, social behaviours, sexual norms and transgressions, and also, of ethics. The authors go on to write that each of the edges that connect in order to build such an assemblage unfold in manifold directions. For instance, they give the example of a kiss, in which is wrapped up an infinite array of potentialities for movement, and movements already made,

¹⁵⁶ Philippopoulos-Mihalopoulos, A (2014), op. cit. at n.154, p400.

¹⁵⁷ See Deleuze, G and Guattari, F (1983) *Anti-Oedipus*, as cited by Bogue, R (2011) op. cit. at n.120: 'sexuality is everywhere: the way a bureaucrat fondles his records, a judge administers justice, a businessman causes money to circulate; the way the bourgeoisie fucks the proletariat; and so on.'

¹⁵⁸ Fox, N and Alldred, P (2013) *The Sexuality Assemblage*, *The Sociological Review*, Vol. 61, p769-789, p774.

From a kiss, flows of affect might eventually assemble A and B within a sexual relationship, in which the assemblage could comprise the accumulated interactions, emotions, experiences, social networks, cultural norms and epiphenomena of sexuality, potentially family-life and child-rearing, further territorializing the flow of sexual affect.¹⁵⁹

Any sexuality-assemblage is thereby a fizzing collection of forces and bodies, of potential to territorialise or re-territorialise narratives that co-construct assumptions relating to sexuality:

...assemblages and affects typically bridge micro and macro, analysis must be able to associate relations at the 'level' of the body and bodily behaviours with the broader social, economic and political relations of societies and cultures, to expose both 'molecular' (deterritorializing) and 'molar' (aggregating) flows of affect.¹⁶⁰

This reads as a call to assess the wider sexual and social narratives at play within any given sexual assemblage, but also to extend the methodological reach into the material, microscopic interactions, or rather molecular level of relations. In so doing it is possible to understand different (in every case) patterns and peculiarities of sexual behaviour within a sexuality-assemblage, and a multitude of relations between both human and non-human actors within such an assemblage,

Sexual 'agency' is decentred from bodies and individuals on to the affective relations between human and non-human elements. This enables new insights into the part that flows of affect (including flows of sexual desiring) contribute to the production of the social world and human history.¹⁶¹

This ultimately opens any given assemblage to the possibility of holding elements of the sexual is essential in developing an ethical schema that can inform a law that does not subjugate sexuality. In the course of this thesis I attempt to trace through and across the assemblage in order to find and attempt to negotiate the ethical questions that arise.

¹⁵⁹ Ibid. at p775.

¹⁶⁰ Ibid. at p779.

¹⁶¹ Ibid. at p782.

Coastal materialities are an affecting presence, but it has only recently been recognised that non-human bodies can affect sexuality, let alone the act of sex as encounter.¹⁶² The beach, as with any space can always be seen as the unfolding of competing interests of all bodies that inhabit it, not just human bodies. It is not only the 'living' and human bodies within spaces that have the ability to shape the encounters that take place. The emergent competition between the interests of matter and human interests is indicative of a struggle that can produce immanent subjectivity. The vitality of materialities can be observed (and experienced) through openness and wading into an encounter between material (so called) living and non-living bodies. What also emerges is that any genuine, immanent, encounter between bodies can be thought of as the 'contours of the swarm'.¹⁶³

Is Immanence Enough?

In a time where material ontology and posthumanism enjoy considerable interest, it is necessary to remain cautious of human philosophical constructions, despite their potential to bring us to a position of material orientation. As I have outlined, it is necessary to recognise the materially immanent position of bodies that are subject to legal subjectivication. But is (Deleuzian) immanence really the best position for the subject, or is there a better one? My decision to examine coastal materialities and subjectivication through a methodological frame of immanence and transcendence could be aligned with Deleuze's project that was always transcendental empiricism. Yet for Laruelle, this 'decision' is as unproductive and as nihilistic as legally moral transcendence: there is 'no good reason for choosing'¹⁶⁴ to be Deleuzian.

Brassier notes that for Laruelle such decisions to utilise these philosophical methods should not be unqualified, that is, that the method itself should be used as a 'material and object'¹⁶⁵ of study. For Laruelle, the methodology I have outlined will not facilitate the emplacement of subjectivity as truly, or 'radically', immanent. Likewise, for Laruelle, my acceptance of the tools of immanence and transcendence limits the conceptual application to the theoretical foreground. The decision I have made in relation to the unqualified fact of immanence and transcendence necessarily inhibits the emergence of transcendental subjectivity. Simply put, immanence and

¹⁶² See above 'Sexuality-Eros-Sex' and further analysis of the productivity of the ontological position of sexuality as posthuman in *Wave IV*.

¹⁶³ Bennett, J (2010) *Vibrant Matter*, as cited by Philippopoulos-Mihalopoulos, A (2014) *Critical Autopoiesis and the Materiality of Law*, *International Journal for the Semiotics of Law*, 27, 389-418, p414.

¹⁶⁴ Laruelle, F (2010) trans. Gangle, R, *Philosophies of Difference* (London, Continuum) p210.

¹⁶⁵ Brassier, R (2007) *Nihil Unbound* (London, Palgrave Macmillan) p120.

transcendence become limits (albeit reflexive) that can only produce a contaminated (and not radical) transcendental field of consciousness. Laruelle would encourage a method more reconcilable with the body of work that he has called 'Non-Philosophy'. It must be noted that the substantial body of work that he has produced, while acknowledged for its extraordinary contributions to (non) philosophical thought, has also been widely criticised.¹⁶⁶ Brassier is simultaneously sympathetic to, and critical of Laruelle's project. The most important point to note from this critique is Brassier's reticence to accept the idea of 'non-philosophy' as what it proclaims to be and he writes that: 'we will contest Laruelle's characterisation of his project as 'non-philosophy'.'¹⁶⁷ For Laruelle, philosophy, through the application of non-philosophy escapes the structures that govern it.¹⁶⁸ The consequence for immanence, is that it should become transcendental, or 'radical immanence'. In order to acknowledge the apparent problems with my philosophical decision, it is necessary to understand precisely where Laruelle's concern with philosophical conceptions of immanence and transcendence can be located. This will allow determination of the limits to the connection drawn between the theoretical perspective and the methodology I have pursued.

For Laruelle, *l'un* ('the one') is one characterisation of radical immanence, and in particular, its relation to the decision. The 'one' is a way of overcoming the division between empirical fact and the transcendental immanence that immanence is supposed to constitute. Rather, there should be no division at all. Any philosophical decision, for Laruelle, 'divides immanence between an empirical datum which it supposes as given through the a priori factum, and a transcendental immanence which it has to invoke as already given in order to guarantee the unity of a presupposed factum and posited datum.'¹⁶⁹ Any philosophical decision therefore splits immanence, which is incompatible with a true construction of immanence (which is undifferentiated substance). Therefore, the challenge proposed by Laruelle is to adopt 'non-conceptual' immanence, that is, immanence without qualification:

This irreducible hiatus, of a new type, between the 'empirical' and the 'transcendental', or rather between two forms of the real, which ruins Difference's infinite process of unification from the inside, signifies that the radical contingency of real transcendence or of the (non-) one has not found,

¹⁶⁶ See for example, McGettigan, A (2012) Fabrication Defect: Francois Laruelle's Philosophical Materials, *Radical Philosophy*, 175, 33

¹⁶⁷ Brassier, R (2007), op. cit. at n. 165, p118.

¹⁶⁸ Ibid. at p120.

¹⁶⁹ Ibid. at p123.

and must not find, any reason or essence that would take the form of a law or idea regularity, that instead it finds its essence solely in the immanence of the One.¹⁷⁰

Immanence for Laruelle therefore is very simply immanence, it is life, but independent of any philosophical term that seeks to separate out its manifestations, define it, or map it. Laruelle's critique of the tools of immanence is useful to this project in two ways. First, it encourages an element of self-reflexivity in the development of this project. It is apparent from Brassier's critique that Laruelle's non-philosophical proposal contains serious limitations, namely that his definition of the tools of non-philosophy is 'nebulously expansive'.¹⁷¹ The lack of clarity in Laruelle's definitions makes them unsuitable to adopt as a concrete methodology for examination of the theoretical issues associated with coastal materiality and subjectivity. Yet this also makes it, paradoxically, highly compatible. The very fact that it takes a leap from the philosophical to the non, render such a 'non-frame' capable of opening already radical philosophy to its performed (but potentially contradictory) reality. Hickman writes of the ability of Laruelle's work to gently, subtly and surprisingly generate connections with the non-philosophical world,

Laruelle is an acquired taste not something one can suddenly take up and understand at first sitting, rather one must live with his works let them resonate off other non-philosophical worlds.¹⁷²

Brassier perhaps did not 'live' with Laruelle for long enough. While Laruelle's work is hugely referential, it also tends to take flight from philosophy along a trajectory that has the capability of situating the reader in a uniquely philosophically reflexive, creative and sensitive position that is not inside, nor outside.¹⁷³ After reading Laruelle, it is almost like one has forgotten what Deleuze said, yet his words remain etched in our blood and Laruelle reminds us to see how it plays out as we wade in, to see if it works in practice.

I have claimed and will continue to argue that theory and method, ethics and researcher are inextricably entangled and coextensive. As such, this creates a

¹⁷⁰ Laruelle, F (2010), op. cit. at n.164, p199.

¹⁷¹ Brassier, R (2007), op. cit. at n.167, p119.

¹⁷² See Hickman, C (2015) 'François Laruelle: Future Struggle, Gnosis and the last Humanity' retrieved from <http://non.copyriot.com/francois-laruelle-future-struggle-gnosis-and-the-last-humanity/> accessed on 24 September 2016.

¹⁷³ Id.

demand to reflect upon this entanglement as a theoretical device and of itself, particularly in light of the ethical demands that are present in relation to the close association and closeness of the researcher herself in relation to the subject-matter. While it is of value to argue that there is an entanglement here, it is necessary to reflect on the entanglement itself and to problematise the move from theory to method, which might be co-extensive, but at some point are separate. As we find through Laruelle, there is a further ethical challenge brought about by philosophy: that of the requirement to also be non-philosopher in order to lay the groundwork for method and writing to be sensitive enough to think in accordance with sex, rather than simply 'about' it.

Method Beyond Immanence?

My theoretical and methodological confluence can be naturally and simply framed as an immanent plane, or by assuming immanence and placing faith, or rather taking for granted, the immanence of moments of resistance and production. However, have I removed the possibility and provided an insincere, convenient, guarantee of 'the unity of a presupposed factum and posited datum.'¹⁷⁴ In doing so, have I then quashed and indeed acted against the potential inherent within resistance as ethically generative? This is what appears to be what is at stake here. Very simply, the matter that needs to be addressed is the experience and unfolding of immanence within the field, and whether it is enough then to simply shrug one's shoulders and say - *that was immanence, right there.*

In the moment, in the space, in the place, of encounter, with the bodies among them, as researcher, hot and sweaty in the field, hungry and nervous, alone, taking my notes, walking back to my apartment, the sand sticking to me, is it enough to say, immanence covers it? In the moment of being propositioned, of being engaged in encounter, of declining, of observing, of making a decision, is it enough to simply say, my body understood, it acted, it was acted upon, that's immanence. The reality is, that these concepts are not just concepts, but they are *lived and embodied.*

Escaping the Cock of Greasy Philosophy?

Braidotti writes in her opening paragraph of the *Posthuman* that, 'Not all of us can say, with any degree of certainty, that we have always been human, or that we are

¹⁷⁴ Laruelle, F (2010), op. cit. at n. 164, p199.

only that'.¹⁷⁵ Sexual practices that could be termed 'deviant' or even simply unusual are not only theoretically problematised in human terms, but also methodologically approached in 'objective' ways, as we have seen.¹⁷⁶ Despite the rich body of scholarship that considers sexuality constructed by space, here? remains little in the way of scholarship that employs 'adventurous' methodologies and presentation of findings, which as I have already claimed, is a problematic removal from the very object and act of research. There is little in the way of this particular type of research that recognises through its theoretical and methodological approach that in addition to human participants, there are just as active non-human participants within sexual encounters. This very reality conflicts with the position that the posthuman project asks to adopt, as well as the ontological truth of our being in the world. As Braidotti, writes: 'In my view, there is a direct connection between monism, the unity of all living matter and post-anthropocentrism as a general frame of reference for contemporary subjectivity.'¹⁷⁷

Method Slippage

My methodological approach must therefore allow for the requisite recognition of mutual relationality, of resistance and exchange of affect between all kinds of bodies, as well as the de-actualisation of legal-sexual subjectivity. Any method must be capable of situating life, law and sexuality immanently, in order to be faithful to the reality of the Sexuality Assemblage. As far as theory is concerned, the project of immanence allows for the imagining, the thinking, the shift towards a flat, erotic ontology. It allows us to think and conceptualise, a very action brought about and prompted by the material assemblages and networks in which we find ourselves, of sexuality and the act of researching sexuality as a complex ethical dilemma of competing, relational and active bodies and singularities in resistance with one another. Never to win, never to gain ground of one another's hierarchical position, but rather to produce lines of flight. Yet there are limitations, as theory-becomes-method.

In the acceptance of the positions I have formulated, there accompanies an additional demand commensurate with entering 'the field'. The field is not the same as the theory. In the sense that a theoretical endeavour provides the frame, and can be applied to empirical data, the task can be said to be successful. However, in the

¹⁷⁵ Braidotti, R (2013) *The Posthuman* (Cambridge, Polity Press) p1.

¹⁷⁶ See *Wave I*.

¹⁷⁷ Braidotti, R (2013), op. cit. at n. 175, p57.

course of researching, having established a theoretical lens and approach, we find additional demands are placed on us, as we perform it and live it, as we can already see from the mapping of method in Fig.9 (Method Map I: 'Confession'). It is as lived, and that is the success of the theory, yet the resistance between theory and method is never conclusive in its directions, and yet vociferously felt as presence there and then.

The ethical emergence is in the moment, and the question becomes whether the theory is enough, in and of itself, to achieve what it seeks. The closest we get in terms of methodological reality in the context of immanence, is the transcendental field. This is an immanent and impersonal consciousness; a place of ethical emergence and trajectory, as we find in Deleuze's *Immanence: A Life*.¹⁷⁸ This is also the place, where experience, the lived place of research is played out. Here it is the Dickensian reality of encountering the sick, reviled man, where we enter a place of resisting our impulses, our learnt and prescribed behaviour, a productive zone where we are primed to seek the ethical balance of encounter.¹⁷⁹ My suggestion here is that experience cannot *only* be regarded as immanent. Immanent sexuality demands that ethics connects differently to law in order to produce a jurisprudence that reflects the experience of its subjects. Yet in being immanent, law will remain as it is, with all the potential for change, but rooted still in the problematic human construction that is *philosophy*.

Philosophical Method: A Weeping Member

Following Laruelle, immanence works theoretically but not necessarily methodologically. Brassier identified this issue of theoretical yet not methodological critique: the method should be used as a 'material and object'¹⁸⁰ of study, and thus flowing from that, the move from theory to method should be accordingly problematised. Any lack of problematisation of immanence as theory, and immanence as method, would be inhibiting of the radical potential of immanence.

¹⁷⁸ See Conceptual Tools IV above. This is an impersonal zone of consciousness as I have already drawn on, which is not only consciousness as the conscious, but also the unconscious place of impersonality, substance and eroticism. Parallels can be drawn between this immanent consciousness and the Deleuzian 'soul', as I argue in *Wave III*.

¹⁷⁹ I have characterised this moment as 'sensitivity' while drawing on the reality that we rub up against the 'smallest truths' of sexuality in our every-day lives. This is the epistemological foundation on which law's practical approach can be situated, and from where a methodological line of flight can be drawn (see also *Wave IV* for the practicalities of this at the Cap).

¹⁸⁰ Brassier, R (2007), op. cit. at n.167, p120.

There must be a move to bring theory and method together, in an immanent leap into the field itself, that is, immanence without qualification, without reading, without thinking, without deciding, without division between theory and method, but in the simple presence among the assemblage.¹⁸¹ There must be no differentiation between the theoretical framings and the methodological approach of this thesis, in order for it to find itself simply in the immanence of *l'un*.

Indeed, there is no good reason for choosing to be Deleuzian, no good reason for constructing the theoretical frames that I have, nor choosing the methodological approach. However, there has been something stronger and more immanently faithful than reason. Rather, there has been a call, a call without reason, heavy with irrationality and irregularity, which trigger's my research into withdrawal: retracting back into, but never quire reaching the real. We find in Heidegger an articulation of the authenticity of this moment, and the movement of 'called thinking',

Once we are drawn into the withdrawal, we are drawing toward what draws, attracts us by its withdrawal. And once we, being so attracted, are drawing toward what draws us, our essential nature already bears the stamp of "drawing toward." As we are drawing toward what withdraws, we ourselves are pointers pointing toward it.¹⁸²

This could also, albeit with a level of simplicity, be conceived of as the inevitability of ontological resistance.¹⁸³ It is resistance felt, trajectory commenced through the act and the feeling and the experience of needing to decide.¹⁸⁴ The resistance in terms of the call to method and the call to theory has already been conceptualised; but to bring them together, we must move beyond, or otherwise enter the relation of resistance between theory and method that immanence brings. Laruelle advocates the potential of the 'real' as radical transcendence.¹⁸⁵ This claim places the contingency of

¹⁸¹ Laruelle, F (2010), op. cit. at n.164, p199.

¹⁸² Heidegger, N (1976) *What is called thinking?* (New York, Harper Perennial) p9.

¹⁸³ Such resistance has been characterised as 'withdrawal' and as the fundamentally ethical state of 'conatus' which brings us to the moment of decision, as well as resistance to encounter. See Philippopoulos-Mihalopoulos, A (2015), op. cit. at n. 122, p206 and *Waves III* and *IV* for the practical ethical unfolding of this state at the Cap.

¹⁸⁴ This 'decision' does not refer to a purely conscious, rational process; rather this act of deciding is literally an act, a movement and bodily decision to move one way or another. See De Miranda, L (2013) p111 and see *Wave III*.

¹⁸⁵ This Laruellian 'real' attempts to step outside of the construction of the Lacanian 'Real', and into the 'real'. Laruelle joins Lacan at the point of his frustration in overcoming psychoanalysis' divisive effect upon being, and the powerful and inescapably fixed and

ascertaining the truth of being, firmly within the realm of the 'real', or the '(non)-One'. The location of this zone, as we find, is in reflection upon theory, upon theoretical practice, both in terms of writing and thinking, but also in terms of enacting, if we take my theoretical framings, as that which moves the applied study in the field. Laruelle writes,

Non-philosophy is a discipline born from reflection upon two problems whose solutions finally coincided: on the one hand, that of the One's ontological status within philosophy, which associates it, whether explicitly or not, to Being and to the Other whilst forbidding it any measure of radical autonomy; on the other, that of philosophy's theoretical status, insofar as philosophy, is practise, affect, existence, but lacking in a rigorous knowledge of itself, a field of objective phenomena not yet subject to theoretical overview.¹⁸⁶

So it is through modes of 'radical autonomy' that the radical nature of radical immanence is thought, as I suggest, performed, felt and experienced through one's presence within encounter. Therefore a radical conception of ethics as immanent in line with a Deleuzian and Spinozan conception of ethics,¹⁸⁷ must come from a radical *practice* of philosophy. Through this suggested lack of reflection, we find the forgetting of the radically conceived plane of immanence, and as such this very forgetting becomes the mode through which being itself is left as other, as given, as absent from that which conceives it.¹⁸⁸ The question however remains at this point

repetitive body of philosophy. This frustration has been argued to stem from the impossibility for philosophy of transcending itself and its own presence within the ethical, in order to access the real, as opposed to the Real, see Evers, T (2011) Lacanian Materialism and the Question of the Real, *Cosmos and History: The Journal of Natural and Social Philosophy*, 7:1, 155-166, p165: 'Lacan's increasing turn in his later years to topology reflects, I think, his own frustration with prevailing analytical languages—but for now the invocation of the material, imperfect as it, serves to capture some of the non-dialectical obstinacy of the Real.' See also, and in the particular context of sexual difference, Laruelle, F and Schmidt, A (2014) trans. Rubczak, N, SEXED IDENTITY, *Journal of the Theoretical Humanities*, 19:2, 35-39, p37: 'There is theory, there is experimentation [*expérience*], modelling, measuring, simulation, etc., but it is important not to put them into play in a scene which would oppose spirit and experience, construction and reality, etc.' Laruelle operates at the edge, where he encourages philosophy to enter the real encounter and seek access to where it (in the same manner as law) retains its stamp. Both law and philosophy therefore find themselves unified in the necessity of material, practical critique through method. See also the building of this critique of my methodological approach in light of the 'real', through development of Practical Methodological Tools I (*Wave III*) and II (*Wave IV*).

¹⁸⁶ Laruelle, F (1999) *A Summary of Non-Philosophy*, retrieved from http://plijournal.com/files/laruelle_pli_8.pdf, p1 accessed July 2015.

¹⁸⁷ See *Wave I*, Conceptual Tools I.

¹⁸⁸ Laruelle, F (1999), op. cit. at n.186.

as to whether the method and theory (as justified through call and draw) can be capable of not just thinking-being, but rather as being-being, or rather of thinking and living 'the One'. At this point I argue that immanence as simply a theoretical and methodological lens, is inadequate in its reaching towards a radically conceived ethics of encounter, and subsequent 'adventurous' form of jurisprudence. Rather, it is for the field, and the act of leaving the determination for the field, is that which is the thinking as 'the-One'.

It is my argument that to accept that immanence provides the answers, through either a purely accepting state of immanent inquiry, through devices faithful to new materialism as well as sexuality as substance, will not adequately think what it means and is to be, since it is preoccupied with the justification and conception of the One. Rather, it must be that the act of researching the One, as according to the One, the encounter itself, one must build the layers of encounter through call to theory, call to method, call to the field, and the call to these as one entanglement, and finally to the moment of being in the field, being in the encounter itself. Only here an ethics of sex will be found, through immanence not as transcendent, philosophical decision, but rather as a living, the One. Here we enter radical immanence, and return to the in-between and beyond theory. To remain simply within the terms of immanence is simply to perpetuate the same project, as Laruelle writes,

Philosophy never goes beyond a widened cogito, an immanence limited to self-reflection or to self-affection. It is a practice of thought, or a feeling and an affect. Philosophy thereby manifests through this nothing more than its own existence and does not demonstrate that it is the Real to which it lays claim, nor that it knows itself as this pretension. Implicit in its existence is a transcendental hallucination of the Real, and in philosophical 'self-knowledge', a transcendental illusion.¹⁸⁹

The perpetuation of this project is philosophy's limiting attribute. The real remains excluded, unreachable, it never thinks as life, but thinks life. It thinks life is immanence and immanence is life. There is a way through to a project that does not perpetuate itself however, and that is not to suggest that it is necessary simply to step out, to not philosophise at all. Rather, the first step is of course recognition; but further than this, it is to 'be' subject, to be philosopher, and non-philosopher. It is not to simply intervene, but rather, it is to live, *through method*. Method is not there to simply disprove or prove, or to even live through a lens, since in this way, the subject

¹⁸⁹ Ibid. at p2

remains external and unreachable. It is to give life to the subject, to be the subject in the philosophy which seeks to frame it.¹⁹⁰

Wandering Philosophy

In the course of examining legal and ethical framings, as well as philosophical framings, an issue of repetition has emerged. Although law retains through its connection with ethics the possibility of sensitivity to encounter, the fundamental philosophical foundation remains somewhat rooted in repetition of the same.¹⁹¹ Laruelle continues the cry of Deleuze, that as philosophers, we will never escape the constant cycle of repetition and self-adoration:

I saw myself as taking an author from behind and giving him a child that would be his own offspring, yet monstrous. But the child was bound to be monstrous too, because it resulted from all sorts of shifting, slipping, dislocations, and hidden emissions that I really enjoyed.¹⁹²

Consequently, we have also seen that sexuality research suffering the same malaise, despite vociferous calls for it to be fucked.¹⁹³ During the course of my work in the field at the Cap, I have encountered and felt the need for this. I am not sure whether philosophy, even immanence, is radical enough to capture the encounter and become a formative basis for its ethics and therefore, the practice of law. There is a 'problem' with me as a female researcher, in the field of sexuality. This problem is deeply rooted in legal frames, as well as explicit 'ethical' frames governing the operation of research in the field.¹⁹⁴ The problem relates to a fear of my desire – a fear that philosophy also has. This place is a productive one however, where practical law could be the answer, as de Sutter claims,

¹⁹⁰ Ibid. at p10-11.

¹⁹¹ See above, 'Not Escaping Sexuality: Fucking Repetition', and *Wave I*, Conceptual Tools I.

¹⁹² Deleuze, G (1995), op. cit. at n.64, p6.

¹⁹³ See *Wave III* 'Straight Academic Space' and in particular Bell, J 'Fucking Geography, Again' in Browne, K et al (eds) (2009) *Geographies of Sexualities: Theory Practices and Politics* (Surrey, Ashgate) for an analysis of the dire need for a re-evaluation and re-eroticisation of academic research and practices, or otherwise for research relating to sexuality to be 'fucked'. See also *Wave I*, Methodological Tools I and II.

¹⁹⁴ I explore the dynamics of the explicit ethical and juridical codes that governed my research in the field at the Cap in *Wave III*, in the particular context of the female researcher.

In the same way as girls, legal practice, in Deleuze's writing, intervenes only to disturb the comfortable order of the law, the same order of which philosophy claimed to be herald.¹⁹⁵

My claim to occupy the space of the 'girl' is something I examine shortly in *Wave III*, but what I suggest is necessary here is to examine the incapability of philosophy to act as the required disturbance. This disturbance is necessary in order for law to connect authentically to the wandering basis of desiring encounters through *practice* – but the difficulty is whether it can – taking into account the way it has conditioned the space of 'sexuality' as we have already seen. My claim is that philosophy needs to be fucked too – if research in the field of sexuality is to become that which informs law's leap into the encounter. It is this 'cock of greasy philosophy' that remains, that we continually re-write and can only disrupt, if we treat it as a 'practical task'.¹⁹⁶

I was knocked over by a wave of philosophy

Through the following extract from my field diary, we find a powerfully disruptive encounter. In this encounter I embody not only the laws and ethical codes relating to research, but all the philosophical nightmares relating to the impossibility of capturing sexual difference. I literally cry for this space:

'So not a lot apart from minor touching happening on the beach. Now decided to go into the dunes. Walking back into the undergrowth and quickly a large trail of men, of varying ages, stop and then I stop and I am immediately surrounded by a crowd, touching me, grabbing my breasts, touching me down there, not so gently. I ask for space. A few step back (its so hot, I feel slightly on edge).

I shout, 'space! Space!'

My cry is echoed by some of the others, who know I will go if I am not heard. So many of them now also shout: 'space!' 'respect!' I walk now into a shadier part and the same happens, but it is worse, no idea who is touching me now. One asks to kiss me and I say no. I work my way out now, rushing, I am shaken but...is it erotic? Perhaps. I am out. I am out. I sit to have an iced tea and a smoke.'

¹⁹⁵ de Sutter, L (2012), op. cit. at n. 62, p93.

¹⁹⁶ Laruelle, F and Schmidt, A (2014), op. cit. at n.185, p39.

Extract from field diary 14 July 2014 6.15pm

A tough call. To know whether I wanted to be there or not. Was it my curiosity that took me there, was it my loneliness, was it just a desire to be touched? Or did I feel I should go there, that in some kind of display of bravado, as one of the few lone women there, that I should do some justice to my sex, to fly like an angel, show that I was not scared, that I could be like the men too.

Cock -or is it a notebook? Or a copy of Anti-Oedipus?- in hand.

My cry of (or to) 'space!' is not metaphorical, but it is a real actualised scream for space, from the deepest innards of my being, emerging from all bodies and the affect of resistance produced between them. It is a cry for space from myself and for myself, for more space, for less space, to be in a different space, to have space.

As a lone female in this, what can be characterised as, a 'swinging space', I am a commodity - rare and prized.¹⁹⁷ While couples, as in more commercial and closed settings, will tend to seek out other couples to 'play' with, they will also seek out single men and single women. It is the case that single women are valued above single men, which tend to outnumber the amount of couples, and vastly outnumber the amount of single women, as noted by Ashford and others, and by myself during

¹⁹⁷ See Hougbedji, A and Guillem, E (2015) Profiles and sexual practices of current and past swingers interviewed on French websites, *Sexologies*, 25:1, 1-4 for a comprehensive statistical analysis of the gender dynamic in swinging practices. It must be noted that, again, although the methodological approach in this piece is rigorous, and includes empirical (although not qualitative) data relating to user experiences on swinging 'dating' sites, it provides little in the way of deeper insight into the practice - it is scientific in its approach, yet distanced in a similar way to Leap, W (2011). See also Kimberley, C and Hans, J (2015) From Fantasy to Reality: A Grounded Theory of Experiences in the Swinging Lifestyle, *Archives of Sexual Behaviour*, DOI:10.1007/s10508-015-0621-2. Here the authors undertake structured interviews in order to obtain insights into 'marital satisfaction'. This analysis is without doubt much called for and needed in relation to an often ignored manifestation of heterosexuality. However, this analysis does not reach the depths of much of the literature relating to sexual behavior from a queer perspective. I am also left wondering as to what brought the authors to write the text, and the extent to which they were 'reflexive' in their project. I hope to expand on this perspective through my thesis by determining how my own story is informed by, as well as can be seen as *affecting* and being *affected by* spaces and bodies which are engaged in the practice. I am also able to draw on my experience of the Cap and my Field Diary, and can say that as a lone woman on the beach within peak season, I was in a minority. I did not undertake a comprehensive survey in relation to this, but I was outnumbered certainly in excess of 10:1 by single men, and by an even greater ration in relation to male/female couples.

the course of my time at the Cap.¹⁹⁸ Given that single men are in a sense less valued than couples, and I occupy a space of being valued by both couples and single men of which there were plenty, it is obvious that my body would be sought after. It is then the case that I occupy an unusual, privileged but also vulnerable space within the space of the Cap. I chose to walk into the dunes, which I had earlier observed as the space where the majority of single men (whether gay or straight) gather to cruise.¹⁹⁹ It is clear then that I am voluntarily exposing myself to a variety of incursions into my space, the reasons for which are highly complex.

As noted by Ashford, public sex is usually thought of as 'gay', meaning that men that partake in such activities, such as at the Cap, or in the practice of 'dogging', are 'letting the side down'.²⁰⁰ This means that men who engage in this kind of activities are subsumed within a heteronormative narrative of shame.²⁰¹ Their presence and the presence of sites like the Cap therefore challenges these narratives, posing, as Ashford argues,

a radical recasting of sexuality. It exposes public sex as an activity borne from desire, rather than merely the necessity of historical shaming. Furthermore, if this is an activity in which 'straights' engage, then it raises questions about why public sex is increasingly a point of silence for a gay 'community' that traditionally celebrated public sex as pleasure.²⁰²

It could be argued that practices such as dogging, and also swinging that take place at the Cap raise such a challenge. For men and on behalf of men. But this leaves the position of the single, lone female, untouched. The space, for a woman such as me at the Cap on that particular day, remains unconditioned and vulnerable, as well as deeply exposing in the context of narratives of patriarchal sexuality that are at play in this space. Of course it is up to me: I chose to go into the space, or did I? Is it possible to speak of my venturing into those dunes as a choice? It is essential not to be subsumed into the position that spaces such as the Cap are merely a challenge to heteronormative framings of traditional desire, or a challenge to the 'silence' and disdain which Ashford argues emanates from the gay community. I do not think that this silence is an accident, and in fact Ashford's arguments fly in the face of a queer

¹⁹⁸ Ashford, C 'Heterosexuality, Public Places and Policing' in Johnson, P and Dalton, D (2012) *Policing Sex* (Oxon, Routledge) p44-45. See also n.197 above.

¹⁹⁹ This was clear from my Field Diary from my encounters, particularly in the dunes, as set out above on p.57.

²⁰⁰ Ashford, C (2012) p51

²⁰¹ Id.

²⁰² Id.

spatial politics which would seek to radically re-condition the space in which I found myself.²⁰³ The fear, as well as the titillation and the violence I experienced are illuminating in this regard.

As Binnie has argued there is a 'soft' quality to queer spaces.²⁰⁴ They are ephemeral, and they are constituted by and for desire.²⁰⁵ And as Seideman has argued, queer is not just a space, nor is it a particular sexuality as such, but a politics. He writes that queer theory is a 'field of sexual meanings, discourses and practices that are interlaced with social institutions and movements.'²⁰⁶ We find then, that queer theory is that which rubs up against the all-pervasiveness of heteronormativity, within both relations on a molar level, and macro level. The friction between the two is evident and felt, sensed and experienced by the subject as Moran notes,

Heterosexuality is in some respects, like the air we breathe, a diffuse, all-pervasive presence (a sense of rightness), but, at the same time, out of mind, unnoticed, unrecognisable, often unconscious and immanent to practice or to institutions. The attribution of absence to the pervasive presence of heterosexuality plays a central role in linking certain qualities and values to that subject position.²⁰⁷

This was, of course, the air that I was breathing as I entered the dunes. But further, it was this conflict, between what was expected of me. It was within the softness of the queer that I entered the space, the permission that I had given myself, that as a woman I need not be afraid to own my pleasure, as well as consciousness of my superior position as a lone female within the swinging economy.²⁰⁸ And yet, I met with the full force of the male gaze, as well as the invasiveness of violent touch. And so I cried for space, which echoed in the cry of the men who wanted me to feel safe so I would remain and presumably give them pleasure. I either stay or I leave, and this is what this comes down to.

²⁰³ I discuss further and in depth my claim to the 'queerness' of my body in the coming *Wave III*, and how this is at odds with what I argue to be 'Straight Academic Space' in light of the heteronormatively fixed ethical 'codes' applied to research ethics in the field.

²⁰⁴ Binnie, J 'The Erotic Possibilities of the City' in Bell, D et al (2001) *Pleasure Zones* (New York, Syracuse University Press) p107.

²⁰⁵ Ibid. at p108.

²⁰⁶ Seideman, S (1994) 'Queer-ing Sociology. Socializing Queer Theory: An Introduction' as cited by Moran, L 'The Public Sex of the Judiciary: the appearance of the irrelevant and the invisible, in Jones, J et al (eds) (2012) *Gender, Sexualities and Law* (Oxon, Routledge) p81.

²⁰⁷ Moran, L (2012), op. cit. n.206, p81.

²⁰⁸ See n. 197 above.

What remains absent and challenging to philosophy is how it feels to live exclusion dressed as liberation – for this, ‘empirical suture is needed, or more “crudely” a “nail driven into the wall” ...’²⁰⁹ Philosophy as a theory carries the potential to explain and to liberate, but like law, it somehow needs to follow itself into the encounter reform itself from that place.

Laruelle needs for philosophy to be fucked – as do I. Along with Deleuze, he argues that we need to stop thinking of human bodies as the centre and genesis of sexual difference and experience.²¹⁰ In the course of doing so, whether he admits it or not, we have to follow an (arguably Deleuzian and immanent) trajectory in order to reach a practically imagined sexual difference:

There is no all-sexual in which we can decompose subjects into singularities or *n* sexes as in Deleuze. There are subjects determined as humans and specified by sexuality and, consequently, using sexual difference each time according to a practice or a combination proper but each time human in the last instance.²¹¹

I would suggest that we would not reach, and I would not have reached, the position of being within the field at all, where it not for Deleuze’s *n* sexes. We would not be wandering at all, nor taking our focus away from the ‘human’.²¹² What I claim however, is that in Laruelle’s philosophy of sexual difference, he follows along the trajectory of departure from anthropocentric sexuality, which places me radically in the field. This placing is radical, because not only do I find myself at the precipice of escaping philosophy – but I find coastal non-human bodies on an equal footing with me in doing so. The ‘access to the real’ becomes ever closer, and so does the possibility of practical law in the form of a radically sensitive mode of ethics.²¹³

I simultaneously follow Deleuze and Laruelle. Deleuze places us in a position where it is possible to conceive of sexuality radically and outside of state and legally

²⁰⁹ Laruelle, F and Schmidt, A (2014), op. cit. at n.185, p35.

²¹⁰ Ibid. at p38

²¹¹ Id.

²¹² Deleuze’s philosophy is considered central to the post human and new materialist project, and in particular it is considered central to applied research from this perspective relating to sexuality. See above discussion in Conceptual Tools V. I delve into the complex explicit, as well as tacit, ethical dimensions that I encountered in the following Wave.

²¹³ See Laruelle, F and Schmidt, A (2014), op. cit. at n.185, p35. See also Waves III and IV where I frame the site of this possible access and ‘bridge’ between the law and the ‘real’, as the researcher-practitioner body (Practical Methodological Tools I and II).

imagined frames. Laruelle adds a crucial element – that of critiquing the fleeting, *lived reality* of this imagining. Laruelle demands that we examine philosophy closely, and in doing so we must examine whether new exclusions, new untruths and new modes of suffering, or ecstasy, are created through supposedly radical emancipatory philosophical tools. Laruelle brings us to the precipice of the limits of philosophy, and thereby places the onus on method to take the step into the real.²¹⁴ For those of us undertaking sex research; this is a far from simple step to take, despite the groundwork at the hands of radical philosophy and research that has tried to fuck.

²¹⁴ The next step in the course of wading into the field as part of the Deleuzian and Laruillian call, is to encounter research ethics, in the now seriously incoming, about to crash: *Wave III*.

Wave III: Fucking Ethics

'He then asks if I want to touch him. I say yes.'

Extract from field diary: 15 July 2014, 3.15pm

In the preceding Waves, I have set out the wandering nature of certain lines. There have been lines that have collapsed; between law and ethics, sexuality and sex, bodies and other bodies, and between bodies and spaces, and between philosophy and method. The biggest and boldest line that emerges through this examination is that between researcher and field. On one side of that line is me, the researcher 'the inner field' and on the other is the Cap - 'the outer-field'. This line becomes all the more pronounced in the context of explicit ethical codes relating to research.

The other lines that I have examined are connected to this line between inner and outer field. This theoretical underpinning brings me to the point where they coalesce. The micro waves of law and ethics respectively join, and meet with the waves of sexuality and sex combined, and so on and on.

Eventually, they have built to the point I stand at the indistinct boundary between sand and sea, and I can smell and feel the spray and it feels like cooling droplets, or like tiny needles. I look toward the horizon. I can see it coming. I'm right there - on that biggest line, between solid, easily defined, deceptively steady sand. The sea has built to the point it is about to knock me over, so I fall into its body, so I would be spread across both sand and sea. I look away - far too big this wave. The wave is coming, its coming now, and its huge - all those other waves now build; and now ask me to collapse into them, to let them overwhelm me and we'll flow into one another.

When the body of the researcher is constituted, it is placed in a position whereby it is allowed into the field, and yet they are paradoxically assumed and encouraged not to dissolve into it - or to let it dissolve into them.¹ This is not so much the case in the advent of critical methodological approaches in fields such as education,

¹ See *Wave II*. This is especially so in the context of sexuality research, where participation within the field raises significant ethical questions. These questions bring researchers to either be distanced from their work, or it means that much examination and justification, self-disclosure and self-questioning must take place, see *Wave I*, Methodological Tools II. This is not necessarily a negative position since such discussion can be illuminating in relation to the field itself. I argue that part of the process of changing the law through ethics is by closely examining how questions relating to research ethics also relate to the field itself.

sociological and geographical research.² In sex and sexuality research however, the question of ‘dissolution’ becomes highly complex.³ We have now come to the point where the question of undertaking ‘fucking’ research becomes a demand to question this boldest line between researcher and field.

Conceptual Tools VI: The Soul

‘Whether we are individuals or groups, we are made of lines’⁴

The soul, as we have seen can be the root of repetition, as Deleuze writes, ‘A soul must be attributed to the heart, to the muscles, nerves and cells, but a contemplative soul whose entire function is to contract a habit.’⁵ But is this before it is fucked, or after, or is it both? What brings the soul to fuck, and how is the soul folded and out-folded into the sexual encounter? Is the law etched on the soul? It can be said then, that the soul is made of creases and lines, of boundaries that bring us to ethical encounters as bodies within spaces. The type of line and its translation into the ‘real’ depends upon those which *come with it*, and the relation in which they enter with those that are imposed *upon it*.⁶

Here we find the notion that the soul is made perhaps *entirely* of lines. However, these lines are not simple divisions and flat, two dimensional arbitrary lines across a single blank soul. Rather, as with any line, it can be a deep cut, a shallow sketch, faint or bold, it can be straight, or it can be wavy. It can soar out from the depths of being, to the outer limits of any given horizon. De Miranda sets out the three types of lines in the soul, drawing on Deleuze: the first, molar line (which we can simply characterise as the boundary); the second, the crack line (a symptom of a too-violently asserted boundary, which produces tremors); and the third, the rupture line, or the solidification of the crack into a further line – a symptom of the ‘torrent

² See some of the studies that have informed my Methodological Tools approach: Hofsess, B and Sonenberg, J (2013) and Honan, E (2007). See also *Wave I* and Methodological Tools III, p39. See also my discussion of immersive approaches in the field of sexuality research, for instance Dean, T (2009), Browne, K et al (eds) (2009), Lambevski, A (1999) and (2001), and the critique of distance in *Wave I*, Methodological Tools I, p33. See also Binnie, J (2004), Brown, G (2008) and Bell, J (2009).

³ n.1.

⁴ Deleuze, G and Parnet, C (2007) *Dialogues II* as cited by De Miranda, L (2013) *Is a New Life Possible: Deleuze and the Lines*, *Deleuze Studies*, 7:1, 106-152 p1.

⁵ Deleuze, G (2001) trans. Patton, P, *Difference and Repetition* (London, Continuum) p95.

⁶ See De Miranda, L (2013) *Is a New Life Possible: Deleuze and the Lines*, *Deleuze Studies*, 7:1, 106-152, p2. The author claims that the line is not representative of a ‘schematic abstraction’ but rather the lines upon an individual translate into a ‘concrete reality’.

of an overfull life'.⁷ These lines become a conceptual device for joining together the individual, singular body to the collective. De Miranda sets out a concern relation to the 'loss' of individuality by virtue of this, since these lines have a propensity not to be 'owned' by the individual as 'personal and intimate', but etch a line of mutual flow into the 'collective', such that the individual is in danger of being overwhelmed by the collective flow.⁸

The question becomes then two-fold: (1) What type of line has been inscribed, and (2) What action will this translate into? The answer lies in the ethical encounter, or otherwise characterised by de Miranda as the 'decisive fold'.⁹ The question is always what way one's soul will fold, and this question is answered with recourse to the 'tissue of the soul',¹⁰ which is formed of an endlessly bubbling array of possible foldings; of micro-inclinations dispersed and ready to unite in the third line – *the rupture*. The important point here in terms of ethics, is that ethics as a decision (not necessarily as analytical, nor conscious, but rather as any form or motion, movement, or moment of intensity within a life) is a *relationship* of molarity and individuality. An immanent life is therefore a lifeline, a trajectory formed by and between lines drawn and foldings as micro-inclinations subsisting within the soul. De Miranda writes: 'The lifeline is formed by the association of decisory folds, which have led us here and there, to do or say this or that.'¹¹

The third line is the ethical. If law is the molar first line, which then produces the tremor of encounter, then this must then solidify into the third: ethics thereby joins

⁷ De Miranda, L (2013), *op. cit.* at n.6, p108.

⁸ *Id.* Explored further in *Wave IV* in the context of the erotic power of non-human bodies to be co-constitutive of lines in the soul.

⁹ *Ibid.* at p110.

¹⁰ Deleuze, G (2004) *Difference and Repetition* as cited by De Miranda, L (2013) p110: 'a swarm of small inclinations is the very component of the stuff of the soul. These inclinations fold the soul in all directions. This is not just a metaphor, this is the true nature of the Real: 'a swarm of differences, a pluralism of free wild or untamed differences'. The author then questions how these swarms become lines (p110): 'That is the essence of the soul: folds that form and unfold constantly in all senses; this is a 'pruritus', a 'concern'. As if thousands of tiny springs were working in various directions, with elastic forces. The soul is a living, multiple being, an endless network simmering with differential micro-variations. The tissue of the soul, in a constant 'disparity', makes micro-folding, virtualised folds. How does this simmer, this swarm which has a tendency to fold, form lines?' I claim that these lines are formed through the soul's complicit relation with the law: explored in depth in *Wave IV*. I also explore my soul's lines in this Wave, where the soul enters into a relation with the body of my lover, and the body of the Ethics Committee to produce the lines within research, which I have framed as ripe for deterritorialization in *Wave II*.

¹¹ *Ibid.* at p111.

law in a repetitious, but different third line.¹² It would seem then that the immanent trace of law, which is indeed retained by its connection with ethics, is productively captured through the act which causes the 'rupture', or third line. However, as I have argued, the trick here is to always remember that while we like to exist on the edge, that ethics is the space of law, here is also the place of potential suffering – 'the rupture line is sometimes the line of grace, sometimes the line of a death-drive'.¹³ It seems this ethical place, is also the place where we might disappear, be torn apart, and dissolve into the forces which malign the collective – which is both the tragedy and saving-grace of the law, and the joy of ethics.

The Joy of Ethics

The 'joy' of ethics then, as I so positively assert above, is that it is both the retention of the 'I' and the access to the collective. Law retains a presence both within the first and the third line. Law is also that which enters into the relation with the deep individual, at the decisive moment, or ethical moment, within encounter. Ethics thereby becomes the playground of law. By virtue of its physicality and closeness with law, ethics also becomes my playground too.

Like with every playground, it has rules. Some of those rules relate to me as an individual, and some apply to every researcher who would be undertaking a similar endeavour. Sometimes, however, the 'line' is not so distinct, and whether I am heading to grace, or to death, is not so clear. In the coming sections I will undertake a close analysis of the explicit 'ethical' (but really legal, institutional and methodological) code that I was subject to. In doing so, I will demonstrate the complexity of the compatibility/incompatibility of such a code with research concerning law and sex.

¹² We have seen in *Wave I* that the problem with ethics is that they retain the 'stamp' of law through momentary judgment. I claim that law is the first line. Although encounters will 'crack' the line in some way, or move it, the stamp of law will be retained in the resulting third line, or 'rupture' as further encounters unfold and the law is subsumed deeper within the body. The power of the rupture though is that it causes slippage in the law, and potential for different ways for law to fold into the encounter.

¹³ See De Miranda, L (2013), op. cit. at n.6, p115: 'It would be a mistake', advises Deleuze, 'to believe that it is enough to follow the line of flight or rupture.' For the rupture lines hold an extreme danger: 'That of turning into abolition, of destruction of others and of oneself. A passion for abolition. Just like music –why does it give us the urge to die?'

The Line: In defence of bias

The first part of the legal code, masquerading as an ethical code, is that research must be objective and devoid of bias. As I have already pointed to in *Wave I* of my thesis, in research concerning sex (as opposed to sexuality) it is necessary to utilise partial and personal perspectives in order to populate academic discussion regarding questions of sex. There are potentially problematic dimensions which arise in relation to my methodology. These include the suggestion that I am an individual who enjoys sex, so therefore I will have a particular and not universal opinion regarding the space of the Cap. Also, there is the suggestion that as a lone, young woman at the Cap, I will occupy a particularly privileged (or indeed dangerous) position of being overwhelmed by offers of sex (that it may be beyond my intellectual and bodily integrity to accept or refuse) within an arguably masculine space. My being in these positions will detract from my ability to make valuable findings about sexuality from my position. I may be irrational, over sexed, a mad-woman, and not inhabiting the prized space of detachment required to produce research that is objective and authoritative. These suggestions are extremely damaging, especially where they underpin ethical frameworks which ought to facilitate research concerning sex.

These concerns suggest that personal research runs counter to the core concern of objectivity which subsists within research in all fields. First, I would like to draw on Ellis' response to this challenge: 'Don't defend yourself against the accusation of bias. Instead, show that there's something to be gained by saturating your observations with your own subjectivity'.¹⁴ It is this 'something to be gained' that I will bring to this study, and it is that which becomes the justification for my method, and defence. In my examinations of auto-ethnographies and studies of sex and of law, I have found brave and rich studies, but I have not found any that explicitly chart a sexual journey, and especially within a coastal space, with all its ensuing challenges.¹⁵

I am biased, very much so. I carry with me my own sexuality, my lived experience, and my entanglement with the laws and theories which I must wield in order to produce this thesis. I am, however, specially qualified to do so, because I have lived

¹⁴ Ellis, C (2003) *The Ethnographic I: A Methodological Novel about Autoethnography* (California, AltaMira Press) p89.

¹⁵ I have discussed some of the challenges relating to immersive sexuality research in *Wave I* (Methodological Tools I and II). I have also added to this discussion in *Wave II*, where the addition of volatile coastal non-human bodies can cause unpredictable affects within the research assemblage, and the potential for dissolution of boundaries between bodies, thereby presenting ethical challenges (Conceptual Tools III and IV).

so far a rich (if problematic) relation with my own sexuality, and it is as this person that I approach a problematic space in which sexuality becomes encounter, which in turn enable me to write my thesis. If bias is to be an ethical concern, and it should be, then I *will not* defend it.

I take my lead again from Jon Binnie, this time from his text that directly addresses the politics of undertaking ethnographic fieldwork in the field of sexuality.¹⁶ He suggests, although does not necessarily encourage as a preference, the adoption of a 'queer politics' as the conceptual and methodological underpinning of such research.¹⁷ He suggests that we must attune to the queering potentialities of certain methodologies, although it is not necessarily the case that ethnography is the only method to do this.¹⁸ Yet he does write that ethnography tends to be a method which is necessarily suitable for investigations into emotions, feelings and opinions.¹⁹

I argue that my method carries this 'queer potential',²⁰ but there is an aspect of this very suggestion that requires some searching. I am a predominantly heterosexual woman, who has undertaken ethnographic work at a site of mainly heterosexual promiscuity. This could be viewed as 'straight' on a basic view of sexual taste. My embodiment of all that is straight, could well be seen as softly threatening within a 'queer' space, if 'queer' is accepted as meaning 'non-straight' sexuality.²¹ Yet the 'queerness' of my research as I have previously claimed, rests in both my theoretical

¹⁶ Binnie, J 'Sexuality, the Erotic and Geography: Epistemology, Methodology and Pedagogy' in Browne, K et al (eds) (2009) *Geographies of Sexualities: Theory Practices and Politics* (Surrey, Ashgate) p29.

¹⁷ Ibid. at p33.

¹⁸ Id.

¹⁹ Id.

²⁰ See also the closing discussion in *Wave II* (I was knocked over by a wave of philosophy).

²¹ See the example given in Bell, J and Binnie, J (2004) Authenticating Queer Space: Citizenship, Urbanism and Governance, *Urban Studies*, 41:9, 1807-1820, pp 1812-1813. The authors write: 'While the question of authenticity in the representation of urban encounters between sexual dissidents is problematic, so too is the question of the (often-troubling) presence of straights within spaces defined as gay.' Tensions then grow in relation to a fear of 'straight invasion', as the authors go on to explain: the presence of straight-identified women in this space is contested, particularly by some gay men who fear a heterosexual invasion of 'their' space.' The author's analysis is in relation to urban space, so there is a material distinction to be drawn (I have discussed the particularly strange and volatile components of the Cap in *Wave II*, and will explore them further in *Wave IV*). It appears there is a contested claim to 'queerness' and as to who the 'dissident' is, and how we behave and react (whether or not we are the 'dissident'). The authors claim as to the power of space supports the claim of the mutual and ethical emergence of this dynamic between bodies as spaces as claimed by Philippopoulos-Mihalopoulos (discussed in depth in *Conceptual Tools I and II*). I cover an incident in depth through *Wave IV*, which relates to nudist Cap 'militants' and their clear assertion over their straight claim to the 'queerness' of the space and harsh protection and maintenance of 'nakedness'.

and methodological approach.²² Deleuzian theory has been accepted as offering a set of tools which can mobilise the potentiality of the 'queering' of theory.²³ In terms of the transition from theory to method, Laruelle also offers this set of tools, through what I would claim to be a radically real queer potential as a pathway into the reality of researching.²⁴ Binnie has also claimed that the act of accepting the body as the site of transformative power in relation to assumptions relating to sexuality, is in itself 'queer'.²⁵ The Cap as a site of open 'promiscuity' and thereby challenging heteronormative monogamous coupling as accepted and assumed, could be viewed as queer space.²⁶ The Cap is also not exclusively 'straight' space, as we have seen in *Wave I*, where there are non-straight encounters, and inter-mixing between supposed boundaries.²⁷

I argue that despite these queer emergences there remains a disturbing lack of queerness to the ethical schema in relation to research in such spaces. This stems from two places: (1) Assumptions about my sexuality remain, and as a result of these assumptions, my body was in a position of potential weakening; and (2) Modes of research and their accompanying ethical codes continue to be 'straight' and therefore ill-equipped and in fact counterproductive, to reach the origin of this weakening.

²² See in depth discussion in *Wave I* (Methodological Tools I, II and III).

²³ Colebrook, C 'On the Very Possibility of Queer Theory' in Nigianni, C and Storr, M (2009) *Deleuze and Queer Theory* (Edinburgh, Edinburgh University Press) p23.

²⁴ I have claimed on the basis of Laruelle's non-philosophy that a 'practical method' is required in order to move with the teleological direction of the queer potential of Deleuzian sexuality. Such a theoretical underpinning forms the platform from which to leap into the field and become the receptive and open researcher body, which is open to the limits even of radical philosophical framings and methods. See *Wave II*, and see also Laruelle, F and Schmidt, A (2014) trans. Rubczak, N, SEXED IDENTITY, *Journal of the Theoretical Humanities*, 19:2, 35-39, p35 and p38. This is also a mode of subverting the subsumption into the contested claim for 'queerness', see Binnie, J (2009) 'Rethinking the Place of Queer and the Erotic within Geographies of Sexualities', in Giffney, N and O'Rourke, M (eds) (2016) *The Ashgate Research Companion to Queer Theory* (New York, Routledge) p167, where the author supports the claim that 'queerness' is highly contested: 'it is a sentiment and label that is often used to denote acts, effects, practices and (more contentiously) identities that claim or are claimed to run counter to heteronormativity and heterosexuality'. The resist 'prescription' relating to method in queer geographies, which I support. However, as I have argued and continue to do so, research in the law and sex field requires the constitution of a resolute mode of access to encounters, which it proclaims to judge, punish and subjugate bodies (See *Wave II*). Law has much to learn from queer theoretical approaches.

²⁵ Silva JM and Omat, M (2013) The Globalization of Sexuality: An Interview with Jon Binnie, *Revista Latino-americana de Geografia e Genero*, 4:2, 195-200, p197.

²⁶ See n.21 and see also the closing section of *Wave II*.

²⁷ See *Wave I* and discussion regarding Fig.8 ('The Cap Sexual Boundaries').

Straight Academic Space

My research at the Cap has been facilitated by an academic space. The University has provided me with the opportunity to pursue this research through allowing me the space both physical and intellectual, to undertake a PhD. The University has also had direct involvement via its Ethics Committee in setting the terms of my encounter with the field. Despite feeling at times exhilarated, highly intellectually stimulated and free to do what might be considered risky and controversial research, I have also felt at times frustrated by an institutional 'fear' of research concerning sex.

Binnie writes regarding the precarious position that some academics tend to find themselves in relation to such research,

The few who have written most explicitly about such matters are those on the margins who, not by choice but because of discrimination, have been excluded from academically respectable positions in major universities - in other words, individuals who have nothing to lose by being honest and forthcoming.²⁸

I am not suggesting that I have been excluded, or have suffered any real hardship (aside from the ethical dilemmas to come in the following section) nor is it the case that I have nothing to lose - far from it.²⁹ But what this suggestion attends to, is part of the core ethical concerns of this project: that there is some kind of avoidance, even if subtle, in writings regarding sexuality and ethnography, of the truth of experience. I also suggest that this apparent fear is connected to the inevitable bias and therefore dissolution and collapsing of the objectivity, or tearing apart, of any researcher in this field. For this reason, as Binnie suggests, to subvert this fear and its manifestations, it is indeed the case that a 'queer politics' which underpins methodologies, must be adopted. Yet it is not only the case that researcher bias is the issue here, but it is something else that runs deeper still into the entanglement between methodology and researcher.

In a wider sense, if the question is whether objectivity carries value, then the answer should be that it does. But it is the configuration and conceptualisation of objectivity that needs to be challenged, especially in light of the concerns raised specific to this

²⁸ Bolton, R *Tricks, Friends and Lovers: Erotic Encounters in the Field* as cited by Binnie, J (2009), op. cit. at n.16, p32.

²⁹ See discussion of the 'risk' relating to the situation of the 'I' within research, particularly in relation to sexuality in *Wave I*, Methodological Tools I and II.

field of research. John Law poses this very question and draws on Haraway's method-politics in order to problematise the notion of objectivity in research.³⁰ Not only are we entangled within material networks, but entangled with aspects of ourselves as part of these networks:

We are entangled in our flesh, in our versions of vision, and in relations of power that pass through and are articulated by us. So detachment is impossible. At best, a self-delusion, more often it is also a form of irresponsibility. It is irresponsible because it attempts what she [Donna Haraway] calls, the 'god-trick'.³¹

The answer to the question of how to conceive of objectivity, is to firstly recognise that we are part of these assemblages.³² These assemblages take on a particular consistency where they concern sexuality.³³ I claim that the soul with its capacity to join the individual with the collective, while preserving an individual yet collapsible space, is a useful conceptual tool for navigating the complexity of this dynamic. I claim that the soul is queer, and carries with it the potential to queer the legal, and ethical schemata within sex research.

I do not seek to argue that every person that would have visited the Cap would have had the same experience that I did. Far from it. My experience of the Cap, as anyone reading this will already have seen, is unique. My personal, desiring machines are particular to me, but the questions posed by the mixture of my individuality and the ethical and legal schemata that I enter, are applicable to all and appear in one form or another, throughout straight and queer questioning of sexuality. This encounter itself points to the complexity of the assertion of line 1: the boundary between objectivity and subjectivity. I do not seek to argue against the scrutiny of my methodological approach. The accusation and defence represents the possibility of access to the connection between my personal experience of sex, and how this might add to what can be argued to be a problematic objectification of sexual experience through law. The attempt of ethical codes is always to access this place and to

³⁰ Law, J (2004) *After Method: Mess in Social Science Research* (Oxon, Routledge) p68.

³¹ Haraway, D (1991) 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective' in Haraway, D (ed) (1991) *Simians, Cyborgs and Women: The Reinvention of Nature* (London, Free Association Books) as cited by Law, J (2004) p68.

³² See Law, J (2004), op. cit. at n.30, p69 and see also *Wave II*, Conceptual Tools V.

³³ See Fox, N and Alldred, P (2013) The Sexuality Assemblage, *The Sociological Review*, Vol. 61, p769-789 and my discussion of this in *Wave II* as a part of Conceptual Tools V.

regulate this relation.³⁴ Ethics in becoming explicit laws, tend to become symptoms of much wider and deeper assumptions about sex, gender, and individual positioning within dynamics of sexual power. Such codes of ethics are also symptomatic of objective assumptions about the body, and real ethical dilemmas as co-extensive with the collective, spatial and material.

The Line: Ethical approval

At the time of deciding (March 2014) to undertake fieldwork in this area, in order to construct my ethnographic base, it was clear that as a PhD researcher at the University of Westminster, I must seek ethical approval to proceed with my project. I applied using the standard procedure and my form stated that my objective was the following:

- These observations aim to satisfy three particular lines of enquiry in relation to the subjectivity of bodies. Since bodies enact a decision to have sex on the beaches of Cap D'Agde despite the presence of the law which seems to disallow this behaviour, then it must be understood as to the unique role the terrain has in this decision. In order to establish an empirical base to which to apply the theoretical and methodological frame, these lines of enquiry are as follows:
- Where on the beach (near/in the dunes, in the sea, at the back of the beach or near to the sea), and at what times do bodies engage in sexual activity on the beach?
- To what extent do bodies appear to try and remain covert or undiscovered when engaged in sexual activity on the beach?
- How does the presence of police or location of police look-out points on the beach affect the temporal and spatial locations of sexual activity, if at all?

³⁴ See *Wave I* and Conceptual Tools I, where I discuss the relationship between law and ethics, where law becomes its mode and access to encounters themselves. Its judgments however, remain incompatible with the body. Yet these judgments are always prone to shaping and disruption through desire.

My concerns regarding the type of data I needed to collect and the theoretical import of the data changed as I undertook the project and while I was 'in the field'. My ethics application asked for approval in relation to a covert, non-participant observation methodology.³⁵ Initially the application was refused, but with an invitation to respond, for which the Ethics Committee ought to be applauded; following my response, my application was approved. However, I would like to highlight the key ethical concerns raised by the committee at the point of initial refusal:

- Similar research has been undertaken previously and the Committee wish to be reassured that the proposed study is sufficiently distinct to constitute new research. e.g. in Portugal (I am obtaining a reference for you and will forward that separately).³⁶
- The Committee have serious concerns about your safety given you will be working off-campus with negligible support in a potentially dangerous environment where individuals nearby could be actively seeking a sexual encounter.

³⁵ This application was made in the knowledge of course that I cannot isolate myself as strictly 'observer' and thereby a 'non-participant', devoid of any affect on the field and devoid of any ability to be affected. This is question that I am exploring in-depth in my thesis, and I suggest will need continuing in many contexts on the basis of projects that undertake immersive methodological approaches that I have mentioned here. The application and the ethics decision therefore rested upon an arbitrary distinction between 'observer' and 'observed'. See Philippopoulos-Mihalopoulos, A (2013) Actors or Spectators? Vulnerability in Critical Environmental Law *Oñati Socio-Legal Series*, 3:5, 854-876, p859, where the author claims that: 'every distinction between the observed and the non-observed is to some extent arbitrary. But isn't this what epistemology commands us to do?' This means that there is always a 'tension between spectatorship and participation, observer and actant, epistemology and ontology.' (p862). It is again a question of identifying what the epistemological boundary demonstrates to us about the ontological framing of a particular field. There is also a tension between law and ethics, and between sex and sexuality. The zone between these singularities can be characterized as a place of mutual flow, where each can tell us something about the other (see above in relation to the Soul). This is arguably the process I have also gone through in observing myself observing the field, where I find myself in the middle, attempting to make the two strands 'work together'.

³⁶ This concern related to a text which has indeed been useful for this project. The text the Committee were referring to was Andriotis' evaluation of nude beaches in Greece (Andriotis, K (2010) Andriotis, K (2010) Heterotopic Erotic Oases The Public Nude Beach Experience, *Annals of Tourism Research*, 37:4, 1076-1096) which I have referred to and discussed above in *Wave II*. This examination was undertaken from a homosexual male perspective, and albeit from a theoretical perspective, the text's theoretical lens is radically different and does not focus on law, ethics or method.

- The Committee were unclear how you would record the observations, for example would you propose relocating to improve the quality of your observations, and if so how would you be able to guard against suspicions being raised about your activity. Is it possible to undertake covert observations in this way and at the same time remain inconspicuous?³⁷
- Concepts of privacy could be contentious. While the research will be undertaken on a public beach, the individuals being observed may view their area as being a private or semi-private space. As there are quite strict laws in France relating to privacy has there been any assessment of the legality of the proposed research in the local context? Can you confirm that any proposed covert observations will only take place on people who are in a space that could be reasonably be observed by others, the individuals would have no expectation of privacy and that you will not follow individuals to better observe them should they go behind bushes/into caves, etc.?
- Have you considered recruiting “Key Informants”? i.e. recruit users of these areas as a means of reducing safety concerns, however, it is recognised this would have an impact upon your proposed methodology and may provide less satisfactory data.³⁸

The concerns comprise a combination of ethical concerns, as well as intellectual concerns regarding the originality of my work. Yet the connected, wider, concerns run far deeper than this and point to, what I suggest, are fears and squeamishness relating to sexuality research, much akin to those claimed by Binnie.³⁹ I am not suggesting that the Committee are in any way at fault. Rather, I was impressed and grateful to the Committee for their professionalism, as well as insights into my methodological approach, which have led to the production of a far richer thesis. I

³⁷ At all times I ensured that my note-taking was inconspicuous, that all data was anonymised and that my presence as researcher was never revealed. I have also avoided graphic description of encounters in case of any possibility of any identification or unease. I would also like to thank many members of the Law School at the University of Westminster for their assistance in drafting and considering the response to the Committee, particularly concerning the ‘privacy’ aspect in the next concern listed, where consideration of strict French privacy laws was required.

³⁸ These passages are lifted directly from the initial decision by the Ethics Committee. See Correspondence (decision and my response) at *Appendix 1*.

³⁹ See discussion of this in *Wave I*, Methodological Tools I and II.

claim that the concerns raised veil important issues which directly relate to the *subject matter* of my research.

The first concern I addressed through differentiating my research on a number of levels, for example, specific differences in terrain, sexualities considered and theoretical framing, as well as my methodological approach.⁴⁰ The second point however, as well as the privacy concern and 'key-informants'⁴¹ suggestion takes the Committee's refusal into different, and also highly productive, yet problematic, territory. These arguments relate to my personal safety, which appear to originate from two places. First, there is what might be a genuine and human concern for my personal safety as a lone woman entering what might be a dangerous terrain, where I am exposed and vulnerable. Second, there is the legal point raised in terms of fulfilling the University's duty of care to me as one of its researchers. I would argue that far from originating from two distinct places, these arguments converge and flow from one, albeit complex, origin. If we are to confront the issue head-on, then it would appear that the concerns arise indeed because I am a woman. This is a thinly veiled, but highly gendered concern for my safety. The gendered nature of this flows directly into a banal concern for my vulnerability, but more specifically, my readiness, or unreadiness, to cross some kind of implicit threshold that I ought to retain as sacred in terms of my participation in the encounters I observe.

The big bold line between researcher and field seems to cause a rupture; or *third* line. My body and all its assumptions, have now entered into an encounter with the institution. This encounter has indeed the subversive power to fuck research, through the generation of the next line: the division between participation and observation. This line is a volatile one and it can easily turn in a number of directions: not least toward grace or toward the death drive. The Ethics Committee are also bodies, and they come with their own assumptions as a collective, and as individuals. In highly sensitive projects, particularly those concerning sexuality, the

⁴⁰ See Ethics Committee Correspondence at *Appendix 1* for both the initial decision and the response.

⁴¹ I chose not to pursue either key-informants, nor interviews as elements to my methodological approach. The undertaking of interviews seemed to me to be both impractical (due to language difficulties since most of the visitors to the Cap do not speak fluent English, and my French is limited) as well as *premature*. The necessity to determine the ethical draw and the ethics of presence at the sex and sexuality of the space is a complex enough question that is not adequately problematised within a legal, ethical and applied frame in existing research. It may be a further avenue to pursue for a future project to evaluate the ethical and legal dimensions to the draw to the Cap and the particular dynamics of the assemblage for other human bodies.

role of the committee is beset by challenges.⁴² Halse has felt the need to literally 'confess' to some of the gendered, political and social assumptions and perhaps even personal baggage which comes with being part of such a committee.⁴³ Halse sets out a 'principled' ethical frame, which incorporates a normative basis for ethical decisions in her context.⁴⁴ The metrics of this frame include merit and integrity, justice, beneficence and respect.⁴⁵ I claim that these do not constitute an ethical frame, but a *legal* frame. The Committee presides in a particular context which renders it ethical, since its decisions relate directly to, and are contingent upon, a projected encounter. However, the co-ordinates set out in Halse's example which relate to a highly sensitive (fictional) context of married men and their use of child prostitutes, are *unethical*. Halse goes on to critique the strictly moral basis of these decisions and suggests that greater scrutiny be given in the light of the neo-liberal self-interested space of the academic institution.⁴⁶ I claim that the critique she suggests however, does not take the Committee in a direction that allows its decisions to be ethical.⁴⁷ A confession is a good place to start, but such a gesture is futile if it does not develop into an understanding that allows for the authentic concerns which feed into the Committee's decision. For a Committee to be what it proclaims to be: an expert in the ethics of encounters, it needs to adopt a mode which is capable of subverting the assumptions it embodies and projects into its decisions.

As a female undertaking 'adventurous' fieldwork, there is a fear, that I might have sex. There is also a question mark hovering over the issue of my own sexual inclinations. That is, am I a lesbian, and perhaps they do not have to worry? Am I straight and sex-crazed, such that instead of allowing me to undertake my research, are they allowing me a chance to indulge myself in the name of the University? It is

⁴² See Halse, C (2011) Confessions of an ethics committee chair, *Ethics and Education*, 6:3, 239-251.

⁴³ Ibid. at pp239-240. Where the author claims that this is not confession in the 'biblical sense' but rather a claim to make public 'hidden information'. The author claims to follow the Foucauldian act which ought to bring together the questioner and the questioned (p240). I would seek to argue that the stakes in research ethics as the domain of legal ethics and practice, require deeper consideration of the relationship between the personal and impersonal. See the coming sections for deeper consideration of these 'stakes'.

⁴⁴ Ibid. at p242.

⁴⁵ Id.

⁴⁶ Ibid. at p248-249

⁴⁷ Ibid. at p242, where the author writes: 'As with other national ethics guidelines, an ethical framework of principlism is not based on a single, coherent ethical theory but a set of practical principles that draw on an amalgam of philosophical perspectives: Kant (autonomy); Rawls (justice); Mills (beneficence); and Gert (nonmaleficence).' The author points to a universal philosophical underpinning to Ethics Committee decisions, which I go on to claim (in the coming 'Female Researcher' section) take for granted the basis on which the legal person is formed, which resulted in my disembodiment.

arguably progressive times in the humanities, even in law, but it is hard not to see a thinly veiled echo of erotophobia⁴⁸ in the correspondence I had with the Ethics Committee. As Bell argues, in relation to a general if relenting fear of sexuality in geography,

Institutional and institutionalised Homophobia and Erotophobia at the heart of geography is still there, arguably as strong as ever. Most people thinking and doing geography haven't been queered or fucked by the things I've sketched in this essay.⁴⁹

This is also true of law, as a traditionally 'timid' discipline.⁵⁰ While with the emergence of critical legal scholarship, there has been a wealth of rich and exciting, radical and adventurous, progressive and far reaching work being undertaken,⁵¹ there persists at an institutional level, a deep fear of sexuality, especially, I argue, feminine sexuality.⁵² Because this is such an important and weighty aspect of the Committee's concerns, I divide my coming discussion on the point into two remaining ontological as well as aspects of methodological *lines* of enquiry.

⁴⁸ See Bell, D 'Fucking Geography, Again' in Browne, K et al (eds) (2009) *Geographies of Sexualities: Theory Practices and Politics* (Surrey, Ashgate) and see also Vance, C (1991) Anthropology rediscovers sexuality: a theoretical comment, *Social Science and Medicine*, 33:8, 875-884, p875, where the author claims that anthropology holds the potential to break through 'erotophobic intellectual taboos common in other, more timid disciplines', yet even anthropology retains systemic and structural inhibitions due to the perceived danger and risk associated with sexuality research.

⁴⁹ Bell, D (2009), op. cit. at n.48, p86.

⁵⁰ See n.48.

⁵¹ See for example Philippopoulos-Mihalopoulos, A (2015) *Spatial Justice: Body, Lawscape, Atmosphere* (Oxon, Routledge) as a radically embodied approach to law and space. In relation to sexuality and law, see for instance Lalor, K (2012) *Uneven Encounters and Paradoxical Rights: Embodiment and Difference in Sexual Orientation Rights and Activism* (Doctoral Dissertation, University of Westminster, London). Retrieved from <http://westminsterresearch.wmin.ac.uk/12208/>. See also Nirta, C (2014) *Marginal Bodies: Actualising Trans Utopias* (Doctoral Dissertation, University of Westminster, London). Retrieved from <http://westminsterresearch.wmin.ac.uk/15454/>. Both of these theses employ similar radical frameworks to the intersection between law and sexuality through the application of both social and legal critical theory. See also feminist critical legal scholarship (examined below, see n.55). There is much to be added to this field through adventurous methodological perspectives in the 'real' field of sexuality, and through critical legal scholarship's interdisciplinary relation with geography, philosophy and sociology, and of course, sexuality.

⁵² I claim that the power of the researcher-practitioner needs to be harnessed by law in order to shape and potentially alter its subjugating sexing of the body. The researcher-practitioner who embodies so-called subversive or unusual forms of desire carries a particular power and responsibility to authentically enter the field, and to direct the law toward the sensitive, as well as elusive, ethical potential within encounters.

The Tragedy and Joy of the Line

Although I have drawn on Bell's work in the previous paragraph, a view which I would echo in a general humanities context, there is a specificity to the ethics decision I am examining. Ethics Committees act in a judicial capacity, and thereby establish themselves as apparatus of the law.⁵³ They become judges, both in their action and in their processes, and their deliberation room becomes a court. I am then rendered in a problematic, yet highly productive role as not only researcher, but *legal practitioner*. This means that both the Committee and myself are situated in both a legal and ethical encounter. All encounters incorporate both,⁵⁴ but it is rare to find both so explicitly in one setting – where one can be presented with a unique opportunity to find, and to change, what is ethical in relation to law and sex research, as well as reach toward the foundations of law, and philosophy. I now address the problematic and productive constitution of my body as Female Researcher; and Researcher Practitioner. This rare space which brings together law and ethical framings brings about the emergence of the first of two 'Practical Methodological Tools', for seeking the ethical balance in law and sex research.

Female Researcher

As I have already pointed to, the Committee demonstrated various assumptions relating to gender. The importance of this is manifold in relation to both research ethics in sex research, and in relation to the founding tenets of legal identity. These emergences in this example of committee discourse chime with many modern feminist arguments regarding female legal personhood.⁵⁵ Naffine, for instance,

⁵³ See Boden, R., Epstein, D. and Latimer, J. (2009), Accounting for ethos or programmes for conduct? The brave new world of research ethics committees, *The Sociological Review*, 57, 727–749, p727. The authors situate Ethics Committees as a part of a regulatory framework which 'controls' Universities and through their conservative regimes represent a potentially harmful constraint upon academic discretion, freedom. The authors also encourage a greater range of critique in relation to Ethics Committees and their procedures: 'an explication of the operation of power through ethical bureaucracies and its impact on knowledge creation is now critically important.'

⁵⁴ See *Wave I*, Conceptual Tools I and their application to the Cap.

⁵⁵ See generally Jones, J et al (eds) (2012) *Gender, Sexualities and Law* (Oxon, Routledge). See also feminist perspectives that build on the capacity of the body to resist centering through methodological reflexivity the fixed constraints of legal personhood generally, for instance Hemmings, C (2014). Authors such as Elizabeth Grosz are heavy-weight presences in creating the theoretical anti-Cartesian conditions for the mere possibility of this resistance too, through the revolutionary re-situation of the feminine body as inherently productive, as well as disruptive, of epistemological regimes created through traditional understandings of the body, space and time, as well as sexuality: see Grosz, E (1994) *Volatile Bodies* (Indianapolis, Indiana University Press) and in particular, Grosz, E (1995) *Space, Time and Perversion* (London, Routledge). In terms of law however, there is a particular difficulty in

argues that the legal person, the legal subject, is male. Although this is a notion that has been problematised and in some instances complexified in law,⁵⁶ it remains the case that any behaviour that constitutes a 'departure' from this person-construction, will result in the reconstruction of a person as outside the norm.⁵⁷ Naffine's argument is actualised in the instance of the ethical concerns raised. As Naffine suggests, there is not any acknowledgment of the legal person at play here – the Committee's concerns remain wrapped up in gendered assumptions but veiled in non-gendered language. In short, the Committee are not so blatant as to say 'we are concerned because you are a woman'. Yet, it is taken as a given that there is potentially something problematic in what I might do, what my intentions might be in relation to my methodology and what this might mean for the institution. The problem is located firmly with me, as researcher and a woman, and not with the conditions of the conceptual frame that builds the 'person' I begin to fall outside of.⁵⁸ I am of course not privy to the discussions that were had within the Committee. I have no doubt that they were considered, pragmatic and positive and again, I applaud the Committee for engaging me in a rich and productive conversation about their concerns. I suggest that it would be worth examining their discussions, indeed I would jump at the opportunity to do so. Yet the correspondence frustrated me despite all of this. The thing we were not talking about was sex, and how sex and the relationship (institutionally and personally) the Committee has with these assumptions regarding sexuality. Because the Committee is juridical, it is in a uniquely powerful place to make assumptions about sexuality, and to use them.

It is the very subtle act of the suggestion made by the Ethics Committee, which is in fact, taken more deeply, an act of disembodiment of the researcher. As Grear writes,

terms of *legal* personhood specifically in terms of limiting the feminine body's capacity to be empowered against and with legally imposed/assumed vulnerabilities, together with the ethics of productive corporeal empowerment. See for instance the work substantial and rich body of work on this point in relation to law, of authors such as Naffine cited below, and in addition see Grear, A 'Vulnerability, Advanced Global Capitalism and Co-symptomatic Injustice: Locating the Vulnerable Subject' in Fineman, M and Grear, A (eds) (2013) *Vulnerability, Reflections on a New Ethical Framework* (Farnham, Ashgate) p41, where the author argues against the stability and rationality of the assumed legal subject, as being both incompatible with the onto-ethical demands of the feminist project, as well as the posthuman project. See also Fineman, M 'Vulnerability, equality and the human condition' in Jones, J et al (eds) (2012) p53.

⁵⁶ See *Wave II*, Conceptual Tool III. In particular, see p70, n58.

⁵⁷ Naffine, N 'Women and the cast of legal persons' in Jones, J et al (eds) (2012), op. cit. at n.55, p15.

⁵⁸ *Ibid.* at p23.

The liberal legal subject is disembodied and simultaneously male...The paradoxical impossibility of complete disembodiment is perhaps best reflected in the term 'quasi-disembodiment', which reflects, in the moment of its invocation, the incomplete emptiness of the formally 'empty' legal subject, suggestively alluding to the conceptual sleight of hand that obscures from view the nakedly gendered dimensions of legal disembodiment.⁵⁹

In some ways, the Committee's concern is banal: it was easily overcome by my response which iterated my vigilance and preparation for the space, that if people approach me for sexual encounters then all I need do is wave them away, that I will at all times stay in public areas, that at no time will I enter spaces which are dangerous or secluded, that I will keep my genitals covered.⁶⁰ But this is very far from what is at stake here. This is a subtle gesture of disembodiment of me, as the legal, objective researcher, as woman. It is a gesture of disempowerment as a response to fear of my potential to deterritorialize assumptions relating to my sex, or bring to the fore realities about my sex which are uncomfortable to those who reside and work within, or with, the obscuring, conceptual sleight of hand. Of course, the Committee did allow my application, but not before I had made the required reassurances that I would not be fucked, nor would I be fucking. I will now turn to the deeper concern here, the part about which the committee do not wish to talk, which is the participation/non-participation *line*, and the state of the subsisting lines within my own soul – or rather, how I might *fold*.

Practical Methodological Tools I: Researcher-Practitioner

Drawing on Murray's work, I make a claim to the hybridity of the researcher and legal practitioner.⁶¹ In the course of doing so, I draw on de Sutter's work to create a specific and uniquely ethically generative space for the figure of the 'Girl'

⁵⁹ See Grear, A, 'Sexing the matrix': embodiment, disembodiment and the law – towards the re-gendering of legal rationality' in Jones, J (2012), op. cit. at n.55, p42.

⁶⁰ See Ethics Committee correspondence at *Appendix 1*.

⁶¹ See the bringing together of the researcher and legal practitioner into a researcher-practitioner 'hybrid' in the section below. The researcher in the field of sexuality will also need to be framed through sexual hybridity, since as all bodies - the researcher-practitioner *desires*. MacCormack, P 'Queer Posthumanism: Cyborgs, Animals, Monsters, Perverts' in Giffney, N and O'Rourke, M (eds) (2016) *The Ashgate Research Companion to Queer Theory* (New York, Routledge), p119. The author writes regarding the queering potential of sexual substance, in that it holds the potential to 'queer' human sexuality toward posthuman sexuality: 'We can be free to be any form of sexuality we want, to get off on anything, because everything is a 'natural' part of 'human sexuality'. I discuss the sexual and ethical potential of non-human bodies, as well as their formative affect on my encounters as researcher at the Cap in *Wave IV*.

Practitioner within this frame.⁶² Up until this point, I have remained critical of law and its subjugating constructions of sexuality, which simultaneously usurp its own ethical power which can be drawn from sex as encounter.⁶³ I have also pointed to the possibility that this space can also be sensitively and gently framed as positively informing changes to the law which minimise instances of the subjugation and consequent suffering of bodies.⁶⁴ The researcher, as we have seen is uniquely placed to inform and create the conditions for such a change. For Murray, the 'Vagabond Lawyer' is a reflective and reflexive practitioner, who is sensitive to, and responsible to the assemblage in which their body is situated,

The intensive assemblage of emergent law is vagabond lawyering, intensively exploring and intervening in the morphogenetic social field and social problems, employing all the self-organising and emergent problem-solving resources of the machinic phylum, and developing of a practice of the creation of new rights as blocks of intensity-affect-event that are cases of solution to problems without precedent.⁶⁵

As researcher in the field of law, I find myself placed to undertake this function. If we take Murray's suggestion forward, we can turn the Committee and its court on its head – *an anarchic body restored to itself*.⁶⁶ An anarchic court, needs anarchic bodies to help it function. For Murray, this body is a subversive practitioner: spatially nomadic, and employing a 'wild logic' which originates from outside of the state machine and from within the assemblage where 'real' problems of desire and power are located.⁶⁷ The Vagabond Lawyer is therefore non-philosophical, and uses law to find the sites of these 'real' problems, where the potential ethical balance of these 'immanent' problems can be sought.⁶⁸ Such a practitioner occupies the same site as

⁶² I argue below that insights in relation to collective sexual-legal problems can be encountered and examined through the 'deployment' into the field of the researcher-practitioner who embodies subversive and disruptive forms of desire. I follow below the approach of de Sutter, L (2012) Deleuze and the Maiden: A Short Introduction to Legal Pornology, *New York Law School Review*, 57, 85-95.

⁶³ See *Wave II* above (Conceptual Tools III) and where I build further on this discussion in *Wave IV* in relation to Practical Methodological Tools II.

⁶⁴ See *Wave II* above (Conceptual Tools III)

⁶⁵ Murray, J (2013) *Emergent Law* (Oxon, Routledge) p11

⁶⁶ See *Wave I*, The Ethics of the 'I', p39 and n.125. Law's spectral, anarchic body, or 'double' carries the potential to productively interrupt law's processes and turn its attention to locations of disembodiment, see Deleuze, G trans. Smith, D and Greco, M (1997) *Essays Critical and Clinical* (Minnesota, University of Minnesota Press) p131 and Brooks, V (2014) Interrupting the Courtroom Organism: Screaming Bodies, Material Affects and the Theatre of Cruelty, *Law Culture and the Humanities*, DOI: 10.1177/1743872114543767.

⁶⁷ Murray, J op. cit., at n. 65 at p144.

⁶⁸ Id.

the researcher in the field, where objectivity and ethical 'rightness' remain spectral, and ripe for subversion in the name of seeking the 'true' ethical, personal-impersonal balance.⁶⁹ This seeking carries forward the potential for ethics to become 'emergent law.'⁷⁰

The beginning of the process for the productively legal place of the researcher is through access to the field and to encounter. This access should entail the process of recognition of the assemblages in which we find ourselves part of and amongst – a process which I have undergone in the previous two Waves, and continue to do so. The closer that law comes to its ethical point of genesis, the more likely it is that instead of repeating, it may change – 'a purely negative moment followed by a positive moment. The negative moment was that of the philosophical critique – the positive, that of the legal clinic.'⁷¹

I am rendered a research-practitioner, or vagabond lawyer, through the necessity of fulfilling ethical conventions, and through my engagement with juridical organs.⁷² In the course of explicitly charting the ethical approval process, I have situated myself in direct confrontation with law. The *type* of confrontation however, is defined by my desire since I enter into a field of research that is beset by forces which orientate on the basis of desire constructed as sexual identity.⁷³

The difficulties relating to invisibility and limited horizon I was handed by the Ethics Committee, are also shared by ethics. We have seen that through the stamp that law retains in the encounter, the horizon of the encounter of sex is restrained by legally subjugating sexuality.⁷⁴ I also retain the stamp of law, through assumptions and concerns about my project which directly relate to my gender and my sexuality. We (myself and ethics) share the same challenge: how do we alter the horizons of

⁶⁹ See *Wave II*, Conceptual Tools III.

⁷⁰ Murray, J op. cit., n.65. Murray situates the body of the 'Vagabond Lawyer' as the site of ethical power towards an 'emergent law' which is closer to its roots within encounters.

⁷¹ de Sutter, L (2012), op. cit. at n.62, p93.

⁷² n.66. See also Mulcahy, L (2011) *Legal Architecture* (Abingdon, Routledge) where the author traces law's construction of its procedural spaces as a mirror to and enforcement mechanism of its subjugating affect upon bodies. In Philippopoulos-Mihalopoulos, A (2016) *Flesh of the Law: Material Legal Metaphors*, *Journal of Law and Society*, 43:1, 45-65, pp52-53 the author frames the apparatus of the court as embodying legal metaphors of power, which keep bodies in their place. See also Brooks, V (2014), op. cit. at n.66, for a claim to the body's power to interrupt law's flesh from within.

⁷³ See *Wave II*, Conceptual Tools III.

⁷⁴ Id.

research, and of law? de Sutter identifies the unique connection in this shared challenge,

Deleuze should have asked the question that, according to him, was the most important: “How?” In other words, how does the girl manage to perturb, through the desire that she arouses, the world’s order – how does she create a “line of flight” interior its exteriority?⁷⁵

I am in a position (through doing research in law and sexuality) to become a vagabond lawyer. But this does not mean that I do not run challenges. The vagabond lawyer is necessarily able to subvert constructed desire through a radically reflexive position within an assemblage, and practitioner of within the ‘double’ of law’s processes.⁷⁶ I claim though that (especially in the sexuality research context) that the process is more likely to be subverted where the researcher-practitioner embodies ‘perverted’ desire.⁷⁷ My argument follows de Sutter, in that it is practice that embodies the powerfully sensitive, subversively and mysteriously desiring, playfully soft, ‘forgotten’ and productively perturbing desire of girls.⁷⁸ I claim the same position as the sister, maid or prostitute in Kafka’s work – I occupy ‘vacuoles’ – ‘frenetic gaps within the machinery of the law – where the law is turned upside-down and where it has no power’.⁷⁹ This is the teleological mode of girlish desire, and in some cases, radical sexuality research. To create a space for the reflective power of the desire embodied by the researcher-practitioner, I claim the space of the girl.

I claim that through the writing of my thesis, I come to occupy and move with this mode of desire – through insisting on the disruption of the sexual machinery of law. The research-practitioner is a body that shares the same place as Laruelle’s non-philosophy – it is the practice of the lived, which remains anterior to, yet still within the theoretical:

⁷⁵ de Sutter, L (2012), op. cit. at n.62, p89.

⁷⁶ See n.66 and 72.

⁷⁷ Access through to the repressed and productive encounter of sex carries the potential to critique law’s sexuality. See *Wave II*, Conceptual Tools III.

⁷⁸ de Sutter, L (2012), op. cit. at n.62, p88.

⁷⁹ Id. See also Mudaly, R (2012) Shattering and Reassembling Hypersexual Moments: Girls Indulging in the Pursuit of Pleasure, *Sexualities*, 15:2, 225-242. Here the author captures the subversive (in relation to heterosexual hypersexual assumptions and projections) power of girlish desire, through an adventurous methodology which incorporated the ‘girls’ themselves as co-researchers and analysts. This approach allowed the author in the course of examining their sexual behaviours, to co-opt these desiring bodies in order to find ‘real’ sites of subversion, lines of flight and pliability within heteronormative framings of desire.

the practice of law, according to Deleuze, shared with girls a spectral status. The reason for this shared status was clear though, undoubtedly, unexpected: girls and the practice of law are, in reality, one and the same.⁸⁰

I have said the same about law. Ethics are the practice of law, and yet in their exteriority through their presence in the real, they remain *spectral*. I consider myself a girl. I do not take it as an insult, nor do I take it as an anti-feminist sleight against my womanhood or feminine power. Through de Sutter's examination of the maiden, being a girl is something I would encourage all Vagabond Lawyers to be: 'the girl, being that which arouses in the law fantasies (images) that perturb the cerebral regularity of its desire, is the conceptual persona of which law is the practice.'⁸¹ In being-girl, I have perturbed the law (the Committee) into its correspondence which is representative of its practice and its legal-ethical foundation. This has opened the opportunity for a renewed look, through the lens of practice, at law's interiority.

The Line: Participation

Participation thereby becomes necessary in the field. But the extent to which the researcher participates is a question of what is ethical, not context of specific research ethics, but in terms of what is ethical to the inner and outer field. At all times, my observations were covert and at no point did any person that I observed know they were being observed,⁸² and all of my data is anonymised. I did not, however, ask for ethical approval in relation to possible participation. Upon advice, it was clear that in order to change my methodological approach, in responding to the possible demands of the field and effect of affect, before folding over this line, that I should pick up the phone to the Committee (hold that erection, *just hold on...*) and I will gain the requisite approval, or rather, I would not.

There is an almost shy, but also patronising suggestion that I might be tempted to cross this boundary, the threshold is written between the lines of their concerns, read and unreadable, unknowable, and completely entangled with their gesture of disembodiment, as well as a concern of researcher bias. It is almost as if the Committee sweeps in as an over-protective father, to ensure that I know what I am doing, that I do not allow all those men to crawl over me, to ruin my body, to ruin

⁸⁰ Ibid. at p93.

⁸¹ Ibid. at p95

⁸² See n.35.

my objectivity (see also the 'privacy' concern which almost in a manner of hysteria asks me not to follow others into caves or bushes). But more importantly for this thesis, the concern raises the ethical implications of affect. The suggestion is that I should at all times protect myself against affect, not *produce* affects and not *succumb* to affects. The act of *placing* of bodies, of one's body, within the mist of genesis of affect, and the ethics of denying and succumbing rest at the core of my thesis. It is a question of how I respond to the affects of the terrain, other bodies (human and non), and how and whether I take responsibility for my own affect. It also raises questions of the changing nature of 'the field' and how I respond to this, and if this means a level of 'participation' what are the ethical implications of this, not only the ethical implications in relation to research ethics generally, but my ethical responsibility to the subject matter of my research.

Others have encountered this same line when undertaking ethnographic work. Saldanha's ethnography of the Goan trance scene is littered with fear, torment and conflict about this boundary, although not explicitly so. He expresses the concern for his problematic presence as both participant within the scene, as well as researcher and observer, as he writes in an extract from his fieldwork diary,

...am I not wasting my time? Will I be able to analyse all of this? the big problem is simply the place itself - the temperature, the sea, the sun, the sand, the siesta, the chatting, the laziness, the staring, and then of course the partying, the drugs, the alcohol, the sleeping in, the waiting everywhere, the people the movement, the mess, the possibilities, the impossibilities. the problems, the pollution, the fear, oh oh.⁸³

This is a conflict with which I can very well identify, although for me the concern over participation is more pronounced, as can be seen from an early extract from my own field diary,

...a large amount of single men on the beach today, one directly in front of me as I lay on my stomach on the sand, he is about 20m away from me, in his mid to late forties, he has an erection and is occasionally stroking himself while he looks around. Just inadvertently caught his eye. Must admit I am a bit aroused, quite a visceral response, but no desire to engage him in anything, it

⁸³ Saldanha, A (2007) *Psychedelic White: Goa Trance and the Viscosity of Race*, (Minneapolis, University of Minnesota Press) p45.

is very hot, and I have only just got here, also acutely aware of my responsibility to analyse this space...

Extract from field diary: 13 July 2014, 12.50pm

There is a conflict, or contradiction that screams here. It is about responsibility and ethics, but it is also about affects and their unpredictable directions. There is an ethical responsibility which comes from presence within the field, not only to represent it in an authentic way, as I have already argued, but also an ethical responsibility which comes from the institutional and legal sphere, which permeates and conditions the space which brings the very possibility, or impossibility, of this authenticity. This ethical responsibility as imposed, is somehow emptied of the possibility of being affected. Turning again to Dean, we encounter an explicit demand to access this covered, real space of the ethical encounter. He asks that we suspend concerns of identification, yet do not condone, nor condemn, despite the visceral response that such research generates.⁸⁴ Yet this does not wholly capture the endeavour here, since the visceral response, the personal response, is that which characterises the line which is much needed by sexuality, the line both drawn and desired to be drawn, or rather, the need and desire for ethics.

For Saldhana and I, it is a question of ethics: what do we do once we are affected? one must respond to affect, whether or not there is a change in the methodological approach. The field is full of affects and research does not exist in a vacuum as an analytical endeavour. The stakes for me in this respect were also personal. It was not only the Ethics Committee that had an interest in my non-participation within the field. I set out my position within the field in the following method map. In the following analysis, I set out some of the lines that were drawn across my inner-field by law, which affected the unfolding of the ethical encounter. These lines are not only mine, but turn out to be shared by the collective.

⁸⁴ Dean, T (2009) *Unlimited Intimacy: Reflections on the Subculture of Barebacking* (Chicago, University of Chicago Press) p26.

The Sea, half way along the beach. 1300.

writing from the Cap to my lover, yes, oh no, rather to the 'Cap?'

my words are meaningless, my thoughts are meaningless, my considerations are meaningless, just so strong your light.
 enjoy the beach, today, kiss you, kiss your eyes, I need some time with you with myself, in quietness, whether the sea can speak to me.

Fuck YOU. Fuck the University, Fuck ~~the~~ year later. Our child? Oh now no. Now you killed me, now no.
 Oh ya. I see into the future now.

I love you so much, my note taker, my woman, do not like this expression really, I am your woman. So engrossed when you say that, you, our of all people, what does mine brings out here? is the way of knowing it, over time, is to be together, to leave my family, to leave my world, but I will need to leave it as it, too, change, because of us, it will never be the same.
 kiss you my love, your woman (I never really liked this either, but with you I do, being yours, I don't know, just makes me happy, makes me glow

I am also a voyeur on you

You don't think that there have been days when I have thought to myself that I am foolish to feel this for a man who is just having an affair? Loving you while I know you share a bed with your wife every night?
 I have felt angry, lonely (perhaps he will take me away, no he doesn't do that, why, why?) Also times where I have felt myself like stopping everything, but no, I said to myself he is worth it.

Defending our love to friends, who said he will hurt you, he doesn't take it seriously, why don't you see each other more often? And me just saying its ok, you don't understand but screaming inside
 I love you so much, I should be so happy if you
 I love you so much, I should be so happy if you
 I love you so much, I should be so happy if you
 I love you so much, I should be so happy if you

you remember i said to you that you are not mine, that you are free spirit.

YOU love me so much you wish you were dead. You. Was only a touch. What would you do if I were dead? Would the university say.
 Obsessive Obsessive Again and again, me, again and again. I am yours I NEVER SAID I NEVER SAID I WOULD YOU MARRIED
 have your chance: you have it now, just take it.
 Look now, Victoria. I'm begging you, please, let me go. I want you to go away.
 Look now, Victoria. I'm begging you, please, let me go. I want you to go away.
 Look now, Victoria. I'm begging you, please, let me go. I want you to go away.
 Look now, Victoria. I'm begging you, please, let me go. I want you to go away.
 Look now, Victoria. I'm begging you, please, let me go. I want you to go away.
 Look now, Victoria. I'm begging you, please, let me go. I want you to go away.

allow our storm the opportunity to appear differently and not feel restricted or possessed in a violent way, and the maternal, I guess I can see how it is erotic, it is just not something that ever appealed, but then...I also did not feel this intense connection, the two I think may not be disconnected, but I am not sure.
 Really it is not complicated, I love you. I know it does have its complications, of course it does, but with your family. But the love is pretty simple. I love you so much, a bit obsessive, as you say :) will be going to bed soon, doing a little reading but quite tired, kiss you my I love, just a simple passionate kiss, filled with love and longing, sleep well

Move base to the edge of the sea, since this seems to be where most of the action is. Behind the sea and it is cool, nice, catch the eye of a muscular tanned guy, sunglasses and army hat. We smile at each other as we are knocked by the waves. I walk slowly past him, out to sea. Kind of the first time I feel like I am rising as a lone female.
 I look at the guy from the back, he looks good. Eventually he turns and walks towards me, I am about 5m away. He says something in French to me, I say that I am sorry and that I am English. He asks me how long I have been here and I say trois jour. Silence for a while. He then asks if I want to touch him.
 I say yes, I stroke his cock which becomes harder in my hand, I stroke his abs and his arms. So firm. I bring myself closer to him in the sea, so he can touch my clit, which he does, feeling very aroused, but also conscious of the ensuing gathering which is not something I feel confident to be part of. I say I will go back to the beach and walk away from him to signal I will go alone. He makes a gesture at me to come back another time. On my walk back to base another guy approaches me,
 I say no as he does not really take my fancy.
 I did not feel bad for not finishing him. I sit at my new base and 2pm to 2x couples having full sex while there is a significant gathering in thesea. Very hot now.

Figure 13: Method Map III: Fidelity and Participation

Fidelity and Participation

During my time in the field, my relationship entered a period of intense and radical jealousy, which I was not prepared for and which I found emotionally difficult to deal with. The extracts in the above map also inform the moment that took place at sunrise on 14 July 2014, 6.20am. The extracts are a mixture of correspondence between my lover and I, and my own reflections and anecdotes from the field. Much of this correspondence is a perverse mixture of a profound fear of loss of a big love, and a kind of 'testing' of my fidelity. This fidelity was not tested in a soft way through playful jealousy, but rather it was through a manner of pushing me toward the threshold of participation – to see if I loved him enough, and of course there was a fear that I *did* love him enough – '*remember I said to you that you are not mine, that you are a free spirit?*' This testing was also a push to collapse the line between what I knew, and how the space made me feel and move.⁸⁵

Go on, fly, fly!

I will not stray into an analysis of my relationship here. However, I claim that the line drawn in relation to participation above, is shared between the Ethics Committee and X. Returning to the lines in the soul, we find the point of balance of the flow: the place where the personal inner field flows into the collective.⁸⁶ So the question becomes about my 'inner-field' - *which direction I fold?*⁸⁷

The line of participation/non participation can be productively considered alongside the more personal line of fidelity/non-fidelity: united as law's line across the soul. The Committee and my lover found themselves in some bizarre fraternal bond, whereby each had an interest in the other: that I stick to the code, or perversely, that *I breach it*. If I breach it, my lover is right, and he has conquered even the pioneer of sexual freedom, and he is released from any obligation. If I cross the threshold of participation, the Ethics Committee are vindicated in their existence and their questioning is correct. If I stick to it, if I do not cross the line, then everything remains the same. Everything remaining the same means that the law is not needed, and therefore ethics are not needed. The stakes are different for different bodies, but the

⁸⁵ I explore this further in *Wave IV*.

⁸⁶ See the start of this Wave: Conceptual Tools VI.

⁸⁷ Id.

threshold is relevant to both. Both bodies enter the research assemblage, of which I am a part, and condition the way that it moves, and the way that the soul folds.

This relation must be examined further in terms of how it conditions the act of research. I will not be the only person with a particular type of sexuality and personal inner-field who carries out this type of research. Further than this, regardless of the field of research, it is necessary to determine, to recognise and to understand the affects of the personal dimension, or inner-field, on the outer.

It is again the impact of affect which must be accounted for here. I fell in love before I went to the Cap. The Method Map III above sets out the dynamics of the inner-field that I saw as informing my research and my embodied experience at the Cap. This is the tracing to and out-from my body as part of the auto-ethnographic assemblage in which I am situated. In the course of this mapping, it is necessary to locate the potentials for ethical emergence within this assemblage. Since all elements of the assemblage are 'relational', each element of it will 'coalesce to produce both events and the apparent reality of the relations they comprise.'⁸⁸ the responsibility comes to map the encounter that gives rise to the recognition of this sexuality-research assemblage, and also what affects pass through each element, giving rise to the formation of ethical questioning. It appears on first glance that the sexuality-assemblage is without ethics. Certainly, it is generative of lines of flight, but before that, in the dynamic of relationality, there is a very real call to address ethics in the course of research. It is then necessary to frame from where within the aggregate of affect this question emerges. Saldanha does not explicitly address the question of research ethics, which seems particularly noteworthy since his study is immersive, with the potential for a vast array of ethical conundrums for any researcher or institution. However, there are subtle and I would argue fundamental acts of pointing to the key ethical concerns of any ethnographic endeavour. The author situates himself among the field, and captures the intense exchange of affects which constitutes himself, as researcher, embodying the field, and the field affecting the researcher:

Finding out how the researcher embodies the field, and how the field places the researcher, is the first step to sound ethnographic practice. What emerges is what Haraway has called situated knowledge: knowledge generated in

⁸⁸ Fox, N and Alldred, P (2015) The Sexuality Assemblages of Young Men: A New Materialist Analysis, *Sexualities*, 18:8, 905-920, p908.

certain places, from certain embodied perspectives, transported to other places.⁸⁹

Avoidance of bias does not account ethically for the need to be reflexive, as I have argued.⁹⁰ It is clear then that it is also an ethical calling to situate oneself as a body within the field, and to understand those affects which bring you to embody the field and the manner in which this changes the lens through which one encounters, observes and participates (or not). This becomes a particular demand upon the researcher as practically part of the assemblage.⁹¹

And so builds the ethical conundrum. It is essentially the same dilemma: to participate or not to participate? Do I want to? Did I want to? The problem in terms of methodology is of course where to draw the line, at what point do ethics (both personal and institutional) tell me that I must withdraw and that I must stop, and just sit on the sand and wait – if I could be left in peace to do so, that is.

Love conditions the ethical question of whether I cross the line of participation in order to collapse the boundary between researcher and field. In order to capture my personal position at the outset of my fieldwork, just as I was about to travel to Cap D'Agde, I set out an extract from my fieldwork diary:

...I have never felt so sure and also unsure about why I am going. It also came to me that my PhD is about my life, which makes it more about sexuality than is immediately apparent, it is about how sexuality is institutionally frightening, about also how sexuality has formed my life and the turmoil I have at going at all.

Extract from field diary 13 July 2014, 4.10pm

This extract points both to my anxiety at being at the threshold of participation, but also the anxiety that I have imposed on myself, or had imposed on me, about losing the man I love. At this point in my journey, before I set off to the Cap, I would have described myself as deeply in love, after emerging from a problematic relationship which encompassed a period of intense sexual experimentation, I had found a man

⁸⁹ Saldanha, A (2007), op. cit. at n.83, p47.

⁹⁰ See the third section of this Wave (The Line: In defence of bias). Bias is actually productive in accessing the personal-impersonal place which is generative of the formation of a method for tracing sensitively formed, bodily shaped, research ethics.

⁹¹ There is a demand that ethically requires practical reflection on the disruptions the assemblage presents to legal framings of subjectivity, as discussed above in relation to Practical Methodological Tool I.

with whom I felt at home, to whom I wanted to be faithful. But I was also deeply scared of being hurt, being left. I was also scared of the affect of my work and aspects of my sexuality that were coming to the fore, and to X's attention at the time of my going to the Cap. My relationship with X was entering a period of intense questioning and of madness and jealousy.

Even attempting to produce a so-called objective account of the Cap, with this state of inner-field would be an impossible task. It would seem this inner-field is intensely personal, and yet it is not *only*. The line that is drawn in academic research between the personal and non, so arbitrarily done is productive too of the crack, as we have seen. It now stretches out, and into an impersonal place – the tissue of the soul extends – ‘How long and weary it becomes, my strange soul!...It stretches itself out, long – longer!’⁹² My soul meets others here, in the most personal of impersonal places. In doing so – it takes me closer to Laruelle.

From Love to Ethics Beyond Immanence?

It would seem that there are two ‘types’ of love at play here. We find simultaneously the ‘crack’ in the ‘I’, which can be called ‘impersonal love’. We also see romantic, intimate love, between me and another.⁹³ However, these are not indistinct types, for the latter is often a path, or a line, to the former, and vice versa. This also opens the question of how each of these connect with sex and/or sexuality. This connection will then translate somehow into the ethical encounter within the outer, as well as inner, field. The question for me then becomes, how does my being in love condition my connection with the field?

Deleuze's references to love are minimal and somewhat scattered.⁹⁴ Even critique that claims to identify a Deleuzian theory of love struggles to mention the word at

⁹² Nietzsche, F (1997) *Thus Spake Zarathustra* (London, Wordsworth Editions) p161.

⁹³ In Bauman, Z (2003) *Liquid Love* (Cambridge, Polity) p17-18, the author describes the process of ‘romantic love’, where the ‘I’ either must have and possess, turn the other into itself, or adore the other in veiled acts of self-adoration. It is these (of course failing) endeavours that are also coupled with the constant battle to attain one-ment and ‘transcend one's own individual life’, through union with another. For Deleuze, this process is the result of already differentiated sexual difference, see Stark, H (2012) *Deleuze and Love*, *Journal of the Theoretical Humanities*, 17:1, 99-113, p99. Laruelle encourages ‘practical modes’ of seeking ‘practical’ and ‘real’ encountered sexual differences as a leap from the pool of ‘n’ sexualities, see Laruelle, F and Schmidt, A (2014) p38.

⁹⁴ Stark, H (2012), op. cit. at n93, p99.

all.⁹⁵ Yet Stark astutely observes that although love is rarely explicitly mentioned in Deleuze's project, he had an enduring interest throughout his career.⁹⁶ Stark also notes a highly significant statement relating to the productive power of love, articulated by Deleuze in his *Negotiations*:

[individuals] find a real name for themselves, rather, only through the harshest exercise in depersonalization, by opening themselves up to the multiplicities everywhere within them, to the intensities running through them. A name as the direct awareness of such intensive multiplicity is the opposite of the depersonalization effected by the history of philosophy; it's depersonalization through love rather than subjection. What one says comes from the depths of one's ignorance, the depths of one's own underdevelopment.⁹⁷

Love then becomes that which traps me, but also allows me to follow the crack, into the multiple, into the 'objective' and the similar conditions which malign the outer-limits of my soul, which are not simply my conditions, and my symptoms, but those of the collective. Love thereby becomes a mode of access to a change in mode of philosophy, whereby it becomes not an act of mastery, but an act of love.⁹⁸ Love as a mode of philosophy thereby has the potential too to become a mode of research also, allowing us to move sensitively among the field and among others.⁹⁹ Love as conceived as ethical genesis becomes the possibility for 'stopping' law through a line of flight, and creating a moment where we can breathe, pause, and examine the sensitivities of the encounter itself.

For Lefebvre, this line of flight is a foundation for the re-thinking of human rights: it makes sense to ground such rights that should be common to us all on a foundation of emotion that is also common to us all: love. Lefebvre is, however, cautious to note that love might be a risky foundation on which to base human rights since many infringements are caused by the heightened passions which emerge in its midst.¹⁰⁰

⁹⁵ See Stark, H (2012). The author undertakes a comprehensive and passionate overview of Deleuze's engagement with love, but the word does not appear until the final few pages of the piece.

⁹⁶ Ibid. at p106.

⁹⁷ Deleuze, G (1995) *Negotiations*, as cited by Stark, H (2012), op. cit. at n.93, p106.

⁹⁸ Stark, H (2012), op. cit. at n.93, p106.

⁹⁹ Ibrahim, A (2014) Research as an Act of Love: Ethics, Emigres and the Praxis of Becoming Human, *Diaspora, Indigenous, and Minority Education*, 8:1, 7-20, p20.

¹⁰⁰ Lefebvre, A 'Human Rights in Deleuze and Bergson's Later Philosophy' in de Sutter, L and McGee, K (2012) *Deleuze and Law* (Edinburgh, Edinburgh University Press) p60.

Therefore the challenge becomes to distinguish between two different types of love: 'Love thus opposes love: the first unalloyed, whereas the second has hate as its corollary'.¹⁰¹ The kind of love that Lefebvre is suggesting should ground human rights is that of the spirit of immanence, or the transcendental field, as suggested by Deleuze in his last essay, *Immanence: A Life*.¹⁰² Such love would be the sweetness that penetrates those who encounter the dying rogue in the Dickensian scene, where love emerges as the deepest of emotions. As Lefebvre characterises, drawing on Bergson,

at root, it is something deeper: a drive to create and to include...it renews these core attributes at the level of the principle of life itself (what he calls the *élan vital*). Love is Bergson's name for a desire and capacity to escape fixed form, both individual and social, and renew the intrinsic creativity of life.¹⁰³

This takes us deeper towards the origin of the line of flight, as well as beginning to condition the micro-space in which we must make our ethical decision. It emerges that during the course of our molecular interactions, at some point, the hourglass will stop and we have to decide which way to fold across the line. It is at this moment that we must seek out the deepest love, not love that is harmful, but that love which is life, which has life as its responsibility, and which I will go on to suggest is inherent, even in the most microscopic of quantities, even if it is heavily concealed, within every sexual encounter.

This line of flight carries huge potential, and is valued especially in the relevant legal literature. its emergence, however, is due not to its functioning, but its failing. As Philippopoulos-Mihalopoulos writes in his reading of Tournier's *Vendredi* and the moment where Robinson's salvaged hourglass stops, 'a moment of innocence that supercodes any judgment of guilty or not-guilty, pushes Robinson on a new line of flight, radically immanent to his existing assemblage: it exposes him to an awareness of his affect, 'these nonhuman becomings of man'...'104 This becomes helpful in determining at what point our ethical responsibility begins. If we are to understand the moment where law is thrown into confusion at the hands of love, as the moment when we are forced to radical awareness of our own affect, then this must be where we can fly away. An awareness of our affect brings with it an awareness of our

¹⁰¹ Ibid. at p61.

¹⁰² In Deleuze, G (2001) trans. Boyman, A, *Pure Immanence Essays on a Life* (Brooklyn, Zone Books).

¹⁰³ Lefebvre, A (2012), op. cit. at n.100, p63.

¹⁰⁴ Philippopoulos-Mihalopoulos, A 'Law, Space, Bodies: The Emergence of Spatial Justice' in de Sutter, L and McGee, K (eds) (2012), op.cit. at. n100, p97.

presence, and of who and what we affect, and one assumes, what we are affected by. This is also the moment where a line of flight is generated, where the trajectory originates. Yet this trajectory cannot be understood as emerging outside of law, or simply when it stutters. Rather, such generation of a line of flight must be thought of as a mode of becoming which is immanent within any given assemblage, but which has the potential to radically transform it.

But it is this very permeation, the flood into the every-day, which allows for the conditions of the line of flight. If the law is both molar and molecular, then the conditions which allow the line of flight emerge more clearly. As Schuilenburg writes, for the molar, 'concepts such as 'functionality' and 'control' are predominant.'¹⁰⁵ For the molecular, on the other hand, singularities and assemblages can be determined by characteristics such as 'poles, mutations, connections, accelerations.'¹⁰⁶ The molecular is about relationships, singular connections and conditions, sensations, complex interactions; whereas molar devices are abstract and 'huge dialectical structures'.¹⁰⁷ Yet the two relations are not distinct, and if we are to regard the law not only as molar, then we must appreciate the affect that emanates from it and permeates the molecular, as Schuilenburg goes on to write, 'Unlike the molar, inhabited by unchanging essences or laws with a permanent identity, small changes can have huge and unpredictable effects on the molecular.'¹⁰⁸ Despite the appearance of law (and ethics) as separate from us, or as forming the transcendent device that it is possible to appeal to, we are always affected by it in our every-day, molecular interactions. Thus the law finds its way into the ethical. But of course the reverse is also true. The power to transform is not only inherent within the molar, but also within the unpredictable molecular, and it is from here that the lines of flight emerge. It is here that the dilemmas occur, where the hourglass stops, and where we either return to law, or we must transform it, or otherwise make it our own, in the moment.

Love, as we can see from my participation quandary above generates its own ethical questions. For Deleuze, it is love that makes ethics beyond immanence possible: 'ethics becomes possible by constantly suspending knowledge, and reaffirming that suspension in every encounter.'¹⁰⁹ Love and ethics are brought together through

¹⁰⁵ Schuilenburg, M 'Institutions and Interactions: Of the problem of the Molecular and Molar' in de Sutter, L and McGee, K (eds) (2012), op. cit. at n100, p116.

¹⁰⁶ Id.

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ Stark, H (2012), op. cit. at n93, p108.

immanent conceptions of impersonal love – as we have seen in immanence a life.¹¹⁰ The teleological mode of influence to research, and therefore to the Vagabond Lawyer-researcher hybrid I have argued for,¹¹¹ is the constant searching for the personal-impersonal zone, or the moment of flow within your soul, between inner and outer field. The finding of this position is both the genesis of love, and the genesis of ethics beyond immanence and beyond philosophy,

The version of love he proposes must be seen in this light: abandoning what is recognisable about both the self and other people does not limit the capacity for ethics, politics, human interactions or even love to be theorised; instead, for Deleuze, these are the conditions which enable the realisation of the possibility of love¹¹²

I do not claim therefore to be able to solve the conundrum of whether I ought to participate or not, or to remain faithful. But I do claim that my position of being in love, as problematic as it might have been for both of us, brought me to the position of deep questioning. This is not a banal and impotent questioning, but it is rather a questioning as to practical ethics of love and how they relate to the Cap. The individual, romantic love that I felt brought me to a position where I question the sexual foundations of love, and indeed turn to it and say: does he want me to suffer, do you, or do I? Love complicated the determination of ethics in the field in the course of my research, but it also lifted and elevated me to the position of potentially understanding it. The other love of my life, is of course Deleuze and philosophy. In the course of situating myself within the field, I therefore need to examine this love of text, or rather the ability of text to be loved. Philosophy and theory has provided access to the field in the sense that it informs my PhD project and has therefore literally placed me in the field. Text however also forms part of the Sexuality Assemblage that I deploy as practitioner in the field.¹¹³ It is necessary to understand radical ways in which text provides ontological, as well as epistemological access to the field.¹¹⁴ It is possible of course, that the same thing that drew me to Deleuze, drew me to the Cap – such that the text, as well as the constituting forces of the Cap's sexuality, require disruption through the practical.

¹¹⁰ See *Wave II*, Conceptual Tools IV in relation to Deleuze's 'immanent ethic', p74.

¹¹¹ See Practical Methodological Tools I, above.

¹¹² Stark, H (2012), op. cit. at n93, p109.

¹¹³ See Practical Methodological Tools I, above.

¹¹⁴ See n. 35.

From Philosophy to Sex

Something happens after one first falls in love with philosophy. One's love for a lived experience, an experimental way of moving through an alienating world, gets confused with a faith in some reified object, a discipline, and from there a duty to uphold that faith comes. And what used to be a love becomes redoubled, a love for the love of wisdom, takes on an economy, a law of a household one is trapped in.¹¹⁵

We are called to use philosophy, not in order to write 'about' sex, but to write with it, as it, and for it. Text is also a body, a 'linguistic corpus' with which we enter into an assemblage: language forms a 'glorious body'.¹¹⁶ It is part of the material 'Sexuality Assemblage' with which we research, and with which 'I' research, and resist the loss of my individuality, and simultaneously fold at the line towards the real.

Eroticism and its pleasures received scant attention from Deleuze and Guattari, at least explicitly, which is likely due to Deleuze's reticence to name orgasm, or pleasure as desire's 'end' and therefore orientation of the subject.¹¹⁷ Deleuze's essay 'Coldness and Cruelty' which is an examination of von Sacher-Masoch's *Venus in Furs* is an example of his rare engagement with erotics, which when it does occur, generally takes the form of examination of erotic language. Deleuze appreciates profoundly the erotic power of language, the sweat inducing, seductive naughtiness of the sexy line.¹¹⁸ He finds not pornography in the works of Sade and Masoch, but

¹¹⁵ Laruelle, F (2013) trans. Rubczak, N and Smith, P, *Principles of Non-Philosophy* (London, Bloomsbury) pxi.

¹¹⁶ Deleuze, G (2004) trans. Lester, M with Stivale, C, *The Logic of Sense* (London, Continuum) p321.

¹¹⁷ See Blake, C 'A Preface to Pornotheology: Spinoza, Deleuze and the Sexing of Angels' in Beckman, F (ed) (2011) *Deleuze and Sex* (Edinburgh, Edinburgh University Press) p187 onwards. The author argues that Deleuze's resistance to pleasure as immanent within desire centres around orgasm as an end 'goal'. I interrogate this further in light of my own inability to orgasm at the Cap in *Wave IV*. Blake suggests the tools for re-situating pleasure in relation to desire in a Deleuzian frame is not through the masochistic body as suggested in *A Thousand Plateaus* (through the *Body without Organs* - see Deleuze, G and Guattari, F (2004b) trans. Massumi, B, *A Thousand Plateaus* (London, Continuum) pp165-185) but through reframing orgasm specifically as an immanent 'release' (examined further in *Wave IV*). It must also be mentioned that the addition of Felix Guattari to Deleuze's writings adds a particular sexual, magical madness to their texts - the unfolding of this *erotic* dynamic can be seen through the charting of the journey to the production of *Anti-Oedipus* in Guattari, F (2006) *The Anti-Oedipus Papers* (New York, Semiotext(e) examined above in *Wave II*.

¹¹⁸ Deleuze has written extensively on the power of 'minor literature', which ought, in its inherently 'rhizomatic' nature to resist interpretation, and instead 'experiment' and produce

'pornology' where the words go beyond ordering and describing, but instead carry erotic affects.¹¹⁹ It is hard to imagine Deleuze being titillated or pleased; his writing seduces but does not necessarily acknowledge the knee-trembling out of control, orgasmic limit of the organless body, the one which is continuously redrawn throughout his project. We never quite rest in its soul or know how it smells or how it tastes. Yet Deleuze's linguistic corpus is erotic, in its actions, it rubs and rubs, its rhythm changes, it gets faster and then slows; eventually it flashes, and then it contracts, pulses, slows again and we rest for a while before we are ready to go again. The point here is that the philosophy of Deleuze is intensely erotic because of the action of his writing, and the body it builds - not because it talks about sex.¹²⁰

It is not generally the case that we consider philosophy to be a text that will arouse during the course of its reading, nor is it that which seeks to do so, for this is the domain of erotic fiction. Yet I would seek to argue the opposite and such a claim is significant in terms of the aims of this thesis, and the responsibility it seeks to take for its affects. Indeed *Anti-Oedipus*, *A Thousand Plateaus*, *Logic of Sense*, and *Difference and Repetition* - aside for the occasional 'fuck' - are not explicitly erotic in their affect; yet the body that they build through their words, their 'perverse flexion'¹²¹ builds an intensely erotic body.

So when people ask me 'why Deleuze and Guattari?', I tell them because of the way they talk to me. It's dirty. It's painful, it's sexy and it's magical, it makes me laugh and it makes me cry. They fuck me, I am fucked by Guattari fucking Deleuze.¹²² Let

events of resistance, see Deleuze, G and Guattari, F trans. Polan, D (1986) *Kafka: Towards a Minor Literature* (Minneapolis, University of Minnesota Press) and their short paper Deleuze, G and Guattari, F trans. Brinkley R (1983) What is a Minor Literature? *Mississippi Review*, 11:3, 13-33, in particular p15.

¹¹⁹ Deleuze, G (1999) *Masochism: Coldness and Cruelty and Venus in Furs* (New York, Urzone) p48.

¹²⁰ See Chisholm, D 'The Cunning Lingua' of Desire: Bodies-Language and Perverse Performativity' in Grosz, E and Probyn, E (eds) (1996) *Sexy Bodies: The strange carnalities of feminism* (London, Routledge) p25, where the author describes the erotic power of philosophical text to bring in the body 'by force' to analysis through 'pornographic efficacy' - to titillate the body it analyses through the performative power of 'word-wanking' (p27).

¹²¹ Ibid. at p27.

¹²² Deleuze is often quoted as saying that writing about another philosopher or author is to 'fuck them', which is a nod towards the erotics of resisting their work productively, through 'entering' their work. See Culp, A (2016) *Dark Deleuze* (Minneapolis, University of Minnesota Press) p1, where the author strives to create a further 'monstrous child' of Deleuze. See also *Wave II*, *Wandering Philosophy*.

me explore this. In Deleuze's examination of Klossowski's (often unread¹²³) work we find the origin of the erotic potential within text. Deleuze takes us first to the discovery by our epoch of 'perversion', which cannot be attributed to structures and oppression, but rather to the materiality of bodies themselves,

What is perverse is precisely this objective power of hesitation in the body: this paw which is neither left nor right; this determination by fits and starts; this differentiation never suppressing the undifferentiated which is divided in it; this suspense which marks each moment of difference; and this immobilisation which marks each moment of the fall.¹²⁴

Here we find perversion conceptualised as outside of those structures, those regimes that we might claim produce acts of transgression, which are thus categorised as perversion, or acts of sexual liberation. Rather, we have a movement that becomes perversion, such that perversion is not Freudian deviance,¹²⁵ but rather a sweet bodily tension or arousal, that is immanent to the collapsing and contracting of it into orgasm, it is 'hesitation and falling',¹²⁶ or the bodily act of suspension, purely anticipation, prior to coming. It is this 'perverse body' that literature which is erotic builds, as Deleuze goes on to write of Klossowski's work that, 'the obscene is not the intrusion of bodies into language, but rather their mutual reflection and the act of language which fabricates a body for the mind.'¹²⁷ There is thus a power in words, or a power in words that are powerful, that becomes a draw, an erotic draw that can titillate.

This draw is not determinate upon the reader who reads the text, for the true power of writing that is erotic is that it dissolves the very words itself, that the body becomes and words and reading reading reading is becoming becoming becoming body words; it is bodily tension between and of itself that is ignited and your body is making love with itself, seemingly divided at the start, and then becoming 'flexion', 'split in two, opposed to itself and reflected in itself; it appears finally for

¹²³ See Kaufman, E (2005) *Whispers of the Flesh: Essays in Memory of Pierre Klossowski, Diacritics*, 35:1, 47-59 for an overview of Klossowski's work and its interaction with Deleuze's project.

¹²⁴ Deleuze, G (2004) op. cit., at n.116, p322.

¹²⁵ See my discussion on positively framed perversion in *Wave II*, Conceptual Tools III, as well as the (posthuman) orgasm in this context as a site of re-orienting falsely subjugated desire in n. 117, and *Wave IV*.

¹²⁶ Deleuze, G (2004) op. cit., at n.116, p322.

¹²⁷ Id.

itself, liberated from everything that ordinarily conceals it.¹²⁸ It is divided, between pantomime and between language, and upon the entering of the text to the body, the flexion rocks the soul. It is not that language and bodies imitate one another, but that they enter into one another, they copulate, as Deleuze goes on to write, 'If language *imitates* bodies, it is not through onomatopoeia, but through 'flexion'. There is an entire pantomime, internal to language, as a discourse or a story within the body.'¹²⁹

Deleuze's body is always one which is not yet constituted: it is orgasmic build-up without ever coming, we wait and we wait, we are teased and teased and it's about to come and the potential is there, present and not and there and not and then...we stop. Because we cannot fully constitute ourselves, the body is never made, not the full body, not the simple thing, the Body without Organs. Even if we are brought to climax, the tongue keeps tickling, the touch runs unbearably softly against our surface, again and again, and then we might...but we do not. And then we do, and again, we might. But not quite. Not quite, but we are open: 'every cell in my body can open/I have too many/tongues too/many sweet tongues too sweet/for tongues'.¹³⁰ It is quite a strange thing, the sexed body in Deleuze. The *unheimlich* sex becomes exactly that, the distance between the state our body is in, either precisely, post or presently orgasmic, but very fleetingly in the divine ecstasy of the orgasmic contraction. Deleuze's body of words builds and builds, and then it flashes, and the beauty is inexpressible in its totality, before it washes through our veins, gradually disintegrating into imperceptible tiny fragments of dopamine that eventually vanish into a body ready to be built again, yet forever postponed.¹³¹

Here we find then, in language, and crucially in the language of philosophy too, particularly Deleuze, the potential to produce erotic affect. But crucially here, the question becomes, erotic for whom? Here, I am concerned with what is erotic for me, but that is also a pointer to that which is erotic, that which is capable of the dissolution of self, or can be 'objectively assessed' as an erotic pathway into the field of sex.

Deleuze claims that part of the power of erotic texts is their ability 'to assure the loss of personal identity and to dissolve the self.'¹³² It is through the erotic power and

¹²⁸ Id.

¹²⁹ Ibid. at p327, emphasis in the original.

¹³⁰ Chisholm, D (1996), op. cit., n120, p34.

¹³¹ Through my own textual and knowledge-unfolding regime here, I attempt to mirror the building waves of desire, through to a site of release, for the reader and myself, in *Wave IV*.

¹³² Deleuze, G (2004) op. cit., at n.126.

flexion within the perversity of texts that the self becomes 'corrupted', a powerful happening where the text transforms the self (as identity, as powerful, as central, and as observer) becomes simultaneously divided and not - the observer becomes 'set outside of herself and becomes multiplied in her own gaze.'¹³³ The corruption of the self is the transformation of it from centre, to multiplied observer, into, I suggest the explorer of the realm which induces the very collapsing.¹³⁴ This I would claim as a pathway to the objective field.¹³⁵ We find a highly erotic passage in Deleuze's text which provides an insight into the action and movement of the self from solid to dissolved into the zone of pure objectivity, he writes:

The dissolved self opens up to a series of roles, since it gives rise to an intensity which already comprehends difference in itself, the unequal in itself, and which penetrates all others, across and within multiple bodies. There is always another breath in my breath, another thought in my thought, another possession in what I possess, a thousand things and a thousand beings implicated in my complications...¹³⁶

Here, the eroticism can be characterised as the disintegration of self, where the body loses its identity and instead becomes one with the text that enters, and *simultaneously* cosmically, ontologically and erotically one with 'complications' of the *collective*. It is at this same point that necessarily the words, the actual expressed words within the text which enters also lose their prescribed, or 'denoting function.' and instead uncovers a value that is 'purely expressive.'¹³⁷ The value does not take its properties from the response of the person, or self, that simply reads the text, but through the unity of text and body, the value becomes something-other, but that of 'spirit', as Deleuze explains, 'It discovers this value, not with respect to someone who expresses himself and who would be moved, but with respect to something that is purely expressed, pure motion or pure "spirit" - sense as a pre-individual singularity, or intensity which comes back to itself through others.'¹³⁸ We therefore arrive through approaching text as sex, that line between researcher and field, and

¹³³ Id.

¹³⁴ The power of such text is to bring together separate bodies through the erotic collapsing of the self into the collective, see Chisholm, D (1996), op. cit., at n120 p34, where the author describes the connective power of erotic text: 'partial bodies meeting in the spirit of bodies-pleasure.'

¹³⁵ See above discussion in *Wave II*, Conceptual Tools IV in relation to immanent ethics.

¹³⁶ Deleuze, G (2004) op. cit., at n.126, p338

¹³⁷ Id.

¹³⁸ Ibid. at p339.

between participation and non-participation is collapsed – and a platform is created from which to leap, from text to the moment.

This “spirit”, or rather moment, or encounter, is so much more than simply an encounter with text. It is not simply a case of reading a text and experiencing arousal at its words and inflections; rather it is a moment of radical de-centring.¹³⁹ The self collapses in this moment and *a hundred thousand other bodies enter the eye*, enter the body, it is a moment where the soul emerges as sea-spray on the skin: the pre-individual singularity, the soul. There is something in the nature of the ‘flexion’ which fabricates the body for the mind which draws out an encounter of the self with the deepest regions of the body, thereby producing an internal affect of eroticism, of suspension, or arousal. This suspension is the meeting of two parts, the wrapping of one by the other, *but never one becoming the other*.

Substantial Parallelism

I have in the preceding chapter outlined the importance of Spinozan thought for the formulation of the encounter which is ethical, which leads to the production of law, which rests in tension with the *affective* encounter which produces the body of law. However here, I draw attention to the erotic character which rests within the dynamics of this encounter, which in turn point to an *ontological eroticism*. In the first instance this brings us into an encounter with what Deleuze, drawing on Spinoza, suggests amounts to an *ontological parallelism*.¹⁴⁰ This is not only the bringing together of the body and the mind (“The order of actions and passions of our body is, by nature, at order with the actions and passions of the mind”),¹⁴¹ but rather an extension of this epistemological position into an ontological formulation which sees ‘the transfer of unity from substance to the modes.’¹⁴² It is the ‘mode’ that sees the ontological unity, in that the affections of a substance are then conceived, to become ‘intelligible’.¹⁴³ The mode is the force both within substance, as affect, and the receiver of that affect, in action of receiving. There is a unity and, at the same time, a separation within this dynamic, as Deleuze writes,

¹³⁹ See n.55.

¹⁴⁰ Deleuze, G (1988) trans. Hurley, R, *Spinoza Practical Philosophy* (San Francisco, City Light Books) p88.

¹⁴¹ Id.

¹⁴² Ibid. at p90.

¹⁴³ Ibid. at p91.

The cause and effect relationship is inseparable from an immanence through which the cause remains in itself in order to produce. Conversely, the relationship between essence and properties is inseparable from a dynamism through which properties exist as infinites, are not inferred by the intellect explaining substance without being produced by substance explaining itself or expressing itself in the intellect, and, finally enjoying an essence through which they are inferred. The two aspects coincide in that the modes differ from the substance in existence and essence, and yet are produced in those same attributes that constitute the essence of the substance.¹⁴⁴

While we can see that substance and conception, body and mind can be unified through modes which are immanent within the substance or body, we cannot entirely unify the two, and in this sense, the mode points to the unifying force of 'God' as Deleuze speaks, but also to the action of parallelism: as Deleuze writes, God is that which 'authorizes the transfer of unity from substance to the modes'.¹⁴⁵

In a Spinozan ontology, we are not to give the body any privilege over the mind, but rather to attune to the potential of the body to illuminate the powers of the mind which 'escape consciousness'.¹⁴⁶ It is thus that we find a parallelism, but also a place for the soul. The parallelism which is not in fact parallel yet, is in fact a line in the soul, that becomes a site of folding.¹⁴⁷

Erotic Suspension

This claim to ontological eroticism founds itself entirely upon the ontological paradox identified here. The paradoxical nature is that of unity and separation, with individual co-extensive with the collective, yet separate, body connected with mind, yet separate, substance with mode, yet distinct. Here we find echoes of the body and text separation in Deleuze's analysis of Klossowski discussed above. In *Logic of Sense* we find that it is the simultaneous division, but unity through the dissolution of self, which characterises the erotic affect of texts such as Klossowski's. The suspension which is the hesitation of the body, an objective power, which points to the objective truth of the folded ontology. It is in no uncertain terms that this hesitation, gradual and stilted determination, a 'frozen' movement of the body, is characterised as the

¹⁴⁴ Id. Emphasis in the original.

¹⁴⁵ Ibid. at p90.

¹⁴⁶ Id.

¹⁴⁷ See discussion regarding the joining power of lines in the soul above (Conceptual Tools VI).

origin of the erotic.¹⁴⁸ It is also that which sees text enter the body, sees consciousness collapse, and that which affirms the paradox, in being the mode through which attune to the powers of both the body and of the mind, and plunges us into the powers of the mind to escape consciousness. We can also conceive of text as a bridge in this parallelism. The erotic text, as I have argued on the basis of Deleuze's analysis, fabricates a perverse body for the mind, and in doing so not only transcends itself, but prompts an ontological mutual folding of the inner-into-the-outer field.

In *Logic of Sense* there are echoes of Deleuze's analysis of Spinoza through ontological parallelism. It is articulated in the first instance as a parallelism between seeing and speaking.¹⁴⁹ This parallelism identified here and consistently throughout this part of *Logic of Sense* is not merely that between substance (text) and modes (seeing, speaking), but is more strikingly between the one and the multiple. Significantly for this thesis, is his analysis of Des Forêts' work, where he writes,

It designated a pure vision of reflections which multiply that which they reflect. These reflections offer the voyeur a more intense participation than if he had himself experienced these passions, the double or the reflection of which he now surveys in the face of others.¹⁵⁰

This constitutes text as holding the possibility of access to the worlds that we observe, yet cannot inhabit and 'know'. Text thereby allows us to take flight into the moment, as a mode of access into other bodies. Text can offer the possibility of reflecting the encounter that I write. This conception of text as access allows me to participate in it while writing it, and the reader the same mode of access. Text carries the potential to overcome distance in research and the impossibility of unity with the outside. Text can become a mode of making love with worlds, which launches us authentically into the field and allows it to flow into us as researchers, and to our audience.

So having established the conditions of resistance and suspension of collapse of the 'I' through which we encounter our instruments of research, as well as the subject matter, it comes now to make this concrete. As opposed to abstract, real as opposed to textual. This concreteness is necessary in moving towards the real – the apparently inaccessible. It is all very well to establish 'love' and the 'ethical' as law's playground

¹⁴⁸ See n.134.

¹⁴⁹ Deleuze, G (2004), op. cit., at n.126, p323.

¹⁵⁰ Id.

and root within immanence, but what does one actually do? What rules do the ethical encounters at the unique space of encounter at the Cap generate, as a space that is not only conditioned by sex, but by volatile space?

The Cock Withdraws

I resisted penetrative sex while I was at the Cap. There are a number of reasons why I did. First, I did not feel that I wanted to do so, due to my attachment to X. I also did not feel in any of the encounters I had, that I wanted to. In this sense, I followed the Ethics Committee's instructions. However, to say that I did not have 'sex' at all, is far from the truth. My intense participation within the field meant that I engaged with moments that on a non-heteronormative interpretation could be considered sexy. When I was among encounters that became tactile, I continuously shied away from what could be considered full sexual intercourse with another man – I am sure to their frustration.¹⁵¹

In the coming sections, I bring this decision into the moment. My decision not to be penetrated is of course a personal one, but then I have laid myself bare so far and gone through great pains to argue for the re-situation of the personal within sexuality research. So I shall not withdraw now. My desire did withdraw, and this withdrawal was the result of my contested claim to space – not only physical, but also in the context of space for my girlish desire.¹⁵²

For Philippopoulos-Mihalopoulos, and the joining together of the elements of an assemblage occurs through folding at the mutual generation of a line. He characterises this as 'withdrawal' – '*assemblage rests on withdrawal*.'¹⁵³ Non-human bodies as well as human bodies withdraw, into themselves.¹⁵⁴ This action occurs from the moment of resistance, providing the opportunity for affirmation, but also allowing the possibility that a body will be weakened, rather than strengthened,¹⁵⁵ torn apart, as opposed to affirmed. In addition to this, this drawing together is the emergence of the ethical – but crucially here – the emergence of the assemblage, and

¹⁵¹ Here I claim parallels between the 'a-legal' potential of touch, where the absence of it, or its potentially disruptive directions can re-orient definitions of what can be considered 'sexual'. I discuss this potential in *Wave II* (pp.55-58).

¹⁵² See above in relation to Practical Methodological Tools I.

¹⁵³ Philippopoulos-Mihalopoulos, A (2015), op. cit., at n.51, p49.

¹⁵⁴ Ibid. at p49-50.

¹⁵⁵ Ibid. at p206. The author allies this moment with the Spinozan term 'conatus' and builds upon it through the Deleuzian reading which transforms the body in the fleeting moment of conatus to a 'natural right bearing' entity.

thereby the 'ethical moment', 'necessitates encounters with other bodies.'¹⁵⁶ *Agencement* is the moment of attunement, withdrawal, gathering and dispersion. It is the moment of negotiation of the terms of participation and non, rest and movement.¹⁵⁷ Withdrawal takes place in the moment of contesting space – 'which allows for the emergence of a space of renegotiation and reorientation.'¹⁵⁸ The moment in the dunes where I cried for and to 'space', was defined by competing claims.¹⁵⁹ There were claims of the men to touch me because I entered the space of the dunes, where touch was much more violent and invasive.¹⁶⁰ There was my claim to just be and to wander, and be gently touched. There was also my lover's claim to my space, and my commensurate (denied) claim to be with him. All of this resulted in my 'withdrawal', literally from the dunes, and into myself. Withdrawal was me simply backing off, shouting for an opportunity for me to take stock, to breathe, to not to be touched, not to be invaded, the taking back of my right to be touched, the taking back of my right, my desire, my need, my want, to be...

just... just...a girl.

I wanted my own spatial justice, I just wanted to be here.¹⁶¹ To be just, is just the subject. The subject, for Laruelle as just there. It is persuasive and actually obvious to say, that to read about spatial justice, to think it and to write it, is not to live it. It is taken for granted that these concepts are lived. Of course they are. But to say 'of course', is not enough, to say 'of course' takes for granted the individuality (and simultaneous impersonality) of the 'here'.

¹⁵⁶ Ibid. at p50.

¹⁵⁷ I explore the unique power of my research encounters at the Cap in producing this moment in *Wave IV*.

¹⁵⁸ Philippopoulos-Mihalopoulos, A (2015), op. cit., at n.51, p2.

¹⁵⁹ I examine this moment in depth at the end of *Wave II*, p111.

¹⁶⁰ Id.

¹⁶¹ See Philippopoulos-Mihalopoulos, A (2010) Spatial justice: law and the geography of withdrawal, *International Journal of Law in Context*, 6:3, 201-216, p202. The author claims that the place of the here, is a place of competing claims to the ownership of spatial positioning, he writes: '...spatial justice is the ultimate expression of the claim to one's unique spatial position which by necessity excludes all others: the fact that only one body can occupy a specific space at any specific moment is the phenomenological basis of spatial conflicts. The dispute between mine and your claim to 'here' rises above the law while relying on it: the law defines who is at any point to be here, and only to a very basic extent who can claim to be here.'

Here, ethics in person

The here of the emergence of spatial justice is the ethical moment, radically spatially emplaced, emerging between bodies, with space as a participant ontology within this encounter. There is a clear connection between encounter as generative of ethics, as well as producing the conditions for the emergence of justice through the act of withdrawal. Philippopoulos-Mihalopoulos writes,

Spatial justice is an exigent ethical exercise that demands a radical gesture of withdrawal: to withdraw before the claim of the other is what spatial justice demands. Likewise, this is the only way in which the law can produce justice: by withdrawing before the demands of justice. This geography of withdrawal is not metaphorical: it is only by understanding a unique corporeal emplacement that spatial justice can be adequately sketched¹⁶²

The emergence of ethics, as I have argued, takes place in the encounter itself.¹⁶³ The here is not the philosophical, nor is it the non-philosophical, but it is ever the between. I suggest that here comes the demand to become non-philosophical, in accordance with the realness of the One, which must be characterised as the 'here'. The 'here' is that as experienced not only as subject, but through a spatially, materially and bodily contingent force to transfigure from philosophical, ethical, legal, subject - towards a 'between' (not outside) non-philosophical subject, emplaced simply and without decision, in the realm of the real - 'performed without performance, or given without givenness'.¹⁶⁴

Gangle argues that Laruelle's call does not take ethics much further than the Levinasian call to conceive of ethics as not in relation to the perception of the other through the self.¹⁶⁵ But, and importantly, we find the constitution of the subject as 'here' as radically spatially and materially contingent, as taking its breath and emerging in its radical 'realness' through the performative. As Gangle writes, 'only on the 'basis' of such radical insufficiency does the actual performative dimension of Levinas' discourse become thinkable in its real singularity.'¹⁶⁶

¹⁶² Id.

¹⁶³ See *Wave I*, Conceptual Tools I.

¹⁶⁴ Gangle, R (2009) Laruelle for Levinas: Sensibility without Subject, *Philosophy Today*, 53, 250-256, p254.

¹⁶⁵ Ibid. p255.

¹⁶⁶ Id.

Performing Method

So rather than think without philosophy in order to attend to the ethical call of here, the demand is to think 'without the *authority* of philosophy', while still knowing that it remains spectral to our experience.¹⁶⁷ Cull has claimed that this can translate into an *embodied* mode of thinking and research:

it may be that the very engagement with (non-)philosophies like Laruelle's that encourages us to move away from the application of theoretical models that we already possess and towards an embodied encounter with the resistant materiality of performance's thinking: it is embodied thinking, participatory thinking, or durational thinking - encounters that generate new ideas of what thought is and when and where, when and how it occurs.¹⁶⁸

The researcher's body is thereby 'primed' for the encounter on the field - to think, to move and to breathe with it and possess the moment, for the field. This moment is generally 'strange' to research. Strange in the way that it continually evades capturing as part of the writing up and communication of findings.

The ethical call in this is not to reflect the encounter, but to live it. When we as researchers inevitably attempt to reflect the encounter, we must do so while recognising the impossibility of 'complete reflection':

...the true object of study should be the real, which is surely inaccessible in the last instance, but is, nonetheless, accessible to thought which unilaterally attempts to describe it, theorise and/or scientifically explicate its workings without aspiring to reflect it.¹⁶⁹

Kolozova frames this impossibility, drawing on Laruelle, as 'alienation'. This alienation incorporates the critique I have levelled at traditional methods, which carries with it the weight of representing 'findings' and reflecting the real:

¹⁶⁷ Cull, L (2012) Performance as Philosophy: Responding to the Problem of 'Application', *Theatre Research International*, 37:1, 20-27, p25.

¹⁶⁸ Id.

¹⁶⁹ Kolozova, K (2011) The figure of the stranger: a possibility for transcendental minimalism or radical subjectivity, *Journal for Cultural and Religious Theory*, 11:3, 59-64, p61-62.

Subject is all we have, can possess and control, therefore - we are nothing but spectral subjectivities always already alienated from the real. Laruelle's unilateral affirming of the irreconcilable differences between the (mute) real and the (linguistic) subject aims at also affirming the lived reality of the radical-estrangement as taking place in the real.¹⁷⁰

This alienation, is, in and of itself real. It is part of the real and the moment in which I found myself and cannot be anything other than real, for me, and through the affect I impart and the way that affects are received and an economy is produced. The ethics of this is in acknowledgment and also in 'letting'. In letting, as researchers we let in the real, and lets oneself in allowing for radical joui-sans-jouissance - '...it is the "Stranger" at the heart of the Human-in-Human.'¹⁷¹ As researchers, we constantly try to access this space of radical-estrangement, which is as fleeting as the moment itself - we might just miss what the ethics of the Cap were - if we do not write them down...

Fleeting moments: Angelic Sex

The call of non-philosophical method in the context of the subjugation of sex is to see how the field plays out practically.¹⁷² One way in which I have claimed that this is possible is through the lawyer-researcher hybrid body, which is reflective and reflexive to the Sexuality Assemblage.¹⁷³ This necessitates the radical Laruellian non-philosophical leap from the Deleuzian platform of radical sexuality, into its performative sex. This practical step is fleeting. It is fleeting in the sense that we do not often find ourselves in the position to undertake this type of methodological approach, but also ethical moments are fleeting by their very nature. In order to leap into sex, we need to be gentle and sensitive. My experience of being in love while being at the Cap showed me that it is highly damaging to assume anything about a body. My lover assumed that I am some 'pioneer' of sexual freedom, that I was some kind of radically constructed feminine soldier, who could not and did not love him the way I professed to.¹⁷⁴ The Ethics Committee also found me to be lacking in

¹⁷⁰ Ibid. at p60.

¹⁷¹ Id.

¹⁷² See *Wave II*, p115.

¹⁷³ See Practical Methodological Tools I above.

¹⁷⁴ This figure can also be understood as a 'negative' angel. See Ingram, P (2000) From Goddess Spirituality to Irigaray's Angel: The Politics of the Divine, *Feminist Review*, 66, 46-72, p62. The author writes: '...the angel can be argued to take the place of woman, or to prevent woman from taking her place - because the angel represents something 'without which she would not be that which can give place to the presence she has in his re-

control of my own body, and also petrified of the possibility of my heterosexual-queer identity.¹⁷⁵ Assumptions as to sexual identity are challenging to overcome in the field, and can only be done practically. I have claimed above that my desire was that of the 'girl' above, that my body can be subversively framed as 'desiring-girl' researcher practitioner.¹⁷⁶ This brings me to the field, but in the moment itself, at the threshold of participation: what/who am I? Who am I now as I type these words?

I pose the question as to whether the personal-impersonal moment, as opposed to metaphysical, ethical and theoretical framing is *sexed*? What sex was I at the Cap, on 15 July 2014 at 6.20am? Blake claims that the most fleeting, momentary of sexes, is that of the angel.¹⁷⁷ In order to become momentarily sexual, we must allow ourselves to dissolve not just into the field, but into the encounter.

...from demonic desire to angelic or spectral pleasure or ecstasy or *jouissance*, from the ocean to the beach and from the shingle to the spray...those lines which ultimately connect the earliest diagrams of life in the pre-Cambrian mud to the trans-human sexualities of our barely imagined futures, there is but one triadic imperative, and that is to listen, to pause, to dissolve.¹⁷⁸

For law, the angel is not its saviour, just as I was not the saviour for my lover.¹⁷⁹ Rather, the angel is symbolic of the problematic construction of identity, but which

presentation'. It seems that through Irigaray, the angel represents the impossibility of woman to become-divine, since the angelic identity must withdraw, in order for woman to be other-than. The angelic is (for Irigaray) an obstruction to her potential range of sexual becomings. I claim that positively conceived, the angelic can accord with Blake's understanding, that the conceptual instability and fleetingness of sex is productively identified as angelic becoming, which operates also to steer away from negative 'angelic' constructions, see Blake, C, op. cit. at n.117 and discussed further below. In my case, I felt that by X I was constructed as a particular form of demonic angel, one that inaccurately, harmfully and rather too generously framed my body as 'transgressive', 'pioneering', and 'exterior to symbolic ordering and regulation', and on the basis of a masculine un-queer version of queer. See Creed, B 'Lesbian Bodies: Tribades, Tomboys and Tarts' in Grosz, E and Probyn, E (eds) (1996) p87. See also Moore, L 'Teledildonics: Virtual Lesbians in the Fiction of Jeanette Winterson' Grosz, E and Probyn, E (eds) (1996) p105. This harsh representation is contrary to Blake's inconceivable angel (see Wave IV), which through Laruillian philosophical leaps into the real, escapes angelic-demonisations: see Hickman, C (2015) 'François Laruelle: Future Struggle, Gnosis, and the Last Humanity' retrieved from <http://non.copyriot.com/francois-laruelle-future-struggle-gnosis-and-the-last-humanity/>.

¹⁷⁵ See above 'In defence of bias' and 'Straight Academic Space'.

¹⁷⁶ See Practical Methodological Tools I above.

¹⁷⁷ See *Wave IV* generally and also Practical Methodological Tools II.

¹⁷⁸ Blake, C (2011) op. cit. at n.117, p197.

¹⁷⁹ See n.174.

embodies the possibility of its subversion – through the *fucking fleeting* encounter, which is law's possibility for disruption from within me as practitioner – with all the epistemological and ontological regimes I claim to be able to subvert with my presence.

The Cap's Fucking Ethics

1. There is a lot of fluid, and yet: the sites of resistance at the Cap do not necessarily demand ejaculation.

'One of the guys has now a large erection while some of the others calmly look on. Seems they do not necessarily want to engage in a 'full' encounter (i.e. male ejaculation) which is quite common - perhaps because of the heat, or perhaps this is just not the priority here.'

Extract from field diary: 14 July 2014, 1pm

2. Intimacy is hard to find. As a woman, you cannot escape attention, even at sunrise. You have a lot of 'choices' and a lot of pain at the impossibility of finding the intimacy you desire.

'There is a couple on the beach, about 10m away from me. She has short hair like me. She lies naked on top of her lover, they look into each other's eyes and stroke each other's hair, they smile, they are so obviously in love, they do not look around, they touch each other, for each other, they stick out so much. They make me smile, I feel like I should not look, but it makes me happy.'

Extract from field diary 23 July 2014, 1pm

3. You do not have sex on the sand or in the glare of the midday sun, but you float in the sea instead.

Today at the beach, 1300. About 30 degrees, steaming hot, although I have seen it hotter. The sand is so hot I cannot walk barefoot, so I need my flip-flops on to set up an umbrella and make a base for myself. I am situated on the swingers' section of the beach.'

Extract from field diary 20 July 2014, 1pm

4. Affects make you think about them.

'Law of affect here. Laws are between one another, laws of sexual affect, bodies, flesh, blood, precisely it. It emerges in unspoken ways though. Look, and say with your eyes: "does my body affect you, do I turn you on, can I touch you right now, right here?" Touch someone, see if it invites another touch. A reflective day. I listen to music, don't really want the touch today. Well, I do. I admire these people around me, some come every day. Always open, or seemingly.'

Extract from field diary 20 July 2014, 1pm

5. You must not film or photograph anyone at the Cap. But you forget about this while you are (not) fucking.

'Suddenly seems a man is filming us, I do not notice, but some of the other men do and all shout at him to stop. He does. A man ejaculates loudly next to me. I start to lick and gently bite the nipples of the blonde woman, just basking in her softness and easy sexuality.'

Extract from field diary 15 July 2014, 5.45pm

6. You must be naked, but never naked. And erections are fine. No shame here, and rarely anything erotic about it.

'He has an erection and is occasionally stroking himself as he looks around... he has a moustache and a straw hat, very large erection... One of the guys has a large erection while some of the others calmly look on... I suddenly realise I am the only woman among the dispersing crowd of men. Some of them still erect... I stroke his cock which becomes harder in my hand...'

Various extracts from field diary July 2014¹⁸⁰

¹⁸⁰ Various combined extracts from my field diary, relating to the commonality and therefore rather un-erotic occurrence of the erection at the Cap.

Wave IV: Fucking Law



Figure 14: My Map of the Cap

The Legal Intensities and Ethical Failings

Who is sexed? The soul, the body, existence, work, economy, the sun, the moon,
angels?¹

In the previous Wave, I have claimed that the process of considering the foundations of research ethics has brought us closer to considering the foundations of law. I have also claimed that in order to disrupt these foundations, it is necessary (in law and sex research) for the researcher to become the body of a radical practitioner. This is a particular form of method, which arises from the need to disrupt not only law, but the foundations of philosophy too. Since method is founded in philosophy and often informed by it too, it is necessary to be able to remain reflexive to how the encounter unfolds. Of course, one will come back to philosophy again in subsequent analysis of being in the field.

The line in the soul is first asserted by law, and this will eventually translate into ethics (the rupture). The 'middle' is the encounter itself.² If research is to become a pathway to law's becoming ethical, then I claim that it is necessary to find a method to create a radical form of ethics for research. We have seen that the form of ethics I was subject to in the field carried the problematic (in this case) stamp of law.³ In following the projects of posthumanism and critical legal and methodological studies, it becomes necessarily the responsibility of the researcher-legal practitioner to be openly and actively critical of research ethics.⁴ In the coming Wave, I outline the difficulties of this position, particularly in the field that is the Cap. I also develop further my claim to the foundation of law's becoming ethical. I do this by seeking further ways that the research-practitioner body can connect to this fleeting encounter. I claim that this is necessary as a methodological tool to the law, in finding its way to a necessary radical, sexy jurisprudence.⁵

The map of the Cap as produced above in Fig.14 shows a different landscape to that of the earlier maps in Wave I. No longer is the landscape divided by fixed lines and silent, solid boundaries. Now it is a map populated by intensities across a sandscape that mourns and cries, for a love-losing, blocks of blood soaked moments that mark not the steps of an

¹ Laruelle, F and Schmidt, A (2014) trans. Rubczak, N, SEXED IDENTITY, *Journal of the Theoretical Humanities*, 19:2, 35-39, p38.

² See *Wave III*, n.35.

³ See discussion above in relation to the disembodied effect of 'legal personhood' especially in the context of research ethics (*Wave III*, 'Female Researcher').

⁴ See *Wave III*, Practical Methodological Tools I.

⁵ See *Wave I*, Conceptual Tools I.

angel, but the failing of sex, the failing of the encounter, in producing the line of flight I sought for both myself and for ethics. I remained stuck within sexuality and my flight away was weak and maimed by incomplete becoming and maligned being. Mourning, not joyous. Mourning at what, though? It would seem that my attempt to fuck law was unsuccessful, that instead of a law in post-orgasmic light, there is a law that is broken – on the ethical inside.

The Possibility of Ethical Law

Mussawir poses the question of ‘how personal does a court’s jurisdiction get?’⁶ This is an important question. I claim that the answer is that the court’s jurisdiction runs deep, into the outer lengths of our soul as it extends into matter and into other bodies – through ethics. As Mussawir writes, that the objective of law’s practical apparatus (courts and so on) is not that of ‘naming and identifying’, but to ‘dramatise and institute the character of a body’s being before the law and the authority with which they speak.’⁷ Mussawir uses court cases on the issue of gender as an applied site for his analysis. He identifies the pervasive problem in the law which assumes that gender is fixed, and that the body through its performances and appearance must affirm this state of affairs, as well as the heteronormative sexual regime which this presumption on gender perpetuates.⁸ Further, he claims that in the course of affirming this regime of gender, the law conceals its innately unfixed nature. The law thereby forces the body into being complicit with ‘both mutual deception and becoming’ through which sexes address one another.⁹ The law maintains a regime that is counter-to the body, but which urges us to continue fooling and disembodying ourselves.

Yet this deception cannot be framed as entirely negative. Mussawir identifies that there is another potentially positive side to this dynamic - *becoming*. It is not that deception and covering is the end of the story, since within this dynamic there remains a site of movement, which we can characterise as becoming, or potential conditions for a line of flight.¹⁰ There is also a specific ‘ethic’ that becomes the process through which the

⁶ Mussawir, E (2011) *Jurisdiction in Deleuze: the expression and representation of law* (London, Routledge) p38.

⁷ Id.

⁸ Ibid. at p45.

⁹ Ibid. at p46.

¹⁰ See Deleuze, G and Guattari, F (2004b) trans. Massumi, B, *A Thousand Plateaus* (London, Continuum) p262, where the authors explain the productivity of becoming as the instability of the body, pushing towards a line of flight from identity. The generation of a line of flight is the generation movement becoming: ‘Becoming is not a correspondence between relations. But neither is it a resemblance, an imitation, or, at the limit, an identification... To become is not to progress or regress along a series.’

deception is converted to change and becoming: a 'transsexual ethic'.¹¹ This is a sexy ethic – where the the ethical frame empowers the body, but also requires the body grasp its own power through sex: 'one should not enter into a sexual relation other than by undergoing some kind of 'change' or by a mutual 'becoming' of each individual.'¹² This ethic correlates with the Deleuzian-Spinozan ethical encounter which can be generative of new ethical orders and deep change in the law – if the body is strong enough to claim this power for itself. Mussawir's claim here is that through guilt, the law weakens the body into maintaining the deception.¹³ The 'transsexual ethic' carries the potential of accessing the radical nature of performed Deleuzian sexuality:

[which] is reminiscent of the hermaphroditic sexuality of plants, in which one always requires a third party or species - a bird or an insect or the wind- in order to make possible '[i]ntersexual loves' or a 'vegetal innocence' more profound than the *guilt* inscribed by law.¹⁴

The problem is of course, that the body is not always strong enough to access this ethical order. In the moment of withdrawal, or Spinozan Conatus, the body may well be *weak*.¹⁵ The body may therefore be incapable of allowing itself to take hold of this sexy ethical tool, and this may well be because of the law. I found at the Cap that I was too weak to find the power to grasp my own power, and for this I must take responsibility. But I also claim, as I have pointed to in *Wave III*, that responsibility rests also with the Ethics Committee, and sadly, the body that I was in a relationship with. There was a perfect storm and now – in writing this thesis, right now, I try to learn the lessons and bring back the power to the researcher's body, such that it is equipped to be a radical legal practitioner.

This guilt is destructive for sex. Guilt is part of why the Cap was a landscape of mourning. At the hand of the Cap, I was brought by both my institution and my lover to feel intense guilt. This was not a feeling of guilt because I was doing something I should not, but guilt that I was able to do *nothing*. I was able to do nothing for sex, I could not bring back its joy and I could not stop 'fucking like a lawyer'.¹⁶ The Ethics Committee were there to

¹¹ Mussawir, E (2011), op. cit., at n.6.

¹² Id.

¹³ Id.

¹⁴ Deleuze, G (2000) *Proust and Signs*, as cited by Mussawir, E (2011), op. cit., at n.6, p46.

¹⁵ See *Wave I*, Conceptual Tools I and the ethics of 'withdrawal' within assemblages in *Wave II*, Conceptual Tools V. An ethical outcome is that which allows a body to become 'stronger' rather than weaker following an encounter within an assemblage.

¹⁶ Lambert, G (2006) *Who's Afraid of Deleuze and Guattari?* (London, Continuum) p149. I examine this act of 'fucking like a lawyer' in depth in *Wave II*, Conceptual Tools III.

insist on my 'objective' rational approach, and X was there to take me deeper toward the line of participation. The ethics Committee kept me there and so did X, when I would rather have left. I was therefore inhibited in my ability to find this sexy ethic, and strengthen my body towards researcher practitioner. The moments in which to strengthen my body were fleeting, and I missed them – because I was so overwhelmed by the forces that urged me to be complicit in these self-interested dynamics of guilt.

Was I always on trial at the Cap, doomed for certain conviction? Here we return to a point I have argued earlier in the context of my ethics applications: the 'conceptual sleight of hand' which disembodies me through my legal womanhood.¹⁷ Mussawir identifies a similar dynamic in cases which must take into account the sexuality of children. He finds that there is a consistent disembodiment and de-eroticism of children, with decisions made that attach erotic capital only to parental rights and interests.¹⁸ Decisions are made on the child's behalf, involving the child's body, the child's erotic centre, but with no thought of engaging with the child's sexuality.¹⁹ It is again a sad story in the context of guilt, that we must at all costs, de-eroticise the child and maintain their asexuality. Mussawir writes, 'The court should attend not so much to the rights that may guarantee for Alex the capacity to live a 'normal' life as a man, but to those which properly inscribe the sexual condition and power of a child under the terms of family law.'²⁰ Mussawir's contention is that law is required to connect to the person in order to authentically protect or regulate encounters between bodies.²¹ The notion of protection though, is problematic. Do bodies want to be protected, and what does it mean to protect and why is that necessary? If it is to protect against the rupture that brings about the death-drive, rather than a song of grace, then is law capable of tracing itself back to the drawing of the line, and beholding the space where the harm is caused? The aim of the law ought to be two-fold: to identify how it is embodied, and to allow the body to become stronger. If it must 'protect' then such protection ought to be against the law's own capacity to weaken.

The challenge for the researcher-practitioner is to subvert judgment, and be strong enough to do so. The body is simultaneously dis-empowered by law, but also complicit with the law. This means that the body is *potentially* empowered to grasp this dynamic of containment and release, and thereby positively shape its own sex in the imaginary of

¹⁷ See *Wave III, Female Researcher*, for my critique of ethical frameworks in research which situate the problem of disembodiment with me, rather than the regimes which underpin such ethical deliberations and decisions.

¹⁸ Mussawir, E (2011), op. cit., n.6, p50.

¹⁹ This gesture toward the disembodiment of desire can be conceived in similarly subversive ways as the desiring 'girl' that I consider in *Wave III* as part of Practical Methodological Tools I.

²⁰ Mussawir, E (2011), op. cit., n.6, p50.

²¹ Ibid. at p51.

law. The ethical mode for the researcher in my position then is to access the possibility of seizing the power of the body and the power of the third rupture line.

Orgasmic Release

Through the arguments I have traced, there can be conditions for a line of flight for the body against, and because of the law, which can be characterised as access to the ethical moment, perhaps where 'guilt' can be shed by bodies. It is also clear through Mussawir's critique that the law is an objective mechanism that strives for impersonal, universal sexuality.²² It is as though law's objectivity, and resistance to the personal is that which produces an erotic effect, which ought not to be framed negatively as transgression. Rather, it is a mode of positively framed 'orgasmic release'.²³ The orgasm is both the end and the beginning of an encounter of sex, instead of the problematic orienting site at the hands of the law.²⁴ Release for the body can be productively framed orgasm – its fleeting nature I never felt on the beach at the Cap. This bodily, material mirroring of the legal regime at the Cap is no accident. As I have said, I did not have an orgasm at the beach, and that is because I did not feel at home, and because my space to have one was highly contested.

Berlant and Edelman have conceived of sexuality as beset with unbearable contradictions, even within the most immanent, positive, conception of desiring sexuality.²⁵ For Berlant and Edelman, sex occupies a privileged site of negativity, due to the 'disturbances which inhere in the relation itself.'²⁶ If we were to take seriously the prevailing view that sex as fleeting encounter brings about disturbances to the sexual subject, then we find bound together the positivity and negativity which characterise the complicity of the body with law. The contradictory relation within sexuality (especially in the work of Berlant and Edelman) emerges at least in the first instance, far from optimistic. Yet, if we read it in tandem with Deleuze's philosophy, then we find a 'strange optimism'.²⁷ The optimism is strange, because, as Deleuze writes, '...miseries are not what was missing; the best of all

²² See also *Wave II*, Conceptual Tools III.

²³ See *Wave III*, n.117.

²⁴ My use of the word 'hands' is not coincidental. I begin my thesis by expressing in my 'Fore-Play' the desire for one orgasm at the 'hands' of just one man. I also end my thesis with the 'End-Play' where we find a closing note from either law, or could it be X, apologising for the suffering caused at their 'hand'. The law reaches toward and grabs the body, carves its lines, which then play out into encounters, to be repeated through ethics – but which could be disrupted through a lighter touch. See Conceptual Tools VI, and see below.

²⁵ Such conceptions I have examined in *Wave I* and *Wave II*.

²⁶ Berlant, L and Edelman, L (2013) *Sex, or the Unbearable* (Durham and London, Duke University Press) p2.

²⁷ Deleuze, G (2011b) trans. Conley, T, *The Fold* (London, Continuum) p77.

possibilities only blossoms amid the ruins of Platonic Good. If the world exists, it is not because it is the best, because it is rather the inverse; it is the best because it is, because it is the one that is.²⁸ This draws upon the conception of immanence that is central to the Deleuzian project, yet takes this project deeper into the soul of the subject, and reaches to sexuality as a fundamental aspect of that subject, and relation to ourselves.²⁹ The contrary relation, no matter how painful to bear, is the *vice-diction*, which is pregnant with the possibility of release. The contradiction arises between the subject as part of the world, that it has built and has been built for it, and the potentiality for other ways of being within the depths, or soul, of the subject.³⁰ It is this contradiction that Deleuze rather conceives as a *vice-diction*, that founds the conditions of the living subject.³¹ It is a way of conceiving of the substance of being, the deepest fundamental aspects of ourselves as not simply oppressed, but rather in a productive tension. The vice-diction is the re-conceptualisation of the contrary relations between what we should do and what we could. The vice-diction is the conception of the contradiction between such modes of existence as immanent to one another, and thus not contradictory at all, but rather 'the best' way of being that there can be.³² This does not dissolve the contradiction altogether, but rather creates conditions for enfolding, folding and refolding.

I can only have an orgasm when I have sex (however that might be, with penetration or not). I cannot have an orgasm if I am having 'sexuality'.³³ The law orientates on the basis of orgasm, but simultaneously does not allow the feminine body to have it – thereby attributing the female orgasm a subversive power.³⁴ I refer later to instances of the celebration of the male orgasm at the Cap, but for now I want to delay climax. I want to delay it because I claim that my orgasmic release, would also have been the space where I had the potential to have sex, and become researcher-practitioner. My inability to orgasm, I claim, is due to my being caught within sexuality – where my soul was too weak to come.

²⁸ Id.

²⁹ See Deleuze, G (2011a) trans. Hand, S, *Foucault* (London, Continuum).

³⁰ Deleuze, G (2011b), op, cit., at n.27, p67.

³¹ Id.

³² Ibid. at p67-68.

³³ See *Wave II*, Conceptual Tools III, in particular p70.

³⁴ See Beckman, F (2013) *Between Desire and Pleasure: A Deleuzian Theory of Sexuality* (Edinburgh, Edinburgh University Press) p70-97, where the author considers the position of the female orgasm as positioned secondary to male ejaculation, and seen as 'signifying nothing'. Yet as a result of this position, the female orgasm comes to occupy a similar position to 'girl' desire in its ability to overturn representations of desire, as well as create new ethical sites.

As we have seen, sex is arguably the most problematic, pleasurable, transformative, and common encounter, while sexuality is the most fundamental relation to ourselves.³⁵ A cut, a crease or a line across this part of our being is likely to cause huge tremors within the soul. The nature of sexuality is contested, yet what it is undoubtedly inclined to move, to transgress, or rather more positively conceived, to release itself. Philosophy has struggled to overcome its own obsession with the orgasm as the result of the erotic force of transgression.³⁶ I have already claimed that sexuality and sex cannot be considered as distinct from one another.³⁷ Rather, I claim that ethics is a law that can be made sexy through the body of the researcher-practitioner, which is also a flight away from law's assumptions about sexuality. The body is connected to law through ethics too through judgment.³⁸ In that respect and in the context of the body's complicity with law as outlined above, we must turn our attention to this contrary relation, and the theoretical basis or possibility for a stronger, sexy researcher-practitioner body – through the power of non-human bodies that I encountered.

Soul Matters

I return now to the soul, since that is my mechanism for bringing together the deeply personal relationship I have with my sexuality, and the sexuality of other bodies into which I enter the relation of encounters.³⁹ The blood of bodies is carved through law folding into the soul – whereby the deepest legal carving of lines cracks the ethical blood of the soul.⁴⁰ As we have seen, the researcher enters the field as part of the Sexuality Assemblage.⁴¹ The researcher is not only connected in assemblic movement with bodies within such a relation, but also coextensive on an intimate and personal plane.⁴² The soul, as well as our personal inside, is formed through matter.⁴³ So any line that law asserts both marks, and connects the individual with the pre-individual creating a flow that is perpetual and mutual.

³⁵ See Deleuze, G (2011a), op. cit., at n.29. This is not a Freudian, oppressive Oedipal sexual relation. Rather, it is through subversion of these regimes that we come to find the fundamental power of sexuality to transform the relation we have with ourselves. See also *Wave II*, Conceptual Tools III.

³⁶ See *Wave III*, in particular, 'From Philosophy to Sex'.

³⁷ See *Wave II*, Conceptual Tools III.

³⁸ See *Wave I*, Conceptual Tools I.

³⁹ See *Wave III*, Conceptual Tools VI.

⁴⁰ Id.

⁴¹ See *Wave II*, Conceptual Tools V.

⁴² See *Wave II*, Conceptual Tools III.

⁴³ See Deleuze, G (2011b), op. cit., at n27, p112: 'The implementation of perception establishes folds in the soul, the folds whose monad is decoration on the inside; but these are like a matter that must hereafter be organized in outer pleats.'

Matter is mixed with my soul, and was my route into the 'impersonal-personal' site of release.⁴⁴ In the course of research, since it is such a human oriented endeavour, this place is challenging to connect to. Deleuze's conception of the fold asks us to accept that the soul and matter might be thought of as one and the same. This is articulated with simplicity in the initial chapters of *The Fold*. Deleuze writes, 'Life is not only everywhere, but souls are everywhere in matter.'⁴⁵ In any moment of calling one's being into question, the moment where we are exposed in any sense, to the kind of reflection that only an individual can have, we are transported to a plan of a-subjectivity. This is a-subjectivity in the sense that our subject givens, the shaping of our being in its shaped and worldly form, is flattened, so as to 'open the soul' to mutual flows between the human and non-human. This opening does not take place through choice or reason, and it is not as though we leave our bodies. The opening is inseparable and inevitable.⁴⁶

Sex Matters

The world in which the individual moves is expressed by that individual, but only as a kind of 'slice' of the world as totality, yet this partiality is in fact the only totality, our world is the only 'existing world', as well as the 'best'.⁴⁷ The word 'best' here indicates that this is the 'best' hope we can have toward any kind of objectivity. It is with caution that we should treat this individual perspective, since it is not the totality, and yet, it is the only possibility. This feeds directly into the arguments I have made in relation to method and the problem of bias.⁴⁸ Partiality, for Haraway, is that which promises the 'objective' vision, on which John Law builds, in order to argue that with such partiality comes the responsibility to recognise the material networks within which that 'partial' perspective is located.⁴⁹ The individual therefore becomes a unique yet ordinary way of expressing the world. The singularity is ordinary, and the ordinary is singular, and although each partial perspective is unique, 'the enlightened region probably passed through the body of every individual'.⁵⁰ The challenge to radically ethical research is therefore in capturing this 'enlightened region' which connects us, as researcher-practitioners, authentically to the field.

⁴⁴ See above on 'The Possibility of Ethical Law', and taken further below, in respect to research in 'A Radical Orgasmic Research Ethic'.

⁴⁵ Deleuze, G (2011b), op. cit., at n.27, p12.

⁴⁶ Id.

⁴⁷ Deleuze, G (2011b), op. cit., at n.27, p68.

⁴⁸ See *Wave II*, and see also *Wave III*, in particular n.35.

⁴⁹ Law, J (2004) *After Method: Mess in Social Science Research* (Oxon, Routledge) p68.

⁵⁰ Deleuze, G (2011b), op. cit., at n.27, p71.

It is this moment, Deleuze suggests, that brings the recognition that our soul is not only connected with other human beings, but that it is within matter. Yet there is a suggestion that this should be surprising. That it is surprising that our soul is within matter, and so it is, because we are so wrapped up in our own bodies. But this is not the extent of our blindness; rather it is also that there is a blindness that comes from being the individual that we are, as human beings. Although our souls are one with matter, there remains individuation of souls and of bodies, which must be conceptualised as positive. Such a positive conceptualisation must conjoin the blindness of human souls with the openness that their substance is predisposed. Further than conjoined, such an opening and closure must be coupled in immanence to each other. The opening/closure thereby becomes the song sung by the soul and matter together, as Deleuze writes:

Conciliation of the two will never be direct, but necessarily harmonic, inspiring new harmony: it is the same expression, the line, that is expressed in the elevation of the inner song of the soul, through memory or by heart, and in the extrinsic fabrication of material partitions, from cause to cause. But, justly, what is expressed does not exist outside its expressions.⁵¹

The enfolding flow between soul and matter will be on one level of folding, imperceptible, since they exist as entirely coextensive, albeit infinitely and differently textured within the depths before they rise. Yet upon folding, new levels, new plateaus and relations between souls and matter emerge. We all begin in the same place, in our mother's womb, we are born, and so the next song between matter and soul begins. The next folding, the next new memory, the first and next encounter, the first and next love. Yet it is the closure, immanent within the release with which the soul is born, that brings the condition of the openings and the harmonies: it is the 'infinite opening of the finite'.⁵² The closure between that which constitutes the individual, produces my seeking for release.

We find in Deleuze's examination of the soul the opening for the same sexy subversive encounter that Mussawir identifies above, as that which holds the potential for access to and infinitely more diverse range of sexual experience than that imagined by law.⁵³ I claim that these experiences (or encounters) produce ways of categorising sexualities in a range that accords with the possibilities of sex. Across the material of the soul, and generative of radical cracks in the law, are:

⁵¹ Ibid. at p39.

⁵² Deleuze, G (2011b), op. cit., at n.27, p28.

⁵³ See above: 'The Possibility of Ethical Law'.

...favoured zones that belong to each monad - even allow species of monads or souls to be divided into vegetal, animal, human, or angelic traits, 'an infinity of degrees in the monads' in continuity.⁵⁴

As researcher-practitioners, it is our ethical responsibility to identify emergences of these sexualities, and to present them to law such that bodies might find a flash of release, before their immanent capture. These sexualities are not only human, but as we have seen through the soul - they are made of matter too.

Matter holds within its tissue 'inclinations', just as the tissue of the inner field - since we are all bodies, formed of the same 'stuff', as Wylie argues, '[the error is] to hold that folding is a secondary effect, in other words that an original, unfolded surface precedes folding and constitutes that which is to be folded: the argument is thus that folding is always folding of something else.'⁵⁵ Deleuze's argument is that there is only one surface, which enfolds and unfolds, infinitely, it is always folds upon folds.⁵⁶ It is then through this process that any given singularity is formed. As Wylie writes, 'the subject who will 'come to' a point of view upon this world, as an assemblage of perceptual faculties and epistemological capabilities, will be assembled precisely through processes of folding and intertwining.'⁵⁷ Thus the formation of the world originates from the continual process of folding and folding - '*differences is being differentiated*'.⁵⁸

Braidotti claims that 'material transcendence' through the flesh is necessary in order to escape the denaturing affects of disembodied human subjectivity, which could be an accusation levelled at law in its transcendent posing of 'the questioning of fucking'.⁵⁹ She writes: 'This transcendence, however, occurs through the flesh, in embodied locations and not in a flight away from them.'⁶⁰ There seems to be an accompanying claim here that law

⁵⁴ Deleuze, G (2011b), op. cit., at n.27, p75. The monad is the mode through which 'stuff sticks together', as O'Sullivan writes in O'Sullivan, S (2008) 'From Possible Worlds to Future Folds (Following Deleuze): Richter's Abstracts, Situationist Cities, and the Baroque in Art' retrieved from <http://www.simonosullivan.net/articles/possible-worlds.pdf>, p2: The monad, on its lower floor is in and of the world, connected, as a body, to all other bodies (receiving their "imprint" as Henri Bergson might say). A 'monad' can also be thought of as a 'line' in the soul, of law, a connective as well as divisive force: see *Wave III*, Conceptual Tools VI.

⁵⁵ Wylie, J (2006) Depths and Folds: on landscape and the gazing subject, *Environment and Planning D: Society and Space*, 24, 519-535, p529.

⁵⁶ Id.

⁵⁷ Ibid. at p530.

⁵⁸ Deleuze, G (2011) *The Fold* as cited by Wylie, J (2006) p529.

⁵⁹ Braidotti, R (2002) *Metamorphoses* (Cambridge, Polity Press) p23.

⁶⁰ Id.

then might be one of those locations of disembodiment, as Philippopoulos-Mihalopoulos has argued.⁶¹

If we are to move with an ontology where matter enters into active agency with human bodies (which it does so naturally, since matter and bodies share a commonality of substance) we must recognise that both sides can and do build and resist. With this in mind, Braidotti proposes a symbiotic ontology, where subjectivity comprises an interdependence between heterogeneous elements.⁶² Importantly, Braidotti also conceives of the body as neither organism, nor human, but rather as an abstract machine.⁶³ This paradigm is essential in allowing the body to become productively-resisting, that is, co-extensive in kind with other elements originating from the same one substance – the soul.⁶⁴

There must also be a recognition that the inclination towards hierarchical schemas of subjectivity is in part, notwithstanding the productive zone of resistance, due to the privileging of conscious articulation which is audible and capable of being spoken by law. Because of the highly productive and erotic place of resistance, it is necessary to place non-human bodies as capable and actively desiring of entering into relations of consciousness. A new materialist ontology does indeed have room for this within its ontological formulations, as Braidotti alludes to, albeit somewhat negatively formulated: ‘The power of such an organism is certainly neither contained by nor confined to consciousness’.⁶⁵ Through Braidotti’s conception of the abstract machine, the entirety of the organism is able to connect to, and be receptive to the power of material and to enter the place of erotically productive resistance. If subjectivity can instead be enacted materially in relation to an abstract, co-extensive organism, then consciousness can also become abstract, that is a flat as well as erotic ontological framing.

Bennett writes: ‘Thing power materialism, as an adventurous ontological imaginary, offers a picture of matter as so active, intricate, and awesome, that it’s no disgrace to be made up wholly of the stuff oneself.’⁶⁶ Matter is far from a dormant presence, whether it be formally conceived of as outside or inside of our legal subjective make-up. Yet it seems that the issue is not the power of matter, but rather the acceptance of the formative power

⁶¹ See Philippopoulos-Mihalopoulos, A (2016) *Flesh of the Law: Material Legal Metaphors*, *Journal of Law and Society*, 43:1, 45-65, and *Wave III*, n. 72.

⁶² Braidotti, R (2002), *op. cit.*, at n.59, p226.

⁶³ *Id.*

⁶⁴ See also *Wave III*, Conceptual Tools VI.

⁶⁵ Braidotti, R (2002), *op. cit.*, at n.59, p226.

⁶⁶ Bennett, J (2004) *The Force of Things: Steps toward an ecology of Matter*, *Political Theory*, 32:3, 347-372, p364.

of matter, in doing so, it is my suggestion that our ethical, as well as erotic horizons are significantly expanded. Braidotti suggests why striving to reach this acceptance of a radical material ontology is so vital; she writes: 'Posthuman subjectivity reshapes the identity of humanistic practices, by stressing heteronomy and multi-faceted relationality, instead of autonomy and self-referential disciplinary purity'.⁶⁷

The material that I encountered, and which must also now be considered to be encountering me, is co-extensive in body and soul, and thereby as much part of the research assemblage as the law, firmly located within the ethical encounter. Through such erotic ontologies as above, this location is possible. Through material and critical methodologies it has been possible to conceptualise sexuality as a 'complex multi-layered force that produces encounters, resonances and relations of all sorts.'⁶⁸ This conception has then led to the building of the 'sexuality-assemblage', within which matter is an 'equal' participant: 'the sexuality-assemblage asserts the fundamental relationally of all matter: bodies, things and social formations gain their apparent 'is-ness' only when in relation.'⁶⁹

The question then must be asked as to the limits of the soul and the skin. While we can conceive through such *materially* erotic ontologies that the soul is apparently limitless in its impersonality, we also know that the soul is made up of lines and folds. At some point the field of impersonality ruptures; we deny touch, or touch is denied to us, and so there becomes a limit of sorts. That limit, however, is not an asserted one, but rather *eruption of matter*, desired and resisted.

Pottage's suggestion is that 'we should begin with materiality rather than law'.⁷⁰ 'This beginning requires an understanding of the process that brings about the emergence, *or gathering*, or assemblage. It asks us to evaluate how bodies and lines come into being, as well as taking as given, the participatory power of non-human bodies within it. The suggestion is then that we might trace into the ethical heart of law, into its blood, where we will also find its destructive, or positive place within the encounter. If we look at Bennett's work, we find matter situated as powerful and potentially interruptive presence, very far from an inert secondary body, 'This activity is better imagined through terms such as quivering, evanescence, or an indefinite or non-purposive suspense. This vibratory vitality precedes, or subsists within, or is simply otherwise than, formed

⁶⁷ Braidotti, R (2013) *The Posthuman* (Cambridge, Polity Press) p145.

⁶⁸ Fox, N and Alldred, P (2015) The Sexuality Assemblages of Young Men: A New Materialist Analysis, *Sexualities*, 0(0), 1-16, p907.

⁶⁹ Ibid. at p908.

⁷⁰ Pottage, A (2012) The Materiality of What?, *Journal of Law and Society*, 39:1, 167-183, p183.

bodies.⁷¹ There is of course an infinite array of these matters, as well as materialities. The sea will interrupt and form in a different way to the sand, some will be easier to territorialise, and some will effervesce with constant and relentless deterritorialization.

Through the theorisation of the ontological relation of the body with other bodies (for example, human with text and text with human, or human with non-human and vice versa), we are able to situate law as not only negatively, but positively engaged and complicit with the erotic drive of being and becoming.⁷² We are also able to recognise its connection with the encounter as generative of ethics, and therefore itself constituting an erotic continuum of ethics and law. I argue that the researcher is uniquely placed into the field in order to produce the rupture within the contradiction, particularly when the researcher is engaged in research that concerns sexuality. This is because it can provide an insight into an individual body's lived experience of sexuality, and thereby an insight into the collective.⁷³ This might be an experience of pleasure, or more problematically an experience of anxiety, abuse, oppression and pain. There are many experiences of sexuality situated on an infinitely shaded continuum between bodily howl, and bodily scream through ecstasy, and through partial perspectives and radical ethical awareness, we find the dangers and grace within them. The ethical demand here then becomes that of writing sexuality, lived as subject, within this frame, through the act of research. The subsequent demand is that this basis for research does not remain only theoretical, and is instead translated into a radical and practical research ethic.

A Radical Orgasmic Research Ethic

A radical research ethic hinges upon embracing the power of the vice-diction and its potential for making us stronger, rather than disappearing further and further into nihilistic philosophical and legal loops.⁷⁴ I have claimed that sex is an encounter which represents the unfolding of the complicity of the law with the body, as well holding the potential for release through the process of individuation in complicity with matter.⁷⁵ Central to a radical research ethic is the turning into oneself, and reflection upon our presence and movements within the Sexuality Assemblage.⁷⁶ Bell captures the 'excessive' ability of expressions of desiring bodies. Researchers are bodies too and encompass:

⁷¹ Bennett, J (2010) *Vibrant Matter* (USA, Duke University Press) p55.

⁷² See *Wave III*, Conceptual Tools VI.

⁷³ Id.

⁷⁴ I have referred above to the 'death-drive', which is a possible 'nihilistic' direction of the rupture, which is arguably the direction my research took at the Cap. See *Wave III*, Conceptual Tools VI.

⁷⁵ See above, and in particular n. 54.

⁷⁶ See *Wave II*, Conceptual Tools V.

...established identities we bring to the encounter, the 'large aggregates' that invest our sexual passion and inform our sexual identity, but there are also the problematic non-denumerable desiring-machines that forever exceed these passions and problematise them.⁷⁷

This project brought me to the position whereby I consider the (lack of) conditions for my own bodily release through orgasm, as well as the possibility of the body's release from sexuality through sex. Alhadeff explicitly considers her own process of (female) ejaculation in relation to sexual narratives. In order to do this, she employs a radical ethical awareness through personal situation, but also bodily, sexy, orgasmic investment in the project:

Whether I am viewing my process of ejaculation, my *becoming*, through the uncanny Deleuzian masochist or the Taoist field of immanence, I am positioning myself within intuitive re-configuring of socialised sexuality. The nature of this collaborative emancipatory project transgresses internalised, invisible, taken-for-granted capitalist Oedipal structures. Creativity and subjectivity become pedagogical strategies for social change.⁷⁸

Her work becomes subversively ethical, since she uses her own potential for orgasmic potential to subvert those regimes that assume (and orient the subject on the basis of) when she *should* come – thereby identifying the embodied 'relational tension embedded within each interaction.'⁷⁹ This is a form of radically orgasmic research ethics, whereby our attention is turned to the possibility of sites of *coming* as sites of *becoming* – for ethics to become sex through authentic connection to unseen, unimagined orgasmic moments.⁸⁰ This she views as a creative and embodied process, or *method*. This embodied methodological approach becomes the way through which we can find genuine sites within research where sex becomes a mode of release and strength for the body – practically, socially, ethically and legally.⁸¹

It can be seen from the blood-soaked map that opens this *Wave IV* (fig.14) that I walked a fine line in my becoming – between that of graceful line of flight and death-driven submission. No zone of intensity is what it should have been, or what I thought it would

⁷⁷ Bell, J 'Deleuze and Selfless Sex: Undoing Kant's Copernican' in Beckman, F (2011) *Deleuze and Sex* (Edinburgh, Edinburgh University Press) p171.

⁷⁸ Alhadeff, C 'Tongue and Trigger: Deleuze's Erotics of the Uncanny' in Beckman, F (2011), op. cit. at n.77, p108, emphasis in original.

⁷⁹ Id.

⁸⁰ See n.34.

⁸¹ Cf. Lambert's 'question of fucking', see n. 16, and *Wave II*, Conceptual Tools III.

be. I found myself mourning in the moments where I sexuality said I should have been in the throes of pleasure, and I found myself desiring bodies not in front of me, but far away. I found myself desiring a body that did not want me to be on the sand, but who conversely told me I ought to be 'free', that I am some pioneer of sexual freedom. I was painted as some kind of neon angel,⁸² not only by my lover, but by my institution too, and by all of the both slutty and genuine calls for liberation of female sexuality.⁸³ By virtue of this I found any sense of 'true' liberation to be impossible. I suffered, yet at the same time, there was a glimmer of the line of flight, because you know what, it wasn't all that bad and there were some faint traces of collapse in the course of my dissolution. They come from acting other-than as expected in the ethical moment,⁸⁴ but more often, *they came from the sand*.

There are distinct tensions between the maps in the first Wave (figs.1 - 7) and fig. 8 ('The Cap Sexual Boundaries'). There are also distinct tensions between these and fig.14 ('My Map of the Cap'). The crack between the assertion of boundaries and the emergence of intensities is charted through the method maps in figs. 9 ('Confession'), 12 ('Shifting Sands') and 13 ('Fidelity and Participation'). There is a further tension between the ethical code charted at the end of the previous Wave and the laws that have been drawn across my 'inner-field' and the bodies which enter into the assemblage, or encounter in relation with mine. This tension mirrors line draw across sex, which I have claimed is the researcher-practitioner's responsibility to identify and map. The researcher though is not only a human soul. I have identified in *Wave II* (Conceptual Tools V) that the Cap is a Sexuality Assemblage, which is comprised of my body as researcher, as well as other equally powerful non-human bodies.⁸⁵ It is then necessary to understand their place in generating the sites of 'orgasmic' release, or 'guilt'.

Beckman has claimed that there is a possibility generated by Deleuzian philosophy for a 'post human orgasm'. Beckman draws upon Deleuzian impersonal desire in order to

⁸² See *Wave III*, 'Fleeting moments, Angelic Sex'.

⁸³ Id. See also above 'A Radical Orgasmic Research Ethic'.

⁸⁴ See Hemmings, C (2014) *Sexual Freedom and the Promise of Revolution: Emma Goldman's Passion*, *Feminist Review*, 106, 43-59, p56: 'Importantly, women and men do in fact act contrary to the roles laid out for them already, and in claiming such minor moments as extraordinary Goldman begins to elucidate a revolutionary methodology that values quality over quantity, and that allows for a vision of utopia based on alternative values we can—and do—already experience.' The claim here is that through an examination of every-day experience we can trace into micro-moments of potential revolution. This is the case, albeit the 'conative' quality of these moments must be recognised for the inclusion also of a multitude of bodies, including law, which determine the consistency –and affect/effect- of the assemblage.

⁸⁵ See above 'Soul Matters' and 'Sex Matters'. See also *Wave II*, Conceptual Tools V.

frame the possibility for matter to ‘come’.⁸⁶ This framing can be aligned to her claim to the subversive bodily power of the feminine orgasm in relation to historical, social and political regimes.⁸⁷ The orgasm thereby becomes a site of ‘connectivity and creation’ instead of being a site of finishing.⁸⁸ The posthuman project, and the emerging posthuman sexuality project has attributed non-human bodies the possibility of engaging sexually within encounters. This mode of imagining the orgasm, allows conception of a site of radical release, instead of a point where law can make its judgment – rendering sex, and orgasm, radically ethically generative.⁸⁹

Sand Gathers, Lightning Strikes: Matter Comes

In this section I outline a theoretical framing for the power of matter to not only be desiring, but also to be sexual, as well as legal. This is necessary in order to solidify its position as a powerfully generative presence of the *conative* moment within sex.⁹⁰

Like desire, the sand and sea is not a-sexual.⁹¹ D’Onofrio observes a profound connection between nature and sex. She finds that sex moves beyond human boundaries, that is, that human sexuality is open to the participation of non-human bodies. She considers the state of being bisexual as the most natural, in that it accords with the volatility and vitalism of the Earth. This is because it allows for the circulation of energy and the exchange of the rejuvenate properties of sexual contact. D’Onofrio demonstrates this through Gaia theory, according to which the organic and inorganic interact to form a self-regulating system.⁹²

⁸⁶ See Beckman, F (2013), op. cit., at n.34, pp120-144.

⁸⁷ See Braidotti, R (2002), op. cit., at n59, p28. The author’s project is to mobilise a feminist affirmation of sexual difference, which ‘goes hand in hand with the rejection of not only essentialist identities, but also of the dialectics of negation as the logic of constitution of the subject.’ In this sense we must avoid considering negative sexual difference and dialectical adherence to this structure as the ontological given. Instead, the subject as flesh and matter is capable both of building and destabilising this logic, see the practicalities of this in research in law and sex, in *Wave III*, Practical Methodological Tools I.

⁸⁸ See above, ‘A Radical Orgasmic Research Ethic’.

⁸⁹ The caveat to this, and the challenge to law, is that this moment can be both fleeting, and hidden. See *Wave III*, ‘Fleeting Moments: Angelic Sex’, and also below Practical Methodological Tools II.

⁹⁰ Id. Conatus can be as fleeting as sex, and as hidden as the female orgasm.

⁹¹ It can be sexy though, through its tactility. See *Wave II*.

⁹² See Lovelock, J, (2003) Gaia: The Living Earth, *Nature*, 426, 769-770, for an overview of this theoretical position. See also D’Onofrio, SA (2011) Bisexuality, Gaia, Eros: Portals to the Arts of Loving, *Journal of Bisexuality*, 11:2-3, 176-194, p177. The author briefly explains the connection of the scientific Gaia position to a loose formation of non-human sexuality: ‘According to Gaia science, the web of life that sustains our species on the third planet is interconnected. Our first ancestors, bacteria, are four billion years old. They have sex with their neighbors to rejuvenate themselves – regardless of gender or reproduction – and to exchange genes.’ I do not seek to take further the theoretical position of co-evolution. I claim that there are aspects to the theory, particularly as deployed by D’Onofrio, which hold similar potential similar to a Deleuzian theory

Through this configuration, material becomes as active in shaping effects as the human.⁹³ For D'Onofrio, the Earth teems with life and is an entirely open plane of becoming which allows for connections of all kinds. She quotes from 'Beyond Bisexual',

I started out as a regular heterosexual woman. Then I became bisexual. Now I am beyond bisexual-meaning I am sexual with more than just human beings. I literally make love with things like waterfalls, winds, rivers, trees, plants, mud, buildings, sidewalks, invisible things, spirits, beings from other planets, the earth, and yes, even animals.⁹⁴

The substance of sexuality emerges as actively connective, and emergent not just through human bodies, but all bodies. It has the potential to produce the conception of sex as an encounter through which its participants can connect sensually with not only other human bodies, but with the world around them. This has the effect of opening the range of sexual experience to include the *whole of life*. It also opens a space for the appreciation of how *everything* builds and shapes a sexual encounter, through affect and materialisation. The matter of sexuality is infinitely connective, which is demonstrated by Deleuze and Guattari's reading of sexuality, which Bogue draws upon:

...desiring production involves hundreds of thousands of non-human sexes - n sexes - within a single plane of affectivity that traverses the entire natural world. Sexuality proceeds via becomings, processes whereby distinction involving gender, age, species and fundamental material identity are blurred.⁹⁵

D'Onofrio's text suggests that sexuality cannot be considered simply a human relation, but rather a matter of connections produced by the 'enfolding' of substance. Bennett also notes the active capacity of substance to constitute the matter of sexuality through Perniola's recognition of the sex appeal of the inorganic:

Perniola posits the existence in humans of a "neutral sexuality, an abstract and endless excitation... with no concern for beauty, age, and in general, form... This neutral sexuality draws human bodies to apparently dead things - to objects, stones, bits of matter. The "sex appeal" of the inorganic, like a life, is another way

of sexuality to overturn conventional sexual categories, and boundaries between human and non-human bodies.

⁹³ D'Onofrio, SA (2011), op. cit., at n.92, p185.

⁹⁴ Sprinkle, A (1991) *Bi Any Other Name* as cited by D'Onofrio, SA (2011), op. cit., at n.92, p185.

⁹⁵ Bogue, R 'Alien Sex: Octavia Butler and Deleuze and Guattari's Polysexuality' in Beckman, F (2011), op. cit. at n. 77, p47.

to give voice to what I think of as a shimmering, potentially violent vitality intrinsic to matter.⁹⁶

Through this reading of erotic material, it is possible to conceive of the capacity of substance to constitute itself as something which is capable of *creating* sexual connections. This connectedness is not sexual attraction to everything; rather, it is sporadic emergences of sexual through a mutual and shared bodily strata. Sexual ontology thereby emerges as materially reflexive, and this material characterisation of sexuality as connection has the power to iterate the force within matter to not only shape sexual encounters, but to also be an intrinsic part of them. Every human body will be sensitive to the space in which an encounter takes place.⁹⁷ This can be the touch of the fabric on a bed, the smell of the sheets, the colour and light within a room, the cool wetness of a forest or a bush, the softness of the sand. The experience of sex is therefore built by not only human bodies, but non-human bodies too.

It is necessary in order to trace and understand these types of bodies, that we come back to the encounter itself. Law must surrender to ethics, research must surrender to the personal, sexuality must surrender to sex, and we must find our way from there. We have to go to the outer limits of the continuum in order to find our way back, and back again: Deleuze and Guattari write 'it is a question of surrendering to the wood, then following where it leads by connecting operations to a materiality, instead of imposing a form on matter...'⁹⁸ We simply have to remember to locate those bodies within the assemblages we are in, because if we do not then our ruptures will continually run death-ward.⁹⁹

⁹⁶ Perniola, M *The Sex Appeal of the Inorganic: A Conversation* as cited in Bennett, J (2010), op. cit., at n71, p61.

⁹⁷ See for instance Johnston, L and Longhurst, R (2010) *Space, Place and Sex* (Plymouth, Rowman and Littlefield Publishers) p43. The authors argue that the 'home' is traditionally characterised as a space of heteronormative, traditional, 'reproductive' sex, albeit I would add that this can be subverted by bodies that may build a different notion of sexual home, that can be just as 'homely', intimate and hidden (see the closing sections of this Wave). This can be mobilised through the queering of bodies and identities (a power that is inherent in the body as a deterritorializing presence) as the authors go on to say on p47.

⁹⁸ Deleuze, G and Guattari, F (1988) *A Thousand Plateaus*, as cited by Philippopoulos-Mihalopoulos, A (2014) Critical Autopoiesis and the Materiality of Law, *International Journal for the Semiotics of Law*, 27, 389-418, p410.

⁹⁹ See Colebrook, C (2014) *Death of the Posthuman: Essays on Extinction, Vol 1* (Open Humanities Press) pp44-45. The author argues that even posthumanism is not able to become 'non-philosophy', since it still operates on the basis of human constructed philosophical framings: 'If theory were to operate as it might then it would be destructive of such an imaginary; it would be theory after theory.' This also would chime with a the Laruellian critique of philosophy (See Wave II) and support the claim to practical-methodological tools in the field of law and sex research. This is because, and despite, the theoretical positions of hybridity that we have seen in MacCormack, P 'Queer Posthumanism: Cyborgs, Animals, Monsters, Perverts' in Giffney, N and O'Rourke, M (eds) (2016) *The Ashgate Research Companion to Queer Theory* (New York, Routledge).

On the Cap, there will be still encounters taking place and there will be women or men like me who are there, with their constituted sexualities and their inner inclinations. Yet the same encounters will continue and the map will look the same, with orgies of judges and frustrated release.

Just into the foliage and I hear clapping (perhaps a gathering of men, where woman has finished). Now continuous *gatherings* of people, mainly men around clusters of action. Some single men already *gathering* but more cruising the foliage. But also conscious of the ensuing *gathering* which is not something I feel confident to be part of. I sit at my new base and 2pm to me x2 couples having full sex while there is a significant *gathering* in the sea. I then decide to go and sit next to a *gathering* happening further up towards the dunes. A scattering of people in the sea, a small *gathering* too, about 15 men, cannot see what is going on at the centre of it from here. A lot of *gatherings* in the sea, 20 and 50+ people, mainly men around what is happening: cannot see what from my position which is on the dry sand, but on the edge near the damper sand. Got to the beach around 1600, storm starting to come, dark clouds *gathering* behind the dunes and flashes of lightning.

Figure 15: Gathering¹⁰⁰

It is possible to draw a line across the repetitious gathering of bodies as encounters, which always appeared to consist of multiple bodies, predominantly men, around either one woman or possibly two women. These gatherings tended to emerge seemingly spontaneously throughout the day, but more often in the evening sun. Looking closer, it is clear that there are not only multiple bodies within these encounters, but multiple *types* of body. The notable participants however, are not the human bodies. It is the non-human participants that both bring together, and pull apart the orgies. This action and movement happens too at either side of the cut of the line. The human is hand in hand with the non, in mutual excitation at the line that appears to have collapsed, yet remains present as lightning strikes, and pulls them apart. The law is the lightning – always cutting and restoring the air to the place it was and re-birthing the soul,

There will always be a relation to oneself which resists codes and powers; the relation to oneself is even one of the origins of these points of resistance... It is not

These positions do form the basis of a 'leap' into the field however. See *Wave II*, and *Wave III*, Practical Methodological Tools I.

¹⁰⁰ I trace a line through a selection of extracts from my field diary where 'gatherings' seem to be a regular emergence, bringing together an assemblage of a multitude of human and non-human bodies.

even enough to say that the latter resist the former; for there is a perpetual communication between them, whether in terms of struggle or composition. Recuperated by power-relations and relations of knowledge, the relation to oneself is continually reborn, elsewhere and otherwise.¹⁰¹

The gathering is also an intensity – an intensity that is representative as the ‘unforeclosed experience’¹⁰² of the hidden and visible maps, and the quivering before the compositive or de-compositive ruptures we see in fig. 15 (‘Gathering’). At these moments, either beside or within the gathering, the subject will experience a moment of hanging and pause prior to dissolution into the impersonal – ‘a watching and waiting, a living through, an attunement to what might rind up or snap into place. Events and outcomes are immanent, unknown but pressing.’¹⁰³ The demand placed upon me as researcher then becomes a pressing one too.¹⁰⁴

What is the significance of *gathering* though, and in particular, these gatherings and dispersions at the Cap? These are not merely gatherings of bodies human and non, either. They are also clusters of law, of sexuality, as well as sex, substance and ethics. It is all, of course, immanent in the pause, the possibility for gathering and the possibility of *release*. The bodies could stay apart, and as I often did (and did not come) remain sat among the other grains of sand. The gathering is the rupture. It is the gathering into a full blown materialization of the resistance to the heteronormative – it could have gone lateral, but instead the crack found a site of rupture. The Cap has gone-rogue, gone hyper, gone death-ward,

Things can remain un-gathered into meanings and may not signify at all. Or they can throw themselves into a full-blown ideology. Situations can be pulled into a trajectory, stretched out onto the line of a project, a career, a relationship, an addiction. Or they can go lateral.¹⁰⁵

Those grains of sand. Those lightning strikes and those waves. They could have remained in their chaotic swarm – a swirling pool of cosmic energy, but instead they made us gather

¹⁰¹ Deleuze, G (2011a) trans. Hand, S, *Foucault* (London, Continuum) p85-86.

¹⁰² Stewart, K (2011) Atmospheric Attunements, *Environment and Planning D: Society and Space*, 29, 445-453, p447

¹⁰³ Ibid. at p446.

¹⁰⁴ Ibid. at p447, where the author writes that this is a slow endeavour that must reflect upon and breathe with the encounter: ‘The unfolding of a pocket slowed and amplified to see what might be in it.’

¹⁰⁵ Ibid. at p452.

and made me come here because they wanted me to be released – but it was me who did not see it.

Tracing the Ethics of the Cap Assemblage

On the same day that I sat on the sand at sunrise, proclaiming my desire for just one man I later went on to undertake a weak attempt at release, angelic leap toward ‘sexual freedom’ when I touched someone in the sea.¹⁰⁶ This leap uncovers a truth about *the soul*. The leap was mine, but it also was not. It belonged to the sand, it belonged to me, it belonged to my lover, it belonged to the Ethics Committee. What I did was not ethical. Not because I breached a code, and not because I was ‘unfaithful’, but because my body was weakened. My body was weakened by the space and its judgment, and it was weakened by a violent love, and the assumptions of research ethics. I wish I had stayed faithful to the sand and sea and to sex. But I was brought to my moment of release – at least there is that saving-grace.

The encounter that occurred later that day was in the sea (once the sand had become too hot) and I touched the ‘attractive’ man at his invitation.¹⁰⁷ I remember how I felt in that moment. I remember I felt anxious, I felt like a revolutionary, I felt unseen and I felt quite scared, but at the same time *aneasthetised, walking air*. My sexual arousal was minimal, since his body did not affect me in the way I felt it ought.

My blood was cut at sunrise, I felt the tragedy in that moment too, that no matter what I did, X would never believe that I was his. No matter what I did, the specters of Oedipus hung in that morning air, along with the buzzing magnificent power of the emerging sun and the smell of the Mediterranean air. The only time I felt I wanted to be at the Cap.

I could never escape, for I was the ‘angel’, but I could never fly, because I was not, I was only a woman. Only a woman, on the verge of miscarrying a child only imagined, yet to be planted, but not wanted, so I shut off the pain in the only way I knew how, I pretended to fly, fly, fly, my love, fly fly fly. Go on then! My body is not enough, not enough, I can’t believe you, I can’t believe you, my lack of the belief in your blood, this blood of ours that will soon glisten your inner-thigh, where the sand sticks.

The sunrise at the Cap becomes an orienting point for my body. It becomes the site of the desired orgasm, as well as the site of an attempted flight away (yet in the ‘wrong’ direction

¹⁰⁶ See *Wave II*, ‘My Wandering’ (Extract from Field Diary 14 July 2014 3.15pm)

¹⁰⁷ Similarities can also be drawn with the ‘unaffected body’ that Lambevski encounters during his ethnographic research. See *Wave II*, Methodological Tools II and Lambevski, A (2001) The flesh of gay sex and the surprise of affect, *International Journal of Critical Psychology*, 3, 29-48, p1-2.

– wrong in the sense I attempted a ‘flight’ away, rather than attempt to fly-with and with-in). It is a cut and a line, this moment, a crack in my heart as I walked back to my apartment for a sleep before going back to the beach at midday. By the time I woke, the rupture was in motion. The question is then, what, or who asserted this line and how did it condition the research, as well as sexuality, assemblage? In addition, what is the line?

By now, it is clear that any one body or a combination could have asserted the line on the collective. I suggest that this line was in our blood. By ‘our’ I mean every single and collective body that was there. We did what was ‘legal’, because the moment would not allow anything other – *that line was so deep*. But the encounter only becomes ethical, if I am situated within the assemblage through an embodied and embodied line of flight away from laws and philosophies which subjugate sex. At this point, it becomes necessary to develop a foundation for a mode in which the radical ethics of the assemblage can be traced. Since the assemblage is so volatile and also powerful, tracking its movements and tracing the ethical line for law becomes challenging. The ethics of any given assemblage are subject to a multitude of conflicting claims as I have argued.¹⁰⁸ The question I pose to myself as researcher in identifying a platform for tracing a radical research ethic demands focus on the ‘mechanisms of emergence.’¹⁰⁹

The coming-together, and the tearing apart of bodies takes place within an ‘assemblage’ (or *agencement*).¹¹⁰ The difference between the French term used by Deleuze (and with Guattari) and the English translation is subtle, yet significant. An assemblage can be understood (in its basic form) as a ‘complex constellations of objects, bodies, expressions, qualities and territories that come together for varying periods of time *to ideally create new ways of functioning*’.¹¹¹ The creation of ‘new ways of functioning’ is an aspect of the assemblage that derives from the French ‘agencement’. The reason that this is important is that an assemblage can be conceived as a mixture of elements that are not static, but move forward in some productive way. The productivity of this movement derives from Deleuze (and Guattari’s) idea that assemblages are ‘machinic’.¹¹² This is essential as

¹⁰⁸ See *Wave III*. In particular, in my project, we have seen competing claims from X, and also from the Ethics Committee. These claims will differ in any given research assemblage.

¹⁰⁹ DeLanda, M (2006) *A New Philosophy of Society: Assemblage Theory and Social Complexity* (London, Bloomsbury) p32.

¹¹⁰ See my initial discussion relating to assemblages as Conceptual Tool V in *Wave II*.

¹¹¹ Parr, A (ed) (2010) *The Deleuze Dictionary* (Edinburgh, Edinburgh University Press) p18, my emphasis.

¹¹² The word ‘machinic’ refers to the movement of bodies towards connectivity in accordance with desire. See Bryant, L (2011) *Two Types of Assemblages* retrieved from <https://larvalsubjects.wordpress.com/2011/02/20/two-types-of-assemblages/>. The author provides an example of coalescing physical elements which assemble to produce a consistency, or machine: When Deleuze and Guattari refer to machinic assemblages they are talking about the

machinic movements within assemblages are movements that run counter to (molar) wholes. Molarity can be considered as both static and a-productive but also as evolving, that is, it is the materialised surface, but its make-up can be challenged by conceiving of the surface as an element of an assemblage. DeLanda claims that this focus requires examination of the 'linkages between the macro and micro... a solution that will involve giving the details of every mechanism involved [in the assemblage].'¹¹³ DeLanda goes on to argue that assemblage theory must translate from an ontological position toward a methodological approach.¹¹⁴ This approach involves an 'assemblage account'¹¹⁵ which traces the relationship, or sites of 'interlocking' between bodies and entities - while respecting their 'heterogeneity.'¹¹⁶ This focus on what DeLanda calls the 'concrete assemblage'¹¹⁷ means that ontologically we can conceive as the encounter of sex as ethically generative at the level of law. If we find law's presence within the assemblage to be problematic, and unethical, then the power remains within it to change this position. The solution is through method. An encounter that takes place within an assemblage is fleeting - as fleeting as my effort to preserve them in my thesis. The encounter itself is what I have claimed to be the possibility for 'release' for the body in the productive framing of ensuring the strengthening of the body, rather than weakening.

The method required is partially the endeavour I undertake here, which I have claimed as that which traces across the assemblage and the rhizome, while also explicitly situating myself.¹¹⁸ This argument builds towards which I have earlier claimed as necessary in relation to a 'sensitive' bodily ethic.¹¹⁹ This sensitivity cannot remain anthropocentric toward human sex, but must be sensitive to the non-human bodies which have been convincingly argued as part of the assemblage. Sex research cannot remain focused on the human body, if it is to assist the law in developing an ethical schema for the release of bodies.

domain of *physical* objects, how they interrelate, and how they affect and are affected by one another. Take the example of the stirrup in horseback riding. Deleuze and Guattari argue (rightly) that the stirrup instituted an entirely new form of warfare. The stirrup provided a firm platform for warriors riding on horses, allowing them to exponentially increase the force of their spears while riding on horseback. This would gradually lead to the evolution of the lance as a weapon of war. If you're analyzing these sorts of relations between objects and their impact...then you're engaged in an analysis of the machinic assemblage.'

¹¹³ DeLanda, M (2006), op. cit., at n.109.

¹¹⁴ Ibid. at p67.

¹¹⁵ Id.

¹¹⁶ Ibid. at p119.

¹¹⁷ Ibid. at p32.

¹¹⁸ See *Wave I*, Methodological Tools III.

¹¹⁹ See *Wave II*, 'Sexuality-Eros-Sex'.

Latour's theory of hybrid networks has been claimed to allow the possibility of such a tracing.¹²⁰ Latour's network is an encounter that takes place through the enactment of habits and the performance of social and legal norms, yet it also becomes possible to characterise matter as both subsumed within these customs, as well as constitutive of them.¹²¹ Latour identifies the immense difficulty of this tracing that is required: 'That a delicate shuttle should have woven together the heavens, industry, texts, souls and moral law - this remains uncanny, unthinkable, unseemly'.¹²² DeLanda's claim that the 'concrete assemblage' must be our starting point, should therefore be coupled with an accompanying claim that we follow these threads created by this shuttle, or network.

This accords with Bennett's suggestion that matter holds an active power to distort, that the network that can be traced gently rests upon matter, and that its fabric is receptive to this active power.¹²³ In order to capture the movement of eroticism, of mutual play and positively framed desire, between human and non-human bodies, it is necessary to understand Latour's networks in line with the Deleuzian conception of the assemblage. This is because Latour adds a way in which the method of tracing the assemblage can be imagined: through sensitive openness to the sometimes imperceptible sex of matter.¹²⁴

¹²⁰ Müller, M and Schurr, C (2016) Assemblage Thinking and Actor-Network Theory: Conjunctions, Disjunctions, Cross-fertilisations, *Transactions of the Institute of British Geographers*, 41:3, 217-229, p226. The authors take the approach that Networks might 'soften' the assemblic 'event' and create a different lens through which to view encounters, such that the priority of 'perceptible' event is subverted. Networks, the authors argue, can be described as gently fluid with 'imperceptible' yet predictable, barely-there ruptures: 'ANT [Actor Network Theory] is better attuned to fluidity, meaning change without rupture, whereas assemblage thinking shows a greater openness towards the aleatory and unpredictable, the event.' I claim on this basis that Latour's networks tend to be a materially practical way in to assemblic tracing, from which to assist the development of practical methodological tools, and might allow as a closer, microscopic look toward sex: see the challenges posed by second of two Practical Methodological Tools at the close of this Wave.

¹²¹ Id.

¹²² Latour, B (1993) trans. Porter, C, *We Have Never Been Modern* (Massachusetts, Harvard University Press) p5.

¹²³ Bennett, J (2010), op. cit. at n.71.

¹²⁴ See also the potential for matter to draw as into sexual encounters that are 'beyond' human sexuality, albeit this is a challenging position to reach since often matter will be seen as an 'extension' of human activity, rather than in mutually constitutive of the encounter. See MacCormack, P 'Queer Posthumanism: Cyborgs, Animals, Monsters, Perverts' in Giffney, N and O'Rourke, M (eds) (2016) *The Ashgate Research Companion to Queer Theory* (New York, Routledge) p122. See also *Wave II*, Conceptual Tool III.

Returning to the Cap at that fateful sunrise, my assemblage was:

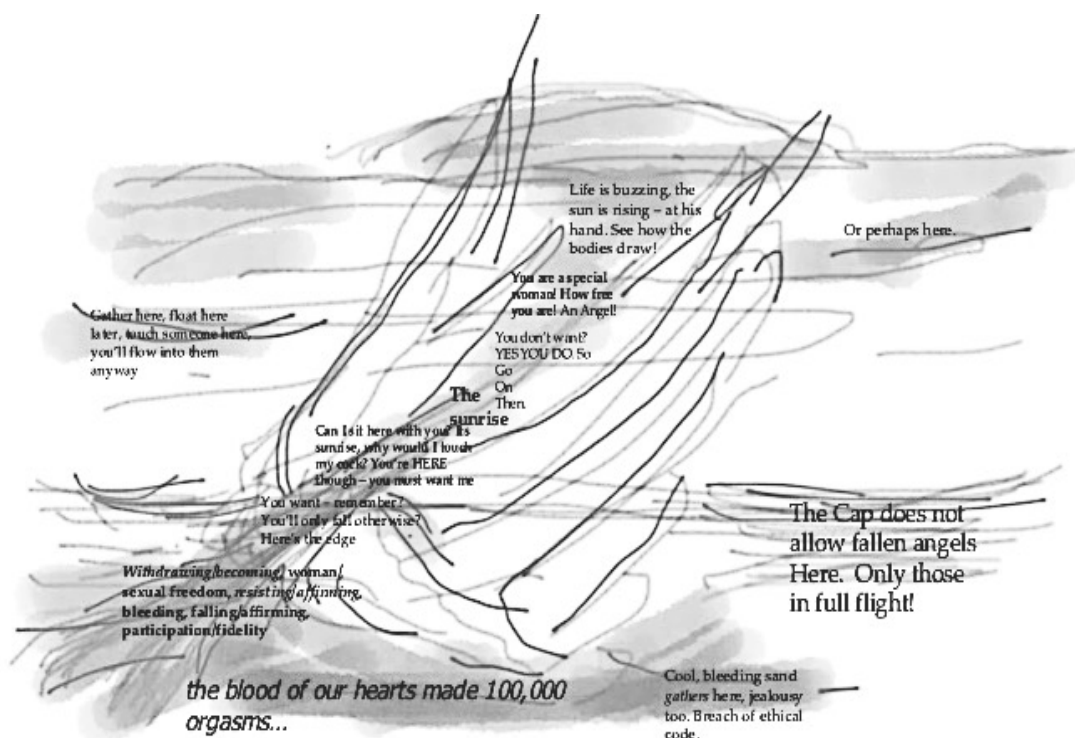


Figure 16: Cap Assemblage Mapped

It is here, in the real 'concrete assemblage' - where the method and philosophy became as singularities as well as conjoined, as well as became-non. The law became its research ethics through the Committee, but then those ethics became sex. It was then that I missed the moment to be radical, yet found an opening for my release - the researcher fell - torn into a million grains of sand, as well as made and formed - at the line between land and sea, at sunrise. The bodies, as we might like to define them can be listed: *sun, sea, sand, me, my lover, the masturbating Frenchman, the institution, the air, research, personality, law, ethics.* They all coincide and crash, and bleed back into themselves where the angel falls or flies - it is difficult to know which.

Sea Spray and Falling Angels

The assemblage of the Cap takes on its consistency from the networks of material (whether human or not) which in their hybridity, form the elements of the assemblage,

...a single voice arising immanently from a multiplicity of voices from a single source, and thus and thereby also falling back as a becoming of a multiplicity of voices within that immanence, like the spray and foam rising up high from the tips of waves and then falling back into an endless ocean, to both merge and emerge simultaneously within and from Being.¹²⁵

The song sang was that of the constitution of a Laruellian falling angel.¹²⁶ The ethical moment is ripe for the line of flight, but as the sea rises, the spray falls back in into itself – on a trajectory not to strengthen the body, but weaken it. I make a case now for caution in approaching the field with dissolution on your mind, since the field is a dangerous place.

The song bodies sing is angelic – the song of angelic sex as *conatus* itself – the simultaneous recognition of ‘desire-as-lack and desire-as-production as two modes of the same.’¹²⁷ It would seem that the death-drive that became the malignant force within the Cap, and remains so, was always coupled with the immanent potentiality of a graceful flight away.¹²⁸ The only flight away would have been through authentic recognition of myself, which I was not allowed to have. For Blake, the ‘angelic sex’ is a steady and delicately building new plane of immanence – a network carefully and gently traced, woven with the softest of subtle touches across the elements of the assemblage. Sex may well be between the bodies we recognise as present within the encounters (sand, sea, body in love, perfect, broken, decaying, addicted, in pieces).¹²⁹ But it might also be angelic,

...in the sense of a conversion of sensuality and affect into information and its subsequent reconversion at a distance of time or space or between desiring partners or particles, from the club to the cosmos, from the bedroom to the black hole.¹³⁰

In other worlds, and in another world, the demand for angelic sex connects with the possibility of the only line of grace. Gentle grace of the angel asked me to flood back into

¹²⁵ Blake, C ‘Pornotheology: Spinoza, Deleuze and the Sexing of Angels’ in Beckman, F (2011), op. cit. at. n77, p177.

¹²⁶ The ‘angel’ is evoked rarely in relation to sex. For the purposes of this thesis, I use Blake’s conception of the angelic sex. Conceptually, the image of the angel becomes a surface for projection, yet it can also instead be both an inhuman sex, as fleeting in appearance, and fleeting in visibility as the encounter itself. The angel is thereby a flight away from the philosophical.

¹²⁷ Blake, C (2011), op. cit., at n.125, p191.

¹²⁸ Ibid. at p190.

¹²⁹ Ibid. at p187.

¹³⁰ Id.

myself and not resist the law, but to change its presence, perhaps to laugh at it and not bleed back into myself but move with my feminine *jouissance* – to find the angel at the Cap. She even showed herself to me that day – remember the couple who looked so much in law, I mean love?¹³¹ I don't know where they met, I don't know for how long they are together, I do not know whether they still are, or whether they stayed together for only that day. They might have been married, they might have been having an affair. No matter the surrounding circumstances, it was clear to me that in this moment, they were transfixing, erotically powerful in their bodily intimacy, *angelic*.

Female sexuality is different to male sexuality in terms of orgasmic priority and this is the origin of Deleuze's apparent attack upon pleasure and the orgasm.¹³² I listened and resisted much too hard. The fuck should have been much gentler, and it should have been the one I asked for. The orgasm at the Cap was relentlessly celebrated with actual applause at the moment of male climax, while the female orgasm was left uncelebrated and unnoticed.¹³³ In fact did anyone care if she came? If she did come, then it must be because she was fucking 20 men at the same time.¹³⁴ The site of my falling, and the failing of the angel was at the shore line that early morning, since it was there that my incapability of living up to this was clear in my blood. The sea said, do it if you want, but you could just float on me, the sand said I'm hot, but you could just lay there with me. The air said, you could just shelter yourself, just be graceful. The institution said you are a woman, so you can't and you won't. My lover said I don't want to believe that you won't, since then my angel dies. The line was drawn by law, the hybrid, gently traced, said pause and think how these bodies might be released.

¹³¹ See *Wave III*, 'The Cap's Fucking Ethics' no.2.

¹³² See Blake, C (2011), *op. cit.*, at n.125, p193. See also above, 'A Radical Orgasmic Research Ethic'.

¹³³ There were a number of instances of clapping and applause at the moment of male orgasm. For instance: 'Just into the foliage and I hear clapping (perhaps a gathering of men, where woman has finished).' It is significant to note that this is not the woman 'finishing' in terms of orgasm, but rather where the woman has stopped pleasuring the men in the gathering. This will be after she has brought one of them to orgasm. See also the following extract: '(an Italian, it turns out) guy has a loud orgasm in another tryst, everyone smiles and laughs and claps (he shouts 'Italia'!) This seems to be the law here - orgasms are celebrated, masturbation is encouraged...' While again the orgasm is celebrated, it is also the case that the *possibility* of orgasm (or more likely involvement within an encounter) is celebrated too. There are two other occasions where applause is noted explicitly in my field diary, but I remember there being many occasions, erupting spontaneously throughout the day and more so in the later afternoon.

¹³⁴ There was an occasion where, behind the dunes, a woman lay and multiple men took turns in having sex with her. She appeared to enjoy this, although, personally, I was not convinced of it throughout – although I did not stay for the full encounter. It carried serious echoes of a pornographic re-enactment devoid of much in the way of intimacy. Perhaps this was what she wanted. I remember being on the cool sand after and seeing her wash herself, alone, in the sea as the sun was setting. There was something that felt mournful about this scene (*field diary*, 15 July 2014, 8.45pm).

Naked Law

The angelic is not an ideal form of sexuality, but rather it can be seen as sex – as attuned to its pre-Cambrian as well as its human emergence through primordial *conatus*. The angelic is the gentle, the softest of tracing – the ethical way forward in order for law to *become-ethical*. The angelic is a flight away from the much feared site of orientation that is the structurally given orgasm. If we are to take Deleuze at his word, and trace from his philosophy toward the non-philosophical Laruelle, then law must change from orgasmic to pre-Organismic. If this be the case, then my experience at the Cap was just as it should have been.

I was naked for a lot of the time while at the Cap – this was for two main reasons: (1) It was extremely hot and therefore on the beach being naked was much more comfortable, and (2) if I had worn clothes, I would have felt out of place and excluded from the space.

Coming back again to the sunrise, where I lay on the cool grains of Laruelle – I was not naked. I was wearing shorts and a T-shirt – a fact covered by the photo in Fig. 6. The illusion and objectivity of nakedness is something that is fiercely protected at the Cap. It is the law that you *must* be without clothes, or at least seem to be. It is strange however, that by the end of my time at the Cap I was desperate to be among people who were not naked. There was something about the nakedness that was paradoxically not naked and almost offensive in its audacious assertion as a rule. It is also strange that I did not feel the need to be naked at sunrise, nor was the beach populated by bodies at this time. The assemblage was sparse – yet the sun burst with angels and matter, the deepest love and a state of momentary, fleeting pre-*conatus*. Yet as the sun burst over the horizon – as did the law, ready to settle into the blood and grains of the bodies, later in the day.

There is an encounter that emerged later on in my stay that uncovers further material truths about the powerful encounter assemblage at sunrise. After three weeks at the Cap, I had become numb to the amount of sex that was going on around me, but also I had stopped noticing the fact that people were naked. The nakedness had become clothing, the imminent realisation of which was evident on my arrival:

‘The flow of the space is clogged by the veil of nakedness – at least for me at the moment while I adjust to the place. The next-door neighbours (a couple, late 40s) are walking around naked, there is little to divide our properties so it is difficult to avoid contact, which I must admit I am doing – worried they may approach me to join them – I do not fancy it.’

Extract from field diary 12 July 2014, 7.30pm

And then, as we reach forward to 29/07, I emerge as 'triumphant' policewoman, as we see in the following:

'I remember being clothed the first time I came here. Another man comes past clothed, the same man confronts him, he eventually takes off his shorts to various cheers. Notice another couple drawing attention of the 'nudist militants', this time in the sea. Shouts at them and jeering. She is slight, wearing a bikini and he is wearing shorts. He pulls them down, to cheers. But then he pulls them back up, to much more jeering. They are close to a gathering of 50 or so people in the sea. They start to walk back to shore. A couple of people walk past the girl and pull the strings of her bikini. She grabs frantically to keep her clothes on. She starts to look angry now and a crowd starts to gather around her. I feel angry at this, why pick on her, this space is supposed to be free. I am on my feet and about to go and give support to the girl. Still there is jeering, louder, furious mob. I then see a guy trying to guide the couple out and through, they then walk off, towards Marseillan, leaving the beach.'

Extract from field diary 29 July 2014, 4.50pm

This is the first time some of the more frightening aspects, almost dark aspects of the space started to emerge to me. I spent a lot of time reflecting on what this means, my empathy and desire to help the girl were strong, but then what were they doing there? I was 'naked'. But then I also knew how it felt to be naked, as a woman, for the first time on that beach. I felt myself withdraw, the touching is so empty and with so many conditions. The law is stricter than I thought, not only the ones I brought with me, but the ones that emerged right there, before my eyes, in the crystal blue sea, in the light of the warming, gentle afternoon sun. I find myself a resistant guard to the codes of the space, not the code of nakedness, but in reaching toward and protecting and upholding, the potential-for the radical form of intimacy that can take place in this site of resistance.

The Cap fiercely protects itself and acts in fierce resistance to the so called social impropriety of nakedness.¹³⁵ The fierceness of this upholding is both a lament to the presence of law within the encounter and its conditioning of the space. The nakedness

¹³⁵ See Barcan, R (2004) *Nudity* (New York, Berg) pp143-205 for a full analysis of the legal, social, economic and political efforts to retain propriety through covering the naked body and our 'natural state'. The reverse effort seems to take place at the Cap, where it is 'impropriety' that becomes the fiercely protected 'decorum'.

also interestingly held moments of eroticism for me, and no doubt for many of the other women that were there at the Cap.

Practical Methodological Tool II: (i) Seeking Angelic Moments

For me, there is nothing more seductive and arousing, than a man with an accidental hard-on, with the attendant pretence of shame and reluctance. The dynamic surrounding this as identified by Douglas et al, is fascinating, if somewhat superficial as to the authentic dynamics of desiring bodies at play:

...on the nude beach, a man's sexual arousal is pretty obvious, unless he can find some way of preventing its making a public announcement. Except for the heavy exhibitionists, erections pose a distinct possibility of embarrassment... The possibility of embarrassment, and the fact of it, as well as any feared legal problem, are managed in several distinct ways...The most common way is to keep your suit on, especially if the erection has already occurred at the excitement of seeing nude women...Sometimes the offender makes the mistake of standing up or trying to walk away... Boys will also tell a girl that this is the reason they haven't taken off their suits...¹³⁶

There is obviously a concession to be made here, since the beach that Douglas et al were investigating was not a swinger's beach and therefore the dynamic is very different. This situation of embarrassment just did not occur on the beach that I was among. Erections and their erotic power were celebrated, as was the moment of orgasm.¹³⁷ As also, I would suggest, was the 'shame' attendant with an erection in public, not in a hard exhibitionist sense, but the simple sweetness of feminine pleasure at male arousal. I saw more erections that I can possibly represent here in the course of this writing-up. But I do know that I experienced no feeling of threat, and no anticipation of legal, or softly legal sanctions in relation to this. This eroticism is generative of resistance, where the narrative of shame has not disappeared but rather because of the material and erotic conditions, it is accepted and celebrated, as the generative presence, or anticipation of something more, but not necessarily getting.

Nakedness, however, in my experience of the place is generated only in these micro-moments. It only becomes erotic as the exposure to the possibility or rather resistance against traditional fear of nakedness. I saw thousands upon thousands of naked people,

¹³⁶ Douglas, J et al (1977) *The Nude Beach* (London, Sage Publications) p82.

¹³⁷ See above, 'A Radical Orgasmic Research Ethic'.

and I touched some of them. But I do not recall ever feeling naked, nor touching a naked person. This is paradoxical, and it is so, since nakedness becomes the 'uniform' of the place. The affect of this, is that sexual vulnerability becomes all the more erotic, rare, and powerful (see above in relation to intimacy). The publicness of the space, means there is a particular spatial 'kink' here, which relates to the clothed-unclothed bodies here. While the space is expansively naked, the true unclothed happens in the intimate constitution of the here and the Real. It is not intimate everywhere; rather, ethics, intimacy and true sexual vulnerability arises only in the rarest of Cap encounters.

Bodies guard the law at the Cap. However, they preserve the possibility of the emergence of intimacy, and the appearance of the angel, the encounter, the performance, the 'Here'. The Cap must fiercely protect and cover the angel, just as my institution, just as my lover, but they will never catch it. They try to and their fail attempts leave its wings, broken and bleeding not into themselves, but into the sand, where the sands own blood, cuts mine. In Blake's text, he uses the theme of the beach as a mode for mobilising a theory of the presence/non-presence of an angelic sex is significant.¹³⁸ The sea and the beach conceal one another and produce deep and powerful encounters, just as they produce playful, stimulating, banal and fleeting ones. A single surface of encountering: a naked surface full of particles of sand, molecules of sea, that hold within them the fleeting realness of the encounter, and the fleeting constitution and dissolution of an angel constituted,

...these metaphysical principles, ultimately tricks of the light, of sound, of perception rather than conception or even genesis. They are a fluctuation, a hesitation, a flirtation between aspects of self-generating difference, as also between absent presence and present absence, between the foam of the sea and the shingle of the beach, between the page and the flesh and the inscriptions of desire and pleasure made upon them. As angels flicker...¹³⁹

This is the passage that constitutes the Laruellian angel. The law at the Cap protects its angel, which is the possibility of encounter and the possibility of intimacy. The unfortunate thing for the angel, is that although it is there, it is often disguised, and easily inscribed by the cut of the blood of the living. The sex of the angel, might well be microscopically transsexual, or it might even be without sex at all, but it is easily painted, easily sexed and subsumed within the logic of law, and of philosophy. The law and our bodies, other bodies, must inscribe it. Matter though, sea and sand, the air, will resist – it

¹³⁸ Blake, C (2011), op. cit., n125.

¹³⁹ Ibid. at p194.

is closer to angels, *closer to the rising sun*, than we have let ourselves become, despite the length of our soul. Law made me forget it, too.

Practical Methodological Tool II: (ii) Waves, not Measurements?

In claiming that connection to the fleeting 'angelic sex' is necessary for law's ethical stamp to become sexy, there is a further and final demand to law – that it *become-quantum*. I have previously mentioned, in a fleeting manner, that measuring particles causes them to change from their inherently 'wavy' state.¹⁴⁰ I have also argued that the Cap guards the possibility of intimacy, and that the joy of it can be as fleeting and imperceptible to law and sexuality as the female orgasm. However, this might be a little hasty. Those who are engaged in encounters that I argue are perpetuating traditional, transgressive and banal forms of sexual behaviour, may in fact conceal these angelic moments. We might assume that a woman having an affair with a married man is doing something unethical, and that she suffers and does not know enough about herself to be intimate, or be sex-y and to come, within such a position and carve her own ethical path.¹⁴¹

We might assume that within the multiple orgies and gatherings at the Cap, that there was no delicate flash of intimacy between those human and non-human bodies. In short, I claim that in following law, and following philosophy as definitive of encounters, we miss the sites of this radical sex, and thereby the ethical possibility of strengthening weakened bodies.¹⁴² It is easy to name and subjugate a body that is a sex worker, queer, deviant and so on, and therefore in need of an identity and protection from law.¹⁴³ Yet it remains difficult, as in my case and in the case of the bodies at the Cap (as those with an active sexuality)¹⁴⁴ to allow a body to be weak, or even strong, or other than what is

¹⁴⁰ See note *Wave I*, Ethics of the 'Y'.

¹⁴¹ The first step to determining the ethics of this would be first, as I have argued through tracing the bodies across the assemblage: different bodies will act differently and fold differently within such assemblages.

¹⁴² I do not argue that a body in a 'transgressive' encounter is weak, but rather than we cannot assume in either direction. That the weakness and strength of bodies can be conceived in many ways and can be other than subjective assumptions.

¹⁴³ See Lefebvre's arguments in relation to the false 'universality' of the human subject in human rights discourse: see Lefebvre, A 'Human Rights in Deleuze and Bergson's Later Philosophy' in de Sutter, L and McGee, K (eds) (2012) *Deleuze and Law* (Edinburgh, Edinburgh University Press) pp50-51. See also Blake, C (2011), op. cit. at n.125, p187, where the author claims the possibility of subverting even sub-categories (categories which the law might constitute but not recognise as solid identities) such as 'sand', 'sea', 'perfect', 'broken', 'body in love', 'addicted body', 'body in pieces' through connection to the fleeting, momentarily real, 'angelic sex'.

¹⁴⁴ For instance, see *Wave III*, 'Fleeting Moments: Angelic Sex', n.174. Particularly there is an inclination socially and at law, to 'demonise' active female sexuality. See also 'transphobic' judgments in cases such as *R v McNally* [2013] EWCA Crim 1051: see *Wave II*, Conceptual Tools III.

assumed about their identity. This is often because the real materialisation of these moments of experience are so easily missed, within angelic flashes of sex.¹⁴⁵

The angelic sex demands a creative act of measurement to ensure that we do not distort it. Wendt argues that measurement can have a strange effect on the appearance of particles we try to observe and define:

The build-up of an interference pattern in a two-slit experiment without detectors indicates that each electron goes through both slits, and therefore behaves like a wave before it hits the photographic plate. The disappearance of this pattern when detectors are put on the slits challenges that conclusion, since each electron then goes through only one slit, suggesting that electrons are particles the whole time... Measurement is somehow intrinsically connected to a change in our description of the electron.¹⁴⁶

Although it is unclear what actually happens on a physical level to particles at this level, there is both an ontological and epistemological point to be made in relation to law.¹⁴⁷ The waves are difficult to capture, and in fact the very act of attempting capture can alter their materialisation. Ontologically speaking, the law's regime is crude in relation to the capture of sex, as I have claimed due to its epistemological, philosophical foundations.¹⁴⁸ The wavy nature of particles that are captured by law, remain elusive to it. In quantum mechanics, the wave is seen as a 'wave-function', or pure possibility, or potential – not as a visible, traditionally understood wave in the sea, sound wave, or even wave of knowledge.¹⁴⁹ The wave function remains a mystery, even to quantum mechanics.¹⁵⁰ That being said, there remains an important methodological point within the very elusive nature of the wave function:

Prior to its measurement, the wave function constitutes a complete description of a quantum system; there is no definite reality hiding behind the wave function about which we could obtain further knowledge if only we had the means.¹⁵¹

¹⁴⁵ See *Wave III*, 'Fleeting Moments: Angelic Sex', n.174.

¹⁴⁶ Wendt, A (2015) *Quantum Mind and Social Science* (Cambridge, Cambridge University Press) p46. See also *Wave I*, 'Ethics of the 'Y'.

¹⁴⁷ Id.

¹⁴⁸ I have argued this throughout, but see in particular regarding the theoretical necessity (*Wave II*, *Conceptual Tools III*) to adopt methodological strategies (*Methodological Tools I, II and III*) which must translate into *Practical Methodological Tools I and II* in order to inform law's judgments of encounters.

¹⁴⁹ Wendt, A (2015), op. cit., at n.146, p47.

¹⁵⁰ Ibid. at p48.

¹⁵¹ Ibid. at p47.

The true nature of an encounter, even on a microscopic level, can never be concretely measured, *which renders measurement in itself 'creative.'*¹⁵² Measurement in whichever form it takes, is a creative act. I do not claim that my methodological approach has the ability to finally observe the 'wave-reality' since this would be impossible. However, in accepting measurement as a creative, and non-philosophical endeavor,¹⁵³ we can avoid the trap of subjugation and the subsequent weakening of the power that is within particles (and therefore bodies) that we cannot capture for the purposes of measuring and defining. Sometimes we miss the sex within a sexual encounter, and this means that we miss an opportunity to access its potential to change our understanding and judgment of what sex *is*, and how it ought to transfigure into judgment and sexual jurisprudence. This is the method that the angelic sex demands of law in order for it to find its sex-y ethics. Method becomes the mode of access to this place and this moment: where the researcher-practitioner feels and moves as a body of and among vagabond particles.

¹⁵² Ibid. at p46.

¹⁵³ Laruelle, F and Schmidt, A (2014), op. cit., at n.1: I open this Wave with Laruelle's question as to which bodies are sexed: 'Who is sexed? The soul, the body, existence, work, economy, the sun, the moon, angels?' According to the conception of encounters that I have built in my thesis, all bodies come together through assemblic encounters, connected through souls and through law and ethics. Even the sun and moon at the Cap were sexed for me. But angels, they might just not be sexed at all, but rather *sex itself* (see n.139).

Conclusion: Law's Becoming-Ethical, Ethics Becoming-Sex

I have set out my thesis as a process of wading into the encounter and encountering four distinct 'waves'. These waves have taken my thesis through and across the assemblage of the Cap. In order to trace this encounter's ethical balance, I have encountered and explored the use of six 'Conceptual Tools' and three 'Methodological Tools'. In the course of navigating and considering, as well as implementing these tools, we have necessarily encountered in *Waves III* and *IV*, two 'Practical Methodological Tools'. Each wave encounter has traced the 'life' of the Conceptual Tools, and how they productively intersect with method. This intersection has then resulted in peaks, which have formed the tracing of a leap into sex. As a result of its legal subjugation, sex calls for the operation of practical methods. These methods allow for the subversion of assumptions in the field of *sexuality*, where subjugation and presumption creates a distorted vision of what the ethical balance is relative to the bodies that are having *sex*.

Conceptual Tools

I began by outlining the conceptual tools of law and ethics. Ethics have been the place where bodies and spaces (defined as the second Conceptual Tool) are empowered to shape the law, through contextual rules that attach to encounters. Law retains a place within ethics, as a 'stamp' of 'judgment' which identifies and defines bodies. We have seen that as an encounter, sex is difficult to access, and therefore difficult to incorporate within an ethical schema. Sex demands that law adopt a deeply inquisitive approach to such encounters in order to feed into ethics, which in turn, feed forward to law. The third Conceptual Tool is the creation of the space between sexuality and sex, which establishes sex as the root of unstable and wandering sexuality. This instability originates from the bodies (human and non-human) which operate together in creating the wandering line, or encounter, which is capable of destabilising legally constituted sexuality.

The fourth Conceptual Tool of immanence allows for the empowerment of bodies to be complicit with the formation of sexuality, and therefore capable of changing how sexuality defines the body. Assemblages as the fifth Conceptual Tool is a device for allowing bodies of all kinds to participate within an immanent encounter, which has been claimed to be a useful device for undertaking research in sexuality research, and for framing sexuality as posthuman. The Soul as Conceptual Tool VI allows for the situating, as well as the de-centering of the researcher's body within the field. We have seen that each body, whether human or non-human is uniquely *individual*, as well as *connected* through the material and lines of law within the soul. My thesis also has its own soul, and

its theoretical teleology mirrors its method. Across it we can find lines. From those lines we can constitute a basis for law to take flight through radical ethics, into the fleeting and potentially emancipatory sex. This is possible through the Methodological Tools I have used.

Methodological Tools

The first Methodological Tool of the 'I' is central to my thesis. This device both situates the researcher within the project which I have argued is necessary on the basis of the personal and impersonal nature of sexuality. With the situation of the 'I' within research, comes significant risks, which is why this appears as Methodological Tool II. In order to reach the personal-impersonal space which I argue (with the accompaniment of the Conceptual Tools outlined above) is the radically ethically generative site through which bodies can shift legal understandings of sexuality, through sex. It is useful to track this process through the 'method mapping' I have outlined as Methodological Tool III. This method mapping has allowed me to track the bodies within the Sexuality Assemblage that I am among, and to find the lines which I share in common with the collective.

Practical Methodological Tools

Even with radical methodological tools it is difficult to overcome or to escape the subjugating forces of law and of philosophy. Since I have founded my concepts and methods through philosophy (albeit bodily-sensitive philosophy) I find myself taking a particular position within the field. This position is necessarily informed by those theories that have provided insights into the questions that I ask of the law and of sexuality. But in the field, in order to be radically reflexive and to reach the moment of ethical emergence and law's subsequent judgment, it is necessary to adopt a mode that places the emphasis on practical, felt and sensed experience of sex. The first practical methodological tool is the Researcher-Practitioner, which situates the researcher in the field of both researcher and legal practitioner. Such a body is empowered to question the law from the inside, while living its reality. These moments are fleeting, just as the present, just as time space, just as multiple as the possible worlds there are to 'measure'.¹⁵⁴ Yet the law tries to capture these moments and represents them as sexuality. I have seen that sex, orgasm and intimacy occur in a hidden place, even in such an overt sexual arena as the Cap. Law, and indeed Ethics Committees might just manage to come close to these moments, if it were to allow the Researcher-Practitioner to inform its findings and judgments in relation to sexuality. Sex is difficult to measure (perhaps even impossible). I suggest as the second

¹⁵⁴ Wendt, A (2015), op. cit., at n.146, p47.

and final Practical Methodological tool that law internalises its ethical impossibility, in order to become sex-y ethical through creative attempts at measuring through research-practice.

Angelic Ethics

Ethics is the law's safety net that allows law to go back and check the cracks and evaluate the ruptures in the context of real encounters. The question that I now try to answer is how sex can be incorporated into ethics: whether generally, or in the specific context of research ethics. It became apparent through *Wave III* that the ethical code underpinning my interactions with the Ethics Committee was not ethical. It was ethical in the sense that this was a 'code' based on an envisaged encounter, but it was not radically ethical. It was not radically ethical because it disembodied me as researcher, the bodies at the Cap, and sex itself. This also made my thesis far richer, since it opened the possibility of a challenge to the foundation of these 'ethical decisions'. My thesis itself, could be seen as an 'ethical emergence', calling for an 'emergent law'.

I claim that where the law is called to judge encounters, that is mode and method should be a form of ethical jurisprudence, which is necessarily in these cases, the becoming-sex of ethics. We could call it an *angelic* jurisprudence, since for ethics to become sexual and radically ethical, it must fly, becoming fleeting, personal and impersonal and almost untraceable. It must become a radical mode which allows for reconnection to presence in the encounter, in the moment. This can only be achieved through law's radical reconnection with its momentary presence within sex – not at the point of orgasm, not at the moment of penetration, not even at the moment of first touch – but the moment of the first glance, the draw, the fleeting, angelic, pre-*conatus*, where the researcher-practitioner will find herself situated.

The Significance of the Cap

Without the Cap I could not have come to these conclusions. The Cap and in particular the moment at sunrise, was a perfect storm and a perfect curse. It was also a perfect gift of assembling bodies producing the very moment that demands an ethical intervention, that must find exactly the point between shingle and spray. A seemingly impossible demand. My note to ethics now is that I know it is difficult and I know too, that it could take you at least three years in order to find that place and the tools in which to do so. My thesis does not demand perfection however, but it does demand that ethics pay close attention to *research* and its *methods* in order to inform its path to the moment. Method too

must rupture however in order to reflect the other side of this demand to ethics as the preceding breath of law.

The assemblage which I called 'Cap Assemblage Mapped', which depicts the falling angel could not have been were it not for law and for ethics. Although the angel is depicted as fallen, fatally maimed, bleeding, it is not as though it were law or ethics which committed the divine murder. We all said that the journey ends and begins in this moment of judgment, as we said this is the perfect moment of dissonance which declares the ethical and legal confluence, as well as the methodological rupture. This time and place however, was the moment. It was sexuality, sex, law, ethics and method, radically emplaced as jurisprudence and in the shadow of death was the spectre of the angel's reemergence and flight into the afternoon of that day. The angelic jurisprudence says: I was using the wrong method, and I forgot myself - *I followed the law to the letter in my resistance.*

Through my research and in particular through the method I used, a space was created for the personal and for the appreciation of all that is brought to the moment - in a *partial* yet *impartial* perspective. This I have claimed is essential when it comes to issues of sex, and especially when it comes to connecting these encounters of sex, to *sexuality*. Sexuality is the line drawn in the sand by law, and also drawn in the soul. As we have seen, law is replete with its judgments and arbitrary constructions of the legal subject. These constructions have been subject to much brave and eventually productive resistance. Yet as critical legal scholarship has seen, these re-articulations of the legal subject come from the same problematic place - that of where they start. The judgments are made by the same voices, from and to the same point - the point of orientation - continually entrenched through the same methods and jurisprudential rationality and reasoning. The moment is not preserved, and all spectres of the angel are eradicated - if indeed the angel were ever there. The moment disappears into the annals of history and into the future of the production and of the same, with the moment reduced to banal transgression.

My research at the Cap is a manner of a suggested jurisprudence in carefully making the journey from sex to sexuality, through the only manner open to law, which is *ethics*. In the first instance, this is jurisprudence through method. This is a long and complex process in this thesis since each element of this needs to be justified in resistance to the line of objectivity. Objectivity is prized by law as that which has the capability of applying to all in a fair, just and reasonable way. It is however the case, that this prized line is also prized too in research. This is no banal coincidence. Findings, both through the courts and through the court of academia are deemed to be far more valuable if they are objective, and that we ensure separation between our inner and outer-field. If indeed there were

ever such a separation. Certainly in the case of sexuality, this line is not only harmful to authentic and applicable findings, it is actively obstructive to it and forms, I would argue, an explicit *ethical* question as to the situating of the researcher within the field into which she enters. The extent to which the partial perspective of the researcher is placed within any research endeavor will of course not always, if at all, be central to the work. However, when we come to scrutinise law, as that which is determinative of the encounter as well as determined by, the role of the partial becomes crucial. It becomes crucial not only in terms of the validity of findings, but rather, if the aim of research is either implicitly or explicitly to effect change in the law, then this research must be ethical, and the ethical must become personal. In short, if as I suggest, law in becoming-ethical requires research, then research must become ethical too, and that requires some personality.

I had to go to the Cap. I had to go there to test myself, but I also have to go there to test *it*. This necessity of testing is also an ethical point that must be accounted for in the this becoming-ethical that I argue for. I have argued, among others, that sex demands that we as researchers, *write with it and for it*. In the course of doing so we must write with everything that brings us to, and moves us within, the research encounter in order to identify those trajectories which form lines, which rupture both our inner and outer field. The Cap's particular call for testing was also a call for testing within myself. The Cap holds itself as being a space of hetero-sexual freedom, as well as a space of hyper heteronormativity. It is a space of banal transgression, which conceals intimate secrets. The banality of this transgression is that it remains within the legally-generated frame of ethical resistance. The ethical schema is indeed highly *sexualised*, but not *sexed*. The ethics of the space is not intimately connected to bodies. Such an intimacy would require the reconnection to the momentary ethical determination.

This momentary determination redefines the ethical encounter and the limits of the legal body. The Cap is a space full of fleeting ephemeral encounters; yet in their fleetingness, these encounters are not less weighty. The type of encounter is highly unusual and I have argued that due to the materially coastal conditions of the space, the visibility and *sensibility* of the angelic sex is enhanced. The ethical moment is that much more likely to emerge. This is emergence not only of *conatus* and determination, but of the opportunity for the connection to and with the radical mode of sexy jurisprudence that I argue for.

Law's Becoming-Ethical, Ethics Becoming-Sex

Having made the case for it, it is then necessary to attempt to outline what such a jurisprudence would concretely require of the law. It is difficult to imagine the body of law (common law, statute, regulation, institution) that reflects this mode of jurisprudential method in every case and in every situation. It might well be that this method is not necessary, nor does it suit. My argument is that in cases concerning sex, it will – and in order to establish this mode, the law must make a space for the Researcher-Practitioner. Others have argued that law's jurisprudence must become universal in its adventurousness, and it is from that position that I argue for this method in cases concerning sex. In the course of implementing that method however, there is a *specific* requirement that law connect to the ethical, angelic moment, because of the way that sexuality conditions encounters. It is beyond the scope of this thesis to imagine how the organs of the justice system ought to adapt to allow for this, but indeed they will need to and indeed they can – since those bodies are assemblages too, of which we are a body.

We have seen the deep injustices in cases concerning sexuality which have been critiqued. My thesis has encountered these cases, through my own encounters at the Cap. The Cap is sinister and beautiful because all of sexuality, and all of sex is there, all of law, and all of ethics. Research and jurisprudence must become intimate, through the deployment of bodies such as the one I hoped to become: the Vagabond-Lawyer-Girl, into spaces such as the Cap. This researcher-practitioner body is a valuable body to the law, in finding its way into the fleeting, powerful, personal, impersonal and intimate touch of sex, and subverting it from the sexually un-ethical inside.

End-play: 'You must never feel these feelings again, and suffer again, and I wish you
only love, and never suffering.
I know you suffered a lot at my hand.'

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Appendix 1

I set out below the Committee's concerns below, together with my response to each:

Similar research has been undertaken previously and the Committee wish to be reassured that the proposed study is sufficiently distinct to constitute new research. e.g. in Portugal (I am obtaining a reference for you and will forward that separately).

The text by Andriotis that the Committee mentions is one that I am aware of and have used as a reference in my chapters drafted to date and submitted in support of my application to transfer. The basic difference between my study and Andriotis' is that mine examines a beach in France, while Andriotis examines a beach in Greece. There are no studies with similar methodological or theoretical approaches which examine Cap D'Agde in Southern France.

While Andriotis' study also observes sexual behaviours on a nude beach and there are a number of similarities, there are also two further important differences. First, Andriotis' study focuses on homosexual practices on a gay public nude beach, whereas my study will observe homosexual, bisexual and heterosexual practices on a semi-public nude beach. The aim of my study is to observe not one particular type of sexuality, but sexuality generally and how the body is affected by the materiality of location, which feeds into the second difference between Andriotis' work and mine - the theoretical approach. My theoretical approach is Deleuzian/new materialist, which aims to conceive of the legal body as open to the affects of the materiality of coastal spaces and other bodies. In this way, my study is not theoretically focused on any particular type of sexuality, but rather on how sexuality generally is enacted despite the presence of the law. Andriotis maps the terrain through a Foucauldian conceptual underpinning which conceives of a gay nude beach in Greece as a space of 'Heterotopia', or a space where socially deviant sexual practices can be undertaken without offending social or legal norms. While there are similarities between these approaches in that Andriotis examines how boundaries and elements specific to the terrain shape sexual behaviour, my approach is more focused on the affects brought about by flesh and blood bodies, the physicality of the terrain and how these affects are mediated by law; as opposed to examination of the social dynamics which create a space of Heterotopia.

It should also be noted that there are other studies which are also similar in terms of terrain and the methodology employed, such as the study by Douglas et al, *The Nude Beach*, which not only examines

homosexual behaviour, but also heterosexual, bisexual and group sexual behaviour on the beach. Douglas' study of the beach is a solely ethnographic work, which does not theoretically map the terrain, or the interactions between bodies, nor does it examine the effect of the presence of law but rather focuses on social and normative rules. Another similarity between mine and Douglas and Andriotis' work which is of particular importance in terms of the concerns of the Committee is the empirical part of the study, which I will address in relation to the additional points raised by the Committee below.

The Committee have serious concerns about your safety given you will be working off-campus with negligible support in a potentially dangerous environment where individuals nearby could be actively seeking a sexual encounter.

There are two points to mention here that I hope will alleviate the Committee's concerns regarding my personal safety. First, it is true to say that the parts of the beach at Cap D'Agde I intend to observe will be the ones where sexual encounters are taking place and it is also the case that a number of visitors to the beach at Cap D'Agde are in pursuit of a sexual encounter. However, there are also visitors to the beach (including general holiday-makers and families with children) that are not, and for this reason, especially in the high season (which is when I intend to carry out the study) there is a significant police presence on the beach as well as security posts along the length of the beach (see Velton's *The Naked Truth about Cap D'Agde* for details of this). It should also be noted that while people may be there in order to have sex, there are rules and norms which govern sexual interactions at Cap D'Agde such that no one is ever forced to engage in a sexual encounter, and it is simply a case (if actively approached) of saying 'no thank you'. Cap D'Agde is a large holiday and nudist resort (one of the largest in Europe) which also occasionally allows (at least tacitly, if not legally) open group sexual encounters on the beach during the daytime. As such, acting outside of these norms and rules is extremely rare since to do so will result in not only exclusion from potential sexual encounters, but more general social exclusion, and potentially ejection from the resort entirely. It is also the case that (as noted in Andriotis' study, p1083) remaining clothed on the nudist beach tends to prevent those who are in search of a sexual encounter from making an approach in any case. In order to avoid the minimal risk associated with refusing an approach (should this occur) I will only be carrying out my observations during the daytime when other people and resort security will be present. I will also not remain on the beach when the crowds start to leave, meaning at no point will I be isolated.

The second point which is relevant here relates to the methodology I propose to employ. Both Andriotis and Douglas undertake unaccompanied covert non-participant observations on similar terrain and there are no occasions noted on which safety became a concern. At this point it is also important to mention that the proposed terrain in my study avoids certain methodological concerns highlighted in Andriotis' work. He notes on p1084 that the presence of someone who is a 'known researcher' can disrupt the behaviours of those who consider their behaviour outside of the norm since they are trying to hide it. In the case of my proposed study this concern is avoided since my presence, let alone my presence as a researcher, is unlikely to be noticed on a beach occupied by a significant number of people (Cap D'Agde receives in excess of 300,000 visitors a year - see Velton).

To sum up, the beach at Cap D'Agde is not a hostile or predatory environment where I am likely to experience pressure to engage in sexual encounters. It is also extremely unlikely that my presence as a researcher would become known due to the amount of people that are on the beach during high season, so I will not experience any hostility in this respect, although I will go into more detail regarding this when addressing the Committee's next concern.

The Committee were unclear how you would record the observations, for example would you propose relocating to improve the quality of your observations, and if so how would you be able to guard against suspicions being raised about your activity. Is it possible to undertake covert observations in this way and at the same time remain inconspicuous?

I propose that I will observe the parts of the beach where the majority of sexual activity takes place. I will observe these places at various times throughout the daytime across a period of two weeks, which mirrors the methodological strategy employed by Andriotis. Since sexual activity occurs at various places along the length of the beach, I will indeed relocate in order to gain a complete picture of how the space and presence of bodies and legal devices affects sexual behaviour on the beach. However, I will also ensure that I maintain a suitable distance from the sexual activity taking place, as well as carrying a book and/or taking notes while observing, both of which will make it obvious that I do not wish to engage in sexual encounters. As noted above, at all times throughout the day there is a large volume of people on the beach at Cap D'Agde, where most are not engaging in sexual activity. There will also be people present on the beach who are simply relaxing in the sun and may be reading and also keeping notes, as Andriotis notes on p1083 of his text, 'Note-taking was not conspicuous, as a number of bathers often read or

kept notes while on the beach'. Andriotis' study took place on a substantially smaller beach, so it is suggested that at Cap D'Agde it will be very unlikely that anyone would recognise that I am carrying out research. People often change locations at Cap D'Agde and it is normal practice for there to be a constant stream of people walking up and down the beach, so it is unlikely that my behaviour as a covert-observer would be in any way conspicuous (see Velton).

As has already been noted, there have been other studies (albeit in different locations with different theoretical approaches) that are comparable methodologically. The approach proposed here is therefore not unheard of, and produces a solid empirical base, where discovery and safety has not been a concern.

Concepts of privacy could be contentious. While the research will be undertaken on a public beach, the individuals being observed may view their area as being a private or semi-private space. As there are quite strict laws in France relating to privacy has there been any assessment of the legality of the proposed research in the local context? Can you confirm that any proposed covert observations will only take place on people who are in a space that could be reasonably be observed by others, the individuals would have no expectation of privacy and that you will not follow individuals to better observe them should they go behind bushes/into caves, etc.?

The resort of Cap D'Agde is a well-known holiday and nudist resort, which means that people who are going there in pursuit of sexual encounters on the beach do so in order to be seen by those who are staying at the resort or those who are there as part of a day-trip. The individuals observed would therefore have no expectation of privacy if they are engaging in sexual activity on the beach, which is the only place where I will be carrying out observations. I confirm that I will not pursue observations of individuals who wish to engage in private sexual activity, although it should be noted that there are no caves along the beach at Cap D'Agde.

Although French privacy law is somewhat more developed than English privacy law, this study will not infringe the principles of privacy afforded under the European Convention of Human Rights, or the French Civil Code. The scope of privacy in France covers personal information (including information relating to sexuality), but only where this information is gathered through meddling in the private affairs of the claimant, who intended to keep the information secret. This would not apply here since the beach is not private and since the people there do not have any expectation of privacy and will not be identified in any event. It is acknowledged that if at some point in the future this study is published, then there could potentially be some feelings of 'unease' experienced if someone who was present at Cap D'Agde at the time the observations were carried out were to read it.

In this regard, the name of the beach could be omitted from the study and it could simply be referred to as 'a beach in Southern France'.

Have you considered recruiting “Key Informants”? i.e. recruit users of these areas as a means of reducing safety concerns, however, it is recognised this would have an impact upon your proposed methodology and may provide less satisfactory data.

I thank the Committee for this suggestion, however, the data that would be produced as a result would not be sufficient so as to allow effective application of my theoretical frame. I need to be able to see for myself how other bodies, the law, as well as the physical and material properties of the terrain draw out encounters and movements. While people in the community would be able to account for these to an extent, I have a particular theoretical lens through which I propose to observe and map the terrain, which would be difficult to articulate in terms of questions to key informants. My project is also an ontological one in the sense that I will be examining how the terrain itself draws out behaviour, rather than human perceptions of the space. There would also be difficulties in terms of the transient nature of the community at Cap D'Agde since it is a holiday resort and people tend to stay for a few days, or a week or two, as well as language difficulties in this regard as during high season the population is either French or German speaking.