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What Authorizes the Image? The Visual Economy of Post-Secular Jurisprudence

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What Authorizes the Image? The Visual Economy of Post-Secular Jurisprudence

RICHARD K. SHERWIN

What appears in the image field is not subordinate to existing reality, it constitutes that reality.

Katharina Grosse

The soul actualizes truth through the experience of sublimity.

Werner Herzog

On the Nature of “Visual Economy”

Picture a canvas by Mark Rothko: let’s say, “Four Darks in Red” (1958) (figure 14.1): Across an expanse nearly ten feet wide, four bands of colour are laid out one after another – brown, the thinnest; black, the most expansive; then maroon and red. The black has the most weight; it is portentous in its depth. All four bands seem to drift in an encompassing sea of rosyate light, which suffuses around the cloud-like edges of the slightly darker, lower band. That band has been made to contract further away from the edges of the painting than the other three, as if the light behind it could not be contained. Absent figures or representations of any kind, there are no stories to tell. Words fall away, as will happen when one is immersed in music. All that remains is the slow dance of these shimmering colour forms, and your own gaze feeling its way across, around, and within the canvas. It is a strange visual dance, as if accompanied by an otherworldly score, watching subtle hues (black within black, red within red) separate out and move among themselves within each separate band, as each band oscillates against the unsettled borders of its neighbour, and the ensemble oscillates
together as a unified whole within the larger luminous field of incandescent red. Without words, affect surges. An uncanny joy pierces the heart, a deathly despair, an insistent hope – as of daybreak …

Where are we? How did we get here? What does it mean? And what could this possibly have to do with law?

In order to gain our bearings we first need to grapple with the word “economy,” and in particular with the notion of a visual economy. It is not the exchange of capital, commodities, and labour that I have in mind here, but rather an earlier meaning for “economy” – one that derives from the Greek oikonomia: oikos, meaning “dwelling place,” and nomia meaning management or organization, especially of worldly

Figure 14.1 Mark Rothko (1903–70). “Four Darks in Red” (1958). Oil on canvas, 10113/16 × 1163/8 in. (258.6 × 295.6 cm). Whitney Museum of American Art, New York; purchase, with funds from the Friends of the Whitney Museum of American Art, Mr. and Mrs. Eugene M. Schwartz, Mrs. Samuel A. Seaver and Charles Simon. Photography by Sheldan C. Collins.
affairs. Economy in this sense is the place where things of this world are properly administered. Reflecting on the way we manage the world (or worlds) we live in invites us to consider anew the different moral values and aesthetic registers through which reality takes shape for us. How do things and others in the world appear?

In order to take shape first there must be a space to take place in, an oikos. So we ask, what is the nature of the space in which things appear and circulate around us? How are the various elements of what appears organized in that space? What is their nomia? As soon as we speak of appearances, we confront time as well as space: a before and after. Out of what did it appear? How do we understand the relation between the appearance and its source? Its authorship, if you will. What is it that authorizes such a presence? “In the image of” what does it appear? What is its mode of emergence, transmission, encounter? How is to be understood? What does it demand of us? These are the sorts of questions a visual economy is meant to account for.

Human institutions, including law, reflect and implement a dominant visual economy. In different eras, different cultures have enjoyed vastly different visual economies. For instance, in Homeric Greece one encounters the economy of display where physical and social worth is constructed by the other’s gaze. “Look at me!” Achilles says in the Iliad. “Do you not see how beautiful, noble and great I am?” Yet, by the fifth century BCE, in the democratic Athenian polis, the economy of public display has transformed into an economy of public speech. The citizen’s gaze now produces (and is a product of) the field of public performance constituted as participatory spectator and political contestant.

Or consider Byzantium, in the eleventh century, the time of Constantine. For Orthodox iconophilic Christians like Nikephoros, the gaze was constituted by the economy of the Incarnation. It is the Incarnation that lets the world be seen. An invisible God must sacrifice an intimate part of himself, his only Son, in order to create a visible space for God’s infinite presence in the world. The Incarnation – the way the infinite occupies material space – must be sacrificial, broken, kenotic, for the infinite will not appear. It always recedes from view. The icon unified the administration of worldly affairs (including law, belief, and material goods) in the image of God’s sacrifice of His only Son. The economic imaginary of the icon modelled that sacrifice. When God became flesh (as word/image/body) the world became visible.

As these examples may suggest, different visual economies establish the world we live in by constituting how the eye sees. How do we
know reality? What constitutes its truth? Does it touch the tactile image (in the presence of a pious painter like Giotto)? Does it break with form in the quest for unseen reality (before the uncanny coloured splotches of Fra Angelica, say, or Vermeer)? Closer to our own time, we may ask whether reality is present in the ecstatic, despairing colour fields of Rothko and the numinous, post-secular spaces of Barnett Newman? Or does it appear to us more like a jumble of fragmented remains, disparate feelings, or non-signifying affects, as we dance on the surface of visual forms in ornamental delight, as when we watch a Hollywood blockbuster, momentarily casting our lot with the life of another for a cry or a laugh before the screen goes dark? A matter, we might say, of image as Hollywood idol.

If the visual economy constitutes the reality in which we live, including the network of beliefs, laws, and institutions that make up our worldly existence, who is (or will be) master of the image? What authorizes the image? What is the source of law's legitimacy in the "visiocracies" we call home?

From Iconology to Semiotics (and Back Again)

On the heels of the ruinous, seemingly endless religious and civil wars of the seventeenth century, early modern Europeans began to turn their gaze away from sectarian sources for legal authority. Foremost among them in this regard was Thomas Hobbes. It was Hobbes who gave us the political triad of sovereignty (the "artificial Soul"), positive law ("artificial Reason"), and the state (that artificial Leviathan, also known as the Commonwealth), bound together by contract: ceding power to the one, or the many, who represents the people. In short, it was Hobbes who first blazed the trail for secular positivist legal thinking. The state and its laws were now viewed as manifestly human constructs, authorized not by God but by collective consent. Law ruled semiotically: defining the terms of representation and exchange. Over the years, as transcendental references continued to weaken, the premodern visual economy of living symbols entered a prolonged state of collapse. This development pushed semiotics to the limits of its legitimating power, and perhaps beyond.

What would it be like to reimagine law not simply in terms of semiotics or abstract concepts, but also as a visual economy, a matter of embodied seeing? What would it mean to picture a corpus less akin to Hobbes's legal machinery than to a network of interlinked, living
symbols, where rational categories yield at least equal respect to embodied states and embodied knowledge (affects, feelings, emotions), and in which legal institutions that establish and maintain basic concepts (such as due process, equal protection, and liberty for all) also help to express and perform a preferential range of shared emotions? Imagine a state in which everyone recognizes that structures of feelings help to create both individual identity and social reality, and in which legal institutions help us to avoid "bad civic passions" (such as fear, envy, and shame) while promoting the good (compassion, respect, perhaps even love).

What if law were viewed less as a metric system than a musical composition, a public performance, a work of art: not simply a passive archive of written rules, policies, and principles, but also, and perhaps even more importantly, a theatre in which we perform a shared reality, clearing a space—an oikos—for reality to appear? What could make that happen?

When semiotics began to displace living symbols, science took over from theology and the humanities, displacing rhetoric in particular as the leading source of authorized knowledge. In the disembodied epistemology of science, non-sensual truth becomes, as Heidegger put it, a matter of discerning the adequation between image and some underlying model. What is "adequate" in this context is a function of some form of imitation or measurement, whether it is based on a Platonic ideal form or an alternative metrical system. In this kind of visual economy—let us call it the economy of "mimesis as imitation"—good images are accurate copies.

Now while science may excel in establishing conditions of accurate measurement based on formal conditions of validity, it is sorely lacking in providing a basis for structures of feeling, or a preferred network of embodied knowledge. Science is not cut out to express what binds us to a particular model or belief. Discerning the source of an uncanny or sublime presence, what Heidegger calls "the ecstatic play of the world," is beyond its ken. The economy of the sublime, of mimesis as appearance or event, insists upon a very different ground of truth than accurate imitation. Symbolic or iconic truth coincides with what the image reveals in our encounter with it. This kind of phenomenological exchange in the face of the iconic image is more akin to performance. Something happens. The image brings something (perhaps some form of being) into a clearing, created within the space of the image, for the gaze to encounter.
Experiencing law's validity as a matter of its compliance with the right set of rules or principles without any sense of its felt significance, which is to say, without an adequate account of what binds us to law's authority in the first place,\(^{18}\) leads us to Kafka's law: a law that is valid, but lacks significance.\(^{19}\) For Gersholm Scholem, this encounter with the dead spirit of the law describes the nothingness of revelation, the zero point of law and politics, the state of exception. Valid legal forms may proliferate in baroque and neo-baroque spectacle, but that profusion cannot distract us forever from sensing the emptiness at the core.\(^{20}\) To counter that lack requires an event – the advent of meaning.

Scientific objectivity can tell us nothing about the advent of law's significance. For that we need living symbols in the visual economy of presence. We can see this is so when we consider the genealogy of law's legitimation over time. For example, it was the visual economy of the Incarnation – that phantasmal presence in the imperial coin (the emperor in the image of Christ),\(^{21}\) the Orthodox icon,\(^{22}\) the king's two bodies,\(^{23}\) and the legal emblem\(^{24}\) – that once authorized law's worldly power, "making power visible,"\(^{25}\) giving proof to its invisible spiritual source.\(^{26}\)

In the pre- and early modern visual economy of the living icon the image precedes the word.\(^{27}\) As Goodrich points out, the tripartite structure of the legal emblem recapitulates the threefold unity of the Incarnation, the image made flesh.\(^{28}\) But over time, what began as a transcendental, symbolic visual economy devolved into something far different: a secular legal positivism, the modern semiotic economy of signs and definitions.

And yet, there remained a ghost in the secular machinery of positive law: the enigmatic aura, the unrepresentable, inconceivable (but perhaps not insensible) "Other" of law. In the material semiotic age of science and technology, the economy of signs appeared to have displaced the auratic symbol. But like Banquo's ghost, it "will not down."\(^{29}\) What could be the source today of such a phantasmal legitimating presence? From what visual economy could it arise?

**Post-secular Jurisprudence: The New Visual Economy of Presence**

Eric Santner locates a crucial shift in the visual economy of the early modern legal emblem from the "King's two bodies" (secular and divine) to the "People's two bodies." The sovereign that the people create by contracting their rights to their representative contains a surplus,
an irreducible excess that Santner calls "the flesh" ("a sublime somatic materiality"). This uncanny surplus describes what remains of transcendence. It is what passes from the divine sovereignty of the King to the popular sovereignty of the People.

Imagine the Hobbesian contract of civil representation not simply as words in a document, but also as something iconic in its overdetermination. What if, in order to fit on the page, the social contract could not contract enough the foundational source of power it was meant to carry? What if we viewed that constitutive contract as a living symbol, an icon, which is to say, irreducible to words alone?

What spirit hovers behind the visible signs of civil commitment, as if scintillating within a sea of roseate light on a canvas painted by Rothko? If we were to try to imagine such a possibility, how would we describe its visual economy?

In our psychological times, we might well begin with interior space, the domain of libido. That is Santner’s point of departure: the flesh imagined as an invisible residue of uncontainable, uncircumscribable transcendence, for libido (unconscious Eros) always exceeds the material body. In Freudian terms, when we “cathect” libido – transferring Eros from our body to something beyond it, including expressive forms – we enter into relation with those forms, including others and the world around us. We might say that the body politic acts similarly. We collectively invest libidinal energy in, and thus bind with various objects, others, stories, and ideals. These in turn become charged with libidinal excess. If the object in question is a document, a contract or foundational constitution, say, that excess is the felt presence that binds us. In this sense, the social bond is an excess of meaning. It charges and sustains (so long as it lasts) a shared belief in a cultural construct, an oikonomia, if you will, that legitimates the power of the state.

This is how we might talk about a contract that rules with uncanny vitality, as an emotional construct, or a symbolic form of life. This is the enigmatic flesh of the law imagined in terms of a sublime materiality. An economy (“oikonomia”) imagined as that space in which we manage the material world (of goods and institutions) in the image of something uncontainable, something sublime.

Santner calls this uncanny phenomenon “the royal remains.” It is, he says, how the king’s transcendent body appears in modernity: how the enigmatic presence of the royal remains was reconstituted in the body politic of popular sovereignty. But it doesn’t just happen, like a transaction in which goods, or goods and currency, are exchanged in a sale
that’s final. It persists. Or it doesn’t. Its viability depends on a currency that doesn’t appear at all, namely, libidinal cathexis. Without that animus, that uncanny surplus, the laws may be valid but lack significance. Under such conditions, legitimacy is but a rumour.

That is the revolutionary ramification of spiritual and libidinal capital: absent its enigmatic presence the social contract fails. If the basis for a particular cultural form of life disappears, if the currency – what Santner calls “biocratic investiture”\(^35\) – that makes a legal regime function, becomes too weak to support the state’s demands, the constitutive structure of belief collapses. If libidinal investment sustains the state, libidinal dis-investment (collective de-cathexis) augurs its fall, its deadly spiral into the state of exception, the zero point of law and politics, a state of perpetual terror. That is what happens when we withdraw our love for objects and others in the world around us. The external world crumbles, mirroring an internal catastrophe.\(^36\)

Let’s see if there is a visual economy in which we can visualize the flesh of the law in a similarly corporeal representation.

**Reimagining the Visual Economy of Post-secular Jurisprudence**

In art, the unspoken, unfigurable source of beauty calls to us. It demands a response from the spectator’s gaze. The relationship we enter in the poetic space of beauty’s presence is described in the phenomenology of aesthetics.\(^37\) In law, justice likewise comes to us as an infinite, uncontrollable force. We stand before the Other, whose suffering demands a response. In the visual economy of law justice hovers beyond the field of our vision, like an uncanny, enigmatic presence. It haunts us. Always unrealized, always beyond our grasp – and yet, it is justice that animates law, lending it significance. We feel this, particularly in certain forms and performances of law, even if we cannot always name it. That feeling binds us to law. Our cathected relationship to others and objects (including texts and ideals) is a relationship of significance. We may describe this as the phenomenology of the ethical.\(^38\)

What Eric Santner calls “the royal remains” coincides with the phantasmal presence that invisibly bestows legitimacy upon law. In the immediate aftermath of the French revolution, Santner senses that presence in Jacques-Louis David’s famous painting, “Death of Marat.” Santner credits art historian T.J. Clark with the critical insight at work here. Quoting Clark: “In the cult of Marat [David saw] the first forms of a liturgy and ritual in which the truths of the revolution itself would be
made flesh – People, Nation, Virtue, Reason, Liberty.” But how would such a “liturgy” find an appropriate form of expression? Santner discerns an aesthetic revolution at work in David’s painting. It emerges as a new kind of abstraction. The painter “seems to make Marat much the same substance – the same abstract material – as the empty space above him.” Equating that enigmatic space with the King’s sublime body (“the flesh”), this abstraction of sovereignty, its sudden vacancy, symbolizes “the impossible representation of the People.”

Revolutionary, indeed. No less is at stake than the dissolution of the iconic representation of the Incarnation of Christ, established for centuries, as the underlying model for the King’s transcendental body. What we are witnessing is a profound shift in the visual economy of law and politics. According to Santner, the inability to represent the royal remains in the transcendental body of the People (an aporia he refers to as “representational deadlock”) describes the status of popular sovereignty in the post-Revolutionary age of modernity. The masses who once comprised the Hobbesian Leviathan (pictured in the famous frontispiece of Hobbes’ mid-seventeenth-century political handbook) have now dissolved into an absence. This charged absence is the abstract animated field we all carry within ourselves: the uncontainable excess of Eros. In this new visual economy, popular sovereignty is animated by a libidinal excess, or somatic surplus of immanence that every citizen carries within his or her own body.

With Rothko, and the mid-twentieth-century emergence of abstract expressionism in general, the visual economy of the image that we first witnessed in David’s enigmatic abstraction has developed even further. Now all representational form has been evacuated. Only a shimmering coloured field remains. The mysterious legitimating source of somatic excess, the royal remains that have been transferred to popular sovereignty, has become an entirely abstract expression. But this may hardly come as a source of political comfort. After all, how many people see (much less seek out) in the work of Rothko a source of iconic mastery – making a space for the mystery of the infinite to materialize in the world? A source of legitimacy that has grown this esoteric, so far removed from more familiar rites and liturgies of popular investiture, is an unlikely basis for a sustainable visual economy of law.

Yet, without understating the gravity of an incipient legitimation crisis that has dogged the liberal state throughout late modernity, access to a source of legitimation may lie closer to hand. Perhaps as close as the nearest screen.
If we begin with the ontology of the image, before long – amidst the various registers of being, from sublime presence to sensorial delight, that different kinds of images allow (or preclude) – we come across what visual ethnographer David MacDougal calls “the corporeal image.” MacDougal’s notion of seeing with the whole body may be read against the current cultural backdrop of the “affective turn,” including renewed interest in embodied or “synaesthetic” knowledge. Of particular interest here is what the corporeal image cannot configure, which is to say, our encounter with its excess, the sublime shimmer that accompanies its mysterious overdetermination. That excess is what makes us shudder when we gaze upon the charged abstract colour fields of a work by Rothko, or the sudden, inexplicable vacancy in David’s “Marat.” The surplus of immanence that we encounter in the ontological field of corporeal images is irreducible to what we see there.

Film, television, and video images, on screens large and small, serve as immensely accessible “popular” sites where corporeal (among many other kinds of) images are in continuous play. The vast circulation of images made possible by new visual technologies keeps alive the prospect that the mysterious source of popular sovereignty in the visual economy of law remains before us. At the same time, however, the very profusion of visual images today also keeps alive the prospect of continued obscurity, burying the corporeal image in the neo-baroque clamour and clutter of undifferentiated visual spectacle.

This defines the visual challenge of our time. Before law’s legitimation may be stabilized within a still emergent visual economy, enough contemporary artists, cultural critics, and jurists need be amassed to assimilate and clarify its aesthetic and ethical demands and registers. Only then can that vision be broadly and effectively distributed and shared within the body politic. This process of clarification may well be the most profound task of culture, namely: to sustain the legal and political groundwork necessary for both law’s and culture’s production, maintenance, and vitality.

To illustrate in greater particularity the claim that the “corporeal image” is closer than the example of abstract expressionism may suggest, one could choose from an extensive archive of films which, to a greater or lesser degree, shimmer with a kind of uncanny corporeal excess. The dictates of limited space allow only a brief example here, drawing on two closely interconnected films by the contemporary filmmaker Joshua Oppenheimer.
Oppenheimer’s “The Act of Killing” (2012) and “The Look of Silence” (2014) not only recapitulate in their subject matter the genealogy of law’s legitimation, but also aesthetically model the way presence in corporeal images – as well as a deadly vacancy in dizzingly baroque forms – work on the screen. In short, the films perform an integrated visual economy for law and politics in which discrete ethical and aesthetic registers dialectically play out.

A group of high-level army officers has staged a coup. To legitimate their action they characterize it as a necessary response to a ferocious “enemy within” that is threatening to violently seize the state. In the aftermath of the coup, they unleash a killing operation in which enemies of the state (alleged “Communists”) are rounded up and slaughtered. No exact estimate exists, but more than five hundred thousand people were killed in this way. Violence on such a massive scale exceeded the capacity of the army without assistance. Accordingly, the state enlisted a civilian cadre of willing killers within a widely distributed network of local militias. This happened in Indonesia in 1965–6. The leaders of the coup remained in power for over four decades thereafter. As co-agents of that political and military triumph, the civilian killers were subsequently praised as heroes of the state. And for all these years, the survivors of mass violence, along with the families and friends of the victims, were subjected to continued oppression (from crude shake-downs in the marketplace to the utter silencing of political dissent) by the thugs, gangsters, and neo-fascist militias that continued to serve the state’s needs.

Enter Joshua Oppenheimer, who asks: What is it like to live with the knowledge that you have murdered in cold blood scores, perhaps even hundreds, of innocent people? And what is it like for the victims to live within a regime of such repressive silence? “The Act of Killing” poses the first question. “The Look of Silence” poses the second.

Oppenheimer found that the aging killers, when approached, were only too happy to recount the brutal torture and mass murder that they had committed in their youth. And so the filmmaker enters a strange state of play, providing the killers both the opportunity and the technical means to make a film of their violent and sadistic exploits. Anwar Congo, white-haired now, rail thin, charismatic, and tortured by his past, despite the apparent comfort of his social status, is the chief protagonist in this creative venture. As he moves from scene to scene,
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We are thrust into his visual world. Culturally immersed in the westerns and crime noirs of Hollywood, Congo’s visual vocabulary is rich and astute. He uses his film knowledge to play out fantasies of denial together with recollections of violence and death that incessantly fill his mind, some images more persistently, more hauntingly, than others. As it turns out, nightmares disturb Congo’s sleep. He can’t stop seeing the open eyes of the decapitated head of a random victim that he left like litter on the killing ground. As if to purge his demons, Congo stages his worst deeds, one after another. Brutal scenes of sadistic torture and killing by strangulation with a wire, in which Congo sometimes is the killer, sometimes the victim, are interspersed with majestic waterfalls, beautiful dancing girls, and carnivalesque cross dressing (for Congo, the would-be film director, is well aware that an audience also must have beauty and humour or they will turn their attention elsewhere).

Bizarre, surreal, perverse: the film moves from one scene to the next, accelerating into the terrible fever dream that we come to recognize as Congo’s anguished internal state. As if the impossible cognitive dissonance in which he lives, oscillating between “state hero” and “murderous beast,” cannot hold. The visual economy of Congo’s existence is one of terror and violence. One image follows another, dizzying in their mad profusion. Nothing adds up. Congo’s baroque world of proliferating spectacles of extreme violence and sensual delight remains unstable at its core. Perhaps that is what animates the profusion in the first place. The nothingness at the centre of vision must be avoided at all costs, for fear of total collapse.

The folly of Congo’s visual staging is soon evident. The cumulative details of self-deceptive denial and self-lacerating violence (as in the scene where a crazed perpetrator forces Congo’s decapitated head to swallow his own liver) know no resolution. They can only quicken. And as they quicken, the fever dream intensifies, until it finally reaches a culmination – and the house of cards that is Anwar Congo’s mental world falls apart. That collapse appears in the final scene in “The Act of Killing.” We see Congo standing on the same rooftop where he killed so many of his victims in cold blood decades ago. He is silent, seemingly reflective. And then he begins to heave, again and again convulsive retching overtakes his frail, wracked body. It is the body’s unconscious knowledge enacting what Congo’s tortured mind lacks the power to utter. Not just an isolated killer, but a whole society, a political regime based squarely upon a massive outburst of killing, has been revealed in a vertiginous, baroque image world well suited to feverish horror. The
root of that horror and the futility of its denial are laid bare: the rottenness at the state’s core. As Freud wrote of Daniel Paul Schreber: “His subjective world has come to an end since his withdrawal of his love from it.” An internal catastrophe that mirrors the external catastrophe in which Congo all too willingly participated has finally come to dominate the world in which he lives.

Here is a living image of law in the flesh, suited to a failed political state under neo-baroque conditions: a world of incessant tableaux and transmuting personas, one supplanting the other in quick succession, one after another passing away in a wild proliferation of transmogrifying images, bound in the end to run their final catastrophic course: the heaving, mute, destitute body. Congo is trapped in a perpetual state of emergency. No matter how many representational forms or visual images may be placed at his disposal, the result remains the same. Endgame. Psychological catastrophe within, legal and political catastrophe without. And here, allegorically speaking, is where Indonesian society might remain, unable to acknowledge its violent past, continuing its acts of denial and oppression. Here at the zero point of politics, a state of terror within collectively mirrors a state of terror without.

In his second film, Oppenheimer shifts from the perpetrator’s mindset to that of the victim. Along the way, we witness a corresponding shift in visual economy. Adi is now the main protagonist. His brother, Ramli, was brutally tortured, mutilated, and killed during the Indonesian genocide, a year before Adi was born. Working now as an optometrist, living amidst his brother’s killers, Adi’s life mission is to speak truth to power. But it is not vengeance that motivates him. Rather, it is the need to pierce the veil of oppressive silence, to confront the killers with their feeble denials, their empty fantasies, their perverse bravado. Do you not see it was wrong? Have you no remorse, no regret? Such is Adi’s refrain as (in no idle metaphor) he calmly fits lenses on the eyes of the killers around him, or sits across from them, including those in positions of significant political power.

Forced to hide his identity, resisting threats of renewed violence if he continues to speak the unspeakable about the past, Adi persists in his questioning.

If only the killers could acknowledge the wrongness of their actions, if only they could take responsibility, and apologize, face to face with the survivors of so many innocent victims, perhaps reconciliation might become possible. Perhaps politics may begin anew, based not on violence, but rather on a deep commitment to empathy (even with the
perpetrators) combined with a profound moral conviction regarding the necessity of taking responsibility and seeking forgiveness. That is the moral thrust of truth and reconciliation in Adi’s steady gaze.

The aesthetic register of Adi’s gaze contrasts sharply with that of Anwar Congo. The vertiginous, unstable images of Congo’s fever dream have now given way to something calm and steady. Adi’s gaze holds us; it is stable, securely rooted. The silence of the dead, and the dignity of the living who survive them, pervades every scene in “The Look of Silence.” In these scenes the corporeal image is suffused with the incalculable demands of human suffering, and perhaps, too, the infinite majesty of human nobility. Adi’s morally stable universe is sustained by the human capacity for relationship, radical empathy, and the redemptive possibility of forgiveness – perhaps even love. In scene after scene of everyday life, “The Look of Silence” models for us Adi’s capacity for love: love of his elderly, long-suffering parents, for whom he must now care, love of his lost brother, who so many years ago set in motion the ethical demand of Adi’s life mission, and love for his children who will inherit a legacy of suffering and injustice. We see this in
simple scenes of everyday life: Adi washing his blind and nearly deaf and demented father - unable now to escape the prison of his grief; Adi speaking in close intimacy with his careworn mother as she cracks nuts on a stone; Adi playing with his young daughter, jumping delightedly on her bed as she humorously mimics her father’s sales pitch for new glasses, and Adi walking with his older son, solemnly explaining the lies his teachers are telling him at school.

These scenes of the survivor’s everyday life are suffused with moral fortitude and love. But above all it is the silence of countless victims that animates Adi’s gaze in the face of the killers around him, intensifying Adi’s morally robust silence against the crude pitch of the perpetrators’ threats and deceptions. The filmmaker’s love for Adi, and for Adi’s parents and children, instantiates and models the moral force that pervades the visual economy of “The Look of Silence,” holding out hope for political renewal through redemptive justice.

Two films, two different interventions in the history of mass murder. One, a fever dream of incessantly shifting personas, disguises, oscillating wildly from self-deceit to self-conviction, showing us what it is like to look in the mirror of a perpetrator’s life – a life lived in the homeless terror of unacknowledged guilt and shame. The second, almost an idyll – but for the background of violence and death, and the exquisite, almost unbearable suffering left in their wake. Yet, for all that, Adi’s calm gaze prevails. We see what it is like to look in the mirror of a victim condemned to live behind a veil of oppressive silence, but who refuses to succumb – not with violence or cries for retribution, but with dignity and moral conviction vouchsafed by the silent authority of the dead. Adi’s gaze aims for forgiveness and reconciliation once the killers themselves, along with those whose power can be directly traced to that horrific origin, acknowledge the truth, and take responsibility for the wrongs they have committed.

Two different gazes, two different image worlds – together constituting the visual economy of contemporary Indonesia. But this is not simply an allegory of a society internally riven by a history of unspeakable violence and oppressive silence. It is also a symbolic visualization of the way law confronts violence (or fails to), and the way it moves from its own originary violence to the redemptive possibility of renewed love for the world. It places before us, in corporeal images of almost unbearable intensity, the mute knowledge of the body: its fevers, its fantasies, its wretchedness, as well as its dignity, its sweetness, its moral rightness, and its capacity to empathize and to love. Oppenheimer takes us
to the heart of human mystery in a visual economy that pulsates with an unrepresentable surplus. From the esoteric challenge of abstract expressionist fields we have travelled to an almost “microscopically” examined representational particularity: a handful of perpetrators, a single family of survivors, among an unfigurable backdrop of so many others, in a world so intimately portrayed as to ask of us, as Oppenheimer wishes to ask, what would it be like to be this family: to “feel you are Adi, or your brother is Adi, and Adi’s parents are your parents, your grandparents; Adi’s children are your children?” In this visual economy intimacy, empathy, and love pulsate with an uncanny excess. It is this surplus in representational particularity, Oppenheimer tells us, that makes us care. Perhaps it even makes us want to participate in what is being performed on the screen, inviting, enticing, inducing us to enter and invest in this visual economy, to make it our own, even for law’s and politics’ sake. In this visual economy, the corporeal image provides a basis for stabilizing and legitimating the way we manage and maintain shared beliefs and values in society, the way we make a place (oikos) for normative reality (nomos).

And so we see the ethical and aesthetic join together in an integrated visual economy that traces law’s tragic origin in violence to its possible future in redemptive justice. Two different interventions, two different ruptures: one, the rupture of the veil of denial and lies; the other, the rupture of an oppressive silence with moral responsibility and the hope of reconciliation. Notably, this dialectical integration of the ethical and the aesthetic draws upon all the resources of the body. As Oppenheimer puts it, in a description of the film editing process: “I wonder whether this ability to find that mystery ... has to do with the fact these [editorial] decisions ... are like decisions of all your senses, your tastes, your feeling, your ears, your stomach, your smell. I’m working in a place that is not about words.” Rather, a fundamental, unfigurable mystery, a sublime presence, if you will, unites us through the corporeal image. In that presence the immorality of social and political corruption is manifest. This is Oppenheimer’s ethical phenomenology of the empathic gaze. In empathy, even with a mass murderer like Anwar Congo, we may learn to acknowledge and responsibly confront the vast complexity of human nature. For in this view, Anwar Congo is not simply a killer to be dealt with by the punitive force of law, but also a human being haunted by the internal terror that his violent deeds have wrought.

With this realization of the shocking, almost unacceptable complexity of humanity we are in a position to seek something more than
retribution. For retribution remains insensible to the moral responsibility and, along with it, the possibility of reconciliation that comes with redemptive justice. Thus, Oppenheimer’s radically empathic visual economy of law and politics invites us not to endlessly repeat the mistakes of supplanting one form of violence with another, or one form of false closure with another – whether it is the perpetrator’s self-deceit, in fantasy or other forms of denial, or the victim’s (and society’s ritual performance of) false hope that now, at last, the monsters among us have been purged from the body politic. 54 This visual economy of law cultivates a deeply embodied moral knowledge that makes reconciliation imaginable. It is, as Oppenheimer puts it, “the only way to achieve the widest possible human dignity.” 55

In confronting violence and terror, empathy and love seek to provide a home for the ghost that haunts the Hobbesian legal machine, and all comparable legal systems that remain valid but lack significance. It is not enough to bind the body politic with fear, as Hobbes believed. Fear may prompt obedience, even acquiescence, but it will never inspire empathy or fidelity based on a libidinal cathexis that makes a shared world truly our own. As Giambattista Vico wrote over three centuries ago: “The soul of man must be enticed by corporeal images and impelled to love, for once it loves it is easily taught to believe. Once it believes and loves, the fire of passion must be infused into it so as to break its inertia and force it to will.” 56

Without that investment, that erotic cathexis as we might put it today, legal validity without significance is bound to decay, and fall back into the nothingness of bare life, a fate akin to the collapse of the vertiginous image world of Anwar Congo at the end of “The Act of Killing.” It is this catastrophe to which our prolonged crisis of legitimation points. It is the historic burden of justice to avert that fate. These, then, are the stakes when we ask what constitutes sovereignty in our time, which is another way of asking, in what visual economy does law manage shared beliefs, values, and the circulation of power in the material world?

Conclusion

The challenge of authorizing the image in the visual economy of law is twofold: First, we must learn the different ethical and aesthetic registers that operate within the different visual economies of our time. This is a matter of visual literacy. It portends the ascendance of visual rhetoric
as a major player in the theory and practice of law. Second, we must embrace the ontological (perhaps metaphysical) challenge that accompanies the exploration of non-conceptual, non-metrical, embodied forms of knowing, as we grapple with the complexity of the uncanny surplus of corporeal images. Different kinds of images circulate in different visual economies - from the iconic incarnation of early modern legal emblems to modernist abstraction (David and Rothko) and sublime representation (Oppenheimer), to images as measured imitation (in the adequation of copy and model) or brute sensorial intensity, in horror and delight (as we find in the crypto-legitimating charade of the digital simulacrum).

In the modern era, the artwork may have "replace[d] the cult of the holy image." But aesthetics alone will not vouchsafe the visual economy of the law. Law's economy also must be linked to our ongoing commitment to justice. That commitment grows out of a renewed encounter with an interior libidinal source - in painting, film, and video images on screens large and small - whose ongoing collective investment binds us to the *nomos* in which we live. In so doing we legitimate the living spirit of law's humanity. In the ethically inflected aesthetic of post-secular jurisprudence, *justice* is to jurisprudence as *beauty* is to art. The authority of law as image arises out of and circulates within an infinite field that we call justice. *Eros* is the name we give to that creative force out of which political worlds are made, from bare life, from the political unconscious known as the flesh of the law. Law's significance finds its uncanny source in that invisible presence. Where the flesh appears as libidinal excess there lies the source of authority, the spirit of the law that binds us. As distant as an abstract expressionist canvas, as close as any neighbour, or indeed any screen on which the neighbour becomes real to us, that is where we simultaneously behold both the subject and source of law's judgment and authority. This is how law persists, iconically, perhaps kenotically, in shimmering corporeal images.

In every era the visual economy of law as image must be learned, perhaps even created anew, so that the uncircumscribable nature of its ethical source will be understood, remembered, and practised in the ways of its time. This realization augurs a renewed integration of law and the humanities, including a renewed reflection upon political theology and the wisdom of the heart in a post-secular age.

For this task to be realized, artist and judge, poet and legislator, need to engage one another in a joint effort to re-authenticate the symbolic
basis for our political union. The remains of transcendental excess, incarnate in the immanent wound of the flesh, must be re-encountered anew. Without this, we risk becoming as destitute as Anwar Congo at the end of “The Act of Killing.” That is the contemporary lesson of the poetic and ethically resonant film work of Joshua Oppenheimer, work that may betoken a sea change in the visual economy of values and beliefs in which images and laws circulate in society. With radical empathy and the libidinal excess of love that binds us to the world and to others around us, hope for political renewal remains. That is the redemptive promise that we learn from the visual economy of Adi’s steady ethical gaze in “The Look of Silence.”

Re-authorizing the image of law in our time calls for a reimagined visual economy in which the ethical sublime, the invisible source of law’s excess (justice as an expression of love?) remains before us: achingly out of reach, yet beckoning, demanding, entreat ing. As before a roseate light, rising.

NOTES

4 For Rothko the space the eye inhabits is the key to the artist’s vision. See Mark Rothko, The Artist’s Reality (New Haven: Yale University Press, 1998), 59.
6 Ibid., 19.


15 See Richard K. Sherwin, "Sublime Jurisprudence: On the Ethical Education of the Legal Imagination in Our Time," *Chicago-Kent Law Review* 83, no. 3 (2008): 1160. ("Cartesian epistemology shifts attention from images to words, from the objective eye to semiotic interpretation. Signs have no direct correspondence with what caused them. Signs signify. They stand for a word. This is not a matter of sense impression, as with the flow of species. In short, Cartesian modernity subordinates *physi/sthemos* [nature and natural law] to *nomos* [law posited as a cognitive and cultural interpretation or convention]. The classical and medieval link to the ‘natural’ order has been broken, and the modern dis-enchantment of nature has begun. Truth has now become the offspring of artificial linguistic conventions. The sign, on this account, is but an arbitrary association to an object or event rather than a natural resemblance.")

16 Ibid., 1175. ("The mimetic experience of being-as – culminating ultimately in the ethical experience of *being-for-an Other*, embodies a sublime epistemology rooted in self-transcendence and the metaphysics of poetic representation. It is this natural mimetic endowment that allows humans to become one with an object [in the act of naming] or with other cultures and their associated mindsets during other times [in the act of discerning linguistic, philological, and mythic patterns throughout history]. Mimesis, the faculty of imitation through *being-as*, is simultaneously the condition

17 See Paul Ricoeur, “Between Rhetoric and Poetics,” in Amelie Oksenberg Rorty, ed., *Essays on Aristotle’s Rhetoric* (Berkeley: University of California Press, 1996), 351. (“It is only through a grave misinterpretation that the Aristotelian mimesis can be confused with imitation in the sense of copy. If mimesis involves an initial reference to reality, this reference signifies nothing other than the very rule of nature over all production ... *Mimesis is poiesis, and poiesis is mimesis.*”) See also Michael Taussig, *Mimesis and Alterity* (New York: Routledge, 1993), xviii, 38, 40 (adopting Walter Benjamin’s understanding of the mimetic faculty as the “compulsion to become the Other” and describing sentience as taking us “outside of ourselves” in the “instantaneous” and “mystical” flash which is the “perception of similarity”).


22 See Mondzain, *Image, Icon, Economy*.


26 Ibid., 35.

Banquo, a character in William Shakespeare's *Macbeth*, was a general in the army of King Duncan. When Macbeth ascended to the throne of Scotland after Duncan’s murder Banquo suspected Macbeth of the regicide. After Macbeth arranges Banquo’s death, Banquo’s ghost appears to Macbeth – first at a banquet (act 3, scene 4) and later in a vision granted by the three witches wherein Macbeth sees a long line of kings descended from Banquo (4.1).

Eric Santner, *The Royal Remains* (Chicago: University of Chicago Press, 2011), 4. Historian Edmund Morgan treats the People’s two bodies in terms of the felt need to separate the constitutive and self-limiting power of the People (their so-called transcendent or sovereign power), on the one hand, and the less lofty legislative power of practical governance (as subjects), on the other. See Edmund S. Morgan, *Inventing the People* (New York: W.W. Norton & Co., 1988), 78–93. Deprived of the king’s sovereign “majesty,” as occurred in England with the departure and ultimate death of King Charles I in 1649, “Parliament ceased to exist, as did the commonwealth of which it was a part” (88).

See, for example, the living symbols of legal performance in Grace Koch, “We have the song, so we have the land: Song and Ceremony as Proof of Ownership in Aboriginal and Torres Strait Islander Land Claims,” AIATSIS Research Discussion Paper no. 33 (Canberra: AIATSIS Research Publications, December 2012) (noting that in land-title disputes by Aboriginal people and Torres Strait Islanders in Australia song and ceremony may serve as title “deeds”).

Ibid., 12. See also Carlo Galli, “Hamlet: Representation and the Concrete,” in Graham Hammill and Julia Lupton, eds, *Political Theology and Early Modernity* (Chicago: University of Chicago Press, 2012), 70 (tracing the privatization of the state from the historical moment “when the sovereign monarch was substituted by the sovereign citizen”).

We encounter this terrible collapse in Franz Kafka’s short, parable-like story “A Country Doctor” – in the image of the raw wound of the flesh. We encounter it as well in the famous case of Daniel Paul Schreber, a legal scholar and judge who succumbed to the pathology of unsublimated *Eros* – the withdrawal of love from the world and others around him. Having mastered its subject, Schreber’s abnormally involuted *Eros* burst out in florid forms of psychotic delusion. See Santner, *The Royal Remains*, 63–86.
38 I trace the phenomenology of the ethical sublime to Emmanuel Levinas in Richard K. Sherwin, *Visualizing Law in the Age of the Digital Baroque*, 184-6.
40 Ibid., 92.
41 Ibid. See also Morgan Thomas, "Law and the Revolutionary Motif after Jacques-Louis David," chapter 4, this volume. According to Thomas, David’s "Marat" "embodies a movement ... between visual representation and an empty yet ineluctably material state of indeterminacy" (112). Thomas associates the "affective intensity" and "sublime effect" of that "evanescent presence" (113) with "the ethical notion of an irruption of the infinite in the finite" (117).
47 See Sherwin, *Visualizing Law; Galli, "Hamlet;"* 70 (noting that when popular sovereignty substituted for the sovereign king the citizen became "a sovereign spectator, capable only of consuming, in aesthetic enjoyment, a representation that made itself, over time, more and more irresponsible and ineffective").
48 I believe it is fair to say that in the character of Anwar Congo we are close to the unstable mental reality of Daniel Paul Schreber. Like Schreber, Congo, too, is unable to live in this world. For he, too, has de-cathed his libido from it, and consequently suffers the throes of world loss. See Santner, *The Royal Remains*, ix–xvii.
49 Ibid., 22.
51 Ibid.
52 Ibid.
53 Ibid.
54 As Primo Levi put it: “Monsters exist, but they are too few in number to be truly dangerous. More dangerous are the common men, the functionaries ready to believe and to act without asking questions.” Primo Levi, *The Reawakening* (New York: Simon and Schuster, 1995), 228.


61 For hopeful thoughts along these lines by a Nobel laureate in economics, see Edmund Phelps, “What Is Wrong with the West’s Economies?” *New York Review of Books*, 13 August 2015, 54. (“Education systems must put students in touch with the humanities in order to fuel the human desire to conceive the new and perchance achieve innovations.”)