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## Image and Affect: Between Neo-Baroque Sadism and Masochism

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I. INTRODUCTION

As Richard Sherwin writes, today “[w]e are awash in images.”<sup>1</sup> Without doubt, the image is a problem for us; the difficulty lies in formulating the character of this problem. Being awash in images, how are we to problematize them? Can we isolate ourselves sufficiently, such that we can begin, today, to speak of the problem? As Jacques Derrida pointed out, the problem is a question of protection, of a sort of shielding<sup>2</sup>: how to set up a dam or break that would offer us some shelter against the deluge of images, create a breathing space, not necessarily free of images, but at least sufficiently cleared that we can set up a safe zone, a *proper distance*. That would seem to be the first order of business, after which we could then probe, send ahead of ourselves, the problem: In which way, and to what extent, should we restrain images?

Sherwin pursues this in terms of a sublime that might “arrest” the flood,<sup>3</sup> or at least provide us with a life raft so that we can keep our heads above water. Or could there even be an island, on the shores of which we might be washed up; could we move from sea to land, in a reversal of that trajectory described by Carl Schmitt?<sup>4</sup> The appropriateness of such a move is clear, given that, for the Schmitt of *The Nomos of the Earth*, it is only really on land that it becomes possible to establish that *katechon* which is capable of holding the powers of the antichrist—or at least, Caliban—in check.<sup>5</sup> Nevertheless, such a sublime moment is not without its ambiguities, as Esposito makes clear:

[T]he *katechon* restrains evil by containing it, by keeping it, by holding it within itself. It confronts evil, but from within, by hosting it and welcoming it, to the point of binding its own necessity to the presence of evil. It limits evil, defers it, but does not eradicate it: because if it did, it would also eliminate itself.<sup>6</sup>

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1. RICHARD K. SHERWIN, *VISUALIZING LAW IN THE AGE OF THE DIGITAL BAROQUE: ARABESQUES AND ENTANGLEMENTS* 13 (2011).
  2. JACQUES DERRIDA, *APORIAS* 11–12 (Thomas Dutoit trans., 1993).
  3. *Id.* at 9.
  4. See CARL SCHMITT, *LAND AND SEA* (Simona Draghici trans., 1997).
  5. CARL SCHMITT, *THE NOMOS OF THE EARTH IN THE INTERNATIONAL LAW OF JUS PUBLICUM EUROPAEUM* 59 (Gary L. Ulmen trans., 2003). The notion of *katechon* refers to a sort of bracketing or holding-at-bay, acting as a restraint against overwhelming and often chaotic forces, through which a space-time of order can be both instituted and protected. It is noticeable that Agamben’s account highlights a basic ambiguity, between a restraint that keeps the Antichrist at bay (the perspective of Schmitt, for example) and of a *katechon*, being manmade and temporal, that serves to delay God’s presence. See GIORGIO AGAMBEN, *THE TIME THAT REMAINS: A COMMENTARY ON THE LETTER TO THE ROMANS* 108–11 (Patricia Dailey trans., 2005). It is in this context, I believe, that we should also read Deleuze’s early article *Desert Islands*, where he describes an oceanic island that, ambiguously deserted to the extent that it is populated, acts as a break against the turmoil of the sea. See GILLES DELEUZE, *DESERT ISLANDS AND OTHER TEXTS 1953–1974* (David Lapoujade ed., Mike Taormina trans., 2004). The resonance, intended or otherwise, with SCHMITT, *LAND AND SEA*, *supra* note 4, is obvious.
  6. ROBERTO ESPOSITO, *IMMUNITAS: THE PROTECTION AND NEGATION OF LIFE* 63 (Zakiya Hanafi trans., 2011).

Likewise, Sherwin points to the need for law to take the image up inside itself, to become fluent in the medium, so that it might hold its ground, turn back the tide:

To meet the challenge of visualizing law in the age of the digital baroque, this book argues for the cultivation of visual literacy and for a renewal of confidence in the world maintaining power of human inventiveness. Simply put, we need to revitalize the *legal imagination*.<sup>7</sup>

Whilst I share the problem, I wonder if it is best formulated as finding some kind of break, of finding a way to keep the image at bay. Because, unlike Sherwin, I am not so convinced that behind the image there is nothing,<sup>8</sup> but rather that behind the image there is always another image.<sup>9</sup> Consequently, to say that we are awash in images does not necessarily lead us to conclude that we are awash in nothing; and, at the same time, to be awash in images today does not mark us as different from those that have gone before—we *have always been awash in images*. It then becomes necessary to re-problematize the question of the image, to hold the ground, perhaps, elsewhere, and in at least two ways: first, to consider the image as something broader than the visual image; and, second, to deny that there are more images today than yesterday, in order to show something else—that today there is more *communication*. Like Leibniz,<sup>10</sup> we thought that we had reached port . . .

## II. AFFECT

Do we need to think of the image as necessarily encompassed by vision? Or, rather, is thinking of the image a useful way to problematize, to consider vision alone, as a faculty isolated from the others? This is not to suggest that, by wresting it from its relations with the other faculties, there is something disharmonious in treating vision by itself, but rather, the opposite: that vision, alone, lacks the problems that it might otherwise have. By itself, there is not enough interference in vision or, better, not enough *encounter*. The danger in isolating the eye is that the eye is already a problem of a particular sort, going ahead of itself to see what is, necessarily, over there. In the very formulation of the problem in this way, it becomes difficult not to doubt that the eye lacks truth, or even honesty, being, as it is, too easily deceived, *because* of the necessary distance from what it sees. From this follows the danger of assuming too easily that the seen image is suspicious, being something other than the copied “model” that, whilst looking like the model, also falsely stands in for it. Here, the image is a degradation, an illusion, an absence, *not real*. Thus too much is already taken for granted: a restraint has already been presupposed, a ground already cleared before the problem even begins; in other words, before vision, *an image of*

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7. SHERWIN, *supra* note 1, at 5 (emphasis added).

8. *Id.* at 33.

9. Nathan Moore, *The Image of Law*, 20 INT'L J. FOR SEMIOTICS L. 353, 353–62 (2007).

10. Leibniz thought that he had reached *terra firma*, the solid ground of a sound argument, only to realize that he was still out at sea, facing difficult and uncertain conditions. GILLES DELEUZE & FELIX GUATTARI, *WHAT IS PHILOSOPHY?* 22 (Graham Burchell & Hugh Tomlinson trans., 1994).

*vision*, in the same manner that Gilles Deleuze writes of an image of thought.<sup>11</sup> If we take vision alone, if we restrict ourselves to seeing only images, then it is very difficult to escape from a *nomos*<sup>12</sup> of the eye, that both distances and places in a seemingly pre-given manner.<sup>13</sup> If so, then the problem of images is not that there are too many of them, but that we think of them as conditioned by the eye.

The eye sees only at a distance, of course, so that, in considering the image in these terms, we are confronted with the difficulty of locating it: Just where is the image? It seems to be where it is seen, but we already know that what is seen is not what is actually there, inasmuch as the image doubles, copies, misdirects; unless, of course, there is something that can guarantee the correspondence of copy and model, that can reassure us that a proper impression has been made. If not, is the image seen, then, in the eye, on the screen of the retina? But we have the same difficulty: Is it simply in here, in the mind's eye? Is the image shut off from the world, and if it is, how do we know that it is truthful to that world? And, in any case, just where are we, the ones who see? Perhaps we can get around this difficulty by trying to see vision at work, to "see seeing." This is the aim, a necessary one, which Sherwin wishes to promote. In so doing, he follows Merleau-Ponty, who arguably went further than anyone else in pursuit of this problem,<sup>14</sup> such that the distances of the eye collapsed into those of touch. But still, there is the difficulty of the toucher and the touched even, and most of all, when one touches oneself. In this sense, it really does make you go blind, as one's self races between the two points of a circuit, simultaneously "touched" and "touching," or a "here" and "there" which is also a "there" and "here," but always stroboscopically.<sup>15</sup>

Contained within this is the never-ending problem of the material and the rational: Is the image really a thing, out there, or is the thing really an image, in here? In other words, to what extent is the image a representation? "Representation"

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11. GILLES DELEUZE, *DIFFERENCE AND REPETITION* (Paul Patton trans., Athlone Press 1994) (1968). See ch. three in particular.
  12. As Schmitt is careful to describe, *nomos* is generally understood, incorrectly, to mean 'law.' In a much more subtle reading, Schmitt traces different vectors of meaning within the term *nomos*, giving particular emphasis, as is well known, to the aspect of appropriation—that is, the forceful appropriation of territory as the first necessary step for establishing a legal order. SCHMITT, *supra* note 5, at 67–79. In footnote 51 in *A Thousand Plateaus*, Deleuze and Guattari give a quite different emphasis, prioritising the aspect of distribution. GILLES DELEUZE & FÉLIX GUATTARI, *A THOUSAND PLATEAUS: CAPITALISM AND SCHIZOPHRENIA* 557 n.51 (Brian Massumi trans., Athlone Press 2d. ed. 1992) (1980) [hereinafter *A THOUSAND PLATEAUS*]. The question of distribution is closely linked to the nomad by Deleuze and Guattari, but is already central in Deleuze's early *Desert Islands*. See DELEUZE, *supra* note 5.
  13. Should we become aware of the problem in these terms of a pre-given distance and place, the danger is that we formulate a solution only as something after the distance of the eye. The problem then seems to be overcoming that distance, for example, through the sense of touch—in which case, too much is still presupposed.
  14. See generally MAURICE MERLEAU-PONTY, *THE VISIBLE AND THE INVISIBLE* (Claude Lefort ed., Alphonso Lingis trans., 1968).
  15. The strobe refers to a rapid alternation between two points, such that the distinction between them becomes indiscernible. See GILLES DELEUZE, *Hélène Cixous, or Writing in Strobe*, in *DESERT ISLANDS AND OTHER TEXTS 1953–1974*, *supra* note 5, at 230–31.

is perhaps a better word because it brings to the surface that doubling that causes the difficulty of both place and distance in the first place, and this is the very difficulty that we want to avoid; in which case, we must turn to Henri Bergson. In *Matter and Memory*, Bergson refuses the distinction between thing and representation, in order to reject the problem of the material and the rational *as a pertinent problem*. The cause of its impertinence is clear enough: being a vicious circle, this too-philosophical problem becomes a little automaton, through and around which thinking can blindly lumber for all eternity with the safety and comfort of knowing that it will never reach a solution. The difficulty, for Bergson, is that such thinking, which asks “Do things impress upon our minds, or does the mind project representations?”, is too gripped by *truth*: of thinking that there *is* truth, and that truth, as an idea, can guarantee, or at least validate, the laborious trudge around the vicious circle. Bergson is interested in something else: action. As a consequence, it became necessary for him to think in different terms, which involved keeping a special meaning for “image”: an image is neither thing nor representation, but something between the two. To be clear, Bergson did not suggest that an image is some sort of compound of thing and representation, or that it is a result of some kind of tension between the two. Rather, an image occupies a middle ground, pushing both thing and representation beyond the border, such that, within Bergson’s argument, it becomes apparent that for him the universe does not contain representations and/or things, but only one thing, and one thing only: images. The novelty of this argument is startling, even today: images, and nothing but.

Matter, in our view, is an aggregate of “images.” And by “image” we mean a certain existence which is more than that which the idealist calls a *representation*, but less than that which the realist calls a *thing*—an existence placed halfway between the “thing” and the “representation.”<sup>16</sup>

Why only images? For Bergson, it is clear in the first chapter of *Matter and Memory* that the term “image” will allow him to consider the universe as riven by movement. It is really this dynamism that he wants to foreground, refusing the Platonic constraint that assigns immutability and consistency to what is true. Movement means that images are *affected*: an image is such only to the extent that it is affected by other images—that images impress themselves upon it, and likewise, that an image impresses itself upon other images. This goes beyond Merleau-Ponty, inasmuch as Bergson refuses *not to begin with movement*: his is not a philosophy of things or representations to which movement is then added (it is not a case that movement exists in the displacement of an object from point A to point B, or from “here” to “there”). Rather, movement is the first term, meaning images encountering other images, images inside images, and without end.

Here are external images, then my body, and, lastly, the changes brought about by my body in the surrounding images. I see plainly how external images influence the image I call my body: they transmit movement to it. And I also see how this body influences external images: it gives back movement to them.

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16. HENRI BERGSON, *MATTER AND MEMORY* 9 (N.M. Paul & W.S. Palmer trans., Zone Books 1991) (1911).

## IMAGE AND AFFECT: BETWEEN NEO-BAROQUE SADISM AND MASOCHISM

My body, is then, in the aggregate of the material world, an image which acts like other images, receiving and giving back movement . . .<sup>17</sup>

Consequently, Bergson has already moved outside of the need for restraint. The *katechon* becomes secondary, inasmuch as thought no longer begins by clearing a ground, by bordering a space for thinking to take root. Instead, thought is already in motion—thought is an image, but not one that represents the world within it. Rather, the brain, a vector of thought, is in the world, *in matter*: “The brain is part of the material world; the material world is not part of the brain . . . the brain is by hypothesis a part of [the] image.”<sup>18</sup>

Deleuze will find a pre-echo to Bergson in Spinoza. For example, this quote, taken from Spinoza:

The affections of the human body whose ideas present external bodies as present in us, we shall call images of things . . . And when the mind regards bodies in this way, we shall say that it imagines.<sup>19</sup>

Whilst we have an inadequate idea of what affects us, we can maintain, as Spinoza does, a difference between mind and body,<sup>20</sup> but only to an extent: mind and body pass into each other at that point where we grasp an external body adequately, meaning that our capacity for action is increased or decreased in some way. As there is always a commonality between the affected and the affecting (even when the affect is, in some sense, detrimental, such as poisoning), there is always an element of adequacy, or usefulness, in any encounter.<sup>21</sup> More to the point, the mind and the body (the rational and the material) cease to be distinct in the adequacy of the encounter, and an encounter—any encounter—is marked as movement, meaning movement in itself and not movement from “A” to “B.” Deleuze writes:

[F]rom one state to another, from one image or idea to another, there are transitions, passages that are experienced, durations through which we pass to a greater or a lesser perfection. Furthermore, these states, these affections, images or ideas are not separable from the duration that attaches them to the preceding state and makes them tend towards the next state. These continual durations or variations of perfection are called “affects” . . .<sup>22</sup>

Rather than a space to be cleared, or the restraint of a dam, where and by which a proper order of images might be initiated, there is first the great wash of images, and the movement-durations that they envelop. In this sense, an image is not a discrete thing, but a singularity, like a wave on the sea. Vision is less something to be seen than it is an image, an affectation pertinent to the transitions of a body, which is itself an image. This means that the eye is not relative to the things it sees but is,

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17. *Id.* at 19.

18. *Id.*

19. GILLES DELEUZE, *SPINOZA: PRACTICAL PHILOSOPHY* 48 (Robert Hurley trans., 1988).

20. *Id.* at 49.

21. GILLES DELEUZE, *EXPRESSIONISM IN PHILOSOPHY: SPINOZA* 275–76 (Martin Joughin trans., 1990).

22. DELEUZE, *supra* note 19, at 48–49.

instead, *in* the things it sees, being a specific point of encounter between images. In which case, can we still speak of “eyes,” of “bodies,” of “duration,” and so on? Hasn’t everything lost its specificity by becoming an image? Isn’t there, behind the image, a lurking nothing after all, a void of non-differentiation? If all is image, isn’t there simply just one big image? If we discard the form of things in advance, if we refuse to say “first there was the restraint,” what are we left with?

However, perhaps we can get something more from the problem of the image than this. To say that there are only images is to say that there are only movements, only intensities, and not as a matter of comparison between different states, but as the moment of transition itself, in which an image is the *becoming* more or less—not more or less this or that, but simply more or less. If we could gather together all of this “more, or less,” then we would have something akin to Spinoza’s “God, or nature,” but to do that, we would have to be God or nature or, rather, we would have to believe that there is some point, some perspective, from which it would be possible to see as God or nature. We would have to believe, in other words, in some limit, in some ultimate *katechon* from which it would be possible to look in and see it all, as if we could gather up all possibility. However, the will to do this becomes questionable as soon as we ask, “What is the function of the possible?” Usually, we tend to think of the possible as something that we could do, as a matter of choice, it being understood that the alternatives exclude each other: “this is possible,” or “that is possible,” but not both together. By making such choices, it seems that the possible is gradually exhausted, as if, finally, it might be possible to exhaust everything, left only with what was necessary and unavoidable: the power to make choices by realising possibilities, or a proper (because “finished”) set of images without movement.

This returns us directly to the problem of the problem: Is it a matter of discovering some principle, some truth, from which problems are formulated? Is there something necessary in the problem that can protect us, by going ahead of us, by being *there already*? An abstract principle from which all of the possibilities then follow? This is entirely correct, so long as it is understood that the principle was not there, already, waiting for us to exhaust it: rather, the principle was *constructed* in order to make the possibilities in question—the apparently *necessary* choices—possible. In Stenger’s study of Whitehead, this becomes clear: a principle, a hypothesis, is put forward, not to test its truth, *but because of what such a principle or hypothesis makes possible*.<sup>23</sup> Similarly, Nietzsche’s point that the Greeks invented their gods out of a sense of gratitude: the gods had to be invented to make a particular way of life possible. It is usually the case that, wanting to get to the essence of things, we consider the problem to be determined by this or that principle, rather than the principle of principles itself—that is, the problem of the problem. But, as Whitehead maintained, it is not the case that the abstract explains the actual, the concrete, but rather that it is the abstraction itself which requires, and in the first place, explanation.<sup>24</sup>

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23. ISABELLE STENGERS, THINKING WITH WHITEHEAD: A FREE AND WILD CREATION OF CONCEPTS 16–18 (Michael Chase trans., 2011).

24. *Id.* at 78–79.



How does this help us in thinking of a universe composed entirely from images? How do we retain an idea of specificity if everything is simply an image? Here, we must make a distinction between two types of exhaustion, following the concept of the exhausted set out by Deleuze.<sup>25</sup> On the one hand, the type of exhaustion referred to above: the exhaustion of possibilities, without considering how the possible came to be possible in the first place. This type of exhaustion is simply tiredness—the tiredness of running through all of the possibilities, of making choice after choice, until one is depleted. The other type of exhaustion is not the pursuit of possibilities, meaning that it is not the actualisation of one possibility after another. Instead, it is the exhaustion of the particular problem or principle that made the possibilities possible in the first place: the exhaustion of the possibilities, not by realising each and every one of them, but by the exhaustion of the principle of abstraction by which they became possible as such.

The tired person no longer has any (subjective) possibility at his disposal; he therefore cannot realize the slightest (objective) possibility. But the latter remains, because one can ever realize the whole of the possible; in fact, one even creates the possible to the extent that one realizes it. The tired person has merely exhausted the realization, whereas the exhausted person exhausts the whole of the possible. The tired person can no longer realize, but the exhausted person can no longer possibilize.<sup>26</sup>

As Deleuze goes on to suggest,<sup>27</sup> we should not consider this kind of exhaustion—that is, the inability to “possibilize”—as something that comes after and late in the day. Rather, one is exhausted from the very beginning, even before birth, because it is only by being so exhausted that one is able to be born, meaning that only in exhaustion is it possible to be affected. Why is this the case? Exhaustion, in having done with the possibilities of a problem, makes possible a possibility of a different order, that of the wager, or the artisan,<sup>28</sup> in which a transition occurs from one problem to another. It is exhaustion that carries one out of one problem and into another: a line of flight. However, the point is that the problem is not pre-given—it is not an abstraction waiting to be discovered, but something that has to be constructed. Possibility is artifice, but this exhaustion involves no choice: one is carried, relentlessly, into the new problem, meaning that one has no choice but to construct this new problem, to work out a new set of possibilities, in passage.

We cannot then say of images that they are indistinct because they are all possible. Instead, images create zones of possibility—that is, they create problems and principles—to the extent that they are becoming more and/or less. It is the

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25. See GILLES DELEUZE, *The Exhausted*, in *ESSAYS CRITICAL AND CLINICAL* 152–53 (Daniel W. Smith & Michael A. Greco trans., Verso 1998) (1997).

26. *Id.* at 152.

27. *Id.*

28. See Anne Bottomley & Nathan Moore, *Law, Diagram, Film: Critique Exhausted*, 23 *L. & CRITIQUE* 163 (2012). The concept of the artisan is developed further in this work. Suffice to say here that the artisan is the one who takes the wager of experimentation, not as an ideal gesture, but as a consequence of being.

affectivity of images that precludes the possibility of a complete set of them—“God, or nature” as an image of thought, but never a “God-image” or a “nature-image.” For this reason, images, even though they pass into each other, are always distinct, marking a specific transition whilst lacking a definite form: “the greatest exactitude and the most extreme dissolution; the indefinite exchange of mathematical formulations and the pursuit of the formless or the unformulated.”<sup>29</sup>

This means that images are not limited to the visual—or rather, that the visual is one modality of the image, vision being itself an image. To understand this more clearly, it is necessary to insist on the relationship between images and exhaustion. Encounter, sensation, perception, and so on, are all processes of exhaustion, whereby what is perceived, sensed, or encountered occurs not in between two entities, but rather as a vector or transition. There is a close connection here to the eternal return, inasmuch as the eternal return is a process that selects only that which is capable of returning, of bearing repetition, which is the repetition of repetition itself.<sup>30</sup> To exhaust is to induce affect, such that everything caught up by it, and carried along, is distributed by this affect, or return. This is why we should consider there to be, behind the image, yet another image: that is, another possibility of possibility. To understand the image to be constituted as and by nothing is to mistake exhaustion for tiredness: what is nothing is precisely the series, without end, *of realising what is possible*, of making one choice after another, of selecting between terms, of assuming a pre-given, bounded space. Selection is not choosing between, but distributing (i.e., *nomos*): this is the meaning of exhaustion, or the affect of the image. Without doubt, it is necessary to endure tiredness, just as it is imperative to see, but we must understand what makes these possible.

### III. EXHAUSTING LAW

In a sense, the possibility of law existing as something that could, in a truly grounded manner, divide up entitlements, distribute plots, and select due emplacements, is strung between the twin poles of Plato and Kant.<sup>31</sup> Plato will serve to tie the law to the principle of the good: we might say that, in Plato, it is necessary to develop the good as an abstraction, in order to make it possible for a particular idea of law to exist.<sup>32</sup> By the time of Kant, this principle of the good has become difficult, because the problems to which Plato’s ideal is attached have become displaced by other, more pressing problems. In other words, the good has been exhausted, certainly not through its being achieved or realised to completion, but as a matter of possibility: the possibility of realising what the good makes possible has become exhausted. It then becomes necessary to think again, as Kant does, what law might be capable of being. For Deleuze, a particular aspect of Kant’s endeavour is

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29. DELEUZE, *supra* note 25, at 154.

30. DELEUZE, *supra* note 11, at 115, 126.

31. Gilles Deleuze, *Coldness and Cruelty*, in GILLES DELEUZE & LEOPOLD VON SACHER-MASOCH, *MASOCHISM: COLDNESS & CRUELTY & VENUS IN FURS* 81–90 (Jean McNeil & Aude Willm trans., 1989).

32. As Deleuze indicates in an interview: a law of, and for, the claimant. DVD: Gilles Deleuze from A to Z (Semiotext(e) 2011).

significant: no longer able to rely upon the Platonic ideal of the good, from which law might be deduced, Kant effectively reverses the relationship, so that what is good now depends upon the existence of a law—the law *interiorises* the good, and the latter follows from the existence of law.<sup>33</sup> From this starting point, Kelsen will be able to construct his normative system. However, the question that Deleuze asks of Kant's reversal is this: How might Kant's reconceptualization of the relation between law and the good be exhausted?

In *Coldness and Cruelty*, Deleuze finds an answer to this in the works of two writers, Masoch and Sade. In both, literary techniques are developed for exhausting the law, according to Deleuze's account, but through two very different procedures. In Sade's case, it is a question of demonstrating that the good, as a Platonic principle, does not exist. However, the manner of making such demonstrations leads Sade to a very different place from Kant. In the first instance, Sade dismisses the law made by men: for him, it is an effeminate law, which exists only within the sensual realm of bodily experience. Not only is this law not explainable by reference to some higher good, but any assertion that the good might exist within man-made law is also rejected. This latter point is so because the law, in Sade's view, restricts freedom; tyranny is only possible in, and through, a framework of law.<sup>34</sup> Consequently, the goodness of the law cannot be presumed.

Even more, man-made law involves both creative and destructive elements: it is creative of particular relationships to the extent that it recognises the validity of the claims which ground those relationships; and it is destructive of others, to the extent that the claims are rejected. However, what is intolerable for Sade is the law's presumption in assigning to itself the right or ability to decide claims at all: this is why the law is restrictive of freedom. In contrast, Sade wishes to insist upon a type of claim that cannot be answered, but instead shows, through demonstration, its inherent validity. Not a claim made to law, but a claim that, through its very assertion, *proves its own validity*.

The Sadean claim is the assertion of a principle of pure destruction: not a destruction that exists in relation to construction, but an outright destructive impulse played out through a particular, institutional, tension. Through ferocious incestuous acts, Sade seeks to prove that the law can be transgressed, and in the most outrageous ways. Such transgression is not important because it provides an escape from law; much more than this, the extremity of the congresses described in Sade's work, combined with their superhuman repetition and variation, show that the law is completely irrelevant to such a destructive desire. Desire, here, is not carried through a chain of signifiers, but directly impresses itself upon the desire of others, forcing them, where necessary, to the will of the stronger. Desire is then not mediated by and through a law which it is concerned to escape, but is an unmediated and direct expression of itself, a "pure" force applied directly and immediately, without reference to any exterior support or origin beyond its own ability to act to its full extent.

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33. Deleuze, *supra* note 31, at 83.

34. *Id.* at 86.

However, what prevents Sadism from becoming a fully formed Spinozism is the fact that Sade, in Deleuze's analysis, is concerned to demonstrate, through the immediacy of an unrestrained desire that consumes to destruction everything within its path, a transcendental principle, or primary nature, of continuous and rapid movement. This, however, differs from both Spinoza and Bergson, inasmuch as Sade understands this primary nature to be ideal, to be a purely rational logic of movement, which dissolves even the singularity of images in an all-encompassing movement-image. Such a rationality cannot be lived, but only demonstrated, such that Sade is forced to continuously show, again and again, that the sensual world is capable of being utterly annihilated at the behest of a coldly logical desire of reasoned destruction. The repetitions<sup>35</sup> drive wedges into the linear passage of time in an attempt to shatter it and, eventually, suspend it altogether, to reveal a final time of total destruction, without end. The number and rapidity of repetitions are then crucial as strategies to try to make what Sade wants to demonstrate irrefutable: that man-made law is a vulgar farce, with the impudence of a pretender who seeks to replace the true law of primary nature: a never-ending, all encompassing, destructive capacity. As this higher, rational law can only be made to live in passage, in the process of those atrocious acts that show the irrelevance of man-made law, Sade exhausts law through a stroboscopic effect: the revelation of the higher law is only possible by achieving a speed of repetition, in which each single instance appears to connect seamlessly to the next, producing a moving image akin to that visible in a zoetrope.<sup>36</sup> Each Sadean outrage is akin to an isolated image that, rather than being constituted by movement, must have movement added to it, by being made to flicker.

Sade is aware of the futility of the demonstration, knowing full well that, after one demonstration is made, it will be necessary to carry out another, and then another, and so on. Consequently, his is the position that insists upon the rational necessity of the superior law, upon the self-evident fact of destruction, whilst, contrarily, only being able to achieve this demonstration through the most stylised and controlled ritual performances. There is more courage in Sade than in Kant, to the extent that Sade makes no attempt to maintain the integrity of the law's relation to the good. Rather, his work points starkly, and repeatedly, to the inevitability of a law *detached from any notion of what is good*, of the unavoidable necessity of a law that refuses any restraint, flowing freely in its destructive impulses. Yet, *ironically*, that law can only be demonstrated within the rigorous *katechon* of the brothel, the bedroom, or the castle. Sade prioritises the form of the institution<sup>37</sup> so that man-

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35. Within Sade's work itself, these repetitions of course take the form of constant storytelling, by which tales of debauchery are given and then, necessarily, given again and again. Each repetition then serves as an element in a demonstration that seeks to refute any "natural" order, other than that of perversity and chaos. Ironically, the demonstration of the superiority of the great flux of chaos is then dependent upon a procedure of boredom, as any reader of Sade will recognise.

36. A zoetrope is a rotating cylindrical device with vertical slits in the sides that is spun to produce the illusion of motion from a rapid succession of static pictures. See 20 THE OXFORD ENGLISH DICTIONARY 816 (2d ed. 1989).

37. Deleuze, *supra* note 31, at 78.

made law can be restrained, or bracketed out, creating a space in which the demonstration of primary nature, of the superior law, can be made. Thereby, the irony persists, inasmuch as the purpose of the *katechon* is reversed, being no longer a technique for keeping the forces of chaos at bay but, instead, the Sadean institution carves out a space in which chaos can be exploded, thereby demonstrating the invalidity of all of the good, proper order that lies beyond the institution.

Sade harnesses great speed and violence, via the institution, so as to tire the reader out. Every permutation, every possibility, no matter how obscene or grotesque, is called forth and investigated, whilst the narrative rushes towards the limit of the problem in which it is set. However, Sade has no interest in creating a *new* problem: for him, that would be to simply return to the impertinence of man-made law. His aim is to reach the limit and then, for as long as possible, to sustain it, to demonstrate irrefutably that the law, as made by men, and referring only to the sensual would, the perceivable world, *is without foundation*, for the true foundation is no foundation at all: chaos as the totality of the conceivable. The *katechon* expands rapidly outwards, propelled by the chaos contained within it, so as to finally envelop the world in its entirety.

In Masoch, Deleuze finds a very different procedure. Masoch, rather than exhausting choice in the Sadean manner, instead selects a possibility, but then realises that particular possibility to the point of absurdity. The Masochist tendency is then not towards irony, but towards humour, the humour of the absurd.<sup>38</sup> This is the key to Masoch's exhaustion of the law: he insists upon the very letter of the law, to the point at which its application begins to undermine its very reason or logic. If Sade shows the law to be disconnected from any foundation in the good, Masoch achieves something different: he selects a law, and asserts that what is best is to observe that law—to observe it as scrupulously as possible. Rather than realize all of the possibilities that exist within the Sadean *katechon*, Masoch seeks to realize, to the greatest extent possible, *the application of a law*, such that what is best (to observe the law) reverses into the realisation of the very thing that it appeared to prohibit. In particular, it is the contract that enables Masoch to achieve this reversal.

Like the institution, the contract allows Masoch to set out a space in which the procedure of exhaustion can be played out. However, there are immediate differences: first, Masochism does not seek to have done away with (man-made) law; quite the contrary, the initial step is to enter into a contractual relation in order to establish a law. In this way, the law is selected as the one that, in contrast to other possibilities, it would be best to observe. Second, Masochism does not demonstrate the invalidity of the law, but rather seeks to *apply it*, right down to its finest details. It is in this insistence upon the most scrupulous observation of the law that exhaustion becomes possible. Rather than realise one possible law after another through the repeated transgressions that, in sum, will finally exhaust the realm of the law in its entirety, Masoch is concerned only to realise one law through an exhaustive application: every permutation of the law's applicability will be played out so that what will become evident is that there is no "spirit" of the law, no sense or superior justice that gives a

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38. *Id.* at 81–90.

true or proper meaning to the law over and above its actual expression. The entirety of the law lies in its contractual articulation, with no excess beyond that which could serve as either justice or equity.

Therefore, rather than an explosively expansive *katechon*, which ironically reverses the relation of chaos and order, Masoch sets up a barrier that restrains by disavowing<sup>39</sup> the possibility of appealing to any authority over and above the contractual articulation of the law. This articulation then requires, without quarter, the strictest and fullest application possible. The law exists because there is no justice, and all that might claim to be just (for example, the potency of the father) is suspended by the contract. In this sense, there is only a creativity—the creativity that institutes the law and then applies it—but a creativity that is necessarily severe and cruel.

Nevertheless, the Masochist contract lets something through the barrier of its *katechon*, but it does not do so without transforming the newcomer into a pawn within its own game. The restraint breached, the *katechon* begins to function a little like a black hole, inexorably sucking the rest of the world into itself; but, as it does so, it is not overrun by what it had externalised—it is not suddenly occupied by the other that it had disavowed and hitherto kept at bay. The other, having entered, does so only as a *party to the contract*. The absurd humour of the Masochistic contract is that it is applicable both to, and by, third parties. This is evident from the figure of ‘The Greek’ that Deleuze identifies in Masoch’s stories.<sup>40</sup> In this, the contract exhausts itself by going beyond its own “authority,” becoming applicable beyond its own limits to those who were not a party to it.<sup>41</sup> The Greek is the exhaustion of the contract, but the contract does not end or die a death at such a point, but rather becomes a new problematic, a new possibility for possibility, which causes it to take on a new force or virulence. The exhaustion here is akin to the Nietzschean cruelty, through which it becomes possible for a body to promise, to commit itself to the future.<sup>42</sup> Only the exhausted have the grounds by which to promise and be promised; but, it is a strange ground, being not yet properly bounded, and lacking the proper distances and emplacements by which we could recognise *locus standi*: instead, it is the ground of distribution, or *nomos*.

Not only do both sadism and masochism have specific relations to law, they also serve to show how the affectivity of images does not lapse into an undifferentiated, meta-image. The points of exhaustion, by which a transition from one state to another occurs—not as a comparison between the point of arrival and departure, but as the very transition itself—are singular images, that are composed from specific elements (that is, made up of other images, in varying degrees of transition or tension), that make the affect, the transition, the image, particular in every case. It is simply that this particularity is not a good, stable form—it is not dependent upon

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39. *Id.* at 68.

40. *Id.* at 64.

41. *Id.* at 92.

42. FRIEDRICH NIETZSCHE, ON THE GENEALOGY OF MORALS 45–48 (Douglas Smith trans., Oxford Univ. Press 1996) (1967).

being in the right place, and at the correct distance—but is in-movement, as a specific vectorisation, or singularity.

Exhaustion is, then, not depletion but a subtraction, inasmuch as what is exhausted are the possibilities of a particular problem *without any choice between them being made*: the problem is exhausted in one stroke, as it were, and in its entirety. Both Sade and Masoch utilise a boundary or restraint, albeit in different ways, but nevertheless they share an aim: to institute a *katechon* in order to exhaust it as quickly as possible, through an intensification that makes the *katechon* fracture—not because of an inappropriate weight or force being applied (neither Sade or Masoch have any interest in the “other”), but rather through the intensification of what is entirely proper to the restraint. A *katechon* to subtract the *katechon*: in sadism, the mother is subtracted, whilst in masochism, it is the father,<sup>43</sup> and in these ways a new encounter arises, by constructing and entering a *new problem*. Deleuze offers another example of such a subtraction or exhaustion when he discusses Bene’s production of *Romeo and Juliet*, where the character of Romeo has been subtracted, thereby completely transforming the problems investigated by the play.<sup>44</sup> More broadly, this exhaustion or subtraction is the procedure Deleuze and Guattari discuss at length in *A Thousand Plateaus*: boring holes in problems; making a hole in the restraint, so long as it is remembered that boring, digging, tunnelling, excavating, of one type or another, made the restraint possible in the first place (distribution before *locus standi*).<sup>45</sup>

#### IV. BAROQUE COMMUNICATION

Therefore, the problem is not that we are awash in images: rather than a deluge that sweeps away all restraint, it is a question of saturating an image, through filling it with holes to produce, to borrow from Peter Sloterdijk, what might be thought of as a *foam-image*.<sup>46</sup> To seek a break in the waters is to remain within the realms of possibility, of finding a way to determine which choice should be realized, which images are the appropriate ones: of deciding upon the proper distance and the appropriate place—the correct, and most “inspiring,” *vision*. A modern baroque, if it is possible to speak in such terms, must be understood, then, in a very specific way: the modern baroque presents us with an overwhelming proliferation not of images, but of possibilities, of choices, and decisions. Such a modern baroque should not be confused with the baroque expressionism that Deleuze finds in Leibniz: the latter is not a problem of proliferation, but of saturation, of exhausting images. The difference here is between the quantity and quality of images, but, again, to speak of a quantity of images is misleading: How much affectivity is there in the universe? Precisely how

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43. Deleuze, *supra* note 31, at 57–68.

44. See Gilles Deleuze, *One Less Manifesto*, in *MIMESIS, MASOCHISM, & MIME: THE POLITICS OF THEATRICALITY IN CONTEMPORARY FRENCH THOUGHT* 239–58 (Timothy Murray ed., Univ. of Mich. Books 2000) (1997).

45. Bottomley & Moore, *supra* note 28.

46. See PETER SLOTERDIJK WITH HANS-JÜRGEN HEINRICHS, *NEITHER SUN NOR DEATH* (Steve Corcoran trans., 2001).

much *anexactness*?<sup>47</sup> No, the modern baroque, meaning a proliferation of possibilities, is not, then, a problem of images, but a problem of communication.

Part of our problem must be concerned, today, with the proliferation of communication, not just in the sense of those devices, such as phones, laptops, and tablets, which we can no longer imagine functioning without; but in the generation, which is irreversible in its own terms, of an ecology<sup>48</sup> of communication. Communication is the presentation of a range of choices or decisions, which are not determined by reference to external criteria, but rather generate their criteria immanently, through the very action of making a selection. In this regard, all that is possible is to generate data—that is, further communication—about what selections have been made: 56% expressed a preference for choice A; shoppers who purchased item X also purchased item Y; article Z has been downloaded twelve times. In other words, what is important is not *what* has been chosen or decided, but the fact that *a* choice or decision has been made. Making a selection in such a context does not then free one from choice, but means that after one choice, another choice will have to be made, because “what” one has chosen or realised is irrelevant beyond the overall choice profiles. This is an exhaustive communication, where another email will always need to be replied to, one’s online status will always need to be updated, another film will always need to be watched, another mp3 downloaded, another innovation needs to be implemented, etc.; but the exhaustion here is limited, it is *tiring* rather than truly exhaustive, because it allows the never-ending realisation of possibilities without ever allowing realisation itself to be exhausted. Communication insists upon the limitlessness of its own problematic.<sup>49</sup>

“Ours is the age of communication, but every noble soul flees and crawls far away whenever a discussion, a colloquium, or a simple conversation is suggested.”<sup>50</sup> In communication, it will not be possible to make an encounter—that is, it will not be possible to affect the one with whom one communicates—because all that will be achieved is a re-affirmation of the already accepted parameters of thought (the ‘image of thought’) in which the communication *takes place*. It functions as redundancy,<sup>51</sup> repeating what is already known to thereby reaffirm it. The possibilities of communication are ramified continuously, to tire out all of those who send and receive, as Gysin’s poetry permutations have already shown.

We call *order-words*, not a particular category of explicit statements . . . but the relation of every word or every statement to implicit presuppositions . . . .  
Order-words do not concern commands only, but every act that is linked to

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47. “Anexactness” refers to the concept, drawn by Deleuze from the work of Husserl, whereby a state or thing is inexact, not through some fault, error, or lack, but *in essence*. See A THOUSAND PLATEAUS, *supra* note 12, at 20.

48. See Bottomley & Moore, *supra* note 28.

49. See generally Nathan Moore, *Nova Law: William S. Burroughs and the Logic of Control*, 19 L. & LITERATURE 435, 435–70 (2007).

50. DELEUZE & GUATTARI, *supra* note 10, at 146.

51. A THOUSAND PLATEAUS, *supra* note 12, at 75.



statements by a “social obligation.” Every statement displays this link, directly or indirectly. Questions, promises, are order-words.<sup>52</sup>

The relation of statements to implicit presuppositions *is* communication, and it involves never-ending choices about their distributive possibilities: What is the appropriate place from which to send and receive a communication? What is the proper distance between sender and receiver? These choices are exercised without reference to what is actually being communicated, because the core of communication is exactly that redundancy that simply re-affirms, statistically, what it is that one already knows.<sup>53</sup> The most that one will find out is the percentage of those who think likewise, the number of those who bought theory A along with theory B. Franco Berardi has termed this process “baroque semicapitalism.”<sup>54</sup>

## V. ALGEBRA OF NEED

Today, we are all too familiar with the image of the “sex-addict,” whom we can understand as being an addict precisely because he or she is concerned to reach the limit of their capacity, without crossing its final threshold.<sup>55</sup> The addict operates by repeating elements in a series so as to arrive at the *penultimate* one possible, beyond which, if the ultimate were realised, a transformation would occur, a deterritorialisation that would be the exhaustion of the addiction (and thus the construction/movement of a new, although not-necessarily benign, problematic), rather than its mere tiring. From this angle, an addict is one who is both sender *and* receiver, caught up, alone, in the feedback loop of their own redundancy. Consequently, we should consider baroque semicapitalism to be populated not by sadists and masochists, but by addicts. Nevertheless, here the addict displays tendencies very similar to both, albeit in a relative way: sadism and masochism are no longer processes of exhaustion, as they are in the literature of Sade and Masoch, but instead tiring communicative procedures. Whilst Deleuze, contrary to Freud, was concerned to differentiate sadism and masochism, the baroque semioaddict (the “great masturbator,” to recall Dali) puts them into a specific relation, whereby they both cancel one another out *and* mutually reinforce one another via a redundancy that is specifically legal in nature. On the one hand, the relative sadism of the semioaddict points out, again and again, that the law lacks a legitimate foundation; on the other hand, relative masochism demands constantly new and more effective laws,<sup>56</sup> seeking thereby to transform everybody into a “third party” (the “critical legal” and the “socio-legal,” respectively). To be clear, these are not opposing tendencies, but necessary functions of a baroque capitalism that operates at the limit of communication, so as to ward off the affectivity of the threshold.

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52. *Id.* at 79.

53. Moore, *supra* note 49.

54. See generally FRANCO BIFO BERARDI, *AFTER THE FUTURE* (Gary Genosko & Nichols Thoburn eds., Arianna Bove et al. trans., 2011).

55. See Bottomley & Moore, *supra* note 28.

56. “Soft” or otherwise.

The addict understands law as an abstraction, unfortunately an abstraction which either should or could explain, in advance, what is good, just, and/or ethical, but which certainly, in the present, never does. What is missing here is an assessment of the problem, meaning the conditions under which it is necessary to fabricate law. Rather than asking what the legal abstraction makes possible, the question is posed within the sphere of a Kantianism that still hopes that the good or the best might be retrievable in the name of a recognizable justice, community, or ontology. Such a recognition depends upon, as its condition, communication, either in pursuit of realising another possibility as law and/or intervention, or as a demonstration that any law is delegitimised in advance by its own groundlessness. As Berardi writes, it is a matter of the “proliferation of chatter, the irrelevance of opinion and discourse, and on making thought, dissent, and critique banal and ridiculous.”<sup>57</sup> Abstractions are not pre-given, but must be fashioned in the context of a concrete, pressing problem: the figure of the artisan, rather than the demonstrator and the representative.<sup>58</sup> Primary, then, is the issue of affect: What problems are actually affective, rather than so much communicative blather?

In this, we coincide once more with Sherwin’s concerns, but not because the deluge of images puts us at the mercy of nothing, but rather because the image is not yet properly understood as the concrete, affective condition for the formulation of problems. This calls for legwork and the development of methods for thinking intensity: that is, thinking in movement. To the extent that this is not grasped, one lags behind the operation of a semiocapitalism that has understood fully what images are, but in the manner of a “great white hunter,” capturing the image so as to stabilise it (a proper place and distance), and tire us. Consequently, one is encouraged to nurture one’s “point of view” as a sort of individualised *katechon*, as if this were one’s most proper property . . . we only have to think, for example, of the shameful idiocy of “tweeting.” Thus, whilst agreeing, broadly, with the problem outlined by Sherwin, it is also necessary to go further, to distinguish between images and communication, and consider communication as our more pressing problem, for as Berardi describes:

Production and semiosis are increasingly one and the same process. Out of this process simultaneously arise a crisis of economic reference (the relationship between value and necessary labour time) and a crisis of semiotic reference (the denotative relationship between sign and meaning). Value can no longer refer to labour time, because unlike the labour of Marx’s era, the duration of immaterial labour is not reducible to an average social norm. Parallel to this, the denotative relation of sign and meaning is definitely suspended in social communication. Advertising, politics, and the media speak a self-declared simulative language. Nobody believes in the truth of public statements. The value of the commodity is established on the basis of a simulation in a relation that no longer follows any rules.<sup>59</sup>

The problem of problems: addict, or artisan?

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57. BERARDI, *supra* note 54, at 109.

58. Bottomley & Moore, *supra* note 28.

59. BERARDI, *supra* note 54, at 115–16.