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One Eye in the Mirror: Reflections on a Symposium

Some years ago, with the royalties cheque from my first book, I bought a cup of coffee from a grocer's (long gone) on Store St., in London. More recently, I drank a great deal of good, strong Swedish coffee during the symposium in Uppsala. These memories are mixing together, like clouds in coffee, as I write this afterword.

And, of course, how could it not? The words of the song come to me: "you're so vain". But this time, the song was about me – well, at least the symposium. Thus, taking seriously Carly Simon's song is a very good place to start. 'You're So Vain' is a warning against monstrous self-regard.

What I carry forward from the symposium is the sense that ideas are movements between people: ideas have to be shared. Ideas are constantly on the move, or move themselves. The author, the one who claims title to a book, is really just a site at which something spreads outwards, like burs on a September breeze. A book is a pattern to be re-arranged. An idea is not in any proper way an individual thought. An idea is the thickening or momentary alignment of something that is constantly in flow – whose existence is 'in between'. Thinking, and writing – which often seem such entirely solitary activities – are most properly done with others – to encourage the movement of thoughts – not for royalties – but for the spirit of open, ongoing discussion.

Already the word spirit. The complexities of 'spirit' and its various cognates, the theological and philosophical resonances, make this a difficult term to use. But, as Adrien Wing forcefully argues, this term is entirely necessary. Adrien's genealogy of critical theory makes the problem of

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‘spirit murder’ a fundamental term. Pantea Javidan’s paper on the ‘right to breathe’ case, shows the urgent link between spirit and breath – and the articulation Black Lives Matter movement’s politics of life.¹ There is also a historical point at stake. To take spirit murder as a starting point is to appreciate the necessary transformation of the perspectives of Critical Legal Studies (CLS), and the opening to critical race feminism and Critical Race Theory (CRT). Certainly, if I was to re-write *Lives That Slide Out of View* I would position spirit murder far more centrally. I touch on some of the reasons in the *Arts of Notice* but, it is worth stressing here that the whole analysis of reification and alienation appears in stark light if seen through spirit murder. Adrien’s stories of her ‘rainbow family’, the travails that they have faced, and the allegory of Fatima (an essential story for poverty lawyers) – place the horrors of spirit murder in clear terms.

Spirit *murder*: to be murdered in spirit describes the erasure of what one is: one’s breath or being; or, most precisely, one’s being different from how being is meant to be. Pierre Schlag cites Mika Viljanen’s notion of ontological politics in his essay – and – Viljanen’s term is spot on.² Spirit murder is an erasure of being – to suffer spirit murder is to slide out of view; to disappear from one’s own self, and to be erased from the polity – the social space in which liberal legal theory promise the visibility of equality. Murdered in spirit, one might count and be made visible, but not in terms that are significant to the selves or traditions that are counted on other’s terms; terms that, as Martha McClusky shows, are defined by the efficient cruelties of market liberalism. Spirit murder, then, is a companion concept to Arendt’s figure of the refugee and the right to have rights. Spirit murder draws our attention to ‘the hidden realm’ – the subjectivities or interiorities of those for whom ‘the right to have rights’ may amount to the right to be a commodity.

Commodification – and the associated concerns with reification and alienation – are valences of spirit murder. But these philosophical terms cannot be restricted to a narrow sense of economic exploitation. To read between Adrien Wing’s personal/political stories and the philosophical lexicon of alienation opens up the authentic concerns of the symposium: how does the movement between the real, lived world, and the life of mind, the language of academic debate – demand new ways of thinking and talking? Whether or not one agrees with the particular *bricolage* of

¹ Paper given at Law, Theory, Virus Workshop, Birkbeck College, 22nd January, 2021.

² Mika Viljanen, presentation at Symposium at Uppsala University, August 23–24 2019.

Lives That Slide Out of View – the book's argument could be set out as follows. Very briefly, the book explores the alienation/ reification complex as a description of the subjectivities of exploitation which assume their most acute forms in the social degradation of poverty. Against degradation, the book imagines the possibilities of 'being with'. But being with is acutely limited by the zoning of social life; those physical, emotional and spiritual boundaries that are more real for most people than transformative encounters.

To refer back to Adrien Wing, transformation requires for some – those defined by their social privilege – a dying to the self; a kind of spiritual or even revolutionary suicide (to echo Huey P. Newton writing in a very different context). A difficult problem. Whilst a critical regard to privilege is part of a problematization of the self – it can easily assume ritual forms – and the real work shirked. Something of the self has to die. Is this a cost of being with? How can this price be paid? Echoes of redemption?

For me, at least, figures like William Stringfellow and Ed Sparer – from their different perspectives – suggest the profound difficulties of taking up this challenge. What can be taken from Sparer and Stringfellow is a practice of ethics. Their ethics cannot be reduced to a list of prescriptions. We cannot follow either the Christian or the Communist in any simple way. Ethics have to remain difficult – perhaps even impossible. One of the many rocks on which the US white new left ran aground, was this difficulty of difficulties. In turn, this is bound up with further themes. As Pierre Schlag's essay stresses, and as Denise Levertov's *Olga Poems* elaborate, no one can be 'shown the way'.³ Only ongoing struggle. Sounds grim. What else can be said?

Schlag draws attention to Robert Gordon's critical engagement with ideas of alienation/ reification after the glory days of CLS. If change was gonna come – why had it not arrived? For all the understanding of the contingency and fluidity of the 'system' – it retained its crushing weight. Perhaps the problem was 'us': change had not come because we are unable to change our selves. This moment in CLS history is the opening of a theme still with us. Whilst self-examination (rather than the Maoist criticism/self-criticism adopted by the Weather Underground) is important and necessary – the work on the self cannot distract from an ongoing critique of institutional weight which must attach the interior

³ Denise Levertov, 'The Olga Poems', in Denise Levertov, *Collected Poems* (New York: New Directions, 2013), 333–344.

realm to a precise engagement with ‘the system’: the military/industrial/educational/prison/finance/energy/food complex. Capitalism, for short.

Any contemporary language that describes solidarity and alliance has to be worked out on this ground. Martha McClusky cites a contemporary radical group, PUSH Buffalo, whose ongoing practice is based on the following observation: “we are constantly growing, changing, learning, practicing and figuring it out.” McClusky’s essay is a study in the generation of ways of thinking rooted in popular action: ideas are a magma. The streets are our Mont Pelerin.

The currents that bring together class crits, CRT and critical race feminism are important because they are in touch with these ongoing works in progress. McClusky’s comments on money – that most reified and alienating of substances – are a case in point. We still need to take control of the imaginary of money. If there was a front whose line needs to be held and strengthened, it is the work of those class crits and others linked to law and political economy scholarship. To put this point slightly differently, the theoretical work necessary must move between economics and philosophy and develop a critique that can hold together notions of power, identity and the informed, hardnosed legal and economic thinking that the essays in this symposium enact and celebrate.

For clarity: this mode of critique has no central manifesto. It has learnt certain lessons from the ways in which progressive thought has been limited and played off the field. Might we say, then, that its identity comes from a certain spirit? A pragmatism? A commitment to working out ways of thinking and doing – through – precisely that: praxis. Ongoing praxis.

The mode of ‘figuring it out’ – so allergic to pronouncement of critical dogma (whilst ‘maintaining’ a certain spirit) is admirably performed by Pierre Schlag’s essay. To return to a key theme. CLS, for Pierre, is an open problem that is still with us – a hangover from the long decade of the sixties. Not so much a fundamental contradiction, as a fundamental vortex that still swirls. Terms coined in the opening, heroic period of CLS were quickly recanted as they had become dead concepts that replaced the work of thinking through profound difficulties. Given the turmoil of our times, the real emotional and spiritual work necessitated by the idea of the fundamental vortex retains its demands. Pierre puts forward a vision of the critical academy dedicated to “the cultivation of emotional intelligence and education” and “the complexities of subjectivity”. Virtues increasingly absent from the privatized university, but kept firmly on the agenda by the decolonization movement.

If this is the case, then the junctural point of CLS; that point of vortex where the various waves meet is the forcing of an emotional intelligence; the myriad ways in which work on the self is work on the self with others.

We need to come back to being as being with; or, to be more precise: being with as sharing with. Speaking/listening is one mode in which we are with others. Indeed, the appropriate metaphor is that of Maria Grahn-Farley's 'walking with' – a figure that suggest movement as well as conviviality; an image that captures the sense in which – as you walk, talk or think with others, what you see and think about changes. Speech becomes linked to pointing things out; and, something constantly interrupted by the places through which you are walking. Walking/thinking, then, is thought constantly adjusted and opened to interruption – a dialogue with background noise and interruption.

As with Thomas through the streets of Uppsala. Wittgenstein's sock drawer. Ian Curtis. Cakes.

Not just walking with, but a writing with – and in case this seems simply too flat footed, Thomas Wilhelmsson evokes a way of doing critical legal studies that is on its toes. His fine argument, aware of the different contexts in which 'critical' work is done, suggests that 'crits' (even if one uses the title) need to be careful not to fetishise their own critique. What Wilhelmsson calls 'learning by doing' strikes me as opening up the spirit of pragmatism, as well as the modes in which Nordic critical scholars address the spaces in which they work.

Wilhelmsson offers a sketch towards this ethics of learning by doing that allows the agile thinker to identify those tensions or themes that might present themselves as the most open to creative possibilities. Karolina Stenlund, writing on Swedish labour law, shows exactly why one needs to be careful with 'critical' – especially when the term is seized by those pursuing a less than progressive agenda. Stenlund is carrying forward an old problem: successful activism can capture the state. But, the activist is then compromised. She has become part of 'the system' and thus vulnerable to radical strategies. In our troubled times, a populist right has shown that it can distort human rights arguments to its own advantage.

Something could surely be learnt about the politics of mobile argument from Anni Carlsson's exemplary location of the kind of tensions in digital free speech that allow activists to reclaim the democratic potential of on line social media platforms. It is very much a question of how one sees, and what one notices by having the courage to look at law differ-

ently. The terrain of operations, as ever, is characterised by complexity and technical argument. Autilia Arfwidsson creatively opens up an argument in the notorious complexities of tax law, alive to the question of the definition of operative terms. Taxation is perennially relevant to poverty law – and Arfwidsson’s argument can be read as suggesting that a contemporary poverty law would have to take taxation very seriously. The kind of critical reading that Arfwidsson proposes would be of use to that growing band of progressive tax lawyers in Sweden and other jurisdictions.

Likewise, Marigó Oulis nails it – the wonderfully elliptical title of their piece opens up the idea that Sweden does not have poverty law, it has ‘wealth law’ or *förmögenhetsrätt* – a word whose umlauts appear to me as eyebrows raised at this audacious suggestion. We are compelled to take notice of the historical structures of debt that allowed people of moderate means to acquire “pianos and sewing machines” (the equipment of work and leisure – the material of the consumption fund in Marx’s *Capital* and *Theories of Surplus Value*). Most importantly, if we are studying how people get into debt, we need to engage with ideas concealed within the ‘Swedish way of doing things’: to notice how lives are variously disciplined to the daily exigencies of markets. Sara Hovi’s close grained reading of case law has a lot to offer in terms of this form of immanent critique. Her analysis tracks the fault line that can open up between a national legal system and the framework of EU law. Jonatan Schytzer essay stresses a related point: the court’s framing of legal issues can push certain ethical arguments out of view. Schytzer’s lesson is that a lawyer cannot afford to be blind to these framings and re-framings of legal question.

If there is, then, something like Nordic critical legal studies (and one should of course bear in mind Wilhelmsson’s caveats), then the spirit of critical reading is an *anima* in Therése Fridström Montoya’s engagement with disability law. Montoya stresses the point that the struggle against poverty is also a struggle for a recognition of the dignity of disabled people, even against the doctrines of human rights law that serve to present definitions of human dignity. Montoya positions anxiety – a vertiginous questioning of the power to define human beings – as a key way in which a philosophical inheritance that draws from Nietzsche and Kierkegaard – can be used by scholars of law. It is a way to confront doctrines of autonomy that serve to exclude different ways of being from adequate legal protection and recognition.

Whilst not works of Nordic criticism, Javidan and Finchett Maddock’s essays come out of trajectories in recent critical legal thinking; and, in-

deed, suggest new directions. Finchett Maddock's work is an offshoot of legal aesthetics. Although alienation is not really one of Finchett-Maddock's concern, her turn to Deleuze, Malabou and critical technology/biomedical studies, points towards different ways of thematizing the anxieties of being human. Javidan's work bridges between class crit and CRT – and is evidenced by her original and creative use of the concept of alienation.

Javidan uses human trafficking as her focus. The commodification of the human body is realised in one of its most horrific forms in human trafficking – as is demonstrated by the contrasting stories of Cyntoia Brown and Jeffrey Epstein. Javidan presents an allegory for wider failings of the criminal law. The poor are deprived of justice, whilst wealth itself is "criminogenic": the means through which the powerful can subvert justice, and a brilliant flip of the old argument that there are crimes indelibly linked with poverty.

From Finchett-Maddock's perspective, addiction can be understood as one of the indignities of poverty, or as an incident of wealth. Whether an addict is criminalised or medicalised says a lot about the way in which the rich and the poor have different experiences of the justice system. However, Finchett-Maddock takes this argument much further. Law itself is a mode of addiction. The legal system binds subjects to its modes of ritual and control. The very notion of a legal subjectivity suggests that one has to internalise the law to become properly subject to its regime. Law is junk. But, this is not just a Burroughsian fantasy. Its an exploration of interior and exterior realms of institutional capture: a novel way of understanding a legal assemblages that organise social and psychic space.

Another useful metaphor: a symposium as an assemblage of books, ideas and people whose traces pass through these essays. Does this allow us to return to the metaphor of the kaleidoscope that concluded the *Arts of Notice* essay? Can this assemblage of mirrors and angles provide a final way of engaging with mobile thinking? If we accept the kaleidoscope as a figure for critical thought, we have moved from the speech and dialogue to an engagement with the visual. Perhaps the uniting trope is that of arrangement and re-arrangement – and a mechanism that allows patterns to be formed and re-formed.

But is there not something artificial about the operation of the kaleidoscope? The 'beautiful seeing' of the kaleidoscope is a mechanical articulation of surfaces. Surely this is not appropriate for the fluid scattering and sharing of ideas. Perhaps I can persuade you otherwise. We would

have to start with a theme touched already upon. There is something geometrical to mobile thought – a logic of surfaces, planes and intersections that underlies any idea of flow or movement.

One of the first attempts to describe the operation of the kaleidoscope can be found in Giambattista della Porta's *Magiae Naturalis*.⁴ Poised between reason and the occult, della Porta's text is important in establishing the kaleidoscope as a metaphor for critical thought. Della Porta does not understand the reflecting surface of the mirror as a glass in which we see our 'true' likeness. The mirror can be used in such a way that "that the face of him that looks on the Glass may seem to be divided in the middle".⁵

Della Porta's occult arrangement of mirrors subverts conventional figures of thought. The mirror makes us strange. This splitting of the self – our re-arrangement – suggests that in (what became the kaleidoscope) the mirrors re-arrange the face so that we do not coincide with ourselves. A last twist. The modern kaleidoscope makes use of a tube that can be twisted to position and re-position the mirrors that reflect each other. One eye – the eye placed to the aperture in the tube, is on the motion of the mirrors.

The kaleidoscope image starts to make sense if one understands thought as that which is itself twisting around itself. Seeing, or hearing, or thinking itself through this twisting. The twisting is, then, the activity of thinking. As an activity it is – if not mechanical – the property of thinking substance: the substance that we 'are' as thinkers. This idea comes, in part, from certain metaphors in *Being and Time*. Of course Dasein is not a 'thing'. But – at a structural level, Dasein is something that Beings who think themselves share. Dasein is a thinking substance that is capable of twisting and turning around itself: calling and answering to itself in a circular vortex. The individual thinker requires the general medium of thought to have one eye on the mirror of the self. Might we then evoke a kaleidoscopic *logos*? Could this be a thinking, speaking, hearing, appearing of the world as the inter-twining of the sensorium? We might locate 'it' in an 'in between'; a seam running along the line of the interiority of the self and the exteriority of the social and physical world: a world that allows itself to be twisted into thought.

⁴ Giambattista Della Porta, *Magiae Naturalis* (Naples: 1558).

⁵ Giambattista Della Porta, *Magiae Naturalis* (Naples: 1558), Seventeenth Book, Chap. 1, no page numbers.

It might have been more convenient for this argument if the kaleidoscope was not simply a name licenced by law. David Brewster – the inventor of the kaleidoscope – may have taken out the first patent, but he did have the generosity to share with all the geometrical theory on which the device was based. His text on the visual geometries of reflection opens to the glory of mathematics. These are the anonymous principles of thought that Simone Weil found so compelling that the revolution depended on the workers becoming well versed in Plato, geometry and poetry.⁶ And perhaps the metaphor of thought as twisting can carry some sense that this ongoing refraction is not necessarily an experience of anxiety and alienation. The kaleidoscope, in Brewster's words – is a kind of democratic creativity, open to “the rich as well as the poor.”⁷ The kaleidoscope is a figure of sensual thought; a way of visualising (and thus talking about) something both complex and everyday: how we notice ourselves and put the world together differently.⁸

We are where we should be all the time; and the gavotte is itself an *aporia* around which the sensorium twists itself together and pulls itself apart.

⁶ Simone Weil, *Cahiers* Vol 6 ed. Alyette Degraes et al., *Oeuvres Complètes* (Paris: Gallimard, 1994), 164–278.

⁷ David Brewster, *The Kaleidoscope: its History, Theory and Construction with its Application to the Fine and Useful Arts* (London: John Murray, 1885), 7.

⁸ David Brewster, *The Kaleidoscope*, 8.

