

# How to become a wild lawyer

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If the ideas in *Wild Law* appeal to you in principle, you may now be wondering how to put them into practice. You may feel daunted by the challenge of how to translate them into our current system, and feeling overwhelmed, be tempted to give up and revert to the old ways of being, or decide that the ideas have no validity because it seems like too big a stretch to apply them.

Help is at hand. Some intermediate steps can be taken that will make the task easier. The worlds of management, systems theory, humanistic psychology and other disciplines contain useful approaches that lawyers can adapt in order to equip themselves to play a full role in addressing the environmental challenges we now face.

First, it is important to recognise that the way lawyers are currently trained and organised in practice is not particularly conducive to the type of holistic thinking which is necessary to integrate *Wild Law*. As someone who has followed a conventional legal education of a law degree at a red brick university, law school, articles in a city firm, eight years' practice as a commercial litigation solicitor and 10 years as a mediator working alongside lawyers to resolve disputes, I have first hand experience of this. From my 25 years' involvement with the legal profession, I have observed a habitual way of operating, which I describe as 'traditional lawyer'. Below I will set out the characteristics of 'traditional lawyer' and the shifts needed to become 'wild lawyer'.

## The shift from traditional lawyer to wild lawyer

### Role and Identity

Mostly lawyers do not create policy – they implement policy decisions that are made by others. Occasionally lawyers can shape policy when drafting considerations dictate structuring things in a certain way, or more overtly by bringing test cases, but this is not generally part of everyday life for the average lawyer.

Lawyers are generally cautious, risk-averse and concerned with maintaining the status quo. *Wild Law* challenges lawyers to take on a different identity as agents of change, which will feel unfamiliar and possibly uncomfortable to many lawyers.

*Wild Law* has identified that governance is a crucial aspect of creating a healthy relationship with the planet, so lawyers have a vital role to play in redesigning our

governance system so that it can operate effectively. If lawyers do not seize this opportunity, it is likely to be taken by others and lawyers will be sidelined.

### Linear versus holistic thinking

There is a fiction in legal reasoning that the world operates in a linear, cause and effect way. The concept of 'causation' from damages law is a good example of this. Legal reasoning is still based on a Newtonian worldview, whereas we have known for over a century from quantum physics that the world is a complex system of energy and that events do not happen in a linear way. Lawyers would benefit from learning more about systems theory and ecology in order to design governance systems that are more organic and biological than the mechanistic, Newtonian systems within which we are currently operating.

Lawyers tend to be more comfortable commenting on the ideas and proposals of others, than creating ideas of their own. *Wild Law* places demands upon them to envision radically new ways of being – and be willing to advocate them.

### Cross disciplinary working

Creating a new vision will require collaborating with other disciplines. When I did my law degree we touched on social sciences and philosophy, but other than that, law operated in a separate silo and did not recognise the need to learn from other disciplines.

As *Wild Law* says, if we are to honour our relationship with the natural world, we need to design laws that are consistent with the Great Jurisprudence – the innate laws of the universe. This requires that we have at least some understanding of ecology and natural self-renewing systems, not subjects currently taught on most law degrees. Interdisciplinary working is vital in order to deal with the challenges ahead. No one discipline has the answers alone, so collaborative working will be essential. This requires lawyers to build working relationships with other disciplines and to find ways to communicate with them that transcend the jargon that each discipline uses when they are conversing with their peers. It may be that lawyers will need the assistance of professional facilitators, who can create an environment where deeper dialogue and communication with other disciplines is possible.

### Detail versus the big picture

Part of the skill and training of a lawyer is to pay great attention to detail. Small errors in drafting or time limits

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can have disproportionately huge consequences, so lawyers tend to be vigilant and constantly checking the minutiae. They also need to relate this to the bigger picture and understand how the detail relates to the overall objective and how different parts of a structure interrelate to each other. However, most of the attention tends to go on the detail.

In order to grasp the magnitude of the challenges now facing us and comprehend the degree of paradigm shift necessary to embrace *Wild Law* and move forward, it is necessary to look at the big picture, both in terms of where we have come from and where we may be going to. This can be scary. As T S Eliot said: 'Mankind cannot bear too much reality.'

When we look at the 4.6 billion year history of the planet, it is astonishing to think that the activities of the last 100 years may be sufficient to bring life on Earth – as we know it – to an end. We are currently living in what Thomas Berry calls 'The petroleum interval'. It has been around for less than 100 years and is unlikely to survive more than another 100 years, and yet because it is all that any of us who are alive now have known, it is hard to envisage anything different. Nevertheless, envisage it we must. Oil will run out and we need another plan in place. This is not just about alternative energy sources, but our lifestyles and behaviour. As governance is a crucial part in all of this, lawyers have a role in creating a sustainable future, rather than simply just implementing the ideas and decisions of others.

Lawyers' preference for detail over the big picture is borne out by the typical psychological profile of most lawyers. The Myers-Briggs Type Indicator (MBTI)<sup>1</sup> is the most popular psychological profile in the world. Based on Jung's theory of personality type, it measures a number of polarities, including how we take in information about the world around us. This polarity divides into 'Sensors', who tend to focus on facts, figures, detail and concrete examples and 'Intuitives', who are drawn to patterns, possibilities, trends and the bigger picture. Most lawyers (and most of the population in general) are Sensors. In order to implement *Wild Law*, lawyers would benefit from developing their Intuitive function.

## Creativity

Law as it is taught and practised tends to be a rational, logical, primarily left brain activity. Lawyers will talk about looking for creative solutions to problems, and may well come up with them at times, but precious little effort is put into actively nurturing the conditions in which creativity can flourish. The world of management has now amassed considerable knowledge about how creativity can be encouraged and this is a standard module on most MBA courses, yet lawyers lag behind. An investment in creativity training would go a long way to creating the mindset necessary to come up with innovative solutions as to how

to put *Wild Law* into practice. At the very least there needs to be a recognition of the contribution of right brain thinking, which is relational, artistic, visual and uses metaphors rather than words. The concept of 'emotional intelligence' or EQ is now fairly mainstream. Daniel Goleman, author of *Emotional Intelligence*<sup>2</sup> established that EQ was a far more reliable predictor of success in life than IQ. Again, this is not given much attention in the average legal day, which tends to value intellect above all. We need to recognise, value and harness a variety of intelligences in order to use our creativity to the fullest to address the challenges ahead.

The current culture of working long hours definitely does not nurture creativity, which requires downtime. Recent research on brain function shows that the time when the brain synthesises ideas and puts them together in new and novel combinations is in theta brainwaves, which occur when just dropping off to sleep, meditating or when relaxed. Our busy, pressured lifestyles tend to keep us in beta brainwaves most of the time, which is less conducive to having good ideas.

## Profession or occupation?

Historically, one of the hallmarks of a profession as opposed to an occupation is that it sees itself as having a wider role in society beyond just serving the needs of its immediate clients and making money. It has been said that law started as being a profession, then became a business and now has become an insurer of last resort (an indemnity policy to claim against if the deal goes wrong). It is not surprising that it is easy to lose touch with what it means to be a professional.

Former US Supreme Court Judge Warren Burger once said 'In the next century lawyers will be reconcilers not warriors, healers not hired guns'. How can lawyers take up their role as healers of the planet? One of the factors that caused me to leave legal practice was my increasing discomfort with acting as a 'hired gun' for clients whose values I did not share. Lawyers have an individual and a collective challenge to decide whom they serve and how they will do this.

It is not possible to be value neutral in the practice of law. There are all sorts of values and assumptions embedded in our jurisprudence and lived out by clients. We need to make those values explicit and take responsibility for which values we choose to serve. Corporations have huge power now, and it is questionable, to say the least, whether they are exercising that power in a way that serves the environment. We each have personal decisions to make as to how we engage with those vested interests.

## Homosphere and biosphere

Cormac Cullinan makes the point very eloquently in his book that we now spend most of our time in highly artificial environments ('the homosphere'), divorced from the

1 I Briggs Myers, *Introduction to Type*, Oxford Psychologists Press, 1987.

2 Daniel Goleman *Emotional Intelligence* (Bloomsbury, 1996).

natural world, which make it easier to maintain the myth that we can somehow exist separately from the biosphere. Modern working life certainly emphasises this, especially as we often spend most of our time looking at a computer screen rather than another human, let alone plants, animals and scenery. Modern office workers count themselves lucky to have a window from which they can see the outside world, and are very unlikely to be able to open it; instead, they are confined within hermetically sealed, air-conditioned offices. We need to make a deliberate effort to spend as much time as possible in the natural world, and find ways of reminding ourselves of it in the working day, whether with pictures, plants, a quick walk to the park at lunchtime, taking time to look at the sky or listen to birdsong whilst waiting on a train platform. Even these small snatches can go some way to keeping us connected to the biosphere.

### Summary

The table below summarises the points made above.

There are a number of routes to move from the left to the right column. Here are some ideas.

- Take the long view. Rather than being caught up in the here and now and the minutiae of the current project, take time to reflect on where we have come from and where we are going to.
- Take responsibility for envisioning a new future beyond the petroleum age. This concerns all of us and cannot be left to just a few people.
- Develop your Intuitive side – MBTI is a good tool for doing this.
- Decide to explore your creativity. Learn under what conditions you have your best ideas, how you work best with others and how to encourage creativity in your workplace.
- Take time to reflect on your values and who you are ultimately responsible to – notice where you may be compartmentalising.

Traditional Lawyer	Wild Lawyer
Putting into effect the decisions of others	Creating policy and future directions
Maintaining the status quo (cautious, conservative, risk-averse)	Being an agent of change
Linear, reductionist, mechanistic (Cartesian/Newtonian)	Holistic, systemic, organic (quantum physics)
Reviewing the ideas and proposals of others	Working with others collaboratively to create something new
Specialist focus on legal expertise (operating in silo)	Drawing from other disciplines and ways of thinking (eg biological sciences, ecology, systems theory, change)
Focusing on detail and the here and now (Sensing function – MBTI)	Seeing the bigger picture and taking the long view (Intuiting function – MBTI)
Left brain – primarily valuing logic and rationality	Right and whole brain – valuing experiential learning, intuition, creativity and EQ as well as logic
Ruled by timesheet and ‘long hours’ culture	Allowing downtime to nurture ideas and creativity
Primarily serving the interests of corporations – being an occupation (‘hired gun’)	Recognising a wider duty to the whole Earth Community – connecting with the historic function of a profession (‘healer’)
Maintaining the fiction that law is value-neutral	Recognising the embedded values and assumptions within our governance systems and taking responsibility for what values we choose to pursue
Office-based and relating primarily to technology (living in the homosphere)	Taking time to be in the natural world (connecting with the biosphere)

- Remember why you wanted to be a lawyer in the first place. What motivated you to want to join the profession?
- Learn from other disciplines, eg by actively seeking out multidisciplinary groups. In particular, we need some understanding of ecology in order to align with Great Jurisprudence.
- Be open to learning from indigenous peoples – what other models for governance are there?
- Aim for balance in your life. Are you giving attention to all four dimensions of mental, emotional, spiritual and physical? How can you build in more balance, both personally and organisationally. Allow for downtime – that’s when ideas are germinated.
- Be open to redefining your role as a lawyer more widely, both individually and collectively as a profession.
- Find others who think and feel like you, create groups and networks for support, encouragement and momentum.
- Spend time in the natural world and reconnect with the biosphere, as a way of balancing the time we spend in the homosphere.

The Indian poet Rabindranath Tagore once said ‘There are four rooms in my house; the mental, emotional, spiritual, physical. I will spend more time in some than the others, but to be healthy I must visit each room at least once a day’. (‘Spiritual’ does not imply any particular religious tradition, simply ‘that which inspires us’, a universal human drive.) Lawyers undoubtedly spend most of their time in the mental room, and if they visit others, they are unlikely to do so during the working day. To become a wild lawyer, we need to integrate all four dimensions into our lives. This is a paradigm shift in the way that lawyers function. I hope that as many as possible rise to the challenge.