

Piercing the Veil of Law: A Schizoanalytic Critique of the Obscene Aesthetics of Control

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ABSTRACT.

Taking up a thread laid out by Gilles Deleuze in an occasional text from 1990 regarding the sociopolitical paradigm of corporatism – a “system” of governance in the sense in which we speak of, e.g., the “feudal system” or the “mercantile system” – this paper extends discussion to the intersection of art and law within that framework, each referent taking on a broad scope. In questioning the place of art in a corporatist-control paradigm, two paths unfold: art materializes as a thrust piercing the veil of law, disfiguring its figurations and calling control into question, or it serves to refigure the face of the law, to redeploy the veil and to perpetuate control. Drawing from the criticism of Deleuze & Guattari and the art of novelist Leopold von Sacher-Masoch and painter Francis Bacon, the paper argues that such economic and political phenomena as the dissolution of the nation-state (read as the shift from state politics to private or corporate politics) and the global war on terror (read primarily as a corporatist device for commodifying morality and security) demonstrate the efficacy of control and the everyday saturation of its obscene aesthetic, but that the affirmation of disjunction, the theoretical description of art’s piercing thrust, complicates corporatist governmentality insofar as its law operates as a biunivocalizing grid for which, e.g., exclusion forbids inclusion. Throughout the development of this argument, control’s obscene aesthetic is explored in its determination as an imagistic economy producing bodies politic constitutively situated within the logic of control (referred to throughout as the logic of modulation, after Deleuze’s pronouncement in the 1990 text). The paper concludes with a brief discussion of art’s criminality, that is, its disfiguration or scrambling of social codes, in relation to the redeployment of law via the obscene aesthetic economy, thus isolating a circuit of

communication (art-law, law-art) ripe for future inquiry.

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“The object of the law and the object of desire are one and the same, and remain equally concealed.”
-Deleuze, *Coldness & Cruelty*, 85.

The contemporary law of culture is the infinite expansion of the law: infinite responsibility, infinite culpability, infinite sadness. Here as elsewhere, this law unfolds itself in the paradigms of our cultural milieu: in deconstructionism and the joyless ethics of alterity; in philosophies of language that question what may, rather than what *can*, be done, or rather said, in a discursive situation; in our most trophied commodities, morality and security. Indeed, morality-security has become the touchstone of our situation, the transcendent operator of control and the emblem of the privatization of the political. Control here signifies an administrative faculty, a *management* of the offices and affairs of life itself. Life itself, administered and managed, requires security in order to thrive and morality in order to be secure. Freedom consists in the moral-secure action of passivity, of being administered and canalized through channels of rights and obligations. The public letter of the law secures and safeguards our morality.

This infinite expansion of the law tracks the logic of modulation. Gilles Deleuze claims that in the context of such a socio-juridical formation of control, the corporation replaces the factory: no longer is it a principle of maximum production and minimum wages, i.e., a principle of cold efficiency, that dominates the administration of socioeconomic situations, but rather a principle of modulation, a gaseous and metastable set of coordinates working to divide and hierarchize operative units (that is, employees and officers) and to elevate competitive accumulation to the highest sustainable level. As he writes, drawing on Simondon's distinction between mold and modulator,ⁱ “[Disciplinary c]onfinements are *molds*, different moldings, while

controls are a *modulation*, like a self-transmuting molding continually changing from one moment to the next, or like a sieve whose mesh varies from one point to another. [...] In disciplinary societies you were always starting all over again (as you went from school to barracks, from barracks to factory), while in control societies you never finish anything – business, training, and military service being coexisting metastable states of a single modulation, a sort of universal transmutation.”ⁱⁱ As is frequently the case, Deleuze’s claims here echo those of progressive economists: in this case, we find resonance with Gardiner Means and Adolph Berle, who claimed that “[t]he corporation has... become both a method of property tenure and a means of organizing economic life. Grown to tremendous proportions, there may be said to have evolved a ‘corporate system’ – as there was once a feudal system – which has attracted to itself a combination of attributes and powers, and has attained a degree of prominence entitling it to be dealt with as a major social institution.”ⁱⁱⁱ We ought not be fooled by the inscription of the letter of the law, or by the figurations of judicial and legislative fictions, Deleuze seems to say; rather, we should cognize the obscenity of the continuous variation subtending the static identity of law, appreciate its incoherency and indeterminacy *in* its very secrecy. All this is to say that it is necessary to *pierce the veil* of law, *disfigure* its figuration, scramble its codes.

Though you can undoubtedly follow my meaning in this use of “piercing the veil,” allow me a brief detour through the doctrine in its native law of corporations. “Piercing the corporate veil” is a legal remedy available to a jilted creditor when a director or officer fails to respect the separation of ownership and control in the firm by, for instance, commingling personal and corporate funds, failing to hold board meetings, or undercapitalizing the firm, and circumstances are such that adherence to the fiction of separate corporate existence would sanction a fraud or promote injustice. In such a case, where there is a unity of ownership and control and some

considerable inequity, the court can be persuaded to disregard the corporate fiction and to hold the director or officer, in her capacity as owner, personally liable for any outstanding claims. The court cognizes the representation as representation and strikes through to the material or sub-representational social actor understood to have caused the nonpayment of the creditor's bill.

Piercing the veil *of law itself* is not a task for the legal scholar, however, or for the philosopher as such. It is for the artist and artistic praxis. In this paper, I argue that art's determinate and specific action is that of disfiguration, going always to what a body can do rather than what a body may do. And law, or its gaseous matter that we have been calling control, coextensive now with management and the economy of life itself, always reacts to the thrust of the pierce. In fact, when art pierces the veil of law, law in turn deploys an aesthetics – an obscene aesthetics – of its own. This obscene aesthetics of control is a discursive recursion, control's defense or stitching-over of art's piercing maneuver. We might countenance this quite literally as a "saving-face," insofar as it is the faciality of the social that suffers the puncture. Yet this refiguration can never be total, for a scar is always left behind.

- **The Logic of Modulation and Its Disfiguration** -

"If it is possible," Deleuze and Guattari write in the plateau *Year Zero: Faciality*, "to assign the faciality machine a date – the year zero of Christ and the historical development of the White Man – it is because that is when the mixture ceased to be a splicing or an intertwining, becoming a total interpenetration in which each element suffuses the other like drops of red-black wine in white water."^{iv} The abstract machine of faciality of which they speak refers to the continuous (productive) variation subtending the biunivocal mechanisms and binary conventions of a given sociohistorical regime, the face of the situation. Thus the faciality machine and the face are at least roughly synonymous with the aforementioned vaporous materiality of control and the

public letter of the law. If the logic of modulation charters a contemporary control society, yet the year zero is the point of transition between the discontinuous and the continuous flow of power, in what manner is control, in this narrow sense, specific to us, the post-disciplinarians?

The answer lies in the nature of the movement or circulation of power. The year zero marks a rupture that will take millennia to unfold, and power will over time condense, contract, and mutate according to folding operations specific to it. For instance, power telescopically amplifies as it diffuses and becomes broken up (the black holes or pores of the face). Control is thus the logical extension of discipline, yet a decisively different organizational phenomenon; for control differs in nature from discipline, despite following from the latter. Again, this is demonstrated by the proclivity of power to swell as it permutes into smaller particles, becomes imperceptible. Control is, then, the closest approximation to the *truth* of year zero, its point of crisis, at least to date.

Another way of framing Deleuze's hypothesis on control societies is this: Control produces the face of our world. What is the face, that "organ-carrying plate of nerves,"^v for Deleuze? For one, it is never separable from a landscape, there is always a face-landscape assemblage at issue: "All faces envelop an unknown, unexplored landscape; all landscapes are populated by a loved or dreamed-of face, develop a face to come or already past."^{vi} But the face itself is always the face of the other, the expression of a possible world, of a possible landscape. It is impersonal and inhuman, Deleuze will say, *the* inhuman. Moreover, we do not *have* a face, it is never a question of possession or if it is, we are the possessed, not the possessors. That is to say, a face is something to be slipped into, to be born into. My face precedes me, I become it. "It is not the individuality of the face that counts but the efficacy of the ciphering it makes possible... This is an affair not of ideology but of economy and the organization of power."^{vii}

The ciphering or coding made possible by faciality is figurative and follows its own logic, that of modulation. The codes of control are always at a distance, abstract and representational. In his work on Francis Bacon, Deleuze claims these codings are *digital*, terms seriated in opposition (“according to Kandinsky, vertical-white-activity, horizontal-black-inertia, and so on”^{viii}). Rights, for instance, are facial codings modulating affectivities or what a body can do, transforming and reducing these capacities into what a body *may* do. In a society organized around the “passwords” of representational rights, the effect is that the material question is obscured, no longer makes it to our ears – facial traits, more like the big ears of the braying-ass than Ariadne’s tiny, hyper-perceptive ears – as such. The efficacy of modulation is such that we can no longer tell the difference, can no longer mark a determinate point of disjunction, between the two questions (immanent capacities for action vs. transcendent rights), where life ends and law begins. We’ll note without here pursuing the consequences of the fact that the paradigm of control effectively combines the incompatible notions of *modulation* and *code*, infinite continuity and binary discontinuity.^{ix}

The materialist task par excellence, therefore, is to *disfigure* these figurations, articulate a violence of sensation, of the percept-affect circuit; and this requires, Deleuze and Guattari intimate, “all the resources of art, and art of the highest kind.”^x The point is to carve out uncivilized spaces in which decoded flows and waves of desire and belief, color and resonance, can articulate themselves without reference to ordering principles of control or faciality, modulation or law. The schizophrenic Antonin Artaud scavenged for words that assaulted the senses and the body itself (the “lo menedi / bardar / ta zerubida / lo menedida / bardar“ of *Interjections*, composed in the asylum at Rodez^{xi}); Leopold von Sacher-Masoch created a language designed to get under the skin and probe around^{xii}; Francis Bacon sought a brutal art,

an art without mediation that would go to work directly on the nerves. Of course we could multiply examples. In Bacon, Deleuze claims, the goal of the work is “to eliminate every spectator, and consequently every spectacle”^{xiii} or, better, “to dismantle the face.”^{xiv} This is achieved in Bacon, in a merely ostensibly paradoxical maneuver, through the isolation of the Figure, “the sensible form related to a sensation [which] acts immediately upon the nervous system.”^{xv} Deleuze struggles to articulate the relation of sensation to faciality, claiming first that sensation “has one face turned toward the subject (the nervous system, vital movement, ‘instinct,’ ‘temperament’...), and one face turned toward the object (the ‘fact,’ the place, the event).”^{xvi} But he immediately corrects himself: sensation “has no faces at all, it is both things indissolubly.”^{xvii} Pulling in both directions at once, sensation subtracts itself from the aesthetic economy of representation. As in Merleau-Ponty’s ontology of the flesh, the logic of sensation is such that the selfsame body gives *and* receives sensation; sensation affirms disjunction as such. This is more than the face, which always takes on “the function of biunivocalization, or binarization,”^{xviii} could possibly demand of the body. Sensation defaces the face through an excessive acquiescence to faciality, a hyper-orthodoxy that shatters orthodoxy, or a destruction, as Bazin liked to say, of clarity with clarity.

Is this not a striking hypothesis, considering art’s originary banishment from the republic in Plato on account of its power of semblance, its falsity? We are effectively claiming that paint, the sensation encountered in painting, obtains to the truth of fact, even, as in the title of Sylvester’s monograph of interviews with Bacon, the *brutality of fact*. Art’s anti-Platonism consists in affirming the truth of brutal fact. It is also in this way that the veil of law is pierced: disfiguration by disjunction.

- **Obscene Aesthetics: Stitching the Veil** -

Affirming the brutality of fact communicates with control's own aesthetic program. We are all too familiar with the procedures of "stitching the veil," control's deployment of its obscene aesthetics. At one point in time, before the disintegration of the nation-state as a political entity and its reduction to a trading floor for the global economy, we would have called this program a state aesthetics, perhaps an aestheticized politics. As this is no longer possible, and following the corporatist paradigm set out in our introduction, we refer to it as "stitching the veil." Its breadth is wider than any possible state aesthetics.

Though this corporatist-control aesthetic saturates our lives, it is rarely noted as "obscene." Only its most devastating figures express themselves in a mode colorable as obscene. The obscenity of the imperceptible processes underlying the devastating expressions consists in their products, namely, psychic formations such as paranoid neuroses and psychoses; perhaps the most pervasive symptom is that which Kenji Yoshino has recently dubbed "covering," that particular quasi-hysterical denial of identity in the service of acquiescence to social or facial codes.^{xix} Commercial marketing strategies, exemplified today by the most indiscernible of viral marketing tools that sew advertising seamlessly into the fabric of everyday life, form one group of such processes. Perhaps Fernand Braudel is the principal historiographer of this aesthetic's becoming, up until the 18th century.

The Western, particularly American, invasion of certain Middle Eastern nations has generated a number of these most obscene aesthetico-political figures. The imprisonment of suspected "enemy combatants" without due process of law (famously, that of American citizen Yaser Esam Hamdi in South Carolina and of Yemeni citizen Salim Ahmed Hamdan in Guantanamo Bay, Cuba) and the tortures, rapes, and homicides perpetrated at various military holding facilities throughout the world (Abu Ghraib prison in Iraq, Camp X-Ray and other sites

at the Guantanamo Bay Naval Base, and so on) have received the most attention, both popular and scholarly, since the deployment of the war. Recently,^{xx} legal scholar Joseph Pugliese has argued with erudition that the cultural intelligibility of the tortures at Abu Ghraib, given to us photographically, is made possible by a shadow archive, a self-effacing historical repository of spectral images that works to obscure the real of the events represented and allowing for a public disavowal of those events (such as the claims of government officials to the effect that these are isolated incidents).^{xxi} This shadow archive, according to Pugliese, structures the subjectification and sexuation of the personae involved or, in his own terms, “positions a subject within the terrain that [the archive] encompasses whilst... effac[ing] its constitutive role in a subject’s process of visual production and consumption[.]”^{xxii} Where, however, Pugliese ties this archive to a neofascist aestheticized politics and a determinately colonialist objective,^{xxiii} I prefer to situate it and the Abu Ghraib tortures (including the photographs and their circulation as a necessary part of that torture) within a corporatist-control network that can also be said to theoretically subsume the war on terror itself, as a product of the infinite expansion of law and the commodification of morality-security.

Abu Ghraib, thus made possible by the self-effacing imagistic economy known as the shadow archive, cannot be understood as the excrescence of a geopolitical militarism with nationalist roots. Territory and nationalism – and their colonialist practices – can no longer be the explanation; if they have any salient role, that is, any role other than one which fits inside the corporatist-control model, in contemporary political problems, this must itself be explained from within the corporatist-control model. This is not to claim that explicitly *political* motives, in the popular sense, do not and are not feeding into the corporatist logic. The drive for recognized power on the world stage remains, and will likely always remain, a significant determinant of

national bellicosity. My claim is rather that, insofar as ours is a control society, all of the lines connecting the nodal points in this network are corporatist rather than statist, vaporous and errant rather than solid and rectilinear, and completely lacking in territoriality. We will develop this theme through a brief exploration of the obscene aesthetics of control.

The deployment of an obscene aesthetics of control has the object of resecuritization and remoralization. The idea is to imagistically reinstate the law, and so we can say that security and morality return through a general process of relegalization. This may seem paradoxical given the disbelief and disgust engendered by events such as Abu Ghraib. Hence, we here discover another obscene veil to be probed and pierced, though in a purely conceptual manner. The essential *legality* of stitching the veil consists in its shock value, its radical indecency. The effect – *de jure* if not *de facto* – is to forcefully coerce the public demand to adhere to traditional morals and to put a premium on security, i.e. to insist on the continued expansion of law.

How does this happen? The shadow archive's force resides in its apparent but unreal discontinuity. The images circulating in a given shadow archive, e.g. that of white supremacism or colonialist torture, sever themselves from one another on one plane yet remain sutured together on a deeper stratum.^{xxiv} This allows for subjective identification with one image or set of images while others, equally inscribed in the archive, can appear as unfamiliar, even frightening or shocking. Pyramids of denuded Arab bodies, for instance, contrast with the smiling American faces sending regards home on the evening news, though a deeper, shadowy resonance prevails.

Whether situated as producing, consuming, victimized, or victimizing bodies, the subjects against which these images take form are figured into the logic of modulation, educated as faces in Deleuze's terms.^{xxv} All cruelty in Artaud's sense, all immediacy, becomes conflated with

cruelty in the popular sense, the “cruelty” of the Abu Ghraib photos, for instance. Morality, security, and decency become recodified and recommodified as the corporatist veil recursively weaves into itself a patch without seams.

- **Conclusion: The Criminality of Art** –

Let us leave the domain of aesthetics and reenter that of art. Art’s immediacy is, we’ve seen above, its criminality, its threat to the morality-security-decency series, its capacity to pierce the veil of law. Let us conclude with a comment on Masoch. Though Masoch creates a language that does exactly this, the masochistic text is draped with decency. “Of Masoch it can be said,” writes Deleuze, “that no one has ever been so far with so little offense to decency.”^{xxvi} The art of Masoch consists in the manner in which the conventions of faciality are skillfully repositioned and shifted around to create new landscapes. The blank page or canvas, the empty sonic space, the unused film are already invested with the clichés, conventions, and other facial traits of the situation. The artistic task is to flee, to get out through a non-preexistent line. “The canvas is already so full that the painter must enter into the canvas. [...] He enters into it precisely because he *knows what he wants to do*, but what saves him is the fact that he *does not know how to get there*, he does not know how to do what he wants to do. He will only get there by getting out of the canvas.”^{xxvii} The mutations proper to masochism, to “the judicial spirit of masochism,”^{xxviii} work to create a world in which “guilt absolves instead of leading to atonement, and punishment makes permissible what it was intended to chastise.”^{xxix}

When facial codes are scrambled and the omnipresence of control is called into question through art, through hyper-orthodoxy or hyper-legalism as with masochism, control convokes the juridical privatization of the political by way of a deployment of obscene aesthetics. This recursive refiguration of saving-face, however, cannot be complete, since the piercing thrust of

art leaves the face of law scarred, a phenomenon culturally attested to by the persistence of critique.

ⁱ These concepts are expounded in Simondon's *L'individu et sa genèse physico-biologique*. The introductory essay to that work has been translated as "The Genesis of the Individual" and included in the anthology *Incorporations*. See Simondon 1992. The theme of modulation and its contrast with molding is prevalent throughout Deleuze's entire corpus, and can be summed up as the conviction that intensive processes (of individuation, expression, etc.) underlie or, in later works, are distributed across objectivity. The explication (folding outward, cancellation) of these intensities is a crucial function of actualization as Deleuze conceives it in *Difference and Repetition*, for instance. It takes on a new vitality in the works on Francis Bacon, Foucault, and Leibniz, not to mention the two volumes on cinema. Perhaps the best discussion of the issue as pertinent for philosophico-social questions is that in the first two chapters of *Foucault*, "A New Archivist" and "A New Cartographer," where the transition from the paradigm of the archive or mold to that of the map or modulation is explored. See Deleuze 1988: 1-44.

ⁱⁱ Deleuze 1995: 178-179; emphasis in original.

ⁱⁱⁱ Berle and Means 1968: 3. Though the piece from which this quote comes was originally written in 1932, it remains commonplace in corporate law to refer to the "Berle-Means corporation" or the "Berle-Means problem" when discussing the efficiencies of separating ownership from control in corporate governance.

^{iv} Deleuze 1987: 182.

^v Deleuze 1986: 87.

^{vi} Deleuze 1987: 173.

^{vii} *Ibid.*: 175.

^{viii} Deleuze 2003: 84-85.

^{ix} On this question, see *ibid.*: 91-98.

^x Deleuze 1987: 187.

^{xi} Artaud 1995: 248.

^{xii} As Deleuze notes: "It would appear that both for Sade and for Masoch language reaches its full significance when it acts directly on the senses." Deleuze 1991: 17.

^{xiii} Deleuze 2003: 13.

^{xiv} *Ibid.*: 19.

^{xv} *Ibid.*: 31.

^{xvi} *Ibid.*

^{xvii} *Ibid.*

^{xviii} Deleuze 1987: 176.

^{xix} See Yoshino 2006. Yoshino, through a highly readable mix of anecdote, intellectual discourse, and popular politics, focuses on the techniques of "covering" one's sexual orientation and race, but also discusses those utilized in covering gender, economic status, and many other parameters playing into the construction of a social identity. The opening words of the preface are worth repeating here as an indication of the content of the text: "Everyone covers. To cover is to tone down a disfavored identity to fit into the mainstream. In our increasingly diverse society, all of us are outside the mainstream in some way. Nonetheless, being deemed

mainstream is still often a necessity of social life. For this reason, every reader of this book has covered, whether consciously or not, and sometimes at significant personal cost.” Yoshino 2006:

ix.

^{xx} Pugliese 2007. See especially 250-252.

^{xxi} The notion of a shadow *archive* might be seen as incompatible with the logic of modulation. The archive is indissolubly tied up with the disciplinary paradigm of the mold. I retain the term for dialogue’s sake but conceive of it in a manner suited to the corporatist-control paradigm and recognize that the term should be rejected in future analyses of the cultural intelligibility of images.

^{xxii} Ibid.: 251.

^{xxiii} See *ibid.*: 272.

^{xxiv} Hence, for instance, Pugliese’s insistence on the stratified nature of the shadow archive. See *ibid.*

^{xxv} Again, “you’ve been recognized, the abstract machine [of faciality] has you inscribed in its overall grid.” Deleuze 1987: 177.

^{xxvi} Deleuze 1991: 34.

^{xxvii} Deleuze 2003: 78. Emphasis in original.

^{xxviii} Deleuze 1991: 33.

^{xxix} Ibid.: 102.

REFERENCES

Artaud, Antonin (1995). *Watchfiends and Rack Screams: Works from the Final Period*. Trans. C. Eshleman and B. Bador. Boston: Exact Change.

Berle, Adolf and Gardiner Means (1968). *The Modern Corporation and Private Property*. New Brunswick, NJ: Transaction Publishers.

Deleuze, Gilles (1986). *Cinema 1: The Movement-Image*. Trans. H. Tomlinson and B. Habberjam. Minneapolis: U. of Minnesota Press.

--- and Félix Guattari (1987). *A Thousand Plateaus*. Trans. B. Massumi. Minneapolis: U. of Minnesota Press.

--- (1988). *Foucault*. Trans. S. Hand. Minneapolis: U. of Minnesota Press.

--- (1991). *Masochism: Coldness & Cruelty*. Trans. J. McNeil. New York: Zone.

--- (1995). *Negotiations, 1972-1990*. Trans. M. Joughin. New York: Columbia UP.

--- (2003). *Francis Bacon: The Logic of Sensation*. Trans. D.W. Smith. Minneapolis: U. of Minnesota Press.

Pugliese, Joseph (2007). “Abu Ghraib and Its Shadow Archives.” 19 *Law and Literature* 247.

Simondon, Gilbert (1992). "The Genesis of the Individual" in *Incorporations*, ed. J. Crary and S. Kwinter. Trans. M. Cohen and S. Kwinter. New York: Zone.

Yoshino, Kenji (2006). *Covering: The Hidden Assault on Our Civil Rights*. New York: Random House.