

Lacanian Theory, Law & Culture

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## Abstract

This dissertation continues a strain of thought in Lacanian scholarship which holds that legal thought is still catching up to the implications of the discovery of the unconscious and that the law misses something without taking the unconscious seriously. Pertaining to Lacanian clinical theory, the first task of this dissertation is to express the centrality of law for Lacan and trace subjectivity's relation to law along with the analyst's handling of this relation in the clinic, so as to better adapt Lacanian theory for cultural purposes. Secondly, the dissertation will place Lacanian legal theory within the history of legal philosophy and theory, explaining why it is an offshoot of critical legal studies with its own object of focus. Two case studies of legal discourse will put 'critical unconscious studies' to work: one chapter will critique the discourse surrounding Quebec's Bill 21 following the 'direction' of the clinic outlined at the beginning of the dissertation and another will critique discourse surrounding sex work, drawing on the later Lacan's work on sexual difference and the economy of the drive. Finally, cultural portrayals of law and crime will be critiqued using Lacanian literary theory. Lacan's theories of the subject's relation to the visual field (using Lacan's discussions of Edgar Allan Poe's "The Purloined Letter" and Velasquez's *Las Meninas*, and his theory of identification as a symbolic process) will be used to praise HBO's *The Wire*, as a piece of art that strips the viewer's identifications, forcing them to reconsider their ethical standpoints. Lastly, *The Godfather I & II* will be critiqued using the later Lacan's four discourses to emphasize that the narrative of masculine desire revolves around the normalization of gendered violence as the *objet petit a*. All in all, this dissertation is a demonstration of the merits of Lacanian theory for ascertaining the unconscious as that which discourse and law unknowingly depend on.

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## Introduction

Because Lacan's writings and seminars<sup>1</sup> require much interpretation, each theorist who attempts to this task can only give partial answers. One of the clearest attempts to take up this task was begun by David Caudill, who recognizes a gap in Critical Legal Studies, which is that "most legal theoreticians avoid the question of *who the subject is*" (1997; emphasis in original). Although he is not the first to raise this question, his work is unique in its Lacanian answer. Caudill recognizes that in Lacanian theory the subject is a "subject of law" and considers that the subject who produces law "is partially constructed by the legal text" despite acting as if it is autonomous while knowing "'on some level' that it is not" (72). The calling taken up by Caudill will be continued here for the reason that "the subject that is presumed to be free in conventional theory is not really free—the illusion of freedom allows an oppressive subject formation to go unnoticed—and genuine social or political agency is possibly only in the recognition of one's constitution by social and discursive structures" (75). Lacan's work is vast and there may be any number of entry points into his work as it can broaden one's understanding of legal theory, but Caudill chooses Lacan's first and only session of his cancelled seminar on the "Name-of-the-Father" and the Schreber case (one of a lawyer/jurist gone mad) as "an inviting entry point to Lacan's conception of law" (104). This is a fruitful study, considering that Lacan's "Name-of-the-Father" is the

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<sup>1</sup> To enhance reader comprehension and streamline reference identification, in-text citations for the works of Jacques Lacan will deviate from the standard format employed throughout this dissertation. Abbreviated titles will be used within parentheses (e.g., "E" for *Écrits*, or "VII" for *Seminar VII*). This approach allows the reader to readily discern the specific Lacanian text being referenced without the need for constant consultation of the works cited list.

central law constituting the subject. This dissertation, however, seeks to look to the beginnings of Lacan's career to show how law (and its transgression) were serious objects of interest to him from the beginning.

The first clue to the centrality of law in Lacan's career and his theory is that he began with an analysis of the lives of violent criminals. Lacan's doctoral thesis (1931) and a paper that followed, titled "Motives of Paranoid Crime: The Crime of The Papin Sisters" (1933) focused on two sensationalised violent crimes in France, both committed by young women. The former, centred on Aimee, who Lacan observed in St. Anne, analysed her family history using her diaries and interviews. Aimee violently attacked a famous actress after many years of paranoid delusions. The latter essay addressed the famous Papin sisters, the source material for Jean Genet's play *Les Bonnes*, who murdered their masters and gouged out their eyes (one sister also attempted to gouge out her own in prison).

The young Lacan saw that psychiatry had the potential for understanding something of crime that the law was incapable of registering. What was required was a psychiatric theory endowed with an eye for the structures of philosophy and literature: most notably, Hegelianism and surrealist literature, respectively. Lacan's groundbreaking thesis, which Roudinesco refers to as "a watershed moment in the development of young Lacan's thought" (109-110), confronts the crime and the psyche with these developments that the older generation of French psychiatrists were not as well acquainted with. What Lacan does with Aimee, then, is a literary theory which confronts both law and psychiatry. On the one hand, it fills in what Lacan would later describe as the inability of penologists to see when they are too sure of themselves,

when “faced with crimes in which instincts surfaced whose nature escaped the utilitarian register” (E 110). On the other hand, his focus on German theories of psychosis questions an attachment in French psychiatric thought to biologism, as though such violent acts can only be triggered by a biological cause. Rather, Lacan shows, the family history of the patient can better explain what culminates in a violent, criminal act.

Law and science are concerned with reality, and Lacan’s meeting with Salvador Dali confirmed his preoccupation with the notion that there was more to consider, not visible to frameworks he would later label as the master’s discourse and the university’s discourse. Roudinesco describes the results of their meeting in Dali’s home:

This consisted, in the wake of automatism, of delivering a final blow to the world of reality. For Dali, paranoia was the equivalent of a hallucination, since it consisted in delusional interpretation of reality, but it was also the opposite of a hallucination, since it sustained itself through a coherent critical method, possessing meanings and a phenomenological dimension. In other words, Dali recognized that the paranoid phenomenon was “pseudo-hallucinatory” in nature. He illustrated his argument through the appearance of double images: for example, in painting, the image of a horse that is simultaneously the image of a woman... That position of Dali’s served to confirm a second one: delusion is part and parcel of interpretation. (110)

The delusion is already an interpretation of reality and paranoia is a creative activity which does not depend, like hysteria, on deformation, but on logic. Consequently, the madman would not be a man bereft of reason, but the herald of an act in which the coherence of a dream attains objectivity.

Dali and Lacan converge on this point of seeing madness as possessing a logic, and Dali will commend Lacan's thesis in 1933 for bringing a more scientific understanding to an approach to madness Dali himself could only explore creatively. In this thesis, a method and a view of the psyche begins to *crystallise*, a word Lacan uses throughout his entire career, often in reference to signifiers, and this view comes from wherever Lacan chooses, but especially Freud alongside the Surrealists. Before the famous "Mirror Stage" paper, Lacan has already made a powerful, landmark contribution to society which directly refutes what psychiatry had often assumed: psychosis is not "innate" nor "constitutional" nor "biological" nor "organic" but "structural" and the "dynamics" of the unconscious and the subject's family history play a formative role in personality and the psychosis of the paranoid patient. At the age of 31, Lacan had already begun to reshape the focus of French psychiatry.

The contribution of Lacan's first major written endeavour, which he chose not to include in the *Ecrits* and rarely comments on in his work, is summed up by Roudinesco thus:

Against that dual lineage, he opted for "concrete psychology." It allowed for an analysis of the subject's entire personality, the evolution of a consciousness, the events of a personal history, and the confrontation between a private drama and the social milieu. Beyond any borrowing from Politzer, Lacan sought support in Freud's discovery, affirming that psychoanalysis alone offered the technique required for an experimental study of the subject. On that basis, he defined a method of "directed psychotherapy" which he applied to the case of Aimee.

Against all the specialists in the field, he thus posed a prognosis, if not of total cure, of treatability. (111)

Lacan succeeds in curing Aimee, who will go on to live a normal life after many months in hospital. During her time there, she has moments of clarity, wondering why she had ridiculous beliefs about persecutions from those around her on the street, in newspapers and so on. Occasionally, she would drift back into wondering if people wish to harm her. Regardless, she did accept that the attack which landed her in prison and then asylum was an attack against those whose life she wished to have, or, against herself. Once she had this realisation, that she attacked her ego-ideal, the paranoia lost its purpose in her personality.

This dissertation will address moments from the rest of Lacan's career, until his final, short seminar as an old man. It is not for chronological reasons that I raise Aimee in my introduction. It is because Lacan's slowly evolving attempt to analyse subjectivity, the unconscious, and eventually discourse itself, cannot be separated from this original contribution. In Lacan's thesis, he does not merely analyse a criminal act and the criminal's unconscious motives, but analyses and evaluates the patient's fictional work. Lacan's first major text critiques law and literature. From then on, law and literary criticism should have contended with the unconscious. Have they done so? The law, quite plainly, has not, and its job is generally to resist doing so, whether in political discourse, legal judgments or enforcement. Fiction, of course, will never be the same after the Freudian discovery, but does that mean there is a literary critique one can take from either Freud and Lacan and map onto a literary work? Lacan is fairly adamant about speaking to analysts, even in his most cultural and political discussions. It seems

that a ready-made psychoanalytic direction is an impossibility, and is even an impossibility when listening to patients free associating in the clinic. After all, the analyst's job is one of the three impossible professions (Freud also isolated education and governing to fit into this category). However, there is always a remainder in discourse.

In the literary analysis portion of his thesis, Lacan analyses the patient's mental state through her writings. He even describes the "handwriting itself [as] striking above all by the speed, its oscillating height, its broken lines, the lack of punctuation," features which correspond to periods of "delusional excitement" (30). Lacan believes in the literary merit and "intrinsic value" of these texts. There are moments of "true poetic value" mixed with moments of "an impulsive movement of her sensibility" with little of the mediocre in between (31). Lacan's interest in this patient and his respect for her writing allows us to glimpse his effort to do what he will later refer to as "humanising the criminal" in his essay on criminology. For instance, he writes: "But these wanderings, so often quite verbal, of the romantic soul are not sterile in our patient: they have in her, quite the contrary, a very immediate and very fresh preserved understanding of the soul of childhood, of its emotions, of its pleasures, of its distress and of its secrets" (32). He guesses at the meaning of her metaphors, probably quite wrongly at times, as when he ponders whether she uses 'schoolgirls' as metaphors for flowers, with no evidence. Lacan's quotations generally refer to tropes like "a curious fantasy of the metamorphosis of her sex" in an instance pertaining to envy of boyhood, a transition to such, and the hope of marrying a woman (37). He describes the ego's "expansion without limit," traces of automatism, and "delusional interpretations" about real events in

her life, like nicknames her colleagues gave her (45). There are “revengeful declamations” and violent incidents written in these novels, and in her real life these delusional declamations and ambivalence (hatred of the rich and famous while wanting to possess their life) are what ended up in the crime that led her to prison/asylum and led Lacan to her. In Lacan’s thesis, one can ascertain an amateur attempt at the type of psychoanalytic literary interpretation, which Lacan will undertake again at the end of his career with his seminar on Joyce: the *Sinthome*.

In his diagnosis of Aimee, Lacan refers to her delusion as “systematic” and points out the “‘ideologically’ organized pure erotomania” (51) and he rules out various possible diagnoses, such as the “paranoid schizophrenic psychosis, from Claude” because her personality has been retained and due to “her contact with the real has maintained,” for instance, when she attends work up until a day before the attack (52). He will instead favour the “paranoid psychoses” due to Aimee’s systematisation and egocentrism (52). Lacan will later dismiss any cosmology of wholeness and order and base his theories on the subject’s structural relation to the external world; these themes are already present when he comments that Aimee’s beliefs “which have to do with the exterior world are expressed less in terms of relation than in themes of transformation, whose type is the absurd cosmology” (51). He also uses the metaphor of “knotting” (52) on the plane of affectivity, which will be so central to his theories that he will not see it as a metaphor. In this turning point for psychiatry and its relation to law, Lacan emphasises “the curable evolution of the delusion” (52) and one ought to wonder if without a Freudian like the early Lacan, she might have spent all her days in the asylum *or worse*, in prison. Lacan was truly Lacanian in this early diagnosis, for when he

addresses normality, he already believes it is something with a very loose or even arbitrary hold on anything one might call reality or the real. Based on the idea of the 'slackening of associative links' which other psychiatrists might see as characteristic of a form of psychosis, Lacan already sees that this is not far from normality: "The associative system of acquired knowledge is without doubt the element of major reduction of those erroneous convictions, that the normal man ceaselessly elaborates and preserves in a more or less durable fashion" (54). Normal belief about self and other is always error. This patient, however, suffers from "the delusion of interpretation" despite all knowledge being only an interpretation. For instance, paranoid threats to her child are present and she believes she should be punished for it, and therefore she punished herself.

The young Lacan was a man interested in law and the humanisation of the criminal. He in part humanised her via literary critique. A true Freudian (at first), he deciphered the patient's family romance and considered Freud's notion of the ego alongside ambivalence for this object as ego-ideal. Like the surrealists, Lacan could see that the patient need not conform to any reality, because he knew, in terms of subjectivity, there is hardly such a thing. Already one can see the Lacan who would unravel all theorising of what subjectivity consists of, and the founding moment for the subject will be a dialectical confrontation with the law, one which might be repeated later in life.

In the analysis of Aimee, Lacan continued to provide bases for understanding the actions of violent criminals, which the courts could not, in the following year in his analysis of the then famous Papin sisters. This case, like Aimee, demonstrated the

transferential and sexual nature of a violent crime and anxieties rooted in the uncertainty of gender due to traumatic family life. The Papin sisters, two maidservants, gouged out the eyes of their masters and one sister attempted to do so to herself while imprisoned. Lacan subtly hints at the law's unwillingness/inability to look at psychoanalysis or literature when he calls this "a deed unheard of... in the annals of crime." The court ruled the sisters were sane and able to stand trial. Lacan disagreed.

Lacan's analysis included experiences in the childhoods of the sisters, including a father who was a brutal alcoholic and raped one of the two daughters. Lacan draws attention to signs of derangement, including hallucinations, the eye-gouging incident, episodes of melancholia, erotic display, self-accusation and an especially strange moment: "Christine puzzled observers when she asked how the two victims were and declared that she believed they had returned in another body. Her delirium seemed obvious to Lacan when she stated that she believed that in another life she must have been her sister's husband" (Kamenish 1996, 96). While other psychiatrists argued that the accused women had psychological disorders, Lacan argued specifically, as in Aimee, that the cause was paranoia. For Lacan, the subject's history and social circumstances play a role in the unconscious motivation that is hidden, until an aggressive drive takes vengeance. What Lacan asserted was exactly what the court denied, which is that two women would have the same madness, if it were truly madness (97). Lacan points to the homosexuality and sado-masochistic perversion in their "exclusive affection for one another and their sadistic treatment of their victims" along with the narcissistic fixation one exhibits for the other (97). Lacan highlights the importance of childhood incest, expanding on the notion of self-punishment, as in the

case of Aimee, and contends that “the maids attack their employers, because they see in them what they hate in themselves” (98). Later, in his paper on psychoanalysis and criminology, Lacan refers back to this case, calling it “proof that only the analyst can demonstrate that a criminal is alienated from reality in a case in which popular opinion is deluded into believing that the crime was simply a response to its social context” (*E* 116). The very early Lacan does what still should be done today, to consider unconscious motives for breaking the law, which Lacan believes only the psychiatrist can make a judgement about.

In addition, Lacan shows early on that he is concerned most with two things: the unconscious and the law. Lacan’s first papers show that he desires that the law take the unconscious seriously and that the unconscious has a relation to law. Lacan would continue to build his theories, and follow these analyses with the famous paper on the mirror stage (1936), but will remain silent throughout much of the Nazi occupation of France. However, in 1948 Lacan returned to issues of criminality in “A Theoretical Introduction to the Functions of Psychoanalysis in Criminology.” In this essay, not read/cited as often as other essays in the *Ecrits* today, Lacan begins by reversing Dostoevsky’s statement that if god is dead, everything is permitted: “God is dead, nothing is permitted anymore” (*E* 106). Breaking laws requires laws themselves, which create the desire to break them. Lacanian analysts still debate the topic of prohibition in the creation of desire, some of whom, like Todd McGowan (2023), think the late Lacan would entirely erase prohibition from his theory of desire, and there are others who believe it is a core concept in Lacanian theory, like Samuel McCormick (2023). In the late seminars, Lacan emphasises the importance of prohibition, however. He will always

show his satisfaction with his earlier *Seminar VII: the Ethics of Psychoanalysis*, where he shows his admiration for St. Paul who confesses that if nothing were prohibited, he would not know what to covet. Lacan begins to reveal law's lack in the criminology essay when he raises the notion of self-punishment and points out that "according to the legislator's icy humor, no one is supposed to be ignorant of the law, and thus everyone can foresee its repercussions and must be considered to be seeking out its blows" (*E* 110). One could take this to mean that law considers all its subjects to be rational, knowing, Cartesian subjects with full conscious awareness of the vast writings of law. In another vein, Lacan states that penologists are sure of themselves until "faced with crimes in which instincts surfaced whose nature escaped the utilitarian register" (*E* 110) such as, one could surmise, Aimee and the Papin sisters. But Lacan ends by stating a goal we could continue today: "Psychoanalysis simultaneously resolves a dilemma in criminological theory: in unrealizing crime, it does not dehumanize the criminal" (*E* 110). He states that using the transference, analysts gain access to the "imaginary world of the criminal, which can open the door to reality for him." Symbolising unconscious forces then provides accounts of crimes barred to penology and can help the criminal confront their own unconscious and therefore their relation to law. Overall, Lacan is disputing the idea that the crime is committed by a fully rational actor that knows the law and their own motives by asserting the severe alienation from 'reality' some criminals experience.

What follows in Lacan's work is a vast career of detours pertaining to intra-subjectivity. The intra-subjective processes like subject formation, transference, repetition, desire and so on are theories of the subject's relation to law. Lacan as a

theorist of the unconscious is a theorist of two main objects: law and desire. Lacan's deep reliance on law is rarely taken to the full significance it requires. Of course, law is mentioned often by Lacanians but the attempts to theorise the centrality of law for Lacan are relatively uncommon. Therefore, this dissertation will undertake the task of emphasising the fundamental importance of law for the Lacanian subject and exercise Lacanian political/cultural criticism within this lens of Lacan as a theorist of law. What will be argued is that written law and cultural creations, as creations of discourse, contain an unconscious.

The thesis of this dissertation is three claims in layered, unfolding stages. The first claim is centres on law in the clinic. Before appropriating psychoanalysis for politics and culture one must understand how law conditions subjectivity. Therefore, a methodology will be proposed in Chapter One, which is a direction for treatment that can be used clinically and in discourse analysis, and it reveals the centrality of law for Lacanian theory. Chapter Two will narrow this direction down further to explain how Lacanian theorizing on law fits into legal theory, proposing a Demand theory of law (one which ascertains the circuit of the drive to expose desire). The direction here explains how the fundamental concepts of psychoanalysis lead to questioning identifications, which will be demonstrated in all case studies in Parts II & III. Thus, the first part of this dissertation grounds the theory in the clinic and explains how this theory fits into cultural and political discourse.

There is an issue worth mentioning, as the direction laid out in Chapter One relies heavily on *Seminar XI* which is titled *The Four Fundamental Concepts of Psychoanalysis*. These concepts are the transference, repetition, the drive, and the

unconscious, and I attempt to draw out an explanation of how each can be used clinically, focusing on the *objet petit a* as the unconscious. I also add a fifth concept, which is I-identification (a spelling I have chosen to emphasize it is the construction of the 'I' through identification with others). This seminar focuses more on the structure of subjectivity rather than, say, discourse theory characteristic of the landmark seminar, *Seminar XVII*. However, in *Seminar XII*, Lacan calls his work the previous year into question. Having lectured to an entirely new audience, with members of many disciplines rather than just analysts, he feels compelled to admit, regarding the four concepts, "that at none of these levels, were they true concepts, that I could not make them hold up, except in the measure that I made them rigorous with respect to no referent" (*XII*, 7). In other words, he theorizes that the symbolic is, in a way circular, and that the only possible grounding for it is context, and context was not very firm in that seminar. A Lacanian, however, can trace the context through the rest of Lacan's work, unlike his audience at the time, who had access to only half of Lacan's career and would have some difficulty untangling his writings. Therefore, we can find value in these concepts. However, he replaces most of them in *Seminar XII*. He keeps the transference, replaces drive with demand (which is on the same level), and adds identification. Later, he adds desire as well, which we can say is a formulation of the unconscious as cause. We must not be discouraged then, but can be content to use all of the above to put together a direction of treatment, and broaden the list of fundamental concepts for use in and out of the clinic.

The second claim is that discourses in politics can be followed through rigorous discourse analysis, one which is demonstrated with two case studies: the first using the

direction laid for treatment detailed in Chapter One, and the second drawing on a wider look at Lacan's thought on sexuality. Both of these expose fantasies pertaining to groups 'othered' in political discourse, with nuanced explanations of what 'othering' means in a specifically Lacanian perspective.

The third claim is that art, such as television and cinema, can be analysed, even evaluated, for the degree to which they enact the analyst's discourse, or, on the contrary, further entrench identifications the audience may enjoy, which can rely on fantasies depending on otherness (which can be violent and sexist).

Further, it must be expressed that this dissertation has three main tenets. The first, in a kind of performance of detour, taken up more clearly in Chapter Two than Chapter One, is that legal theory and legal procedures discursively miss something without considering the unconscious (truths about their own discourse, for instance). The whole dissertation will adhere to a second tenet, which is that psychoanalytic theory is required to unfold the legal, political and cultural unconscious. Therefore, the first chapter meticulously traces a direction for psychoanalytic practice, so as not to misappropriate the theory. The second shows that other forms of legal theory miss truths about law without aid from psychoanalysis, and the rest of the dissertation demonstrates these arguments through case studies of law and culture. Before considering how Lacanian theory fits into philosophies of law and legal theory, however, it is important to discuss Lacan as a theorist of law, while maintaining a focus on Lacan as a clinician; this is the goal of Chapter One. Part II uses two case studies to demonstrate unconscious truths in law and political discourse, using Lacanian theory. Chapter Three will do so with a strict adherence to the direction of treatment set out in

Chapter One (which will be elaborated on in the coming pages). Chapter Four will continue to practice Lacanian theorizing on law by taking up a few moments from earlier seminars but mostly focusing more on the later Lacan's work on femininity, thus broadening the scope of what can be done with Lacan's vast oeuvre. The third tenet is that culture, like legal discourse, also contains an unconscious which psychoanalytic theory can reveal. This will be done in Part III with analyses of television series and movies which pertain to cultural understandings of law and crime. This part makes greater use of the *Ecrits*, and the middle to late Lacan, to better ascertain what Lacan has to say as a cultural/literary theorist and to make use of his attempts to formalize psychoanalysis. What follows is a more detailed summary of each chapter, its primary texts, and its objects of study.

What is crucial when applying clinical theory to culture is that the theory isn't haphazardly misappropriated, because it can be tempting to take the 'signifiers' associated with their functioning in the clinic and describe how culture works using those signifiers without much consideration for their functioning in the clinic. A common example is Laura Mulvey's "Visual Pleasure and Narrative Cinema" (1975) which takes Lacan's notion of the 'look' or the 'gaze' and applies it to the subject's enjoyment at looking, when in Lacan the gaze is generally coming from elsewhere, looking at the subject; visual pleasure is largely absent in Lacan. While Mulvey's paper may be just fine without using Lacan, it is important to be careful enough to understand the clinical context of psychoanalytic concepts. This is why the first chapter lays out the stages of subject formation, or the exegesis of subjectivity, in Lacanian theory as described in *Seminar XI: the Four Fundamental Concepts of Psychoanalysis*, and consequently, the

direction for clinical analysis, with minor support from other seminars and the *Ecrits*. The concepts of transference, repetition, the drive, and the unconscious will be better explained along with what I call the fifth fundamental concept: I-identification. Lacan wrote “Direction for the Treatment” in the *Ecrits* but it is generally about how not to conduct treatment, and Lacan never gives a clear, focused argument about how a treatment ought to progress. This calls for a detailed reading of the fundamental concepts as they pertain to Lacan’s theory of subjectivity and the unconscious as an object of analysis to elucidate a method of tracing each concept in an identifiable order towards a terminable analysis. It will be shown that, for Lacan, law is always part of this end and the object of psychoanalysis, as inextricably linked to subjectivity and desire.

The second and final chapter in Part I will place Lacanian theory within and against various traditions of philosophy of law and legal theory. What will be elucidated is a theory of legal critique which I will refer more broadly as ‘critical unconscious studies’ and more specifically as a Lacanian ‘Demand theory’ of law (paying tribute to the command theorists and putting emphasis on Lacan’s theory of the drive at the level of Demand). It will begin with a Lacanian position against natural law theory, continue through legal positivism, realist legal theory and eventually become a branch of critical legal studies, explaining how it is similar or different from all of the above. This chapter will focus mostly on Lacan’s *Seminar VII: the Ethics of Psychoanalysis* in order to situate theories of the unconscious within the realm of law and ethics. This seminar always remained dear to Lacan, who had wished to turn it into a book, and its discussion of *Antigone* is fruitful with reference to subjectivity, legality and literature.

This chapter will better allow Lacan's direction for treatment and his work on law and ethics to be placed within a tradition of theorising on jurisprudence.

Part II will include two case studies in political discourse. Chapter Three is a 'Demand theory' critique of Quebec's Bill 21, which bans the wearing of religious symbols for a long list of government workers including teachers, police officers, and many administrative positions. This chapter will follow the direction laid out in Chapter One, showing how political discourse can be analysed much like the discourse of an analysand. The history of this discourse throughout the second half of the twentieth century up until the passing of Bill 21 in 2019 will be addressed, making sure to stress the conceptual inseparability of the *objet petit a* and the big Others in an analysis. Much discussion will be made of a report commissioned by the government of Quebec to address the contested topic of religious accommodation as it pertains to *laïcité* or state laicity: The commissioned 300 page, 2008 document took a firm stance against banning religious symbols. However, the government, a decade later, ignored it.

Chapter Four is another Demand theory case study, which more broadly makes use of Lacan's long career (specifically from *Seminar V* to the late Lacan) to address the law's attempts to deal with sexuality, a particular site of repression for the law. Rather than following the same clinical direction as Chapter Three, it assesses political fantasies about sex work, which cover over the real, and by real, I mean real lives of sex workers who are victimised by laws that do not ask what their Demands are. Lacan's notion of *as* undefinable lends itself well to this critique of criminalisation and decriminalisation frameworks which put real sex workers in precarious, vulnerable positions; this emphasises the danger of being othered by discourse. Lacan's theorising

of feminine sexuality and what he refers to as ~~Woman~~(capital W and barred) is the central model of what it is to be othered by discourse, and this is one example of how to take this example of otherness and apply it to the differing ways one can be othered by discourse. It will be shown that being 'other' in the Lacanian sense is to be unaddressed by law, which has many dangerous implications for those not inscribed into the symbolic order in a way that reflects their own Demand.

Part III will address fiction and societal views of law. Chapter Five will question the jouissance offered by detective fiction or the police procedural. By this term I include any fiction with protagonists in law enforcement, *Law & Order* being the most iconic example in terms of a television series. Does it further entrench the order of the master through audience identification or can it aim to shake up our desire? It must be said that, like an individual's analysis, each piece of art requires its own analysis, emphasising its particularity. While this dissertation could have come up with many differing results from different police fiction, it will address a series generally considered to be one of the best television shows of all time: *The Wire*. This chapter will further explain the complexities of Lacan's theories of identification (what I call the fifth fundamental concept) using *Seminar IX: Identification* to describe the symbolic aspects of identification. Secondly, it will use Lacan's discussion of the famous painting *Las Meninas* by Diego Velázquez to describe what Lacan believes is the subject's relation to the visual field and the unconscious within that field, which is the binary signifier described in Chapter One. Lastly, this will discuss one of Lacan's most important essays, that on Edgar Allan Poe's "The Purloined Letter" to give a model for how Lacan

praises a piece of detective fiction for properly giving credence to the unconscious. The structures of identification, the subject's relation to the visual field and the function of the letter in the story will provide a basis for evaluating *The Wire*, which deters the audience from any imaginary identifications in favour of following the wiretap itself, much like the functioning of the letter in "The Purloined Letter" and much like a successful analysis, which steers the analysand to question their identifications and narcissistic position in the symbolic order. This helps solidify *The Wire* as one of the best series on television while demonstrating the ability of critical unconscious studies to evaluate a piece of fiction, one which also orients itself to depicting this Demand theory of law, where discourse reigns and law is hardly anywhere; certainly it is far from justice/ethics.

Chapter Six will focus on crime fiction, beginning with *The Godfather I & II*. The films are foundational for modern crime fiction and allow one to put into perspective what tropes tend to be relied upon in films in the genre. This additional chapter will properly explain the phallus and the *objet a* as a dichotomy, which builds on the first two chapters. Crime fiction will be analysed to discuss law and desire in terms of structure. Since the 1970s, with *The Godfather*, crime fiction has been a genre in which one may identify with rather than condemn protagonists. However, this genre since *The Godfather* often depends on a trope of violence against women. This genre demonstrates the flimsy foundation of law because there can always be a higher good, but it also displays a strange requirement with domination of women. The phallus and the *objet a* will be delineated as ongoing and passed down in a genealogy of fiction in cinema which allows for potentially dangerous attachments to these films which may normalise violence against women. This is how ~~Woman~~ is othered from law

(even unwritten laws in films) and how the symbolic order depends on the excluded other.

The dissertation will conclude with brief remarks on the very late Lacan and, particularly his notion of the *sinthome*. Sublimation and the *sinthome* will be presented as possible solutions for individuals to rely less on the *jouissance* of political discourse. This will include Lacan's late theory of the fourth knot in the Borromean knot as the paternal function as discussed in *Seminar XXII: R. S. I.* and the *sinthome* as taking the place of this knot, which is Lacan's theory in *Seminar XXIII: Joyce the Sinthome*.

Chapter One  
The Centrality of Law in Lacanian Analysis  
and  
I-identification (the fifth fundamental concept)

**Introduction**

Jacques Lacan's eleventh seminar, *The Four Fundamental Concepts of Psychoanalysis*, represents a moment in his career when he has solidified a number of concepts he had been experimenting with and developing in the 1950s. In this seminar he laid theoretical foundations which will remain central throughout the rest of his career. Yet, these concepts are often elusive and spoken of in a roundabout way, as is typical of Lacan. Important notions like the phallus, the *objet a*, alienation/separation and identification are developed but even the four fundamental concepts require in-depth study in order to make sense of how they work together clinically. These concepts are the transference, repetition, the drive and the unconscious. The following chapter will show not only the way these concepts are used in the clinic and brought forth by the analysand in the order I have just stated them in, but it will prove that law is central to all of them. The work of analysis is completed with identification near where it begins, which is in the transference. The use of identification in psychoanalysis is also a sort of legal practice for Lacan and the following will trace the use of law in all of these stages, relying mostly on *Seminar XI* but occasionally supplemented with *Ecrits* and other seminars.

This chapter will be grounded in the relationship between the 'I' and the law, Being and meaning, the subject and the o/Other. To begin, consider Lacan's statement on the Hegelian dialectic in his "Theoretical Introduction to the Functions of Psychoanalysis in Criminology" which is oddly not an oft-read text, even for Lacanians. Lacan writes,

It is all the more significant to recognize the latter in the succession in the succession of crises - weaning, intrusion, Oedipus, puberty, and adolescence - each of which produces a new synthesis of the ego systems in a form that is ever more alienating for the drives that are frustrated therein, and ever less ideal for the drives that are normalized thereby. (*E* 115)

This normalization begins in alienation which, Lacan adds, is a response to identification, "the most fundamental psychic phenomenon" discovered in psychoanalysis (*E* 115); oddly, it does not receive this place in the title of *Seminar XI*. What does the subject lose in these developments? It loses the self to language. Each attempt to define one's being further alienates the subject into signifiers, mirrors, and others. The normalization of the drives is a series of laws governing the body's movements: the tongue, the bladder, the anus, directions of the gaze (of subject and object), the wish to touch or be touched. A 'normal' adult obeys conscious and unconscious law, which often needs not be written. One could argue that breaking consciously written law is normal (literature and film display countless examples of notions of the good which justify breaking the law), but if one cannot obey unconscious laws, one seems mad. For instance, excessive staring, or speaking without addressing an Other, may make one seem mentally unhealthy.

But for a psychoanalyst, how different, structurally, is madness from health?

Lacan asks us not to think he's being witty when he says "that Napoleon was someone who thought he was Napoleon. Because Napoleon did not think he was Napoleon at all, since he knew fully well by what means Bonaparte had produced Napoleon..." But he did convince "posterity that he had truly been Napoleon," a child of a well-to-do family (*E* 140). Lacan adds that "the essential misrecognition involved in madness is situated at just such a point" and it "can be seen in the revolt through which the madman seeks to impose the law of his heart onto what seems to him to be the havoc of the world" (140). But the insanity lies in that

the subject does not recognize in this havoc the very manifestation of his actual being, or that what he experiences as the law of his heart is but the inverted and virtual image of that same being. He thus doubly misrecognizes it, precisely so as to split its actuality from its virtuality. Now, he can escape this actuality only via this virtuality. (140)

The madness of the subject is the alienation from one's being and virtuality is all one has at one's disposal to ascertain or make sense of the actual. This job is done by the symbolic and the imaginary. They veil reality but much faith is invested in them, which is why "if a man who thinks he is a king is mad, a king who thinks he is a king is no less so" (139). The subject believes they are who they and others say they are. This is why, for Lacan, belief "cannot be eliminated from the phenomenon of hallucination and delusion" (134). In other words, madness is part of normalcy and identity (resulting from identifications) is part of this madness.

Political discourse in recent years has evidenced this quite clearly. When people say America is divided, it is not simply a division in political opinion but a division of incommensurable realities (which are all virtualities). Many of Trump's supporters believed they had clear knowledge that the 2020 election was "rigged" and illegally stolen by Democrats and there is a brick wall barring communication between them and those who trust the election process. Similarly, systemic racism was a major issue that same year, when protesters took to the streets, and others saw them as Marxists, or rioters, often believing they had the knowledge that racism was no longer a problem in America. Also, there is the issue of COVID-19, which some believe is a hoax, or whose danger was exaggerated. Others thought it needed to be taken seriously. Some believe they possess the knowledge that the vaccine causes death and others trust the doctors and scientists who created and approved it. The point is that there is affect shared by subjects in their relation to law, and extreme *jouissance* in feeling like its victim or its martyr, a symptom conditioning how one sees reality; hence, conspiracy theories have become popular and hate-groups are becoming more noticeable. Although an analysis of discourse pertaining to these points of division is out of the scope of this dissertation, it is interesting to consider 1) that these points show that reality is constructed within discourse and that 2) *jouissance* underlies belief, conditioning it. The affective investment in a structural relation to law can be seen as what Lacan calls "intellectual *identification*" (E 70).

Identities in relation to laws lie in the world awaiting subjects and identification "is psychological causality itself" (153). A child's first identificatory choices determine affective "fixations" of neurosis (153). After all, "the first effect of the imago that appears in human

beings is that of the subject's *alienation*" (emphasis in original) and during this scene desire is constituted in "the conflict between master and slave" (148). In the subject's mirage of appearances, "a dull mirror shows him a surface in which nothing is reflected" and so identification is required to cover over the fact that there is nothing to hide. The subject is alienated in language and no speech is simply the subject's speech because "speech is mediated by another subject. In this way, this speech is open to the endless chain ... of words in which the dialectic of recognition is concretely realized in the human community" (E 293). Lacan provides the resulting "essential determination of the 'I'" which is "I declare myself to be a man for fear of being convinced by men that I am not a man" (E 174). Identification with the imago along with symbolic identification are deeply structured by a community that predates the subject. This young subject, or 'I', is "infatuated with its own feeling" (345) and seeks to validate the imago in the Other's discourse. Lacan states that for Hegel this 'I' "is defined as a legal being" and that "it was left to Freud to make this legal being responsible for the disorder manifest in the most tightly closed field of the real being - namely, in the organism's pseudo-totality" (E 345-346).

This chapter will lead to identification through the channels Lacan discusses in *Seminar XI*. The four fundamental concepts will be placed in an order of the direction for treatment, which is the inverse direction of subject formation as the analyst listens for the fundamental fantasy. Before taking Lacanian theory into the realm of politics and culture, it is important to have a direction with which to analyse texts. Subject formation and the uses of Lacanian technique, therefore, will be put into a system for Lacanian analysis using his work on the clinic.

### **The Birth of the Subject in Law: alienation & separation**

“Alienation is linked in an essential way to the function of the dyad of signifiers” (XI 236) and is not simply a (mis)recognition of the imago. It is a moment of structuring the infatuation with the imago around language, and a specific mode of language. It is a condition of the possibility of separation which Lacan, while introducing the term for the first time, points out in French “means not only to dress oneself; but also to defend oneself” and the origin of the word in Latin means to “engender. It is juridical, as indeed, curiously enough, are all the words in Indo-European that designate *to put into the world*” (XI 214). Lacan implies an “intersection” (XI 214) of lacks in alienation and separation because after alienation a

lack is encountered by the subject in the Other, in the very intimation that the Other makes to him by his discourse. In the intervals of the discourse of the Other, there emerges in the experience of the child something that is radically mappable, namely, *He is saying this to me, but what does he want?* (XI 214)

For Lacan, therefore, the narcissistic infatuation with the imago along with separation from the (m)Other knot or chain-link the imaginary and the symbolic through the introduction into law. It is in this way that the subject is formed: “One lack is superimposed upon the other” (XI 215). The cause of desire situated in the real is birthed retroactively in the “dialectic of the objects of desire, in so far as [the dialectic] creates the link between the desire of the subject and the desire of the Other” (XI 215).

In this formation of the structure of the signifier, desire “crawls, slips, escapes, like the ferret” because the desire of the Other is apprehended in the unarticulated or

“the lacks of the discourse of the Other” in a “testing of the adult, a ‘*Why are you telling me this?*’” (XI 214). So it is not a specific statement that causes signifiers to solidify into a chain, but the structure of the law of subjectivity apprehended in absences and desires. It is with this notion of ascertaining the lack in the Other and the testing of the adult that Lacan introduces separation.

Prior to this moment, we could say the subject’s alienation in the *vel* is an alienation in ‘signifierness’ rather than signification. The lower half of the losange or *vel* is the first operation, an operation of Demand, “which might be called the cry” (XI 209). The losange is made up of four logical symbols ( $\diamond$ , composed of  $<$ ,  $>$ ,  $\wedge$ ,  $\vee$  or, greater than/less than, and conjunction/disjunction). The lower half is disjunction, leading to frustration and privation, resulting in the cry. Meaning is on the side of the other after this disjunction and the subject’s being is grappling with this other in the shared space of non-meaning in Lacan’s diagram. This is a space of non-meaning which contains traces of the Being (a body with needs) of the subject along with a mess of signifiers. Demands are made to the Other, who responds with Demands containing meaning; the subject’s Being is then “condemned” to fade with the forced choice of meaning (even if it is a part of the Other’s Demand still composed of non-meaning for the child). One could say the signified has not yet emerged as a field that can be associated to signifiers and that signifiers are not yet forming chains but only a swarm. Non-meaning is common to both sides of Being and meaning. Yet “Alienation is linked in an essential way to the function of the dyad of signifiers” (XI 236). However, S1 is a mode of signifier nonetheless and it is a signifier of mastery, ushering in the process of meaning-making

as a Demand is responded to. It is responded to by ascertaining desire in the process of separation.

However, as the subject undergoes the process of alienation in language, the binary signifier (S2), which Lacan clearly states is the *Vorstellungsrepräsentanz*, the representative of representation, which is “what has passed underneath as signifier” (XI/218). This “underneath” should be taken to mean the same thing Lacan says about Being, which is that it is “beneath the meaning” (211). For Bruce Fink, it is the S1 which is the nonsensical signifier that eclipses the subject (1995, 77) and “S2 retroactively gives meaning to S1” (75). In his conception, “the subject here is but a constellation or conglomeration of meanings... [and] the subject seems to be a sort of sedimentation of meanings furnished by the Other” (76). However, for Lacan it is S2, the binary signifier, which crosses over, underneath meaning into the space of non-meaning between Being and meaning. S2 is repressed and occupies the shared space between Being and meaning; this primordial repression, one could call it, is the point “through which all the other repressions will be possible” (218). The master signifier would make sense in Freudian theorizing about repression whereby prohibitions are repressed, but it is not so in Lacan. S1, the master signifier, actually does carry meaning in the field of the Other, and the meanings of the Demands of the Other will begin to solidify, but a mode of signifier that is the subject’s own is repressed. The S2 is actually reiterated by Lacan in his final seminar, as unconscious knowledge (XXIII/165).

What is required in response to alienation is separation but the two processes cannot be entirely distinguished. Alienation and separation are part of the same process for Lacan; hence he refers to them as “the double stage of alienation and separation” (XI 266). In fact, in *Seminar XV* he begins to mean both when he says alienation. Recall that alienation is characterized by the passing underneath of the binary signifier, identical with the *Vorstellungsrepräsentanz*. In *Seminar XI* Lacan indicates how deeply intertwined alienation and separation are:

That by which the subject finds the return way of the *vel* of alienation is the operation I called, the other day, separation. By separation, the subject finds, one might say, the weak point of the primal dyad of the signifying articulation, in so far as it is alienating in essence. (XI 218)

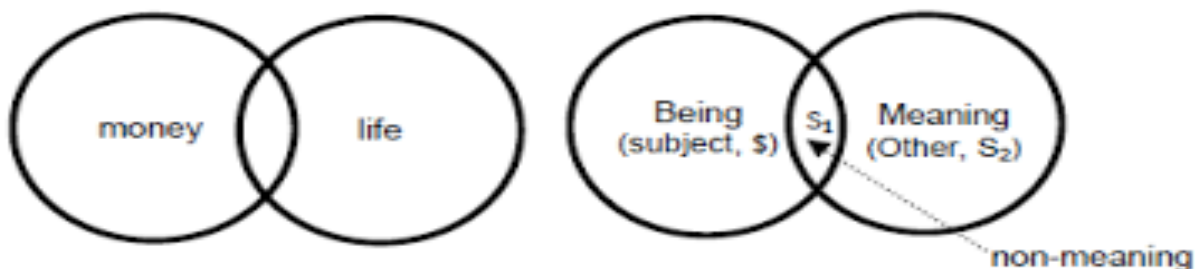
In addition, towards the end of *Seminar XI*, Lacan will say that separation introduces the *objet a* and will add, “Through the function of the *objet a*, the subject separates himself off, ceases to be linked to the vacillation of being, in the sense that it forms the essence of alienation” (258). Thus, separation brings the subject right back to alienation.

Together, then, there is circularity involved in alienation and separation; each requires the other and the complete losange has arrows to indicate this. Separation is a response to alienation in the sense that between S1 and S2 “resides the desire offered to the mapping of the subject in the experience of the discourse of the Other” such as the mother (XI 218). Separation is about desire, the superimposition of the lack of the subject and the Other: “It is in so far as his desire is beyond or falls short of what she says, of what she hints at, of what she brings out as meaning, it is in so far as [the subject's] desire is unknown, it is in this point of lack, that the desire of the subject is

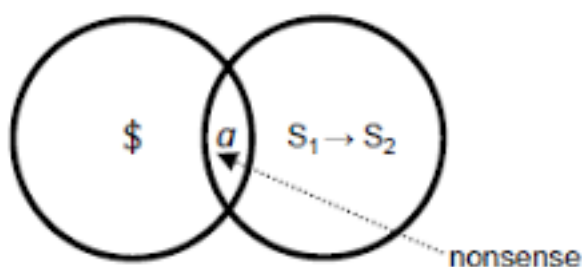
constituted" (XI 218-219). In addition, by this process the subject comes back "to the initial point, which is that of his lack as such, of the lack of his *aphanisis*" (219). This *aphanisis*, a term Lacan repurposes from Ernest Jones, who refers to the disappearance of sexual desire, marks the fading or disappearance of the subject; in alienation, the other takes the subject's place and the subject's Being fades. So, why does separation return the subject to a phase that separation is a response to?



To start, separation is a constantly repeated act as a response to subjectivity *qua aphanisis*, or to the inarticulable Being. Moreover, Lacan states, "Through the function of the *objet a*, the subject separates himself off, ceases to be linked to the vacillation of being, in the sense that it forms the essence of alienation" (XI 258). Separation is the process by which an object is lost as the cause of desire. However, Lacan has also said that the *fort-da* game is practiced with the help of the *objet a* (in the form of the bobbin) and he adds that the "function of this exercise with this object refers to an alienation, and not to some supposed mastery" (XI 239). When Lacan states that this "endless repetition that is in question reveals the radical vacillation of the subject" (XI 239), we could take him to mean that the vacillation, the indecisive moments between Being and meaning, is also a vacillation between alienation and separation. For, after all, these two processes feed each other and respond to each other. Alienation does not end when separation occurs and separation constantly reverts back to alienation. They overlap much like Being and meaning, since both are about the *objet a* which is introduced in separation and the fading of the subject introduced in alienation is a constant factor in separation. This is why "Interpretation is directed not so much at the meaning as



towards reducing the non-meaning of the signifiers, so that we may rediscover the determinants of the subject's entire behaviour" (XI 212). Transference emerges in separation and repetition-compulsion which detours around the *objet a* as it is introduced in separation and there is always a struggle with the in-between space of non-meaning introduced in alienation. What will be constantly returned to in this dissertation is the notion that the process of alienation/separation is the structure of lack and trauma in subjectivity. What an analyst looks for in discourse is 1) the signifier metonymically standing in for lack of Being and 2) the binary signifier, the moment in discourse when the subject metaphorically contends with the Demand/desire of the O/other.



The drive emerges alongside the remainder that is separated off, the extimate or absent core of subjectivity, the *objet a*, "that object around which the drive moves" (XI 257). Yet, when Fink makes S2 the field of the Other which retroactively defines the unconscious S1, he is missing this core as the subject's very own unconscious

knowledge. Indeed, years later Lacan would say that the unconscious “is entirely reducible to language” (XIII 165). Not-all of the subject’s meaning is the Other’s and the inauguration of subjectivity is not solely about mastery, as Lacan says. The splitting off of the *objet a* is dependent on the binary signifier, the representative-representative which signals the achievement of the young subject to invent a signifier or to begin the process of signification.<sup>2</sup>

The cause of desire, arising out of the remainder unsaid in Demand, and apprehended in the desire of the Other, is inextricably bound up with law: “The father, the Name-of-the-father, sustains the structure of desire with the structure of the law” (XI 34). This could be one reason Lacan is “unable to deal with the relation of alienation without introducing the word freedom” (251). Lacan critiques Kant’s “specification of the moral law which, looked at more closely, is simply desire in its pure state, that very desire that culminates in the sacrifice, strictly speaking, of everything that is the object of love in one’s human tenderness” (XI 275). Desire is inaugurated by the splitting off from the object of love, which coincides with the Freudian moment of weaning, whereby the child loses its omnipotence of thought and learns the breast is actually external. Hence the breast must be sacrificed. Similarly, the (m)Other’s voice and gaze can no longer be summoned at will; hence the need for a bobbin. When Lacan mentions “the sacrifice,” then, of “the object of love,” it is because a structure of law has taken the object and the child must learn to give up that object and continue to lack it. For Freud this moment would be the resolution of the Oedipus complex, when the parental object of love is given up so other objects can be desired. However, this moment of separation

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<sup>2</sup> See Chapter Five for a more detailed discussion of the relation between S2 and *objet a*.

is the moment when transference is begun. Primordial objects of love/hate (ambivalence for Freud) are still present in their absence as love/hate is transferred onto other objects, such as the analyst. In this way, separation continues to revolve around law and desire throughout the life of the subject, and it does so within and among elements of discourse like Demand, the binary signifier and the *objet petit a*.

An analysand “can adumbrate his situation in a field made up of rediscovered knowledge only if he has previously experienced the limit within which, like desire, he is bound” (XI 276) and this is a limit on freedom, the freedom to possess the (m)Other and hold on to one’s Being. The birth of the speaking subject (a second birth) coincides with the loss of the *objet a*, which is why the subject and desire are bound by a limit on love, which “can be posited only in that beyond, where, at first, it renounces its object” (XI 276). Lacan goes on to say that love and the impossibility of any “shelter” for a “viable, temperate relation of one sex to the other necessitates the intervention—this is what psycho-analysis teaches us—of that medium known as the paternal metaphor” (XI 276). What psychoanalysis teaches is the title of Lacan’s seminar: the four fundamental concepts of psychoanalysis. These concepts (the unconscious, the drive, repetition and transference) are all born in the moment of separation from the lost object due to the intervention of the paternal metaphor, or the Name-of-the-Father. More importantly, these are the concepts that are analyzable; these are what are elucidated in analysis through the analyst’s attentive ear, trained to listen for desire. In other words, Lacanian discourse analysis in culture and politics, to remain true to the clinical process, must consider these concepts as they arise in the formation of subjectivity and continue in the

discursive life of subjects. Not all Lacanians may take this approach, but this dissertation emphasizes the structuralism of subjects as *subjected to* discourse.

The goal of psychoanalysis, then, is to intervene when the subject subjects themselves to the primary signifier and only then “may the signification of a limitless love emerge, because it is outside the limits of the law, where alone it may live” (XI 276). The law and desire are so tightly knotted because “the sacrifice signifies that, in the object of our desires, we try to find evidence for the presence of the desire of this Other that I call here *the dark God*” (XI 274). The big Other is sought out in the love-object as one desires the object of the big Other, desires like the big Other, and desires with prohibitions of the big Other in mind. The sacrifice of the primordial object is always remembered unconsciously, and along with it, so is the sacrifice of the father (like in *Totem and Taboo*), but the father is resurrected as the big Other. In *Totem and Taboo*, the primal horde kills the father because he has a monopoly on women, the object of desire; the paternal function is held dear and the late Lacan says, “It is in the measure that the sons are deprived of women that they love the father” (XXIII 12). The father survives in the unconscious and the subject is haunted in its detours around the *objet a*, a haunting which resounds in Demands for/from objects of desire (the drive), repetition compulsion (e.g. acting out against big Others, objects of the drive) and transference (e.g. the previous two acted out or imagined in relation to the analyst).<sup>3</sup>

The analyst, in a sense, occupies a space outside of law. When Lacan later develops his four discourses, it will become clear that the analyst occupies the place of the *objet a* in the real because “he eliminates himself completely from his own

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<sup>3</sup> See Chapter Six for a detailed character analysis of this process in *The Godfather*, whereas the masculine symbolic/discourse of the Other is tradition, which defines a specific type of Woman as *objet a*.

discourse" (XVII 63). In *Seminar XXIII* he will "speak about the Real as impossible in the measure that, that I believe, precisely, that the Real - anyway, I believe, if it is my symptom, tell me - where I believe that the Real, that the Real is, it has to be said, lawless. The true Real implies, implies the absence of law" (173). In this seminar, Lacan helps clarify why the Name-of-the-Father is so important to psychoanalysis:

The hypothesis of the Unconscious, as Freud underlines, is something which, which cannot hold up except by supposing the Name-of-the-Father. Supposing the Name-of-the-Father, certainly, is God. It is in this that, that psychoanalysis, by succeeding, proves that one can moreover do without the Name-of-the-Father. One can moreover do without it provided one makes use of it. (170)

A hint about a successful analysis is given prior to this claim when Lacan mentions "the Other of the Other" which, throughout most of his career, he asserts does not exist. The aim of psychoanalysis then, in its work of interpreting the unconscious and disentangling the mess of repetition compulsion, the transference and the drive, comes about by making use of the hole in the symbolic which conditions the symptom. In other words, the Name-of-the-Father must be analysed so the subject can dig up the unconscious knowledge which conditions its identity and desire. This is why psychoanalysis makes use of the paternal function: so that the subject can begin to do without it. Included in this goal is untangling the *jouissance* of acting out one's identifications with signifiers offered by politics and culture. Alienation and separation are the modes by which one seeks *jouissance* through identity and signification, such as in the clinging to slogans offered by political leaders or identity formation based on consumer brands. One cannot refer to one's core self in signifiers and therefore acts as

though one's Being can be included in those signifiers which come from the other, allowing for identification with Others and demarcation from others.

The subject comes to analysis with symptoms and symptoms arise because, like the subject, the signifier is divided. Rather, it is because the binary signifier is divided that the subject is. This is why, when he introduces the *vel* of alienation, Lacan makes a passing reference to "the catalogue of all the catalogues that do not include themselves," (XI 210) which goes by the name of Russell's paradox. Three years later, Lacan will clarify that it "is not a paradox at all" (XIV 12) because "*it is of the nature of each and every signifier not to be able in any case to signify itself*" (XIV 11; emphasis from original text). The subject is like this catalogue in the sense that it is always where it is not; the subject is a signifier whose reference is always displaced. All one sees is the signifier *and* the subject's disappearance. This is why the unconscious functions "like" a language. Lacan refers to language itself when he says, "x is not a member of itself." (XIV 11). Language does not constitute "the totality of signifiers" (XIV 12) and just as the subject's Being fades away at the introduction of meaning, a signifier fades away as well; the subject does not constitute the totality of signifiers either. Instead, when "faced with itself" it represents the impossible real and what Lacan calls "its repetition as a signifying unit" (XIV 16). It is repeated because "one does not say it" (XIV (32)). Like in Russell's paradox, signifiers one identifies with do not provide any accuracy because they cannot contain the subject, which leads to the *jouissance* of intellectual identifications instead. This is why discourse always offers *jouissance*.<sup>4</sup>

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<sup>4</sup> See Chapter Five for a detailed elaboration of identification with signifiers.

This is why, for Lacan, the subject is a signifier for another signifier; the divided subject and the divided signifier are the same. Lacan finally clarifies in *Seminar XXIII* that the binary signifier is such because it is split between symptom and symbol and it is “the artisan” which produces the *objet a* (34). This is why the little other and the big Other cannot be thought without each other: “It is indeed in so far as the discourse of the master reigns, that the S2 is divided. At this division, is the division between the symbol and the symptom” (XXIII 34-35). This is the division brought about by law and it is the heart of what analysis seeks to read. Lacan asserts that “Interpretation is not open to any meaning,” (XI 250) pointing out that the subject has symptoms that are missing signifiers. Interpretation addresses separation, seeking to unveil these signifiers, which causes the unconscious to form via repression, repetition surrounding signification, transference bearing on new objects, and the drive as the representative of Demand. In other words, the four fundamental concepts of psychoanalysis begin and end with the law. They are inaugurated by the Name-of-the-Father and analysis aims to represent, construct and analyze these concepts to allow the subject to free them from the unconscious Name-of-the-Father.

It is in the moment when the desire of the Other brings the fall of the binary signifier that the subject begins to look to objects of pleasure to fill the lack which covers over its Being; this moment structures the subject *qua* ego and allows the drive to turn. These objects are on the side which corresponds to meaning, or the other. The big Other, as I mentioned, is now on the side of Being. The implication is that both sides of the split find their locus in law. The subject desires, strives to enjoy itself, and defines

itself in relation to law. In his discussion of Russell's paradox and the fall of the unary trait in *Seminar XIV*, Lacan elaborates:

While what is at stake is properly the identification of the ego in what pleases it, in the *Lust*. Which means that the ego of the subject is alienated here in an imaginary fashion. Which means that it is precisely outside that what pleases is isolated as ego. This first no which is foundational as regards the narcissistic structure, in so far as in the rest of Freud it will develop into nothing less than this sort of negation of love. (*XIV* 49)

The entry into discourse and the loss of the primordial object, then, is not just a structure of law and desire. It is a structure of identification which responds to law's injunction disrupting access to the object of love. *Petit a* others will become ego-objects and drive-objects in a manner that responds to the Other of the law, or "that being that [the subject] first saw appearing in the form of the parent holding him up before the mirror" (*XI* 257). Identification along with signification, then, are legal processes structuring subjectivity.

### **The Transference**

Freudians know transference as the transfer of affect (especially love/hate) onto the analyst as the analysand's free associations inch closer to traumatic memories. This is crucial. Freud at first wondered why patients would love or hate him and found it was important to analyse the transference itself. Lacan provides supplemental answers as to why: the transference is a deception. In Freudian terms, we could say transference is defensive (against uncovering the subject's truth). The first step I've isolated in a

direction for treatment is the first attempt on the part of the unconscious to conceal itself in relation to language/the Other. Žižek's phrasing can help us get closer to a clearer formulation. He writes, "transference is this supposition of a Truth, of a Meaning behind the stupid, traumatic, inconsistent fact of the Law" (2008, 36-37). The lack in language persists while the subject attempts to follow its laws and the transference is an attempt to close up by pinning down meaning for the analyst. When Lacan says the analyst is a 'subject supposed to know' he is pointing out that the assumption on the part of the analysand that the analyst possesses the secret of the unconscious is one mired in affect (love, hate, guilt, shame, joy, and so on). If one thinks the analysand has "knowledge about the meaning of our symptoms," (58) they are perhaps likely to feel love, and also obscure what the ego has banished from articulation. This is why the analyst remains focused on transference. It is "an essential illusion by means of which the final Truth (the meaning of a symptom) is produced" (62). Lastly, "the analysand tries at first to evade its abyss by means of transference — that is, by means of offering himself as the object of the analyst's love" (132) until the "dissolution of transference" when the subject can stop aiming to fill the lack in the Other, the lack in language, and stop placing the analyst in the position of Other. At that moment, one can begin to free oneself of Demand.

It is with law that desire begins as an absence and it is in this absence that the fundamental concepts of psychoanalysis become core factors making up the life of the subject. The analyst is discovered in the "deception that there is in the transference" and "This discovery is understandable only at the other level, the level at which we have situated the relation of alienation" (*XI* 268). As a result of the loss of love conditioned by

the law which occurs in alienation, an object recurs and the analyst takes its place in transference: “This paradoxical, unique, specified object we call the *objet a*” (XI 268). The effect of its presence is “rediscovered always and everywhere, in the movement of the transference” (XI 269). The transference and the repeated moments of acting out are analyzed because in their own ways they falsely stand in or attempt to make up for the lost object. What this means is that, in subjectivity, transference veils the subject’s relation to law.

Although Lacan says that “the concept of repetition has nothing to do with the concept of transference,” he adds that the concept of repetition was discovered “in the course of the first hesitant steps necessitated by the experience of the transference” (XI 33). He later states that “the transference may lead us to the heart of repetition” (69). The fundamental concept of transference “directs the way in which patients are treated” (124) and it appears in relation to both the big Other which instills law and the resulting lost object, the *objet a*. The unconscious appears as the primordial cut inaugurating the subject and transference aims at the “primary position of the unconscious that is articulated as constituted by the indetermination of the subject—it is to this that the transference gives us access, in an enigmatic way (129). Paradoxically, the moment of transference is the closing up of the unconscious in the analytic session, as Lacan repeats throughout the latter half of *Seminar XI*. This point of closing up is “a highly significant moment in the transfer of powers from the subject to the Other, what I call the capital Other (*le grand Autre*), the locus of speech and, potentially, the locus of truth” (XI 129). At the moment of closing up, the realm of thinking is handed over to the analyst who occupies the space of the Other for the subject (but the analyst attempts to shift

their position to the small a instead). And is this not the conscious demand for an interpretation? But one must go further to find a hint of where analysis can progress. What we know thus far is that transference is listened for before repetition, and is what leads the analyst to repetition.

The Other is always present, even “when something has begun to yield itself from the unconscious” (XI 130). And when the analyst offers an interpretation, it “merely reflects the fact that the unconscious... has already in its formations—dreams, slips of tongue or pen, witticisms or symptoms—proceeded by interpretation” (131). Yet the transference, in its closing up, “is essentially resistant” and it is “the means by which the communication of the unconscious is interrupted.” There is a “circle of deception” involved that “highlights the dimension of love” (133). In the moment of transference, one closes the shutter to the beauty of the unconscious. However, this discourse of the Other “through the mouth of the analyst, calls for the reopening of the shutter” (131). Interestingly, Lacan tells us that what causes the closing up of the unconscious is the *object a* (133-134). The cause of desire causes transference. Whether listening clinically or politically, moments of closing up are what should be considered first, with the hope that repetition lurks behind them. For instance, in Chapter Three an example to consider is in the Canadian Federal Leaders Debate of 2019, when Jagmeet Singh presses Bloc Québécois Leader, Yves-François Blanchet about Bill-21. Blanchet displays a clear unwillingness to discuss the Bill further at the moment that Singh asks about his own position, and those who are othered within Quebecoise culture for wearing visible religious symbols. The analyst takes a hint that unconscious desire may be hidden when communication breaks down.

The transference as a moment of closure is a “knot” and analyzing transference is about “the bringing to awareness of this split in the subject” (XI 131). The original split is the unconscious and, as we will see, repetition is the repeating of this split. This is why the deception and the closing up of the unconscious involved in the transference are important moments for analysis. Lacan explains this with the ‘I am lying’ paradox. It is in lies that analysis of the transference is possible:

What better way of assuring oneself, on the point on which one is mistaken, than to persuade the other of the truth of what one says! Is not this a fundamental structure of the dimension of love that the transference gives us the opportunity of depicting? (XI 133)

The reason love and deception are possible to analyze in the transference is that there is a “division between the statement and the enunciation” (139). The *I am lying* “is at the level of the chain of the statement” and the “*am lying* is a signifier, forming part, in the Other, of the treasury of vocabulary in which the I, determined retroactively, becomes a signification” (139). The I, then, is determined in the realm of thinking which the analyst stands in for, hoping to shift positions, and it is below the bar under the signifier. Recall the diagram which explains that a signifier is what an analysand is looking for. In some sense the ego is a signified which needs to be symbolized or “determined retroactively” and this signification is “engendered at the level of the statement, of what it produces at the level of the enunciation—what results is an *I am deceiving you*” (139). Also recall that “engender” is a juridical term for Lacan, which means “*to put into the world,*” (italics in original text) which implies that transference is always a reference to the inaugural cut resulting from alienation. As the analysand speaks, they speak in a deception which

makes up for the lacking ego but this deception is the moment the analyst waits for. This is a model that ought to be followed in the analysis of discourse as well. The discourse analyst should listen for the breaking down of communication.

Interpretation is made at the moment of deception and the message *I am deceiving you* is sent back in “its true signification, that is to say, in an inverted form.” The analyst says, “in this *I am deceiving you*, what you are sending as message is what I express to you, and in doing so you are telling the truth” (XI 140). Because the analyst occupies the position of the Other for the analysand, and the analyst must attempt to hold the position of *petit a* instead, the inverted form is a reflected method which addresses the subject as both alienated absence and as the thinking realm of the other. In this sense, an interpretation in Lacanian psychoanalysis comes from the analysand as long as the analyst knows when the moment of transference has arisen. Sending the deception back, inverting the enunciation and the statement, is a way of hearing the deception and saying, “*you are telling the truth*” (XI 140). The position of the speaking subject is important here:

But, certainly, it is in the space of the Other that he sees himself and the point from which he looks at himself is also in that space. Now, this is also the point from which he speaks, since in so far as he speaks, it is in the locus of the Other that he begins to constitute that truthful lie by which is initiated that which participates in desire at the level of the unconscious

The analyst is able to mirror the Other’s discourse which the analysand speaks in, allowing them to slowly disentangle and separate the drive from the discourse of the Other. The truthful lie is said in the position of the Other to the analyst, who also plays

the part of this Other, gazing and covering over the subject's truth in speech by mirroring the analysand's discourse until the moment of transference when the Other is finally confronted. The importance of this, for our purposes, lies in the structure of subjectivity for Lacan. The deception of transference is the statement that covers over the unconscious.

To help us visualize the closing up of the unconscious, Lacan introduces "the notion of the obturator. The object is an obturator" (XI 147). An obturator, which is used to close or block an opening in the body, has "certain affinities with the structure of the eye" (147) as "we try to figure chronologically the relations of the subject with the world" (148). This is because the unconscious is "that which is inside the subject, but which can be realized only outside, that is to say, in that locus of the Other" (147). Lacan later asks us

to turn the obturator I referred to earlier into a camera shutter, except that it would be a mirror. It is in this little mirror, which shuts out what is on the other side, that the subject sees emerge the game by means of which he may... accommodate his own image around what appears, the *petit a*. (XI 159).

The transference is like a shutter, a mirror and a sealing up between inside and outside of the body. It lets the unconscious out and shuts it up just in time to miss an encounter with the real. It mirrors the Other and conceals the *objet a*, which requires the analyst's intervention or interpretation. The transference, in the end, is the barring of the traumatic division of self and other, inside and outside, unconscious and conscious, which results from the process of alienation and separation. The transference is in some

sense a distant response to the loss resulting from law and a means by which the analyst can locate the lost object.

### **Repetition**

We have distinguished transference from repetition. In repetition, what is repeated is repeated “*as if by chance*” and “We can succeed in unravelling this ambiguity of the reality involved in the transference only on the basis of the function of the real in repetition” (XI 54). Repetition attempts to make up for the repressed signifier. In discussing repetition, Lacan asks, “is not the transference given to us as effigy and as relation to absence?” (54). This absence is the effigy of the signifier which fails to signify; it repeats the loss of Being. The transference closes up and covers over the “enclosed aspect of the relation between the accident, which is repeated, and the veiled meaning” (69). The transference, then, attempts to hide this relation between accident and veiled meaning; it is the act of veiling for the analyst through the Other’s discourse. Noticing this moment can “lead us to the heart of repetition” (69).

What, then, does analysis find in the heart of repetition? Repetition is grounded “first of all in the very split that occurs in the subject in relation to the encounter” (XI 69). This encounter with the real can be apprehended by analyzing the split which “constitutes the characteristic dimension of analytic discovery and experience; it enables us to apprehend the real, in its dialectical effects, as originally unwelcome” (69). However, this encounter is an “encounter forever missed” (60). The place of the real “stretches from the trauma to the phantasy—in so far as the phantasy is never anything more than the screen that conceals something quite primary, something determinant in

the function of repetition” (60). What is concealed is “the real that governs our activities” and which cannot be represented (60). What happens instead of representation is repetition, a ritualized attempt to signify.

“Repetition demands the new,” says Lacan. “It is turned towards the ludic, which finds its dimension in this new” (XI 61). In other words, repetition aims at spontaneity, play and creativity. There is something in repetition that is “varied, modulated, is merely alienation of its meaning” or a “sliding-away” concealing “the true secret of the ludic, namely, the most radical diversity constituted by repetition itself” (61). Paradoxically, the moment the subject is formed marks “an insistence that the story should always be the same, that its recounted realization should be ritualized, that is to say, textually the same” (61). This means that the ludic story of repetition acts like a signifier but the “requirement of a distinct consistency in the details of its telling signifies that the realization of the signifier will never be able to be careful enough in its memorization to succeed in designating the primacy of the significance as such” (61). For this reason there is some variation of significations causing one to forget their aim as the act is transformed into a game, “giving it certain outlets that go some way to satisfying the pleasure principle” such as the instance of Freud’s grandson’s *fort-da* game which “makes up for the effect of his mother's disappearance by making himself the agent of it (62). Repetition, then, is like a failed representation of trauma. However, there is another reason why the ludic story is important.

The story is not a symbolization of the mother walking out the door nor “that of some need that might demand the return of the mother, and which would be expressed quite simply in a cry” (XI 62). In the *fort-da* game, the child is focused on the moment

the mother's body moves away, introducing an "ever-open gap" or a "self-mutilation" portrayed by the "cotton-reel linked to itself by the thread that it holds" (62). This is "the basis of which the order of significance will be put in perspective. For the game of the cotton-reel is the subject's answer to what the mother's absence has created on the frontier of his domain—the edge of his cradle—namely, a ditch, around which one can only play at jumping" (62). The traumatic moment of separation from the mother is the subject's introduction to not only the reality principle, but also the loss of omnipotence of thought, a loss implied by a confrontation with the external world with its own absences (absence of the breast, the voice, the gaze etc.). The subject loses a part of itself in this moment so the "reel is not the mother reduced to a little ball by some magical game" but "a small part of the subject that detaches itself from him while still remaining his, still retained" (XI 62). The reel is the *petit a* and what is repeated is the traumatic moment of loss.

The game is an attempt to represent one of the first oppositions to appear: subject and object. After the fall of the binary signifier, "it is in the object to which the opposition is applied in act, the reel, that we must designate the subject" (XI 62). The aim of the game "in its alternation, is simply that of being the *fort* of a *da*, and the *da* of a *fort*. It is aimed at what, essentially, is not there, *qua* represented—for it is the game itself that is the *Repräsentanz* of the *Vorstellung*" (63). There is something lacking in this game. Recall that the S2 is primally repressed and that it is the *VorstellungRepräsentanz* that is the S2, the binary signifier. If the game is "the *Repräsentanz* of the *Vorstellung*" it is a representative of an idea (an idea in the philosophical sense that it is imaginary, requiring a signifier to represent it). This

definition is of crucial significance when Lacan asks, “What will become of the *Repräsentanz* of the *Vorstellung* when, once again, this *Repräsentanz* of the mother—in her outline made up of the brush-strokes and gouaches of desire—will be lacking?” (63). The mother’s lack, her desire, must be represented but the representative itself is lacking.

As a result of the lack of a representative, the act works to represent the lack which “is why it is necessary to ground this repetition first of all in the very split that occurs in the subject in relation to the encounter” (XI 69). The mother’s return may give the child access to “the living signifier” (69) as the child drifts off to sleep but until then the signifier is missing. Therefore, repetition takes its place and it can be spotted in the transference as the unconscious closes up to hide this lacking signifier. What is missed in this closing up is the encounter. Repetition becomes apparent in the life of the subject as the analysand retroactively articulates the repeated encounter. Similarly, repetition is often socially present as discourse offers *jouissance* in repeated encounters. For instance, the banning of books is often done with conscious reasons, which could be nudity, vulgar language and so on, but this could conceal the unconscious motive, which may be a denial of an author’s identity or experience as a gendered or racialized subject. Consider common attempts to ban critical race studies. Banning books does not bring satisfaction and so more and more books must be banned to attempt to chase completeness, which is an impossible task. This process of book banning is not simple, and is an intricate discussion, but one can find censorship and *jouissance* in this discussion. In Chapter Three, we will see repetitions in discourse in France, where ever-harsher constraints on religious freedoms are introduced and passed into law. In

repetition we have what Lacan refers to as “neurosis of destiny or neurosis of failure” or “good or bad fortune” (XI 69). Behind the “accident” that is repeated and the “veiled meaning” of the transference, what are we led toward? The drive (69).

### **The Drive**

The importance of alienation and separation in *Seminar XI* becomes more apparent when we see that they have a strong tie with the drive. The drive itself is one of the more elusive concepts in Lacan. It is often thought to be a bodily drive and in Freud’s theorizing, he even slipped into biological terms which leads to confusion about how to isolate this thing called the drive. It was erroneously translated by Strachey as “instinct” and Lacan refers to the drive, the German *Triebe*, as “la *pulsion* [pulsion]” (XI 168).

Lacan mentions that Freud’s metaphors for the drive involve “material emission” but notes that each metaphor involves the completion of a “form of return journey” (181) making it very similar to the completed losange of alienation and separation. This rim “redoubles its enclosed structure” and “nothing else ensures the consistency except the object, as something that must be circumvented” (181). Lacan adds, “This articulation leads us to make of the manifestation of the drive the mode of a headless subject, for everything is articulated in it in terms of tension” (181). The drive is similar to Lacan’s articulation of the unconscious as “being situated in the gaps that the distribution of the signifying investments sets up in the subject, and which figure in the algorithm in the form of a losange” (181). Like the unconscious, the drive involves signifying investments

and it functions because “the apparatus of the body is structured in the same way” (181). What is crucial to remember is that the drive is a symbolic force.

Lacan draws heavily on Freud’s “Instincts and their Vicissitudes” to make a case for the drive as a signifying mechanism. In that paper, the active and passive are constantly reversed so concepts like seeing or torturing go through reversals as the drive makes the subject shift from seer to seen, torturer to tortured and vice versa. Lacan considers the reversal of “seeing, being seen” and asks how “it can be that, except by inscribing it in terms of signifiers?” But there is “another mystery” because “What constitutes the enigmatic character of Freud’s presentation derives precisely from the fact that he wishes to give us a radical structure—in which the subject is not yet placed” (181-181). This would make sense linguistically if we recall that the subject’s Being fades at the entry of the signifier.<sup>5</sup> The signifier is the introduction of prohibition and “the course of the drive is the only form of transgression that is permitted to the subject in relation to the pleasure principle” (183). Transgression is a relation to law which is inscribed in signifiers. The beyond of the pleasure principle is this detour around the object in fantasy, in the completed losange of alienation and separation. The drive, then, is how the subject relives alienation/separation. It does so when the subject lives a permitted transgression; this is how drives are normalized and/or repressed.

Law and language border on becoming synonymous in Lacan’s work at times. He tells us that alienation “condemns the subject to appearing only in that division” between the signifier and *aphanisis*. Alienation, which Lacan refers to as “the lethal factor,” condemns like a law-giver and separation is “juridical” (XI 214). Together these

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<sup>5</sup> “On the contrary, what defines perversion is precisely the way in which the subject is placed in it” (XI 181-182).

terms make up the losange which Lacan calls the drive. The legal nature of the losange is why Hegel's master-slave dialectic is important for Lacan. When the law-giver says, "*freedom or death!*", the only proof of freedom that you can have in the conditions laid out before you is precisely to choose death" (212). This is why the encounter with the other is responded to with the "phantasy of one's death, of one's disappearance" and the question to the Other, "*Can he lose me?*" This is a response to discourse, the discourse of the Other, which has lacks that are "mappable" by the subject who asks, "*He is saying this to me, but what does he want?*" This is how "One lack is superimposed upon the other." In taking on the discourse of the Other, the subject retroactively sees its alienation from Being, making the signifier of death present. The drive, then, is the pulsing, unconscious, signifying force responding to Demand, and it aims at recognition from the lawgiver. With this in mind, it is much easier to see why politics offers such vast *jouissance*. A transferential love or hate for political figures invites one to signify their identity on.

What more can we say of the drive? Too much, unfortunately. What Lacan says about separation, that it "completes the circularity of the relation of the subject to the Other," is much like what he says about the lamella, his invention of a way to articulate the libido. The libido and its mythical formulation of the lamella are the realm of the drive. He describes the tattoo as one of the earliest forms of this organ: "The tattoo certainly has the function of being for the Other, of situating the subject in it, marking his place in the field of the group's relations, between each individual and all the others." The libido then, as an organ (meaning both bodily organ and the musical instrument), is about language and power. It signifies relations between the subject and the Other; like

a musical instrument, it communicates. It is the inscription that marks the subject as subjected to a law-giver and their law (such as that of Freud's primal father).

The lamella (a pun which plays on *l'hommelette* or little man, and omelette) is pictured by Lacan as a creature that "comes and envelopes your face while you are quietly asleep" (XI 197). It does not exist but is nonetheless an organ (197). It is "unreal" and the "Unreal is not imaginary" (205). This leaves one obvious answer to what the lamella *qua* libido is: it is symbolic. We should take the hint that it is symbolic because it articulates itself. It is "defined by articulating itself on the real in a way that eludes us" (205). This little creature is "pure life instinct, that is to say, immortal life" which has been "subtracted from the living being" and, most importantly, the "*objets a* are merely its representatives" (198). Desire is caused by the representative of this articulating organ, which signifies on the real. It signifies its place in a political relation. This is far from any organic conception of the libido and the drive. It is the signifier which drives the body based on the only permissible transgression. Drives and desires all originate in law.

The drive can be said to signify the language that is the lamella. Recalling Freud's "Vicissitudes of the Drive" Lacan says, "As to the relation between the drive and activity/passivity, I think I will be well enough understood if I say that at the level of the drive it is purely grammatical" (200). It is a sort of equivalence to the Other or the object that the subject has lost which requires representation in language. The reversals of the subject and object are reversals of the subject and predicate of the sentence. These grammatical reversals are the basis of phantasy. What this means then is that the drive functions in the realm of law; it signifies in relation to laws.

For Lacan, as we know, the formation of the subject is linguistic. But readers of Lacan should pay attention to how much he formulates it like the linguistic reversals of the drive. He says that “human psychology cannot be conceived in the absence of the function of the subject defined as the effect of the signifier” and adds that these processes are to be articulated, of course, as circular between the subject and the Other—from the subject called to the Other, to the subject of that which he has himself seen appear in the field of the Other, from the Other coming back. This process is circular” (207). Like the drive, the subject’s alienation into language is “circular” in the sense that subjectivity turns towards the other and back to itself, mirroring the other back onto the self. In this reversal between subject and o/Other, the drive is born. Lacan takes Freud to say that when the libido gets repressed in order to maintain the pleasure principle, that makes possible “the progress of the mental apparatus itself, as such” (184). Further,

The subject is an apparatus. This apparatus is something lacunary, and it is in the lacuna that the subject establishes the function of a certain object, qua lost object. It is the status of the *objet a* in so far as it is present in the drive. (185)

In the empty space of the unconscious, the object around which the drive turns is formed. This absent presence *in the drive* is the result of linguistic representation and what needs to be acknowledged about Lacan is that the drive is a form of representation of this lacking object. The drive is a determinative signifying function which helps explain why the “subject sustains himself as desiring in relation to an ever more complex ensemble” (185). The linguistic structure of the drive is what phantasy

depends on and “phantasy is the support of desire” (185). What these concepts all depend on is law.

The drive, for Lacan, is not so much about satisfaction but in fact its function for him has “no other purpose than to put in question what is meant by satisfaction” (165). The drive itself, rather than the subject, learns that it cannot be satisfied by “snatching at its object” (167). The object is “*of no importance. It is a matter of total indifference*” (168; emphasis in original). When one thinks of the earliest object, that of the oral drive, the breast, which is not about “the memory of food... nor the mother’s care,” (168) one ought to note that the object is of no importance for the reason that “the breast, in its function as object, is to be revised in its entirety” (168). It is clear that need is distinguished from “*Bedilrfnis*,” or “the pressure of the drive” (167) in Lacan. However, it is useful to note that, elsewhere, he adds that this pressure of the drive, *Bedilrfnis*, “concerns the relation between the subject and being and not between the subject and the world” (E 319). This presents a difficulty. Being is that which was lost and covered over by meaning but we have seen that the drive is symbolic and the symbolic comes from the world. Are these ideas consistent? In some sense, they are, because the drive excludes meanings, contains gaps, and fails at representation and moves around objects indifferently.

What type of revision is made for the breast? The *objet a* and the breast as one of its representatives is the cause of desire in the sense that desire requires not a lacking object but lacking Being or a lack of articulation of what the actual object is. The drive symbolically revises the meaning associated with the lacking breast. This is part of how phantasy is knotted into the process of subject formation. The satisfaction of the

drive is a “*tour*” or a “*turn*” or a “*trick*” because it is happy to keep phantasizing. Phantasy makes up for Being, lost as a result of law, and it does so in *montage*. The drive is the signifying tendency towards phantasy.

One might expect montage to be imaginary (like a series of fragmented images) but Lacan states that “if there is anything resembling a drive it is a *montage*” (168). This montage “is presented as having neither head nor tail—in the sense in which one speaks of montage in a surrealist collage” (168). What Lacan means is that images or elements, urges for objects appear but without a defined order. What the drive does is “defines, according to Freud, all the forms of which one may reverse such a mechanism” of montage (168). The drive *defines*. It defines the subject’s imaginary make-up, for instance in active/passive reversals, which is why “exhibitionism is the contrary of voyeurism” with “the inversion of the subject and the object, as if the grammatical object and subject were real functions” (169). The drive is the organ’s script which orders musical notes for pleasure.

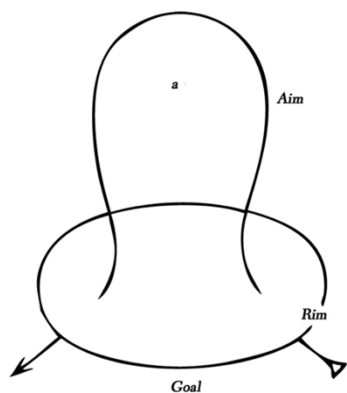
This is why the oral drive pertains to the pleasure of the mouth rather than the “oesophagus, or the stomach” (169). Images are being defined rather than a body taking pleasure in satiation. The dialectical process of need as separate from the pressure of the drive is arrived at in relation to mastery. This is why Hegel’s master/slave dialectic lends itself to so much of Lacan’s thought. The definitions the drive imposes on montage were imposed by the law. The master demands language from the subject and the subject endlessly responds to this Demand by detouring around objects, defining its relations with them in phantasy. Satisfaction is produced because it is to “the extent that adjoining, connected zones are excluded that others

take on their erogenous function” (172). The drive is not whole because it is “partial with regard to the biological finality of sexuality” (177). The drive is based on the exclusion of the body and it only partially represents sexuality.

If we ask why the drives are partial drives, this exclusion can provide a good answer. The law introduces the signifier (*is* the signifier) and *jouissance* along with it; the signifier introduces sexuality, which “comes into play only in the form of partial drives” (XI 176). Yet, Lacan adds, the drive is a montage, “precisely that montage by which sexuality participates in the psychical life, in a way that must conform to the gap-like structure that is the structure of the unconscious” (176). This overlap between symbolic (definition) and imaginary (montage) is the split between the partiality of the drive and its constant attempt to make up for the ever-in-flux non-relation between subject and object. Something is expelled from the drive’s language. In some sense this is the body, something entirely split from the subject’s psyche. Yet the body is not the real, the repressed. The body is imaginary, which Lacan was clear about in his paper on ‘The Mirror Stage’ and it is a constant introjection of objects. Further, it is an object of its own. The reason the drives are not pure, but partial, is that they are not purely linguistic; there is something about the drive which cannot be ascertained in language. The split between active and passive, then, along with the reversals between subject and object, involve both the signifier and the elusive role of identification which builds up the subject’s body-image and images of the other.

What is primarily repressed is a signifier and “we can always regard what is built on this as constituting the symptom qua a scaffolding of signifiers” (176). The opposite extreme of the symptom is interpretation, which is identical with desire (176). This

sounds like a strange thing for Lacan to say. The implication is that desire is a desire to signify, to name that which wells up in the form of a symptom. What is in between the symptom and interpretation is sexuality “in the form of the partial drives” (176). The drive follows a curved line in Lacan’s graph in *Seminar XI* and it progresses around the *objet a* aiming from rim to goal. The rim, the erogenous zone, is “the source and departure of a certain drive” (169). What is this goal if it is not the object of sexual desire that



is constantly looped around? The drive represents; in some sense it *partially* represents the *objet a*, or “the object as absence” (182). Lacan states, “This subject, which is properly the other, appears in so far as the drive has been able to show its circular course” (178). Consider *aphanisis*, or fading, as an inverse of “appears” and not that the subject of the

unconscious appears to the analyst as the “show” like a performance or a demonstration of the subject’s detour around the object, which in some sense is the subject’s Being *qua* absence. In light of the two poles of symptom and interpretation, with sexuality in between, we can begin to see the communicating, linguistic apparatus of the libido or the lamella. Instead of attaining the object or revealing an interpretation, “the partial drives intervened effectively in time and place” (176). Hence, there is a need to interpret the montage of the drive and its showing, its representation, of the fleeting appearance of the subject’s desire. In the gaps in the analysand’s signification can be interpreted the cause of desire as conditioning symptoms. This is why *jouissance* is pain in pleasure and pleasure in pain.

The drive is an apparatus like a prosthesis (indicated by Lacan's word "*s'appareiller*"), meaning it is the introduction of culture, the Other's Demand, that instills it in the process of alienation from the subject's Being. Between symptom and desire/interpretation, we have the drive representing "the curve of fulfilment of sexuality in the living being" (177). Lacan asks, "Is it surprising that its final term should be death, when the presence of sex in the living being is bound up with death?" (177). Lacan says in many ways that the link between "sex and the death of the individual, is fundamental" (150). Thus, the drives culminate in the death drive.

While in Freudian theory the sexual drives aim at life, they all come back to the death drive in Lacan: "In this way I explain the essential affinity of every drive with the zone of death, and reconcile the two sides of the drive—which, at one and the same time, makes present sexuality in the unconscious and represents, in its essence, death" (199). Of course, for Freud, the death drive has the goal of returning to the inanimate but, oddly, the unconscious does not know death in Freudian theory (like it does not know contradiction). Lacanian theory has no need to grapple with this tension based on its definition of death because Lacan sees "death as signifier and nothing but signifier, for can it be said that there is a being-for death?" (257). This point must be investigated further to deduce the importance and function of the death drive in analysis.

We must ask why this is such an important signifier. Is it privileged in the manner of the phallus? Perhaps it is condemned instead. Death brings us back to the original question of alienation. The young subject's death enters *qua* signifier of the Other's desire very early: "The first object he proposes for this parental desire whose object is unknown is his own loss—*Can he lose me?* The phantasy of one's death, of one's

disappearance, is the first object that the subject has to bring into play in this dialectic, and he does indeed bring it into play.” This dialectic is of course that of alienation/separation: “This lack is real because it relates to something real, namely, that the living being, by being subject to sex, has fallen under the blow of individual death” (205). Lacan speaks as though death has already happened and in some sense it has, if death is a return like in Freud. Death is a lack, the first of the superimposition of two lacks, as Being begins to fade (in a sort of death) in response to a “central defect around which the dialectic of the advent of the subject to his own being in the relation to the Other turns—by the fact that the subject depends on the signifier and that the signifier is first of all in the field of the Other” (204-5). Death as a signifier is the original question as one is commanded to give up Being, corresponding to the omnipotence of thought the baby experiences in Freudian theory. The life of the subject, then, begins with death.

In this moment of Hegelian master-slave freedom-or-death, we are returned from the drive to the advent of the subject and the primally repressed signifier. Each drive returns the analyst to this signifier, the “passing underneath” of the binary signifier and “the absolute master, I once said, which is in fact death, has disappeared there” (XI 27). Death is the absolute master, the law, the end point of the analysand’s investigation of desire. The detour of the drive ends in the mastery of death which, to add another turn, is the *objet a*.

The *objet petit a* (also known as ‘object small a’ or ‘small o object’) is a the most elusive term in Lacanian psychoanalysis, almost by definition. For Lacan, this invention signifies something that in most analyses cannot be signified. It is the ‘fundamental

phantasy' of a particular subject, often in the form of repressed material conditioning the subject's detours in the circuit of the drive. This is why it is hard to pin down. It is only a half-truth. It is what structures the desire of the subject as a response to the original loss associated with subject-formation. As the subject learns language, it is this object it comes to lack. In the circuit of the drive, moving through the drive-objects of the Oedipus complex, there is always a confrontation with the Other and a traumatic loss. It should be noted that, for Lacan, the mother is the first Other, and it is the primary caregiver's absence which leads to the original trauma of loss. When one encounters the question of the Other's desire, or the notion that the caregiver has desires other than the subject (even if this person is forced away from the subject by other obligations), the paternal function enforces law, and the object small *a* is the subject's phantasmatic reaction to this original trauma, which leads to language acquisition.

Each stage of the Oedipus complex is a separation, including the desire for the voice and the gaze: "The breast-like the gaze, the voice, the phallus, and the feces is an object, an appendage of the body, from which we separate ourselves in order to constitute ourselves as subjects" (Copjec 1994, 128). For example, the gaze as absence in the visual field (which can be discussed as symbolic) is a leftover from separation: "The gaze, the object-cause of desire, is the object cause of the subject of desire in the field of the visible. In other words, it is what the subject does not see and not simply what it sees that founds it" (35). The *objet a* is the cause of the subject and the cause of desire, both as lack. This is why in desire, one cannot find fulfilment: "What is aroused instead is the desire for nonbeing, for an indeterminate something that is perceived as extradiscursive" (56). This explains why the *objet a* is closely aligned with

the death drive; both aim at the nothingness presumed to be Being, that which is forever absent after the dawn of subjectivity.

Discursively, the *objet a* is what is expelled from discourse, absent from the symbolic while determining it. This could be something simple like a syllable of the name of one's first love, which seems to pop up whenever a new love is discussed or looked at, without the knowledge of the conscious subject. However, as that which is expelled from discourse, one need not confine their analysis to one subject's speech. Consider Žižek's claim about the Jew in Nazi Germany: they are not in the visual field, but are relied upon as the other within, indistinguishable but to be rooted out. Although this is more surface level than Lacan might assent to, it does emphasize that the object *small a* conditions the symbolic order without being visible. It is a "blind spot" as Žižek says. For Žižek, it is the surplus enjoyment gained from enacting this loss that is responsible for all other enjoyment (2008, 54). Žižek regularly refers to the object *small a* as a void or a "pure void." He writes, "The self-referential movement of the signifier is not that of a closed circle, but an elliptical movement around a certain void. And the *objet petit a*, as the original lost object which in a way coincides with its own loss, is precisely the embodiment of this void" (178). This "extradiscursive" object, as Copjec (1994, 56) puts it conditions all other objects in the circuit of the drive, structurally the subject's movements in "the reduction to infinite series of its replaceable objects" as the subject constantly repeats the cutting off of a part of itself (52). This is the core of the unconscious in its structure and its conditioning effects for the path of the subject.

Lacan makes this clear in his discussion of Holbein's *The Ambassadors* and the "strange, suspended, oblique object in the foreground" in between the two

ambassadors. The anamorphic skull stretched across the painting eludes one's conscious vision at first (test it on your friends by asking what they see in the picture). Lacan connects this symbol of death with "the effect of an erection" (XI 88) and even asks us to imagine it as a tattoo traced on the sexual organ while it is in a "state of repose" but now the tattoo is assuming its "developed form" in another state. Lacan asks, "How can we not see here, immanent in the geometral dimension—a partial dimension in the field of the gaze, a dimension that has nothing to do with vision as such—something symbolic of the function of the lack, of the appearance of the phallic ghost?" (88). This painting functions like objects in everyday life as traps for the gaze, always mediated by the *objet a*, which eludes vision but dominates the gaze. When Lacan mentions the phallus as a ghost, it is something lost in castration by the lawgiver, something the subject aims to get back in the detours of the drive.

When Lacan says that the painting "reflects our own nothingness, in the figure of the death's head," (92) he is talking about castration and the absence of the phallus at the core of subjectivity:

Holbein makes visible for us here something that is simply the subject as annihilated—annihilated in the form that is, strictly speaking, the imaged embodiment of the minus-phi  $[(-\phi)]$  of castration, which for us, centres the whole organization of the desires through the framework of the fundamental drives. (XI 88-89).

The minus-phi, the loss of the phallus, is situated in the place of the *objet a*, in between subject and object. This lack is the ghost of the lost object. Desire and the death drive, the law, hold the same place. What Lacan's work on the drive in *Seminar XI* leads to is

the fundamentals of his theory and the object of psychoanalysis. The detours of the drive circle around the fundamental core of the unconscious in the form of the *objet a* and the death drive.

## The Unconscious

Lacan titles his seminar *The Four Fundamental Concepts of Psychoanalysis*. With careful attention, we can ascertain where he situates the transference, repetition and the drive (which we have just done), but where is the unconscious? Why is the *objet a* not a fundamental concept, nor the phallus? How does an analyst look for the unconscious if all Lacan leaves us with at the end of the spiral from transference to repetition to drive is death? Lacan gives a few hints of where to go from there:

In my reference to the unconscious, I am dealing with the relation to the organ. It is not a question of the relation to sexuality, or even to the sex, if it is possible to give any specific reference to this term. It is a question rather of the relation to the phallus, in as much as it is lacking in the real that might be attained in the sexual goal. (XI 102)

The unconscious is an organ. Analysts deal with that organ “at the heart of the experience of the unconscious” determined by “the inadequacy organized in the castration complex” (102). Because “the eye is caught up in a similar dialectic” we can say that Lacan’s formula of the gaze, with the *objet a* in the centre, conceptually overlaps with the phallus. They are both hidden in the real and they are both in between subject and object. They both result from the alienation/castration loss by which “the subject separates himself off” from Being (218). Like the phallus, the *objet a* “has

separated itself off as organ” but the difference lies in that it “serves as a symbol of the lack, that is to say, of the phallus, not as such, but in so far as it is lacking” (103).

Lacan’s example is that in anorexia nervosa, “what the child eats is nothing.” He reiterates the relation between the small *a* and lack with the function of the gaze: “the eye may function as *objet a*, that is to say, at the level of the lack (-Φ)” (104). Thus, the *objet a* stands in for castration, or the lacking phallic object.

We might say that the phallus and the *objet a* are fundamental concepts for Lacan, but are they the unconscious? Are they part of the concept of the unconscious? It is well known that Lacan’s clearest statement about the unconscious is that it is “the discourse of the Other” (XI 130). We can say that he is positing a sort of internal, psychical command theory of law because the other is the law. What is responsible for the formation of the gap-like unconscious is “the law of the signifier, in the locus in which this gap is produced” (23). However, it is not simply legalistic in the sense of a legitimate law-maker making decrees. Lacan speaks of the unconscious in terms of conquest, stating that it “offers itself to the conquest of the subject” (100). At one point he even claims that the unconscious reserve is “to be understood in the sense of an Indian reserve—within the social network” (68). The unconscious is what is part of the network but refused access to it like in conquest and its resulting oppression. This conquest is the primary process.

All in all, subject formation leads the subject to a fantasmatic, lifelong relation to law. The unconscious is “situated in the gaps that the distribution of the signifying investments sets up in the subject and which figure in the algorithm in the form of a losange” (XI 181). This losange, the symbol of the circular path of alienation/separation,

is the centre of Lacan's formula of fantasy between \$ and *a*. Unlike this usual formulation, Lacan states it is "between reality and the subject" (181) but Lacan is rarely concerned with reality. Perhaps we ought to say the unconscious is between the reality of the Other's desire, or a Demand that instils the Freudian reality principle and the subject. These options could be formulated as fantasy, as the *a* or the frustration leading to *a*. The importance of this is that the losange, the *vel*, is at the core of subjectivity and it represents "*aphanisis* in the Other locus, which is that of the unconscious" (221). All quarters of the *vel* (greater than, less than, conjugation, disjunction), all true at once, imply that subject and object overlap, and this is true because the unconscious does not know contradiction; this fact is hidden by phantasy. The linguistic nature of the unconscious is the presence of laws in the gaps that appear in analysis, those openings up in the transference, and the lawgiver, "the capital Other, is already there in every opening, however fleeting it may be, of the unconscious" (130). What we can ascertain from *Seminar XI*, then, is that the four fundamental concepts work in a succession that ends up with law. Transference leads to repetition, which leads to the reversals of the drive, which ends up at the legal/conquering mastery of the unconscious.

The structure of subjectivity, throughout the life of the subject, is a relation to the other through phantasy, which hides the trauma of mastery, of the order of law which caused the subject of the signifier to form in the first place. This is why the gaps in the drive, and repetition give glimpses of trauma, and later traumas follow this structure as well because one must find a signifier for that trauma, but until then, repeats it. All of this is ascertained by first monitoring the transference. The unconscious is a fantasmatic

relation (*objet petit a*) to the big Other. The real big Other causes subject formation. The imaginary big Other is the Other in the world which the subject relates to with transference love-hate and the symbolic big Other is the language the subject adopts and can sometimes act as a superego, at others the subject's identity, and yet at others, the signifiers the subject uses to become validated by an object of love. All of these refer back to the inauguration of subjectivity and the subject acts them out in the field of the unconscious as the death drive and the *objet a*, both of which result from castration.

### **Conclusion: On Identification**

This chapter began with the concept of the madness of identification with the imago and one might wonder why identification is not one of Lacan's fundamental concepts of psychoanalysis. The crucial moment of alienation is a response to the first identification. Identification and signification are legal processes and I stated earlier that "The entry into discourse and the loss of the primordial object, then, is not just a structure of law and desire. It is a structure of identification which responds to law's injunction disrupting access to the object of love. *Petit a* others will become ego-objects and drive-objects in a manner that responds to the Other of the law." This is why analysis ends with the concept of identification as it relates to law.

Through the transference, the analyst's desire "isolates *a*, places it at the greatest possible distance from the I that he, the analyst, is called upon by the subject to embody" and the analyst has to fall from this "idealization...to be the support of the separating *a*" (XI 273). This 'I' is always an I-identification. Analysis is terminable for the reason that "This crossing of the plane of identification is possible" (273). Like an

analysis, Lacan brings *Seminar XI* to an end by focusing on identification, describing two kinds of identification.

The first identification is established from the ‘single stroke’ or the first signifier in the field of the Other, “in so far as it is from it that a major stage of identification is established in the topography then developed by Freud—namely, idealization, the ego ideal” (256). This identification responds to alienation, the original division of the subject. The “single signifier functions in the field of *Lust*” which is the field of “primary narcissistic identification” essential for the ego ideal (256-7). This is the sight in the mirror of the parent. What results from this ego-ideal is a “reference-point” from which the subject sees the ideal ego appear. Lacan refers to the ego ideal as a “privileged signifier” which allows the subject to feel loved, as occurs in transference (257). This is how signification and identification as emerging from the field of law merge in analysis.

However, there is also another identification “of a strangely different kind, and which is introduced by the process of separation” (257). This identification is a question of the “privileged object” known as the *objet a* (257). The *objet a* “is either pre-subjective, or the foundation of an identification of the subject, or the foundation of an identification disavowed by the subject” (185). This object supports the significations of sex which can always make “present the presence of death” (257) which we know is a signifier and a master. The mastery of death and the determinism of the *objet a* then end up at identification (or the formation of the subject in the locus of the Other).

It is in the conclusion of *Seminar XI* that Lacan raises the idea that the subject can traverse the “radical phantasy” to experience the drive differently (273). Through the privileged signifier and privileged object, the analyst uses the transference to fall from

the idealization of identification. When Lacan says “the transference operates in the direction of bringing demand back to identification” he means that the  $x$  of the analyst’s desire “tends in a direction that is the exact opposite of identification” which allows the subject to overcome identification with the analyst (273). This is how separation works in analysis. The analysand speaks, almost endlessly, until separated from the identification with the analyst. One cannot free one’s self from the drive but one can “organize [their] menu” of objects, as Lacan explains in a fable about a beggar and the smell of roasting meat. The menu, signifiers, is in Chinese and he must ask for a translation, and upon receiving it, says to recommend something. This “You should know what I desire in all this” is like speech to an analyst as the beggar sexually desires the *patronne* more than he desires food (269-270).

The subject narcissistically sees himself as lovable at a distance from where the  $a$  fills a gap. The end of analysis is to bring the drive, the search for objects, more into relation with this  $a$ . In other words, it is to symbolize and to learn how mastery comes into play in the subject’s desire. Free association eventually allows one to better live the drive, to free the drive to an extent from the mastery of the signifier of death by dialectising it. Lacan explains the outcome of analysis: “after the mapping of the subject in relation to the  $a$ , the experience of the fundamental phantasy becomes the drive” (273). The drive is brought forth (in the form of the organized menu) as the  $a$  is traversed.

Lacan’s final comments in *Seminar XI* emphasize the centrality of law in subjectivity and in the clinic. He refers to the “medium” of the paternal metaphor as an “intervention” necessary for relations between the sexes, which is the subject and the

o/Other. The analyst's desire, functioning amid the idealization of transference love, intervenes when the subject is in a position to "subject himself to" the primary signifier. Subjectivity, then, is like being a subject in the political sense, as subject to a ruler. Intervention aims at "rediscovered knowledge" which is discoverable in love, which lives "beyond" or "outside the limits of law" (276). In analysis, the transference is followed in order to get to the law.

From the transference, to repetition, to the drive, and to the unconscious, what pervades throughout each concept is law. For Lacan, law is the beginning of subjectivity and it is the end of analysis. Concepts like the *objet a* and the phallus are grounded in law. The necessity of making use of the paternal function in the clinic and its grounding in subject formation make Lacan a theorist of law and psychoanalysis a legal practice as the analyst constantly intervenes in functions of law. Running through all of these concepts, from subject formation, to fantasy and to the end of analysis are the two forms of I-identification, or identity's relation to law and desire. This crucial point will appear in all case studies in this dissertation: that every analysis makes use of the big Other (especially in I-identification) and the *petit a*, as what is excluded in the process of identity-formation. While the Name-of-the-Father is law, keep in mind that in the very late Lacan, it is what holds the subject together as real, symbolic and imaginary; it is inescapable.

Recall that "if a man who thinks he is a king is mad, a king who thinks he is a king is no less so" (*E* 139). This is how symbolic law and imaginary identification come together in misrecognition. In *Seminar II*, on the ego in Freud's theory, in a discussion

about censorship Lacan provides a fable illustrating the subject of law as encountered in psychoanalysis, law which “is never understood, for no one can grasp it in its entirety” (// 127) and “because no man can master the law of discourse in its entirety” (128). Lacan corrects the naive notion that “If God doesn’t exist...then everything is permitted” by famously stating that “nothing at all is permitted any longer” (128). He adds a similar naive notion a subject might propose, “If the King of England is an idiot, then everything is permitted” (128). However, if the antecedent is true, the law has an ungrounded yet full effect on the subject.

In England, “one shouldn't say that the King of England is an idiot” and this can be expressed “in the following law — any man who says that the King of England is an idiot will have his head cut off” (// 128). As a result, “one will be led into not saying a great many other things — that is to say, everything which reveals the glaring reality that the King of England is an idiot” (128). What follows is that

The subject is caught up in the necessity of having to eliminate, to extract from the discourse everything pertaining to what the law forbids one to say. Now, this interdiction as such is not at all understood. At the level of reality, no one can understand why one would have one's head cut off for saying this truth, no one grasps where the very fact of the interdiction is located. (129)

This censorship seems to lack foundation yet it still presents itself in the clinic. The law always presents itself in analysis and Lacan wants to give us “a feeling of this final, unexplained, inexplicable mainspring upon which the existence of the law hangs” and to show that it “can never be completely brought to completion in the discourse” (129). What follows from the law and censorship when the subject naturally wishes to express

all kinds of things implying the idiocy of the king, and in fact that the entire kingdom, “the entire structure of the regime,” is, as a result, pure idiocy, is that “the subject dreams that he has his head cut off” (129). I prefer to imagine the king himself having such a dream. And, in fact, as Lacan says, if someone has their head cut off, it is because the king actually is an idiot. What all this amounts to is that the lawgiver is lacking but their lack determines gaps in the symbolic.

What is clinically interesting about this moment in Lacan’s early seminar is that it places censorship, “the interrupted character of the discourse,” (127) as it presents itself in the imaginary, in dreams, in relation with the transference, the clinical moment when idealization, identification, and love close up the unconscious; it is the moment the analyst is listening for. Lacan is clear that “The censorship is on the same level as the Transference” (131) and also that “It is the law in so far as it is not understood” (130). Censorship, which is “located in the same register as that of the law,” is what reveals that “there can never be any relation with the law in its entirety, since the law is never completely made one's own” (130). The magnitude of what Lacan’s conception of law can do for us, clinically, and politically, is indicated by the role of censorship, alongside super-ego, in the early Lacan:

It is the concrete discourse, not only in so far as it dominates man and makes all kinds of fulgurations appear, it doesn't matter what, everything which happens, everything which constitutes discourse, but in so far as it gives man his own world, which we, more or less accurately, call cultural. (// 130)

The force of law involved in censorship sounds strikingly similar to the claims in *Seminar XI* to the concept that the gaps in the unconscious are the place of that which

does not work, or the formula that “the real is the impossible” (XI 280). This discordant law, always present but ungrounded, runs through Lacan’s work as the oddly intangible Other, the hole in discourse, the determinative yet indeterminate master. It is in the psyche yet it is quasi-cultural, in-between subjects, “neither on the level of the subject, nor on that of the individual, but on the level of discourse, in so far as, as such, it constitutes, all by itself, a full universe, and at the same time there is something irreducibly discordant about it” (II 130). All of this legal theory and the mastery we’ve been led to at the level of the unconscious, is just as true at the level of the transference. At every level of each of the four fundamental concepts, law is found at the level of the subject and at the level of the Other, of culture. Clinically, and politically, unconscious law is a function which governs subjectivity and governs the therapeutic role of psychoanalysis. What Lacan is proposing philosophically and culturally is that unconscious law is everywhere. We can now begin to look at Lacan as a legal theorist and at psychoanalysis as a legal practice for the individual.

## Chapter Two

### Demand Theory and Critical Unconscious Studies:

#### Lacan and the Tradition of Legal Studies

“I was once alive. But when the commandment appeared, the Thing flared up, returned once again, I met my death. And for me, the commandment that was supposed to lead to life turned out to lead to death, for the Thing found a way and thanks to the commandment seduced me; through it I came to desire death.”

—Jacques Lacan (*VII* 83)

### **Introduction**

In this chapter, I am asking where Lacanian theory stands in relation to philosophy of law and legal theory. Does it fit into a camp? Does it bridge multiple camps? I will handle main theories of jurisprudence in the order in which they arose historically. It is important to note that, while Lacan concerned himself with law and jurisprudence, in his *Ecrits* and his seminars, he does not demonstrate that he knew much of the debates in legal philosophy developing throughout the twentieth century. Although he understood the natural law theorists and read Bentham, who would later be

referred to as a Command theorist, for his utilitarian theory, Lacan would not likely have come across more isolated debates like those of American and Scandinavian legal realism. Thus, the work of fitting psychoanalysis into modern jurisprudence is left for post-Lacanian theorists.

Lacanian theory will be shown, as an anti-philosophy, to stand firmly against natural law theory and to have at least minor points of affinity with command theory/legal positivism, legal realism, and critical legal studies. Lacanian theory can be taken as a radical form of legal positivism, with some overlap with realism, despite a suspicion of its scientific approach and, ultimately, as its own strain of critical legal studies (much like critical race theory and critical gender studies), which purports the textual indeterminacy of law, as some legal positivists have done. David Caudill suggests that “psychoanalytic ‘inquests’ of the unconscious are similar to legal proceedings” (1997, 59). He adds, “Yet the discourse (and desire) of the Other not only has its analogy in legal proceedings; the discourse of legal processes and institutions can be seen, in an oscillating perspective, to reflect the operation of a social unconscious, structured like a legal language” (60). What I will ultimately propose is that scholars undertake critical unconscious theory and a Lacanian strain I will entitle the ‘demand theory’ of law. This will imply taking every law and every strain of political discourse as an analyst takes each analysand: as something entirely unique. This is because demands mask desire. However, two points are constant, in keeping with Lacanian clinical theory: 1) there is always a remainder in discourse, like the discourse of each subject is not always bound by the Other, but is an entirely new form of meaning-making, and 2) Demands, at the level of the drive, are always present

(including the Demands of subjects and big Others). The particularity of each subject is the reason one cannot make an easily assimilable theory to all discourse but, instead, like with an analysand, one must treat each case in terms of its own particularity. With this in mind, one can begin to consider how Lacanian theory fits into legal theory and it does with a structural conception of subjectivity. What makes Lacanian theory desirable for unique formulations of legal theory is that it emphasises discourse as structurally prior to notions of morality: This is why, in David Caudill's words, "the subject of law is *the* subject. Moreover, Lacan's account of the subject is...intended to be neither politically conservative nor radical, but foundational and prepolitical" (1997, 114). Lack is always present and something missing in political or legal discourse, in some sense, determines the outcome of the situation.

### **Natural Law Theory**

Natural law, still alive today (if crippled), runs from Plato and Aristotle, through St. Augustine and its most well-known proponent, St. Thomas Aquinas. Theorists of natural law believe that the faculties of human reason can ascertain, by looking at human nature, what is good and desirable, and what is bad and to be avoided. Further, natural law theorists might say it is an objective fact that the common good is worth supporting with law. Justice is something that can be ascertained by careful reflection and law should reflect an understanding of principles of justice discovered by reason. The most famous slogan of natural law originates in Augustine when he writes that "a law that was unjust wouldn't seem to be law" and it is taken further by Aquinas in the shape of assertions like that unjust laws are "more outrages than laws" or that an unjust law is

“not law but a corruption of law” or a “perversion of law.” In this formulation, morality and law are united, despite morality having wider applications. In other words, all law is morality.

The most well-known natural law theorist of our day is John Finnis, who can be quite convincing in his defense of practical reason and natural law but his extensions of it devolve into homophobia and other indefensible conservative opinions. Despite this, he is a good choice for a cohesive definition of natural law. A shortened form of Finnis’ articulation of the assertions of natural law are that there is

(i) a set of basic practical principles which indicate the basic forms of human flourishing as goods to be pursued and realized... (ii) a set of basic methodological requirements of practical reasonableness (itself one of the basic forms of human flourishing) which distinguish sound from unsound practical thinking and which, when all brought to bear, provide the criteria for distinguishing between acts that (always or in particular circumstances) are [reasonable or unreasonable] thus enabling one to formulate (iii) a set of general moral standards. (20)

What Finnis lays down are practical principles based on rational evaluation of goods which ought to be pursued for the ‘common good’ and a rationally derived moral standard for how to realize these goods. This is the purpose of law: to codify moral standards that are proven to be naturally good. Theorists of natural law, including Finnis, tend to turn to the Bible for their foundations of morality, which they believe ought to be codified into law.

Lacanian would have a number of varying responses to such principles. To start, the three registers of thought (symbolic, imaginary and real) are not focused on the 'reality' which a natural law theorist may rely on to ascertain what is actually good out in the world. However, a better start may be to consider what Lacan actually said about natural law and the common good. Lacan believes that moral philosophy is preoccupied with pleasure in a broad meaning of the term, that

from the origin of moral philosophy, from the moment when the term ethics acquired the meaning of man's reflection on his condition and calculation of the proper paths to follow, all meditation on man's good has taken place as a function of the index of pleasure. And I mean all, since Plato, certainly since Aristotle, and down through the Stoics, the Epicureans, and even through Christian thought itself in Saint Thomas Aquinas. (*VII*, 221)

In an "essentially hedonist problematic" these philosophers look to the world, to nature (that of society and humanity) or the divine and "all the philosophers have been led to discern not true pleasures from false, for such a distinction is impossible to make, but the true and false goods that pleasure points to" (221). The discussion is different since Freud: "Doesn't Freud's articulation of the pleasure principle give us an advantage, a reward in terms of knowledge and clarity? Isn't it in a definitive way profoundly different from the meaning previously given to pleasure by anyone else?" (222). The pleasure principle's "dialectical relationship" (222) with the reality principle is uneven, asymmetrical because "reality isn't just there so that we bump our heads up against the false paths along which the functioning of the pleasure principle leads us. In truth, we make reality out of pleasure" (225). The question of morality

is articulated first of all in its relationship to the Law. On the other hand, nothing is more tempting than to evade the question of the good behind the implication of some natural law, of some harmony to be found on the way to the elucidation of desire. Yet our daily experience proves to us that beneath what we call the subject's defenses, the paths leading to the pursuit of the good only reveal themselves to us constantly, and...in their original form, in the guise of some alibi on the part of the subject. The whole analytical experience is no more than an invitation to the revelation of his desire; and it changes the primitiveness of the relationship of the subject to the good compared to everything which up to that point had been articulated by the philosophers. One has undoubtedly to look closely, for it seems at first that nothing is changed, and that with Freud the compass still points toward the register of pleasure. (221)

Lacan cautions us not to focus on pleasure in the same way the philosophers do, because pleasure is not the pursuit of the subject but *jouissance* is. The good of natural law is not exactly what the subject desires, but detours around objects of pleasure. The "alibi" on the part of the subject is that the subject's desire is always distinct from what they claim their desire is. These desires create reality in the sense that while a philosopher may think they are looking to nature to ascertain the good, they may be looking at the imaginary, or conscious symbolic rationality which has a perverse or neurotic underside. The Good and goods have a "*jouissance* value" (229). Because of *jouissance*, the subject does not know its goods and "To exercise control over one's goods...entails a certain disorder, that reveals its true nature, i.e., to exercise control over one's goods is to have the right to deprive others of them" (229).

Desire is an attempt to signify a response to law; the Law creates the Freudian Thing (*das Ding*). Lacan's debt to St. Paul is that the subject knows not what to desire without a law: "Is the Law the Thing? Certainly not. Yet I can only know of the Thing by means of the Law. In effect, I would not have had the idea to covet it if the Law hadn't said: 'Thou shalt not covet it'" (VII 83). What is this Thing that is coveted for Lacan? He gives us a clear answer: "the step taken by Freud at the level of the pleasure principle is to show us that there is no Sovereign Good - that the Sovereign Good, which is *das Ding*, which is the mother, is also the object of incest, is a forbidden good, and that there is no other good. Such is the foundation of the moral law as turned on its head by Freud" (70). This "correlative of law" is the "primitive" origin of subjectivity and "it was the first thing that separated itself from everything the subject began to name and articulate." The subject does not covet a good rationally discovered in the world but a "thing that is my neighbor's Thing" (83). This Thing is one thing: the mother, the lost object.

For Lacan, nature is little more than the stage of Being that is lost at the advent of culture for the subject and "the fundamental or primordial law, the one where culture begins in opposition to nature, is the law of the prohibition of incest" (66-67). The mother is *das Ding*. The loss of the mother makes her the "maternal thing" and Lacan seems to find it fascinating that "the word 'la chose' (thing), which derives from the Latin word 'causa'" has an "etymological connection to the law" (43). Similarly in German, "'thing' in its original sense concerns the notion of a proceeding, deliberation, or legal debate" or the assembly in a legal proceeding (43). The advent of the symbolic order is the legal institution of the lost mother as *das Ding*. This is why the incest prohibition is the original

law, the only Supreme Good, and all language follows from this prohibition. This Good is forever lost and every other good is an attempt to fill the lack, which inevitably steers towards *jouissance* rather than pleasure. This is the proper Lacanian response to natural law. All those laws ‘rationally discovered’ mask the metaphoric replacements for the lost mother, the first prohibition. This is the ‘nature’ of the unconscious: “The desire for the mother cannot be satisfied because it is the end, the terminal point, the abolition of the whole world of demand, which is the one that at its deepest level structures man's unconscious” (68).

Recall from the previous chapter that demand is the relation to the big Other at the level of the drive and that the drive is both a symbolic and a juridical mechanism. Demand is what raises the question, ‘*What do you want?*’ and the loss of *das Ding*, the mother, is the introduction of Demand. This is the introduction to language and law, and any conception of law as something that ‘exists’ in the world is actually a symbolic representation of something imaginary but not really ‘existing’ like material objects in reality. The ‘real’ of the law and natural law philosophy is always a search for the Freudian Thing, a metonymic expression of desire, because “desire is nothing more than the metonymy of the discourse of demand. It is change as such... [T]he properly metonymic relation between one signifier and another that we call desire is not a new object or a previous object, but the change of object in itself” (VII 293). *Das Ding* is at the centre of the unconscious, “with the subjective world of the unconscious organized in a series of signifying relations around it” and it is at the centre “in the sense that it is excluded.” This “prehistoric Other that it is impossible to forget” is “something that on the level of the unconscious only a representation can represent.” Lacan is clear that

"represent' and 'representation' here are two different things, as the term *Vorstellungsrepräsentanz* indicates" (71). The binary signifier, the first repression, is the inauguration of signification and "every representation is represented insofar as it evokes the good that *das Ding* brings with it" (71-72). This signifier "turns *Vorstellung* into an associative and combinatory element" organizing "the laws of condensation and displacement, those that I call the laws of metaphor and metonymy" (61). As a result, and this can be taken to be Lacan's response to natural law theory, "to speak of 'the good' is already a metaphor, an attribute" (72). In his long discussion of *Antigone*, Lacan adds that "the false metaphors of being (*l'étant*) can be distinguished from the position of Being (*l'être*) itself" (248). Lacan is very clear that the subject is bound up with notions of the good in a way that is out of their control:

Everything that qualifies representations in the order of the good is caught up in refraction, in the atomized system that the structure of the unconscious facilitations imposes, in the complex mechanism of a signifying system of elements. It is only in that way that the subject relates to that which presents itself on the horizon as his good. His good is already pointed out to him as the significant result of a signifying composition that is called up at the unconscious level or, in other words, at a level where he has no mastery over the system of directions and investments that regulate his behavior in depth. (72)

The good is beyond a horizon as the lost Thing that is always spoken around in circles, using metonymy and metaphor. Each conception of the good aims for and misses the thing.

One could find varying critiques of ethics in Lacan, and because law and morality overlap so much in natural law theory, we could see Lacan's attack to contain force against both, especially in Christian ethics. For instance, the injunction, "Thou shalt love thy neighbor as thyself," can appear "strange or even scandalous... because it is the law of the relation of the subject to himself that he make himself his own neighbor, as far as his relationship to his desire is concerned."<sup>6</sup> In this discussion, Lacan's "thesis is that the moral law is articulated with relation to the real as such, to the real insofar as it can be the guarantee of the Thing" (76). This is why for Lacan a "crisis in ethics" has appeared since Kant's *Critique of Practical Reason* (76) and the French revolution and "it is to this that Freud's doctrine constitutes an answer" (70). *Das Ding* reveals an underside to all conceptions of the good and all universal laws and further, that "without a transgression there is no access to *jouissance*, and, to return to Saint Paul, that that is precisely the function of the Law" (177). Law and ethical imperatives then are enjoyed, or they are the bringers of *jouissance*. Of course, *jouissance* is not merely enjoyment because "Whoever attempts to submit to the moral law sees the demands of his superego grow increasingly meticulous and increasingly cruel" (176). Obey or not: both lead to *jouissance* and punishment.

I have previously asked in what sense the law might actually 'exist' in the world. We could say this is one point of convergence among Lacanian theory and natural law theory. For natural law theorists, law exists in reality and for Lacan, it exists (ex-sists) in the real. Lacan raises the question of "the paradox of *jouissance*" and "the enigma of its

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<sup>6</sup> I might add that it is worrying that one whose love for themselves is masochistic or hateful may obey this law, as one could imagine in the case of a mass shooter who must be aware their life will likely end as they carry out their crime, or, on a more everyday level, a case of a lover who wishes that the other will cause them pain, physical or emotional.

relation to the Law. And this is something that is marked by the strangeness of the way the *existence of this Law* appears to us, as founded on the Other as I have long taught you” (192; my emphasis). For Lacan, unconscious law exists and we could even say that it is natural (in the sense that what he often refers to as ‘man’s premature birth’ requires a period of care before loss of that care). The natural law of the unconscious is the superego, “the obscene and ferocious figure in which the moral agency appears when we seek it at its root” (7). Lacan says,

There is a moral agency then but it is not a relation to the common good:

We will see that this genesis of the superego is not simply a psychogenesis and a sociogenesis. Indeed, it is impossible to articulate it by limiting oneself merely to the register of collective needs. Something is imposed there whose jurisdiction is to be distinguished from pure and simple social necessity - it is properly speaking something whose unique scope I am trying to make you appreciate here in terms of the relation to the signifier and to the law of discourse. (6)

Lacan might say that the superego is bound to develop in the psyche and in that sense it is something natural and ‘existent’ to be discovered, but it is only formal like Kant’s categorical imperative. Lacanian psychoanalysis emphasizes the particularity of the individual’s unconscious, whose superego may be entirely unique in content. The Freudian “superego derives from the aggression that the subject turns back upon himself” and it “generates it at the limit, that is to say, insofar as the mediation of the Law is lacking. Of the Law insofar as it comes from elsewhere, from the elsewhere, moreover, where its guarantor is lacking, the guarantor who provides its warranty, namely, God himself” (194). Lacan here sticks to the tenet that the unconscious is lack.

The superego develops but it is an absence, a layer of absence conditioned by the big Other, who also does not exist. In other words, there is no guarantor of ethics as an existence to be discovered out in the world.

## Legal Positivism

The major challenger against natural law theory is legal positivism, which comes in various forms and also asks, 'What is the nature of law?' The first of this school (even if they didn't use the title themselves) are Jeremy Bentham and, shortly after, John Austin. The central claim of legal positivism is the separation between law and morality. Law is one thing and morality is another. This is what famous legal theorist H.L.A. Hart refers to as the *separation thesis*, and has been adapted to be called the *separability thesis* by theorists who believe that law and morality can but do not necessarily overlap (inclusive legal positivists).

Bentham was skeptical of lawyers of his time, who he considered to use fancy words to make law a mystery to the people, and judges who retroactively created law, punishing people for laws not yet written. A central concept for legal positivism is Bentham's notion of *criteria of legal validity*. Law is (1) the exercise of sovereign legislative power and (2) the obedience of the community. Austin simplified Bentham's theory into the command theory of law and his famous phrase, repeated by nearly all legal positivists, is that "the existence of a law is one thing, its merit or demerit another." Command theory is that law is a command backed by the threat of sanctions and is habitually obeyed; the reason people obey is not important for Austin. What is generally most important to legal positivists is the distinction between what the law *is* and how it

*ought* to be. A scientific legal theory explores its object as it is. Austin adds, “Whether it be or not be is one enquiry; whether it be or be not conformable to an assumed standard, is a different enquiry. A law, which actually exists, is a law, though we happen to dislike it, or though it vary from the text, by which we regulate our approbation and disapprobation” (Austin [1832] 1994: 157). The legal positivist hopes to strip prescriptions for law from a description of what the nature of law is.

The next legal positivist of major influence, who subscribes to this method of inquiry, is a name standing on the margins of legal positivist theory: Hans Kelsen. One could say that Kelsen has the one crucial belief necessary to be considered a legal positivist: the separation of law and morality. A legal positivist might scorn Kelsen for a reason that one may consider to be implied by the separation thesis: *the social thesis*. This states that if law is not dependent on morality, then it is dependent on social facts (including psychological/behavioural facts) which condition a community’s legal practices. However, for Kelsen, law is normative and independent of both moral and social facts. Kelsen takes a view that many legal positivists might find extreme but he would still say that laws are ‘posited’ by acts of will. Kelsen extended the science of legal theory in an idealist direction: “the science of law as cognition of the law, like any cognition, has constitutive character – it ‘creates’ its object insofar as it comprehends the object as a meaningful whole” (Kelsen 1967, 72). Law must be understood purely within a system of law. Michael S. Green puts Kelsen’s beliefs succinctly:

Although Kelsen’s acceptance of the separation and the positivity thesis entitles him to be described as a positivist, in rejecting the social thesis he occupies an otherwise empty space in the philosophy of law. If law does not ultimately

depend upon social facts (due to the falsity of the social thesis) and does not ultimately depend upon moral facts (due to the truth of the separation thesis), upon what does it ultimately depend? Kelsen believes that this question cannot, and should not, be answered. 'To comprehend something legally', he insists, 'can only be to comprehend it as law.' He offers a non-reductive theory of law. (275)

Morality and social facts may be relevant to law, but there is a separation of law from both.

For Kelsen, however, there is a grounding for law in the realm of the social. As stated by H.L.A. Hart's former student, Joseph Raz, in Kelsen's theory "all positive laws owe their validity to a nonpositive law, a law not created by human action. Only a nonpositive law can be the ultimate law of a legal system; only it does not presuppose another norm from which it derives its normativity. This nonpositive law is the basic norm" (1974, 97). Each law owes its legitimacy to another law in what Raz calls a "chain of validity" (97) until one traces law historically back to a nonpositive norm legitimizing the legal system. Whether this moment be an usurpation or an assembly, it is the grounding for all law in a system. This basic norm need not be grounded in morality but it is social because it is not part of positive law: "All that is there is an authorisation: human beings are empowered to generate legal obligations and permissions by establishing communities with legal practices" (Green, 275). Although it may not be grounded in morality, historically there is a foundation for a legal system.

The basic norm is integral to Kelsen's theory, but if one reduces law to social norms, one has no need for it. Raz critiques Kelsen's account of the basic norm because there is a sort of "unconscious admission that juristic thinking interprets the law

in terms of social normativity" (1960, 111). Kelsen does not provide an explanation of how lawyers and judges approach the basic norm even though the basic norm is something "juristic thinking assumes whenever it acknowledges a set of norms as the valid norms of a particular state" (1960, 224). Surely, legal agents do not reflect upon this basic norm when enacting or interpreting law. Raz argues that

The basic norm is needed to bridge the gap between facts and norms, between the "is" and the "ought." But this gap exists only if norms are understood as justified norms. Once they are understood as social norms then the gap disappears. Legal norms themselves become facts, and their explanation can be carried out without recourse to the basic norm. (111)

Kelsen sees the basic norm as justified but if agents pay it no mind, law can be better explained by recourse to social norms rather than a non-reductive, *Pure Theory of Law*.

The most influential theorist and most successful defender of legal positivism in twentieth century jurisprudential philosophy is H.L.A. Hart, whose theory has some points of overlap with Kelsen's. However, Hart, like most legal positivists, is a reductivist and believes social norms are foundational in legal philosophy. In *The Concept of Law*, Hart outlines various tenets now widely accepted by many legal positivists and he is most known for the concept of *the rule of recognition* and criteria of *legal validity*. Hart criticizes command theorists for their belief that the sovereign obeys no one else, pointing out that beyond primary rules of obligation, these rules can "only be clearly presented, and their importance rightly assessed, in terms of the more complex social situation where a secondary rule of recognition is accepted and used for the identification of primary rules of obligation" (1961, 100). Although secondary rules could

take various forms, “both private persons and officials are provided with authoritative criteria for identifying primary rules of obligation” (100). In modern legal systems, “the criteria for identifying the law are multiple and commonly include a written constitution, enactment by a legislature, and judicial precedents” (101) and secondary rules are complex because they can be ranked in orders of subordinacy (e.g. common law as subordinate to statute). The rule of recognition is tacitly agreed upon internally in the legal system but for a rule to be valid, it must satisfy the criteria set out by rules of recognition, making the rule of recognition “an *ultimate* rule” (105). This rule precludes the idea that there is an unlimited legal sovereign.

Rules of recognition are subordinate to each other but, in following a chain from one to another, one ultimately finds a rule that is unlike the others “in that there is no rule providing criteria for the assessment of its own legal validity” (107). This is the *ultimate* and *supreme* rule of the legal system. Although it is often unspoken and presupposed, it is frequently made use of if one is to investigate the validity of a rule of law and is agreed upon “in the general operation of the system” (108). One can test a rule of law but

No such question can arise as to the validity of the very rule of recognition which provides the criteria; it can neither be valid nor invalid but is simply accepted as appropriate for use in this way. To express this simple fact by saying darkly that its validity is 'assumed but cannot be demonstrated', is like saying that we assume, but can never demonstrate, that the standard metre bar in Paris which is the ultimate test of the correctness of all measurement in metres, is itself correct. (109)

Thus, like Kelsen's theory of the basic norm, Hart's theory requires some sort of presupposed endpoint in a chain of laws, but for Hart this supreme law is internal to the legal system. This is central to Hart's strain of legal positivism; law is reduced to norms subject to criteria of validity.

Hart shares with the legal realists (see next section) an understanding of the role of interpretation in law as a process of indeterminacy. He believes that despite cases with a "core of settled meaning... there will be, as well, a penumbra of debatable cases in which words are neither obviously applicable nor obviously ruled out" (1958, 607). Hart is clear that language itself is the difficulty: "In all fields of experience, not only that of rules, there is a limit, inherent in the nature of language, to the guidance which general language can provide" (1961, 126). This is part of the human predicament and thus the legislative predicament; the aims of legislators cannot be known, for they could not have predicted all the cases in which their rules would be applied. Language is "open-textured" (128) and always open to new interpretation, always able to be repurposed. One cannot hope for rules that are so detailed that they can always be easily applied. In the face of indeterminacy, certainly judges often appeal to morals or fairness, but this need not necessarily be the case, in Hart's view. Indeterminacy is what requires judges to use discretion and discretion causes judges to decide based on social norms and sometimes, in fact, it does not offer any other recourse.

It must be mentioned that legal positivists are divided into two main camps: external and internal legal positivism. Later in his career, especially in response to critiques by Ronald Dworkin, Hart eased up his approach to accommodate the claim that moral principles are written into law. As an inclusivist, Hart accepts that law may,

but does not necessarily, include morality (the *separability thesis*). For theorists like Hart's student, Joseph Raz, morality is necessarily, entirely separate from law and "the existence and content of every law is fully determined by social sources" (Raz 1979, 46). Raz believes that no law, including and especially Hart's rule of recognition, "could incorporate moral, or content-based, criteria of legal validity" because "law necessarily claims authority, even if it ultimately lacks a justification for that claim, and only source-based criteria of legal validity are compatible with the possibility of law claiming authority" (Leiter 97). If a legal system required appeals to morality, it would lose authority, and if people have an obligation to follow a course of action due to morality, and it is then written into law, the law supplants morality, rather than incorporating it into itself. Law must be obeyed without the requisite that it is moral in all cases. If we look at the rulings of judges for instance, we may see that they appeal to an array of norms which are not law like laws of other jurisdictions or corporate charters. Appealing to moral norms does not make morality part of law, but just another source for law. The law is an authority, regardless of the sources for the choices of legislators and judges. Debates between inclusivists and exclusivists remain unsettled.

**A Lacanian approach** to legal positivism could take one in many directions. To start, I mentioned Lacanian theory of the formation of the subject as a form of command theory and the graph of desire could reflect a form of positivism whereas the name-of-the-father functions like a formal positive law with the mother's desire as a form of rule of recognition or basic principle. This analogy could be fruitful but in this chapter I will continue to discuss Lacanian theory as it weighs in on written and enforced law as it

really functions in society. It will be shown that the implications of Lacanian theory are that law is entirely separate from concepts of justice.

If we consider Bentham and Austin, there is a sense in which command theory has value for psychoanalytic theory. If we take for granted the critiques by later positivists (Kelsen and Hart) that modern societies do not have a clear sovereign that does not obey others' laws, we may still find it useful to look at the command of *discourse*. There is a parallel between the master's discourse (with a subservient university discourse) and the command theory, which is that discourse can be the sovereign uttering commands.<sup>7</sup> In other words, the master's discourse does not require a clear master, and perhaps an up-to-date command theory need not require one either. If desires and prohibitions are repressed and if there is a way to psychoanalyze culture and politics, then surely psychoanalytic theory can bring to light unconscious law and the unconscious in law, regardless of whether one agent is fully sovereign. For Lacan, the "headless knowledge" of primordial repression "is indeed a politically definable fact, structurally definable" (XVII 90). Law is "first and foremost, inscribed in the structure. There are not thirty-six ways to make laws, whether motivated by good intentions, justice, or not, for there are perhaps laws of structure that make it the case that the law will always be the law located in this place that I am calling dominant in the master's discourse" (XVII 43). Not only is Lacan pointing out that law always functions as the

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<sup>7</sup> Lacan's four discourses will be taken up in Chapters Five and Six, but at this point, it ought to be clarified that the discourses are made up of four mathemes, one with acting as the agent of the discourse. The master's discourse is both the discourse of the unconscious and the discourse of the real master or lawgiver. Its agent is the S1 or master signifier, and it masks that the master has an unconscious or that the subject is divided. The university discourse, whose agent is the S2 or knowledge, masks the notion that it serves mastery, while endlessly producing through the work students as divided subjects. The analyst's discourse makes fantasy or *a* its agent and the hysteric's discourse is steered by the divided subject. Each of these discourses addresses an other, creates a product, and masks a truth (each of which are the other three mathemes).

agent of the master's discourse, but he is also asserting the separation (or separability) thesis. He is very clear that law "must certainly not be taken as a homonym for what may be spoken of elsewhere under the heading of justice" (43).

Further, law is one of the 'impossible professions' because "language, including the language of the master, cannot be anything other than a demand, a demand that fails" (XVII 124). The master makes demands which are often not obeyed (even if understood) and the subject makes demands on the master. What the master's discourse produces, rather than order or justice, is a loss: surplus *jouissance*. The law is a "repetitive creation" whereby the master is shown to be, like the subject, impotent and castrated:

If it has been possible to see that psychoanalysis shows us that the child is the father of the man, it's very much because there has to be, somewhere, something that mediates them, and this is very precisely the instance of the master, insofar as it comes to produce, and this can be any signifier after all, the master signifier. (XVII 124)

The master<sup>8</sup> is presented as having "an affinity" with his own discourse, in the sense that in mathematics A represents itself: "The A that you have written down on one occasion can be signified by its repetition as A. Now, this position is strictly untenable, it constitutes a violation of the rules with respect to the function of the signifier, which can signify anything except, surely, itself" (XVII 90). The implications here are that the

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<sup>8</sup> Following Lacanian authors like Colette Solere and Jeanne Schroeder, I will refer to the master as a 'he' to emphasise that it takes a masculine position in Lacan's formulae, and the hysteric as a 'she' to emphasise that it is a feminine position in Lacanian psychoanalytic theory.

master cannot fully capture their identity in language and that language always has an unspoken remainder.

The impossible profession of law attempts to mask the master's lack, but opens it up in moments when desire is revealed: "It is now a question of knowing what is meant by this castration, which is not a fantasy, and the result of which is that the only cause of desire is produced by this operation and that fantasy dominates the entire reality of desire, that is to say, the law" (XVII 129). The real operation of castration leads to the fundamental fantasy, which operates in law. What the graph of desire shows is that law is a series of failed demands in all directions. Demands in all directions, as depicted as "intersubjective demands" on the graph, are demands for death, "which finds expression in a court of law when the prosecutor says, 'I demand the death penalty.' He is not demanding it from the subject in question, he is demanding it from a third party who is the judge, which is the normal Oedipal position" (V 476). This is the foundation of castration. In his early seminars, Lacan is often concerned with the function of censorship "in so far as there can never be any relation with the law in its entirety, since the law is never completely made one's own" (II 130). Something is always censored in discourse, which is why the law's demands, like the castrated subject's, always in-part fail. Because "Desire is articulated in demand necessarily, because we are only able to approach it through some demand or other" (V 310), what we can take from Lacan is that in late-capitalist democracies, law and politics function in a way more fruitfully grasped by a 'demand theory' of law than command theory.

It has been argued by Jeanne Lorraine Schroeder (2008) that morality is the repressed of the law, or the law's unconscious. We can say the law has an unconscious

side because it “is being called into question as a symptom” (XVII 43). However, one may go further than to state that morality is the repressed material. Of course there is a separation of law and morality, and morality may be an unconscious aim of the written law. However, it is subjects who write law and their discourse may show traces of other repressed material, including love, affect, such as anxiety, biases, perceptions, ego-desires/ideals, identifications, trauma, the feminine, repressed prohibitions, or anything that can be claimed to be dug up by Lacanian discourse analysis. Law is not a subject with a single genre of repressed material. Law has a number of sources and norms lying outside of it, whether they be public opinion, sociological/economic knowledge, philosophy, biases and so on. To choose morality as the repressed of law has some benefits but Lacanian theory is available for wider purposes. Surely the law often aims at justice and often does not reach it, but there is more value of psychoanalysis of law than the conclusion that morality is *the* repressed of the law. Perhaps morality is used as a source in a judicial opinion, but surely there is material involved in sources other than morality (eg. socioeconomic data, biases, ego desires). Ethics and justice are discursive facets of the university and “Philosophy in its historical function is this extraction, I would almost say this betrayal, of the slave's knowledge, in order to obtain its transmutation into the master's knowledge” (XVII 22). Justice, like other knowledge, still serves the master, rather than being an ideal the law attempts to attain.

It would be just as accurate to say that morality often takes the place of university discourse. Morality is a realm of knowledge, a realm of the good (and competing goods). The master wants things to work, either in his favour or to continue his discourse, and if the law can work by either citing or ignoring ethics, then so be it. The

master does not care how things work as long as they work. In Lacan's long discussion of *Antigone* in *Seminar VII*, the relationship between Antigone and Creon can be seen in different ways. They embody two competing goods, as divine law and positive law and they speak within different discourses. Although "Antigone chooses to be purely and simply the guardian of the being of the criminal as such," (283) she is also a producer of knowledge, sometimes hysterically and sometimes with a practical ethics, as when she finally gives reasons for why she cannot budge regarding her desire; she retroactively states that is because one cannot replace a brother like a husband or a child. When knowledge is produced, the master does not need to listen (even if it ends poorly for the master as in Sophocles' great play). This is not a situation in which morality could be the repressed of the law and neither is the situation today because repressed material is much more than signifiers. The law is a big Other which does not exist. It does not repress anything itself but is a discourse among others; it is subjects that repress, whether agents of the law or not. If lawmakers are subjects, surely they repress much more than ethics. This is not to say there are not repressed signifiers in law, but that analysis is open to being much more complex. We could alternatively say it is the criminal that is repressed, or old regimes and religion. Surely, each case should be analysed with the particularity of an analysand.

Although university discourse in many ways serves the master, the knowledge produced need not specifically be aimed to do so. It may have the intention of doing the opposite and can still serve the master, especially in late capitalism. Lacan on few occasions uses the term "I-crazy" which typically refers to the master who identifies with his imperatives as if they are self-identical; it is "out of the I identical to itself that the S1

of the pure imperative is constituted” (XVII 62). The reason the university cannot help but serve the master is as follows: “The myth of the ideal I, of the I that masters, of the I whereby at least something is identical to itself, namely the speaker, is very precisely what the university discourse is unable to eliminate from the place in which its truth is found” (63). The master’s imperative is interjected in all the knowledge production of the university. One can think of Antigone’s discourse in the same way Lacan thinks of his own: “From every academic statement by any philosophy whatsoever, even by a philosophy that strictly speaking could be pointed to as being the most opposed to philosophy, namely, if it were philosophy, Lacan’s discourse—the *I-crazy* emerges, irreducibly” (63). In other words, philosophical and academic knowledge production both serve the master, no matter what they say on the surface. Antigone produces a philosophy; the master cares not. For Lacan, philosophy (even an anti-philosophy), including ethics, cannot eliminate its obligation to the master. After all, Antigone does get sent to her second death by Creon before her first death.

What all this means for legal positivism in the wake of Lacanian theory is that law can use knowledge as it wills, or disregard it if it wills, regardless of the aims of ethics and critiques. The master gets his way because he is identical to his imperative (masking the unconscious which is a vastly wider field than morality). However, one can surely say that morality for a Lacanian should be taken to be a separate genre from law. But what of the law and its foundations? Positivists do not ground law in morality but generally attempt to find another grounding (like command/coercion/hegemony/authority, Kelsen’s basic norm, Hart’s rule of recognition etc). Would any of these hold up for Lacan?

Hart believes the law is indeterminate, at least in hard cases. It has been rightly stated by Schroeder that Hart should have gone further, like Lacan, to state that all language is indeterminate. The slippage of meaning and the inability to cross the bar of signifier and signified since Ferdinand de Saussure's lectures would be easy to advance here. Legal positivists may ask what grounding or foundation the law has. However, if law is language, one may also ask, what grounding does any language have? Following Saussure, Lacan stresses that signifiers only refer to other signifiers, none of which have any grounding outside of convention. Language is grounded in the big Other, which Lacan repeatedly (after *Seminar V*) states does not exist. This is because there is no Other of the Other; one reason is that there is no grounding for the Other.

What is clear about the master in Lacanian theory is that his discourse masks that he is divided, shielding any desire or unconscious thought. The master identifies purely with an imperative. Like the name-of-the-father, law limits *jouissance* and outlines legitimate avenues for *jouissance*; it revolves around the 'Che Vuoi?' by addressing the wants of various parties or sections of society. Command theory and various forms of legal positivism are consistent with Lacanian analysis in the sense that the law may and in fact ought to mask its desire and maintain authority, which is what Raz postulates. Justifications and sources for law are hardly relevant because the law must be an authority regardless of its appeals to morality or otherwise. Similarly, the desire of the master is made irrelevant to the functioning of law. It is masked. However, we ought to explore the idea that these sources should be made relevant to authority (using discourses of analysis and hysteria). Indeed, Lacanian theory can fit into an exclusivist legal positivism like that of Joseph Raz, while adding an *unconscious thesis*: sources of

law can be unconscious (whether they be ego-ideals, desires, superegoic imperatives, trauma and so on).

Lawmakers and judges, however, are constrained by rules (e.g. previous laws, rules of recognition), as positivists like Hart have often noted. Lawmakers, like any subjects, are situated by discourse. Lacan asks, “How does *jouissance* come back within the master's reach and express his demand?” (XVII 107) and states that “The master in all this makes a small effort to make everything work, in other words, he gives an order. Simply by fulfilling his function as master he loses something. It's at least through this something lost that something of *jouissance* has to be rendered to him—specifically, surplus *jouissance*” (107). The master wants things to work and gives conscious orders, but he has a “relentlessness to castrate himself” and has not “computed this surplus *jouissance*” (107). In the master's discourse, there is no relationship between what will more or less become the cause of desire for a character like the master who, as usual, fails to understand anything about it and what constitutes his truth” (108). Lacan introduces the barrier in his formula for the master because the master cares not for his unconscious, masking it to himself above all others. Law is the master's demand, which always has a cause (which we can consider to be a powerful unconscious source for law). Lawmakers have authority regardless of unconscious knowledge/desire/fantasy. These sources are the truth of the master's discourse, and they are lost to this discourse because “In its fundamental beginning the master's discourse excludes fantasy. And that's what makes him, fundamentally, completely blind” (108). It is the analyst's discourse which can uncover this truth and potentially critique the master's sources for law: “The fact that fantasy can emerge elsewhere, and

specially in analytic discourse where it stretches out along a horizontal line in a completely balanced way, tells us a bit more about the foundation of the master's discourse" (108). This horizontal line is the removal of the barrier below the bar in the turn to the analyst's discourse. In other words, the analyst brings forth the *objet a*, with unconscious truth being S2 or knowledge, including scientific knowledge which is not the analyst's object, while the product is ever-new S1's or master signifiers. What is addressed is the divided subject, with their fantasy always being returned to.

Law is presented as univocal and identical to itself. Kelsen's historical attempt to ground law with the basic norm and Hart's rules of recognition are attempts to provide a sense of stability in the master's discourse and suture the hole that all language carries, especially the master's. Even rules about how to make new rules are part of the master's discourse and to assume rules of recognition or basic norms justify a legal system is to rely on a belief in the big Other. Lacan and Raz would probably agree that mastery and authority are presented as self-identical. Lacan, however, would not see the basic norm as a guarantor of law.

Lacan considers the grounding of meaning alongside the grounding of authority in *Seminar V* when he points out "the lack of something that founds meaning itself, and that what is lacking is a signifier" (V 131) and, further, that there is only "something that presents itself as giving the law its authority" (132). Law itself is "that which is properly articulated at the level of the signifier, namely the text of the law" (132) and it has no real grounding; it is always necessarily lacking signifiers.<sup>9</sup> Law can fill in holes in its

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<sup>9</sup> A great example of the law seeming complete is the recent attempt to overturn an election. Since it had not previously been attempted, no one was conscious of the lacunae in law which may have made this attempt possible, such as the previously unclarified notion that the vice president's role in certifying the Electoral College vote is merely ceremonial, a lack of definition of a "failed election" and the absence of laws prohibiting multiple slates of

symbolic field and constantly open up new ones because “the signifying chain continues to unfold and continues to be organized in the Other, whether you know it or not. This is essentially Freud's discovery” (132). Law as a text is subject to one of these fundamental properties of language: “In reality a signifier contains this property within itself. I mean that one of the fundamental dimensions of a signifier is to be able to cancel itself out” (323). Further, “Every kind of signifier is by nature something that can be barred” (323). In other words, law is full of gaps and as language it is subject to repressed signifiers.

Law legitimizing itself is not like the coercion relied upon in command theory. Law's mask is that these determining absences do not exist but they are compelled to erupt from time to time. This mask and these gaps signal our path to a Lacanian approach that takes us to a radical legal positivism, whereby grounding for law like in Kelsen and Hart are impossible:

Effectively, it is sufficient that what authorizes the text of the law is at the level of signifiers. This is what I call the Name-of-the-Father, namely the symbolic father. It's a term that subsists at the level of signifiers and that, in the Other as the seat of the law, represents the Other. This is the signifier that gives the law its support, that promulgates the law. It is the Other in the Other. (V 132)

It is telling that this is one of the last moments in Lacan's career when he asserts something like an “Other in the Other” which he will soon assert does not exist, and hold to this change for the rest of his career. However, while he does assert it in *Seminar V*, he is still describing it as something not really existing. It is something assumed by

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electors. These holes in the law have since been partially filled in with updates to the Electoral Count Act on September 21st, 2022.

masters and subjects. It is assumed that the law is grounded, and this assumption is the missing signifier. The master himself takes the place of the Name-of-the-Father because various 'Others' take the place of the original Other throughout the life of the subject.

The law, like the symbolic in general, continues to function and evolve without needing any subject's awareness; the signifying chain itself operates on absence. Repression "is the signifying chain. The proof of this is that it continues to act, even though you do not attach even the slightest signification to it yourself, and determines even the slightest signification without your knowing it to be the signifying chain" (V 132). What this means is that the law contains an aspect of repressed significations which are not at all consciously intended or brought to awareness. The demands of law are shaped by desire, the absence at the core of the symbolic. The Name-of-the-Father itself is a lacking signifier, but it is an ever-present lack:

You have to understand the importance of the lack of the particular signifier I have just mentioned, the Name-of-the-Father, that grounds, as such, the fact that the law exists, that is, its articulation in a certain order of signifiers - the Oedipus complex, the Oedipal law or the law of prohibition of the mother. It is the signifier that signifies that, within these signifiers, the signifier exists. (V 133)

The absent signifier, the prohibition of the Name-of-the-Father, grounds the law in an order which pertains directly to desire and loss of the object. Most importantly, nothing grounds law aside from the signifier itself; the signifier signifies that the signifier exists. This circular grounding is precarious and the law has no other foundation.

In sum, a Lacanian legal positivism does separate justice from law in the first instant, allowing ethics to be a central part of university discourse. While the law may have many repressed sources (many of which are unconscious, such as desire, ego identifications, ego ideals, ambivalence/love/hate, affect, trauma), the study of ethics may be one. However, the master has the final say and only signifiers guarantee authority. Lacanian theory finds some agreement with Joseph Raz then, who posits that law is authority and includes nothing of justice in it.

### **Legal Realism**

“Justice is what the judge ate for breakfast.”

—Jerome Frank

As we continue through the development of ideas in legal theory and philosophy of law we can see some affinities between the realists and the positivists. Not only that, but we can begin to see Freud’s influence felt for the first time. One of the influential forerunners of American legal realism, Jerome Frank, was a justice who underwent extensive psychoanalysis and attempted to share the implications of what we now call ‘the divided subject’ for jurisprudence. Frank raises issues of prejudice, behaviouralism and unconscious dependence on substitutes for “an omniscient and omnipotent father, a father who lays down infallible and precise rules of conduct” (1930, 16). Frank suggests a more pragmatic practice of law because “Modern civilization demands a mind free of father-governance” (268):

To this end there must be developed a recognition and elimination of the carry-over of the childish dread of, and respect for, paternal omnipotence; that dread

and respect are powerful strongholds of resistance to change. Until we become thoroughly cognizant of, and cease to be controlled by, the image of the father hidden away in the authority of the law, we shall not reach that first step in the civilized administration of justice, the recognition that man is not made for the law, but that the law is made by and for men. (269)

In *Law and the Modern Mind*, Jerome Frank's main opponents are formalists, who seem to think that "Judges are simply 'living oracles' of law. They are merely 'the speaking law.' Their function is purely passive. They are 'but the mouth which pronounces the law' (35). Law is written and waiting to be spoken by judges who discover it and make it known. Frank sees this as a myth: "The essence of the basic legal myth or illusion is that law can be entirely predictable. Back of this illusion is the childish desire to have a fixed father-controlled universe, free of chance and error due to human fallibility" (37). Frank's psychological perspective applied to the profession of judging leads us to one of the central concepts of legal realism: indeterminacy. Frank states, "The process of judging, so the psychologists tell us, seldom begins with a premise from which a conclusion is subsequently worked out. Judging begins rather the other way around—with a conclusion more or less vaguely formed; a man ordinarily starts with such a conclusion and afterwards tries to find premises which will substantiate it" (108).

Frank cites judges who claim to decide cases based on 'hunches' and 'feeling' rather than judgment and is bold enough to claim that this is an approximately correct description of how all judges do their thinking. But see the consequences. If the law consists of the decisions of the judges and if those

decisions are based on the judge's hunches, then the way in which the judge gets his hunches is the key to the judicial process. Whatever produces the judge's hunches makes the law. (112)

This idea of what we could call an antecedent to the judge's hunch could be seen as what legal positivists refer to as the 'sources' of law, except that they are unconscious sources. These hunches are what "have been usually referred to as 'the political, economic and moral prejudices' of the judge" (213). In this argument, Frank proposes what formalists whole-heartedly reject: that judges create new law (and do so often).

For Frank, statutes are written but are not law until interpreted by a judge; the interpretation is the final word. There is a sort of unconscious chain implicit in Frank's work. Judges have unconscious reasons for deciding cases, and those cases are then used as precedent if another judge believes or *feels* they are relevant to future cases. However, a judge's decisions are "intelligible only if one can relive the judge's unique experience" and

Even if it were desirable that, despite its uniqueness, the judge's decision should be followed, as an analogy, by other judges while trying other cases, this is impossible when the manner in which the judge reached his judgment in the earlier case is most inaccurately reported, as it now is. You are not really applying his decision as a precedent in another case unless you can say, in effect, that, having relived his experience in the earlier case, you believe that he would have thought his decision applicable to the facts of the latter case. (161)

Further, court rulings and decisions to rely on precedent are far from determinate. Rules do not compel a certain result but the personal 'bent' of the judge decides rather than

discovers what is written in law. Jerome Frank famously relayed the advice he received from an ex-president of the American Bar Association:

‘the way to win a case is to make the judge want to decide in your favor and then, and then only, to cite precedents which will justify such a determination. You will almost always find plenty of cases to cite in your favor.’ All successful lawyers are more or less consciously aware of this technique. But they seldom avow it—even to themselves. (111)

There are countless precedents which can support a desired outcome, but a lawyer must make the outcome desirable to the judge for extra-legal reasons before citing precedents.

Based on this perspective, it is easy to see why Frank is a central figure for the American legal realists, a loosely connected group of lawyers/law professors rather than philosophers.<sup>10</sup> Rather than asking metaphysical questions about the nature of law, they are concerned with what really happens in the world. Frank quotes Oliver Wendell Holmes Jr. in what could be summed up as the main outlook of legal realists:

*If you want to know the law and nothing else, you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict...* What constitutes the law? You will find some text writers telling you that it is something different from what is decided by the courts of Massachusetts or England, that it is a system of reason, that it is a deduction from principles of ethics or admitted axioms or what not. But if we take the view of our friend the bad man we shall find that he does not care two straws for the

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<sup>10</sup> This group includes Jerome Frank, Karl Llewellyn, Herman Oliphant, William Underhill Moore, and Wesley Newcomb Hohfield. This tradition draws very much on the influence of Oliver Wendell Holmes Jr.

axioms or deductions, but that he does want to know what the Massachusetts or English courts are likely to do in fact. I am much of his mind. (Frank 133-134; emphasis in original text)

The American legal realists believe that the value in studying law is to be able to advise a client what they can expect if they go to court (or what they ought to do in order to stay out of court). The judgments are the law. Legal rules are indeterminate and legal reasons are not the explaining factor in a judgment, so a realist empirically considers what means are required to achieve a desired result. When varying precedents or interpretations are equally legitimate, realists want to understand why judges decide the way they do in specific cases. Not only are statutes indeterminate, but contradictory rules could be accepted by courts. Llewellyn's well-known example is that the principle that "A statute cannot go beyond its text" has been accepted in court but so has the principle that "To effect its purpose, a statute must be implemented beyond its text" (1950, 401). In light of this, realists want to look at the methods of legal reasoning which would lead to either equally justifiable interpretation, when the judge is not compelled to choose either. Although legal realists differ in their approaches, using sociological, behavioural, or psychological methodology, Oliver Wendell Holmes Jr. noted the unconscious processes of judges as early as 1897. Regardless of the methodology, the core claim of legal realists is

that an appellate decision is better understood as a response to the factual nuances of the case, rather than as a mechanical application of legal rules. The Realists attacked "mechanical jurisprudence" in order to open the way to reform, whether by encouraging a more detailed restatement of the responses of courts

to facts, or by opening legal argument to economic and social scientific facts that would not otherwise have been relevant. (Edmundson 2)

The practical use of empirical study is the core approach of the realists.

There are two 'wings' of American legal realism: the idiosyncratic and the sociological. Frank, as the harbinger of the idiosyncratic wing, focuses more on the individual personality of the judge, which brings the worthwhile goal of digging into unconscious biases and an introspective look (as a judge himself) at sources of decisions. Unfortunately, Frank does not believe this approach makes prediction of outcomes very likely.

The sociological wing, on the other hand, values indeterminacy as a concept that allows them to take wider phenomena into account as they attempt to predict outcomes in the courts and prescribe new approaches. As a prescription, Herman Oliphant advocated making legal rules more fact-specific so they could apply to more narrowly specified situations. For instance, differing rulings in similar cases became sound based on economic facts underlying the specific nature of each dispute, which the realist studies because it does not appear in the opinion of the judge. In these cases, realists looked to phenomena outside of written law to explain the outcomes, with strong examples pertaining to commerce. In these outcomes, which are unexplained by the ruling itself, "Contemporary economic reality made these holdings eminently sound" (Oliphant 1928, 159–60). Llewellyn provides a great example. He studied cases of buyers of merchandise attempting to escape contracts. He found that the court was "sensitive to commerce or to decency" (1960, 124) because they applied an unrelated

rule to “frustrate the buyer’s attempt to escape the contract” (Leiter 54). This pertained to a law stating that

buyers who reject the seller’s shipment by formally stating their objections thereby waive all other objections. Llewellyn notes that the rule seems to have been rather harshly applied in a series of cases where the buyers simply may not have known at the time of rejection of other defects or where the seller could not have cured anyway. A careful study of the facts of these cases revealed, however, that in each case where the rule seemed harshly applied, what had really happened was that the market had fallen, and the buyer was looking to escape the contract. (Leiter 54)

In this sense, the realist claim that the law is not what is written in law but what is decided by the courts is strong. Additionally, these examples support the claim that judges make decisions based on socioeconomic reasons rather than being the mouthpiece of the law.

There are points where one could bridge the two wings of legal realism and Llewellyn did so by recognizing that sociology and psychology are both needed because tradition has a hold on human beings: “Tradition grips them, shapes them, limits them, guides them” (1960: 53). In other words, psychology and sociology could work together in a realist approach, even if the sociological wing can provide more causal evidence to predict the outcome of cases. For the reason that extra-legal, socio-economic concepts are factored into a decision, the sociological wing hopes judges may recognize this fact and report it in their opinions. In other words, these realists hope that judges will openly take a legislative role and explain all of their reasons for applying a

rule, even if those reasons are not found in existing rules. This approach, as mentioned earlier, has points of overlap with legal positivism, but the most important distinction is that it is nonnormative. If law is indeterminate, judges should be transparent about deciding according to social and economic factors outside of statute or for applying statutes for reasons not found in law.

**A Lacanian approach** certainly ought to appreciate the Freudian outlook that led to legal realism and also ought to accept the sociological wing as a form of discourse analysis which makes room in the symbolic for what was not consciously written as sources of law. However, the scientific approach of the realists may require some Lacanian qualifications and amendments. Lacan once said that the human sciences should be referred to as “*conjectural sciences*” (II 296) which could be made more rigorous with the use of structural linguistics. The following year, in *Seminar III*, Lacan will make the distinction that “Whereas the exact sciences concern the field of phenomena in which there is no one who uses a signifier, the conjectural sciences are fundamentally different because they concern beings who inhabit the symbolic order” (III 186). While legal realists and later critical legal theorists will use science, a Lacanian will critique law with the same rigour with which they critique science: through the lens which makes the agent the *objet a*. Legal realists could benefit from a Lacanian, structuralist approach to law because they also recognise the importance of the *unsaid* in law. A Lacanian approach is deeply attuned, for instance, to the function of “the gap in [a] contract—that which was not intended—[which] will become determinative of the purported existence of and the ‘actual’ meaning of the contract” meaning two parties only assume there is control over their relationship (Caudill 1997, 46).

Despite the need for rigour, Lacanians know there is speculation involved in their science. Freud and Lacan spoke in myths: Moses, totems, Oedipus, Hamlet, the lamella, Antigone and “*In the beginning was the word means In the beginning stands the unary trait*” (X 21). Paradoxically, rigour is needed in the process of analysis, which happens to be elusive in its conception of truth:

Indeed it is to be expected, whatever capacity we're in, that we should satisfy a certain ideal of straightforward reduction. What does this mean? Why so? Why, for all the time that we've been practising science for this reflection bears on something very different from, as well as fields that are vaster than, the field of our experience - has the greatest possible straightforwardness been demanded? Why would the real be straightforward? What can lead us even for one minute to suppose that it is? (X 21)

A rigorous analysis of signification, despite the inability of exact sciences to help us truly formulate the real, is what is at stake in psychoanalysis. Lacan's formulas and formalisms (such as the four discourses) are rigorous but flexible, which adequately allows one to explore the real of the symbolic which we call law.

What makes a Lacanian analysis and the realist analysis different is that the analyst's discourse is critical of the scientific register of the realists. Science can easily become “the master's science:”

This disconnected knowledge, such as we find it in the unconscious, is foreign to the discourse of science. And, precisely in this respect, it is striking that the discourse of the unconscious imposes itself... it doesn't bullshit. As stupid as this discourse of the unconscious is, it is responding to some thing that stems from

the institution of the discourse of the master himself. This is what is called the unconscious. It imposes itself upon science as a fact. (XVII 91)

The unconscious imposingly responds to knowledge and mastery. The real is missing and unobservable in scientific thought. A scientific investigation of the way courts make decisions based on economic or social analyses has its value, but it is missing this real. The university discourse is “capable of sinning” and it is “the one that shows what guarantees the discourse of science” (XVII 104). This discourse has S2 in the dominant place and “one finds nothing else at the level of its truth than the master signifier, insofar as it brings the master's order” (104). Science serves the master because in the university discourse, “It is impossible not to obey the commandment there in the place of what is the truth of science, ‘Continue. March on. Keep on knowing more and more’” (105). The university discourse determines each of us as object small *a* (160). It maintains its command while, like the master, masking unconscious truth. Attempting to keep the *petit a* in view is what distinguishes the analyst from the realist.

### **Scandinavian Legal Realism**

Like the American legal realists, the Scandinavian legal realists wanted to strip jurisprudential philosophy of metaphysical biases, also stressing the importance of scientific methods. This group of philosophers considers the nature of law from a positivistic approach stressing experimental testing. This testing could take the form, like for the American realists, of scientifically predicting the outcome of court cases, although some realists like Olivecrona reject this approach in favour of providing

“cognitive meaning” of law to the courts and the public (Bjarup 14). Although they have many differences, the two traditions of legal realism have similarities:

American and Scandinavian jurists do not share a common tradition. But what they do share is a common conception of their role as mediators of the law to laymen in courts, and of the practical concerns of society with the law. The American and Scandinavian jurists... share a common attitude towards law as a practical enterprise. To be legitimate, a legal solution has to work in practice. (Pihlajamäki 487)

Widely considered to be the most influential and founding philosopher of Scandinavian legal realism, Axel Hägerström wished to eliminate the “mist of words” and proceed “from sounds to things” (1964, 74). There is no world beyond the scientifically verifiable and questions about the nature of law must focus on material reality. The anti-idealist believes the naturalistic philosopher or scientist can “arrive at knowledge that is expressed in meaningful words in terms of concepts that can be used in meaningful sentences to express true judgments since the truth of a judgment is the reality of the thing” (Bjarup 3). However, for Hägerström, unlike the natural law theorist, values are not contained in reality. Law ‘as it is’ and ‘how it ought to be’ are separate for realists. Values only exist in the minds of people, even if other concepts are embedded in nature, as Hägerström believes. However, he would take issue with the positivists of his day who swayed towards command theory. For Hägerström, positivism takes empty words to be law rather than real concepts which he thinks can be captivated by language.

The realists see law as a form of social engineering. Law, for Hägerström, is ultimately a “social machine, in which cogs are men” (1953, 354). Stripping law down to its bare effects of how it produces certain behaviours is what allows desirable concepts to be studied in law. The scientific study of law is the attempt to use legal language to produce specific outcomes. For Hägerström, subjective feelings can be captured in language and a keen legal mind can make that language commensurate with legal language.

Scandinavian realists after Hägerström have continued the task of stripping away metaphysics from law and legal study and looked at law as “a historical inquiry into the origin of the law and the use of legal concepts in the positive law as well as within the doctrinal study of the law or legal science” (Bjarup 10). Some theorists, like Lundstedt, have attempted to do away with all claims about norms or values: “the expressions legal rights, duties, obligations, relationships, claims, and demands, properly speaking, should not be used, not even as terms or labels” (1956,17). All concepts must have a basis in material reality for some realists. However, it is questionable whether theorists like Lundstedt were able to take their own advice. What is useful for the Scandinavian realists is the idea that one confine their approach to law to what they can empirically gather, even if this includes feelings and, I would add, desires. The risks may be those that realists may critique positivists for: not enough judgment on the merit or demerit of the law.

**A Lacanian perspective** would attach to the Scandinavian legal realists the same critiques as have been outlined regarding the Americans. The above descriptions of the two realist schools demonstrates a clear marriage between the university

discourse and the master's discourse. What these theorists all do when trying to predict outcomes (especially in order to assist clients) is to help the legal system function more smoothly, or to be an agent which can use the legal system for the benefit of another actor (e.g. one's client). Although Lacanians may share the same suspicion of metaphysical ideals, they would also be suspicious of the idea that any real concept can adequately be captured by language. The realist misses the structure of signifier/signified and the real in the symbolic. The analyst would caution the realist to reconsider the existence of "true judgments" and "the reality of the thing."

For the analyst, the unconscious could be an adequate replacement for metaphysics; affect, the symptom and desire: they are all in the air. They are everywhere there is a speaking being, and science will not isolate it. What is missing in legal realism is an awareness of the unconscious of a text.

### **Critical Legal Studies**

From the 1970s to the 1990s, critical legal studies scholars built on the project of legal realism, and in many ways carried the tradition of realism onward. Many CLS scholars took the idea that some cases are 'indeterminate' and subscribed to *the indeterminacy thesis*, which holds that law is always indeterminate. For these theorists, it is language itself rather than only interpretation of 'hard cases' that is indeterminate. From this point onward, influence from postmodernism is felt and, most often, consequences for the exercise of power relations will be emphasised.

For critical legal theory (and the critical feminist theorists and critical race theorists who branched off of it), law is hardly able to overcome disagreement. These

theorists adopted the “premise that disagreements were deep and ineradicable” (Tushnet 80). Their famous slogan is that “Law is politics” (Kairys 1982) and one could add that politics is messy! For the critical legal theorists, legal arguments “were reducible to arguments commonly made in general political discourse” and “disputes within law were resolved in the same way that disputes within politics were resolved, by some fairly messy combination of coercion and reasoned argument, rather than by reason alone” (Tushnet 80). However, their claims take theory much further. For CLT, the realists’ response to formalism is adapted to become skeptical of all rules as being able to provide conclusive answers to any legal dispute. In many ways, these rule-skeptical theorists were materialists as well. Rules are never enough to explain the outcome of a case. Social theory is absolutely required when considering why a judge rules in any particular way.

A major contribution of CLT is the idea of adding narrative and lived experience (generally of the subjugated to political discourse); this approach is a major overlap with the aims of a psychoanalytic legal theorist. The concept of *intersectionality*, now widely applied, was coined by critical race theorist, Kimberlé Crenshaw in 1989. Critical legal theorists took a phenomenological perspective that “helped explain the component of the indeterminacy thesis emphasizing the juxtaposition of dominant and subordinate concepts” (Tushnet 85). For instance, the dominant concept of free choice is considered alongside the subordinate concept of force and fraud. Much of what courts had considered free choice could really be considered force or fraud, which the example of an “impoverished worker [who] could be said to have made a free choice to accept a job with unsafe working conditions” (Tushnet 85) illustrates. Marxist theory was often

utilized by founding critical legal theorists to emphasize, for instance, that workers were forced to work for low wages “by the distribution of property rights that gave their employers great wealth and the workers very little” (85) Courts were urged to recognize these perspectives and stop leaning so heavily towards “constitutionally based freedom of contract” and consider “the way in which people interpreted their material conditions” (85). Critical legal theorists made many concrete policy proposals and urged courts to consider a wider range of issues, including social theory and, later, issues of race and gender inequity as lived experience.

Psychoanalyst, Shoshana Felman, has compellingly argued that a court case is always bigger than itself, illustrating this point by describing the structure of the Eichmann trial and the O.J. Simpson trial. Each trial had compelling societal factors which threaten to pull a verdict in either direction. Critical legal theorists understand this to be the case as well:

One could put a qualified version of the indeterminacy thesis in this way: in any legal dispute with some social significance, whether that significance arises from the legal rules at issue or from the problem generating the dispute, the legal resources available in any reasonably well-developed legal system were sufficient to justify any socially significant outcome, where justify refers to practices of justification generally regarded as available to a person well-trained in the system’s methods of legal argument. (Tushnet 81-82)

Indeterminacy and available practices of justification which could lead to a socially significant outcome allow us to see a more social version of the claim that lawyers ought to make “the judge want to decide in your favor and then, and then only, to cite

precedents which will justify such a determination' (Frank 111). Social forces play on the indeterminacy of the court case.

Bringing the claims about social forces, prejudices, and lived experience into the view of the courts have been remarkable achievements brought about by critical legal theorists. Whereas CLT asserts that 'law is politics' a psychoanalyst might add that politics is desire. When CLT asserts lived experience, an analyst may agree, asserting also the unconscious experience of both lawmakers and subjects. Schroeder poignantly asserts that she is a hysterical lawyer, endlessly questioning the master. When CLT proposes the acknowledgment of dominant and subordinate positions, the analyst could add mask (S1) as dominant and the unconscious (*petit a*) as subordinate. The role of critical psychoanalytic theory is to interpret and demonstrate the unconscious in law and wider contexts relevant to law. It is 'indeterminacy' plus the *petit a*.

### **Lacanian Critical Unconscious Theory**

Subjects of law are divided. Lawmaking subjects are divided. Discourse is divided. Therefore, law is in some way divided. The Lacanian subject's entry into law is an inauguration that lasts for the life of the speaking being. The Name-of-the-Father founds this relationship with the prohibitions and desires encountered throughout life. Lacan's landmark eleventh seminar devotes much of the year to this process. Lacan says,

And in the end no one can say what it means to be the father for real, except that it's something that is already to be found in the game. It's in relation to this game

played with the father, this game of loser wins, as it were, that the child can win the faith that leaves him with this first inscription of Law.

What becomes of the subject in this drama?

As it is described for us in the Freudian dialectic, he is a little criminal. It is by the path of the imaginary crime that he enters the realm of Law. But he can enter this realm of Law only if he has had, at least for an instant, a real partner across from him, someone who has effectively brought to this level something that is not merely calling and calling back, that is not merely a pairing of presence and absence, the fundamentally annihilating element of the symbolic, but rather someone who responds to him. (VI 201-202)

The Oedipus complex with its dialectical progression through the drives fashions the subject's unconscious in law: the law of the signifier as it is related to the original object of love. This narrative stays with the subject, whether in phallus-envy, guilt, transference love/hate, a criminal-ego-ideal, hysteria, perversion, psychosis, and so on. The omnipotence of the baby is disrupted by the imposition of law, and thus the subject gains an eternal relation to mastery.

The discourse of mastery takes hold with ever-many master-stand-ins from the moment of subject formation: "Effectively, beyond speech and beyond over-speech, beyond the law of the father, whatever one calls it, something else is required. This is the capacity in which this chosen signifier, the phallus, is introduced and, naturally, it's situated at the same level as the law" (V 346). The double imposition of lack (the Other's and the subject's) is at one point "located at a second order of the encounter with the Other... the signifier of barred A" which is "defined as being the function of the

signifier phallus – namely, the function of marking what the Other, as marked by the signifier, that is, as barred, desires” (V 346). The imposition of the Name-of-the-Father, whatever external force that may be, raises the question of the Other’s desire. These two lacks are fundamental for the structure of subjectivity for Lacan.

Lacan asks where the subject is in all this; this is the other lack: “this is the subject insofar as the bar has been introduced, namely, insofar as he himself is also marked somewhere by the relationship to signifiers. This is why we find it here, in [ $\$ \diamond$  D], where the subject's relation to demand as such happens” (V 346). This traumatic moment inaugurates the unconscious, its detours in the drive, the repetition compulsion and the transference which the analyst uses to trace these concepts backwards. It also inaugurates the lack that will make itself noticeable in law, politics, knowledge and mastery, which is why the later Lacan focuses so much on discourse analysis. Yet, as early as *Seminar V*, this is “the necessary stage by which the Oedipus complex is integrated with the castration complex, namely, the structuration of the subject's desire through them” (V 346). This relation to the lack of the Other plays out on the side of the subject in the unconscious:

This beyond-the-relationship-to-the-Other's-speech is introduced through the signifier phallus. But, of course, once it is constituted and the signifier phallus is there in this place as the Other's desire, it doesn't remain there, but becomes integrated into the Other's speech and, with all the consequences that follow, occupies its place this-side-of, in the primitive place of the speech relationship with the mother. It's here that it plays its role and takes on its function. (V 346)

Phallic law marks the subject as a lacking, speaking being and the beyond of the Other's speech unconsciously and dialectically allows the subject's desire to take shape. The hysterical nature of desire is that it is always deficient in relation to mastery. These two lines of lack can be interchangeable, but not without leading to accidents, Lacan adds (V 346). Lacanian Critical Unconscious Theory must proceed with these two lacks in mind; throughout this dissertation, these lacks will generally take the form of the lack in the signifier and the *objet petit a*.

What follows in the political realm, like in the familial, is that Demand plays out in politics by being directed in all directions. Lawmakers have demands of subjects and are subjects with unconscious lack in relation to the speech of imaginary and symbolic Others. Subjects obey and make demands from lawmakers. Discourses of mastery and occasionally hysteria unconsciously flourish in political and legal intersubjectivity. Castration and the phallic signifier both lead to the mask of politics, which is always an I-identification. Ego desires form discourse because I-identification is involved in attempts at mastery and is involved in a response to mastery, even if, like Dora, one occasionally achieves a stabilizing "self-identification":

Because desire is the sole element to have charge of taking the place of the beyond located by the subject's own position with respect to demand. Because she is an hysteric, she does not know what she is demanding. She simply has the need for this desire to be there beyond, somewhere. But for her to be able to draw upon this desire, complete herself with it and discover her identification, her ideal in it, there needs to be, at least at the level of this beyond-demand, an encounter that enables her to rely upon and locate herself on this line. (V 347)

Lack is the subject's future, stemming from the past. One is unwittingly placed into dialectically opposed lines of desire which forms the ego and the drive. When these forces have power on speech, surely they have power in writing, especially law.

In his paper on criminology, Lacan says that "sincerity is the first obstacle encountered by the dialectic in the search for true intentions, the first goal of speech apparently to disguise them" (*E* 115). The structural relations to objects of desire dominate the drive and the ego, in a layering of successive alienations and a "succession of crises—weaning, intrusion, Oedipus, puberty, and adolescence—each of which produces a new synthesis of the ego systems in a form that is ever more alienating for the drives that are frustrated therein, and ever less ideal for the drives that are normalized thereby. This form is produced by what is perhaps the most fundamental psychological phenomenon that psychoanalysis has discovered: identification" (*E* 115). Identification is a "formative power" brought about by alienation, beginning in the mirror stage. The power of identification is emphasized by the fact that Freud recognized the "death instinct" as an "ego drive" (*E* 116). Recall that in Chapter One, I referred to identification as the fifth fundamental concept. It is on the border of the terminal point of an analysis.

In this criminology paper, Lacan comes close to suggesting the existence of a collective unconscious as it pertains to assimilation. He writes that "the psychoanalyst can indicate to the sociologist the criminogenic functions characteristic of a society which... proposes to the subjects it employs for [the purpose of production] individual ideals that tend to boil down to an ever more horizontal plane of assimilation" (*E* 118). A civilization that raises "the ideal of individualism" to a "previously unknown power"

somehow steers individuals “toward a state in which they will think, feel, act and love things exactly at the same times, and in strictly equivalent portions of space, as everyone else” (118). A seemingly free society that seems to embrace particularity somehow steers individuals’ identifications, criminogenic aggressions and desires. What psychoanalysts can offer to statisticians, Lacan adds, are “an anarchy of desire-eliciting images that is all the greater as they seem to gravitate ever more around scopophilic satisfactions that are homogenized in the social mass; and an ever greater involvement of the fundamental passions for power, possession, and prestige in social ideals” (119). This is certainly as true today as when Lacan wrote it in 1950. He hopes that the politician and the philosopher will find this useful, as criminality assumes “legalized forms” and criminal psychological types are included in everyone from “the star” to “the wage slave,” all while “crime’s social signification is reduced to its use in advertising” (119). The political realm, like any other, is full of mirrors, in the Lacanian sense, and “The progress by which man creates himself in his own image is thus revealed in the city’s very injustice, which is always incomprehensible to the ‘intellectual’ who is subjugated by the ‘law of the heart’ (120). Knowledge is subservient to power and power has an allure which helps to fashion subjects. In 1950, Lacan is already looking at politics and culture as a psychoanalyst to show that identifications and the functions of signifiers and images cover over a real which the analyst can uncover.

The reason there is a “place of psychoanalysis in politics” is that “the only discourse there is, and not just analytic discourse, is the discourse of *jouissance*, at least when one is hoping for the work of truth from it” (XVII 78). The law’s repressed is not justice, because truth is always elsewhere in the intellectual’s and the master’s

discourses. Truth lies in the *jouissance* of discourse and it is up to psychoanalysis to analyse discourse in a case-by-case basis, just like analysands are “evaluated psychoanalytically as a function of fixation on an object, developmental stagnation, the impact of ego structure, and neurotic repressions in each individual case” (*E* 121).

*Jouissance* is the beyond of discourse, politics, law, judgments, legal arguments, the “expert hid behind the Code of Law” and “granted almost discretionary power over the severity of the sentence” in France (*E* 114). Lacan asks, “What is the death instinct? What is this law beyond all law, that can only be posited as a final structure, as a vanishing point of any reality that might be attained?” (*XI* 21). This death drive is the law of *jouissance*, pervasive anywhere there is desire and mastery; discourse necessarily contains this beyond-of-the-pleasure principle. Truth and *jouissance* are the objects of study for critical unconscious theorists. They are the o/Other side of all discourse:

What can it mean to say that by loving truth one thus falls into a system that is so obviously symptomatic? Here one thing is becoming clear—by proposing itself as the residue of the effect of language, as what makes it that the effect of language only extracts, from enjoying, what last time I was saying about the entropy of a *jouissance*—this is what one does not see—truth as external to discourse—but what—is the sister of that forbidden *jouissance*. (*XVII* 67)

They are the “hidden truth” of not-hidden discourses, which contain “something that is compressed, that is like a superimposition, something that needs to be unfolded in order to be legible” (*XVII* 78-79).

## Conclusion

In light of Chapter One and its exegesis of subjectivity as a legal process, and this chapter which deals with philosophies/theories of law, the following two chapters will be case studies which merge both, followed by two chapters which critique representations of law in culture. Lacanian theory of the transference may be the most challenging psychoanalytic concept to superimpose into cultural studies for the reason that the subject speaks, free associates and allows the analyst to stand in for the big Other. However, the unconscious, like an analysand, a written text or an author in most contexts, resists the meaning of the unconscious. This is a point of overlap for the clinical and the political; the unconscious erupts or slips despite resistance, regardless of the subject's conscious openness to hearing about the unconscious. In a Freudian interpretation, the more correct the analyst is in an interpretation of the unconscious, the more resistance there will be. Regardless, an analyst can locate repetition by the subject's relation to the big Other, and history is full of big Others.

Repetition in relation to the big Other is the way to isolate the drive. In this sense, unconscious representation and desire will be discussed in discourse. This is the level of the phallus, the death drive, and the *objet petit a*, the last of which is radically particular and will require a context only within the analysis of a particular text. This will be done with careful reference to law as a discourse of multi-directed demands and an indeterminate manifestation of language and desires.

## Chapter Three

### The o/Others of Political Discourse:

#### Ego-desire and the Prohibition of Religious Symbols in Quebec

“Families unwittingly throw children into a series of roles that in each case alienate the child from his or her desire, a desire that is repressed to maintain such roles. Politicians, in turn, feed this desire with fantasies.”

—David Caudill, *Lacan and the Subject of Law* (1997, 29)

### Introduction

Debates over religious plurality can be categorised as two irreconcilable ideals or competing notions of the good. Lacanian ethics, however, can be characterised as “pre-political.” In a Lacanian analysis of religious pluralism, David Caudill succinctly captures much of what is at work in Lacan’s concept of discourse as mastery:

[T]o the extent that we desire or demand to be desired or recognized by others, a tendency toward mastery or domination persists together with a failure to recognize the other qua other; this analysis of subjectivity is a critique of “rational” appeals to our sameness or to our shared heritage of values, which appeals either to reduce subjectivity to an abstract formality or identify rationality with a dominant discourse—in both cases denying social diversity.

This chapter will work towards a politics of otherness in the sense that denial of the other, or the expulsion of the other in discourse, is part of mastery.

In 2019, Quebec made controversial use of the notwithstanding clause to override the Canadian Charter of Rights and Freedoms in order to ban the wearing of religious symbols in a vast number of government positions. Bill 21, or the Laicity Act, bans symbols in positions of authority. The act makes “State laicity” a value at least as central as “democratic values” and the act continues by laying out specific roles that cannot be fulfilled while wearing religious symbols and “grants ministers powers to verify compliance with the measures it sets out.” In the name of “State religious neutrality” and contributing to institutions’ “impartiality” the act provides a long list of positions. Most are positions of authority like police officers, judges and teachers but there is a list of “commissioners,” “arbitrators,” “persons who exercise the function of lawyer and are employed by a prosecutor,” “elected municipal officers,” “office staff,” “manager and assistant manager” of school boards, “persons appointed by the government or by a minister to exercise an adjudicative function within the administrative branch,” “physicians, dentists and midwives, when those persons are practising in a centre operated by a public institution,” and “persons recognized as subsidized home childcare providers under the Educational Childcare Act...and the persons directed by them.” In addition, the Bill prohibits providing or receiving state services with a covered face (only if the covering is affiliated to a religion):

Under the Act, personnel members of a body must exercise their functions with their face uncovered, and persons who present themselves to receive a service from such a personnel member must have their face uncovered when doing so is necessary to allow their identity to be verified or for security reasons. Persons who fail to comply with that obligation may not receive the service. However,

those obligations do not apply to persons whose face is covered for reasons of health or a handicap, or because of the requirements tied to their functions or to the performance of certain tasks. (*An Act respecting the laicity of the State* 2019)

This act is presented as a neutral text which affects all people in the same way; all people in the above positions, regardless of religion, are prohibited from wearing religious symbols. The core value of laicity, or state neutrality is the rationale presented for this law. The history of laicity and the discourse of secularism and accommodation for religious difference must be taken into account when considering this Bill. This discourse will be analyzed with the direction of treatment elucidated in Chapter One to show what psychoanalysis can offer as a legal theory, as described in Chapter Two.

The analysis that follows considers the unconscious in the Demands made in political discourse using the stages of clinical analysis I elucidated in the previous chapter. A moment when communication breaks down is the signal of the transference, which covers over the unconscious. This signal is the place the analyst searches for repetition, which will be shown to be moments in history where alienations of meaning erupt in discourse, revealed for slips in which Catholic heritage provides a unified ego-ideal and aversion to the other threatens this ideal. In these moments, gaps in Demand can be better read in discourse, and these gaps are the location of the drive. At the level of the drive, responses to alienation can be found. These responses are a source of *jouissance*. Ultimately, the circuitous path of the drive ceases to hide the death drive, which will be shown to be the use of a fantasy of the death of a linguistic community of Quebec. By tracing the drive, I read in the unconscious the phallic process of identity formation through the expulsion of the *objet a*, the other which the drive circles around

in discourse. This approach emphasises the importance of always maintaining both the big and small others in an analysis, considering their interplay. Finally, the purpose of this analysis is to offer this construction for people of Quebec to mull over as they consider whether there is value in questioning the I-identifications offered by and accepted in this discourse. These identifications centre around *laïcité*, and the question of whether the drive can be satisfied by this signifier is open for the analysed ponder, if they choose.

Although it is a response to worthwhile concerns over core values and, potentially, a decline in proportion of French speakers in Quebec, Bill 21 is troubling because of its disproportionate effect on religious minorities, many of whom tend to also be ethnic minorities. Therefore, the Bill must be considered along with a decades-long discourse over Quebec's identity in relation to minority groups; xenophobia will be shown to play a role in this discourse. Lacan makes rare mention of racism but he did predict the rise of racism which would become more widespread due to fantasies of the other "unheard of before the melting pot" (Lacan *Tel*, 32). In *Seminar XVIII*, Lacan will point out the concern a psychoanalyst should have for politics because "every form of racism, in so far as a surplus enjoying is very well capable of supporting it, is now what is on the agenda. This is what is in store for us in the years to come" (44). In Quebec, the exclusion of visible minorities from government positions of authority, including teachers, police officers, and a wide range of administrative positions related to institutions of authority, was on the agenda and passed in the form of Bill 21.

In critiquing the discursive manoeuvring which allowed this Bill to be accepted, it must be addressed that some may be concerned about analysing a different culture (an

anglophone Canadian critiquing a francophone culture within Canada's borders). Certainly, those who support Bill 21 would hope for silence from the rest of Canada on the issue. But what about Quebecers who wish to draw other Canadians into the discussion? There are protests (mostly attended by Muslim women) and Quebecoise human rights groups which hope to raise awareness to bring national and international discussion. My question is, why would one not accept this invitation and rather side with silence and moral relativism? In an age of cosmopolitanism, it is my hope that the people of Quebec may take this analysis, translate it, change it, explore it as much or as little as they wish. Therefore, what follows is an attempt to make the discourse behind Bill 21 conscious, for Canadians, Quebecers and those affected most by Bill 21. If it is of interest to the people of Quebec, whether affected by the Bill or not, hopefully they will make use of this chapter as an aid for a more nuanced articulation of the temptations to enjoy discourse, especially when it pertains to serious matters of identity and otherness. That is the modest hope this chapter can offer; it may remain in the discourse of the university as an example of how to use Lacanian critical unconscious theory or it may be taken up if Quebecers see fit to add it to their discourse. This critique will not convince most supporters of Bill 21 to change their minds, because, as Freud knew, the more accurate an interpretation, the greater the resistance. Lacan as well points out, "moreover that one does not enjoy it, is the misfortune of the interpretation" (XVII 145).

A second concern is the difficult question of whether psychoanalysis can be politically useful without misappropriation. The concern is that psychoanalysis is intended for an analysand in a clinic following the rule of free association. The subject in the clinic should have a desire to question their unconscious and their desire, to

symbolise the unsymbolised. Politicians with ardent beliefs generally do not attempt these acts, especially as it regards their political agenda. However, Lacan created his four discourses (pertaining to hysteria and the three impossible professions) in order to give us the ability to critique discourse with a more nuanced analytic ear. Lacan said,

That the symptom sets up the order on which our politics proves to be established—this is the step that it took—implies on the other hand that everything that is articulated of this order is open to interpretation. That is why we are quite right to put psychoanalysis under the heading of politics. And this may not be a very peaceful situation, if psychoanalysis proved to be more aware of what figured in politics up to now. (XVIII, 145)

At risk of receiving criticism for analysing the other Canadian culture, and perhaps pressing the limits of psychoanalytic theory as it usually pertains to an analysand free associating, I will enter a less peaceful situation, but with every attempt possible to clearly understand the discursive history of notions of state secularism and *laïcité* in Quebec.

The following is a case study which will elucidate what has been present historically in discourse within Quebec in a Lacanian approach. Within Quebec's political history, warnings have been voiced against measures like Bill 21 and have been entirely repressed. This chapter will show that these warnings and going against them are a crucial part of identity formation, in keeping with the direction of analysis laid out in Chapter One. This case study, then, is an example of what psychoanalytic theory can accomplish as outlined in chapter two: 1) as a theory which dialectises the repressed of law and 2) as explaining law in terms of making/regulating unconscious

Demands. After following the direction of the transference and repetition, it will be shown that this law is an endless form of representing the death drive, as formulated in Chapter One, and as an ever-incomplete task of attempting to symbolise an incomplete ego-ideal for Quebec. What will be proposed is the coming to terms with the impossibility of completeness of this identification.

### **Mother-Tongues and Prohibitions**

Quebec has in some ways seen itself as a “nation within a nation” (Krishnamurthy 154) and it is certainly its own linguistic community within a wider community. It is in a continual process of attempting to realise its own identity in relation to both Canada and its “French fact” or France as its “Other Mother Country” (Krishnamurthy 154). In holding an identity with a relation to its mother tongue and mother country, Quebec has historically been and still is keen on upholding strong ties with France. There is a “Canada-Quebec-France” relation and the Canadian federal government is generally a little uneasy about the “Quebec-France axis” and has handled it diplomatically to limit Quebec’s claims to sovereignty (Krishnamurthy 166-7).

There is a self-awareness of Quebec’s responsibility to its society’s “special destiny” and an “enthusiasm in maintaining close relations - cultural and educational - with France” (Krishnamurthy 154). This enthusiasm is accompanied by an understandable “lack of confidence in the goodwill of the federal government” resulting in a “federal-provincial battle” (154). Quebec has sought to project an “international personality” (155) and the federal government’s projection of Canada as an English-speaking nation until the late 1950s, despite linguistic pluralism, led to an “alienation” of

Quebec that drove it further towards France (155). France, as well, was not indifferent and took an interest in Quebec. Former President of France, Charles de Gaulle, stated that “the French of Canada” are “French in everything but sovereignty” (155) in a lament about the inability of “New France” to fully govern itself. De Gaulle referred to the Canadian federal government as a state perpetually “ambivalent and artificial” regarding Quebec and as premier visits to France were held with great pomp, like a head of state (156). In fact, as separatism was gaining traction in the 1960s, the “French Committee for the independence of Quebec and Eastern Canada” was formed as a reminder of the wish for Quebec’s sovereignty “200 years to the day after the deadly Treaty of Paris by which France ceded New France to England” and its aim was to inform “the French of French Canadians’ ‘legitimate aspirations’ to found the ‘French Republic of America’” (De Gaulle 1998, 268). Quebec was granted the autonomy to attend the Naimey Conference alongside Canada and collaborated independently, which was allowed when France, to bolster Quebec’s independence, announced the members do not need to be sovereign states (159). Over the decades that followed, Canada was forced to accept Quebec would be its own player on the international stage to a degree. The Federal government attempted to smooth over relations with Quebec and France, and Prime Minister Pearson visited France in 1964, ignoring the remark by de Gaulle that bound the French to “our people settled in Canada” (Girard *op. Cit.* cited in Krishnamurthy 157). It was the Federal government’s hope that its cooperation with Quebec would offset separatism and supersede Quebec-France relations.

France was watching Quebecois consciousness begin to appreciate what became known as the Quiet Revolution (Revolution Tranquille). Overhauls of various

sectors and the cultural changes that followed were first referred to by Anne MacDermot in the national newspaper, *The Globe and Mail*, in 1963 (Ali, 2017). Quebec's debates over sovereignty sprang out of a multifaceted history as its government addressed new challenges characteristic of an industrialised world. The Quebec Liberal Party's succession in 1960, led by Jean Lesage, took greater control over economic matters, most notably, in Hydro-Quebec, with major success, and questioned the shortcomings in education, leading them to take control from the Roman Catholic church. The Liberal Party took charge of healthcare and commerce, lowered the voting age and provided increased representation for urban voters. They made strides for women, who until then were considered minors if married. They revamped the pension system, which grew exponentially. The labour code was revised, and various industries were Francised, including electricity, and workers could count on the right to work in French. With the withdrawal of various agreements with Ottawa, Quebec enjoyed more autonomy than ever before and changes in the economy were visible and felt. These changes brought a greater sense of pride for people of Quebec as francophones and Quebecers, leading to discussions on independence to fully embrace this new-found level of autonomy.

As independentism or sovereigntism gained traction, an independent French-speaking nation with close ties to France was imagined. A referendum took place in October 1995 and 50.6% of Quebec voted against independence. French politicians were disappointed, of course, but resolutely hoped to maintain "warm ties that bind us" as the foreign affairs minister stated (Krishnamurthy 164). The government projected an image of neutrality but some politicians showed their frustrations, like Jean Marie Le Pen, extreme-right National Front Leader, who blamed foreigners for the loss and

former French President, Valery Giscard d'Estaing, who openly continued to hold hopes for Quebec's sovereignty (164). Certainly, there was an endearing relationship between Quebec and France, whereby both hoped Quebec can act as its own agent. However, hope of an alliance between Quebec sovereigntists and France was partially eroded when former president of France, Nicolas Sarkozy, visited Quebec and expressed his friendship with Canada and his opinion that Quebec should remain Canadian, explaining that the world does not need an additional division (La Presse 2008). His successor, Francois Hollande, similarly attempted to strengthen ties with the Canadian Federal Government (Akimov 2018). Perhaps this partial letdown for sovereigntists/nationalists may have stirred additional willingness for Quebec to assert its similarities to France and emphasise its difference from Canada.

Quebec continues to promote its shared vision with France. Recently, Christine St-Pierre, former Minister for International Relations and La Francophonie (an international organisation representing the interests of French-speaking nations), holds that "now more than ever" France and Quebec have a "shared vision" for the future in matters ranging from technology to gender equality, language and social/economic progress (2018). One of her priorities is "the initiative that takes Quebec beyond its borders and into France." Quebec acts on its own to the degree that it can, with France's support, but to what extent does it want to be its own, rather than being *like* France? It may be of interest to the reader that a recent poll published in *Le Devoir* found that, despite the hopes of sovereigntism being more prevalent than they have in decades, 38% of voters in Quebec would vote in favour of sovereignty if there were

another referendum, a number that falls to 34% for voters aged 35-54, and falls to 31% for young voters, aged 18-34 (Fournier 2023).

### **Religious Symbols Laws in France**

While France's long colonial history, particularly in Algeria, involved bans on religious symbols as a method of social control, religious symbols were not legally considered to infringe on the value of *laïcité* until the twenty-first century. Secularisation entered political discourse after the French Revolution and slowly gained traction throughout the nineteenth century. However, the first *laïcité* law emphasising the separation between church and state in France came into effect in 1905 (Lang 2021). This law "guarantees freedom of worship, with restrictions hereafter only in the interest of public order" (Bauberot and Dagens 2005, 64). A century later, *laïcité* became the justification for targeting religious symbols in France. In 2004, a number of religious symbols, including the headscarf, were banned in public schools. In 2010, France became the first European nation to enforce a nation-wide ban on face-coverings in public spaces such as streets, parks and public transportation, accompanied by a government campaign that proudly stated, "the Republic is lived with an uncovered face" (Lang 2021). It was still enforced in 2020 during the COVID pandemic when masks became mandated. Over the years, women have received fines and criminal convictions. Tickets for wearing religious symbols state the infraction of not wearing "an outfit respecting good morals and secularism" (Quinn 2016). On several occasions, these events have gained international attention. In 2016, a woman on a beach in Nice was forced by officers to strip off her burkini where she sat in the sand (Quinn 2016)

and in 2018, the United Nations Human Rights Committee deemed France to have violated international human rights law by criminally convicting women for wearing the niqab in public (UNHR 2018). Despite this, lawmakers have continued into 2022 to propose further restrictions, such as the 2021 ban on religious symbols for minors which passed in the senate (Beardsley 2021), the highest court upholding a ban on barristers wearing symbols (Foroudi), and a 2022 proposal to ban religious symbols in competitive sports (Pineau 2022).

Separatism is the target of symbols bans in France: “Historically, the term “separatist” has been used to stigmatise attempts to organise religious, territorial or racial minorities in France” (Khemilat 2021). In this context, “The idea that some Muslims in France might place their faith and the norms of their religious community above their national belonging and the laws of the Republic would be characteristic of what is now often referred to as ‘Islamic separatism’” (Khemilat 2021). Fears of separatism, and “fear Islamists are creating communities that reject France's secular identity and laws, as well as its values such as equality between the sexes” (France 24, 2021) led to an anti-separatism bill with a loose framework that has typically targeted Muslim organisations, schools and businesses:

As of May 2021, it led to at least 37 mosques, 4 schools and 210 public houses run by French Muslims being closed. In addition, 559 Muslim-owned businesses or organisations have been closed down, and 22, 222 of them were investigated. It also allowed the state to seize more than €43 million (\$50 million) from an already impoverished Muslim community. (Freschi 2021).

President Macron does not hide that "what we need to tackle is Islamist Separatism" (Freschi 2021). Also in 2021, Macron's political party withdrew its support for one of its own members, a Muslim politician, because she wore a hijab in a campaign ad, with one of the party's founders referring to it as "ostentatious religious symbols" (Lang 2021). This comes at a time when approximately half of the country perceives Muslims as a threat and approximately half of all Muslims have experienced discrimination due to their religion and the figure is higher for women who wear a headscarf, in the country with the largest Muslim population in western Europe (Lang 2021).

### **Religious Symbols in Quebec: Identification with the Mother Country**

Quebec's Bill 21, a bold, internationally debated law banning religious symbols in many professions, was introduced in 2019. This law takes shape within a decades old discourse on secularization. Also, historically, Canada's minority Francophone community has hotly debated its own form of separatism, very much differing from that of France, to create its own sovereign state. Many Quebecois have understandably been concerned about a loss of identity, much like the French. Similar to France, *laïcité*, or laicity, has been a common solution to a perceived identity crisis. A commission was created to address this identity crisis in Quebec: *The Commission de Consultation sur les Pratiques D'Accommodement Reliées aux Différences Culturelles*, co-chaired by Gérard Bouchard and Charles Taylor. Its detailed study and 300 page report (which I will make use of) was published in 2008. It gauged the public's perceptions in relation to reporting on religious accommodations in various institutions, often finding that media reporting was heavily sensationalised. This report took a firm stance against

strengthening restrictions on religious freedoms, concluding that laicity was not at threat and supports freedom of expression for individuals. It is important to consider where the importance of the term 'laicity' arose in order to consider its use in discourse today:

Contrary to a fairly widespread belief, the secularization process in Québec did not begin with the Quiet Revolution in the 1960s. In actual fact, while an organic link existed between the Church and the State under the French Regime, the fall of the regime in 1759 marked the beginning of the separation of the two powers. (Bouchard & Taylor 2008, 139)

Unlike the US Constitution, which overtly celebrated a separation between church and state, the British North America Act of 1867 remained silent on the issue and did not establish any official churches and did not make any reference to God in the preamble. In Quebec, the Catholic Church had strong influences in many sectors of public life and the Quiet Revolution rapidly diminished its many roles. It accelerated the process of secularisation and "Sectors for which the Church had for a long time been responsible, such as education, health and social services, were gradually taken over by the nascent welfare state" (139). Within the achievements of secularisation, which also eroded ideological unity, the Quiet Revolution left a legacy for Quebecers to be proud of: "in particular French as the common language, gender equality and secularism" (Bouchard & Taylor 36). The word "Quebecer" became adopted as a substitute for "French Canadian" and "a philosophy more concerned with rights inspired legislators" (116). However, anxieties and fears began to grow over preservation of identity and two poles "have constantly guided changes in intercultural thinking in Québec, i.e. constant tension between the concern for openness and anxiety for the future of the French-

speaking community. In other words, we have liberalism and pluralism on one side, and hesitation and restraint on the other” (116). These have been the two poles constantly steered between in debates and policy surrounding issues of accommodation for religious symbols and other religious expression and practice.

During the 1970s and 80s, Québec generally encouraged religious expression for immigrants coupled with a rise in unification through the French language. In 1975 a charter was adopted which promised “the right of members of the ethnic minorities to maintain and advance their own cultural life with the other members of their group” and encouraged minority groups to preserve their heritage. In 1981, these guidelines were extended to eliminate “all forms of discrimination towards the cultural communities” (Bouchard & Taylor 116). Values pertaining to French as the common language, democracy and participation, and pluralism and intercommunity exchange continued to be developed until well into the 1990s. In the late 90s, the notion that “each individual is considered first as a citizen rather than a member of a community or an ethnic group” became more common (117). The Parti Québécois government attempted to ignore the ethnocultural dimension and was criticised

in particular, for excessively orienting the intercultural dynamic toward the assimilation of Judaeo-Christian traditions and French-language culture.

Similarly, the notion of the culture of convergence, which was deemed to be overly centred on the French (or French-Canadian?) culture and a source of hierarchy between citizens (old-stock Quebecers and the others), was put on trial. From then on and more so than previously, the integration policy gave way

to a civic frame of reference, at the expense of the former cultural frame of reference. (Bouchard & Taylor 117).

The Parti Québécois continued its efforts despite criticism and put forward a failed proposal in Fall 2000 which “emphasized Québec’s status as a distinct political community rooted in a culture sustained primarily by French-Canadian historicity. The emphasis placed on citizenship relegated to the background cultural communities” and caused fears of assimilative integration in French-Canadian culture. It was felt that this proposal paid too little attention to immigration (117). These efforts were an attempt to assert Quebecois culture and linguistic nationality, rolling back on efforts made towards pluralism in previous decades.

Throughout the 2000s intense media debate on religious accommodations became contentious, accompanied by post-9/11 Islamophobia, until a “time of turmoil” in 2006-2007 when “topics of controversy previously focused essentially on the problem of religion’s place in public space and the accommodation of minority religious practices. From that point onward, debate encompassed the much broader question of the integration of the immigrant population and minorities” (Bouchard & Taylor 53). Part of the population felt wronged by the perceived “privileges” granted to religious minorities and saw it as “an attack on Québec’s core values. A feeling of crisis took hold of the population... [A]ccommodation had become a social issue on which politicians expressed their opinions almost daily” (53). Tensions grew and, in 2008, a commission was formed to specifically address this perceived crisis.

*The Commission de Consultation sur les Pratiques D’Accommodement Reliées aux Différences Culturelles*, co-chaired by Gérard Bouchard and Charles Taylor

expresses an openness to integration and religious accommodation. It reflects a recognition of psychoanalytic concepts which have entered everyday discourse, but are generally not explained within any theoretical framework. For instance, it emphasises “openness to the Other” (Bouchard & Taylor 25) and the perception of “the debate on reasonable accommodation as the symptom of a more basic problem” concerning “interculturalism, immigration, secularism and the theme of Québec identity” (17). This report uses terms hinting at psychoanalytic themes, but does not define them through a psychoanalytic lens. This is a gap for psychoanalytic theorists to build on and further develop, which will be begun in this chapter. Themes of Otherness, symptoms, and identity are central objects of study in this report and it almost articulates the role of fantasy when it addresses “striking distortions between general public perceptions and the actual facts as we were able to reconstitute them (18). For example, a common perception in consultations was the belief that there was an absence of guidelines for handling accommodation, despite an increased adoption of norms and guidelines (19). Anxiety takes precedent over identity in this discourse and these terms will be better clarified within a Lacanian context at the end of this chapter, especially since no attempt was made to define these terms in the report. Rather, these terms are used in a colloquial sense, and effort ought to be made to narrow them down.

The report concludes that “Quebecers of French-Canadian ancestry are still not at ease with their twofold status as a majority in Québec and a minority in Canada and North America” (18). This anxiety has led to the “rejection of harmonization practices... counter-reaction targeting immigrants” and scapegoating, with fears that minorities will swamp the ethnocultural majority, but reactions of course are “not likely to foster

integration in a spirit of equality and reciprocity” (18). The authors understand that “French-Canadian Quebecers have unpleasant memories of the period when the clergy wielded excessive power over institutions and individuals. It would be unfair that this situation leads them to direct at all religions the painful feeling inherited from their Catholic past” (21).

The commission attempts to make Quebec’s government keenly aware that: France recently adopted restrictive legislation governing the wearing of religious signs in public schools. There are three reasons why we believe that this type of restrictive secularism is not appropriate for Québec:

- a) it does not truly link institutional structures to the outcomes of secularism;
- b) the attribution to the school of an emancipatory mission directed against religion is not compatible with the principle of State neutrality in respect of religion and non-religion;
- c) the integration process in a diversified society is achieved through exchanges between citizens, who thus learn to get to know each other (that is the philosophy of Québec interculturalism), and not by relegating identities to the background. (Bouchard & Taylor 20)

The report points out that replicating the laws of France would be to succumb to unwarranted fear and “don the mantle of a victim” (21). These laws do not work for Quebec, which “must reject the scenario of inevitable disappearance, which has no future” (21). One of the many solutions proposed is that “Quebecers of French-Canadian origin must also be more aware of the repercussions on minority groups of their anxieties. Minority groups have undoubtedly been alerted recently by the image of

an ethnocultural majority that is apparently unsure of itself and subject to outbursts of temper” (21). In attempts to define secularism, “emotion has entered the picture, creating tensions that we must now resolve” (25). The media did not help to clarify “the real or imagined cultural rifts and tensions” nor the “opposition between Us and Them” (26). What this report aimed to warn Quebec about, then, is misdirected emotion and the temptation to make policy based on sensationalised insecurities.

What form, then, did these anxieties take? The report cites many common reactions to questions in focus groups and remarks made in forums to ascertain the general discontent and malaise towards granting religious accommodations. Examples include statements like: “The wave of accommodation is out of control, due to a large extent to the corrosive impact of the charters (the tyranny of the courts),” “Accommodation is a one-way process... It is impossible to say No to them on pain of stigmatization (accusation of xenophobia and racism),” “It’s always the French-Canadians who knuckle under,” “We have to grovel in our own society,” “These immigrant requesters are relentless and intolerant. They are too sure of themselves, intransigent and refuse compromise,” “The wearing of the headscarf is a sign of arrogance,” “They refuse to integrate, reject our society’s rules and thus break the implicit pact with the host society (mutual trust, interculturalism, reciprocity, and so on),” “immigrants are endangering Québec’s French-language culture. They are calling into question its Christian foundations,” “If we lose our Christian traditions, we’ll disappear,” “Because of their traditional or archaic religions, they risk compromising what is most valuable in the legacy of the Quiet Revolution, i.e. a) the French language, threatened by the wave of non-francophone immigrants; b) the principle of gender equality, won at

great cost, which clashes with basically patriarchal customs; and c) secularism in our society, i.e. the confinement to the private sphere of religious practice” (68-69). Some of the claims were based on accusations of an “aggressive fundamentalism principle” inherent in Islam, a “hatred for the West. It wants to spread everywhere, even by means of terrorism” and that “Immigrants want to impose their culture on us... No, our young daughters are not going to wear the veil” (69). Generally, these reasons for wishing to impose restrictions on religious accommodations come from fears of one’s linguistic, religious, or cultural identity being lost, or fears of the Other.

The commission noted that many of these fears and tensions arose during what it calls the “period of turmoil” (2006-2007) when the media began to sensationalise cases which were unfolding much as they usually had: sometimes with flexibility, sometimes with harsh prohibition, or somewhere in between, and often as a compromise agreed upon by two parties. However, in this period of turmoil, the commission found “striking discrepancies between the version documented during our investigation and the “stereotyped” version of events” (74). A number of factors, like word-of-mouth/rumours may be to blame, but the commission believes that the media “displaying a lack of responsibility by sowing discord” emphasised differences and encouraged xenophobia (74). The authors of the report “noted the relative absence of the intellectual class in general in this public debate, above all in 2006 and the first months of 2007” and that generally intellectuals who “threw themselves into the battle” were those “on the side of opponents to accommodation” (76). The authors wonder whether things would be different if deficient media coverage was to have been accurate with more intellectual debate. Also, they ask how the French-speaking public

“would have reacted had they been exposed to the documented version of events instead of the stereotyped version” (75). There likely would have been fewer “outbursts in discourse on accommodation” and less “anxiety over identity” and so on. Debates would have arisen, but would it have turned into a “psychodrama?” (75).

The commission takes the stance that “multiethnic societies require integration and “an imperative of mobility” whereby access to various paths must be facilitated and “the boundaries must be porous” (114). The authors state that “symbolic equilibrium, rooted in identity and emotionalism, is fragile and sensitive” with the backdrop sustaining anxiety being concern for openness and worries of the future of the French-speaking community (116). The survival of Quebec’s identity is tied to its nationalism and the Quiet Revolution spawned a neonationalism which combines the identity struggle with egalitarianism and the protection of rights (119). The rule of law itself is often “blamed for playing into the hands of immigrants or ethnic minorities” who abuse it to obtain special privileges or avoid the host society’s culture (124). Tightening legislation seems to be the easy solution becoming endorsed. As a result, “we are witnessing the calling into question of law in the name of culture (or the identity question), and one seems to be in conflict with the other” (124). Common values become rallying points and visible difference is the problem.

The authors provide many reasons why integration is important and requires religious accommodation, including that “members of the ethnic minorities can become valuable interlocutors in the search for new questions to be asked on Québec’s past” (127). Some people see secularism as “a straightforward, unequivocal principle that prescribes the separation of Church and State, State neutrality, and by extension, the

confinement of religious practice to the private sphere” (133). However, more care must be taken to define these terms and prescribe how they might be useful to achieve the goals a democracy hopes to achieve:

Consequently, we must avoid confusing the laicization of a political system and the secularization of a society. While this distinction requires clarification, laicization is the process through which the State asserts its independence in relation to religion, while secularization refers to the erosion of religion’s influence in social mores and the conduct of individual life. (135)

As is demonstrated by the belief that a neutral state cannot employ people who visibly externalise their faith, Quebec’s common conception of secularism “defends to varying degrees an opinion or negative point of view of religion itself, which is perceived to be incompatible with the rational autonomy of individuals” (137). The commission’s report states that this is “highly problematical in pluralistic societies such as Québec” (137). Conversely, “a person can use his reason in the conduct of his life while maintaining a place for faith” (137). Even a judge is trained to disqualify themselves if they detect their religious biases may affect their judgement (151). For this reason, the report, in most cases, weighs in favour of people in positions of authority, like judges and police officers, wearing religious signs. After all, “a police force is likely to more readily gain the trust of a diversified population if it is diversified and inclusive” (151).

Banning symbols actually seems to work against its own goals: “The neutrality and separation of the State and the Church are not perceived as ends in themselves but as means to attain the fundamental twofold objective of respect for moral equality and freedom of conscience” (141). The point is to make sure institutions do not favour any

religion, but somehow this hope became a wish to erase religion from institutions. For instance, in schools, wouldn't students be better equipped to enter a diverse world if they were exposed to people from different cultures in school? Banning from teaching positions Jews, Sikhs and Muslims who visibly express their religions will surely undermine this goal as well as hopes for integration and equal opportunity. While wearing a symbol is often cast as a choice by opponents, like wearing a baseball cap, asking someone to remove a religious symbol interferes with their freedom of conscience, which is a freedom opponents of symbols claim to be working towards.

In 2008, the commission took a firm stance that "Québec's choice of open secularism has proven to be the right one." More restrictive secularism "could not be considered neutral since it favours individuals whose philosophical, religious or spiritual convictions do not demand the wearing of such signs" (148) especially when anyone not wearing a sign could easily display their religious convictions in speech while performing their duties (149). This makes the attempt to ban visible expressions of one's faith bizarre and far from neutral:

Why should we think that the person who wears a religious sign would be less likely to display impartiality, professionalism and loyalty to the institution than the person who does not wear such a sign? Why, therefore, dwell on external displays of faith?... Why think a priori that people who display their religious affiliation are less likely to take things into consideration than those who do not externalize their convictions of conscience or who externalize them in a much less visible manner (the wearing of the Catholic cross comes to mind)? Why

refuse one person the presumption of impartiality and grant it to the other one?

(149)

Prohibiting proselytism should be the goal, and not the sign. The authors raise the question that, in light of these issues, perhaps the goal of restrictions “stems from a suspicion or indeed an intolerance of religion in general or of minority religions in particular? Should we restrict on this basis certain citizens’ free exercise of religion?” (150). Such an approach “fosters community withdrawal rather than integration” (150) and, I will add, that this is likely an underlying goal.

The commission is quite firm that “In keeping with the rule of law and the imperatives of pluralism, the identity that we are edifying must be able to develop as a citizen culture, and all Quebecers must be able to invest in it, recognize themselves in it and develop in it” (22). Shortly after the commission published its report, including a white paper, various campaigns in defiance of the conclusions of the commission’s report became common among all political parties in Quebec. To begin, “The Quebec Liberal Party, which was in power when the ‘reasonable accommodation’ furor first erupted, attempted under Bill 94—legislation that was tabled in the National Assembly in 2010 but never adopted—to mandate that state services, including health care and education, must be given and received ‘with uncovered faces’” (Maltais 2022). This principle would succeed in 2017 and remain incorporated into Bill 21, which was put forward by the Parti Québécois under Quebec Premier and former Quebec Liberal Party member, François Legault. The PQ introduced a Charter of Quebec Values in 2014 which “would have prohibited Quebec’s more than half million public and para-public employees from wearing religious symbols, although ‘discrete crucifixes’ were to be

permitted. The PQ's supposed 'state secularism' law also contained numerous exceptions to 'preserve' Quebec's Roman Catholic 'heritage'" (Maltais 2022).

Islamophobia and antisemitism multiplied after and, finally in 2019, the PQ invoked the notwithstanding clause to override the constitution in order to pass Bill 21. Since Bill 21, religious minorities have reported a drastic increase in verbal and physical violence and among Muslim women, "78 percent reported a deterioration in their feeling of 'being accepted as full members of Quebec society'" (Maltais 2022).

The question arises, then, of why over a decade after the so-called period of turmoil, when religious accommodation in general was a central point of concern, these guidelines, proposed by a commission set out just for the purpose, were ignored. Neonationalist, far-right wing parties were elected, which are less likely to heed the callings of a commission previously formed. However, is it natural that these parties would make laws targeting symbols typically worn by non-Christians? They certainly do not claim to do so, but instead explain the separation between church and state as necessary, with the secondary consequence that some may be inconvenienced by this necessity. This report's document very clearly explains the impossibility of fostering integration in a society which infringes so harshly on matters of conscience and religious freedom. Yet, the government in Quebec deemed these concerns secondary to securing a French-language identity fantasised as threatened.<sup>11</sup> It has done so in an attempt to prop up a Master Signifier as the highest imperative: *laïcité*. The detours that

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<sup>11</sup> Although not explicitly labelled as the death drive, this fear of losing one's way of life along with a reaction to that fear appear in David Caudill's analyses of laws pertaining to hysteria. Most notably, "accusations of witchcraft" and witchhunts are discussed as having more to do with "accusers' hysterical reactions to social disruption" and an "unconscious fear of losing a way of life, not in a fear of witches" (1997, 87). What this marks is that mastery tends to follow a structure of death drive and desire for an object.

discourse takes as it circles around its object is an example of an identity alienated from itself, especially when it pretends to attack an overbearing Catholicism but slips by allowing crucifixes as the only exception to the symbols ban. What will be shown in analysis is that the death drive and the *objet a* are the unconscious forces steering this discourse.

### **Discourse and Bill 21: an analysis**

Transference is a central part of the Freudian discovery and it is the moment the analyst looks for in interpretation. As a discovery, it is not solely a concept functioning in the clinic, but a psychic function which can occur in the everyday or in major events in one's life. The analyst stands in for these real-life occurrences in which love or hate is displaced onto an Other long after a traumatic event. In this way, people come to stand in for and embody the big Other. An authority figure is in this sense always a big Other and dealings with this other are always masked in discourse. Of course, the provincial government of a French-speaking province will be averse to expectations of the Anglophone Federal power to hold the same values. But we can also say representatives of the federal government embody the big Other when it makes demands and threatens to impose its own values.

The topic of Bill 21 was debated in the Federal Leaders Debate of 2019 where it was condemned by Jagmeet Singh, leader of the New Democratic Party, and Justin Trudeau, Prime Minister and leader of the Liberal Party of Canada. Singh, a Sikh who wears a turban, stated his opposition to the bill, which he says is a "sad" reminder of "all the times I grew up being told that I couldn't do things because of the way I looked and I

think about all the people in Canada being told that they can't achieve more because of their identity" (CBC News 2019). This prompted a response from Bloc Québécois Leader, Yves-François Blanchet, who attempted to end the discussion before it can begin: "Everybody here has problems with the very idea of, I will say, '*laïcité*' because there is no exact translation for that word in English... But Quebec does not need to be told what to do or what not to do about its own values, nor its language, nor themselves as a nation" (CBC News 2019). This shutting down of discussion is much like the closing of the unconscious in analysis, in which some truth is veiled.

A master signifier lacks a signified and for this reason it carries power; it is resistant to questioning and interpretation but it nonetheless plays a role of mastery in discourse. It is the signifier that represents the subject for another signifier: "It is represented, undoubtedly, but also it is not represented. At this level something remains hidden in relation to this very same signifier" (Lacan *XVII*, 89). The guiding role of this signifier is in some sense closed off. It is the master's Demand to the other. Yet, it is separate from knowledge. At the level of truth, however, one finds the master signifier "insofar as it brings the master's order" (104). The truth is on the level of the *jouissance* of the subject, distinguished from knowledge. The master signifier shows "how something that spreads throughout language like wildfire is readable, that is to say, how it hooks on, creates a discourse" (189). It has its own appealing *jouissance* on offer from discourse. The question is, how does this master signifier of *laïcité* make political discourse readable?

In Chapter One, I pointed out the "deception that there is in the transference" and "This discovery is understandable only at the other level, the level at which we have

situated the relation of alienation” (Lacan *XI* 268). Quebec is placed in a position of constant alienation as separated from the nation which gave it its mother tongue and alienated linguistically as well as in its identity and agency in relation to the rest of Canada. When Singh stood in for those who are politically repressed (othered) by Bill 21 or, in other words, when he raised the notions of affect as someone victimised, unconscious desire and real effects of the law, Blanchet closed up further discussion like an analysand would in the face of a poorly timed interpretation. Transference, in its closing up, “is essentially resistant” and it is “the means by which the communication of the unconscious is interrupted” (*XI* 133).

When questioned about the effects of Bill 21, the master signifier is reverted to like a closing of a shutter. Its meaning is meaningless in this discussion. Not only does this signifier represent an attempt to hold together a unified identity and actually provide one that has been lacking since the Quiet Revolution and the decline of Catholic influence and values, but it expresses an anxiety and reaction to a perceived threat against the subject’s language. This ‘you can’t tell me what to do’ is utilised as an ‘I don’t want to know anything about that’ and it is a reaction to unconscious desire, strangely, as a response to Singh who stated he would not take action against the Bill if he became prime minister; he promised he will not tell Quebec what to do. The perception of the English-speaking federal government as the big Other, invoking anxiety, is apparent in this outburst, this breakdown of communication. Most importantly, Blanchet asserts ownership of the signifier, *laïcité*, as closed off to the other. This word which holds an identity together is entirely barred “because there is no exact translation for that word in English” and no attempt will be made to translate it or

explain it, or even to describe it in French. Subject formation and alienation from Being are a result of the imposition of the Other's chain of signifiers necessary for communication and it occurs traumatically at every stage of the drive and each stage in the dialectic of desire, with repeated impositions by the other to instil its signifiers. Demand is resisted and the resistance is repeated. This is how discourse functions throughout the life of identifying/alienated subjects.

The 'closing off' of access to the unconscious is a response to the implicit question pertaining to desire which Singh has implied: 'do you want people who look like me to be told they cannot do or achieve what you can do or achieve?' The structure of this question is that of the hysteric. David Caudill aptly states that "the hysteric as a 'revolting' (in both senses) outsider highlights the madness of those in control" (1997, 94). Hysterical questioning is almost the sole unmasking of power (unlike the university and analyst discourse, of which this dissertation takes part). However, as will be discussed in Chapter Six, what is important about the hysteric is that she keeps demanding answers. Also, the place of otherness is that of the feminine and "religious communities often occupy the place of the feminine Other" especially when they are "deemed to be irrational" (Caudill 1997, 148). Unmasking the unconscious of mastery takes time, and the "shutter" was vehemently closed in the televised debate. As the shutter closes, anxieties of identity, language and agency are revealed but the other is not. Communication breaks down but this closing up shows where to read repetition. As a reminder, the *objet a* is what causes the closing up of the unconscious (XI 133-134). The transference is the barring of the traumatic division of self and other resulting from

alienation and separation. It is a long-delayed response to loss resulting from law and it “leads us to the heart of repetition” (XI 69).

Although plurality was once a cornerstone of policy, recall that, in an attempt to ensure Quebec’s sovereignty, unity and linguistic nationality, the Parti Quebecois began drafting proposals which ignored concerns over immigration. Following post-9/11 Islamophobia, discourse surrounding religious accommodation became focused not so much on the values held dear after the Quiet Revolution, but on fears that the foreigner was threatening Quebec’s language and values. Perhaps the reason this political strategy is common and effective is that the death drive, or fantasies of the subject’s death, which Lacan articulates as the question, “Can he lose me?” are common, as Lacan would have it, is in the structure of subjectivity. Playing on the signifier of death, a signifier with no signified, is no doubt an effective discursive lure. Surely, loss of language is a legitimate concern and measures have been taken to counteract it, including, recently, attempts to make proficiency in French a requirement to migrate to Quebec. Although this should be a topic of concern, labelling it a crisis seems to be premature by decades: “Those who spoke predominantly French at home have been increasing in number but falling as a proportion of Quebec’s population since as far back as 2001, from 82.3 per cent to 77.5 per cent” (Andrew-Gee 2022). While the actual number of French-speakers in Quebec is growing, the *jouissance* of displaying reactions to perceived threats to identity are exacerbated. Although introducing the language requirement may or may not have an underlying goal of limiting visible minorities from migrating to Quebec, Premier Legault gives us something to ponder. Legault promised to reduce immigration to Quebec by 20% and only to those who

speak French (CBC News 2019b). However, what is telling is that in an interview he stated he would be looking to France, as well as to other European countries, rather than other continents (CBC 2019b). He does not provide a reason why he would not be looking to French-speaking countries like Algeria, Ivory Coast, Congo, Senegal or Haiti. While these are sources of immigration, Legault's claim functions like a slip in discourse, displaying an expectation or a desire, such as that people coming to Quebec ought to be of European descent or perhaps reflect European values. We cannot ignore the possibility that this desire is that migrants to Quebec should 'look like' old-stock Quebecois or carry a similar religious identity. Otherwise, why would he wish to close off the former French colonies from Quebec despite sharing a language? The reverse of this would solve the perceived problem of losing the French language in Quebec. It is these moments when the other is implicitly targeted that repetition ought to be looked for historically.

In terms of the values of laicity, recall that attempts to secularise were often directed solely at minority religions such as the requirement that all state services must be given and received with uncovered faces. In addition, it is peculiar that the values cherished since the Quiet Revolution pertain to freedom from Catholic influence and "unpleasant memories of the period when the clergy wielded excessive power over institutions and individuals" (Bouchard & Taylor 2008, 21) because the proposed PQ Charter attempted to ban all religious symbols with the exception of crucifixes in order to preserve the Catholic heritage of Quebec. Perhaps the old masters are still adored but, regardless, there is no contradiction in the unconscious. Although the form of prohibition passed into law does not contain this exception for Catholic symbols, the former motive

cannot be forgotten: to ban all 'other' symbols. Despite the expectation of laicity in politics, François Legault greeted California governor Gavin Newsom with Catholic pride when they met, asking if he was Catholic. Confirming Newsom is Catholic, Legault responded, "Me too. Of course, all French Canadians are" (CBC News 2019c) in the same year Bill 21 was passed. Legault suggested they talk about religious symbols and Newsom declined. Lastly, the values of pluralism of the late twentieth century which began to be neglected in policy are now openly shunned by Legault, who is openly opposed to multiculturalism so Quebec can have "one culture, the Quebec culture" (Magder 2022). It is difficult to imagine what this unified culture would be if it is not the Catholic heritage which occasionally wells up in political discourse. These moments are examples of repetition because they all offer *jouissance* in acts of unconscious animosity to Quebecers who do not fit into demarcation lines of identity, either in the imaginary (visibly) or the symbolic (specific values). Recall what led here. It was the point at which communication closed down in debate, the moment the analyst looks for in transference, and the closing down of communication occurred in response to the questioning from Jagmeet Singh, who wears a visible religious symbol. What the analyst must look for then is the intersection of signifiers pertaining to symbols alongside signifiers pertaining to laicity or state neutrality. What follows in these repeated moments is a failure to represent characteristic of the drive.

In Chapter One, I mentioned that repetition is "varied, modulated, is merely alienation of its meaning" (Lacan XI/61). Despite the seeming neutrality of the final Bill 21 document which was passed into law, it masks two repeated slips in discourse: 1) Catholic heritage as a unified ego-ideal, and 2) aversion to the visible minority other

perceived to threaten this ideal and its linguistic identity. I also stated that Lacan says that the “endless repetition that is in question reveals the radical vacillation of the subject” (XI 239), adding that the vacillation is the series of indecisive moments between Being and meaning, between alienation and separation. Because Being is always lost, discourse offers identities (Others) and aversions (others). Identity is offered and repetition is the endless cycle of vacillations between taking on I-identifications and the *jouissance* of facing the fantasy of death, including the death of the community as the death drive in discourse. There is a fantasy of the other as a threat to the self and this is a threat to the symbolic, to the language which is perceived to be the core of the self. This is the sense in which the symbolic is taken on by the subject in place of Being. When one has already lost Being, one represents the self as a signifier (which is why Lacan sees the subject as “represented by a signifier for another signifier”) and the trauma of becoming encapsulated in language carries the anxiety that the other will engulf the subject. Hence, it is language which is perceived to be at stake, which is aligned with the subject itself. This is not anxiety as a common expression as it was used in the *Report* by Bouchard, G. & Taylor, but in the Lacanian sense, it is a reaction based on fear of engulfment by the big Other. Subjects tend to want their own desires, rather than be told what to desire (such as the desire for plurality demanded by the Federal Government, included in the vision laid out by the Constitution). However, in Lacanian terms, one’s Demands and identity are not entirely one’s own, and forcing similarity and expelling *petit others* will not relieve the feeling of loss.

Loss of language is death. Resulting from the loss of Being in subject-formation is “an insistence that the story should always be the same, that its recounted realization

should be ritualized, that is to say, textually the same" (XI 61). In some sense Bill 21 is textually the same as the earlier attempts to stave off the perceived threat to identity. Repetition acts like a signifier but the "requirement of a distinct consistency in the details of its telling signifies that the realization of the signifier will never be able to be careful enough in its memorization to succeed in designating the primacy of the significance as such" (XI 61). While significations may not be accurate, the acting out is textually the same; repetition relives the same trauma. For this reason there is some variation of significations causing one to forget their aim as the act is transformed into a game, "giving it certain outlets that go some way to satisfying the pleasure principle" like Freud's grandson's *fort-da* game which "makes up for the effect of his mother's disappearance by making himself the agent of it" (XI 62). Lacan constantly brings up the *fort-da* game because it is an example of a traumatic loss which structures subjectivity and repetition of trauma throughout the life of the subject. The *fort-da* and the binary signifier are the reason subjects are responsive to discursive lures, like shared fantasies of death. In other words, the *fort-da* is the original contention of alienation/separation, the original response to the traumatic question, "Can they lose me?" Subjectivity repeats as a reaction to this question and discourse plays on the lack experienced in it.

Repetition is located in the closing up of transference and in repetition we have what Lacan refers to as "neurosis of destiny or neurosis of failure" or "good or bad fortune" (XI 69). From the "veiled meaning" of transference and the "accident" that is repeated, we are led to the drive. In this sense, one can read the drive as it functions through the two-part losange of alienation and separation. The *fort-da* game is a model for how alienation and separation respond to subject formation because the child

focuses on the loss of the mother by introducing an “ever-open gap” or a “self-mutilation” portrayed by the “cotton-reel linked to itself by the thread that it holds” (XI 62). This is “the basis of which the order of significance will be put in perspective. For the game of the cotton-reel is the subject's answer to what the mother's absence has created on the frontier of his domain—the edge of his cradle—namely, a ditch, around which one can only play at jumping” (XI 62). One is stuck in one's borders with their terror of being a self without the other. Infatuation with self in identification and emergence into the symbolic make up for this loss but the loss of Being is still reinvented in repetition. This is the response to alienation and separation which forms the drive. It is an attempt to re-present, a process which depends on S2 (knowledge) in the unconscious *qua* binary signifier, or a representative of representation. The reason Lacan speaks so much about the child in subject-formation is because subjectivity for him never ceases to repeat this structure of trauma. In endless cycles, repetition discursively acts out alienation and separation, which is why adults show up to analysis and often speak about their childhoods to better understand the unconscious of present day. In terms of this particular political discourse, this repetition can be seen in the separation from the linguistic Mother-country and the alienation from Canada which places expectations on its identity. The slips and repetitive speech-acts invoking *jouissance* are the focus of the analyst which can lead to the drive and the unconscious.

How can we ascertain this “form of return journey” (XI 181) around the hollow binary signifier between subjectivity and otherness in political discourse? Via repetition, one can read the failed representation of alienation which is the drive. The completed losange ( $\diamond$ , composed of  $<$ ,  $>$ ,  $\wedge$ ,  $\vee$ ), the remainder of alienation/separation, revolves

around the binary signifier. This is the drive which “redoubles its enclosed structure” and “nothing else ensures the consistency except the object, as something that must be circumvented” (XI 181). As Quebec constantly re-presents its lost mother and mourns its ‘sense’ of itself via detours in signifiers, it recreates the tensions of its lost self. The losange is a creative articulation which “leads us to make of the manifestation of the drive the mode of a headless subject, for everything is articulated in it in terms of tension” (XI 181). There are gaps in signifying investments that the drive needs to constantly be redistributed and it does so in an attempt at representation as a response to Demand and by proposing its own Demand. This is done amongst the infatuation with the ego-ideal and with its own obscure acts of articulation. By maintaining attention to repetition, such as sensationalised outbursts in media discourse or smoothed over contradictions like Catholic pride alongside hopes for state secularism, one can read the constant return structure of the drive in a detour around an aim.

One can read this articulation of a response to alienation from one’s mother (which provided its language) and the idealisation of this mother which is introjected as ego-ideal but also as a separation from the so-called ‘mother-in-law’ or engulfing mother: Canada. With the alienation from both, like the shedding of Catholic influence in government institutions and politics and its return in pride in Catholic heritage, alongside signifying articulations in response to a perceived Demand by the big Other (demands of plurality and Canadian identity), political discourse raises tension. This is how any political discourse can erupt in investments of *jouissance*, by creating tension, which is one of the crucial lessons from Freud’s *Beyond the Pleasure Principle*: the unconscious does not simply want pleasure or decreased tension, but to re-enact unpleasant trauma.

The drive is the process whereby tension is recreated, but it needs an object to detour around in this constant continuation of desire. Sarkozy's remarks in Quebec against sovereigntism would have revived the question, "Can the big Other lose me?" In Lacanian psychoanalysis, that which is repeated and the return of the repressed are one and the same; the return is ascertained in language in the present. In other words, discourse creates the repetition. The importance of this formulation here is that discourse surrounding identity and otherness in Quebec revolves around a death drive, a fantasy of death, retroactively defined. This is why trauma and the structure of alienation/separation is constant in discourse as fuel for the drive, which does not seek satisfaction, but *jouissance*. Political *jouissance* allows any subject to keep on desiring while enjoying an ego-ideal and the tension involved in the threat to the ego's seemingly unified identity, in relation to  $S(A)$ , at a distance from the *objet a*.

The drives are normalised and repressed via permitted transgression. Recall that the signifier is the introduction of prohibition and "the course of the drive is the only form of transgression that is permitted to the subject in relation to the pleasure principle" (XI/183). In Chapter One I stated how the subject relives alienation/separation through the drive; I said, "Transgression is a relation to law which is inscribed in signifiers. The beyond of the pleasure principle is this detour around the object in fantasy, in the completed loss of alienation and separation" (44). Permissible transgression of the big Other's Demand via the signifying turn around the small other is the response to loss of Being via the signifier. In terms of discourses leading up to Bill 21, consider what I wrote in Chapter One:

Alienation, which Lacan refers to as “the lethal factor,” condemns like a law-giver and separation is “juridical” (XI 214). Together these terms make up the losange which Lacan calls the drive. The legal nature of the losange is why Hegel’s master-slave dialectic is important for Lacan. When the law-giver says, “*freedom or death!*, the only proof of freedom that you can have in the conditions laid out before you is precisely to choose death” (212). This is why the encounter with the other is responded to with the “phantasy of one’s death, of one’s disappearance” and the question to the Other, “*Can he lose me?*” This is a response to discourse, the discourse of the Other, which has lacks that are “mappable” by the subject who asks, “*He is saying this to me, but what does he want?*” This is how “One lack is superimposed upon the other.” (45)

Perceived injunctions lead to phantasy of death: hence there is a phantasised crisis of loss of identity and language. Regardless of whether it would be good or bad fortune, or whether it will happen, the idea of Quebec separating from Canada is enjoyed as an act that raises the question, “Can the big Other lose me?” The subject’s lack and the question of what the Other lacks, then, are revolved around as the drive anxiously articulates the loss of self and transgresses Demand, real or phantasised. This is how castration is constantly re-enacted.

One final point about the drive must be considered in order to lead us to the unconscious: the reversal. Amidst the tensions and transgression are linguistic reversals. What seems entirely unconscious in the master’s discourse is that identity is threatened. Considering Freud’s “Instincts and their Vicissitudes” (1915), one could wonder if guilt is felt for (a) expelling Catholic influence which might lead to (b) the

object “given up and replaced by the subject’s self” and, ultimately (c) “an extraneous person is once more sought as object” (Freud *XIV* 127). The agency at work here is the Lacanian lamella. This is the linguistic nature of the drive as it revolves from active to passive and back again; the grammatical reversals are the basis of phantasy. What returns in this discourse is the phantasy of being annihilated while unconsciously, actively annihilating an extraneous object, which is a transgression on a cultural level but tests the limits of political prohibition as a permissible transgression. This other is the cause of desire, abjected from discourse but entirely depended on for the *jouissance* of the phantasy of loss of self, revolved around in the drive. This other wants to speak, wants to question why it is being expelled from the imaginary and symbolic but all the master is willing to provide is a master signifier, in this case: *laïcité*.

What psychoanalysis shows, however, is that the drive cannot be satisfied by “snatching at its object” (*XI* 167). It is an “encounter forever missed” (60). Like France, with whom a percentage of Quebecers identify, Quebec will have to continue pursuing further policy, further strengthening its laws until minor eruptions of *jouissance* take place, and then continue still further because *jouissance* always “begins with a tickle and ends in a blaze of petrol” (Lacan *XVII* 72). Political discourse in its *jouissance* offering will endlessly attempt to keep repeating, circling, completing the discourse with signifiers because it is never completely satisfying.

The reversal and transgression in the acting out of the drive which turns around the *petit a*, which we ascertain in repetition, which we look for at the moment of transference, all lead the analyst’s discourse to the unconscious. What we find there is the *objet a*, phallic *jouissance*, and the death drive. The drive is ultimately “bound up

with death” which is “its final term” (XI 177). However, the unconscious does not know death, aside from the loss of Being which is covered over, and every drive is in the “zone of death” (199), which is “nothing but a signifier” (257). This first object for the subject is the phantasy of death: “*Can he lose me?*” (205). Death is the first of the superimposition of two lacks and it is a signifier which is in the field of the other, with the Other’s lack as the second lack. What is lost in this dialectic is the phallus, which is why Lacan compares the skull in *The Ambassadors* to an erection (88). The phantasy of the subject’s disappearance (or separation, including in the sense of separatism) pertains directly to castration, whereby the Other is perceived to possess the phallus. The donning of the non-existent phallus is the master’s mask, masking the truth that the subject is castrated; it is the chasing of illusory, elusive satisfaction. In this sense, the phallus mediates the impossible profession of politics. This is the fundamental concept of the unconscious as it leads to the *objet a*.

The reassertion of phallic *jouissance* in the face of castration pertains to loss of Being and loss of the primordial other, this object always in between subject and other. Cultural and political analysis should not overstate the ability to read the real because each subject is irreducibly particular and there is always a real lost to the symbolic. However, this is not to say that nothing can be retrieved from the hole in the symbolic. In this case, what is expelled from the master’s discourse is the particular groups who are most affected by the master’s decrees. In this Demand theory of law, we can say that the unconscious is the discourse of the Other which relies on the small other. The transgressions and assertions of the phallus, assertions of identity and perceived threats to it would all lose their *jouissance* and lose all meaningfulness in discourse if

there was not someone the law was directly excluding. In one sense it is a phallic assertion to the big Other but this only holds up as a phallic position because the embodiment of the Other disapproves of the real effects on people who were born and raised in Canada or come to Canada seeking multicultural values. This can be seen when Singh positions himself here, like a hysteric questioning the master, asking, *what am I to you?* Hence, those who actually wish to have a say in the discussion and plea for help from the federal government are caught up in the discourse as the *objet a*, the object between subject and other around which the drive turns. Let us not forget Lacan's claim that the unconscious reserve is "to be understood in the sense of an Indian reserve—within the social network" (68). The unconscious is what is part of the network but refused access to it like in conquest and its resulting oppression. This conquest is the primary process which has been turned onto another object. There is a space for the unified identity and a space has been created in symbolic law to stave off encounters with the real cause of desire based on the imaginary (i.e. visible difference).

Although phallic *jouissance* has been addressed, two obvious and overlapping concepts in Lacan are missing here: ~~Woman~~ and symptom. ~~Woman~~ (as barred and not-whole) coincides with the *objet a* but also is often identified with Lacan as man's symptom. In this sense, the *objet a* is man's symptom, that which appears as the subject's discontent. The discontent seen in society surrounding accommodation and specifically Bill 21 is the protests attended predominantly by Muslim women, who tend to be the largest, most affected and most vocal group in opposition to the Bill, despite rarely being acknowledged by the master's discourse. Symptoms are why analysands generally show up for psychoanalysis but the discourse being critiqued here does not

question its own unconscious. Instead, Bill 21 is questioned by those who are most affected by it, those who vocalise and appear as society's discontents. Allied with side of the *petit a*, the symptom which must be analysed in discourse, and the feminine other, Critical Unconscious Studies, as a form of Demand Theory of Law, is an attempt to symbolise the libidinal investments causing underlying symptoms to arise. In doing so, it is the hope that a cure can be proposed, or at least help hysterical questioning continue until knowledge is produced.

### **Identification and Cure**

A crucial purpose of this case study is to make it clear that a Lacanian discourse analysis should not be confined to whichever analytic concept seems useful at the time. Analytic treatment has directions, which are not often made clear, and it is essential that a structure of subjectivity is kept in mind, with its remainders and holes. This is why I have emphasised the subject in tension with a big Other and the *petit a* at all times, both as ex-sisting, as Lacan says, to demonstrate that many of these concepts are never solely the subject nor the object, but in between. I once again reiterate a central point I made in Chapter One:

The entry into discourse and the loss of the primordial object, then, is not just a structure of law and desire. It is a structure of identification which responds to law's injunction disrupting access to the object of love. *Petit a* others will become ego-objects and drive-objects in a manner that responds to the Other of the law.

(34)

The direction of treatment I have laid out concludes with identification in relation to the law, which is why this analysis, in concluding, arrives at the fifth fundamental concept: Identification.

Like the process of a clinical analysis, we will work backwards. The second stage of identification arising in subjectivity, “introduced by the process of separation,” (XI 257) is uncovered first in analysis. The privileged object of this second stage is “the foundation of an identification disavowed by the subject” (185). This object is the sexual response to the phallus which makes “present the presence of death” (257). The sexual question of, *what makes me worthy of love?* is the possession of the phallus and its corollary is this privileged object, a disavowed identification: the *objet petit a*. The first step towards political health here is to dialectise the drive here, in order to live the drive. This implies recognizing the effects of disavowal, and considering the possibility that Bill 21 has the goal of excluding the other from a supposed self-identity. Towards the end of *Seminar XI*, Lacan discusses the drive with an example of exoticism, as a subject has a desire for the waitress at a Chinese restaurant, rather than the menu. What the subject learns in analysis is that his desires will not be satisfied, and “the most he can expect of it is to organize his menu” (269). Experiencing the *petit a* as the drive is to live it, to symbolise it and disentangle this disavowed object from “the ego and the ego-ideal” (272). Only by symbolising this identificatory desire can the subject free itself from the death drive: “This *a* is presented precisely, in the field of the mirage of the narcissistic function of desire, as the object that cannot be swallowed, as it were, which remains stuck in the gullet of the signifier. It is at this point of lack that the subject has to recognize himself” (270). The narcissistic relation to the *petit a* is the question in this

stage of identification and it must be undone. If the discourse on accommodation is to return from restriction to plurality, it will be because people disentangle identity from the big Other (both prohibitive and ego-ideal) and relinquish death drive phantasies.

An analysis can come to an end after the “crossing of the plane of identification” (Lacan *XI* 273). The ego-ideal and idealisation of the maternal Other the subject is alienated from, which occurs in primary narcissism, must be dispensed with. Is Quebec France? Is it equivalent to its “privileged signifier” as its “reference points” (*XI* 257)? This is not to say doubt about the value of links, bonds, similarities, shared language, shared culture, shared history, and mutual love that Quebec and France may share. But holding onto an idealisation based on a previous oneness prevents the subject from taking ownership of its agency. Since the Quiet Revolution, Quebec has been a miraculous success story as it asserted ownership of its resources and raised the population out of poverty. However, is it acting against its own interests by limiting immigration and making restrictions which would make much of the world’s talent ineligible for labour in Quebec? Are these policies able to accomplish much other than chasing the *jouissance* of creating boundaries with people who look different from the ego-ideal? This could be much like an analysand attempting to relive trauma, beyond the pleasure principle, in the name of a signifier, *laïcité*, which is being applied as a way to attempt to satisfy the drive, which can never be satisfied.

It must be acknowledged that political discourse tickles the subject’s desire. A possible goal might be, not to make Quebec less like France or more like anglophone Canada, but to encourage acceptance that Quebec will never be either. There are identities and competing notions of the good offered, and subjectivity tries to manage

this chaos. The competing goods surrounding this debate are like Creon and Antigone. One is the master who utters commands and the other, hysterically questioning, is a producer of knowledge hoping for a practical ethics. As I pointed out in Chapter Two, Antigone's fate was a second death, to be dead to the symbolic in life and this is the result of the other in the age of Bill 21, to be closed off from public space and political discourse. This paper does not aim at a simple cure because, in light of competing goods, Lacan addresses the difficulty of any cure:

But in that case what do you want to cure the subject of? There is no doubt that this is central to our experience, to our approach, to our inspiration—wanting to cure him from the illusions that keep him on the path of his desire. But how far can we go in this direction? Moreover, even if these illusions are not respectable in themselves, the subject still has to want to give them up. Is the limit of resistance here simply individual? Here the question of different goods is raised in their relation to desire. All kinds of tempting goods offer themselves to the subject; and you know how imprudent it would be for us to put ourselves in a position of promising the subject access to them all. (*VII* 219)

The analyst cannot promise satisfaction or freedom from conflict. The subject has an ego and desires, each of which are difficult to give up and regardless of the analyst's hopes, the subject must desire change. Cure is not an easy task and, moreover, "in analysis, cure is an additional bonus...It's quite certain that our justification, like our duty, is to improve the subject's position. But I claim that nothing is shakier, in the field we're in, than the concept of cure" (56). This paper cannot offer a cure, but at best, the chance to shake up a discourse and generate more discussion, with a glimmer of hope

that the *objet a* will be propped up, hold a greater share in the discussion of their concepts of the good, and that individual subjects will be willing to consider the role of ego-desires when they form political opinions surrounding laws like Bill 21. Hopefully the other can become a symbolised part of discourse. If taken up and discussed, this paper could function as an intervention, and an intervention aims at “rediscovered knowledge” which is discoverable in love, which lives “beyond” or “outside the limits of law” (XI 276). Hopefully, each democratic nation can accept that becoming something new, free of idealisation of an Other, does not need to evoke terror in the phantasy of death, but that turning to new objects in love can bring ever-new identities which could be more fulfilling than the fiery *jouissance* of anxious desire.

Chapter Four:  
Sexuality as Economy:  
Legal Fantasies of Sex Work and Their Real Effects

As soon as man arrives somewhere, he builds a prison and a brothel — that is, the places where desire truly is — and he waits for something, a better world, a future world.

—Jacques Lacan, *Seminar V*, 161.

### **Introduction**

A perfect example of a psychoanalysis of law was performed by Amy Adler, who read decisions of supreme court cases (in the city of Erie, in the year 2000) pertaining to a nude dancing establishment. Adler describes two levels of hysteria: 1) the “the stripper who emerges in the Supreme Court opinions is a direct descendant of Charcot’s hysterics,” and 2) the court itself as hysterical. Adler analyzes a court that, in the face of performative sexuality, “seemed embarrassed, worried about its own authority” (2007, 298). She diagnoses the courts in nude dancing cases as hysterical in their judgments due to its “fantasies and anxieties surrounding female sexuality” (299). They attempt to determine the extent to which dancing constitutes speech and whether it warrants protection under the First Amendment, deciding it is only marginally to be considered speech. These fantasies put the dancer in the same position as Charcot’s hysterics,

who invented hysteria as a live theatrical performance. In its decisions, the court agreed on almost nothing amongst themselves, reflecting a “doctrinal *polyglot*” and evoked “the ‘evil’ of public nudity” and justified its decisions based on secondary effects, such as disease, drugs, violence, debasement of women, prostitution. Of course, prostitution is here considered a natural evil. The court’s hysteria is then found in “inability to speak in a unified voice” but instead in “a confusing array of multiple languages” (312). Adler concludes by pointing out that the dancer may have reminded the court of its own hysteria: “Perhaps this is the true danger of the dancer: her threat to the fantasy of a coherent First Amendment discourse” (313).

The court was ambivalent about the dancers. The disapproval of the dancer, even with the establishment’s rule that patrons may not touch the dancers, are a mix of delight in the harmlessness of the stripper alongside fears and anxieties, as though the stripper is a sickness. Strangely, a number of jokes and puns reveal the court’s *jouissance* in its condemnations:

Judge Easterbrook's opinion in the Seventh Circuit was particularly jocular in tone as he made repeated puns about clothing and nudity. He wrote, for example: "Members of the majority say that Indiana's interest in clothing is *tissue-thin*." Again he punned: "If nude dancing is 'speech' it is so by the *barest* margin." And again: "nude dancing is not always *clothed* with expression." Judge Cudahy, also in the Seventh Circuit, punned about the "*unadorned*" meaning of the speech. And even the Supreme Court, in a highly unusual departure from its normal style, indulged in its own word play when Justice Rehnquist wrote for the plurality: "Indiana's requirement that the dancers wear at least pasties and G-

strings is *modest*, and the *bare* minimum necessary to achieve the State's purpose." (Adler 305)

The court agreed dancing was "speech" but only marginally so, and was not protected by first amendment rights. The notion of whether nude dancing itself was morally or legally permissible hardly enters the discussion. The court detours around sexuality in its condemnation, desiring exactly that which it expels. The symbolic covers over the main issue when sexuality is discussed in law.

The purpose of this chapter is to consider the precarity of sex work with reference to the law and political discourse. Fantasies abound in discourse pertaining to laws criminalizing, otherwise prohibiting or regulating sex work. What political discourse often does not consider is that, while it perceives sex work to be dangerous, the law is often the reason that sex work is dangerous. Sex work is addressed by law differently in different countries, some of which see it as an inherent evil, others which see it as inherently victimizing, and others which are quite open to it. What is beginning to be considered is that the voices of sex workers themselves are being considered in political discourse, and studies and news sources which interviewed sex workers will be addressed later in this chapter. Sex workers who discuss the varying laws worldwide pertaining to sex work will also be addressed later, who explain that full legalisation is imperative for the safety of sex workers. This chapter merely hopes to reinforce these voices from a psychoanalytic perspective, demonstrating the use of Lacanian theory for political discourses when they attempt to govern desire and sex.

To be more specific, this chapter makes two major claims in terms of psychoanalytic theory, with one corollary suggestion that is discussed in detail with the

hope that it will be practiced in the political realm. The first claim in this chapter's thesis is that the economy of desire, which is unformulated in Lacanian theory but constantly mentioned, is the repressed order of sex, which is constantly covered over by a fantasy of a true, natural, harmonious sexual relation. Therefore, this chapter will also set out to conceptualize this economy. What follows is the claim that fantasy (especially in a political context) demonizes or otherwise 'others' those in the 'desired' or 'feminine' position of providing the only type of sexual encounter that reveals this truth: sex worker. This has cruel effects that victimize sex workers even when there are aims to help them. The corollary is that rather than fantasize, political discourse ought to include the person who is generally othered, and listen to the people it addresses: the sex worker in this case.

To be othered is the realm of the feminine. Therefore, it must be mentioned how economy conceptualized in Lacanian theory. Lacan laments in *Seminar XXIV* that "nothing is more ambiguous than this notion of economy" (116) which he uses throughout his career, and he makes no attempt in this moment to clarify the term. This chapter is an attempt to clarify this notion to a degree, focusing on sexuation. In everyday life and in discourse, the difference between the two sides of the graph of sexuation is at the heart of what is at stake in a desiring economy. There is an absence at the core of linguistic exchange, and at the core of subjectivity, which allows for desire to function as an economy. One of the most important statements in Lacanian clinical practice is, "There is no such thing as a sexual *rapport*." Another way of putting this is that there is no harmonious whole or symmetrical relation between sexes (one cannot simply say, 'I am a man because I'm not a woman' or vice versa). Two sexes do not

complete each other. They do not exist in fruitful union. Both are in some way characterized by their own lack. This is central because so many analysts tend to attempt in vain to build an identity based on a romantic partner's (or another other's) possible belief of who they are. However, something is always lacking in the Other's discourse. In this way, anyone who is desired can be placed in a feminine position, that of being not whole for a subject. For this reason, when Demands are made on a loved one, even a desire to be heard, something under the surface is exchanged and something in the message is lacking; love is a debt for Lacan and one cannot give their self to another.

Another term that must be properly defined is the feminine. First, this chapter will build on an understanding of being feminized as being unable to fully articulate one's identity or desire, which will become clear as the understanding that all sexuality is an exchange of value with a surplus (the phallus or the object small a). Secondly, Lacan's explanations of the symbolic order as perverse and depending on the exchange of the phallus will be elucidated, with subjects desiring the phallus or taking its position as object (according to a side of the graph of sexuation). Lacan repeatedly emphasises a place on either side is not based on biology. For instance, he says, "What is at issue when sex is involved is the other, the other sex, even when one prefers the same" (XIX, 134). Anyone can be placed in a feminine position in discourse and some may choose the position of desired other, even as an unconscious or forced choice. This is an economy that the fantasy of the sexual relation covers over and represses; it denies the economy of the drive in typical romantic or sexual encounters. The implication, finally, is that fantasy has damaging effects on sex workers by assuming it is out of the pale of a

'normal' sexual 'relationship' as though there is such a thing; it is demonized as if it is the only sexual encounter that is economic. The final point being made is that legal discourse on sex work must listen to the other rather than being conditioned by fantasies surrounding this other. This is an imperative to work towards a solution to the problem Žižek articulates as Lacan's lesson: "man can relate to woman only in so far as she enters the frame of his fantasy" (2008, 135).

I have touched on the feminine as a position anyone can be placed in (although it is discursively more typical for women to be 'othered' in this way than men). The place of the feminine, or ~~Woman~~ (a signifier with no settled signified, or a concept with no essence, always barred), in Lacanian theory is a contested topic among Lacanians. It could be the idea that some people have enjoyment that is not fully submitted to the symbolic order (that which can be articulated), as opposed to phallic enjoyment which takes as its model the dictates of the phallic, symbolic order. Copjec states that when it comes to ~~Woman~~, Lacan says "that her existence cannot be contradicted by reason nor, obviously, can it be confirmed. In other words, he leaves open the possibility of there being something—a feminine jouissance—that is unlocatable in experience, that cannot, then, be said to exist in the symbolic order" (1994, 224).

It could also pick up on the Lacanian phrases that ~~Woman~~ is man's symptom, or that she is in the place of god, or simply that there is no Platonic form or essence of ~~Woman~~, that there is no set of all women with one clear definition. Copjec says something similar: "That is, it is only by acknowledging that a concept of woman cannot exist, that it is structurally impossible within the symbolic order, that each historical construction of her can be challenged" (224). There is no essence that suits all women;

the symbolic fails with respect to women. However, this also means that ~~Woman~~ “is not susceptible to the threat of castration” and therefore she is partially outside the bounds of the phallic function which causes the desire of those positioned on the masculine side of the graph through prohibition. In a sense, ~~Woman~~’s enjoyment is more free.

However, ~~Woman~~ is also aligned with the *objet petit a* in the sense that the desired other is a metonymic stand-in for the original lost object, which is the maternal other (both the primary caregiver, or the lost breast and feeling of presumed wholeness, and the first to instill language and law through her absence). This last sense is concisely stated by Joan Copjec: “If the woman does not exist, this is because she cannot be refound” (1994, 226). The object *a* as the remainder after alienation/separation is also the reason Zizek can say that for Lacan, “a beautiful woman is a perfect incarnation of man’s castration” (194). This is because “woman does not exist, her signifier is originally foreclosed, and that is why she returns as a symptom of man” (78-9). This description is beyond the body because, in Colette Soler’s words, “but has to do with whoever has the woman symptom in the relation between the sexes, she who lends herself to be a symptom, a body symptom, an event of jouissance for another body” (2018, 58). This is why Soler claims Joyce is in the feminine position: he offers himself “for feeding upon, the way a woman does” (58).

Discourse surrounding sex work holds many contradictory fantasies about the sex worker. In *Revolting Feminists: The Fight for Sex Workers’ Rights* (please note the pun implying both being in a state of revolt and being ‘revolting/disgusting’ in society’s eyes), Juno Mac & Molly Smith, two sex workers/sex work scholars, dismantle multitudinous assumptions about the sex worker, from reactionary, liberal, and anti-

prostitution feminists. They rely on case studies globally, statistics, NGO campaigns, news media, feminist texts and testimony from sex workers from every continent (excluding Antarctica). These authors begin by reminding us that sex work is not so otherworldly as discourse presents it:

Sex workers are everywhere. We are your neighbours. We brush past you on the street. Our kids go to the same schools as yours. We're behind you at the self-service checkout, with baby food and a bottle of Pinot Grigio. People who sell sex are in your cafeteria, your political party, your doctor's waiting room, your place of worship. Sex workers are incarcerated inside immigration detention centres, and sex workers are protesting outside them. (2018, 1)

Mac and Smith emphasise the “diversity of experience” in sex work (37). For instance, some sex workers believe it is only for “sex positive” women and “deny that it can be a site of abuse,” or blame the worker if it is (34). Others have no other choice. Sex positive politics, the notion that both worker and client are there for intimacy and erotic experience however, is often an illusion, a fantasy covering over the idea of work, because “Raising the subject of worker's needs (for safety, money, or negotiating power) would spoil the illusion” (32). The fantasy and the Demand for policy intervention are a conflict of interest and the fantasy of mutual enjoyment is exactly what Lacan would call the nonexistent sexual relation or, in *L'Étourdit*, the “ab-sens of the rapport” to emphasise the externalised meaning-making involved in sexuality; sex is abject meaning and not a real relation, meaning that a subject cannot access the o/Other through sex. Sex workers are put in a position to masquerade, to maintain the fantasy: “These politics produce a further category of ‘things we cannot say’ — the perspectives

of sex workers who hate sex work. For the Erotic Professional, the figure of the unhappy sex worker becomes the unacceptable 'other' who must be disavowed at all costs in their own fight for social acceptance" and the concept of trauma is dismissed (33-34).

In another vein, feminist discourse occasionally co-opts the sex worker as a symbol in women's liberation, as though the sex worker is a representative of all women victimised by men. Mac and Smith caution us against this: "The difference between prostitutes and non-prostitutes... is fundamental not because of *identities*, but because of the *material conditions* of those who sell and trade sex" (38). Sex work is sex but also work, despite the discursive opposition between the two. There is a diversity of experience among sex workers, but also a diversity of fantasies in politics and culture. Fantasies, even well-meaning assumptions about sex work, are determinative reasons for misguided policy, and laws which attempt to rescue the sex worker from victimisation are often the cause of victimisation.<sup>12</sup>

This chapter will progress through the following path. First, it will delineate the function of the feminine for and in masculine, that is, phallic, discourse (in Lacanian theory). Second, it will emphasise discourse as characterised by a perverse economy of desire, the very economy that positions ~~Woman~~ as ex-sisting in the symbolic. Thirdly, the role of phantasy pertaining to sex work will be shown to follow the same structure of expelling the feminine and covering the truth about the economy of desire in the symbolic. Lastly, the voices of the expelled other of sex work discourse will be

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<sup>12</sup> It must be noted that many of the fantasised ways of symbolising any understanding of sex work tend to conflate it with sex trafficking. Although the distinction can be fluid, and although some people are or perceive themselves to be forced into sex work, especially institutionally, or based on poverty, this chapter is about sex work as a form of labour distinct from human trafficking. The conflation, which finds its way of being written into law or enacted in policing leads sex workers to be disadvantaged. While human trafficking must be taken seriously, the assumption that sex workers are always victims is generally not helpful for sex workers.

discussed as a corrective to the phantasies common in political discourse pertaining to the sex trade. Political discourse is a mastery that keeps the object and any recognition of the economy of desire at a distance. It is this distance and phantasy which hides it that endangers sex workers, despite the phantasy that it is an inherently dangerous trade. Therefore, full acceptance of the other is required. This will be a demonstration of one form of otherness in political discourse, while there are others.

### **Discourse and the Feminine: ~~Woman~~ in the Phallic Order**

For Lacan, the sexual relation is the fantasy of completeness, including acceptable forms of love, bonds in matrimony, and many variations of a theme as old as the Ancient Greeks. The clearest example is Aristophanes who purports that each person was once half of a sphere looking for the other half to complete them (and, additionally, Lacan dislikes spheres as metaphors for subjectivity). The discourse of the unconscious even believes this with regard to a form of love Lacan calls the *jouissance* of the body; this is the idea that one will be complete if they attain the object of their desire. In this situation of constant incompleteness, whereby the subject can never have a sexual relation, the feminine is that which is desired, a signifier whose place is constantly shifting. This is where Lacan builds on the idea of “being” the phallus. In this sense, the desired object is both excluded from and foundational for the symbolic, which explains Lacan delineating ~~Woman~~ as man’s symptom, but also as God (who is a foundation of perceived order, yet unknown). It is important to note that this demarcation of the masculine or phallic, and the feminine is not based on biology. Lacan is concerned with the subject’s place in the symbolic and the phallic signifier “has nothing to do with actual men and much to do with the function of division in language,” but

instead, “sexuality is a masking process learned through the dynamics of identity and language” (Caudill 1997, 108). This leads to a liberating hope for changeability in discourse when it comes to sexuation. Similarly to the role of the other in Chapter Three, there is a role of otherness in this discussion, which benefits from Lacan’s notion of the feminine. Subjects excluded from discourse occupy a place of the feminine, and the excluded is unconsciously or fantastically at the heart of the discussion.

Reflecting on *Seminar XX*, Paul Verhaeghe captures the conceptual overlap between the not-whole ~~Woman~~ and the not-whole of Otherness. ~~Woman~~ does not occupy the place of the Other of the signifier because this is phallic pleasure and “the part that enjoys involves the not-whole part... the not-whole within the Other, meaning that part of the Other that is other, that is not completely covered by the Other of the signifier” (112). The symbolic places ~~Woman~~ in the position of desired other, and this places women in a position to respond to that extimate place. This is why Lacan often takes up Joan Riviere’s term for femininity as masquerade. Colette Soler says that the response of the desired other “is thus the masquerade that adjusts to the Other’s demands in order to captivate that unknown named desire” (2002, 103). This does not always imply that one satisfy demands, but that one consider their relation to them. The symbolic positions ~~Woman~~ as the phallus in the sexual couple, the one who is desired, and “her position as the partner of masculine desire, leaves the question of her own desire unanswered” (Soler 105). In other words, there is a lack of signification in being one who is desired. While femininity in Lacan is conceptually much more than this position, each side of Lacan’s graph of sexuation has a relation to the symbolic (and, therefore, to the phallus) and an explanation for the way the other’s desire is excluded

from the symbolic can be deduced from Suzanne Bernard's description of the masculine:

he must remain at a certain distance from the object of his desire in order to maintain his sexual position. This is what Lacan refers to as the risk of annihilation that the masculine subject takes in approaching the object. In other words, for the masculine subject, the flip side of the fantasy of the "One" is the horror of a loss of being (existence) evoked, ironically, by a recognition of lack in the Other. Hence, within the logic of masculine structure, the gap between the symbolic and the real must be maintained in order to protect the subject from a loss of being. (180)

Discourse puts the other in the excluded position to maintain desire for subjects fitting into the masculine position; this provides an unconscious motive to other the object of desire. The sense of completion (which is impossible) of attaining the love object must be staved off. Thus, the symbolic depends on the excluded element, and some have the forced choice of being in an othered group so the masculine can hold its desiring identity together. While feminine *jouissance* does not belong to the symbolic, femininity is also the characteristic that one *be* the phallus, to be that which is lacking and desired. Discursively, exclusion is never far from the cause of desire.

In addition, what is excluded is required by discourse in the name of surplus *jouissance*. Therefore, "while the masculine subject struggles to maintain a proper distance with respect to the object, he nevertheless suffers from an excess *jouissance* produced within the trajectory of his vacillation, within the to and fro of the repetitive circuit of drive" (Bernard 180-181). What is pathological about masculine subjects

(those fully enveloped by the symbolic) is that a space for a distance from the desired other must be maintained. This is what is destructive and ambivalent about *jouissance*. This struggle is what covers over the impossibility of the sexual relation; one can fantasize about whole-ness while never admitting one's lack. Colette Soler explains that this is one point where Lacan goes beyond Freud:

Of course, Lacan emphasizes the relation to her desire rather than the demand she addresses to a man, but he maintains a definition of feminine being that involves the obligatory mediation of the opposite sex. If we ask what condemns her to this "relative" being, the answer can be found simply enough: in a heterosexual couple, the man's desire, indicated by his erection, is a necessary condition. The so-called sexual relationship puts masculine desire in a primary position. (102)

If we recall that what is active about the masculine position is that it takes the position of agent in the master's discourse, Soler's notion of the man's desire makes better sense. The law-giver is that with desire. The object is a fantasised version of a real other, put in a passive position of completing the law-giving desirer. Soler adds that "Accordingly, a woman, if she wants to inscribe herself in such a relationship, can only be called to the place of the correlate of his desire" (102). Culture and discourse pretend this is not the case, with the notion that when one has sex it will be perfect (as it often seems in film), but this fantasy of perfection and completeness covers ~~Woman's~~ real place in the symbolic.

A man is "whole" in the sense that he is wholly within the symbolic, in relation to a designated limit: "Hence, masculine or phallic *jouissance* is produced within the

structure of a finite logic—as a closed set determined by a fixed limit that remains outside of or “extimate” to the set itself” (Bernard 177). This limit is the fantasy of the primal father, who is not subjected to the phallic function, and enjoys infinitely. To believe in this exception not subjected to the law subjects (in the legal sense) the subject to/within the symbolic while he maintains a distance from it (Bernard 177). There is also something about ~~Woman~~ that aligns with this limit because “it is in this light that Lacan’s equation of ~~Woman~~ with the phallus can be perhaps most easily understood; the phallus is at once both the signifier of enjoyment and its negation. Hence, what the masculine subject does not recognize is that because ~~Woman~~ does not exist, phallic jouissance is limited by the remainder that forever escapes, that forever eludes his pursuit” (Bernard 177). In a sense, this is the meaning of the subtitle of Lacan’s seminar on feminine sexuality, “the limits of love and knowledge.” ~~Woman~~ is the object of desire and the unknowable beyond of the symbolic: “Thus the deterministic, repetitive character of desire as it plays out in and through the symbolic functions only within the frame of a certain finite logic, one fixed by a constitutive exception. Moreover, it is an illusion that Woman as man’s symptom (e.g., the Lady, the Virgin Mother, etc.) is put to work in support of” (Bernard 177). For both the masculine and the feminine side of Lacan’s formulae of sexuation, the other side plays a formative role.

~~Woman~~ is beyond, is capable of infinite/unknowable/inarticulable *jouissance* for the reason that she is the fundamental fantasy of the symbolic itself. However, ~~Woman~~ has a position within the symbolic. As Lacan says, “She is not not at all there. She is there in full” (XX, 71/77). Lacan often mentions a veil characterising the feminine masquerade using the ancient story of Zuexis and Parrhasius. In a painting contest,

Zuexis painted a boy holding grapes, so convincing it fooled the birds, which tried to eat the painted grapes. Parrhosius then asked Zuexis to lift the curtain veiling his painting. Parrhsius was fooled because the curtain was the painting. What it hid was that there was nothing hiding behind it. What ~~Woman~~ is hiding is that there is nothing beyond the veil to hide, but discourse creates fantasies about women. The feminine is a presence within the symbolic. Being othered is a double negation in which one is not included but also “not not” present. What this paradox amounts to is that “the feminine subject is (wholly) alienated in the symbolic in such a way as to have a different relation to its limit. By being in the symbolic “without exception” then, the feminine subject has a relation to the Other that produces another “unlimited” form of *jouissance*” (Bernard 178). The beyond of articulation is the beyond of the limit. While ~~Woman~~ has her own infinite *jouissance*, for the purposes of this chapter it is important to note the functioning of the feminine as an absent presence in the symbolic because “What the paradoxical structure of the feminine subject ultimately reveals is the way in which the consistency of the symbolic, and of the gap between the symbolic and real, is susceptible to the “unsettling” effect of the real” (179). In discourse, those literally repressed return to unsettle the oppressor, who must keep them at a distance for the master’s own sake.

~~Woman~~ has a different relation to law, whereby “This other relation to the Other (via S(A)) is one that although not unrelated to Law recognizes the contingency and failures of the law and, one could even say, both exhorts from and returns to the Law a certain strange corporeality” (Bernard 179). ~~Woman~~, better than men, understands that the Other is barred and incomplete, lacking. In a sense, ~~Woman~~ is its incompleteness, which Freud’s discoveries relating to hysteria reveal. What the hysteric reveals is that

she is a token, an object of exchange, a position she endlessly questions the master regarding, revealing his lack (which will be discussed in detail in Chapter Six).

Femininity is threatening to the law because it reveals the structural position of the absent presence of ~~Woman~~ in discourse. In other words, femininity reveals the truth of desire, the truth that it is an economic structure.

The next section will explain the economic structure of desire in Lacan's work. This notion has been considered before, and desire has been considered as radically economic. For instance, Paul Verhaeghe describes feminine *jouissance* of the body as *a*-anatomy, stating that

beyond the truth (the failure of the sexual relationship), the Real makes its appearance. This remainder—"enjoying substance"—resides with the objects *a* (oral, anal, scopic, invocative), which are indeed by their use value not so much known as they are enjoyed but which garner exchange value during the nurturing process and hence become phallicized. It is this exchange that introduces them into the dialectic between subject and (m)Other and in its wake into phallic exchange, but even in this exchange, they ex-sist as foreign bodies. (114)

Each object of the drive has a remainder, the inarticulatable, the othered. The Marxist terms Verhaeghe uses for the drive and its remainder are not far-fetched if one recalls that, for Lacan, Marx discovered the symptom. This is the guiding framework for this chapter: that femininity is othered as a remainder in a phallic economy, as the absence that determines the symbolic, and as the repressed or kept at a distance, ~~Woman~~ represents the economic structure of desire.

## Psychoanalysis and Sex Work

The purpose of this section is to show the thoughts of Lacan on sexuality as it pertains to economy; it is implied that economy is the structure of desire for Lacan, and this structure is what is covered over by fantasy. When the law contends with sexuality, it often reflects dominant cultural values regarding sex. What one takes from Freud's *Totem and Taboo* is that law pertains to the organisation of attainment of objects of desire (all the women in the primal horde). In this myth, the brothers who kill the father feel guilt and a lack of satisfaction, none of whom may replace the father in this quasi-democratic agreement. What remains is the desire to be the father of the horde—an impossibility. This is a structure of masculinity: to desire the impossible and to be unsatisfied by the attainment of one's fantasy.

From Freud's ideas that female sexuality is a "dark continent" and that women are not-whole due to lacking the phallus, to Lacan's formulation that ~~Woman~~ is not-whole and that feminine enjoyment is not submitted to the phallic function, femininity can be approached as something outside of discourse. This notion is also reflected in the work of Luce Irigaray and Julia Kristeva, whereby femininity is expelled or abjected from discourse. What is this phallic function but the way the murdered father continues to rule the primal horde? The lost object must be attained and the drive seeks many embodiments of it, which is typically the reason the subject attempts to attain the phallus, whether the subject is a man or a woman. Without getting into feminine enjoyment so far, we can say that the other is defined as desired (think of the typical trophy wife, or even the idea of a trophy husband, 'tall drink of water' or however a partner may be represented to show to the world). It's hard to think of a more clear

example of women being desired by masculine discourse than the rarity of women paying men for sexual favours in discourse, even in fiction. ~~Woman~~ is a seemingly eternal other, that which is desired, that which man is taught to desire.

Referring to prostitution as 'the oldest profession' is nearly a way to universalize it; sex has a currency, and the desirer is the one who pays. The desirer may use this token, and withholding it raises its value within discourse. It is difficult to pin down what a Lacanian should believe about sex work. Is it a model for sexual relations in general? Is it deviant? Is it unhealthy or, perhaps, symptomatic? Do those who pay for sex suffer from a deeper neurosis than the everyday desiring subject who does not pay, or one who does not have sex? Many influential psychoanalysts have weighed in on the concept of sex work.

It is not surprising that Freud considered prostitution to be among the "polymorphously perverse, and can be led into all possible kinds of sexual irregularities" (1905, 191). This is normal in children when there is "little resistance towards carrying them out, since the mental dams against sexual excesses—shame, disgust and morality—have either not yet been constructed at all or are only in course of construction" (191). For Freud, the child is like "an average uncultivated woman in whom the same polymorphously perverse disposition persists" (191). This woman is normal until a clever seducer leads her into perversions and

Prostitutes exploit the same polymorphous, that is, infantile, disposition for the purposes of their profession; and, considering the immense number of women who are prostitutes or who must be supposed to have an aptitude for prostitution without becoming engaged in it, it becomes impossible not to recognize that this

same disposition to perversions of every kind is a general and fundamental human characteristic. (191)

Despite Freud's subscription to the common view regarding women of his day, that promiscuity is an illness, there is something novel in his idea that present in prostitution is "a general and fundamental human characteristic." The suggestion of a fundamental characteristic is a thread that ought to be picked up in light of Lacanian psychoanalysis.

Freud's comments in *Three Essays on the Theory of Sexuality* begin with the assumption that prostitution is dependent on the way masculine desire positions femininity. In what was then referred to as 'male inverts' Freud states that feminine traits are desirable in another man:

If this were not so, how would it be possible to explain the fact that male prostitutes who offer themselves to inverts—to-day just as they did in ancient times—imitate women in all the externals of their clothing and behaviour? Such imitation would otherwise inevitably clash with the ideal of the inverts. It is clear that in Greece, where the most masculine men were numbered among the inverts, what excited a man's love was not the masculine character of a boy, but his physical resemblance to a woman as well as his feminine mental qualities—his shyness, his modesty and his need for instruction and assistance. As soon as the boy became a man he ceased to be a sexual object for men and himself, perhaps, became a lover of boys. (1905, 144)

For Freud, it is something about the man's idea of the qualities of a woman (or a man as feminine) that makes the object desirable. Whether in prostitution or the Ancient Greek lover and beloved, it is phallic desire that places the object in the feminine position.

For Lacan, it is Freud's discovery that the "debasement" of love life "stems from the depths of the Oedipus complex" (V 308). The subject is expected to free its desire from fixation on the mother, even if that mother is present in some way in future love-objects, because "no subject ever abandons it completely." Lacan attributes to Freud the knowledge of cases of fixation, when

These subjects are incapable of contemplating being with a woman who for them has the full status of being lovable and human, of being in the sense of complete, of a being who, as the saying goes, is able to give and give herself. There is an object there, we are told, which of course means that it's there under a mask, for it isn't the mother that the subject addresses, but the woman who succeeds her and takes her place. Here, then, there is no desire. On the other hand, Freud tells us, these subjects get their pleasure from prostitutes. (V 308)

This early seminar anticipates the later Lacan, who will formulate that love is offering what one does not have to give, or demanding what the other does not have to give. All the other has is a mask, and perhaps a signifier. These subjects in Freud, who seem to take no pleasure from a beloved object, "the dissociation of love and desire" are the typical neurotic in Lacan's time, not in the sense that they see sex workers, but in the sense that they endlessly move from fantasy to fantasy, object to object, without attaining satisfaction. Desire in relation to the lost object has an exchange value in the metonymic circuit of the drive, and fantasy covers the loss, reinforcing it.

Lacan asks what the meaning is in Freud's reference to prostitutes, answering that "it's inasmuch as the prostitute is the complete opposite of the mother" (308). Digging deeper, he asks,

Is this entirely sufficient? Is she the complete opposite of the mother? We have made enough progress since then in learning about images and fantasies of the unconscious to know that what the subject seeks in prostitutes is, as it happens, nothing other than what ancient Rome openly displayed, sculptured and represented at the entrance to brothels - namely, the phallus - the phallus insofar as it's what inhabits the prostitute. (308).

Regardless of fixation, remnants of the mother in desire, what one seeks in detours of images and fantasies, especially those of objects of desire, is the phallus as a signifier. There is something “problematic” here, for Lacan, an “enigmatic form behind the mask, which binds desire to a privileged object” and he ends up with an obscure description of the phallus sought in this context: “What the subject seeks in a prostitute is the phallus of all the other men; it's the phallus as such, the anonymous phallus” (308). This is the object or organ I described in Chapter One “in as much as it is lacking in the real that might be attained in the sexual goal” (XI 102) but of course this organ determined by “the inadequacy organized in the castration complex” (XI 102) can never be attained. Therefore, what a man lacks in a desire for the othered ~~Woman~~ is the enigmatic signifier of lack governing relations between men.

The unconscious fantasy of attaining the phallus is more of a relation to other men than it is to women, as if a man can become the father of the horde, possessing all the women; man wants to be the formula on the top level of his side of the graph of desire. Not only is this hinted at by Lacan's comment about “the phallus of all the other men” but also happens to be illustrated by Colette Soler when she describes a moment in Flaubert. Although she is indicating the role of nostalgia, she is also depicting “the

homosexual libido” and the dissatisfying results of attending a brothel. Flaubert’s Frédéric Moreau is at the end of his life and upon seeing his old friend, Deslauriers, they talk of old memories:

They go back to the famous day when they had wanted to go visit a house of prostitution and mention how he had run away; he had become frightened as soon as he heard the prostitutes laughing and glimpsed a group of them together, and there was quite a to-do about all of this. . . In the warmth of memory, he concludes, "That was the best time that we had!" The failed politician, approves, but hesitantly and not without raising an eyebrow, with an interrogative "perhaps": "Yes, well perhaps. That was the best time that we had."<sup>13</sup> (Soler 2006 213)

This was no phallus they found, these two old, disillusioned men, but the knowledge that fantasy cannot bring satisfaction or joy. Further, the man who ran from the object of desire brought joy to the group, because he revealed the truth of the fantasy’s unsatisfactory nature. Lastly, the greatest brothel memory is one of comradeship, an enjoyment of one’s relation to the phallus which organises the symbolic order. What is true about the brothel in this case is true in social/political organisations as well.

Lacan himself uses fiction to demonstrate that the ego-ideal is “a formation that is always more or less accompanied by an eroticization of the symbolic relationship” (V 247). He uses Jean Genet’s *Le Balcon* or *The Balcony* to portray a brothel, where the drama takes place, with a “revolution raging” outside as a microcosm for all human organisation as it necessarily pertains to law and *jouissance*. Lacan uses this play as a

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<sup>13</sup> Cited in Soler: Flaubert, *Sentimental Education*, trans. Robert Baldick (Harmondsworth: Penguin Books, 1964), p. 419.

presentation of “the level of perversion” which we can “at times of great disorder refer to as the brothel in which we live. Effectively, society cannot be defined in any other way than as a more or less advanced state of degradation of culture. All the confusion that builds up in the relations, however fundamental, of man to speech is there represented in its place” (V 248). Civilization is a mask (in the form of speech) covering the traces of perversion leftover from the Oedipus complex. The subject holds a symbolic place which is always charged with eroticisation and one envies the Other for the *jouissance* they are perceived to possess; everyone wants the phallus.

In this “house of illusions” in Genet’s play, various brothel patrons take on the roles of various positions of authority, as the old regime is dead. They can attempt to find the answer to the question, “what is it really like to enjoy the status of a bishop, a judge or a general?” by donning their costumes. It must not be lost to us that the importance of this play revolves around law and prostitution, an order pertaining to illicit sexuality and authority:

Thus, we see a bank employee come and dress up in the garments of a priest and take confession from a prostitute. The confession is of course nothing but a sham, though it must approximate the truth to some extent. In other words, something in the intention of his accomplice needs to make it possible for him at least to believe that she is taking part in some guilty *jouissance*. (V 248)

In Lacan it is assumed by the subject that the Other enjoys, despite there being no such thing as a big Other. One perceives the world as an enjoying world and the subject is missing out on the enjoyment. Genet staged a tale where people get to be the Other and try on the enjoyment, which of course will not lead to satisfaction. Therefore, “We

thus see this clearly perverse subject basking in the pleasure of seeking his satisfaction in this image, insofar as it's the reflection of a function essentially of signifiers" (V 248). The pleasure is merely the pleasure of wearing a mask, which is all the original bishop's costume ever was, as much as for the bishop.

What makes Lacan's use of Genet's play so salient, however, is the central figure of the Chief of Police. This character is a central figure in the sense that centrality is an absence of *jouissance*, which concerns the chief deeply. Strangely, the brothel is the only place of order in a realm being disturbed by the chaos of revolution and its own order is held together by the curiosity about *jouissance* various characters act upon. However, according to Lacan,

this final argument of order which is called maintaining order, symbolized by the establishment at the centre of the community of a house of ill repute, of what was presented originally as the three crossed pikes - this reduction of everything that is of the nature of order to the maintenance of order is embodied by the pivotal character in the drama, namely the Chief of Police. (V 248-249)

The reason for the chief's importance is his awareness of all the roleplay, the taking on of positions of authority and he wants someone to wish to emulate him. He is the epitome of lack in the sense that the fictional big Other is, himself, wholly lacking. While this man, who is in a relationship with the only other real authority figure in the play (the keeper of the brothel), but a relationship now empty of love and lust, considers that patrons are dressing up as other figures of authority, he constantly asks if anyone has dressed up as him. Sadly, for him, no one wants to be the Chief of Police. No one perceives *jouissance* in this role of big Other. Bishops, judges and generals seem to

have their own form of sexual joy to the titles, but actually keeping order, which the brothel does on its own, seems empty. Although this seems to be a strange twist from reality, whereby being chief of police might carry *jouissance*, the logic of the play shows us that there is no big Other, and that the fictional one is distressed because he is fully lacking. He continues to ask, throughout the play, whether anyone has asked to become the Chief of Police, and no one ever does.

This chief is disappointed that none of the petty patrons wish to usurp his costume, or what Lacan calls “his ornaments, attributes, role and function,” despite him apparently being the “foundation and residue of all power” in Lacan’s words (V 249). Perhaps these patrons understand the emptiness of authority; yet, on the other hand, they don’t understand this enough to stop caring for these other positions of authority. Why then do both Genet and Lacan centre in on this idea, which Lacan only devotes a few moments to? The answer is likely the fact that maintaining order, of its own, does not revive the perverse remnants of the Oedipus complex. The level of perversity is crucial for society to function. Although not perhaps perversity at the level of a patient who is clinically a pervert, neurotics, and a neurotic political culture, require these remnants of perversity.

Order itself, the chief’s type of order, doesn’t contain what may be haphazardly referred to as intersubjectivity: “Some know how to play at being a judge and in the presence of some little prostitute who confesses to being a thief, adopt the role themselves to obtain this confession, for ‘How could I be a judge if you weren’t a thief?’ says the judge” (V 249). Somehow, in this scenario, sexuality *per se* is not at issue but the masks of authority figures, confessant, lawbreaker and so on are sexual in the

sense that they provide *jouissance* through their proximity to sexuality. Order is not the issue. Order functions in and through sexuality and the eroticization of titles of authority, which includes signs, relying on the imaginary, on fantasy. For instance, “there is no Chief of Police's uniform. We see a habit displayed, a judge's wig, a general's hat, though without the latter's pants, but no one has ever assumed the role of a Chief of Police in order to make love. That is the nub of the drama” (V 249). This chief is empty of *jouissance* in the perspective of the patrons. Actual order is founded on nothing. However, there is an Other order: the order of sexuality.

What the play demonstrates, for Lacan, is that sexuality carries its own order. Sex is the order that persists throughout all political structures and the chaos of their downfall:

What is relevant is that Jean Genet takes us to the heart of the adventure in the fact that the Chief of Police is in no doubt, because this is his function, and it's for this reason that the play unfolds as it does, that after the revolution, just as before, it will still be a brothel. He knows that, in this sense, the revolution is a game. (V 249-250)

The authority figure has some kind of vague knowledge that law is a game. There is some order which carries more meaning and always persists. This is the order of *jouissance*. The brothel is the centre of society. Sex holds together all economy and authority and culture masks this truth with fantasy. In this sense, it is almost natural. There is no true joy in enforcing law, but only remnants of the desire for the (m)Other in the Oedipus complex. Authority sounds appealing in its relations to the sexualized subject, here given the agency for roleplay which the prostitute embodies. It is not sex

itself which gives pleasure, but the performances related to authority and femininity, in which it is not clear who is the true authority. True power is actually lacking the phallus and everyone else is in search of it.

Power and morality play an intertwined role here for Lacan, as proletarian conscience assumes “morality will prevail” (V 249). The chief spends time attempting to convince the men dressed in other authority positions to take on these new roles, which they reluctantly do, so that order might be maintained. However, by the end of the play, we are given the idea of what the true order is, without any regard to morality. One of the prostitutes is “The one who makes herself the voice and words of the revolution,” and she is “Knowledgeable about the ins and outs of masculine dialectics, because she has been in places where one hears it being developed in all its phases, she knows how to speak to them and how to respond to them” (V 250). When she is shot to death, powers appear immediately “incarnated in Irma, the manageress of the brothel. The latter adopts, and with such superiority, the functions of the Queen.” This woman takes on the “pure state of a symbol” which we know because “with her nothing is real apart from her jewels” (V 250). The keeper of the brothel reigns supremely, and her Platonic lover, one who you might think possesses the phallus, is powerless and anxious about enjoyment. What mastery conceals in its anxiety is that sexuality truly reigns.

The chief continues to ask, “Has anyone come and asked to be the Chief of Police? Has there been anyone who has fully recognized his greatness?” (V 250-251). Lacan emphasizes the importance of this chief’s questions towards the end of the play as he begins to realize he is “looking for satisfaction difficult to obtain.” This chief, now discouraged, wondering if he will “wait indefinitely for the event that for him would be the

endorsement of his accession to the order of respected - because profane - functions, the Chief of Police maintains that he has succeeded in demonstrating that he alone is the order and hub of everything" (V 251). Therefore, he decides to consult those around him about a sort of uniform, or "the symbol of his function" and, of course, "he suggests a phallus" (V 251). Although there are initial objects, the phallus can be made more acceptable with some changes, like for instance, "if one were to make it like the dove of the Holy Spirit" or painted in the "national colours" (V 251). The chief gets his phallus but the drama ends with a character finally coming in, asking for everything needed to look like the chief of police. Everything is handed to him, including the chief's toupee, and the police chief is informed that everyone knows he wears one. The effort is surely a source of *jouissance* for the chief and when the other man is given the phallus from his uniform, the real chief gestures to look and make sure he still has his real one. Although he does, "his passage to the state of being a symbol in the form of the proposed phallic uniform is henceforth useless" (V 251). What is revealed by this ending is as follows:

The subject, the one who represents the simple desire of man to encounter and embrace his own existence and thought authentically, a value that is not separate from his flesh—this subject who is there, representing man, the one who has fought so that something that until now we have been calling the brothel can rediscover a basis, a norm, a state that can be accepted as fully human—this subject reintegrates himself into it, once he has passed the test, only on condition of being castrated. (V 251)

The big Other does not have the phallus, despite its external shows everywhere. The big Other is castrated and sex is the only true law. This is only discovered when it is “promoted to the status of signifier, as this something that can be given or withheld, conferred or not conferred” (V 251). Each subject is lacking, especially the master, and the phallus is nothing but a reference point for desire and *jouissance*. The only authentic characters in this play are prostitutes and every other source of authority is either roleplay or empty of enjoyment. The economy of sex is the only constant when even law is most lacking.

Although societal structures resemble the brothel, Lacan comes even closer to equating sexuality with prostitution. One of his most favourite statements is, “There is no such thing as a sexual relation” and he almost never says anything about what a sexual relation would be. Yet, in *Seminar XVII*, he makes a few bizarre claims, drawing from the biblical Hosea. He states, “all relations with women are... ‘prostitution’” (XVII 116). Rather than take him literally, we ought to keep in mind his conception of ~~Woman~~ within the symbolic. Lacan is stating that, regardless of gender, when a subject attains another, it is metonymic, making up for an original lost o/Other. This is the symptomatic surplus value of *jouissance*, which does have a value and positions the desired o/Other as an object of exchange, a position that women have often been relegated to, more so than men. This is what troubled Freud’s hysterics. Lacan is referring to a mythical, primordial moment of complete *jouissance*, which the subject attempts to gain again. When masculine discourse provides a superegoic injunction to enjoy the other, it asks one to reunite with the forever lost object, spurring a long series of detours around objects of the drive. The mythical place, being united with God, and the detours around

idols as metonymic objects are likely the meanings for Lacan's statement that for Hosea, and his people, "Prostitution covers more or less everything that surrounds him, the entire context." After reminding us that the master's discourse uncovers that "there is no sexual relation," he hints that at one point there actually was one because the "chosen people found themselves in a bit of a pickle where things were very probably different, where there were sexual relations. This is very probably what Yahweh calls prostitution." This is "access to *jouissance*" (XVII 116). The subject is aiming for sexual completeness, the fantasy of the sexual relation, and is thus always offering what one does not have to give in matters of love, their desire. Lacan attributes to the big Other this little truth: the sexual is always a metonymic exchange, always prostitution. For Lacan, ~~Woman~~ occupies the same place as God because one cannot be united with either, and the union is precisely the fundamental fantasy.

This mythical moment is not lost to Lacan as myth, which is why he follows it with a brief discussion of idolatry/the Golden Calf, and Oedipus as Freud's "fundamental myth" and concludes with mention of the primal horde (XVII 116-117). The reason for this is the schema: "*murder of the father - jouissance of the mother*" (both the enjoyment of the mother and the mother's enjoyment). A trial of truth makes up for the sexual relation in Hosea. In Hosea, turning to the idol is like turning from a loving marriage (symbolizing being wedded to God); it is joy without any exchange of love and truth. Truth, however, this "little sister of *jouissance*" (XVII 116) has always been, for Lacan, the impossibility of the sexual relation. Truth is not merely a signifier waiting to be dug up from the unconscious so much as the recognition that one is always alienated from the real. Truth is the structure of alienation, depending on the ex-sisting other. One's

being is lost from the moment it is articulated and so is the object, the mother. If remnants of the mother are always there, it is in the sense that one can never have uninhibited *jouissance*, but one tries anyway, seeing it as an object of exchange.

Prostitution merely strips away the mask of the non-existent sexual relation but not the chase for the phallus, which is exactly why Hosea's people were in a pickle: unbridled access to *jouissance* and *jouissance* from love (what the Other doesn't have to give) are both impossible. The real is always an impossible structure. In both scenarios, phallicism is involved because

For some the result is that they can only function for orgasm with prostitutes, whilst for others it will be with partners chosen in a different register. As we know from our analyses, the relationship with the prostitute is almost directly engrained in the reference to the mother, whilst in other cases the degradations of *Liebesleben* [love life] are linked to a choice made in opposition to the maternal term which bears on woman in so far as she becomes a support, in so far as she is the equivalent, of the phallic object. (X 92)

*Jouissance* is particular, but ~~Woman~~ is the phallic object in each case, the support of desire as expelled from the symbolic. Here, Lacan explains that the circuitous detours of the drive are a response to a loss, and an attempt to gain what was lost in castration. In love or lust, remnants of the maternal object are present. All in all, what Lacan has to say about prostitution is that it is simply sexuality, which is always an attempt to gain a surplus through an exchange. Like the brothel in Genet's play, prostitution is a part of the wider perverse symbolic culture, which requires the illusion of the sexual relation. In other words, for Lacan, prostitution is not much different from the ordering of the world

by the symbolic; the symbolic just expels this thought. The ordering of the symbolic is othering because it is economic, because the phallus has exchange value and *jouissance* has surplus value.

### **The Economy of Subjectivity**

What must be clarified is the function of gender in this sexual economy of the subject. ~~Woman~~ is not women. There is no Platonic essence of ~~Woman~~, unlike any other idea. ~~Woman~~ is that part of the real that is pushed from the symbolic. ~~Woman~~ is the word Lacan uses for otherness itself. In the diagrams from *Seminar XI* where Being is lost to the symbolic, the field of the Other takes over. One speaks the Other's discourse, even to define oneself, and the subject is profoundly lost and alienated. There is no core self, but the Other is not accessible either. The Other is the subject in the sense that the symbolic and imaginary identifications are introjected, but one does not *know* the Other. In this sense, every subject, male or female, is separated from Being and interred into the phallic function, a very masculine imposition of discourse. Masculinity dominates the symbolic and women are othered by discourse. This explains why men tend to chase phallic *jouissance* and women are more likely than men to possess an individualized, non-symbolic, non-phallic, *jouissance* of their own, despite being as immersed in the symbolic and capable of seeking phallic *jouissance*. The phallus was not offered to the little girl. The young boy will pick up the father's discourse, along with inheriting all his possessions. The girl is expected to be an object rather than possess objects (stand-ins for the phallus). What the feminine side of the graph indicates is that people may choose to find their own, non-symbolic enjoyment,

and are often compelled by culture to do so if their desire does not conform to anything in the symbolic. A person of any sex can fit into either side of the masculine/feminine division in Lacanian theory, but there are explanations why, in general, men are wholly determined by the symbolic and women are more likely to fit into the feminine side as not-whole.

The late Mari Ruti explains in *Penis Envy and Other Bad Feelings* that, when she first came across Freud, she thought the notion of penis envy was preposterous. However, with the Lacanian notion of the phallus as differentiated from the penis and therefore as a concept about the way men gain other attainments due to possessing a penis, Ruti sees it as quite plain that many women would be envious of the phallus. Ruti points out that “we may wonder less about the existence of penis envy than about why it’s not more pronounced” in a culture that sees women as a lacking, passive object, and “a nonsubject, who requires completion by the subject (the man)” (x). Ruti wonders why there aren’t more feminists in a society where “femaleness carries less social currency than maleness” and points out that some “women have been taught to eroticize—and therefore find pleasure in—their subordination” (x). For Ruti, penis envy still persists and no one is exempt from it, since it makes men feel like frauds, as they envy the seemingly happy lives of other men, who, in turn, deal with their own anxieties (xi). This is why, despite any person being able to fit into either side of the formulae of sexuation, discourse tends to relegate women to a place of otherness.

In *What Lacan Said About Women*, Colette Soler reflects on the changing images of women in culture, and differing expectations for women historically. New symptoms emerge in relation to places culture relegates women (and others) to. She

asks, "What are the effects of these changes for women? What are their effects at the level of the economy of the drives?" (167). Note that "economy" appears in reference to Lacan's most central concepts in Soler's work, and she does not elaborate on the term but takes it for granted in phrases like, "the economy of desire and jouissance," (167) "the economy of jouissance and of love within a couple," (229) and "the economy of the signifier" (307). The thread of why economy is so central but not elaborated on is left for this chapter to pick up. The changes for women, and the way people are 'caused' to choose the ~~Woman~~ side of the formulae are ever-changing in image or signifier, but they remain. Soler emphasises that, based on culture, one makes a forced choice (in similar terms to the forced choice of subject formation in *Seminar XI*) of whether to side with phallic castration or otherness:

The term "choice," however, remains paradoxical, in regard to the most common experience, which would attest, instead, to the rigors of constraint; subjects either recognize themselves so fully in their sexed aspirations that they suppose that the latter come from nature, or on the contrary, they feel so much that these positions have been forced on them that they live them out only as a symptom and in a state of pain. In both cases, if there is a choice, it is very much a forced choice: the choice between the phallic whole and the not-whole. (Soler 178-9)

Soler helps to partially clarify a main ambiguity in Lacan, and the possibility of Lacanian theory verging on problematic politics in our age. She does so by emphasising that for Freud "there is only one libido" and that for Lacan, "the unconscious is homosexual" (179). There are always at least two levels to the discussion of ~~Woman~~ and sexuation in Lacan, 1) feminine *jouissance* in the clinic, and 2) Othering discourse. This chapter will

focus on the latter. Soler understands that being Othered does not simply mean that one has 'other' *jouissance* but that one also has a difficult position in the symbolic, and therefore in the economy of desire, *jouissance*, love and the drive. Soler adds, "Such is the curse that leaves the Other of sex foreclosed. The statement that 'there is no sexual relation (rapport)' by which formulates Freud's implicit saying (dire), means that in the physical sexual relation (relation) itself despite love and desire—as phallic, gives no access whatsoever to the *jouissance* of the Other" (179). This narrows down the concepts a little more. There is no sexual relation. This applies to all subjects. Each subject desiring (phallically) an Other (of any sex) cannot gain access to that Other, but only to the imaginary and symbolic, contending with their own real. One does not know the Other's sexuality, let alone their own. However, when it comes to being a subject, discourse places some objects of desire (partial objects or other people) in a position of other, of lack. This tends to happen more to women, discursively, and discourse encloses relationship between speaking beings. Soler explains Lacan's definition of ~~Woman~~ as precisely as possible, despite the generality that women more often tend to fit into the side of ~~Woman~~ on the graph: "it is not because they are women that they have to situate themselves there, but only because they situate themselves there that they are called women" (301). Anyone could be a Lacanian ~~Woman~~.

A point this chapter will occasionally return to is that the Other, any desired other for the speaking subject, is metonymically standing in for the lost object, which originally is the mother. Women, as relegated to roles of motherhood, or desired other, or domestic worker, supermodel, whatever the expectation is, might occasionally either struggle, enjoy, or both, the position of being desired by someone who is whole-ly

immersed in the phallic function. These moments are most visible when women see men as simple, only needing one thing, or as being childish, being allowed to be a ‘man-child’ and infinite ways men are described as simple creatures. One does not need a penis to act a way so easy to pin down in language. Any speaking being can be so desirous to constantly seek new objects, never satisfied, and the people in their life usually see this in them. When something is so easy to pin down, it is usually phallic *jouissance*. Soler will again help this chapter switch to the other side of Lacan’s graph: “Now, for women, for each woman in particular, the struggle is played out internally between what she is as subject and what she is as Other, and the question is always to know on which side the scales will tip” (202). In other words, one who is othered, desired, made an object of love or enjoyment, must always consider their position for the Other, even if only unconsciously. Somehow, for Lacan, one who desires this other positions them in a way not far from the lost object, the realm of the maternal. This may be why Soler considers, at the end of her book, the possibility that something true of the “hysteric’s masquerade” appears in childbirth because “by its artifices, showing the semblance as a semblance, she designates what is beyond it: the point at which every discourse fails” (306). This is the beyond of the symbolic, which appears as a “so *that* was it” or “was that *it?*” (Soler 306, italics in original).

Before continuing with this section, allow Colette Soler to furnish us with one more reason for the use of the signifier, ~~Woman~~, with a bar, emphasized by the strike-out and its real effects in discourse, which echoes Mari Ruti’s thoughts. They both explicitly consider penis envy:

Is there not, however, beyond the dimension of the requirement, a soliciting of the mother to reveal the final secret? This secret is not only that of the feminine *agalma*, which is always phallic, but also that of the *jouissance* that ex-sists, although unknown to the Other, and for which therefore a woman appeals to the Other. It is true that penis envy can take ravaging forms. The feeling of a lack-in-having (*manque-à-avoir*) culminates, in certain feminine subjects, in a deleterious conviction that she is of little value; this conviction is often intensified by a frenzied rage in relation to all phallicized figures. Thus one sees women who become as furious with their rivals as with the supposed ease of masculine *jouissance*. (Soler 244)

The author of this dissertation can only go so far as to discuss discourse and the way ~~Woman~~ functions as phallus within discourse, including the way it causes people, of any sex, to be othered. Rather than discuss *jouissance feminine* (which is, by definition, undiscussable), we can discuss its cause, which is discourse; language excludes the desired other so subjects can keep desiring. Such is the realm of politics. Some people are forced to hold the place of desired other, and the position of being desired (the place of lack) is a place within the imaginary. This place holds value, economically yet unconsciously. Desire, for Lacan, is a relation to what one could call the maternal thing. Although he talks about the paternal function constantly throughout his career, for Lacan, the father is nothing other than a function that could be served by anyone or anything; the father is a mere function or metaphor. Desire, however, is related to the lost object: "The inability to catch the maternal thing, the impossibility of incest with the thing, means that the subject can do no better than obtain pieces of it, bits of objects—

breast, voice, gaze, and so on. The child sets up the partial drives, if, however, the Other allows him/her to do so” (Soler 304). Yet again, desire and law are overlapping to the point of almost being the same thing in Lacan’s theory. All desire circles around a surplus, an unconscious currency.

Lacan shows that early psychoanalysis points to the master’s discourse’s placing of women into a position of currency by stating that Freud’s work in the Dora case was the need to interpret “the economy of her maneuvers” (XVII 94) in matters of love. In this case the “signifying articulation receives a certain kind of objectivity... with the fact that Dora’s father, the pivotal point in the entire adventure, or misadventure, is strictly a castrated man... as concerns his sexual potency” (95). The case concerns man’s concerns about enjoyment and its impossibility alongside the feminine as a currency to recover something of one’s enjoyment. In terms of Herr. K, whom Dora’s father expects to exchange her to, Dora has a dream. In her dream, he offers her a jewel box “For she is the jewel. His jewel, his indiscreet jewel” (XVII 96). The rupture of meaning erupts when he makes this clear, with the statement, “My wife means nothing to me” (XVII 97). This would explain why this is when she reacts to the drama in waking life. She does so with a slap, which did not happen when Herr. K offered up his own *jouissance* to her, cornering her in a semi-public place. The problem was that he offered the Other’s *jouissance*, and she is the currency that will be paid. This is why the dream erupts in a fire in her attempt to escape; it is because the father is an “entrepreneur, the entrepreneur of decisions, in his relationship to the capitalist whose accumulated resources, the capital of libido, will allow this decision to be actualised.” The cause of desire “is accumulated as libido capital” (XVII 98). Lacan is clear that this is not a

metaphor. Surplus value and surplus *jouissance* have strict similarities and Freud's discovery is, in part, that sexual economy makes up psychic life.

From his early seminars to the *Ecrits* and to the end of his career, Lacan refers to the subject's psyche as an economy, a "subjective economy, commanded as it is by the unconscious" (*E* 463) which, despite any differences he has from Marxists, would explain his theorizing of surplus enjoyment as a direct appropriation of Marx's surplus value. It is the paternal metaphor that commands this economy (*E* 463). In "The Signification of the Phallus" Lacan points out that the phallus is a signifier with a function "in the intrasubjective economy of analysis" which may lift the veil of its own function because this signifier designates "meaning effects as a whole" (*E* 570). Immediately before Lacan's famous claim about *jouissance* beginning with a "tickle" and ending in a "blaze of petrol," the last thing he tells his audience about Freud's "attempt at economic reduction" is his discourse of *jouissance*. He "masks" it, according to Lacan, but it's "the right tone for Freud's discoveries" (*XVII* 72). From the mirror stage and the formation of the drives in the oral, stage, anal stage etc. an economy is created. The link to the human Other as "his semblable" is "a misrecognition of what the *a* is in the economy of my human desire" especially at "the fourth level, the level of the scopic desire" when "the structure of desire is the most fully developed in its fundamental alienation" (*X* 325). In face of the phallus and the *a*, what develops is both an intra- and intersubjective economy of desire. It begins with the "economy of the oral drive" (*X* 66), to the use of "excrement" in a "living economy" and onward, subjectivity is an "inter-human economic circuit" (*X* 300) based on the Other's demand, beginning with that of the mother before and then the paternal function. Misrecognition is crucial for understanding the role of the

phallus in this economy. For Freud, the phallus occupies a “certain place in the economy of the subject's development and is the indispensable support of subjective construction as the pivot of the castration complex and *Penisneid*” (V 325). In other words, because castration creates the law of desire, one desires the other as an object of exchange. The function of the phallus is that “it's the signifier that is the mark of what the Other desires insofar as it itself, as a real, human Other, is, in its economy of being, marked by the signifier” (V 345). It is this economy that marks with the signifier the subject as well, via the “intermediary of the Other” (V 345). Likewise, the libido's relation with the image of the body, symbolised as  $i'(a)$ , through the intermediary of the Other, results in “what Freud designates as the oscillation of this libido that pours from  $i(a)$  into  $i'(a)$ ” (X 86). Therefore, the phallus and each manifestation of the emptiness of the *objet a* are the markers of currency, founding the subject's imaginary. Each time the subject comes to the end of the graph of desire, desire and castration anxiety are left over in the economy: “the intermediary object...separates desire from jouissance. At the level of genital desire the function of the  $a$  is symbolized analogically, analogically to its predominance, its ascendancy, in the economy of desire, by the  $(-\phi)$  which appears as a subjective residue at the level of copulation” (X 320). In other words, subject formation and the detours of the drive throughout the subject's life are entirely an economy of desire and castration/law. For Lacan, then, sexuality in general is not so different from sex work; rather, the trade of sex is everywhere.

In Chapter One, I referred to the phallus and the *objet a* as two core concepts arrived at in the course of an analysis, which lead us to identification. ~~Woman~~ is the symptom of man, Lacan famously said, referring not to women but to the essence of

Woman, which does not exist. In other words, people who are submitted to the phallic function are often distressed by the dissatisfaction of the detours of desire, detours which weigh down on the subject for the reason that the law commands them to attain, enjoy and also to know the unknowable other, and as close as one may come to enjoying the other, they end up let down. In this sense, symptom is on the side of man's dissatisfaction, having been commanded to possess the phallus to obtain a woman, while also masquerading in his own way. Similarly, Lacan famously stated that Marx discovered the symptom. What all this means is that sexuality and economics have drastic similarities. Sexualization is an economic process arising from "the mechanics or economy of gratifications, needs, fixations and aggressions" (V 255). Recall that the phallus "presents itself as a signifier function" and in this process, the phallus is involved in a "signifying economy... where, following the repression of Oedipal desire, the subject emerges new - and equipped with... an ego-ideal" (V 271). Like in Genet's play, the phallus plays an economic role in the *jouissance* of misrecognition in roleplaying authority. Subjects find their identifications, like law and desire, in a signifying economy.

At times, Lacan seems pressed to decide whether he is analyzing intra- or intersubjectivity, but the answer is both and they pertain to sexuation:

It's this intersubjectivity inside the living person that we are dealing with in analysis. It's at the heart of this intersubjectivity that we have to form an idea of what the ego-ideal's function is.... It does seem to be linked to the adoption of one's sexual type, insofar as the latter is implicated in an entire economy that is at times a social one. It's a matter of masculine and feminine functions, not

simply insofar as they result in the act necessary for reproduction, but insofar as they comprise an entire world of relations between men and women. (V 273)

This economy determines a world of relations between the sexes, and not simply between any subject and object. Discourse generally offers two choices and one is always othered, and not-all, as Lacan constantly repeats late in his career. Those othered, often objects of desire, have a *jouissance* value; some embrace the role and others keep it at a distance.

What Freud introduced to “the heart of thinking about man,” according to Lacan, which philosophy and religion forgot, was “the organic relationship between desire and signifiers, to exclude desire from signifiers, to reduce it, to account for it in a particular economy of pleasure, to include what is absolutely problematic, irreducible and, strictly speaking, perverse within it.” This link in the economy is what analysts “are trying to work out” (V 293). As a psychoanalyst, it is this economy Lacan analyzes, which he points out in the landmark *Seminar XVII*:

Here, at this crossroads, we state that what psychoanalysis enables us to conceptualize is nothing other than this, which is in line with what Marxism has opened up, namely that discourse is bound up with the interests of the subject.

This is what, from time to time, Marx calls the economy, because these interests are, in capitalist society, entirely commercial. It's just that since the market is linked to the master signifier, nothing is resolved by denouncing it in this way. For the market is no less linked to this signifier after the socialist revolution. (XVII 92)

What Lacan insists on is that, even if capitalism crumbles, discourse will still function in the economic way Marx described: with a surplus. This is “the Marxist exposure of what

is involved in a certain discourse about semblance” (XVIII 4). What this amounts to is that sexuality as an economy is the only constant, regardless of regime changes. Sex as a trade underlies all other economies and social relations.

All discourse is semblance, except, as the title for the eighteenth seminar, *On a Discourse which might not be a Semblance*, suggests, the discourse unlike the others may reveal the truth behind the semblance. This “discourse that is not a semblance, concerns something that deals with an economy” and semblance is a “proper object by which there is ruled the economy of discourse” (XVIII 31). Economy, like the subject, is “always a fact of discourse” (XVIII 35). For Lacan, if Freud is revolutionary (a word he cautions against over-using), “it is in the measure that he put in the foreground a function which is also the one, it is the only common element moreover, which is also this element that Marx contributed, namely, to consider a certain number of facts as symptoms. The dimension of the symptom is that it speaks” (XVIII 37). This economy then, does not stop at phallus and *objet a*, but detours through identification and ends up with the symptom, the only revolutionary point that is the same in Freud and Marx. Of course, as a truth, the symptom “does not say everything” (XVII 38). Lacan says the same about truth, which has a reciprocal relation with semblance: “The truth is to enjoy being a semblance, and in no way to admit that the reality of each of these two halves only predominate by affirming itself as being from the other, or by lying (*mentir*) in alternate jets. Such is the half-saying of the truth” (XVIII 175). Recall that symptom is aligned with ~~Woman~~, who is not-all. As a discourse, capitalism, like any other discourse, is phallic insofar as it is semblance, which necessarily expels the *objet a*, or the

feminine, which is on the side of truth as half-said. This is the end of all economy and all discourse.

### **Sex: The Impossible Economy**

What all these economic terms mixed with psychoanalytic theory mean is that there is something about sexuality that is economic. An analysand enters analysis because they have a symptom. The analysis ends with the phallic signifier and the *objet a*. These latter two concepts are encountered at each stage in the development of the drives as the young subject encounters trauma in the dialectic of desire. Both are causes of lack and the *objet a* as a feminine object is man's symptom, for which he constantly pays. To be othered is to be a fundamental fantasy, which comes with its own trauma. Overall, however, the reason there is no sexual relation is because everyone has an *objet a* and everyone has a fantasy. Desire is a symptom and one does not know the desired other, does not know their *jouissance*, does not understand the wants of their body, nor symptoms of their trauma. What results is the acceptance that, generally, we have desires, and we succumb to demands of others (in response to the question: 'What must I do in order to be worthy of love?'). We make demands on the other because, hopefully, they desire us too. Love and sex are economic for the reason that the sexual relation is an impossibility.

Perhaps, this is what society has trouble accepting about desire. Is it not more pleasant to believe in the hallmark, faerie tale, or Hollywood love where people are just meant for each other and that's how the story ends? This is why Lacan says that the linguistic side of the subject in analysis "pours out a flood of meaning to float the sexual

boat” and this meaning all “reduces to non-sense: the non-sense of the sexual relation, something that love stories have, throughout time, made obvious. Obvious to the point of stridency” (*TeI* 8). Society stridently asserts the sexual relation, and asserts that it has meaning, rather than non-sense. The imaginary plays its part as well: “This notion of fantasy as something that undoubtedly partakes of the imaginary order, but which, at whatever point of its articulation, only ever functions in the economy through its signifying function, seems essential to me” (*V* 388). Both the symbolic and imaginary cover over the impossibility of the sexual relation, which is the surplus of the inter/intra-subjective economy.

Freud created an outrage when he wrote his *Three Essays on the Theory of Sexuality*, surely offensive to Victorian sensibilities about what cannot be said, but especially so with the revelation that children are sexual beings. One does not become a sexual being upon entering adolescence or adulthood, but resumes being so after a post-Oedipal latency period. Lacan’s notion of subject-formation (we may call it the first birth, that of subjectivity, whereas the birth to the symbolic, the second birth, is the birth of the physical baby, retroactively defined for the subject), with the dialectics of alienation/separation and the progression along the graph of desire, is the sexual adventure the young subject passes through and it is, for Lacan, universally the fate of a speaking being. Therefore, something about what it is to be human, which elided discourse for so long, is the economy of sexuality. This economy is the offensive topic of conversation which caused an uproar in Freud’s day and is at times unsettling today. For instance, to seem to reduce desire and sexuality to the idea of prostitution will likely ruffle a few feathers.

Yet, this concept of desire as sex work pops up often in western cultures. There is the idea of being 'emotionally *invested*' in somebody and the notion that love is 'give-and-take' as it must be for any sort of success. For a long time, sadly, hip-hop lyrics often referred to all women as 'hoes' and men call each other 'pimp' as a term of endearment. The 'trophy wife' is not far from this metaphor and neither does a man's consideration that if he invests in himself he'll attain this trophy wife. Sometimes these tropes seem to betray a dissatisfaction with the reality that lust and love are always economic. One must either give one's self, one's body, one's time, signifiers, emotions, and more than what one has (their desire). Perhaps what many people do not want to think about is not so much sexuality anymore, but the notion that all sex is work and there is always a price.

The illusion of the sexual relation is what holds discourse together, and holds society together, in beautiful love stories, maxims like 'happy wife: happy life,' and even depraved statements people, mostly men, tend to make about how they hate being married, joking or not. The good and the bad affects are all a 'normalized' sexual economy despite the plain truth that the "union between *philia* and *aphrodisia* is never one of harmony, and the gap and tension between them are irreducible" (Soler 2006, 193). Disharmonious and symptomatic relationships are the norm, the acceptable. For Lacan, love is to give more than what one has; this implies that in love one goes into debt. One will be dissatisfied, especially with the Other's constraints. Consequently, the only sexual act that does not leave one in debt is one when money is exchanged. Both parties get exactly what they bargained for (whether or not it's fulfilling or unfulfilling,

healthy or unhealthy). Perhaps this is why sex work is frowned upon, legally questionable, or not permitted. It defies the normative discontents of civilization.

Colette Soler, describes how each sexuated subject is “inscribed in the phallic function” in one of two ways:

A man is the subject who has submitted completely to the phallic function.

Consequently, castration is his lot, as well as phallic jouissance, to which he accedes by the mediation of the fantasy. A woman, on the contrary, is anyone who has *not* submitted *completely* to the regime of phallic jouissance; she has access to an other, supplementary jouissance, without the support of any object or semblance. (2006 178)

When Lacan says ~~Woman~~ is man’s symptom and that she is the other, he points to the suffering of castration, which man deludes himself into believing can be cured by women, by sex, or by love. This is man’s lot. The relation to the real which women are permitted is a fascinating notion in the sense that the real is a hole in the symbolic, a place of missing or repressed signifiers. Discourse in general, including legal discourse, contains many of these holes, especially when it attempts to deal with sexuality, a realm it is nervous about touching. Yet, some women gladly occupy this place of otherness, which can happen in countless ways, but if they do so by revising the economy of sexuality to a literally monetary economy, the law struggles to handle its own trauma. Otherness is terrifying, anxiety-invoking, and one wants little to do with it. This is why, rather than a sexual relation, man makes love with his own unconscious (Soler 2006, 196). Even in love at first sight, this is how “each person is affected by the solitude of his fate” (182). Such is the impossibility of the sexual relation.

What is covered over then is not sex, but the impossibility of sex as a union. Soler suggest that liberal societies have developed new models of femininity and “new mores” (183) surrounding sexuality. Unlike in Freud’s time, now anything is permitted provided that “the fantasy establishes it and the partner consents” (184). Old paradigms of love, like courtly love, fade and make way for new ones and today “sexuality is a right” and “now, we are left only with loves that have no models, loves that are constructed like the symptom” (184). In other words, the unconscious reigns and each particular fantasy can be given a place. This sounds freeing at first, but it is a reason why men, more generally, as castrated are increasingly enslaved by their fantasies about women. God is dead but ~~Woman~~ can hold his place as the divine Other, except ~~Woman~~ is the most ambiguous word, and men cannot be grounded by this Other like they once could with God. However, if sexuality is the underlying economy, semblances and images of man and women can change, but there is always economy and the law’s attempt to mask it.

Soler has a number of clinical examples which could furnish this point, that man’s symptom is ~~Woman~~. We can take enough space on this page for one. Soler points out that woman’s “*jouissance* commits her to a logic of absolutizing of love” in her “quest for the Other” whereby she abolishes herself in the Other in “frantic efforts to elevate their men to the dignity of the Other, so that they will lend themselves a little to a confusion with God, as Lacan says in *Encore*” (243). The claims of Soler’s women-analysands illuminate

a fact that is clinically obvious: for women “love does not go without saying (*sans dire*),” and they complain of nothing so much as masculine silence. To say that

this silence “aphlicts” them is to say too little. The little comic dramas of everyday life come from this “aphliction”: her complaint that “he doesn't say anything to me,” to which he replies, “but what does she want me to say to her?” They doubtless expect this saying to give substance to the *agalmatic* object, but more essentially, they aspire for it to fill up the S(A). In other words, they require a man to want to take the trouble, and even tire himself out, I could say, to give more than his presence as desiring alone: they require his efforts to make himself a bit into the Other. (244)

Such is one example of the disharmony of love for sexuated beings. Man and other have their quests, their turmoils, their Demands, and something is always lacking, usually missing signifiers in the form of a debt unpaid. In this scenario, perhaps it is not so odd for men to seek out sex without debt.

### **The Fantasy that Masks the Impossibility**

The disharmony of love is masked in society, but it is also the norm, and a more simple exchange of sexuality, it seems, cannot be permitted. We will see that laws pertaining to sex work cling to a fantasy surrounding sex and this is what most represses symbolization of women who participate in sex work. Recall the jokes made in the Supreme Court’s nude dancing decisions, and the anxieties accompanying the condemnations of nude dancing. Fantasies which expel such behaviour assume there is a normal, harmonious sexual relation, which does not exist. In considering cultural/political/legal fantasies surrounding prostitution, we ought to recall that Lacan borderline offensively points out in *Seminar XIX* that he is lecturing “as a guest to the

Law Faculty... It is well not to misrecognize that fine sentiments are founded by jurisprudence, and nothing more” (204). All that the law can produce is ‘fine sentiments’ which has an undertone of a lack of utility as a profession, considering that in this section his discussion is mostly about the student as serving the master. Discourse as fine sentiments serves the master and there is nothing anyone without a psychoanalytic lens can do about it, but instead must keep studying, to continue to be “moulded by” the discourse of the master. Politics gives us access to fantasy, fine sentiments.

When a Lacanian approaches sex work, they will likely consider what Lacan says about *Woman qua* other. There is no ‘set’ of all women and whatever one says about women can never be applied to all women, or to *Woman*. Each sex worker has a unique experience far outside of discourse, all different from each other. Some are activists who love the job (Mac & Smith 2018, 33) want to do what they enjoy while getting paid, or say it’s not about the money (32); others see no other route to survival (39); some are ambivalent; some see it as temporary; some see it as easy access to drugs; some weigh sex work as one job among many others and don’t want to be degraded in other professions; yet others may not know how they ended up there. Some accept it can be emotionally painful, as sex might be for a non-sex-worker. Yet others cannot deny that it can be a site of abuse (38-39). Sex work is a space outside of discourse, a major hole in the symbolic, covered over by fantasy and fine sentiments. What is usually but not always missing in political discourse is the experience of actual sex workers, taking into account what analysis can discern about sexuality. In all cases but especially this one, “thought proceeds only along the path of ethics. This ethics still needs to fall in with the *pas* of psychoanalysis” (XIX 219). Psychoanalysis can be of assistance in the difficulty

the law tends to have in addressing sexuality because it can bring to the fore a little of what is unconscious, what is 'not' thought, what is 'not' said, and what is not-whole.

A crucial part of discourse is stigmatisation, which cannot be dispensed with so simply in the enactment of laws, and it "transforms female prostitution into an unspecified threat from an unknown other; a contagious activity that affects the morals of our daughters, sons and husbands and threatens public health, morality and the status of women" (Wagenaar et. al. 227). This "archetypical case of morality politics" (227) is one where some studies have recognized the "fantasmatic logic" policy analysts speak in, and correctly see this "concept inspired by psychoanalysis to denote the need among policy makers and the general public to improve or complete an imperfect reality with utopian narratives of stability, repair and control" (228). In other words, the master has a fantasy not only of sex work but of his own ability to control it. The government mediates between sex workers and larger society, generally doing so with hopes of control, even when not directly targeting the sex worker (e.g. when targeting clients or those who profit from the sex worker like security, transportation and harbouring), but "Control, as we have seen, is a governance fantasy" (231).

What sex workers generally, but not universally, want to be known about their profession is that sex work is, in fact, work, labour, in the spirit of capitalism, despite the complex perspectives and disagreements sex workers may have amongst themselves about work as concept that captures the practice. However, there is an important point to remember, which is that what makes sex work different from labour in general is that it lacks regulatory bodies, legitimacy; it is othered work. Therefore, what has been suggested, and implemented, with varying degrees of success but never without

problems, is “that policy makers need to organise the policy process in such a way that it provides space for the voice of the sex worker to be heard where it counts, and create operating routines to allow sex workers to influence policy design and implementation” (Wagenaar et. al. 238).

Stigmatisation of sex workers is deeply entrenched culturally, to the point where the perception of varying degrees morality in sex work is played upon by sex workers who wish to portray themselves as high class. This can be seen in ads and interviews in places like New Zealand where sex work has been decriminalized. The “image of the ‘acceptable’ sex worker only functions effectively if it is understood to be in opposition to existing tropes” (Wagenaar et. al. 159). These workers aim to “to distance themselves from other sectors of the industry, including through signalling their class position” (159) and often this is done with signifiers applied to sex workers: “When compared to other groups of sex workers, low-volume indoor workers were most likely to be described as ‘sex workers’ or ‘escorts’, instead of ‘prostitutes’ or ‘hookers’” (160). There is also a strategy found in any level of sex work, especially in seeking cultural acceptance, but is especially true of these workers who wish to be perceived as upper class “emphasising their enjoyment of the work. This final narrative has links to the others: performing enjoyment in this way normalises the sexual labour carried out, and also minimises the labour more generally by making the work seem effortless or incidental” (160-161). These women portray the job as not work but merely being able to carry out their passion for a living, an approach to sex workers which ought to be opposed because it takes the concept of ‘work’ out of sex work, thereby disadvantaging those who hope for labour regulation. If the work is done for thrill, enjoyment or intimacy,

The exceptionalising of the work in this way may make it more difficult for sex workers to publicly speak about sex work as labour and discuss labour rights issues, even within a decriminalised industry. If sex work can only be accepted when it is enjoyed, this creates a bind in which workers risk what acceptability they have by expressing dissatisfaction with their work conditions. (Wagenaar et. al. 173)

The upper class women also portray themselves as having parallel careers, with socially acceptable goals, and are just performing their enjoyment of sex in their spare time. Their intellect and fulfilling, respectable personal lives are portrayed to show they are “not ‘just’ a sex worker” (Wagenaar et. al. 162) but actually worthy of respect, unlike the ‘high-volume’ worker or the ‘street worker’. These workers and agencies emphasise that much of their work does not include sexual contact but rather an authentic connection with their clients, reinforcing ideals of heteronormative femininity (165). Lastly, the agency often wishes to show that high class workers are rarely abused by violent clients, implying that this is an inevitable part of sex work more generally. All of these efforts indicate the fantasized ideals of sexuality and acceptable femininity, all of which is at play in any discussion about sex work. What all this amounts to is that sex workers are so deeply othered that full, public disclosure about their struggles and lifestyles can limit the ability to succeed in their careers.

What Lacan’s former student, Luce Irigaray, says about masquerade as a response to discourse applies to this marketability of the sex worker. For Irigaray, masquerade is

what women do in order to recuperate some element of desire, to participate in man's desire, but at the price of renouncing their own. In the masquerade, they submit to the dominant economy of desire in an attempt to remain "on the market" in spite of everything. But they are there as objects for sexual enjoyment, not as those who enjoy. (1977, 133-134)

It is holes in the symbolic that allow for masquerade, or which, for Lacan, hides only that there is nothing, no essence, to hide. Although this is what allows ~~Woman~~ to be man's symptom and fantasy, it is what has real implications for women. To be othered is to be outside of the articulated, to suffer a symbolic death, like Antigone suffers her second death prior to her first. The sex worker in a criminalised or decriminalised but not legalised state has her survival at stake due to being a hole in the symbolic: those who cannot be said.

It is thought that sex work can be controlled, regulated, or managed, like anything else. This is the master's fantasy. If Lacanian critical unconscious theory is a Demand theory of law, it is so because law is not only a series of demands and response to demands, but also an attempt to regulate the Demand that functions at the level of the drive; the drive, however, is persistent and constant. Criminalization of sex work, like in the United States, targets both supply and demand, while decriminalisation, like in Canada, targets the demand under the assumption that ending demand will end the undesirable, abject thing known as prostitution. The decriminalisation approach often takes the form of targeting demand, which is referred to as the Nordic model (Renegade & Pottenger 2019, 101 ) The United States take full criminalisation as its model, while many countries only target the purchaser of sex services (Mac and Smith 2018, 166).

One should not be surprised to hear that, in the Nordic model, “with a belief that, if you end the demand, it will end the work. This is just untrue...It just forces it to be more underground, and more dangerous (Renegade & Pottenger 2019, 101). The stigmatisation and fantasy surrounding sex work, including in the Nordic decriminalisation model, leads some of the most marginalised members of society to be placed in an ever more precarious position, a point I will return to.

Sex workers are “stigmatised to the extent that their motives are pathologised” in a way that it seems so strange that one would offer sex for such “mundane, relatable reasons that govern everybody else’s everyday lives” (Mac and Smith 2018, 46). One is expected to see dignity in their job, but for some, selling sex is a way to reclaim dignity by avoiding other exploitative jobs. One depends on work, and one may find themselves in sex work for many reasons, but they are nearly always economic reasons, whether this includes needing money for drugs, supporting a family, losing a mainstream job for coming out as trans, or experiencing homophobia in other workplaces (46). Sex workers are seen as unable to make ‘good’ decisions and are pathologized as practising ‘self-harm’ rather than being people “motivated by familiar, mundane needs” and this can lead to disastrous consequences (47). Dismissing the material reasons for engaging in this work dehumanises the worker and dismisses anything they might say about their political needs. Feminist discourse occasionally removes money from the conversation, which makes sex workers seem bizarre or broken. Mac and Smith cite anti-prostitution campaigner, Kat Banyard, who believes sex workers are survivors of childhood sexual abuse resulting in the inability to assert boundaries (48). Keeping economic need in the conversation is central to avoid getting caught up in fantasy, which holds sex workers as

an abject other; Mac and Smith want us to see it as a rational survival strategy or an attractive option compared to other jobs.

In light of the Lacanian and Freudian discourse on otherness and sex work, it is clear that the voices of people involved in this industry are multifaceted and the realities are far distant from what the wider culture believes about them. The fantasies of law work against their own motives when they drive sex workers further into silence and precarity. What psychoanalysis teaches is that it is the symbolic order that is perverse, that there is no such thing as a real sexual relation, and that the fantasy that there is a 'proper' or 'ceremonious' sexuality is what covers the fantasy that sex is always part of the economic detours of the drive. One does not need to condone the sale of sex, or identify with it, or enjoy it, but this argument is that, more generally, it should be seen as a part of the wider culture, with much overlap, and sometimes, without some of the debt that sex in so-called 'sexual relationships' carries.

### **The Real Effects of Fantasy**

Any effort which drives sex work further underground, into peripheries, into darkness puts marginalized people further into danger. This is not hard to see in full criminalization where sex workers cannot seek protection from anyone, unless they have managers or pimps, who may easily be the abuser. Even this model may have a progressive gloss, such as the idea of helping the sex workers that are being arrested. However, it traps even more women in the sex industry; as criminality leads them to lose mainstream jobs, fines pile up, they are more likely to lose their children, become homeless, and thus enter a vicious cycle, all while avoiding police and more likely to be

facing violence. In addition, when police take visible action against sex workers, violent crime, including murder, against sex workers increases, including serial killings (Mac & Smith 2018, 101-102).

The danger is less easy to notice in the Nordic model, adopted in Canada, where decriminalisation aims at ending the demand. This impossibility will be an eternal attempt to keep on desiring control, without progress. What it will also do is disadvantage sex workers, especially those who are already marginalised (like in racialised communities). In a decriminalised setting, much associated with sex work is illegal without the act itself being illegal. For instance, banning soliciting makes sex work a “talking crime” (Grant 2014, 9). Clients are arrested rather than the worker, and profiting off of sex work, whether by advertising, harbouring, pimping, working administration or security is a criminal offense. In this scenario, the “criminalisation of our workplaces means sex workers *lose our jobs* if we report abuse” (Mac & Smith 2018, 111), a result feminists would deplore in another sector. This approach “produces a culture full of silences” because the consequences of speaking in political spaces or being visible can be disastrous (Mac and Smith 2018, 92-93). In addition, complex laws create confusion among sex workers and so many sex workers “simply assume — in the absence, of concrete knowledge — that what they’re doing must in some way be illegal” (92). This is a clear example of Lacan’s statement that no one could be fully knowledgeable about law: “according to the legislator’s icy humor, no one is supposed to be ignorant of the law, and thus everyone can foresee its repercussions and must be considered to be seeking out its blows” (*E* 110). This makes it nearly impossible to exercise labour rights, let alone resist abuse from clients, employers or even police; no

one wants to request help from the police and attackers know it (Mac and Smith 2018, 92). Not only does this show that to be expelled from discourse, living a death to the symbolic, is conditioned by fantasy. After all, these laws are often conditioned by assumptions about sex workers as inherently victims or as “revolting.”

“Prostitution is a richly symbolic terrain,” state Mac and Smith, “where our society’s anxieties about power, womanhood, and the nation coalesce” (141). The client is often seen as a “symbol of all violent men” and action should therefore be taken against the client, while the worker is a victim. Such discursive manoeuvres are common in the Nordic model, such as a fictional sex worker in a UK police campaign stating, ‘the Nordic model is bad for business, but good for my safety’ (150). This approach, driven by progressive concerns, must set aside ideological confusion by looking at the law through a sex worker’s eyes (142). In a criminalised workplace, where the Demand is the target, the first point to consider is that the worker has diminished power to refuse a client she would otherwise avoid, as she stays out later to reach her quota on quieter streets: “He might be scared of being seen, which will oblige her to help him stay hidden, perhaps by driving into a darkened park after a quick exchange on the street. Maybe he offers her half the usual rate and refuses to use a condom” (143). If it is his plan to attack or rob her, it is much easier for him, especially because sex workers are less able to work in visible areas and in groups. Clients fear arrest and the sex worker must provide discretion and shield them from the law if they are to earn a living. Not only that, but the clients who approach are disproportionately impulsive, intoxicated or violent. The ‘nicer’ clients who are deterred by the law tend to be the ones with something to lose: a job, a wife, a reputation. The ones less deterred are those who

in general are willing to break the law and are often more prone to violence. In other words, the law creates a space that makes victimisation more likely and “Thinking of sex work as always, intrinsically violent, of course, hides the difference between a respectful client and an abusive one” (144). Similarly, when online platforms are shut down by police, it is harder to verify the client’s identity and choose what kinds of clients one wants, making the job more precarious (Renegade & Pottenger 2019, 101). What must become more clear is that any way the law targets the sex industry, whether it’s the sex worker or not, puts the sex worker in danger. What must be remembered is that fantasy is the cause of the anxiety around sex work and the attempt to expel it. What the previous sections amount to is that it is not less perverse than the symbolic order in general, and that full acceptance is the way to increase safety for people who are marginalised.

Safety strategies are adopted by sex workers all over the world, regardless of the legal model, such as working with friends, writing down a licence plate when a friend enters a vehicle, assessing clients and negotiating (e.g. agreeing to wear protection) before entering vehicles, but all of this makes the worker and client more visible. The Nordic model makes these strategies unlikely to be achieved because risking the client’s need for safety from arrest is no way to make money. All the effects of the Nordic model “compound each other. The sex worker is poorer, so she feels more pressure to accept a client she might otherwise reject, she works later and alone” (145). This is a buyer’s market; prices go down and risks are taken. The Nordic model is correct that people often go into sex work because they lack other options, and being unable to ‘exit’ the trade is what makes reducing demand so harmful (149). Clients are

not willing to give basic screening information, like identity and phone number for fear of arrest, greatly increasing the risk of violence.

Consider as well the notion of profiting off of sex work as a criminal offense. In the UK, two or more women selling sex in the same place constitutes a brothel, leading to many arrests of sex workers for profiting from sex work despite decriminalisation, and also leading countless women to work alone. In Canada, however, workers who pool resources to sell sex themselves are exempt from profiting charges. Although this is fortunate for sex workers in Canada, the decriminalisation model in Canada leads to precarious conditions as well. In December 2014, Canada introduced the *Protection of Communities and Exploited Persons Act (PCEPA)* which has guided policing in a framework dedicated mostly to sex trafficking, leading sex workers to be treated either as trafficked victims or as not worthy of a legal category. The Canadian HIV/AIDS Legal Network, in cooperation with The Law Foundation of Ontario, published a report on sex workers' experience of law enforcement titled *The Perils of "Protection"* and of the participants, there were nearly universally negative views of police, including after PCEPA.

It is common for sex workers to be beaten, sexually assaulted, and occasionally driven to remote locations and left by police after rape and harassment, especially among trans, indigenous and racialized workers (12). For most respondents, in best case scenarios, police are not motivated to help but would rather discourage them away from sex work or identify them as victims so officers could fulfil duties related to trafficking rather than sex work (13). Such is the intertwining of law and fantasy, as fantasies about victimisation condition the practices of law enforcement. No one

interviewed had a positive view of police and no one who responded considered police as a source of protection. Rather, trafficking laws gave more power to police for surveillance, detention/deportation and otherwise abusing their powers (20). This had the effect of pushing sex workers away from various forms of support sex workers used to go to, for food and clothes, for instance. With so many questions directed towards the purpose of ascertaining whether human trafficking is involved, such as, 'Who are you working for? Who takes your money?' workers shy away from services, sometimes just to avoid being looked down on (20-21). Somehow, sex workers are left in a place without rights or consideration. This is the reason Lacan situates ~~Woman~~ in the place of the *objet a*, the cause of desire and the fundamental fantasy; it is because fantasies about the other expel that other from the symbolic. This is why ~~Woman~~ 'ex-sists' as real people who are disadvantaged due to the symbolic's (the law's) assumptions. Like in Chapter Three, full acceptance of the other is the main cultural lesson psychoanalysis provides.

In addition, "The focus on human trafficking has also limited the accessibility of police services for sex workers in situations of actual need" (21) because sex workers could once rely on the Special Victims Unit, but now they are turned over to the Anti-Trafficking Unit, which does not address real violence, sometimes murder, faced by sex workers. If no trafficking offences are committed, sex workers' deaths go uninvestigated because they made a free choice to enter a profession which is inherently victimising (21). When sex workers reach out to law enforcement for help and protection, they are pressured to identify as victims if they want to receive support. In other words, if they do

not fit into the categories of the fantasy, they are dead to the symbolic, absent, expelled, and their desires are not recognized.

An egregious number of complaints about law enforcement was described by respondents after PCEPA, challenging the misconception that the law protects sex workers and indicating, rather, that it gives law enforcement greater license to accost sex workers. As a result, sex workers perceive law enforcement as an ongoing threat and source of danger, and rarely as a source of protection. This has obvious implications for sex workers' rights to work; privacy; equality and non-discrimination; life, liberty and security of the person; health, dignity; autonomy; working conditions that are just, favourable, safe and healthy; freedom of expression; freedom of peaceful assembly; freedom of association; freedom from unreasonable search and seizure; freedom from arbitrary detention and imprisonment; and freedom from torture and cruel, inhumane and degrading treatment, especially in a context where they are subject to stigma, discrimination, violence and other abuses from both state and non-state actors. (22)

While police could be mandated to protect sex workers, most incidents relating to police involve police being the aggressor in terms of assault, intimidation/harassment, search/seizure/destruction of property, even threatening to tell superiors and co-workers that the worker has 'ratted' them out as blackmail for more information (21-25). For many reasons, sex workers avoid police, and this does not even address the need to protect clients from police.

Sex workers are pushed out of “safe spots” by police. Not only do clients want to meet in dark alleys, but workers themselves go to such crime-ridden places to avoid police (32). Sting operations at hotels mean sex workers make their home their place of work, putting themselves at risk for the sake of their clients’ safety from arrest and they stop working in pairs or groups, attempting to remain invisible (32-35). In the Canadian HIV/AIDS Legal Network report, nearly all respondents interviewed “described the negative financial impacts of their encounters with law enforcement, which affected their ability to support themselves and their loved ones” which affects their lives in multifaceted ways (39). The list includes mental health, notably PTSD/anxiety/paranoia after police enter their home or workplace, especially if they are abused or otherwise harmed, being outed to neighbours and others, leading to stigmatisation, being fired from work or evicted, immigration detention or deportation, the inability to practise safe sex (condoms are incriminating and a sex worker can’t easily negotiate the use of condoms in case the client is a police officer), complaints over law enforcement abuse not being taken seriously (police not investigating their friends), pressing charges for abuse are not followed up because the prosecutor tells them it’s their fault and they shouldn’t be in that situation in the future, or that it’s part of the job they chose, and, especially, nothing is reported because law enforcement always wants the complainant to be willing to claim they are trafficked or otherwise victimised by the sex trade (39-48). This is the firm hold the fantasy has on the practice of law and policing.

Canadian news sources and researchers have attempted to spread awareness of “the urgent need to recognize the harms of the ‘end demand’ criminalization framework on sex workers and the immediate need for law and police reform” (Fenton

2021). The harsher the consequences for clients and those profiting from sex work, the further underground the job goes, and the more victimised sex workers will be. Yet, for the first time in Canada, purchasing sexual services from adults and advertising others' sexual services became criminal offences. For some offences, the maximum penalties for sex-trade-related crimes were increased. Purchasing and third party offences (e.g., receiving material benefit from others' sexual services and procuring others to provide sexual services) are now classified as "crimes against the person" and thus considered violent offences. (Allen & Rotenberg 2021).

It should now be clear the source of this approach is societal fantasy and stigma. Despite progressive feelings behind wishing to help sex workers, assuming they are always victims and acting on this assumption will truly victimise them. Bill 251 (*Combating Human Trafficking Act*) of 2021 further cemented this strategy which "further endangers Black, Asian and sex working communities because it expands the power, scope and funding for the policing of our communities under the guise of protection." Sex workers surveyed see these anti-human trafficking initiatives as "pretext to monitor and interrogate sex workers and discourage them from working." Overall, "One sweeping commonality amongst all the sex workers we interviewed was their experience of law enforcement as a source of repression, not protection." This would explain why, in a 2018 report by the Butterfly Network's executive director, Elene Lam, of massage and holistic practitioners who experienced violence in their workplace, "less than seven per cent reported these incidents to law enforcement" (CBC 2021). These workers, rather, are used to being treated as criminals and more than one third

surveyed “had been abused or harassed by bylaw enforcement or police officers, with 12 per cent reporting they were physically or sexually assaulted by law enforcement officers themselves” (CBC 2021). While calling police is not seen as an option, workers are forced to become more secluded, working alone in their homes or in clients’ homes, with clients they are unable to properly screen. Therefore, what is required is dialectising, asking workers to talk about their experience and listening. Psychoanalysis was founded on the desire to speak and the desire to listen, and politically, this is its central lesson. People who occupy the place of fantasy must be asked to speak and be heard. This chapter is a modest attempt to emphasise that sex work is particularly perverse, that fantasy in law quite literally others people, and that losing a place in the symbolic is precarious. Lastly, it is an attempt to better display some of the voices that need to be heard, in an act of listening.

### **Refrain from Fantasy**

Some people die from silence and psychoanalysts know that talking can be a cure. Sex work must be discussed in a new light, in Canada and globally, and addressed as labour, legal labour at that. In New Zealand, studies on legalisation have shown this to be the best model yet for sex workers, who no longer hide in the darkest places. Among street-based workers interviewed in a study commissioned by the New Zealand Ministry of Justice, ninety per cent felt legality granted them employment rights, occupational health and safety rights (Mac and Smith 193). Also, legality displaces the police as regulators (197). Of course, sex work is not a utopian idea and issues of class and immigration create difficulties, but listening to sex workers can help create real

space for survival, by translating phantasy into knowledge. One need not support the concept of sex work to believe that sex workers deserve safety and protection.

Fantasy cannot fully be corrected, but layers can be stripped away. Like an analysis in analysis, various ideas which were taken for granted for fantasmatic reasons may be seen with more clarity, perhaps even with a view more charitable to the other's perspective, even if fundamental fantasies about others will persist all one's life. What is clear, however, is that constantly giving credence to fantasies will always prevent us from listening to the other. Authority, the big Other, is lacking, empty even, lacking even in foundation. What is left is two types of fantasy: the illusion of the big Other's control, and the small other which is expunged from discourse. Perversion is everywhere in a loose sense of the term, and when all sex has an economy to it, in the Lacanian sense that to love is to give what one does not have, and to make Demands on the beloved always says too much or too little, sex work reduces an affective economy to something less emotionally and traumatically charged (which is not to say it takes the trauma out of sex); in other words, it is not as perverse as one may expect, and perhaps not as perverse as some everyday expressions of sexual desire. It may not always be ideal or safe, but it will remain as a part of the economy of the drive. Demand cannot be eradicated.

Dialecticising the fantasy is the role of Lacanian critical unconscious studies, or the Demand theory of law. What Lacan can do for us politically is to articulate desire, which the master's discourse tends to repress in favour of master signifiers which keep political structures functioning at the costs of those without a voice. Consider Lacan's formulae of sexuation. The only function which asserts the actual existence of any type

of subject is on the ~~Woman~~ man's side: there exists an  $x$  such that  $x$  is not fully submitted to the phallic function. This is the only thing Lacan's Aristotelian schema suggests about anything in reality. Universal quantifiers do not assert the existence of any  $x$ , as Lacan makes clear many times late in his career. There is a phallic order, which includes all the fantasies the master puts into symbolic law pertaining to sex and the sex industry. The only thing Lacan asserts about the real world is that there are people whose *jouissance* is not submitted to the phallus, and this *jouissance* is not symbolised. This is not to say it is not symbolisable. *Jouissance* is something that we cannot easily translate to 'enjoyment', because of the orgasmic and painful, perhaps anxious, unpleasant, paranoid, or traumatic aspects of one's sexuality. Yet, there are aspects, with either positive or negative affect, that are not discussed, not articulated, not considered, not allowed to be thought or talked about. Lacanian psychoanalysis, however, does not foreclose the possibility of symbolising it.

Fantasy has real effects and like a Lacanian analysis, the repressed and the drive can be brought to the fore, so we can reorganise the menu, as Lacan mentioned in *Seminar XI*. It is time to reorganise the menu in the intersubjective economy. In a word, we could say it is time to phallicize the unsymbolized. Put the sex worker in charge rather than in the place of the repressed. Rather than being nothing more than the sought-after phallus, make her a decider, a part of the master's, the university's and the hysteric's discourse, the hysteric being one who questions the master about her place in his discourse, with the result that knowledge of the master is produced, along with the fact that he has fantasies. One Demands, the other studies and the third questions, 'why am I *that* for you?' Full legality is the only answer, which requires

discourse. As a final note, Lacan makes a little less unclear what one role of analysis can be:

But is it courage that is at stake or pathways of recognition? The recognition is nothing other than the way in which the relationship said to be sexual — that has now become a subject-to-subject relationship, the subject being but the effect of unconscious knowledge — stops not being written. (XX, 144)

## Part III

### Chapter Five

#### A Lacanian Critique of *The Wire*: Shaking Up Symbolic Identifications

“The entire world is ordered in a certain fashion, which gives us, as I might say, the illusion of being a world.”

-Lacan, *Seminar IX*, pp. 306.

“This effort of the picture to catch this vanishing plane which is properly what we have contributed, all of us, loafers that we are, there at the exhibition, believing that nothing is happening to us when we are in front of a picture, we are caught like a fly in glue; we lower our look as one lowers one’s pants, and for the painter it is a matter, as I might say, of making us enter into the picture.”

-Lacan, *Seminar XIII*, pp. 226.

### Introduction

Lacan’s uses of artistic and literary/dramatic examples in what he occasionally refers to as his ‘teachings’ are often demonstrations of his theory through the use of art. The inverse side of them is the ability he imparts to us to critique art and culture. When we talk about cinema/television, we must remember to consider the knotting of the subject in Lacan, rather than privileging either one part of the trifacta of R,S,I. It is tempting to privilege the imaginary in film, for instance by reducing Lacan to the concept of visual pleasure. Alternatively, looking at dialogue purely in terms of text rather than considering what Lacan calls a “scopic world” in *Seminar XIII* distracts one from the

imaginary. Lastly, where is the real in art? It is always there in some form. Lacan's use of plays and paintings gives us just enough to critique cinema.

Lacanian theory enjoyed several reformulations pertaining to cinema in the 1980s and 1990s. Specifically, Christian Metz 's contribution of the "imaginary signifier" and the image as a mirror emphasised imaginary identifications and Laura Mulvey's work on the gaze addressed visual pleasure. What limited this period in Lacanian film theory was the privileging of the imaginary and in Mulvey's case, a misappropriation of Lacanian theory, which defines the gaze more as a look from the Other rather than the subject's pleasure in looking. Lacanians have had to recover new ways of theorizing cinema and this chapter is a part of that effort. Todd McGowan has analyzed film to show its ability to reveal that obeying unwritten rules is the social bond (2015, 105) and explaining different levels of agency for the view, based on different shot types, like montage and deep shot (125). What is important today is the way art sucks in the viewer, which is increasingly important with technological developments. Recently, theorists have come to see the importance of small screens, including televisions, laptops, cell phones and watches as requiring their own segment of Lacanian theory.

In *Psychoanalysis and the Small Screen: The Year the Cinemas Closed*, analytic thinkers grapple with the small screen as a different form from cinema. Don Kunze points out that the small screen must keep the audience unsatisfied with "the sudden break-off" or "cliff-hanger" (2023, 13-14). Jessica Datema and Manya Steinkoler point out that the small screen is a "move from the shared collective experiences of cinema to isolated screens" (64). Especially during the COVID-19 pandemic, when people were isolated in their homes, the demand for the endless series, never concluding, was

required to never end a story, but always keep the audience hoping for more. Robert Kilroy makes use of “the *retroactive effect of signification*” (32; italics in original) in detective fiction, like when Sherlock Holmes explains the true events of a crime scene; Lacan made use of detective fiction and I will return to its importance for his theory and my object of study: *The Wire*. Kilroy also alludes to a Lacanian point important for this chapter, which is that identification is symbolic. One wants to be perceived a certain way by others and “I performatively actualise this self-image in a structured network of meaning – a social network – under the presupposed gaze of a more intensely personified big Other” (36). The concept of identification and the television series will be elaborated on later in this chapter.

In addition, what recent Lacanian theorists have begun to include in screen theory is the properly Lacanian use of the drive, like when Sarah Meehan O’Callaghan says how “something of the drive within the activity of looking may become sublimated or perverse” (52). One is “captured by a gaze we cannot see,” she succinctly adds. What is important to O’Callaghan is the “passivity” induced by the screen, or “the pacifying effect on the viewing subject” as the subject focuses “on other worlds and other identifications.” This is not necessarily a bad thing, as it can reduce some other harmful activities like self-harm (52). During a revival of Lacanian screen theory, O’Callaghan recognizes that the subject of the drive must be considered in a formulation of the subject in relation to the moving image: “the drive cannot achieve satisfaction, its purpose is to circuit the lost object (object a) as a partial drive whose aim cannot rest within any given material object” (53). When a viewer looks at art, their mastery of it is an illusion, as Lacan’s discussion of Holbein’s *The Ambassadors*

(discussed in Chapter One) elucidates. Thus, Lacan “complicates the position of subject and object and, therefore, the binary coupling of active vs passive” (54). O’Callaghan explains alienation regarding the gaze and its relevance in art: “In fact, what we really desire to see with our eyes, according to Lacan, is not to see, and, therefore, to remain within the passion for ignorance, a passion suspended by desire” (55). This passion makes perfect sense in relation to what Kunze says about the “cliff-hanger” and endless, unfulfilled desire. The subject is anxious about getting what it wants and screen productions make use of this.

While Lacan did not spend much time speaking about screens, there are moments when he discusses films and plays, and a screen is built into his theory of the gaze. Thus, Lacanian theory is still ripe for elaborating on in screen theory. As a theorist of the gaze and subjectivity, Lacan provides endless resources for discussing visual art, especially arts relying heavily on the symbolic. O’Callaghan notes the similarities between the painting and the moving image, noting “the duality of both the material world and the inner world of fantasy; it is that of which the painter paints and that through which technology is transmitted” (57). O’Callaghan is succinct about the use of Lacan for screen theory: “If we take Lacan’s definition of the screen as mediation and consider its application to the technological screen, we can imagine that the small screen is that which mediates the split between the eye and the look, and the gaze as a point of absence in the technological screen” (58). This gaze is the illusion of wholeness while something is missing. The small screen indulges us in this fantasy of completeness because it provides “the illusion that the personal is not political, denying its own partisanship” and, also the “illusion of intimacy yet there is no dialogue,

negotiation of the other, or lack” (65). However, some productions use this illusion to remind the audience of lack and otherness, like Velasquez and Holbein did. *The Wire* will be shown to do something similar, reminding the audience of the lack in discourse.

Recall Lacan’s discussion in the previous chapter on Genet’s *The Balcony*, whereby various characters dress up in ways very appealing to the imaginary, but what is ever-present is the signifier of the authority figure. No one wants to possess the title of ‘chief of police’ and this is a narcissistic wound the chief suffers over. As a point of reference, one may use this play and Lacan’s interpretation of it to reflect on the world as a place full of characters forever dressing up as others; each one is an other at its core and authority is empty of identity. Similarly, consider Lacan’s discussion of Holbein’s *The Ambassadors*, from Chapter 1. In *Seminar XI*, Lacan uses this piece to demonstrate that for some clever artists, the unconscious is brought to the fore. The phallic-shaped anamorphic skull in the foreground is the last thing one notices but it is between the viewer and the little world depicted, with all its phallic objects in the Lacanian sense (costumes and objects that convey power over the wider world). This death drive, this petit a, is the artist’s ability to show us what is generally missing: the real. This is a rare feat. The visual field always contains a trap. The only difference is Holbein showed it to us. This trap is not merely for the eye, because Lacanian theory always comes back to the signifier. The lack in Lacan can be reformulated to ask, “What should I believe in order to be worthy of love?”

There are two parts of Lacanian theory which will be extremely helpful to introduce before entering into an evaluation of a cinematic piece: 1) his detailed analysis of the painting *Las Meninas* by Diego Velázquez and 2) a better formulation of

what I have referred to as the fifth fundamental concept, and which I write as, I-identification. Both will help us to gain a focus on what Lacan thinks about art and its ability to shake up one's identifications, which are more symbolic than may be immediately apparent in Lacan's work. Thirdly, for analysing HBO's *The Wire*, a text that deals heavily with law, Lacan's essay on "The Purloined Letter," a piece of detective fiction, will be discussed to elaborate on the law's relation to subjectivity and desire. Both texts will be shown to operate using reversals of the gaze. Lacan's essay is particularly useful because he thought it was a central part of his *Ecrits*, having placed it at the front, with all other essays in chronological order. *The Wire*, also, is a fascinating work of art, and deserves credit from a psychoanalytic standpoint; it is a standpoint of critique, functioning like the analyst's discourse, causing the subject to strip away their symbolic I-identifications.

This chapter will progress by outlining Lacan's discussion of *Las Meninas* in *Seminar XIII: the object of psychoanalysis* to describe his theory of the subject's relation to the world, which is one with visual vantage points that always lie and an absence in the image which conditions the subject's vantage point. Secondly, Lacan's theory of identification will be illuminated to show that it is a mainly symbolic process, drawing heavily on *Seminar IX: Identification*. Thirdly, Lacan's discussion of detective fiction, his seminar on Edgar Allan Poe's, "The Purloined Letter" will be discussed to show what he thinks fiction can do to question one's relation to law and desire. Finally, *The Wire* will be analysed and praised as a piece of art that emphasises all of these points made about the subject's relation to the external world and to law, the subject's identifications

as symbolic, and the ability of detective fiction to compel the audience to call their identifications and attachments into question.

### **Las Meninas and the Scopic Plane**

Lacan chooses examples of art because various clever painters have already shown what Lacan is trying to say about modern subjectivity. Whereas *The Ambassadors* brought the unconscious to the fore, *Las Meninas* displays something about Lacan's conception of the subject's relation to the external world (including language, the o/Other, and the scopic field) which can easily go unrecognised, especially because his middle seminars (everything between *XI* and *XVII*, two landmark seminars) are somewhat neglected. In *Seminar XIII*, as Lacan reformulates his perspective based on challenges faced in *XI* and prior years, he explains his updated approach to subjectivity and its relation to the visual field, reformulating a discussion on this painting by Foucault, who is present for one session in *Seminar XIII*. Lacan's contribution to the discussion is that the look, in all its planes and impossibilities, in the logic of this painting and reactions to it, ends up with something almost inconclusive: the *Vorstellungsrepräsentanz*, or the representative of representation, which Lacan refers to as the binary signifier (S2) in *Seminar XI*. Lacan repeatedly says that the painting traps us, and on two occasions invokes the idea that television does so as well. *Las Meninas*, however, leads us into a labyrinth of visual planes, various inconclusive glances and, upon reasoning one's way through it, the conclusion that every time the viewer thinks they've isolated a correct angle from which to situate themselves, or the painter, or the

content of his painting within the painting, that viewer is wrong. All that is left is the *Vorstellungrepräsentanz*, which is undecidable.

This is Lacan's view of the subject's relation to reality. The world is always viewed through a screen, and this screen always contains an absence. The subject believes its view of the world is privileged, accurate, the correct vantage point. Yet, it will be shown, Lacan wants us to know that there are infinite vantage points from which one could view the world, which is why a frame is superior to a mirror, which only gives the subject a view that is seemingly "unadorned, namely, this space in which you locate yourself, with the experiences of ordinary life, in so far as it is dominated by a certain number of intuitions in which there is joined, not simply the field of optics, but where it is joined to the practice and the feel of your own movements" (XIII 231). A frame traps us but it has the ability to reveal the destabilised aspect of the look, which does not have a superior vantage point from any other. The frame, like in a painting, is like the frame of the real world. When Velázquez places himself in the painting, staring obliquely into a space nearly occupied by the viewer, alongside a large canvas on an easel that faces away from the viewer, he forces us to demand of him, "let me see" (204), a demand which can never be satisfied. One wonders what he's painting and as one's eyes dash around the painting for clues, each moment of seeming truth is revealed to be an impossibility (if one thinks hard enough). Lacan takes his audience through these detours.

Lacan points out that Foucault introduces his "The Order of Things" with a discussion of this painting (and Foucault sits in the audience during Lacan's second session on this painting). Lacan also starts from the question of what the painting within

the painting is and states that it is intertwined with “this subversion, precisely, of the subject” from which it “takes on its value” (201). He adds that “the relation to the work of art is always marked by this subversion” and that is what we call sublimation. This involves the ability of “the mechanism of the drive to see that what is happening in it is a return journey from the subject to the subject, provided one grasps that the return is not identical to the outward journey” (201) and Lacan here refers to his graph in the “Subversion of the Subject...” essay. The Moebius strip and the “two drive circuits” are the subject’s/viewer’s entrapment by and reaction to the work of art, a process which allows “us to grasp what is authentically involved in the division of the subject” (201). In this case, it is the “back-to-front” picture that is “the essential plane from which we must start” (201).

There is a trick of “the construction of perspective” which tricks one to ask, “What is the painter doing? What is he painting?” and this question is very much like the *Che Vuoi?* or ‘What does he want?’. Lacan disputes this question, despite considering it a necessary first reaction before our next step. He says,

We ask ourselves: What was he trying to do? Or, more exactly, what idea does he want to give us of what he is in the process of painting? A point where already we obviously see marked out a relationship which, for us, is quite recognisable: what we desire and desire to know is very properly something which is something of the order of what one can call the desire of the other, since we say: What was he trying to do? (203)

The desire of the other enters the register just in time for Lacan to point out that it is a necessary mistake for the reason that “we are not in a position to analyse, I would not

say the painter, but a picture. It is certain that the painter did what he wanted to do, because it is there before our eyes. And that consequently, this question, in a way, cancels itself out" (203). Realising that this was the wrong position is "the loop-like return" which the picture invokes, introducing us to "the dialectic of the subject" (203). The picture is painted with a reverse picture, leaving one with the "let me see" question.

Within "its perspective montage" one looks for clues of what might be in the painting within the painting and their eyes dart to the man leaving at the door of light in the back, because that is "the very precise point where the lines of perspective come together" (204). This man, Nieto Velázquez, "who had some say in the vote which allowed Velázquez to accede to the position of Aposentador of the king, namely, something like a chamberlain or grand marshal" is one who has seen the painting, and who one asks "let me see" but he is leaving because he "has seen too much" (204). In other words, what traps the gaze, keeping the viewer looking, is the unknown part of the visual field. In the "topological structure" of this painting, "this look is looking and with respect to it everyone says, it is us, we the spectator" that is being looked at, but Lacan asks, "Why believe so much in ourselves?" (205). Yet it "summons us" as though we are looking into "a window" in the look of Velázquez himself, who is in the painting, and this look is the "point of capture" exercised on the viewer (205).

Further, amidst this fuss about what the painter in the painting could be painting, Lacan points out that, based on his distance from the canvas in the painting, indicated by some of the members of the group of girls being in between him and the canvas, he could not possibly be painting at all from where he is standing and looking. He is a "phantastical presence" which implies that this painting cannot possibly be any cohesive

reality from any chosen perspective, and no stable notion of what could be on the canvas within the painting. Comically, Lacan surmises that the painter would tell us that this is not a self-portrait: “Velasquez made, in this ghost-like form which specifies this self-portrait among all the others, one of the traits which is distinguished undoubtedly by the style of the painter. He will tell you himself: ‘Do you believe that I would paint a self-portrait from this drop, from this oil, with this paintbrush?’” (205). I will add that the painter looks at our space with a blank expression, as if to ask, ‘What do you want?’ because we aren’t going to get it, unless we fill in with fantasy what may be on his canvas, and any position for any opinion about what is on the canvas can be disproved.

In his defence of this position, Lacan presents the notion that Velázquez is looking at a mirror, painting the scene we see. Lacan emphasises the “the strict difference there is between a mirror and the window” which “structurally have no relationship” (206). He quickly discounts this interpretation that the frame is a mirror, however, by saying,

The painter is supposed to have painted himself having seen the whole scene of people around him in a mirror. I only see one objection to it: it is that nothing indicates to us from the testimony of history - and God knows this is the sort of news that history charges itself with transmitting - nothing indicates to us that Velasquez was left-handed. (206).

Other than the painter looking at our space, everyone else in the painting generally focuses on nothing at all, or looks at someone who does not meet their gaze, which is interesting in a painting about the look. This privileges the look of the painter himself.

In regard to the position of the viewer looking at the painting, one might wonder if the viewer is positioned as the king and queen, with their reflection being shown to them at the back of the room in a mirror. This interpretation is also impossible, because Velázquez would not see the king and queen from his position in this hypothetical mirror (if it was one) and, also, they would be half the size they appear from this distance (207). Yet again, then, Lacan must conclude that Velázquez is painting something different than what the viewer is led to have guessed themselves to be as they look into the frame.

One might think that Lacan would compare a piece of art to a mirror, but he is very clear here that a frame is different from a mirror, and he does not wish for us to see this painting as a mirror; it is more like the “function of the window” (207). What this particular painting shows, based on the ingenuity of Velázquez, is that there is an “empty place” in the visual field. This empty space corresponds with the central moment in Lacanian theory of the “fall (chute) and disarray of something which is at the heart of the subject” (208). I often emphasise the need to always keep the two others, big and small, together. Where there is one there is another. Lacan makes this connection as well when he introduces the God in Descartes’ theory. He discusses this cogito constantly, and in his seminar on identification, he goes into much detail about it in relation to the signifier because this signifier cannot refer to itself. ‘A does not equal A,’ he constantly says each day he appears in the lecture hall. In *Las Meninas*, there is the empty space, the painting no one can see, which Lacan refers to both as the binary signifier and the *objet a*. Also, the king and queen who

might be behind a grill or an un-silvered window pane and after all, at the limit, nothing prevents us from supposing that it is something of the kind, namely, what is called a connector, connecting with a large room, one of these places of the type of a place for spying, that they are here in effect, that the fact that they see everything is what sustains this world as being on show, that there is here something which in a way gives us the parallel for the “I think, therefore I am” of Descartes; that Velasquez says “I paint, therefore I am.” (207-208)

The role of the royal couple is to be all-knowing, holding the world together, like in Descartes’ meditations, but also missing something (the empty space). I apologise for quoting at such length:

The very multiplicity of interpretations, one might even say their embarrassment, their awkwardness is there sufficiently designed to underline it. But at the other point what do we have? This presence of the royal couple, playing exactly the same role as the God of Descartes, namely, that in everything that we see, nothing deceives on the single condition that the omnipresent God, for his part, is deceived by it. And it is there, the presence of these beings that you see in the so confused and singular atmosphere of the mirror. And this mirror is there, in a way, the equivalent of something which is going to vanish at the level of the subject O who is there, as a pendant of this small (o) of the window in the foreground, would this not deserve our dwelling a little more on it? (208)

Subjectivity is like discourse, and I mean this radically in the sense that subjectivity is primarily unconscious for Lacan, and the unconscious is the discourse of the o/Other (the most common meaning of ‘other’ refers to the big Other, but the unconscious is

discourse surrounding the *petit a* as well). Within subjectivity, there is an all-knowing being who misses something, something entirely absent, like the surface of the painting one does not see. The big Other holds the symbolic together in signifiers. The king and queen look on while the viewer of this painting, reasoning their way through it, assumes there is a meaning in the painting and tries to find their own place in this little world. However, the subject has no clear, conclusive place, as is learned after considering the “very multiplicity of interpretations” much like in psychoanalysis. One never knows their place, but instead assumes it, depends on it, depends on the Other to name it. The imaginary provides infinite vantage points and the subject assumes one of them grants truth about the world, but there is always another vantage point, infinitely.

What Lacan says about the painting is generally true for art. It traps one as a frame but the mirror is within subjectivity. One always looks, and unknowingly looks for mirrors. For this reason one is prone to getting trapped in frames on the scopic plane, the space of the imaginary which always, necessarily lies. Lacan’s final comment in the first session on *Las Meninas* confirms that one should take up the call to look at newer visual arts like Lacan looks at a painting:

There came to me the following, that in polar opposition to this window in which the painter frames us as in a mirror, he makes there emerge what for us, no doubt, does not come in an indifferent place as regards what happens for us in terms of the relationship of the subject to the o-object – the television screen.

(209)

This “witticism” as Lacan calls it in the next session, is a way of saying an artist frames the viewer. The viewer is the one looked at when looking at this piece of art (which is

not necessarily true of all art). This is what *Las Meninas* captures by leaving one stunned by “the permanent vertigo of intersubjectivity” (216-217). The detours through various perspectives the viewer goes through in looking at this painting are representative of the montage of a “drive which is called the scopic drive. This drive, if the drive is something constructed as Freud has inscribed it for us, and if we try, following what Freud inscribed about the drive, that it is not an instinct, but a montage, a montage between realities of an essentially heterogeneous level” (218). The scopic drive is the illusion of a cohesive, homogeneous reality, but this painting emphasises what Lacan wishes to assert: that there are infinite points from which to look, all privileging different realities. He clarifies: “You end up with the conclusion that this picture is, in a way, the representation of the world of representations, as you consider that it is what the infinite system, I would say, of reciprocal application which constitutes the characteristic of a certain moment of thought” (219). This painting represents the subject’s relation to the visual field. What one is left with is the crucial first question, however, with the “let me see.”

Lacan will not end up inconclusively stating that planes of the look are arbitrary, but will announce the remainder in the painting: “Velasquez’ picture is not the representation of, I would say, all the modes of representation, it is, in accordance with a term which of course is only going to be there as a dessert, which is the term on which I insist when I borrow it from Freud, namely, the representative of representation” (220). The binary signifier, and importantly it is a signifier, is this remainder. The painter does not allow one to leave with a conclusion because he has included this stain in the drive, a semi-linguistic representative which makes up for the lack in all the other planes of

vision. Psychoanalysis is “centred on the phenomenon of the screen” and analysts have “to deal with this problematic relationship which is represented by the screen” (222). When analysands come to analysis, they bring signifiers and they try to represent their relation to the world, one which presents itself to the subject as cohesive, with the subject’s view of both self and other seemingly privileged. It is tempting to think the imaginary is the central point of phantasy but amidst the knotting with the symbolic and the real, one tries to represent the self or the world. What the analyst must always keep in mind is that the symptom generally arises from the subject’s structural relation to this world perceived through a screen. For our present purposes, if art is an imaginary lure, what it should do, from a Lacanian perspective, is to correct the fantasies it lures the viewer into, to help dialectise the fantasies the viewer entered with.

Beyond the frame, “something is locatable in a double fashion which the subject in this figure plane which, because of this fact, is not simply an envelope, a detached illusion, as one might say, of what it is a matter of representing, but in itself constitutes a structure which is the representative of the representation” (223). There is a structuring absence here, which pulls the subject in. Velasquez himself “gives the impression of putting himself into it, but you only have to look at him to see – you have underlined it very clearly – the point to which he is in it in a state of absence” because he can in no way be inscribed into the picture where he is standing; all he does is make the viewer’s eyes leap around to discover how problematic the field of vision in this painting is (224).

Having discounted the ideas that Velasquez is looking at a mirror, and that he is painting the king and queen, even stating the canvas is too big to be painting “these two little idiots there at the back,” (225) Lacan states that the painting within the painting is a

trap for the look. He then conflates two of his key terms. The painting extends the limits of the perspective, makes the limit present, and the subject falls, vanishes “where this representative of the representation which is the picture in itself, is this o-object, and the o-object is what we can never grasp and especially not in the mirror, for the reason that it is the window that we ourselves constitute by simply opening our eyes” (226). The *objet petit a* does get conflated with other concepts but here it is pointed out that it is the painting within the painting, which is the binary signifier. In this sense, it is both an unconscious knowledge (S2) about representation and the lost object in the visual field (*objet a*). It is that which is between subject and Other as far back as the diagram of separation in *Seminar XI*. It is ever-present whenever the eye is open (or closed and dreaming), and it is shown to us by Velasquez. His painting “inscribes for us the perspective of the relationships of the look in what is called phantasy in so far as it is constitutive...Unconscious phantasy, all right, that is an object” (227). Lacan comments that while talking about phantasy, “people speak implicitly about the phantasy of seeing it” (207). One never sees it but one can see that there is something missing in the field of vision, and that unconscious phantasy, in the form of signifiers and the lost object, constitute the frame (not metaphorically) which phantasy depends on. Lacan doesn’t expect a familiarity with it from his listeners but has hopes “of making it get under their skin” (227). Lacan knows this theory of the frame, in terms of vision and art, is unsavoury, and extremely difficult to articulate, but nonetheless he dedicates several sessions to *Las Meninas* to show how far he has developed his theory of the gaze as a central part of subjectivity since his discussion of *The Ambassadors* in *Seminar XI*.

This is a major departure from the paper on the mirror stage. The mirror image is ideal, but a frame traps the subject within the outside. The world is adorned and the mirror is a “world unadorned, namely, this space in which you locate yourself... joined to the practice and the feel of your own movements” (230-231). When one wonders whether they are the mirror the painter is looking at, they are forced to confront the external world instead. What is it adorned with? It is not representation, but it is adorned with the binary signifier which might function as the *objet a*, “And modern art illustrates this for you: a picture, a canvas, with a simple piece of shit on it, a real piece of shit, for after all what else is a big splash of colour?” (231). It is no longer so easy to idealise one’s self like the narcissistic image in the mirror. The relation to the Other always contains a fundamental uncertainty, inscribed in signifiers and the visual vantage point.

What remains is something fundamental which can too easily be neglected in Lacan: the visual field’s remainder is an attempt at linguistic representation, a stand-in, that which originally led the subject to need to signify within the Other’s discourse. This arises in Lacan’s theory of subject formation due to a want-to-see of the other’s desire, which is lack, which cannot be seen or captivated in signifiers. This is the reason the scopophilic drive and the invocatory drive are important enough to Lacan that he adds them to the Freudian drives of oral, phallic and anal. Hence the comment about the splash of paint as a “real piece of shit” and, additionally, “in the picture, as a perceived field, there can be inscribed both the place of the o-object and its relationship to the division of the subject” (230). The gaze and the voice, even though he rarely mentions the voice, are present in this painting because the subject is caught up in it while wondering what the voice would be saying. In other words, can one name the artist’s desire? No. It is lack in

the form of the binary signifier, a lack the subject wishes to know. The overlap of lacks is present in art and, as one gets lured in, one assumes they have the correct vantage point and hopes to know the intended message.

In concluding his discussion on *Las Meninas*, Lacan briefly mentions Magritte's window paintings to better illustrate his conception of the subject's relation to the visual field because looking at the world as through a frame is what a "painter like Magritte produces before us when, in a picture, he in fact inscribes a picture in a window. It is also the image to which I had recourse to explain what is involved in the function of phantasy" (231). Magritte paints windows with pastoral scenes outside of them, and in this painting is half of the outside scene also painted on a painting within the painting. The painting within the painting looks exactly like what one would see if that painting were taken from the picture. Although it is not as profound and complex as the detours one takes in *Las Meninas*, Lacan uses this idea to emphasise that there is always a stand-in, a representative of representation. Reality is not something perceived. What the subject has access to instead is phantasy. The visual field is not a relation to any reality or the real. One must keep looking for the real using signifiers because art only alludes to it.

What this discussion of *Las Meninas* amounts to for present purposes is that art can draw the viewer in in one of two ways: 1) It can reinforce the subject's ego ideal and assumptions, or, 2) it can use the frame of assumptions to deny the subject the knowledge they expected, and the satisfaction they expected. What will be shown is that *The Wire* subtly takes the latter approach, forcing the audience to question the ethics of legal institutions.

### **The Signifier and I-identification**

What Lacan likes about paintings like *The Ambassadors* and *Las Meninas* are their unique ability to reveal or illustrate something about the unconscious. This surely is not the norm because art usually doesn't attempt to tell the subject about its own trap or lure, but it will be shown that *The Wire* does so. However, these paintings only go so far. The binary signifier is only a representative of representation and has no particularity like an analysand showing up to the clinic, supposing the analyst knows about their unconscious. Art with discourse, with signifiers, on the other hand, is a plane full of its own lures for I-identifications, perhaps even more than presuming one is a monarch painted by the great Velasquez.

What is tempting for readers of Lacan is to reduce the concept of identification to the insights of the famous essay on the mirror stage, which is that the body is imaginary. This is correct, but identification is both more and less simple. It is a little more simple at times because Lacan is very much talking about identity, or feeling identical with an other, even one's self-image. Yet, with identity, one requires signifiers. This is a simple concept that gets less clear when we ask how, exactly, are signifiers involved in the seemingly imaginary relation with the world known as identification. If *Seminar IX: Identification* has any goal, it is to show that identification is deeply symbolic.

Like in a number of seminars, before he begins fumbling with different coloured strands of string in the late seminars, Lacan spends much of *Seminar IX* making us intellectually beleaguered with extremely long, repetitive descriptions of the torus, the

cross cap and the Moebius strip (although the Klein bottle will become the more fitting artifice for his topology several years later). As he gets closer to the end of the year, he makes a clear point his listeners may not have been expecting, even if they knew the centrality of the signifier in Lacan's theory:

The signifier determines the subject, I tell you, in so far as necessarily this is what psychoanalytic experience means. But let us follow the consequences of these necessary premisses. This signifier determines the subject. The subject takes on a structure from it; it is the one that I already tried to demonstrate for you this year in connection with identification, namely with this something which focusses our experience on the very structure of the subject. I am trying to make you follow more closely this link of the signifier to the subjective structure. (IX 240)

There are two central and interdependent concepts explaining subject-formation: the signifier and identification. On some level, they overlap, because the body is riddled with signifiers. This is deeply reflected in Chapter One where I point out that Lacan repetitively emphasises the unary trait. The bone with notches on it that Lacan refers to throughout his career is the first use of signification: a notch counts a primitive hunter's kill of an animal. The very idea of making a notch in the first place is the use of signification, with no relevance to the other notches. The reason I mention this is to show that, without the requirement that one speak in discourse, the other's discourse, and without ingraining the signifier as a response to primal repression, one would have no need to identify with the self-image or the image of any other. One only does so after Demands have been made on the subject, and the subject learns to match those

Demands and make Demands in return in the other's discourse. One must learn to count one's kills, even if it's a series of 1's. One must also learn how to be loveable and one does this with signifiers, especially the phallus, the imaginary signifier. What must one be to be loved? What must one say to gain recognition? The child knows they're loveable, but why does the attention cease sometimes? This is castration and the need to learn language. All in all, this is the earlier Lacan's precursor to the knotting of the symbolic and the imaginary.

Let's say one first identifies with the breast; first is the oral stage, after all. Does the young subject identify with the image of the breast? For Lacan, it does not because psychoanalysts are "taking the breast as signifier of the oral demand" (214). Subject-formation, including identification, is a result of Demand as the unconscious signifying level below need. The child needs the breast but mostly wants the attention and proof of its love that comes with calling for the breast. This gap leads to desire. Demand has its "underlay of desire" (150) and Lacan asks,

Why is this of interest? The interest of this is that if we end up at an elementary dialectic, namely that of the opposition between two demands, if it is inside this same torus that I symbolise by another analogous circle the demand of the Other with what that will involve for us of "either..., or....", "either what I demand", "or what you demand", we see this everyday in daily life. (150)

This either/or is like the 'your money or your life' description of alienation in *Seminar XI*. However, this is not an exclusion, Lacan claims, and he refers to it as "the contract, the agreement between demands" (150). The importance of this dialectic is its relation to signifiers and identification. Lacan refers to primary and secondary identification.

Dispensing with the term “introjection” Lacan prefers to use the “incorporation of the first identification” which is a reference to the “corporal” (151). In his confusing, elusive way of speaking, Lacan only grants that the first identification is to be understood only by “rejoining it through a thematic which has already been elaborated from the time of the most antique, mythical, indeed religious traditions under the term of ‘mystical body’... in so far as it is from a body that a church is constituted: and it is not for nothing that Freud, to define for us the identity of the ego in its relationships with what he calls on that occasion *Massenpsychologie* refers to the corporality of the Church” (151). What we can take from this myth, as detailed in the essay on the mirror stage, is that the first identification is the imaginary incorporation of the very real, corporeal, material body of the Other which is inaugurated by the level of Demand as a response to loss of the breast, and will be furthered at each stage of the drive. Lacan adds that “the reality of identification” is only known retroactively. Both forms are retroactive, retroactivity being a symbolic process for Lacan, and

Therefore the approach that I chose in the second form of identification is not by chance; it is because this identification is graspable by approaching it by way of the pure signifier, because we can grasp in a clear and rational fashion an angle from which to enter into what is meant by the identification of the subject in so far as the subject brings to birth the unary trait, rather that the unary trait once it has been detached makes the subject appear as one who counts - in the double sense of the term. (289)

Resulting from castration is this second form, which corresponds to the completed process of inauguration of subjectivity in *Seminar XI* known as separation. Recall that in

the following seminars Lacan will refer to both processes together as alienation. This second identification, however, is an identification with the unary trait, which arises out of Demand. This pure signifier is pure in the sense that the first signifier is the binary signifier, which has no meaning but represents representation as such, as the need to represent. This is the traumatic introduction of the signifier into the real as the need to represent. In other words, it is what enables the subject to objectify itself as an ego, taking over the pure id and recognising it must succumb to the law. Lastly, “the signifier of the interior eight is the one of the third mode of identification, this identification where the subject is constituted as desire” (289). The desiring subject is made out of signifiers, made up of the Other’s discourse. From this moment on, the subject as an imaginary body is also composed of signifiers, via I-identification. The Other, as body and as language, are taken in, catered to by using this Other’s discourse. From this moment the subject repeats its identifications and will generally do so in signifiers. Signifiers are what allow the subject to count (including, to count *for the Other*, to be meaningful to the Other). From then on, a major part of identity is to identify with others who are represented by the same signifiers as the subject. Identification is in many ways a symbolic process. One identifies with signifiers, which is one reason why Lacan calls the unconscious the discourse of the Other. The unconscious is not the Other, but it is the real and imaginary Others’ signifiers and law that the subject represents itself with.

The Other is that which is passed through to acquire language; in other words, language is in the locus of the Other, an Other that is really there embodied in the world and an Other that is perceived on the level of the imaginary. This is the fate or *fatum* of the subject: “the subject himself in the final analysis is destined for the thing, but his law,

more exactly his *fatum* is this path that he can only describe by passing through the Other in so far as the Other is marked by the signifier, and it is on this side (*en deça*) of this necessary passage through the signifier that desire and its object are constituted as such" (*IX* 152). The subject "can and must constitute itself only in the tension created by this relationship to the Other, which takes its origin from the fact of the advent of the unary trait in so far as at first and since it begins with the thing it always effaces this something which is quite a different thing to this one which has always been irreplaceable" (152). The unary trait, or the binary signifier, or the *Vorstellungrepräsentanz* is taken on from the Other as the first introduction to language in the process of identification as the subject grapples with the trauma of the lost object. Lacan adds that this process is the first and last step of Freud's formula, "there where the thing was I must come" (152). In other words, the formation of the ego is an identification with signifiers. After all, it is signifiers that the (m)Other demands from the child and therefore it is the use of signifiers which allows the child to remain worthy of love to a degree. The narcissism of the ego is the subject taking itself as a beloved object as a result of a confrontation with law. Lacan is clear about law and identification in *Seminar IX*: "Of what use to us is the topology of this surface, of this surface called the torus, in so far as its constituting inflection which makes necessary its turns and returns is what can best suggest to us the law to which the subject is submitted in the processes of identification?" This is what he calls the "dialectic of identification" (148). This is the 'either/or' of competing demands which ends up in a contract. Thus, desire and the ego form together in response to law, because "the object of desire is only

constituted in the relationship to the Other in so far as it takes its origin itself from the value of the unary trait" (154).

The "nothing" made present in subject-formation is "at once metaphorical and metonymical" (153) and it is the use of language which covers the lack in the form of the ego. In this way, the "signifier determines the subject. The subject takes on a structure from it...in connection with identification." This is the "link of the signifier to the subjective structure" (*IX* 240). The importance of subject-formation for psychoanalysis is the importance it bears for analysts. The analyst listens for transference because the trauma of subject formation is repeated throughout life; the subject takes on signifiers and endlessly replaces them with new signifiers. This is the meaning taken from Lacan's definition of the subject repeated throughout his career: "a signifier for another signifier." Metonymically, the subject sheds signifiers to take on new ones. This is the result of the subject who 'counts': "the appearance in its naked state of the subject who is nothing more than that, than the possibility of one more signifier, of an additional 1 thanks to which he himself notes there is a one who is missing" (152). Lack implies there is always a search for another signifier to represent the subject.

While Lacan's discussion of *Las Meninas* in *Seminar XVIII*, depicts the unreliability and falsity of any faith in one's position in relation to the visual plane, his previous seminar on identification outlines the subject's response to that lie. The cause and solution to the falsity of phantasy is signification, which is why the *objet petit a* is between subject and Other in the diagrams in *Seminar XI*. The "libidinal structure, in so far as it is marked by the narcissistic function, is what covers and masks the relationship

to the object” (282) and these concepts have an interdependent relationship with language. Because

the relationship to the image of the body as such is linked by something structural to this relationship to the object which is that of the fundamental phantasy, that it takes on all its weight, but this something structural of which I speak is a complementary relationship, it is in so far as the relationship of the subject marked by the unary trait finds a certain support which is a lure, which is an error, in the image of the body as constitutive of specular identification that it has its indirect relationship with what is hidden behind it, namely the relationship to the object, the relationship to the fundamental phantasy. (282-283)

The lure of the visual plane which covers over the binary signifier and the subject’s relation to phantasy is the mis-recognition detailed in the mirror stage, and it is a process that takes place in between symbolic identifications: “This mirror relationship in order to be understood as such, ought to be situated on a basis of this relationship to the Other which is the foundation of the subject, as long as our subject is the subject of discourse, the subject of language” (283). What is important to note is “the fundamental deficiency of the Other as locus of the word” (283) because this compels the subject to forever identify with new signifiers; they are always lacking because they never match up with the Other’s desire. The subject then is desire/phantasy surrounded by signifiers, which is most noticeable in *Seminar XIV*, where Lacan considers the subject in relation to desire and phantasy, which has its own logic. On one hand is the imaginary, with the unconscious *objet a* and on the other is the symbolic with the unconscious S2, both of which involve identifications covering the real.

Taken together, Lacan's theories of the visual and the symbolic furnish one with a direction for assessing the subject's relation to art, particularly cinema. While the imaginary lures one in, always leaving something to be desired, the symbolic offers signifiers, the stronger and more firm of identifications. Film can either reinforce or shake up one's identifications (shake up in the sense that *Las Meninas* or *The Ambassadors* does). What is important in addressing film, however, is what is important in analysis. The object of analysis is signifiers. The analyst analyses discourse. What follows, then, is an assessment of a television series of detective fiction, *The Wire*, based on its use of discourse and the scopic field. What will be shown is that *The Wire* offers a series of identifications, like most cinema and television does, but causes the audience to question those identifications based on the ethics of the characters, and, inevitably, causes the audience to question the ethics of legal institutions themselves.

### **Lacan and Detective Fiction**

Before embarking on a Lacanian analysis of detective fiction, it must be mentioned that Lacan's key text of literary theory is an essay on detective fiction. The entire *Ecrits* is composed in chronological order with this one exception: his "Seminar on 'The Purloined Letter'" is the first essay in the book. Lacan explains this in his "Overture to this Collection" which is approximately two pages and mostly dedicated to this explanation. The beginning of the collection is chosen in a way which prepares the reader for what they will gain by the end. Lacan deciphers in Poe's "powerful" fiction, "the division in which the subject is verified in the fact that an object traverses him without them [subject and object] interpenetrating in any respect, this division being at

the crux of what emerges at the end of this collection that goes by the name of object *a*" (*E* 4). How does this object traverse the subject? The reader gives the letter "its destination. Namely, Poe's message deciphered and returning from him, the reader, so that in reading this message he realizes that he is no more feigned than the truth is when it inhabits fiction" (4). In a sense, the reader will be required to interpret and consider how they were swindled, just like Dupin offers the swindle of the analyst's discourse, as Lacan begins to call it late in his career. The story is used to show that the "so-called signifying chain of meanings of the displaced letter is seen to cominate subjects who...seek to find it" (Caudill 1997, 51). Lacan refers to the "purloining of the letter" as the "parody" of his discourse. Dupin, master analyst, brings forth "a knot whose trajectory closes on the basis of its inverted redoubling—namely, such as I have recently formulated it as sustaining the subject's structure" (*E* 4). The detours the letter in Poe's story circulates in functions as a sort of Demand with an unwritten message, and one can only guess that it contains proof of the Queen's desire, and since the King can't know about this potential scandal, one can guess this desire is sexual in nature. Dupin, the master analyst, knows how to read, where to look for the letter, and how to dupe everyone involved before returning the letter to its destination (the Queen). We could say that the reader is lured in by the drama of the Queen's desire and ends up with a *Vorstellungrepräsentanz*, a signifier of pure desire, a mere guess of what the message could be. For Lacan, this is like the structure of the subject and it is the structure of a good piece of fiction.

Lacan begins his essay by emphasising the "*insistence* of the signifying chain" and claims that psychoanalysis reveals "by what oblique imaginary means the *symbolic*

takes hold” (6). Early in his essay, he confirms a few points made in this chapter. The first is that imaginary effects “give us nothing of any consistency unless they are related to the symbolic chain that binds and orients them” which is what we have learned from *Seminar IX: Identification*. The consistency of the world is ordered by the symbolic, rather than possessing an order of its own or a visual order. What is more important for our purposes is “the law specific to this chain” (6). Not only is the symbolic order “constitutive for the subject” but also there is a “major determination the subject receives from the itinerary of a signifier” (7) and “[s]ubjects are thus *reduced* by identification with a signifier” (Caudill 1997, 53). Lacan drives the point home in concluding his essay as well. Referring to the game of evens or odds a bulk of the essay is devoted to, Lacan tells us that “imaginary identification with the opponent” is not a sealed off path; in other words, it cannot help one navigate the game. He continues:

I will say that it excludes the properly symbolic process which appears as soon as this identification occurs, not with the opponent, but with his reasoning as articulated by this identification (this difference is, moreover, enunciated in Poe’s text). The fact proves, moreover, that such a purely imaginary identification generally fails. Hence, each player, if he reasons, can only resort to something beyond the dyadic relationship—in other words, to some law which presides over the succession of the rounds of the game. (44)

He goes on to describe that the active, guessing player, guessing whether the other has chosen even or odd at any point in a succession of guesses, must convince their opponent “that there is a law which presides over a certain regularity” and then “pull the ground of his understanding out from under him as often as possible by breaking that

law” (44). The law is at once a figment of identification and a fiction. Each form is identifying with signifiers, rather than the image of the other. This is the second point we can take from this essay: I-identification, properly, is a legal process.

Thirdly is the importance of the look, the gaze. The object of the look is the letter, which one either notices or fails to notice, like the king and the police who search the minister’s apartment. On each occasion that the letter is stolen (first by the minister, then by Dupin), a “*remainder*” is left which “no analyst will neglect” (E 8). This is the worthless letter put in its place, a place holding letter left so one does not notice that the signifier of desire is elsewhere. It is a trap for the gaze. Lacan details “the moment of a glance [*regard*]” (9) and provides the logical moments in three stages: 1) “a glance that sees nothing: the King and then the police,” 2) one “which sees that the first sees nothing and deceives itself into thereby believing to be covered what it hides: the Queen and then the Minister,” and 3) one “which sees that the first two glances leave what must be hidden uncovered to whomever would seize it: the Minister and finally Dupin” (10). One takes the letter of the Queen’s desire, a “pure signifier” as Lacan calls it, standing for the mother’s desire in Lacanian theory, and leaves an empty signifier in its place, allowing everyone to carry on as if nothing was moved; it is empty because “irrespective of the content or meaning (signified) of the letter (signifier), the position of the letter determines what the subjects in the constellation will do” (Caudill 1997, 52). However, this dialectic of power relations is organised by the missing letter. The Minister, who steals the letter, has an unspoken power over the queen, one he will continue to assert when he unknowingly loses the letter, the source of his power. Poe gives us a visual field determined by a signifier as absence which organises the drama.

This visual field is what gives a “unity” to the “intersubjective complex” in the story (10). There is a repetition which nearly resembles an *automatism*, which Lacan demonstrates with his attention to the game of ‘even or odd’ Dupin describes. He says, “Having thus established the intersubjective module of the action that repeats, we must now indicate in it a *repetition automatism* in the sense that interests us in Freud’s work” (10). Because the unconscious is the Other’s discourse, there is an “intersubjective repetition” (10). What captivates the reader is this repetition, and how the letter reaches its destination. Although Dupin is a clever character, what is captivating in this story is the letter itself. This is a model also followed by *The Wire*.

### **A Lacanian Critique of *The Wire***

Judge Phelan: “It’s an open court in a free nation of laws.”

Jimmy McNulty: “I thought it was Baltimore.”

If the subject’s relation to the world is like the frame of a painting, anything with a frame could be looked at through a Lacanian lens. Art lures the subject in like the world does, which has the structure of fiction. Although the moving image is a challenge due to the length of time involved, *Las Meninas* had its own logical time, requiring one to reassess one’s position in light of new realisations. Despite the time involved, cinema also generally provides us with vast symbolic space to assess; in other words, it is loaded with discourse, an object of psychoanalysis. This section will assess *The Wire* in light of the subject’s relation to the internal structure of discourse within the frame, and consider the imaginary lures which this series shatters more often than not, unlike many

pieces of fiction. I have chosen a series which tends to hold a spot in the top five series ever made<sup>14</sup> (I will choose something similarly acclaimed with crime film, and end up with less praise than in this chapter). I could have chosen typical police/spy fiction, which often leaves one feeling at least as patriotic as when one began. Even television shows and movies with an American police/detective/spy protagonist who is mostly against corruption at all levels of government (such as the Bourne Series or *The Night Agent*) tend to allow the protagonist to restore order and leave the viewer loving America by identifying with this agent. Order is restored in many pieces of fiction, but *The Wire* withholds this satisfaction. Fiction often offers the viewer an identification with the protagonist's desire, or their philosophy (included in their actions in response to a situation); this brings enjoyment. *The Wire*, on the other hand, makes a point of not allowing the audience to enjoy such identifications for long. In this case, then, what keeps us watching? Like in Poe's story, it is the letter, the pure signifier, the wiretap. Poe's story demonstrates that "no one is ever outside the Law—people stand in relationships of vassalage and crime, honor and dishonor, with the Law" or the symbolic order (Caudill 1997, 63). *The Wire*, similarly demonstrating this principle, captures the audience using identification with the pure signifier as well.

If I-identification is symbolic, it is because one identifies with another not simply because of how they look, but because of their signifiers and their desire. These two are overlapping and intertwined because, if one recalls Lacan's discussion of *Antigone* explained in Chapter Two, the ethical position in psychoanalysis is the question of whether the subject has given ground with regard to their desire. One's philosophy or

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<sup>14</sup> Rolling Stone (2022), Timeout (2023), and Hollywood Reporter (2023 all rank the wire within the top five, with IGN (2023) ranking it at #1.

ethics is not far from one's desire. What *The Wire* does to shake up the audience's desire is to give ethical/desiring reasons to identify with a wide range of characters (on both sides of the law) before presenting reasons to be let down by this character. In each case, the character's desire is overshadowed by their flaws, or their desire/philosophy is shown to be compromised or even pathetic. Similarly to this drawing in of the audience and dissatisfaction based on each character or ego-ideal, discourse and law themselves follow the same detour. Poignantly placed in the genre of detective fiction, each season starts with the assumption that the law (police, courts and politicians) can provide society with meaningful change and prevent suffering or death, but each finale and ultimately the final one, emphasises that discourse and law will only keep the functioning, with individual actors benefiting but never with social/political improvements.

In light of Lacan's discussion of *Las Meninas* and his theory of identification, the subject watches hour after hour wondering what stability is involved in this world of police, lawyers, stick-up crews, and heroin dealers in Baltimore, Maryland; as a series, *The Wire* constantly tempts the audience with but withholds satisfaction or a restoration of order. Created by Ed Burns and David Simon, a former Baltimore homicide detective and a former *Baltimore Sun* reporter, respectively, this drama digs into the law and the "chain of command" on each side of the law, where discourse reigns and each subject finds its place within that discourse. To start with character identifications, it is important to note that if one chooses a favourite character, their choice will likely shift throughout the approximately 60-hour series; the series deliberately offers and then dismantles identifications. The main protagonist is Jimmy McNulty (Dominic West), a homicide

detective who loves a hard case and will get attached to the point of never giving up on bringing a notorious murderer to justice. He is a clear example of this lure and let-down as an object of identification. His superiors all the way up to the top abhor him for his insubordination, an insubordination the audience is asked to respect due to the near-nihilism of higher-ups who only care about the murder rates while they hold their position. Discourse continues for the benefit of police authorities and McNulty endlessly fights them to seek to solve murders. The master depends on the university discourse, the statistics; looking like their job is done well on paper is all that matters, which allows real murder and crime to be ignored if need be (e.g. by pushing it to another department, attributing it to a previous year, etc.). However, while the series offers this protagonist as an insubordinate, serving purposes of justice, McNulty's job is the only thing that keeps him from being entirely self-destructive and promiscuous to a point of disgust. His partner (for much of the show), Bunk Moreland (Wendell Pierce), who will cover for McNulty's ridiculous schemes, even when he avoids getting into them, is the voice who will caution McNulty for being too drunk in the morning and being "balls-deep in random pussy" even when he himself is quite the philanderer (these examples are from the final season when McNulty is literally tampering with dead bodies to invent a fake serial killer for the media, just to get funding to catch actual, ruthless killers that the higher-ups care nothing about). McNulty is a character worthy of pity, but he is a slight glimmer of hope in the seemingly nihilistic city of Baltimore, because few other officers actually care about preventing murders, let alone solving them. McNulty is ultimately made to seem like a disappointment in the fifth season, when he is forced to admit that he broke laws in policing, not because he cared, but because he's angry all the time, so

he pitifully takes it out on authority. In terms of ethics, McNulty's perspective makes sense at first, but if one identifies with it, they are directly told by McNulty that such ethics was misplaced aggression. Therefore, one ought to look elsewhere for identificatory satisfaction.

Similarly, Kima Greggs (Sonja Sohn), narcotics division, is also brought into a 'detail' with McNulty to track drug dealers and murderers, the detail which gets a court order for the wiretap that is crucial for their investigation, although expensive and frustrating for superiors. She is a favourite of the conflicted Lieutenant Daniels (Lance Reddick), part of her division, who has been brought in to lead this detail. Kima is fodder for identification by the audience. As a visible minority, lesbian, a badass cop, and a courageous officer who cares more about the job than anything, she is portrayed for several seasons as worthy of respect, especially when she almost loses her life while undercover. However, a few moments are deliberately meant to detract from the audience's evaluation of Kima's ethics, including police brutality and giving into temptation to cheat on her wife in times of familial turmoil (giving her something to bond over with McNulty, who is divorced for such reasons). Again, if one is against infidelity, this character is not an ideal object of identification. In addition, she commits to having a child with her romantic partner, and neglects her obligations until ultimately exiting their lives.

In addition, Lester Freeman (Clarke Peters), an extremely clever and insightful detective in the detail who spent "fourteen and a half years" in the pawn-shop unit (as a result of angering superiors in the homicide unit for doing actual police work, without sacrificing his ethics), seems lazy at first, unworthy of being seen as an ideal, as he sits

in the office varnishing miniature dollhouse furniture to sell online. However, one learns of his finesse whenever there is a crucial, missing piece of evidence, and he shows up with it at the perfect time. One either identifies with or rejects identification with his offer to protect a pretty, young informant who works at a strip club by having her over to his house, and his flirtation with her, and when questioned by Daniels his response is, "To protect and serve, Lieutenant. To protect and serve." Regardless of the questionable mixing of desire and law, the two begin a long relationship which lasts the entire series. However, there is a moment when Lester sacrifices morals beyond redemption: he is the first and only officer to support McNulty's major scheme in the final season to create a fake serial killer for the media. When the audience knows nothing of value ever gets done in the department and that all good plans are stifled by mayors and police majors and commissioners, McNulty, who lives off Jameson Irish Whiskey morning to night, alienated from those he cares most about, manipulates dead bodies to make it seem like a serial killer is targeting the homeless. He even calls the news in a dark voice, with a twisted script written by Lester, to make a big fuss about a serial killer in Baltimore. Bunk cannot believe Lester supports the idea but a world is created in this series where one's ethical philosophy must diverge from law; the law is amoral. The result is finally a new wiretap which will be used to target drug dealers who are, in fact, committing dozens of real murders the superiors do not care about. This point will be important later. What is important is that while watching this series, one is always making ethical decisions. Who would I be if I were in this show? The series makes this a challenging, if not impossible, answer to follow in the end. Lester has sacrificed too much and accomplished very little.

The other end of the police spectrum of identifications is the pair of young officers from narcotics, the same division as Lt. Daniels and Kima Greggs. Carver (Seth Gilliam) and Herc (Dominick Lombardozi) have very distinct and slowly diverging personalities/career ambitions but they start by identifying with each other in their clear method of policing: beating down youths, “the western district way.” This pair is constantly put in their place and slowly grows from being childish police, resorting always to brutality, to finally becoming somewhat likeable in their respect for others after several seasons. Herc’s constant misogyny is pitiable and childish. Even using politeness at work is alien to them; when they break through a drug dealer’s (Bodie) grandmother’s door looking for him, Carver leaves and Herc lingers to apologise for curses, and is invited to sit down. She briefly describes her grandson’s life and he leaves his phone number, apologising again. Carver asks, “The fuck you doing in there?” Herc replies, “Talking.” Carver looks entirely confused, “Talking?” as though it’s an entirely pointless act. Both of them complain about the boring parts of the job, and generally won’t act until Kima tells them what to do. Both of them keep their share of confiscated drug money, comparing it to a tip like a restaurant server. Their banter is fun but pitiable; they seem simple-minded. However, they mature and progress. Carver becomes a somewhat respectable sergeant and Herc becomes a bodyguard for the mayor, then, later, a corrupt lawyer. These two keep the show entertaining by, more often than not, invoking the disapproval of the audience, despite moments of improvement in their attitudes. They both, however, neglect their promises, leading to violence against people they should protect, like witnesses and informants. This pair is clearly not a lure for identification.

Another detective turned teacher, Pryzbylewski (Jim True-Frost), the pathetic officer who accidentally discharges his service weapon in the office, is known for having shot up his own car and pretending it was a sniper. Also, he pistol whips a teenager, blinding him permanently, and eventually, when allowed on the street again, shoots a black officer while chasing a suspect, invoking questions about racism. He is not meant for policing, but he's great at solving puzzles (which is his role in the wiretap because the dealers speak in code) and he's been given many chances because his father-in-law is the influential Commissioner Valchek. He is only worthy of pity and shame before he becomes a school teacher, where he must learn to have authority over the inner-city kids he truly cares about. One begins to identify with this guy once he finds his place in the symbolic order; this is an ethical position. However, one can never forget his stupid moments, including when he shot a black officer to death, assuming he was a criminal. Despite any interest in the struggles of this character, it is likely challenging to see him as an ego-ideal.

Otherwise, there are two old, drunk, lazy idiots, the police force and the audience cannot wait to be rid of. There's a sergeant who is so vulgar and politically incorrect that he invokes disgust, despite how entertaining he is; yet he uses ancient Roman examples with such ease and tries to care for his officers while appeasing the deputy of operations, who slowly is an antagonist mainly because he shuts down every good plan the officers come up with, caring only about the statistics. There is an FBI agent who McNulty occasionally calls for help with technology, but even he proves lacking when he can't offer any help for murders, drugs, women being imported in cargo cars and

suffocating to death, because the FBI is devoted only to terrorism and high level corruption.

What I am trying to point out is that one does not identify with another simply because of their image. For Lacan, identification is symbolic, based on the signifiers that mark a person, and one's actions work as signifiers in the name of their philosophy or desire. The role of psychoanalysis is to uncover the signifier determining one's repetition. Also, characters are determined by discourse. One is lured into the moving image to find out where they stand and, as long as a series keeps one's identification, that show might keep the audience's attention. However, to attempt to dispel all identifications and maintain an audience is a major feat. The detours of ethics (and keep in mind Chapter Two which describes the separation of law and ethics) attempt to prevent most viewers from maintaining any symbolic identification with any of these characters. Before considering the main questions of 1) 'Why should one keep watching such despicable characters?' and, 2) 'Where does the show leave the audience?' We must similarly address the characters on the other side of the law, to show that there is little lure for identification offered there as well.

What this series emphasises is that there is a clear "chain of command" on each side of the law. This phrase is constantly repeated on the officers' side of the narrative because it must be repeatedly emphasised to officers like McNulty. Also, it is entirely accepted in the crime world. For instance, Wee Bey (Hassan Johnson), right hand man for Avon Barksdale (Wood Harris) and Stringer Bell (Idris Elba), the main villains and crime bosses in West Baltimore, says, "I just do what the fuck they tell me, you know? It ain't on me to know what the fuck they have in mind." All dealers, assassins and so on,

all the way down the chain accept this, that one follows orders, no matter what they are. The few who cannot handle the guilt of the violence they are implicated in, like Wallace (Michael B. Jordan) and D'Angelo Barksdale (Lawrence Gilliard Jr.) who is emotional about the death of Wallace, get killed for trying to leave "the game." Loose ends are always tied up, such as state witnesses and even civilians who were paid to testify on the behalf of the Barksdale crew, just in case. They are murdered even at the coded advice of the unethical defence lawyer, who says "Who can still hurt you?" adding "The less I know the better." This is why, in the projects, no one gets involved with police and courts. Bodie (J.D. Williams) says it clearly, "If you a witness you gonna get got, that's the way things go around here." McNulty understands because they "have to live there. We just visit once in a while." The discourse of the master always reigns. What allows varying degrees of identification with the criminal side is that the symbolic space they were raised in leaves no other options. The audience, unlike the police quite often, can understand the hold that discourse has on the criminals. Not only do they have a chain of command, but a worldview that works in the favour of crime bosses. For instance, the police cannot comprehend why criminals often casually and unflinchingly say things like, "I'll take the years" when offered a plea deal. A commonly repeated phrase is that "You only do two days... the first and the last." Everything in between does not matter in this use of signifiers; the inability of the police and prosecution to understand this mentality provides the audience with the symbolic frame in which this discourse makes perfect sense. In this world where crime is everything, Stringer Bell scoffs at the idea that his lower dealers could go out and find a job or go to college, and uses this impossibility against them. D'Angelo Barksdale, in jail, considering cooperating with detectives,

hoping to one day live a normal life, says, “Ya’ll don’t understand man. Ya’ll don’t get it. I grew up in this shit... All my people man, my father, my uncles, my cousins, it’s just what we do. You just live with this shit,” holding a picture of Wallace’s dead body, “till you can’t breathe no more... I was freer in jail than I was at home.” D’Angelo wants a fresh start, like the murdered, young Wallace did, where he “can breathe like regular folk.” With this in mind, the audience is forced to consider the young criminals’ relation to their circumstances. These characters can rarely imagine another way of life, and for this reason, provide a partial lure for identification, despite the amoral actions they occasionally undertake. In the frame of the small screen, any time the audience is lured into an identification, with either police, lawyers, or criminals, the series always symbolically pushes back against its own symbolic lure, much like *Las Meninas*, which constantly forces the audience to reconsider its vantage point. If *The Wire* is constantly defeating its own lures of identification, the question is, what keeps the audience interested? It is the binary signifier, like in *Las Meninas*.

In *The Wire*, the crime world ranges from ruthless villains to kids caught up in a crime world they hope to see a way out of. Like the highest authorities on the side of law are clear antagonists, the clearest villains are the authorities in the crime world: Avon, Stringer, and eventually, Marlo Stanfield (Jamie Hector). McNulty obsesses over these murderous characters, seeking them out, to the point where sometimes it is the only thing holding his identity together. The discourse of the high level targets is entertaining because they speak in silences, giving orders with mere gestures at times.

However, there are characters in the crime world that are presented as a lure for identification. D’Angelo grows a guilty conscience when he witnesses the amoral

actions of his family and hopes to start a normal life. However, the series makes a point about his foolishness, especially when he agrees to testify against his family, leading to his murder in prison. Similarly, Wallace, an adolescent, entertains hopes of leaving the crime world, but wastes away using heroin until his murder. His murderers, Poot and Bodie, are entertaining throughout the series, especially Bodie's wit even as he's beaten by officers like Carver and Herc, but the audience should not forget their murder of Wallace. Bodie is an example of the lure in the visual plane as it relates to signifiers. He becomes relatable as he does his job, holding a street corner to sell drugs on; he's fine with his position in the chain of command and just wants to keep business moving. His wit and no-nonsense attitude is alluring, making his death a sad one, but his murder of Wallace is a constant reminder that one ought not to enjoy seeing themselves in Bodie.

Such are the detours of the wire, hinging on ethics. In the second season, dock workers work hard but turn to questionable criminal acts, ignoring the obvious evils of their criminal activities (like human trafficking, resulting in the death of thirteen women, as a sort of primal scene in this season). In later seasons, young boys work hard to avoid the drug game and get to school, only later to give in and commit murders for drug dealers. An iconic moment is when Mike turns down free money for school clothes from Marlo, knowing there's no such thing as a gift. Meanwhile, Senator Clay Davis (Isiah Whitlock Jr.), under investigation for accepting money from dealers, hollers in the mayor's office, "You think I have time to be asking a man why he givin' me money? Or where he gets his money from?" Such parallels urge the audience to identify with the youth, only to retract it when he later sacrifices his morals.

Even the most ruthless villains are occasionally presented with a lure for audience identification, or at least understandability. Chris Partlow (Gbenga Akinnagbe) and Snoop (Felicia “Snoop” Pearson) draw in the audience as much as any other characters because their nihilistic world-view and their methods in their work are objects of curiosity. For quite some time, the police can’t understand why Mario Stanfield took over so much of West Baltimore without leaving a trail of bodies. Chris and Snoop hide dead bodies in vacant houses, using chemicals and a nail gun, sealing the place and eliminating smell. The bodies are eventually found because McNulty is unrelenting. What makes these characters understandable isn’t that they are natural-born killers. It is later implied that Chris was raped in prison, and he ends up in prison for murder when he kills out of emotion, not following his usual way of killing with cleanliness but by beating Mike’s father to death in an alley, partially as a favour to Mike but also as a transference of aggression, knowing this man raped other men in prison. Snoop casually watches and says, “Didn’t even wait to get him inside.” Snoop and Chris are almost always together in their work. Snoop, who looks like a young, teenage girl is played by a woman in her mid-twenties of the same name and similar lifestyle. Perhaps this story is the story of the actress because she served 6.5 of 8 years for second degree murder beginning at age 14; she was again arrested and pleaded guilty in 2011 as part of a federal sweep targeting the sale of heroin (*The Washington Post* 2011). This character was referred to by Stephen King as “the most terrifying female villain ever to appear in a television series” and she seems to take her job as a murderer for Stanfield as her natural place, with no conscience. This is perhaps why she accepts her death so easily when Mike, her partner, is ready to shoot her in her SUV. “Do my hair

look good?” she asks. “You look real good, girl,” he responds, wishing he didn’t have to kill his friend. However, she’s following the chain of command and she pays the price.

Each season focuses on a different industry, culminating in the final two seasons in politics and in the final season in news media. The detours of the plot are ready to wrap up, hopefully with McNulty and Freeman catching the villains and the promising Councilman Carcetti becoming a mayor who can actually make a difference in the city. However, he too gives up his aspirations as political discourse presents more challenges and his aspirations get the best of him. In the news, there is a reporter who begins inventing all his work, even if it “starts with something true,” to quote his boss who knows but isn’t heard when he complains, and this reporter, along with the newspaper, wins a Pulitzer. In the mayoral race, and this is one of the most important points I will make, one character is presented as most worthy of audience identifications for much of the final two seasons. Councilman Carcetti, a white politician with hardly a shot at mayor in a black majority city, works hard to be unlike other politicians. He finally wins the mayoral race, but it isn’t until the final episodes of the series when the audience realises that he literally becomes the master’s discourse with its dependence on material resources and the university discourse; he cares so much about eliminating crime, makes promises, but then he can’t squeeze any resources from his budget to actually help police who really want to prevent murders. Only his wife can tell he is changing and he has no idea. This is why McNulty creates a fictional serial killer whose murders are of “a sexual nature” (the sexual fantasy is Lester’s idea). The system doesn’t allow one to live up to one’s promises and this will result in *The Wire* finally

withholding enjoyment from the audience, causing them to disentangle any identifications or fantasies about discourse.

There are only main two characters which stand outside of the typical discourses and transcend divisions of law/criminal: Bubbles, the heroin addict, and Omar Little, the ruthless stick-up boy who robs drug dealers for a living. Despite his petty crimes, Bubbles is an object presented as needing sympathy due to his tragic life and his desire to get clean. However, he leaves a trail of death and betrayal. Sobriety is his ultimate achievement. Omar is one of the most entertaining characters in this series. This ruthless robber of drug dealers has ethics, "a code," as Bunk puts it. Omar would never point a gun at someone who's "not in the game." He's honest, articulate, and has a vengeance for the dealers who tortured his boyfriend to death. For this reason, he also provides information to police; he has no allegiances so snitching isn't a problem for him, and if anybody has a problem he can "put a gun in their mouth" especially because he's feared everywhere. "Sometimes all it takes is a name," he says when he's unarmed. Bubbles reinforces the notion: "He don't need no last name." Omar is not driven by money or greed, and even destroys drugs on occasion after stealing them, to try to disrupt Stringer Bell's business. However, like McNulty, he is too fixated on Stringer, and this gets his friends killed, friends who just want to do robberies for money and could therefore be in less dangerous situations. In investigating one of these deaths, Bunk is angry that kids playing on the street are re-enacting the shootout, saying Omar by name, "glorifyin yo' ass." This is one of Omar's mistakes; he's not a role model. These two characters are not as bound by one discourse (e.g. which would mean being on a specific side of the law), and one would lose visual attachment to the

show if either of them were to die before the final season. These characters are captivating for their ethics, their enjoyment, and their struggles. However, the despair in Bubbles' life and the mistakes in Omar's, both leading to the deaths of the people dearest to them, is how *The Wire* subtly dispels audience attachments to these characters.

In each of the above descriptions, any character that is set up as an ego-ideal is shown to be much less than ideal. Like in *Las Meninas*, if one looks into the visual field for an answer in signifiers, an answer to the question, 'Where am I in this frame?' one is likely to constantly shift in detours like the ones Lacan described, seeing a series of not-me's. All identifications are not only detours, but they are detours through the symbolic. Identification, although it can be about shared desires, is about the articulated, about shared signifiers, even in the form of, 'How would I act?' or 'What do I want?' or in the form of, 'What does the Other want me to want?' Desire is the desire of the other, and there are moments of identification with others' desires which are constantly called into question in this series. While movies and shows are easy to watch for the reason that the audience roots for the hero that can stand in as an ego-ideal, this series strips away ego-ideals and leaves discourse itself as the object. There is hardly a character one hopes will succeed for their own personal success but rather to prevent more violence in the community. This is made abundantly clear on both sides of the law in one episode, where characters distance themselves from their unethical relation to the symbolic order. First, D'Angelo constantly creates a distance between the way he's implicated in the evils of the crime world. He constantly tells Wallace not to think about the tortured, dead body he saw, saying "it isn't on you or me" but robbing people causes

it to happen. He naively disavows the threats of violence to people like Wallace as well: “Ain’t nobody holding a gun to his head” but of course his people will kill Wallace. Similarly, when a girl dies at a party, having overdosed and been raped by several different men, D denies his involvement, despite finding the body and aiding in the cover up by lying to his girlfriend, the dead girl’s friend, telling her the girl was sick and went home. Similarly, the police think their case against Stringer matters to the point where they withhold information about a murder committed by Omar because he’s a useful informant. Lester and McNulty are forced to ask themselves, “Are we still cops?” Bunk feels the guilt of telling another officer, who must investigate the murder, that he has to leave it alone for a while, knowing McNulty will never give up the murderer. He drowns his guilt by getting debilitatingly drunk while cheating on his wife and McNulty comes to pick him up, “Jimmy, you’re no good for people, man. Everyone around you.” Omar continues to rob, murder and even page Stringer’s pager, pretending to be Wee Bey, the right-hand man; as an agent floating outside the symbolic order in any way that makes sense to other characters, Omar helps determine it. The other officer passes away being owed a murderer for that case. Many of these characters are presented as ideal, as noble, as worthy of success, but one by one they are each shown to be lacking. If an audience is encouraged not to identify with the knowledge and ethics of these people, what is left to provide a desire to continue watching? What is left is the gaze within discourse.

What is left is the wiretap itself, which holds together the “intersubjective complex” like in “The Purloined Letter.” This fictional world is destabilising like in the world of *Las Meninas*. The moment one finds an identification they can enjoy being

attached to, the drama entices one to say, 'that's not it' and look for another character to identify with. This is like when looking at *Las Meninas*, one might enjoy considering themselves in the position of royalty, but must reconsider after realising the impossibility. Recall that Lacan raises the possibility that the viewer sees a reflection of the king and queen in the background of the painting, but reasons that Velasquez deliberately painted their size as impossible considering their distance, if it is a reflection. Not only this, but the symbolic space itself is unstable. One may wish to find some grounding in the law itself, which might be able to provide a sense of justice, but this hope is doomed from the beginning because the commissioner and deputy of operations put up barriers to progress at every turn. Their obsession with statistics, conditioned by the discourse they've entered into, guides all their decisions. This is a dependence on the university discourse which props up the master: "For this is well and truly the S2 of the master, revealing as it does the bare bones of how things stand under the new tyranny of knowledge" (XVII 32). One then looks to the other side of the law but sees no resistance to law in any justified way, but only sees a regime governed by ruthless murderers. What holds this world together is the symbolic, the law, as everyone acts in relation to discourse. There is little overlap between these worlds of crime and law but they are tied together by the wiretap, which police have to jump through many hoops to acquire, often depending on friends in the courts to circumvent the wishes of authorities in the police department.

The wiretap itself functions like the letter in Lacan's reading of Poe, with various moments of the look involved, and Poe earns a reference from some young dealers who refer to the Poe museum in Baltimore as the "Edward Allan Poe House," mistaking

his name. The 'look' like in "The Purloined Letter" is to be taken literally because the wiretap on the payphones is only permitted as long as one has a visual of the target on the phone, leading to complaints from officers like Carver and Herc who are required to sit on rooftops all day with binoculars. Additionally, there is a moment, to be expected, when McNulty pretends an officer was on the roof to save an important audio recording. The visual field is crucial for gathering signifiers. When it comes to the wire itself, the Barksdale crew is extremely careful just in case. Other criminals, like the pier workers and Stanfield, are not quite as careful. This is the first moment of the look, which is that for much of the show, even the careful crews do not know that the signifier is heard, or that they are being watched. Cluelessly, they make mistakes, like discussing business on the phone, saying names on the phone, and even making calls at crucial times (like when Omar's boyfriend is murdered) and the police don't need to hear their words at all. All they need is knowledge that pages and calls are being made at the time of death. Such a call is a "pure signifier," in Lacan's terms.

The second logical moment, like in Lacan's reading of Poe, is when criminals know they are being listened to. This logical moment is ascertained by absences. For instance, after a major bust where the police officers chase someone who runs from an SUV and seize a bag of heroin, Avon and Stringer wonder why the police let the truck go (which the police already planned to do because they have a charge on the driver and they can arrest him whenever they like). Also, the truck is ditched and the "narcos" don't come calling about it, as if they didn't even try to get the licence plate number. Something is strange, logically meaning the police have a wiretap. Criminals often ditch phones, even tearing payphones out, and give up all electronic communication at times.

The Greeks also do this for the same reason in the second season; the union head at the pier, who allows smuggling, gains this stage of the look when he realises his cell phone is flagged (allowed to remain active despite not paying his bill). Similarly, the Barksdale crew disguises numbers by speaking in code. Officer Presboluski deciphers it as switching numbers based on the position of numbers on the dialpad, knowing that math would be too challenging for these “little yo’s” on the corner. Similarly, the Stanfield crew uses pictures of a clock, which is a code Freeman deciphers as coordinates on any readily available physical map. Also, in the third season, the dealers start using “burner” phones, throwing the phones into the street every few days, so the detail uses their purchase locations and speed dial entries in the ditched phones to continue their wiretap. In the second stage of the look, the object returns the gaze.

The third moment is when officers know that the other knows they are being watched. For this reason, they must find ever more creative ways to listen and crack codes without the other’s knowledge. This leads the audience through a series of repetitions as the wire is constantly shut down because investigations get stifled by authorities. This is the “*repetition automatism*” of the letter, which continues to insist as an absence in the visual field. Although the imaginary lures the audience in, it is the letter, the wire, which is captivating and waiting to be concluded; it is the signifier in the visual plane, like the hidden painting within in *Las Meninas*. As an officer deciphers the code, they wonder, ‘he is saying this but what does he mean?’ like the child in Lacan’s graph of desire and like the hidden message of the letter to the Queen in Poe’s short story. Such is the constant detour in each season of the series, with some interruptions as the detail is split up and reformed. As officers obsessively chase their favoured

villain, and dealers carry out business, the repetition always takes the form of these three stages. What is most important for this critique, however, is the conclusion. If there is a repetition in this method of listening, in what way could the drama possibly conclude? How does the narrative end the repetitions? First, I will briefly provide details of how these logical moments play out in each season before the pleasantly unsatisfying ending.

These logical moments follow this structure in each season (except the fourth and fifth draw out these logical moments throughout two seasons except one). The tap itself functions like the Lacanian gaze. In the first season, the street dealers do not use cell phones at all, except they use pay phones to page the distributors and bosses in a strict chain of command. They then wait for a call back on the same payphone. When they begin to wonder how the police know a “package” was going to be in a certain place, and why they didn’t follow up on a vehicle after a chase, the dealers know they are being watched, so they literally rip the payphones out of the ground (this is the second logical moment). This repeats as the criminals speak through code on pagers, which is based on reversed numbers on the way a phone dial pad looks (each number replaced for the furthest one on the keypad), and eventually have to find ways to abandon technology. The crews selling drugs in Season One, however, will continue for almost three seasons and will constantly find new ways to avoid being watched. For instance, several seasons later, they send people to buy pre-paid phones (burners) from all over the area surrounding Baltimore. If they aren’t bought in bulk, no one can tell what’s being said on them until long after any crime has been committed, and the phone companies want to keep it this way until the lawyer, Rhonda Pearlman, threatens

to hold a press conference and hold these companies accountable. After following the buyers, the detail is able to put together a small network of calls made from burners they can tap within a few days of purchase (but cannot reach the bosses like Stringer Bell who uses separate SIM cards and is only contacted outside of the network, unless someone messes up and says too much on the phone in a crisis). The only time he is caught on the wiretap is when he is about to be murdered, and McNulty is depressed because Stringer never knew he was caught. Based on these levels of precaution, and abandoning specific methods, the police always learn that the criminal knows they are being watched (the third logical moment).

Similarly in Season Two, the dock workers' union, working with 'the Greeks' on importing all sorts of contraband, does not know they are being watched closely, despite a canister of thirteen dead girls being found. For instance, when Beady is part of a detail to spy on them, she drives her patrol car into the docks as if she's on her regular patrol to pretend the investigation of the thirteen dead women had been dissolved out with no more leads. When certain things don't add up, like Frank's phone being allowed to operate despite the bill not being paid, the criminals wonder if they're being watched (second logical moment). Frank sends a normal canister rather than the contraband to the Greeks just in case and the police show they are interested. Similarly, the Greeks, fearing this, leave canisters of contraband. When the police see this, they know the criminal knows they are being watched. This is the third logical moment of the look. The police are extremely patient but the funding is not, and most higher up criminals are not charged.

Again, in Season Four and Five Marlo Stanfield is the new target who is leaving bodies in vacant houses. He is never heard on a phone, despite wiretaps on all his people. Further, when his people text, they only use a code: a picture of a clock. After following them around, Detective Sydnor finally looks at a map and realizes the clocks are code for coordinates on any readily available map of the city. This leads to the finale, when finally, Marlo is in handcuffs and Lester gets to hold up a picture of the clock and look Marlo in the eye, showing he knows the code. The second logical moment of the law was not met (like the minister's error in "The Purloined Letter"), but the police became criminals too. The illegal wiretap couldn't produce the desired result and Marlo walked free. Like in Lacan's explanation of "The Purloined Letter" there is the look, then a notice one is seen, and then a look noticing the other knows they are being seen. All of this draws the audience in, rather than identification with any character. This is the strategy used to cause the audience to dispense with identifications and, finally, to lose faith in the law of the symbolic itself as the empty system continues to function and lieutenants become majors and majors become colonels.

A necessary remainder is left in the final season, which plays the role of the placeholder letter in Poe. After a series of failed identifications (because the imaginary necessarily fails), the series drives home the point that the audience cannot rely on the symbolic and the law as a space for ethics and justice. The master is not a viable position to occupy if one wishes to seek justice. After the wiretap's detours and repetitions and after McNulty, drunk, self-destructive, promiscuous, alienated from his girlfriend, invents a fake serial killer, who kills the homeless with a sexual twist to the story, to get the attention of the mayor, the news, the commissioner and so on; with this

sensationalised story, handed to the news media, a wiretap is given to catch the killer. Freeman and McNulty, in a bold evasion of legality (which could land them in jail), use this wiretap to catch Mario Stanfield and his crew, including Chris and Snoop who left dozens of bodies which the mayor and other authorities don't care to solve. Eventually, word gets out in the department (because Kima refused to keep it secret, and McNulty told her because of his guilt at seeing her work hard to chase a fictional killer). Lt. Daniels tells his superiors and the lawyer who issues the subpoenas, and it becomes a truth everyone knows but no one talks about it. The mayor, the Deputy of Operations, the Commissioner all know, and they're furious, but McNulty and Freeman are forced to ask themselves, "Then why aren't we wearing bracelets [handcuffs]?" They are allowed to proceed because the media storm about a fictional serial killer would be embarrassing for everyone, and it granted the police resources. Even the mayor would be embarrassed and it is kept secret. McNulty and Freeman get off light by being fired, and happily so, because they actually cared about finding murderers. But what happens with the wiretap? Did it provide a solution or audience enjoyment?

Freeman used the wiretap illegally, and even the evil defence lawyer for Stanfield and Stanfield himself think there must be a snitch in their group because the police knew where all their operations took place. The wiretap was undisclosed. This moment shows that all morals can be shaken because the lawyer, Rhonda Pearlman, approaches the defense lawyer for a deal and he becomes suspicious there was an illegal wiretap. She is drawn into McNulty's criminality so much that she blackmails the lawyer into a plea deal rather than going through proper channels. In the final montage, she is recusing herself from her first case as a judge because Daniel's is involved and

they are in a relationship; they both achieved their goals at the expense of ethics, except Daniels was forced out of policing due to his shady past being used against him when he refused to “juke the stats.” McNulty always hated that people valued their career goals more than justice, occasionally lashing out at Rhonda for this (who he also had an ongoing affair with in the past) and he helped prove himself correct in this moment. The wiretap in all this is pure signifier, allowing Freeman to decipher the code, find points on a map, to get officers out and spy in the visual field. The remainder is the wiretap on the fictional serial killer, out in the open for all to see, while the dishonest or “purloined” data gives McNulty and Freeman the power to locate Marlo Stanfield, who gets let off on all charges since the wiretap was illegal.

This is the result, the remainder. The case cannot be fully prosecuted and only Chris Partlow ends up in jail (due to the one time he murdered someone in the open due to transference-hate). Most criminals are dead by this point. The fictional serial killer is never made public, and the fake wiretap is never brought up in court because of the higher ups’ concern for public opinion and, as Norman, Carcetti’s advisor, laughingly points out, “Everyone’s getting what they need on some make believe.” The series ends with power relations continuing exactly as they started in the beginning of the series and it ends with a number of disappointments. When the police get what they want (arresting Marlo), they wonder, “Then why do I feel like shit?” The mayor and high-up authorities in the police department get to be in pictures next to seized drugs, remain focused on their budgets and statistics, and even the new, promising mayor one might hope would succeed in addressing crime becomes subservient to his symbolic position. He cannot honour his promises. This letdown is the *jouissance* an audience ought to

hope for, which it deserves, which puts a cut in symbolic expectations and imaginary identifications, like a signifier welling up from the unconscious emphasising the Other's lack and our own. One should not remain comfortable in matters of law and *The Wire* does not allow one to finish watching it and remain comfortable. Rather, one sees the master as exactly what Lacan says a master is: the master wants things to work while enjoyment waits. Other than this place, there is no stability in the world except what the symbolic grants it. Why did we keep watching and constantly get let down at the end of each season, with a major disappointment in a bleak final ending? The answer is the wiretap, the pure signifier. The very late Lacan says it best:

Can one say that the Real lies (*ment*)? In analysis, one can surely say that the True lies. Analysis is a long journey (*cheminement*) – one finds it everywhere – that the chemine-ne-mente (the journey does not lie) it is something which can only on occasion signal to us that, as in the wire of the telephone, that we find our footing. (XXIV 118)

The look, with its absence (the binary signifier), is what lures the audience into the symbolic field. Art can use this lure in different ways and *The Wire* uses it to shatter identifications; it forces the discourse of the analyst on the scopic field, compelling one to hystericise themselves, to question their symbolic identifications, and to question the symbolic itself as a fictional stability. All vantage points are called into question as each character sees the world in vastly different ways, such as when police compliment civilian informants for seeing what the police could never notice on their own. What is left is discourse and each takes their place within it (as distinct from ethics which is elsewhere in the form of symbolic identifications). The wire, exactly like the letter,

always arrives at its destination, and power structures are maintained, like in “The Purloined Letter.”

### **The Structures of the Discourses**

Recall the destabilising of vantage points *The Wire* provides, withdrawing any symbolic identifications from the audience. What reigns throughout the series is discourse. In this political order, there are competing agents trying to be masters and it's rarely a simple answer of who the master is in any given situation. While powerful characters, like mayors, commissioners and the deputy of operations give orders, constraining less powerful characters to either obey or risk their job, their commands often come with the requirement of negotiation and compromise. This is an illustration of what I referred to in Chapter Two as the Demand theory of law. It is a demand rather than a command (see Chapter Two for a definition of the command theory of law) because, “language, including the language of the master, cannot be anything other than a demand, a demand that fails” (XVII 124). A contract is always made between competing desires, including between master and servant. This is because every subject is subjected to discourse. There are many examples of masters being forced to make compromises on their demands, sometimes for reasonable reasons and sometimes for egoistic or otherwise. One example of an authority figure compromising on his desire (that McNulty lose his job permanently) is when McNulty's Sergeant, puts forward a passionate speech, asking for mercy. He describes in vulgar detail how the prior night, he was masturbating, and describes the woman he was imagining from decades earlier, until McNulty pops into his head, and he has to “open [his] eyes and

accept that [his] entire night is ruined.” When asked what his point is, he’s had to contemplate that McNulty’s insubordination “isn’t his fault” because he’s an “addict” who’s addicted “to himself.” Unfortunately, McNulty thinks he’s “the smartest fuck in the room,” partially because when you look at who he’s had to work with, he “usually is the smartest fuck in the room.” The sergeant describes how amazing McNulty is as a detective, how many clearances he brings on seemingly unsolvable cases, and the deputy of operations allows him to return with a clean slate if he can end the expensive wiretap investigation soon (which of course does not happen). Although there are more clear examples of masters being put in difficult positions where they have no choice but to compromise on their commands, this instance showcases the sexist vulgarity of the police department and the desires of the masters as divided subjects, unrelated to the actual law. In this case, that desire is a seething hatred for McNulty.

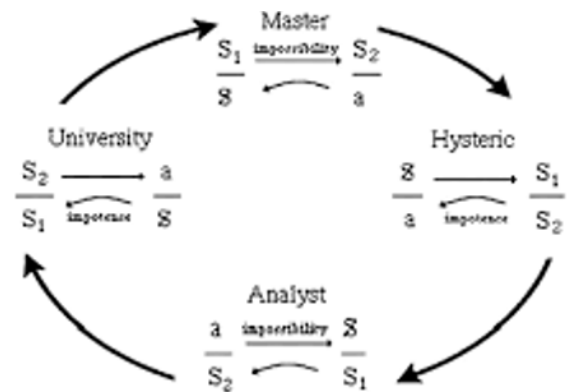
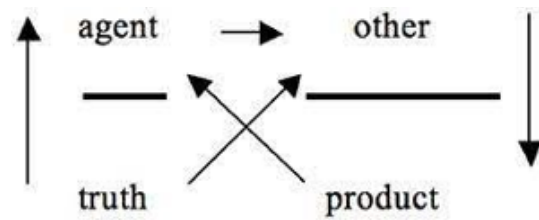
It is difficult to trace where the law actually is in *The Wire*, because the written law has little bearing on what actually happens. Lacan praises this goal because, first, the law “must certainly not be taken as a homonym for what may be spoken of elsewhere under the heading of justice” (XVII 43). Lacan asserts the separation thesis discussed in Chapter Two. Secondly, he sees law as a symptom: “At the level of the hysteric's discourse it is clear that we see this dominant appear in the form of a symptom. It is around the symptom that the hysteric's discourse is situated and ordered” (43). He seems delighted that “This is, in fact, what we can see in our own time—the law is being called into question as a symptom” (43-44). Whenever the audience is forced to reconsider, “Who would I be?” if I were in this situation and is always forced to reconsider, to question their own ethics, their own approach to the symbolic order, this

is art playing the role of an analyst, compelling the viewer to hystericise themselves, to question, “What am I?” and “What do I want?” A brief look at the formulae for the four discourses from *Seminar XVII: The Inverse Side of Psychoanalysis* is useful here.

Above the bar in each discourse is an agent addressing another, and the variables below the bar are unconscious, in the place of product and finally, truth. The analyst starts this discourse in this case by erasing all identifications. The remainder, the letter, the wiretap itself, the pure signifier, the truth about knowledge (S2 in the place of truth), causes the audience’s desire to keep watching, and what they find is that disciplinary knowledge serves the master and the master’s discourse is castrated, lacking, and that what the master says is a lie to keep things working in his favour. The university’s unknown truth is that it serves the master, meaning that the statistics, charts, and numbers all allow the master to occupy his position in *The Wire*. Split subjects like Jimmy McNulty and Lester Freeman are produced, officers who are split between law and justice, having to disobey their superiors to do what they think is the ethical course of action. The master addresses the subordinate, who has unconscious knowledge. This split subject possesses the knowledge of the master as divided, but masking this division. Deputy Rawls constantly says, “I’m known for being a reasonable guy,” when giving orders but the subordinate fully knows he only wants what is best for

him personally when he pretends to want justice. The remainder, for the audience, is fully apparent, the unconscious in the fore.

What remains after having pondered the series, seeing that in the end, people like Mayor Carcetti, who wanted change, become the new master, and people like Pearlman, who was furious at McNulty for implying she cares mostly about her



law career rather than justice, gives up her ethical position and becomes a judge. The lying news reporters win Pulitzers and the highest authorities cover over their knowledge that the entire justice system was subverted by the wiretap. The wire returns to its proper place, which Lacan says about the letter in Poe's story ("The letter always reaches its destination"), leading to the hystericisation of the audience. One might ask when watching any framed narrative, 'Who would I like to be in this story?' *The Wire* urges one to answer, 'No one'. What is left is a critical eye for the law as part of the master's discourse (the law as symptom) with no ethical grounding, alongside the humanisation of the criminal (which is Lacan's goal in his analysis of crimes discussed in the Introduction). In other words, the audience is asked to question the master's discourse itself, asking, "Who would I be here?" and coming up only with the master's castration. Thus, the product is knowledge, but the truth is that one is still lacking. This leads to the bleak point Lacan makes, which is the same point *The Wire* makes: new

master signifiers always take over when one has symbolised the unconscious and called the law into question as a symptom. Recall that each discourse aside from the hysteric's is one of Freud's "impossible professions." Lacan spells out the conclusion of this cycle for us with the idea of the analyst's impossible task:

Let's move on to the level of the analyst's discourse. Naturally, nobody has made the observation that it is fairly curious that what he produces is nothing other than the master's discourse, since it's S1 which comes to occupy the place of production. And...perhaps it's from the analyst's discourse that there can emerge another style of master signifier. In truth, whether it is another style or not...at least for the moment we are completely impotent when it comes to referring it to what is at play in the analyst's position, namely, this seduction of truth that he presents in the fact that he would know a bit about what, in principle, he represents. Am I adequately stressing the features of the impossibility of his situation?—insofar as the analyst puts himself in the position of representing, through being the agent, the cause of desire? (XVII 176)

When an analysand frees themselves from unconscious or real masters, one is still alienated by language. There is always a new master signifier (which will be discussed next chapter, regarding *The Godfather*). When one shatters a misrecognition of self, and sheds the signifiers their ego has represented themselves with, one only finds new ones, albeit hopefully ones that allow the subject to progress to a life more comfortable with lack, and less comfortable with the law as distinct from justice.

**Conclusion: towards a better master signifier**

The one character whose reputation is untarnished in this series, who only appears on occasion except as a main character in the second season when she is introduced, is Officer Beatrice “Beadie” Russell (Amy Ryan). Her job is generally uninteresting as she cruises around the pier, until she has the misfortune of uncovering a cargo container with thirteen dead women in it. From then on, she is a crucial part of the investigation. Her only defect is, later on, her love for McNulty, although he eventually redeems himself after putting her through some turmoil.

Beadie cares about a crime few others do (aside from McNulty and a small detail). In fact, the law at times does not see these murdered women as a crime, but more as an accident, dead cargo, even if they were illegally smuggled into the US. No one wants the paperwork, the headache, or unsolved murders on their record, as police chiefs debate about why the case should not fall under their jurisdiction. Out of spite, McNulty finds a way to put it in the jurisdiction of Deputy Rawls, but also he wants good police like his former partner to work the case. Beadie is flabbergasted because the case is not taken seriously, including later when the case is being worked, but Rhonda Pearlman tells the detail they cannot get a wiretap for dead girls or prostitution, but only for drugs. Here, the audience is brought to despise the law for its indifference about violence against women. The law’s relation to morality is lost here.

Beadie speaks the truest lines in the entire series, a series where the symbolic is often meaningless. In the final season, McNulty, having established a relationship with her and spent time with her children while living in her house, gets drunk on Jameson in

the morning to prepare for tampering with dead bodies in his invention of the fictional, perverted serial killer, spends nights away from home with random women. She gives him a final warning that she's ready to kick him out and says the guys and the girls at the bar will not show up to his wake, "not because they don't like you, but because they never knew your last name." She says the cops he has worked with will not be there either, only "Family. That's it. Family, and if you're lucky, one or two friends who are the same as family. That's all the best of us get." Beadie provides the only symbolic grounding which is not called into question by this series: love. This is why McNulty immediately confesses to her that he made up the serial killer, and realises he had unconscious motives for doing so; he admits he is not the hero and states, "I don't know where the anger comes from." But despite the quasi-nihilistic world of policing, he has Beadie if he can keep her. Love is what allows the subject to accept death as a signifier. Love is what staves off a fear of symbolic death, which is what Beadie evokes to caution McNulty about being alienated from family, as a final warning that she will move on if she has to.

Lacan's theorising on love is contradictory because sometimes love seems like a violence. Sometimes it is just a signifier like any other, and sometimes it seems like a way out of the confining servitude to the symbolic which nearly dominates Lacan's theory. Love can be so many things in Lacan. It can be an affect, a violence, and is nearly always a demand for what the other does not have, while giving what one does not have, namely, the phallus, and sometimes it can stand in for the lack of a sexual relationship. In *Seminar XI*, transference love is a kind of violence: "I love you, but, because inexplicably I love in you something more than you—*the objet petit a*—I

mutilate you” (XI 268). In a world of superegoic injunctions to enjoy, love can function a little like the *sinthome*, as a force that brings comfort and calms the symptom, as a grounding in symbolic space, a space which cares little about the subject, despite what the subject’s narcissism hopes. This is why love will be considered in Chapter Six, in the case of a violent love relationship in *The Godfather I & II*.

### **Final Word**

There is only one moment in the series which detracts from my praise for *The Wire*. In the third season, Cutty (Chad Coleman), who progressively reforms himself and later introduces himself as Dennis, is released from many years in prison and naturally falls back into crime with Avon Barksdale’s crew. While following a dealer who seems to be stealing some of the product, Cutty and his team follow the thief around, watch him buy his girlfriend nice things at the mall, and then, rather than confronting him, they follow the girlfriend and stop her for a conversation. Cutty, a former boxer, hits her in the street, which is entirely pointless aside from making one dislike Cutty as a character. It makes no sense for Cutty to follow her when he can only gain the information he already has. The irrationality detracts from the quality of the show, but what we will see in the following chapter, is that violence against women becomes naturalised when a plot depends on it, unlike in *The Wire*.

## Chapter Six

'It'll be as though she never existed':

*The Godfather, Gendered Violence and Jouissance*

"You don't look at what you did before, you do the same shit all over."  
-Jimmy McNulty, *The Wire*

### Introduction

*The Godfather and The Godfather II*, beloved masterpieces directed by Francis Ford Coppola and written by Mario Puzo, have been the subject of much literature addressing ethnicity and masculinity, but there is little consideration of gendered violence, while critiques from a psychoanalytic point of view are extremely rare. However, there are some critiques that border on the goals of this chapter.

The reviews of the 70s tended to express ambivalent attitudes and occasional perplexity regarding the purposes of various scenes and events in the films. But in a particularly imaginative review, Norman Silverstein recognizes *The Godfather* as a Freudian dream-kingdom, with Michael as a prince and his father as a king, both surrounded by nobles; it is also wish-fulfillment, in which power by-passes elder children to fall to a youngest son... In this overtone also, however, Coppola does not probe the depths of the interrelations within the family, preferring to assign vague motivations to bloody patterns of terror. (1974, 115-116)

Alternatively, Leonard Quart and Albert Auster note the Mafia's code of silence and the "rapacity of capitalists" (1975, 39) while insightfully drawing our attention to Michael's subversion of the Mafia's traditions (38) and his desire for another son, for ritualistic reasons, despite never demonstrating "the feeling for his children which the young and old Don Vito Corleone radiate and bask in" (39). Aside from these noteworthy reviews, most critics of the early to mid-70s considered these films, especially Part II, to be disappointments.

Todd Berliner points out that the second part of *The Godfather's* critical stock rose after a few years and sees the value of the second part in "the pleasure of disappointment" in which the audience mourns Part I (2001, 113). Further, Alessandro Camon explains that "the Mafia has defined its own identity in terms of myth" (2000, 57) and this myth represents a moral "code" of honour, respect and silence (71). Michael embodies this identity and "*The Godfather* gives us a man that we want to be, or that we can't help being. As much as we enjoyed his affirmations of power... we empathize with his suffering the consequences" (70). We see this ascension and decline of the family as it deviates from its moral code, aided by the "pathological ways" criminal heroes relate to women (67) and Kay's inability to accept the mafia value system (68).

Glenn Man outlines the ways in which the narrative of *The Godfather* "subverts the dominant prosocial myth" (113) of the genre; the earlier ideology required the "gangster's punishment" to "act as a warning to all who would disturb the status quo" (2000, 110). Alternatively, in *The Godfather* Part I there is an "analogy between the Mafia's corruption and the law itself" (115) followed in Part II by "the deromanticization

of Michael and the family [that] goes hand in hand with the critique of capitalism” (118). Man’s contribution is to show that these films subvert the dominant social myth.

Vera Dika further elaborates on the Mafia code of honour, indicating that “male characters are punishable to the degree that they deviate from these established codes of honor” (2000, 89). She holds that this code of honour extends to a man’s “commitment to his family and to his respect of women and of the law” (90). Those who commit a crime against women or family deserve their punishments, according to Dika, who adds that “the presence of many women in the film provide the ultimate justification for the represented acts of violence” (90). Agreeing with Camon, Dika states that the ideal woman in the mafia world does not ask about business and Kay cannot understand the “codes of Sicilian womanliness” (91). In terms of the myth of the mafia, *The Godfather’s* return to old Sicilian ways, Dika points out, returns the mafia’s image to that of a protector of the weak against tyranny (88).

Despite the popularity and acclamation of *The Godfather*, psychoanalytically grounded literature delving into the films is extremely sparse. Ethel Spector Person uses *The Godfather* to illustrate Freudian “conflictual impulses of rebellion and obedience” (2001, 1137). She defines power as a drive crucial for what she calls “the godfather fantasy” and demonstrates how “in invoking this fantasy, we may aspire to become a godfather figure in our own right, or we may seek instead to procure for ourselves the protection of one or another godfather” (1137). By contrast, Timothy O’Leary makes it his goal to explain “the transformation of Michael from law-abiding war-hero into a cold, ruthlessly effective Mafia boss” (2009, 45). O’Leary holds that the

crucial moment of Michael's transformation occurs when his father, Don Vito Corleone (Marlon Brando), lays in the hospital after an assassination attempt:

'Just lie here pop. I'll take care of you now. I'm with you now. I'm with you.' He strokes his father's head and kisses his hand... It is, no doubt, never easy for a father to be helpless in front of his son, but this is the opening that Michael was waiting for. (46)

Michael then performs a calculating, protective masculinity, driving off assassins by acting as a bodyguard, becoming the favoured son. This outcome of childhood "rescue-phantasies" (48) is derivative of a Freudian "parental complex" whereby the child feels they owe their life to their parents; the complex is accompanied by defiance and hostility when it pertains to fathers and sons resulting in a usurpation of Vito's position (48).

Unfortunately, most of these authors pay little or no attention to women in *The Godfather*, and those that do generally do not perform an in-depth analysis. In addition, they do not address whether Michael handles his position as Godfather differently from Vito, nor do they consider ethnicity.

Building on these texts and addressing the lacunae, this chapter aims to address gendered violence, requiring theories of the unconscious. First, it will highlight the ethnic mythology of the mafia family, using Lacanian psychoanalysis to isolate the unconscious enjoyment of the character of Michael Corleone (Al Pacino) and, by extension, of the audience. This will be followed by a critical discussion of the character of Kay Adams (Diane Keaton), Micheal's wife and an outsider to the Italian family.

*The Godfather* marks a turning point in crime film because it "subverts the dominant prosocial myth" (Man, 2000, p.113). While earlier ideology required the

gangster's punishment to "act as a warning to all who would disturb the status quo" (110), *The Godfather* allowed audiences to identify with criminals, and 'gangster films' still pay homage to that break with their own conventions. At the same time, another convention remains unchallenged. Crime films create a universe where women exist to be threatened, beaten and murdered. In crime films, women are objects of exchange or domestication, appearing only to sustain violence or threat. What is the origin of this phantasy?

Nearly every internet search of the greatest 100 films will yield *Parts I* (1972) and *II* (1974) of *The Godfather* at the top ten. Continued affection for *The Godfather* takes many forms, whether it be a celebration of Italianicity, food, family, cultural celebrations, the immigration narrative or nostalgia for traditions. These films have powerful effects on audiences and may offer a reference point for one's identity; in *The Godfather Effect*, Tom Santopietro states that as a youngster it was difficult to figure out where he fit in but, after finally seeing *The Godfather II*, he for the first time "felt fully Italian" (2012). The 45th anniversary of *The Godfather* was celebrated by the 2017 Tribeca Film Festival with a cast reunion and the 50th anniversary came with a re-release. Also, Coppola published his notes on *The Godfather* in 2016. In a tribute to *The Godfather*, *The Infiltrator* (2016) treats it as a pivotal moment in American cinema. The door closing on Kay has recently been re-enacted in AMC's *Better Call Saul* (2015), ABC's *Luke Cage* (2018) and other productions. Countless references are made to these films in various genres, but why, specifically, does one enjoy recreating moments like the famous door closing scene which shuts women out of political conversation?

Now that the 50th anniversary of *The Godfather* has recently been celebrated with a re-release of the series, and the adoration of these films seem to be solidified for the foreseeable future, it is time to re-assess and re-analyse these objects of love. The problem of women in crime films, that they appear only to be threatened with or sustain violence which the hero then avenges, is exemplified in *Safe* (2012), *The Drop* (2014), *The Equalizer* (2014), *Falcon Rising* (2014), *A Walk Among the Tombstones* (2014), *Close Range* (2015), *Crossing Point* (2016), *Live by Night* (2016), *Mechanic: Resurrection* (2016), *The Nice Guys* (2016), *The Hunter's Prayer* (2017), *John Wick: Chapter 2* (2017), *Message from the King* (2017), *Security* (2017), *Shot Caller* (2017), *Vengeance: A Love Story* (2017), *Death Wish* (2018), *The Equalizer 2* (2018), *Gotti* (2018), and *Mute* (2018), *The Traitor* (2020), *Riders of Justice* (2020), *The Sounds of Philadelphia* (2020), *Nobody* (2021), *Crime Story* (2021), *Pixie* (2021) to name a few. This is a normalization of gendered violence in crime film which crime fiction has often relied on since *The Godfather*, as the first major work of crime film that urges identification with criminals. Of course, the reliance on the victimized woman is not solely a 'gangster film' trope, and can be found elsewhere. However, it is curious that the plot of so many films with criminal protagonists tends to use this trop to support the narrative. For this reason, an analysis of the unconscious underpinning of the victimised woman in *The Godfather* can serve as a starting point for its analysis in wider culture, and crime films in particular. The unconscious enjoyment offered by *The Godfather* and other crime films is a phantasy that must be discussed, symbolized and dispelled, and this is the perfect chance to put Lacanian literary critique to a test.

Responding to high rates of violence against women, Jacqueline Rose warns of “the institutionalized refusal of those in positions of authority to listen.” She further argues that feminism often repudiates the crime of violence, by rendering it unthinkable and shunning it beyond the remit of the human (precisely abominates), thereby “replicating that part of the mind that cannot tolerate its own complexity” (2016, 7). In a similar vein, Gilligan and Snider refer to “the internalization of the masculine taboo on tenderness and the feminine taboo on having a voice of one’s own” (2017, 181-182). Appalled by the persistence of patriarchy confirmed by the 2016 presidential election, they suggest that “man’s violence [and] women’s silence” result from loss of Relationship (176).<sup>15</sup> The consequence is “a culture held in place by male violence (or the threat of male violence) and by female silence” (182).

This chapter will claim that through identifications with characters, the audience is offered unconscious *jouissance* dependent on gendered violence. The characters ratify their identities by appealing to either a mythical Sicilian or an American big Other. The latent content introduced to myths by individual characters opens the door for Lacanian theory to isolate the audience’s surplus enjoyment. Through identification with the protagonists’ power struggles, the audience’s enjoyment of the narrative requires a mythical ‘silent and domesticated woman’ as the object *a*, which manifests in the symptom of the ‘brutalized woman’, both betraying a Jamesonian “transcendental function” defined by this unconscious enjoyment. In consequence of this analysis, implications for gender, violence and family, along with conclusions for psychoanalytic film studies will be contributed.

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<sup>15</sup> Note that Gilligan and Snider capitalize the ‘R’ in ‘Relationship’ to emphasize its importance as central in everyday life.

The present chapter will also claim that psychoanalysis can contribute to our understanding of the role of film in the persistence (and enjoyment) of patriarchy. William Fried comments on the voyeuristic and identificatory gratification of viewers of *The Sopranos*: “In a very important sense... we are all Sopranos” (2017, 17). Pietro Bianchi claims that a subject does not simply look at the visual space, but becomes “completely surrounded by it” (2017, 60). For Bianchi, the image functions as a mirror which sutures the illusion of an imaginary unity; while hiding something it presents “the *totality* of the narcissistic image” (92). Furthering Bianchi’s contributions, and pressing beyond my discussion of identification and the lure of the image in Chapter 5, I will argue that we must consider the power of this image when the film is over, and must entertain the notion that these thrills indeed have far-reaching consequences. To put it differently, if we become Corleones as we watch the film, how do we cease to be when the film ends? The drama lives on until we symbolize the phantasy such films impart to us.

### **Utopian Function**

Jameson draws attention to the role of myth in *The Godfather* by introducing the transcendental or utopian function found in the “fantasy message projected by the title of this film, that is, in the family itself, seen as a figure of collectivity and as the object of a utopian longing, if not a utopian envy” (1979, 146). The older schemas become inflected with fantasy material related to ethnic groups which triggers this utopian paradigm. Ethnic groups in the United States are both objects of prejudice and an envy of collective solidarity because the disintegration of dominant communities is ideologically explained by the disintegration of the family or loss of authority of the

father. For Jameson, the ethnic group in *The Godfather* can “project an image of social integration by way of the patriarchal and authoritarian family of the past” (146) Thus, he adds, the bonds of the family and “the protective security of the (god-father with his omnipresent authority, offers a contemporary pretext for a Utopian fantasy” (147) In that sense, *The Godfather* offers a proof of Jameson’s proposition: that art has as its “underlying impulse—albeit in what is often distorted and repressed, unconscious form—our deepest fantasies about the nature of social life, both as we live it now, and as we feel in our bones it ought rather to be lived” (146-147).

The demand of the mythical big Other for Vito is to become a ruthless patriarch; ‘godfather’ is the signifier that steers his actions. Vera Dika suggests that Don Fanucci, who we first see threatening a young actress to extort her father and ultimately turning his threats to the young Vito (Robert De Niro) and his family, is killed by Vito in an act of “displaced vengeance” (2000, 87) because Don Fanucci is much like the patriarch who killed his parents in Sicily. This act is thematically tied to Sicily because it takes place amidst an Italian festival in New York’s Little Italy during which Vito returns to his generally silent wife, and his children who hold little American flags. He picks up newly-born Michael, uttering the words, “Michael, your father loves you very much.” Vito carries out violence to protect his family.

Despite Vito and Michael’s authority and ruthlessness, in a myth of patriarchy, *The Godfather* sneaks the inflection of a new signified on the signifier of ‘godfather’. When Tom Hagen (Robert Duvall), Michael’s adopted brother, lawyer and consigliere, is asked at a criminal court hearing about the alias ‘Godfather’, he replies that it is “a term

used by his friends, one of affection, one of respect.” At any moment, ‘godfather’ can regress to the usual language but lurking in phantasy is ruthless patriarchy.

Barthes states that in mythology, the obtuse, unsymbolized meaning of a signification “carries a certain emotion” and “designates what one *loves*, what one wants to defend” (1972, 59). Vito takes the position of the powerful men he vanquishes with the exception that he upholds the moral code of the Italian-American mafia myth, protecting his family by targeting those who threaten women with violence. The undertaker’s plea for justice in the opening scene displays Vito’s relationship to a delicate balance of two irreconcilable cultural big Others. As a father, the undertaker is torn between both: “I believe in America.... I raised my daughter in the American fashion. I gave her freedom, but I taught her never to dishonour her family.” He did not protest that she stayed out late but if he had she would not have sustained severe beatings from American boys, so Vito agrees to avenge the man’s daughter after faulting him for his trust in American police: “Why didn’t you come to me first?” The big Others at work in *The Godfather* are Sicilian and American ideology but the latent meanings shift at two moments: 1) when Michael attains the signifier of ‘godfather’ and, 2) when Kay satisfies the American big Other’s demand that women be free. One constant, however, is that the Sicilian Other, with its languages and traditions, as the first scene demonstrates, confronts the loss of a mythical time when women remained silently in the home. This myth is the lost, primal scene of crime films and the repressed desire for the lost object manifests in the symptom of the brutalized woman.

### ***The Godfather Phantasy***

As the youngest of the brothers, Michael could not conceivably compete to become the powerful head of the family so he presents a powerful image by satisfying the demands of the American big Other. Raised in the U.S., he identifies with American ideals. In Part I, the young Michael distances himself from the mafia culture as his wife, Kay, questions him in intrigued terror about his family's operations. His reply is straightforward: "That's my family Kay. That's not me." Michael avoids continuing in the culture of his family by seeking a non-Italian wife. He believes he can avoid obedience to the Sicilian Other, with its traditions and expectations, and instead presents himself as a decorated American war hero, arriving in uniform; he is a soldier representing himself before the American big Other, defending freedom and equality. He wants others to see him as a loyal servant of this tradition, and America provides him with signifiers and a self-image he holds dear. In a flashback at the end of Part II, Michael remembers himself at a family dinner revealing to his siblings that he had joined the marines, beginning an argument with Sonny, his older brother, who believes that Michael will "break [his] father's heart on his birthday." This moment indicates Michael's early disobedience against the Sicilian mythical Other, with its own chain of command and operations, and his attempt to gain approval from American culture. Michael disavows the former until later, when his identification with the latter is shattered.

When Michael's father is in hospital after an assassination attempt, Michael learns that the police captain has teamed up with Solozzo, the drug runner who wants Vito dead. Michael's faith in America is disrupted and his plan to kill his family's enemies is the shaking of Michael's *méconnaissance*; the Other he saw in himself can no longer

be a valid object of identification. In Chapter Five, I explained why identification is a symbolic process for Lacan. Now, I will add that in *Seminar IX*, there is a lengthy discussion on signification, picked up as well in other seminars. Lacan argues against the formula 'A = A' or 'A is A' because language cannot refer to itself. For Lacan, the 'is' is imaginary. This is why his definition of the subject is "a signifier for another signifier." It is because when one identifies one's self, symbolically articulates their identity, any signifier can always metonymically shift to other signifiers, and when one identity is shattered, the only recourse is to seek different signifiers. This is why Michael Corleone must appeal to a new big Other, with entirely new signifiers. The villains then attempt to enslave Michael. As Lacan would describe this moment, these masters demand "that he should satisfy the desire and the pleasure {jouissance} of the other" (1223). In losing his power, Michael is forced to sacrifice the *jouissance* of his war hero status to a corrupt police captain, McCluskey, who is part of the plot against Vito's life. Now stripped of his powerful image by an agent of the big Other he showed allegiance to, Michael discovers he is not the patriot he once was but must look to a new big Other to (mis)recognize a new identity. Michael is momentarily powerless but he retains the moral imperative to kill his masters, thus losing the American signifiers and image for displaying his power. He can now turn to Sicilian mafia mythology for new *méconnaissance*, for new signifiers to represent himself with, leading to discursively determined objects of desire along the way.

Michael, hiding in Sicily, wanders the countryside to his father's native town of Corleone. He arrives wondering where all the men are and learns they are "all dead from vendettas." In the wake of Michael's success in vanquishing his enemies and the

disavowal of the American big Other, he searches for a new identity, a new big Other to serve and new knowledge of himself, equally a misrecognition. Michael must present a new image and it is the big Other which is sought “to ratify the value of this image” (X 32). The big Other in the imagination structures the symbolic reality we participate in and determines our socio-symbolic position (Zizek 2008, p. 330). Michael seeks to affirm his affinity with his father’s culture in order to consolidate the new identity he has set in motion by murdering his enemies. He has found power or “*might in the Other*, which is the mirage of human desire” but the “subject is doomed to misrecognize how this is merely a mirage of might” (X 292).

In turning to the Other of the Sicilian mafia tradition, Michael’s desire takes this linguistic and cultural tradition as its model and, from this moment onward, Michael attempts to corroborate his own might, the might he believes the signifiers associated with Sicily carry. Later, Michael’s maxim will be: “Nothing’s impossible.” Lacan’s formulation of the discourse of the master allows us to more easily expose Michael’s unconscious motives. In Lacan’s four discourses, the top left corner is an agent addressing the other (XVII 169) while truth and product are elements of fantasy. In the master’s discourse, the master addresses the slave while seeking to conceal any lack. In fact, the master “doesn’t desire to know anything at all—he desires that things work” (XVII 24). The master hides, from himself and others, the fact that he is a divided subject (\$), but this knowledge can be uncovered by the manner in which the master (S1) addresses the slave (S2). Lacan has also used the term ‘desire’ as the desire of the Other in place of ‘agent’, and ‘loss’ in place of ‘product’ which reminds us that it is a loss that produces lost *jouissance* or *object a* (XVII 93). With Lacan one ought to

consider that “repetition [is] directed at *jouissance*” and, further, that “it is in the place of this loss introduced by repetition that we see the function of the lost object emerge, of what I am calling the *a*” (XI 48). The *petit a*, the object cause of desire is “the object around which the drive turns” (243) and it “serves as a symbol of the lack, that is to say, of the phallus, not as such, but in so far as it is lacking” (103). What the subject sees in the image of the object *a* is “himself as constituted by the reflected, momentary, precarious image of mastery” (143). What this professed power and mastery will amount to is that in possessing a subservient wife, Michael hopes to prove he has attained the phallus.

In *The Godfather*, the repetitions aiming at *jouissance* of both Michael and the audience are disguised but circled around as characters chase after a mythical object *a*, a void which the structure of the narrative attempts to fill with the figure of a woman. But the silent woman, an ultimate manifestation of lack or absence, is turned around in an attempt to prolong

$$\frac{S_1}{\mathcal{S}} \rightarrow \frac{S_2}{a}$$

desire. Instead, the object *a* determines the function of repetition which extends to phantasy; it is the “repetition of a deception...which the subject is condemned to miss” (XI 39). First appearing “in a form that is not clear, that is not self-evident, like a reproduction, or a making present, in act,” repetition is “merely the alienation of its meaning” (61). This is why Lacan stresses the “importance of the ever-avoided encounter, of missed opportunity” (128) but this act provides “certain outlets that go some way to satisfying the pleasure principle” (62). In other words, the subject avoids

$$\begin{array}{ccc} \text{agent} & \longrightarrow & \text{other} \\ \hline \text{truth} & // & \text{product} \end{array}$$

the encounter with the object *a* in favour of the metaphorical repetition of the symptom providing manageable *jouissance*. “The symptom is a metaphor” (*E* 439) and it is repeated in favour of the impossibility of filling the void of the cause of desire. Something primary is concealed, “something determinant in the function of repetition” (*XI* 60). In *The Godfather*, a silent, domesticated woman who will allow men to compete with each other in their own sphere is the cause of desire, the object that could presumably fill the void. But this is not all. I argue that the violence inflicted on that woman is important in understanding the role of femininity in crime films like *The Godfather*. I argue that the woman is expected to remain silently in the home but in the search for the silent woman, a symptom is acted out in the eternal attempt to make women silent. Metaphorically detouring around the object *a* of Sicilian mythology is the symptom of the brutalised woman. This is first illustrated by the fate of Michael’s first wife, Apollonia.

Michael aligns his desire with the desire of the Other, the Sicilian myth, and pursues the first woman who returns his gaze while entering Corleone. The beginning of his repetitions aimed at *jouissance* is mild but decisive because her fate is the model of *jouissance* followed by the structure of the narrative. That is, he marries Apollonia, a submissive Sicilian woman much like his mother, but what is more interesting is his method of engaging in this romance. Michael meets her father and states his own importance, asking to marry his daughter. After sharing with the man that he could earn a lot of money for providing information on Michael’s whereabouts, Michael adds in a subtle threat as Michael’s bodyguard raises his rifle in the air, “but your daughter would lose a father instead of gaining a husband.” The bodyguards tread around the wedding

ceremony armed with rifles. As every fan of *The Godfather* knows, Apollonia loses her life in a horrific car explosion targeting Michael in the family's own yard in Sicily.

However, the death of the woman and its significance can only be fully understood with reference to the series of acts of violence against women spanning these two films.

Unlike Vito, who uses violence to protect his family, Michael uses threats to begin one. This new-found power is the first sign of a shift in the mafia myth away from Vito's signification of 'godfather' as protective; the signifier now adopts new significations. In Michael's last conversation with his father before his death, Vito discloses his regret that he wanted Michael to be a governor or a senator. In a final disavowal of any intention to gain power using legitimate channels, and a disavowal of former identifications with the American big Other, Michael ridicules the type of man in such a position as just "another pezzonovante," a word which degrades 'important men' or 'big shots'. After Vito's funeral, Michael becomes godfather to Connie's, his sister's, baby amidst scenes of bloodbaths in which all enemies of the family are murdered. Tessio, part of the Corleone family since the beginning, is killed for siding with Barzini, who ordered the attack which killed Apollonia. Carlo, Connie's husband, is murdered before Michael's eyes for his betrayal, which led to Sonny's death. Lacan remarks that with *jouissance*, "once you have started, you never know where it will end. It begins with a tickle and ends in a blaze of petrol" (XVII 72). If the brutalised (and dead) woman is a symptom, avenging the murders and beatings of women is the "tickle," a fragment of enjoyment we gain from seeing the attacks on women avenged.

After the bloodbath and baptism, which substantiate Michael's status as godfather both in the mafia tradition and in the innocent sense of the term, respectively,

women tend to take a role of victim for very specific purposes, albeit ones which function in phantasy. The audience enjoys Michael's vanquishing of villains; it enjoys those who unjustly attack the family being outsmarted and defeated. One witnesses the graphic death of Apollonia and then gains surplus enjoyment from the deaths of Barzini and Tessio. Similarly, we remember several beatings Connie sustained at her husband Carlo's hands and we are offered enjoyment at the sight of Carlo being beaten by Sonny and of his death when we recall his fierce assaults against his wife, which are not necessary for the logic of the narrative. Michael minimizes the realities of gendered violence by referring to it as a "little farce" and does not see Carlo as deserving punishment until he confesses his treacherous alliance with Barzini which led to Sonny Corleone's death. However, the *jouissance* offered by the spectacle of Michael vanquishing his enemies is the enjoyment of the symptom of the brutalized woman, metaphorically caused by a desire for a silent, domesticated woman; she opens up space for purely masculine power struggles. When Carlo attacks Connie, he acts out in an attempt to silence her cries as she reacts to a woman calling the house. The impossibility of attaining the object of desire, the traditionally silent woman, becomes a violent detour towards the symptom which provides substitute satisfaction. This symptom continues to provide *jouissance* as the masculine power struggle gets resolved in a public sphere closed off to women.

The clearest escalation of the film's promulgation of violent surplus *jouissance* is the plot used to grant Michael power over the anti-Italian Senator Geary. At a meeting in Michael's study, Geary tells Michael he will "squeeze" him financially because he dislikes Italians: "I don't like your kind of people... coming out to this clean country in

your oily hair, dressed up in those silk suits.” Senator Geary attempts to render Michael powerless, forcing Michael to sacrifice his *jouissance* in the name of Geary’s own, which he proves he enjoys by smiling while pointing a miniature cannon on the desk at Michael.

Later, in a plot to place Senator Geary under Michael’s control, Tom and Fredo are seen entering a brothel where Geary is found disoriented and wrapped only in a towel next to the blood-stained body of a woman. Tom presents the situation as though it was an unfortunate accident which luckily happened in a Corleone establishment. The audience is not encouraged to identify with the antagonistic senator in this film, but now it is because he looks weak, grotesque and pathetic, covered in sweat and on the verge of breaking into tears. But his honest confusion divulges the truth: “When I woke up I was on the floor... I passed out.” Nearly breaking from reality in the face of trauma, Geary says, “I can fix it,” and begins untying the woman’s wrists from the bedposts, laying her arms down gently and wiping some of the abundant mess of blood from her body before giving up and crying to Jesus. Al, a killer for the Corleone family, lurks in the kitchen overlooking the scene, wiping his hands with a towel. Tom sends him off and the camera zooms in close from behind Geary’s shoulder, a technique often used in these films “that entices the viewer to identify with Vito or Michael” (Man 2000). Geary bashes the table in confusion, wishing to “understand why [he] can’t remember” and the answer to his questions is nearly spilling over; as the table shakes, a one-third full drink splashes in front of him, and a careful spectator will deduce that Geary was drugged. Tom interrupts, “You don’t have to remember. Just do as I say,” and Geary soon becomes stern: “I do remember she was laughing. We’d done it before and I know I

could not have hurt that girl.” Geary focuses more on figuring out what really happened than on considering an alibi.

In the shot from Geary’s shoulder, the audience is given a vivid angle of the dead woman’s face in the mirror on the table, functioning like the skull in Hans Holbein’s *The Ambassadors*. While encountering the gaze of the skull, the viewer realizes “It reflects our own nothingness, in the figure of the death’s head” (XI 92). Death, a stain which stares at us in this shot, nearly has the potential to force us to consider our lack, but the crucial distinction between these two images of death is the discursive and repressive power of the moving image. In this scene, the audience is given a brief chance to question their own *méconnaissance*, to challenge their identification with the Corleone family as they stare into the mirror, unsure what to make of the horror that is reflected back to them. But the possibility of symbolization of the film’s phantasy of violent desire for the silent woman falls short when Tom consciously pieces everything together in the symbolic, providing the audience’s ego with resistances. He says with a smirk, “This girl has no family. Nobody knows that she worked here. It’ll be as though she never existed; all that’s left is our friendship.” The Senator’s villainous antagonism with Michael alongside Tom’s implication that he is guilty in the death of the woman both restores the audience’s desire to believe the villain killed the woman, which provides the *jouissance* of Michael’s triumph over Geary. ~~Woman~~ is repressed, made entirely other to discourse, allowing for the symbolic, that is, social arrangements between men, to function smoothly, with Michael as the clear master.

When the viewer nearly confronts their own lack, or more specifically, their desire for the silent woman they think would make them complete, a “suturing” shot

“retrospectively negates the entire existence of the void” (Bianchi 2017, 79). Without the chance to reflect on the silent image of death, one’s gaze is turned to Tom who renders the woman eternally silent and invisible, “as though she never existed.” The object *a*, the silent woman as a cause of audience enjoyment, remains unconscious, covered over by the phantasy of violence and power struggle. Lacan theorises that the object *a* is an object forever lost, circled around in a metaphorical attempt to fill the void; it is the “beyond of repression...which is literally as if it didn’t exist” (*II* 40). The audience nearly recognizes the unconscious cause of their desire but, in the suturing shot, Tom restores their illusion of unity, or the belief they are not lacking, and provides their enjoyment in rendering the anti-Italian antagonist powerless. This is like *The Ambassadors* in reverse. The painting makes one notice death later after the rest of the painting, leaving them reflecting on death, but the film presents one with an image of death’s head, then offers symbolic and imaginary material to repress it.

Later, Michael will enjoy meeting Senator Geary again, who flatters him to indicate his subservience to Michael. The woman, then, functions as nearly all women in the films: it is as though she never existed, but she is a symptom standing in metaphorically for the silent lost object, offering surplus enjoyment of men’s power struggles. That symptoms are metaphors for Lacan is modelled off of Freud’s concept of condensation in the dream-work, whereby certain features common to two objects are emphasised. In this case, the silence of the domesticated woman and of the dead woman are condensed and “our friendship” is the masculine field of power struggle requiring the absence of ~~Woman~~.

In the structure of the narrative, Fanucci's threat against the actress, Connie's beating, Apollonia's death and the murdered sex worker all have the symptomatic function of providing the cause of desire for *jouissance* to masculine power struggles. Michael's enjoyment is the model the films follow. For instance, in Part II, when Vito kills Don Ciccio to avenge his father's death, telling him his father's name, an added *jouissance* is provided because the audience only witnesses the graphic shooting of his mother at Don Ciccio's estate. Mrs. Andolini speaks solely to be erased and avenged. In a longing for this lost, mythical, subservient woman from the past, the object cause of desire, women are introduced only to be brutalised and erased from the public sphere. This object *a* is the object "around which the drive turns" and it is "conceived as, fundamentally, a lost cause" detectable in the repetition of avoided encounters (// 128). This cause is the "symbol of the lack...of the phallus" (103) and each character is only left with a desire to possess the phallus, or the need to give it up (like Geary does). The silent, subservient woman causes the audience's enjoyment of the film as the narrative detours around a series of missed encounters with this impossible, forever lost, object *a*. However, it is Kay, as we shall see below, who produces the master's self-knowledge in an encounter with the real or the "blaze of petrol" his *jouissance* becomes.

### **Silence & Hysteria**

Lacan argues that the hysteric is divided into "on the one hand, the castration of the idealized father, who yields the master's secret, and, on the other hand, privation, the assumption, by the subject...of the *jouissance* of being deprived" (XVII 99). The hysteric has the subversive power of revealing the master's lack, revealing that the master's omnipotence is a facade, but the hysteric is also characterised by self-

deprivation of objects of desire. For Lacan, the way to cure the hysteric of her symptoms “is to satisfy her hysteric’s desire” (XI 12). The hysteric, precisely the individual who is not a slave to the master, is a producer of knowledge. The hysteric’s discourse “reveals the master’s discourse’s relation to *jouissance*” (XVII 94). Because the hysteric “can sustain her desire only as an unsatisfied desire,” (12) Kay is a gifted hysteric who calls Michael’s laws into question and reveals his lack, his object small *a*.

Lacan makes it clear that the hysteric wants a master with lots of knowledge “but at the same time she doesn’t want him to know so much that he does not believe she is the supreme price of all his knowledge. In other words, she wants a master she can reign over” (XI 129). The hysteric, entering the function of desire asks, “What does So-and-so want?” and wants the master to tell her what she is so

she can become the object of his desire (130). The discourse of the hysteric is driven by a divided subject (\$) addressing the master in an attempt to gain knowledge; the hysteric wants the

$$\frac{\$}{a} \rightarrow \frac{S_1}{S_2}$$

master to tell her what she is. She can then become the object of desire without any consideration of *jouissance*. The hysteric needs a master so she can be the object he symbolises for her. Kay asks, with a smile, “Michael, would you like me better if I were a nun?” When Michael says, “No,” she continues, “Well, then, would you like me better if I were Ingrid Bergman?” In other words, Kay asks what will make her the object of his desire.

More interestingly, Kay desires that her desire remain unsatisfied, as she is inquisitive and obsessed with the operations of the crime family. In the first scene, at Connie’s wedding, Kay bombards Michael with questions: “See that scary guy over

there? Who is he? What's his name?" She asks why Tom Hagen has a different name, what it means to be 'consigliere', and persists in interrogating Michael about how his father helped Johnny Fontane with his career. Michael finally answers that the "scary guy" as Kay calls him, Luca Brasi, went with Michael's father to see Johnny's manager and got a release form from a bad contract. "How'd he do that?" she asks, and Michael hopes she will be satisfied by hearing, "My father made him an offer he couldn't refuse." She wants to know the details: "What was that?" He then divulges that they threatened the manager at gunpoint. Kay looks more delighted than horrified. How do we make sense of Kay's desire to know of the horrific details of the family operations?

While walking down the street with Michael, Kay sees Vito's picture on a newspaper cover after an attack on his life. The viewer is presented with an image of Kay that exemplifies her role for most of the narrative. Michael calls his brother from a phone booth and Kay nearly presses her face against the glass, peering in from the outside as usual. Kay persists in her attempts to be included by asking to visit Michael's father in the hospital. Michael forbids it: "I don't want you to get involved." He kisses her, leaves her alone, murders his father's enemies, and promptly departs for Sicily.

Kay arrives at the Corleone compound in Nevada inquiring about Michael to no avail while he is away. She asks about a severely damaged car in the driveway, wanting to know the details of the family while seeming preoccupied with Michael. Kay gets on with her life, until Michael visits her unexpectedly without a hint of mourning Apollonia, telling her, "I'm working for my father now, Kay." She responds, "But you're not like him, Michael. I thought you weren't going to become a man like your father. That's what you told me." Michael explains that all powerful men have other men killed, but promises her

that “in five years, the Corleone family is going to be completely legitimate,” adding that that is all he can tell her about his business. However, her concern is, “What do you want with me after all this time?” He tells her in many ways that she is the object of his desire, in contrast to her earlier unsatisfied demand to hear this, and she is led into the car without protest. Kay only needs to hear that he desires her and that he will not satisfy her desire for knowledge about mafia business; suddenly, Kay agrees to marry him.

As an American woman, Kay demands knowledge of the family and, at first, shares with Michael her joy in exoticizing it. But Michael becomes the mafia man that was originally exoticized. Now it is he who she demands knowledge about. When Connie explodes with accusations that Michael killed her husband, Carlo, she cries to Kay, “That’s your husband!” Kay asks if it is true and Michael, in a fit of anger, tells her not to ask about business. He demands silence. He calms down, knowing that for the first time he is accused of turning his ruthlessness toward the family, and says, “This one time, I’ll let you ask me about my business.” He denies the accusation and we witness the famous moment of Al shutting her out of the study. With Kay silent and closed off from business, their relationship continues smoothly for seven years.

Kay fades into silent subservience for most of the narrative, but still aims at knowledge of mafia operations, such as when she lingers outside the door of Senator Geary’s meeting with Michael. Geary emerges from the study with surprise: “Ladies! I didn’t know you were out here.” As Michael travels around Nevada and Cuba, Kay is left at home without a choice of leaving the compound; she is no longer able to question Michael nor can she maintain her place as object of his desire; she instead embodies

the object *a*, the silent woman. Kay's solitude leads to knowledge, which is how hysteria functions: "She doesn't give up her knowledge. She unmask, however, the master's function." Kay understands that Michael desires a woman as a subordinate, but she is only desired for her structural place. As object of the drive, Michael makes Demands which detour around any attempts at intimacy.

When Michael arrives home from Vegas, he peers in to see Kay miserably sewing. In analysis, the "hysteric has a demanding position and you [the analyst] have to obtain a change. You have to make the subject perceive that she is the one who has to produce the answer" (Soler 1996, 276). Without the presence of her beloved, Kay is unable to question him regarding his desire and unable to eavesdrop on his operations; she cannot question the master and cannot find an object of desire to deprive herself of. Left alone, Kay is forced to attempt to define herself, leading her to ask Tom, "Am I a prisoner?" She symbolizes her position in the phantasy and attains the knowledge that Michael needs her to remain in this position.

Having unmasked Michael's master-function, Kay threatens to leave and demands to know about his business: "What really happened with Pentangeli, Michael?" Pentangeli had plans to inform a judicial committee about the family's operations, but he changed his mind at the last moment. She states how powerful Michael is and how Pentangeli's brother simply "had to show his face" to get Pentangeli to retract his testimony against the Corleone family. Michael begins providing answers but Kay would rather her desire remain unsatisfied so she mutters, "At this moment I feel no love for you at all." Kay's desire has been shaken up. She no longer seeks knowledge about herself from a master; she has named herself as the silent, domesticated woman. Kay

then takes action within the antagonism between the Other of American freedom and the Sicilian organised crime family. After a final chance for Michael to keep her desire unsatisfied, Kay shakes up the master's desire, forcing him to encounter the real. Lacan explains the object *a*'s relation to love, "I love you, but, because inexplicably I love in you something more than you—the objet petit *a*—I mutilate you" (XI 268). He states that the object *a* "is presented precisely, in the field of the mirage of the narcissistic function of desire...It is at this point of lack that the subject has to recognize himself" (270). The hysteric is able to unmask the master's desire by pushing him to constantly question his desire and provide answers. In this way, Kay forces Michael to answer for his phantasy that has placed her in the position of *objet a*. In the climax of their relationship's drama, Kay tells Michael that she did not miscarry but got an abortion because she "didn't want to bring another one of [his] children into the world." She says, "I killed it because this all must end." Michael quietly listens, but her speech culminates in a clash between the cultural big Others, one which demands Michael to love a silent woman and continue the Scilian traditions, and another which demands that Kay be free.

To satisfy the demands of the American Other, what Kay wants to end is "this Sicilian *thing* that's been going on for 2000 years" and upon this utterance Michael strikes her. When he hits her he hits the real. In this sense, Michael attains what Lacan calls surplus *jouissance*. Lacan warns that when one has got *jouissance*, "if one does not squander it, there will be all sorts of consequences" and this is because "the pleasure principle maintains a limit with respect to *jouissance*" (XVII 20). *Jouissance* necessitates repetition and surplus *jouissance* is forbidden; it exceeds the limits of the pleasure principle. It is an irruption or a defect that occurs when "the rule and the

principle of pleasure are violated” (77). This irruption succumbs “to displeasure, which can only mean *jouissance*” (77)). In the forbidden, symptomatic attack, Michael is forced to confront his *objet a* and experience the pleasure of displeasure. Michael’s *jouissance* has reached the point of the blaze of petrol beyond the limit of pleasure. Michael and the viewer indulge in the horrific *jouissance* of desire for the object *a*, the beaten woman turned into the powerless and silent woman. Unlike Sicilian women such as Connie and her mother, Carmela, Kay has disobeyed the demand to be silent and she expressed agency outside the home, becoming the symptom in her refusal to be the lost object. After circling around dominated and brutalised women as secondary enjoyment, Michael and the audience are forced to confront violence against a woman they identify with.

The next time Kay is depicted, she is saying goodbye to her children while Connie begs her to hurry to avoid Michael. Kay agrees but her delayed goodbyes betray her unconscious motives. Kay can be seen stalling, waiting for Michael. Michael enters, silently stealing her attention in a “suturing” shot, whereby Kay’s attempts to prolong her stay are covered over by her longing for Michael. She gazes into his eyes as he closes the door on her one final time, but this time it is the door to the domestic sphere she was expected to remain in. Kay can be heard sobbing from outside the home. She cannot stay in Michael’s life as she had hoped. Instead of remaining the object of his *jouissance*, standing in for the lost object, she accomplished the goal of Lacanian psychoanalysis, which “is to invent ways to hit the real, upset the repetition it engenders, dialectize the isolated Thing, and shake up the fundamental fantasy in which the subject constitutes him or herself in relation to the cause” (Fink 1995, 92).

Michael repeats his detours around the object *a* and gains enjoyment from the symptom of brutalised women throughout the narrative up until the moment he attacks Kay. In this sense, the “blaze of petrol” allows Michael to symbolise his symptom and his object *a*, annihilating it from the real. Phantasy is traversed and the subject as drive comes to the fore (Fink 1997, 210). Kay has forced Michael to recognize that his desire was caused by a phantasy; to symbolise the phantasy dispels its power and its hold on desire. The *objet a* is no longer the repressed real because it becomes symbolised by the subject, who sees the demand for objects of love as caused by illusion. Hence, Michael can now avoid repetitions and disavow Kay as object of desire and of *jouissance*. However, her demands lose their power to challenge the audience because the audience is not forced to symbolise their phantasy, a phantasy that allows their repeated enjoyment of *The Godfather* and other crime films. The film loses its potential to cure our culture’s neurotic repetition of brutalising women and its longing for silent, subservient women for the precise reason that Kay is silenced in the end.

Because Michael lacks his former lack, his object *a*, he shuns Kay, silencing her once and for all. Her unmasking of the master’s lack, the chance this film has of being subversive, falls short as the film offers a final bit of *jouissance* by silencing Kay despite her wish to remain in Michael’s life. The subversive questioning of the hysteric is effectively disempowered by silencing her and shutting her out of the narrative. The phantasy is not challenged and one’s lack of the mythical silent woman allows them to enjoy these films over and over.

## Conclusion

The direction for treatment I laid out in Chapter One with a detailed reading of *Seminar XI* can be made apparent here. In looking at the characters of *The Godfather*, particularly Michael, one can see him constantly avoiding communication with Kay, only saying what makes things work, as a master does. Especially when questions about his desire are raised, he breaks communication, which is the defining characteristic of the transference. Following the transference is the repetition, constantly, of vengeance against Michael's enemies. The audience takes these detours along with the Corleone family and lurking behind a series of murders or other ways of proving mastery over an enemy lies a history of violence against women. This is the drive, an attempt to detour around and partially symbolise the cause of desire. In Chapter One I pointed out that for Lacan, every drive is, in the end, a death drive, or an attempt to confront the signifier, 'death', a law imposed on the subject. As a reminder, Lacan asks, "What is the death instinct? What is this law beyond all law, that can only be posited as a final structure, as a vanishing point of any reality that might be attained?" (XI 21). I stated that this death drive is the law of jouissance, pervasive anywhere there is desire and mastery; discourse necessarily contains this beyond-of-the-pleasure principle. The world of the family in *The Godfather* is surrounded by violence against women, and the repetition does not cease until the end of Part II, when Michael encounters the real. By this, I mean, he encounters the unconscious, and commits an act of violence against his wife, a side of him that has been lurking in the drive. His attempt to silence her is a confrontation with the death of his Sicilian traditions in the death of her child. The two laws of competing big Others clash here, and Michael brings the repetition to the fore,

only for this hole in the symbolic to be sutured again, unfortunately. With the *objet a*, the dead woman, what is shown in the scene with Senator Geary, violence against women crops up here as the act that holds together the symbolic functioning of the entire film. This is the unconscious: the death drive and the *objet a*.

The repetition of the *jouissance* of *The Godfather* obliges us to broaden our use of psychoanalytic film criticism. When a film ends, how does the phantasy function? Bianchi states that the *objet a* “finds, in the end, a place to rest in the screen. The drive ends in a goal” (2017, 145). However, one must remember that the drive delights in detour, drifting around its aim. The persistence of the violent symptom aiming at the mythical silent, subservient woman indicates that each film functions like the suturing shot, providing new layers of narcissistic identifications which encourage the repression of a phantasy. To say that we are surrounded by visual space does not take us far enough. The audience’s negativity, or lack, enters the visual (and discursive) space of the film, but untangling one’s enjoyment from visual space is not simple nor easy. For Lacan, the barred subject is represented by a signifier but, further, the subject is “what slides in a chain of signifiers, whether he knows what signifier he is the effect of or not” (XX 50). When one finishes watching a powerful film, the signifiers which represent them may slide and they may represent themselves differently. When a film ends, one’s enjoyment immerses them in new chains of signifiers which can represent them, like when people say they are different after watching a film (e.g. that a particular movie changed their life), but people may not always be aware of the forms of *jouissance* a film-phantasy offers. One need only listen to young men who idolise the tragic hero in

*Scarface* (also played by Al Pacino), whose death does not undo the life of violence and criminality that one may idolise him for.

Today, unconscious satisfaction is a patriarchal sublimation which normativizes gendered violence, with the corollary that taking action is unnecessary. Enjoyment of film shapes cultural interpretations of the family and gendered identity. Alenka Zupančič emphasises that the object *a* as negativity is asexual but that “power...works by *first* appropriating a fundamental negativity of the symbolic order, its constitutive non-relation, while building it into a narrative of higher Relation” (2017, 31). The audience may admire Kay’s resistance to patriarchy without becoming conscious of the greater evil: the essence of the feminine other is silent subservience and victimhood. It is a failed representation of *Woman*. The latent content of these films is a transcendental function, allowing the audience to enjoy masculinity by exploiting the negativity of the *objet a*. Michael’s attack against Kay and her silence as he shuns her reinforce, in Gilligan and Snider’s terms, the “fear that self-expression would be destructive” to women’s relationships (2017, 188). The utopian function is an oppressive ideal; these films are adored because they allow the audience to make conscious ethical judgments about the family while ‘feeling in their bones’ the *jouissance* of silencing or victimising women, opening a space for purely masculine politics. This is what results when the *jouissance* of the masculine power struggles is all lost and has no symbolic purpose if one takes the brutalised women out of the films; in this sense, they are the cause of desire.

This utopian function which crime films celebrate trickles through the structure of culture and even psychoanalytic attempts to confront gendered violence have fallen into

the trap of desire for the lost object of the silent woman. Referring to the model of enjoyment *The Godfather* provides, I propose the opposite approach of psychotherapist Lou Agosta, who proposes that gendered violence is a result of a loss of power or control, adding that men having “legitimate power reduces the risk of violence. If such an experience can be provided while maintaining respect for persons and integrity of boundaries, then all participants are likely to benefit” (2015, 146). Agosta celebrates that “places in men’s culture that women cannot go [such as] locker rooms, poker games, sports events, and ‘man caves’ are the occasions for men-with-men conversations” on gendered violence. Places where “women are simply not granted access” are Agosta’s strategy for “stepping up and making a difference” and he hopes “powerful men” will take a leadership role (147-149). Like in crime film, the beaten woman provides men with the enjoyment of challenging each other in a strictly male public sphere with the unconscious wish that women stay silent, even in discussions about gendered violence; the door is shut on women. The *objet a* of the domesticated woman is the lack which allows the enjoyment of the slogan, “Men need to challenge one another” (Agosta 2015, 150). Instead, gendered violence must be seen as a political issue for all, not a source of the *jouissance* men gain from their exclusive political rivalry, and women being shut from public space is the first problem.

Questioning how and why women are denied “political and psychological access to the domain of subjectivity,” psychoanalytic theorist, Emily Zakin remarks, “repression can help maintain forms of oppression” (2000, 32). Because the Other’s phantasies confer the child’s identity, it is “through the social domain of laws and institutions (particularly that of the family) that the infant child becomes individuated and

differentiated as a gendered human being” (24). Lacan clarifies his concept of the unconscious in his early seminars, emphasising actual Others and intergenerational/cultural repetition: “The discourse of the other is not the discourse of the abstract other... It is the discourse of my father for instance, in so far as my father made mistakes which I am absolutely condemned to reproduce...because one can't stop the chain of discourse, and it is precisely my duty to transmit it in its aberrant form to someone else.” At the “limit between sense and non-sense” is the need for repetition and “this discourse produces a small circuit in which an entire family, an entire coterie, an entire camp, an entire nation or half of the world will be caught” (// 89-90).

As Juliet Mitchell contends, “the little boy learns his place as the heir to this law of the father and the little girl learns her place within it” (2000, 403). As an object of exchange, the girl submits to the law, “establishing herself as its opposite—as all that is loving and irrational. Such is the condition of patriarchal human history” (405). Her task is then to “see that mankind reproduces itself within the circularity of the supposedly natural family” (405). In “the straightjacket of the nuclear family,” Mitchell adds, “men enter into the class-dominated structures of history while women...remain defined by the kinship patterns of organisation. In our society the kinship system is harnessed into the family - where a woman is formed in such a way that that is where she will stay” (412). Enjoyment of crime films requires the chain of discourse which exemplifies Emily Zakin's conception of the family as “the material support (the practice) that binds gender to sexual difference in multiple ways through a kinship order that positions men as brothers, a fraternity, who are bonded in their common rights over, and limited enjoyment of, women” (2000, 36).

These notions explain why, in a study of teenagers' dreams, the girls dreamt of "looking to boys and men to save them from ambivalent and fraught attachment to and closeness with their mothers and others" while young men acted in their dreams like "they are the grand figures they imagine themselves to be" (Sayers 2000, 836). Juliet Mitchell's urging for a "cultural revolution" (2000, 414) against patriarchy is an increasingly urgent task. Praise for crime films attests to western culture's covert beliefs that women are purely silent objects of exchange and enjoyment and that violence against women is natural; *Woman's* position in this phantasy is "it'll be as though she never existed."

'La femme n'existe pas' because *lalangue* implies unsymbolisable enjoyment, but in *The Godfather* and most crime films in fifty years since, there is no trace of feminine *jouissance* nor a challenge to *Woman's* absent presence in the symbolic, conditioning the fundamental phantasy, nor the awareness that sexuality is political. *Woman* is not-all because she need not be entirely submitted to the phallic order of the symbolic, and this is why she is man's symptom. Art must stop reacting to the discomfort of desiring otherness in ways like *The Godfather*, which makes violence against the other, the wish to silence the other, seem so natural. This reaction makes *Woman* like Antigone, who is destined for a symbolic death (see Chapter Two) as the master attempts to silence her; such is the risk of *Woman's* *jouissance* in the face of a master.

Imagine the liberatory potential of crime films which would portray an alternative to phallic enjoyment or portray women reacting to their position in the symbolic. If characters the audience identifies with, like Michael, could be changed by hysterical questioning, perhaps narratives could incite a will to hysteria in the audience. The first

step is that victimised women cease to be surplus enjoyment. Shunning a male-centred approach, we must popularise Jacqueline Rose's solution: for women to "speak of, to stay and reckon with, the extraordinary, often painful, and mostly overlooked, range of what the human mind is capable of" (2016, 6). Gilligan and Snider propose that psychoanalysis has the liberatory potential of "providing resonance for the pre-patriarchal human voice" as a step towards love, empathy and democracy (2017, 193). In tandem with these approaches, filmmakers must not allow "the Imaginary to be re-sutured after the appearance of *object (a)*" (Bianchi 2017, 123) and audiences must take responsibility for their enjoyment. Psychoanalysis must popularise the concept of the unconscious as desire in relation to law. This is the susceptibility to being instilled with the Other's enjoyment, that desire is the desire of the Other and the unconscious is the discourse of the Other. It is time for love, voice and responsibility to replace old identifications. Each generation inherits loss and fantasies which annihilate these solutions. It is time for art to symbolise the cause of enjoyment and urge culture to declare to the narratives of the past, 'We no longer desire your lost objects.'

## Conclusion:

### Towards a Terminable Legal Analysis

In *Seminar XX*, Lacan says that

the basis of all rights there is what I am going to talk about, namely, enjoyment.

The law speaks about that. The law does not even fail to recognise this starting point, this good old common law on which the usage of concubinage is based; this means sleeping together. Obviously I am going to start from something else, from what remains veiled in the law, namely, what we do with it – embrace one another.

What I have emphasised throughout this dissertation is that law is a site of phantasy and desire, which are conditioned by silences. This conclusion will not only summarise the purposes of each chapter, but will end with a brief note on Lacan's ideas very late in his career about the possibility of terminable analysis (the *sinthome*). The purpose of this dissertation as a whole was to explain that discourses of law leave out the unconscious in various forms, and that psychoanalysis is required for a fuller understanding of legal processes because it fills in gaps other theories miss and uncovers what is repressed in legal/political discourse. What I mean is that law itself and discourse pertaining to law (like all discourse) always has an unconscious. This unconscious has its own laws, phantasies, identifications and desires pertaining to prohibitions. What this implies is that anyone involved in what I elaborated as the Demand of law (which democracies believe is every citizen) ought to consider

unconscious forces, especially in lawmakers. To remain rigorous and avoid 'wild analysis' or misappropriations, one must take care to apply the theory as it functions to analyse discourse in the clinic. Similarly, analysis pertaining to art, especially art that carries unconscious knowledge about the nature of law and crime, ought to help unravel unconscious attachments, because discourse has real effects on lived experience of those who are othered.

In sum, this dissertation has attempted to contribute to Lacanian theorizing by providing a methodology for discourse analysis within and outside of the clinic. This direction for treatment, with emphasis on law in subjectivity as theorized in *Seminar XI*, is offered as a starting point for clinicians and cultural theorists, and is demonstrated through discourse analysis of case studies, but it is important to note that this dissertation is an attempt to broaden Lacanian discourse analysis by making use of Lacan's whole career. Lacan's formulai of sexuation and the four discourses are specifically fruitful and this dissertation attempted to show how these formulai can expose unconscious fantasy as it relates to law and culture. However, every piece of art could be open to different moments in Lacan's career, which is why his "Seminar on 'The Purloined Letter'" and his discussions of *Las Meninas* are apt for discussions of crime/detective fiction and screen theory (or what we might rather call frame theory). The argument that runs through this dissertation is that psychoanalytic theory ought to be addressed by legal scholars, legislators and voters due to the fantasies at work, which have harmful consequences. Each chapter shows the importance and methodology for dialectising fantasies and identifications. In brief, this argument followed three stages. First, it explained why law is central to Lacan in the clinic and his

theory of subjectivity in general, and placed his theory in its position in Critical Legal Studies, emphasising what I call Demand Theory; Lacanian theory does not need to be limited to this Demand theory, with its emphasis on the circuit on the drive, but it is one method for ascertaining desire and fantasy in discourse. After all, what an analyst listens for is a set of demands (some on the analyst, some on others, and some of the demands placed on the subject). This is the focus on the underlying fantasy beneath competing (or identifying) demands between master and subject. The second stage demonstrates this methodology by specifying a narrowly Lacanian conception of 'otherness' in a case study on religious symbols prohibitions in Quebec and expands on Lacan's thought on sexuation and the perversion of the symbolic order to reveal what he means by inter/intra-subjective economy. Finally, this argument demonstrated the use of Lacanian discourse analysis in culture pertaining to law and crime, demonstrating the ability to evaluate a piece of art for its ability to evoke the analyst's discourse, or for its reliance on identifications. In sum, this dissertation formulates a direction for treatment in the clinic, shows where this direction fits into legal theory, and provides case studies of politics and culture pertaining to law to give Lacanians a more nuanced approach to discourse analysis. On the one hand, there is a direction laid out, and on the other, there is the attempt to inspire Lacanians to find any moment in Lacan (like I do with his discussions of paintings, plays, short stories, and formulae) to fit with works of art and with discourse. What follows is a more in-depth summation of the progression of each chapter.

## **Part I**

The first step pertaining to this goal is to retrace law in the Lacanian clinic, to avoid misappropriating Lacanian theory. Chapter One was required because Lacan, whose seminars were always works in progress and whose writings (*Écrits*), he famously referred to as destined to trash and described, alongside Joyce's work, as unreadable or not-to-be-read. One of these essays is titled "A Direction for Treatment" but it hardly embarks on the task of its title, mostly explaining how not to direct treatment. Therefore, an analysis of subject formation and the clinic's backwards analysis of this formation are required. If the subject's discourse is what is open to analysis, then the hope of this chapter was to clearly delineate the analysts' use of the four fundamental concepts of psychoanalysis from the landmark *Seminar XI*, and supply what is lacking in it (I-identification). Please note that Lacan, in the *Écrits* and in his seminar the following year, does state that identification is a fundamental concept. Only after a proper direction for analysis can analysis can be properly appropriated for discourse outside the clinic. The direction I laid out was transference, repetition, the drive, to the unconscious (in the form of the death drive and the *objet a*).

Chapter Two, focusing mostly on *Seminar VII: The Ethics of Psychoanalysis*, described how Lacanian psychoanalysis can contribute to a long tradition of Philosophy of Law and Legal Theory. First of all, it takes a firm stance against natural law theory, despite Lacan gaining much from reading thinkers like St Thomas Aquinas and St. Augustine. Lacanian theory is then placed within the debates of legal positivism. For instance, early thinkers in legal positivism like Austin and Bentham became known as proponents of Command Theory, which privileges the idea of ability to use coercion and fails to recognise Demands coming from below (which is while I've titled Lacanian legal

theory the Demand Theory of Law). Lacanian theory was also placed within the complex debate about the separation between law and morality. Lacan's theory of the signifier and desire lands on the side of Lacan's passing statement that law is one thing and justice is elsewhere (which does not necessarily mean that justice is the "repressed" of the law but it can be). In this statement, Lacan preceded the debate but much of his theory is required to ascertain exactly where his theory stands, which is that law and justice are always separate. While Lacan of course aligns in many ways with Freudian legal theory (like that of Jerome Frank, a judge and reader of Freud), Lacanian theory is found to be its own form of Critical Legal Studies in this chapter, taking psychoanalysis beyond Freud. Not only is this Demand Theory similar to Critical Feminist Studies and Critical Race Studies, but it can fit into these legal theories, uncovering what is unconscious in law, much like these theories attempt to show that what is not said in law does in some ways determine or become victimised by or otherwise appear in law or its effects. In other words, these Critical Theories are allies. Lacanian Demand Theory or Critical Unconscious Studies more generally will aim to analyse the drive in discourse, whether this is in law, philosophy, culture, or otherwise. This Demand Theory is what I practise throughout the rest of the dissertation, with the direction for "treatment" laid out in Chapter One.

## **Part II**

Both chapters in Part II of this dissertation have analysed laws pertaining to otherness. Chapter Three practised a clear case study of the direction for treatment laid out in Chapter One and explained that the Demands relevant to Bill 21 in Quebec had

unconscious imperatives attached to them, with symbolic covers over this unconscious. Quebec, as its own distinct culture, is caught between two competing big Others, a term in Lacan that can refer to the maternal Other and the authority or master which provides a paternal function, or invokes the paternal metaphor. This law is shown to reveal a fear about what in Lacanian theory is apparent as a lack of core identity. In other words, like the subject looks to the world for an identity, France does so, understandably. This psychoanalytic critique is a “Construction” in the Freudian sense. On the one hand, the more true it is, the more likely the subject is to reject it. On the other hand, if a construction (a structure of interpretations) does not satisfy the subject, the subject is free to discount it and away another construction. In this case, it is the hope that Quebecers who are affected by or feel strongly about this law in any way, will listen and discuss.

Historical information on Quebec and its relation to this religious symbols debate was drawn out in the direction of treatment. First, there is a breakdown in communication (transference), repetition (historically), the drive (to be like the mother), and the unconscious (death drive and *objet petit a* as fear of loss of self to death and a threatening other, respectively). Quebec and France have had interference from the UN regarding deportation of racialised peoples and criminalisation for religious symbols, respectively, and this note helps elucidate the Demand Theory of law. What I mean is that Quebec is part of wider structures of law, and has had voted to remain in these structures (eg. Canada, which is part of the UN and other Human Rights Agreements). Interestingly, part of Trudeau’s platform in 2019 was to take action against Bill 21, but he never did. Overall, Chapter Three is a plea for all Quebecers and the Federal

government to consider the unconscious, which will not bring satisfaction of the drive (which may explain why France constantly tightens its regulations on religious symbols; the drive is never satisfied).

Chapter Four takes a similar approach but must further elucidate theories from the later Lacan. Lacan's work on *The Woman* is the model of otherness and one can see it slowly develop throughout his career. Earlier in the seminars, he constantly discusses sexuality and subjectivity as an economic. Later, he will explain that surplus *jouissance* comes from Marx's theory of surplus value. For Lacan, relations with others are relations of the drive at the level of Demand. He is famous for saying that man makes love to his own unconscious. This chapter suggests that laws victimising those who sell sex are repressing this basic fact: sex is always part of an economy of affect and Demand. This chapter explained how fantasy about the object (in this case, women who sell sex) is what others that object. Fantasies are present in legal discourse and this chapter provides an example of how listening to those who are othered is most advantageous, because their silence is a cause of violence. These laws differ in various countries but what is most crucial is that otherness is considered. The other, who is silent in this discourse, even if her interests are at heart, is the sex worker. This is why the chapter ends with accounts from sex workers themselves about how differing laws affect them, whether these laws are criminalisation, decriminalisation, the Nordic Model which criminalises only those who purchase sex, and finally, full legality (which allows regulations and protections for sex workers). It is only the latter which can have any success at keeping sex workers from extremely precarious situations. Therefore, if law is a series of demands from masters to the enjoyment of those who are governed, the

othered is anyone whose Demand is excluded, while the drive circles around them phantasmatically.

### **Part III**

This part takes a turn to consider how culture thinks about law, with the hope of offering cultural critique. Both objects of study are highly esteemed creations. Both of these chapters make use of Lacan's four discourses in his landmark *Seminar XVII: The Other Side of Psychoanalysis* to show the differing subject positions and how they are either critiqued or lures for identification. Chapter Five is a critique of the moving image with HBO's *The Wire* as its object of study from a Lacanian standpoint. This chapter elaborated on Lacan's theory of identification, focusing on *Seminar IX: Identification* and his discussion of *Las Meninas* in *Seminar XIII*. Together, these lectures help to formulate the lure of the imaginary and ultimately the questioning of one's relation to the scopic field, which pertains to identification with signifiers. Thirdly, one of Lacan's essays which was of great importance to him, "The Seminar on the Purloined Letter", was praised by him and is a sort of guide to how detective fiction can shake up one's desire with the shifting gazes of the characters involved. All in all, *The Wire* is shown to actively retract audience identifications with each character, as each object of identificatory desire is deemed as less than ideal (in the sense of ego-ideal), based on their ethics (e.g. their signifiers). What results is a lure based on a binary signifier, much like in *Las Meninas*, which constantly disappoints in a way that causes the audience to question any identifications and be suspicious of discourse itself (especially the master's discourse). A corollary of this suspicion is the demonstration of Hart's

separation thesis discussed in Chapter Two; law and morality do not occupy the same space.

The final chapter of this dissertation, Chapter Six, is a Lacanian critique of *The Godfather I & II*. This chapter addresses a turning point in crime fiction, in which the audience is lured into identifications with the characters rather than showing that criminals will be and need to be punished. The character of Michael Corleone is analysed as an object of identification, who seems to be complete and occupies the place of master in Lacan's discourse of the master schema. The discourse of the hysteric is analysed in his wife, Kay, and despite the attempt to show her resistance, it is found that this narrative is dependent on ~~Woman~~ as *objet a* in a specific sense: that it requires violence against women for audience enjoyment. This enjoyment, consciously, is found in masculine power struggles, while those struggles depend on women as othered and silenced. Psychoanalytically, this critique finds this masterpiece should be considered in this way before being viewed, because it will not be a part of normalisation of violence against women if this phantasy is dialectised and articulated.

All in all, this dissertation brought the clinical to the political, addressing fantasy in law and cultural representations of law/crime. This process depended upon a direction for treatment and Lacan's theories of modern subjectivity, from the early to the late Lacan, ending with the four discourses as a method of discourse analysis.

### **Brief Remarks on the Very Late Lacan**

Law runs through Lacan's entire career and what it governs is enjoyment. Lacan wishes to speak primarily to analysts and his concerns are overwhelmingly clinical.

However, for Lacan, all discourse has law and each subject is somehow enmeshed in discourse. The very late period in Lacan's seminars contain much time elaborating on his theory of the Borromean knot, to which he adds a fourth ring which holds the other three together. This is the paternal function, the name-of-the-father. In other words, all that is wrapped up in the structure of subjectivity, with desire at the centre, is law. This is because primal repression, including the dialectical progression of the drives in clashes with law, sets out the structure of subjectivity beyond the Oedipus complex and the meaning-making struggles of the young subject. Lacan never relinquishes the importance of prohibition/castration in his theory.

This dissertation charted Lacan's work in *Seminar XI* on subjectivity and directions for treatment, emphasising the process of alienation within language. I discussed the *veI* of alienation as a sort of corrective to Aristotelian logic, which has widespread influence. Lacan wished to make a logical sign for alienation. If subjects knew they were alienated in a symbolic that is not theirs but predates them, how would politics be different? One could fathom that people would question their own symbolic attachments and the imaginary lures which draw them in. When Lacan says that what we do with law is we embrace one another, he is not saying we embrace the other. Identities are fashioned in law, ones that can be accepted in identification. When I said the fifth fundamental concept of psychoanalysis is I-identification, I emphasised the notion that one ought to call their identifications into question in the clinic, with the objects of the drive and the superegoic injunctions attached to those identifications. This aim is what I will refer to as a 'Will to Hysteria' and it is the hope that anyone can

question or converse with their unconscious, try to let it speak, or at least be suspicious of objects of I-identification or of the role of fantasy in one's life.

This suggestion of hystericising one's self is the subject's role in analysis. This is also a call to interpret the discourse one finds themselves situated in, whether it's politically, aesthetically, or in everyday life. For Lacan, the symbolic order is full of empty speech, and this became most apparent in politics when Trump contradicted himself so many times that, while news outlets tracked what they believed to be lies, his supporters had to interpret what was said quite often. Trump's image and his discourse were alluring lures for many people and it is fascinating that 'strong men' can speak in nothings, in empty speech, and be met with nothing but applause. This is an example of how the symbolic functions, with always a new Other willing to be a master, and the "strong man" always needs a force (an othered group) which he must be strong against. What I'm saying is that any discourse (think of the images in campaign ads) which attempt to play on the lure of the imaginary and drawing in symbolic identifications with signifiers which need not have any commonly accepted significations (e.g. "make America great again"). The final point I'll make about Trump is what many of his supporters said after being indicted for taking part in the attack on the Capitol on January 6th, 2021. This irruption of *jouissance* ("blaze of petrol" in Lacan's famous words from *Seminar XVII*) was quite a let-down and news articles are stated some of these rioters are explaining they were brainwashed (some as a defence and some after serving a sentence). Although they are responsible for their enjoyment, they were caught up in, alienated within, a discourse with its own I-identification and injunctions and the living out the fantasy was unfulfilling in the end.

This is just one of the more obvious examples of how identifications and fantasies reign in discourse and the main point to remember is that real people in the world are 'othered' meaning their experience is silenced, even if their existence is depended on as a threat requiring laws to manage their access to *jouissance*. The late Lacan describes different notions of the Father (especially God the Father) and this impossibly all-loving father is a reason the transference is possible in the clinic and why one identifies with their loving law-giver in political discourse. What psychoanalysis shows is that silence is always waiting to be dialectised. Lacan spends much of *Seminar XXII: R.S.I.* building upon his Borromean knot with a fourth ring and that ring is the father-symptom. The speaking subject's language as the Other's discourse holds the knot together, symptomatically. It is interesting to see this line of thought develop the following year in *Seminar XXIII: The Sinthome*. He spends his year focused on James Joyce, referring to Joyce as the *sinthome*. The Greek spelling is full of a diverse array of metaphors in different languages, reflecting Joyce's use of signifiers throughout his work, which is at times, semi-autobiographical. Joyce transforms the father-symptom and becomes the *sinthome*, free of the signification of the Other's discourse. For Lacan, Joyce is one of the lucky few to cure his madness (in the sense that the everyday neurotic is mad, rather than in psychosis). Lacan points out that art can "target in an expressly divinatory way the substantialisation of the sinthome" (XXIII 28) The point is that Joyce enjoys his unconscious, his very own *lalangue* (speaking with the body, disconnected from meaning), the unreadability of the letter in the unconscious. This ring is what makes an analysis terminable for Lacan.

The *sinthome* can take many forms and it often seems to overlap with sublimation. For instance, one may finish an analysis realising they are content with their life and identity so long as they can practise painting or gardening. What is the difference here? Both *sinthome* and sublimation have the ability to bring some sort of satisfaction or contentedness without the pain of *jouissance*, but sublimation is generally still caught up in the discourse of the other. In fact, it can very much be an act of *jouissance*, like sex. For instance, getting one's identity fully wrapped up in heated politics can be sublimation, and the realm of politics can be damaging to self and other. But my wager is that, if one aims at sublimation, like Joyce did, one may find satisfaction that reduces the unconscious Demand to engage with law (unconscious and conscious) in a way that swallows their identity. Lacan ends his career with a way out of the impasse that threatens to dominate his theory. The Lacanian subject is a subject of law and finally, after over four decades of work, Lacan provides a glimmer of relief from the subject's determinacy by the Other, and this is the final end of psychoanalysis as Lacan knows it.

In other words, politics (discourse in general) is absolutely necessary, but as an object of the drive or of egoistic desire, it is unlikely to bring satisfaction. It is a detour for the subject, because the symbolic and imaginary always present new objects of desire and new identities grounded in signifiers and fantasies. Willing to hystericise oneself is the first step to unravelling identifications with what is presented by the Other. Sublimating in a way that is not entirely dependent on the discourse of the Other might bring the subject a satisfaction that can replace the empty detours of the drive, and may even make one content with the holes in their identity, especially if it leads to a

*sinthome*. Then, it is the hope of critical theory, one can more clearly address the other of discourse by listening with compassion.

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