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Arrested by the Image

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ARRESTED BY THE IMAGE

I. INTRODUCTION

Let us start with the shudder . . .

I carry with me a horizon constituted by countless cinematic scenes: a woman walks alongside a stone wall, dragging her knuckles against it such that they bleed; an elevator door opens to reveal a shadowy figure holding a razor blade; rose petals fall from the skies, as do frogs; a spaceship hovers over Manhattan; cars explode on a busy city street; a child is pushed from a high window. I am not separate from these: my images.

In *Visualizing Law in the Age of the Digital Baroque*,¹ Richard Sherwin argues, and I would agree, that such a self-constitution is not confined to the individual—that we live in a time in which contemporary visual culture mimics the achievements of the baroque in the domains of art and architecture through perspective, decoration, the positionality of the subject, and particularly through the fold, in which the subject can be said to enter the visual field and be enfolded by and within it. Rather than being regarded as separate from such image-making, law participates in, depends upon, and is constituted by it. Law is thus known through and in its images. And at a time when, as noted earlier, images constitute both the individual and the horizon against which the individual knows herself to exist, the proliferation of visual forms in contemporary society engenders a sense of surfeit, of the endless need for and excess of visual representation. Once again, law cannot be regarded as separate from this vertiginous dependence upon visibility, but plays a part in creating what can be called, in acknowledgement of the contemporary evocation and restaging of the baroque fascination for the potentials and possibilities of the image, the *neo-baroque*.

II. LAW AND THE NEO-BAROQUE

The visual field of the neo-baroque is characterised by Sherwin as “awash in images,”² like the endless scroll of green data that makes up reality in *The Matrix*.³ But just as the presence of a cat indicated a “glitch” or perforation in the unrelieved uniformity of the matrix’s simulated reality, for Sherwin, every so often the vast sea of images in the neo-baroque, filled with “empty sensation,” is punctuated by an encounter with the sublime:

Something that was absent was suddenly given an uncanny visual and aural presence. The juxtaposition of words, voice, and image sublimely incarnated a terrible past that somehow, impossibly, haunted the present. We witness the event (on the screen), and we shudder.⁴

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1. RICHARD K. SHERWIN, *VISUALIZING LAW IN THE AGE OF THE DIGITAL BAROQUE: ARABESQUES & ENTANGLEMENTS* (2011).
 2. *Id.* at 13.
 3. *THE MATRIX* (Warner Bros. Pictures 1999).
 4. SHERWIN, *supra* note 1, at 4–5.

So let us begin with the shudder, which marks the occurrence of “a legal event” in the “temporally flattened but emotionally amplified *now* time of viewing the screen.”⁵ What Sherwin is describing relates to a moment during a trial in which substantial use was made of visual material in order to present evidence and to construct argument. Indeed, uncertainty about the implications of the increasing reliance on visual material in legal processes animates much of Sherwin’s book, which argues that there is a crucial need to understand, and to critique, the images presented as part of legal argument and evidence.⁶ His book, however, is much more than a how-to guide for lawyers, since it argues that the ability to understand the visuality of the neo-baroque is a central ethical obligation: “awash in images”⁷ which are potentially only the *arabesques* of “aesthetic delight,”⁸ the subject requires a means by which to resist the flood of imagery and to remember herself as an *entangled* being—one who exists in a network of obligation and ethics. And this returns us to the shudder, for it is the shudder in the presence of the visual sublime which, for Sherwin, both confirms the possibilities of the image as an ethical conduit and reminds the subject of her responsibilities and responsiveness.

III. THE IMAGE AND ITS ENTANGLEMENTS

My paper takes up what might be an anxiety in Sherwin’s book about the “digital baroque”—an anxiety that manifests in descriptions of visual culture as a “digital simulacrum,” “mere sensation,” a “flight of fancy,”⁹ or “empty baroque form”¹⁰ in which “the real grows elusive”¹¹ and is filled with “vexatious uncertainty.”¹² The very digitality of the digital sometimes seems in the book to give rise to anxiety. “Digital” for decades has denoted the representation of data as a series of numerical values, with a more recent specific connotation involving the computerisation of information. It is this association that leads to the classic image of the scrolling numbers on the screens in *The Matrix* as constitutive of a world (our world) rather than simply representative of it: that a world could be reduced to symbols on a screen is presented as appalling. Sherwin shares in that distaste and is concerned to investigate why and how the digital, having colonised the social, has crept throughout *the legal* as well.

I wish, however, to point us towards the fact that “digital” has another meaning, pertaining to the fingers, from the Latin *digitus*, which underlies its meaning in regard to numerical data—for, before machines and even before the abacus, individuals counted on their fingers, the primary means through which we *touch*

5. *Id.* at 77.

6. *Id.* at 5 (“[T]his book argues for the cultivation of visual literacy . . .”).

7. *Id.* at 13.

8. *Id.* at 3.

9. *Id.*

10. *Id.* at 9.

11. *Id.* at 8.

12. *Id.*

ARRESTED BY THE IMAGE

another person or thing. And what of “the real,” which for Sherwin “grows elusive” in this digital world?¹³ I would say that it is not hidden somewhere under the weight of neo-baroque visuality, but exists instead in and as a result of every image. And, unlike the abhorrent nature of the screens of data in *The Matrix*, this should not be something that is feared. As Patricia Pisters writes (following Gilles Deleuze): “Images are there; they do not represent some other-worldliness but constantly shape the world and its subjects.”¹⁴

It is possible, then, to think of digital visuality not as a problem we have to get beyond, but rather as a condition of possibility which allows us to live in and through the image, with all the delights and dangers that that implies. Such an art of life requires that we attend to the image in all its engagements with us, not just as a conduit for visual information. Let us take the example of film. Although an image obviously exercises our ability to look and to interpret its visuality, the cinematic image has always been more than something to be looked at. If we take into account the *cinematic* nature of the medium of film, we are confronted by its eloquent harnessing of image, sound, affect, memory, plot, episode, character, story, and event. Such is the *cinematographic* dimension of film, since it is through this that cinema is able to elaborate the affective relation between spectator and image.¹⁵

My aim in emphasising the cinematographic dimension of cinema is partly about reminding us of the difficulty of analysing a form which is in continual flight, each moment of meaning succeeded by another, twenty-four frames per second. And in its metaphorical sense, “cinematographic” describes the processes by which a moving *image* is created, and our task as scholars of film is to think through the ways in which an image is written in time, in the body, in memory. The result allows us to think of the cinematic image as something that is not only watched, but also heard, felt, lived, and remembered.

If we approach the cinematic image as cinematographic, this allows us to engage with its actuality (while acknowledging, as Deleuze would point out, that each actual image exists contingently in a plane surrounded by immanent virtual images). It is not a window onto some other world or a transcendental mirror onto our own. Its actuality consists in its cinematic tactility *and* in its relation with the spectator, who is constituted both by its cinematographic detail and in the connection experienced at the level of sense with the event on the screen—the spectator *makes sense* of the image. A cinematic image is thus an “encountered sign”: a “sign that is felt, rather than recognized or perceived through cognition,”¹⁶ in which the body of the spectator

13. *Id.*

14. PATRICIA PISTERS, *THE MATRIX OF VISUAL CULTURE: WORKING WITH DELEUZE IN FILM THEORY* 3 (2003).

15. Since “cinematography” is often understood as a purely technical term referring to aspects of a film’s visual appearance, I should say that I am not using this term in a way that is confined to visual devices such as lighting, filters, camera angles, and so on. Rather, I use the term “cinematographic” in both its literal and metaphorical senses: literally, “cinematography” means “the writing of movement” (from Greek, *kinema*, meaning movement; and *graphein*, meaning to write).

16. JILL BENNETT, *EMPATHIC VISION: AFFECT, TRAUMA AND CONTEMPORARY ART* 7 (2005).

registers sensations relating to what she is seeing without undergoing or having undergone what is depicted, and sees sensation become *sense* (meaning). As Nathan Moore states in his article, this is an account of the sensed image, an intensive rendering rather than an extensive one.¹⁷ The affective relation of the spectator to the sensed image is a way in which our bodies connect with the world—as Brian Massumi writes, “[w]ith intensified affect comes a heightened sense of belonging,”¹⁸ while at the same time, as Pisters reminds us, “the subject feels itself ‘from the inside.’”¹⁹

IV. ARRESTED BY THE IMAGE

In this semiotic encounter, how is the spectator addressed by the image? If we follow Deleuze’s argument, that the cinematic image is an encountered sign and the cinematic universe constitutes a “network of relations,”²⁰ we are then able to attend to the fullness and complexity of the cinematic image—an image that exists not just on a visual plane, but also in sound, time, movement, memory, and affect. In encountering the cinematic image, *seeing* is only one dimension of the spectator’s relationship to it—just as important are hearing, feeling, remembering.

However, the recitation of the other senses raises the danger that they will be relegated to the role of supplements to the visual experience, with vision still privileged above the others, or that other senses will be elevated to the privileged position currently occupied by vision. Instead, we need to think of encountering the image as a hugely complex moment which manages to incorporate the imagined physicality of the image, its sounds, smells, look, touch, our memories, our projections—a *haptic* encounter.²¹ Because we encounter it haptically, how does the image address us as spectators? To think of spectatorship haptically retains the importance of relationality between spectator and image, while also indicating that the cinematic scene is both momentary and ongoing, static and in motion, projecting a future at the same time as it shows a continuous present laminated over a perpetually receding past. To return to Sherwin’s book, while much of the visual field is characterised in it as mere aesthetic delight, some images are said to have the capacity to do more than offer visual pleasure:

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17. Nathan Moore, *Image and Affect: Between Neo-Baroque Sadism and Masochism*, 57 N.Y.L. SCH. L. REV. 97, 105 (2012–2013) (“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.”).
18. MARY ZOURNAZI, *Navigating Movements: A Conversation with Brian Massumi*, in HOPE: NEW PHILOSOPHIES FOR CHANGE 214 (2002).
19. PISTERS, *supra* note 14, at 70.
20. *Id.* at 21.
21. In using the term “haptic,” I do not mean to insinuate any privileging of the tactile over the visual; rather, as Deleuze and Félix Guattari write: “Haptic” is a better word than “tactile” since it does not establish an opposition between two sense organs but rather invites the assumption that the eye itself may fulfill this non-optical function.” GILLES DELEUZE & FELIX GUATTARI, A THOUSAND PLATEAUS: CAPITALISM AND SCHIZOPHRENIA 492 (1987).

ARRESTED BY THE IMAGE

At some point something must occur to arrest the unending profusion of empty baroque form. . . . I call that event the sublime. The sublime arrests the recession of the real and the ethical. It helps us to reassert our fealty to reality, which is to say, our capacity to respond to what others and the concrete situation that we face demands of us.²²

For Sherwin, then, some images arrest the emptiness, the flow of meaninglessness—but only some. For my purposes, I am also interested in arrest as an interruption, but I would suggest that every cinematic image is always already able to “arrest” us. The visual field is constituted by potentiality: at any moment we may be arrested by an image. Consider Louis Althusser’s famous account of the police officer who calls out, “Hey, you there!” resulting in an individual turning around, and in that 180-degree movement, being “interpellated” as a subject.²³ Just as we hear the police officer’s voice and turn, so the cinematic image hails us, and we are interpellated in a scene, a narrative, a moment, a figure, a gesture.

A colloquialism in English, deriving from the slang of the 1930s, suggests that when a police officer thus hails us, we have been “fingered,” made, identified by authority, implicated. The moment of interpellation in film identifies us as spectators, confirming the address of the image to us, reaching us haptically, in an encounter that touches the spectator visually, audibly, in memory, and on the body. Such a fingering, when the digital image reaches the body, insinuates the image under the skin.

What then, can be said of law when we are fingered by film, when the image gets under our skin? If images are approached for their content, then law, crime, and justice are thematics dominating digital visual culture. As I have argued elsewhere, “The crime drama, with law enforcement as its central trope, provides the spectator with the pleasure of punishment, a pleasure [Richard] Sparks calls a ‘consoling’ one in the face of the pains of a violent world.”²⁴ The courtroom drama, which makes suspense out of legal discourse and process, offers spectators the vicarious pleasure of prosecution and of defence, and it constructs the jury’s verdict or the judge’s ruling as the sense of an ending towards which all narrative moves. “In this approach, the scene of judgment acts as a kind of *screen* . . . : the spectator is [projected] as *abhorring* violence and gratified when a violent criminal receives their just punishment,” or as desiring resolution and seeking judgment—just as a reader seeks the last page of a book.²⁵

But such a construction cannot encompass the vicissitudes and complexities of spectatorship. To approach the cinematic image as a window onto a world, or as a cultural seam whose stories can be mined for an understanding of how the law is understood, fails to grasp the co-implication of law, image, and spectatorship. To

22. SHERWIN, *supra* note 1, at 9.

23. LOUIS ALTHUSSER, *Ideology and Ideological State Apparatuses*, in *LENIN AND PHILOSOPHY AND OTHER ESSAYS* 174–76 (1971).

24. ALISON YOUNG, *THE SCENE OF VIOLENCE: CINEMA, CRIME, AFFECT* 41 (2010) (discussing the argument made by Richard Sparks in *Dramatic Power: Television, Images of Crime and Law Enforcement*, in *CENSURE, POLITICS AND CRIMINAL JUSTICE* (Colin Sumner ed., 1990)).

25. *Id.*

return to the moment of fingering, when the image gets under the spectator's skin, to be fingered by the police denoted becoming suspect; to be fingered by an image denotes becoming both *judge* and *judge-able*. Thus, spectatorial investment in the image involves less a straightforward desire for the consolations of law and more a paradoxical oscillation between pleasure in *judging* and pleasure in *being judged*—and found wanting. The relation, then, is one of co-implication, in which the spectator and law, and the spectator and the image, are enfolded within each other, their contours and substances passing through and around each other.

V. CONCLUSION

Two decades ago Frances Barker wrote of the “tremulous private body”—a body that around the time of the Restoration in late seventeenth-century Britain became conceptualised in ways that attributed sensation, emotion, and interiority to the individual, a body thus instantiated as a subject.²⁶ The digital image continues and depends upon that process of subjection—as we are fingered by the image; its touch confirms our subject position as judge-able and able to judge, as guilty and as exonerable. It is the haptic encounter that makes such a relation possible, and it is the haptic encounter that allows an image to crawl under our skins, gripping us as subjects. Sherwin presents this grip as an instance of the “visual sublime.”²⁷ I would suggest that this grip, this fingering, is even more significant than he allows, since it structures our relation with the image and its address to us. The rolling screens of green data are not necessarily vacant or meaningless or fearful, and it is not only the occasional image that arrests us with its shudder. Arrest is the necessary possibility for all images; sublimity is the necessary possibility for all images, and our co-implication—our being fingered—is the inevitable condition of our subjection.

26. See FRANCES BARKER, *THE TREMULOUS PRIVATE BODY: ESSAYS ON SUBJECTION* (1995). I mention the Restoration to indicate a particular period in time, and a particular place (late seventeenth century Britain), both of which are key to Barker's argument. It is similar to the sense of period and place evoked in a term such as “the baroque.”

27. SHERWIN, *supra* note 1, at 73.