

Noble Blasphemy

Paris, 1865. The Salon. Within, in Gallery M, *Olympia*, one of two paintings submitted that year to the Salon by Edouard Manet (the other being *Jesus Mocked by the Soldiers*). It was singular within in the Salon in the amount of attention it received, both from the critics and the public. It is singular in art history in that, throughout the Salon, it was, as Michael Fried describes, the object of a continual and "sustained blast of derision and outcry without precedent or sequel in the history of painting."¹

"I wish I had you here, my dear Baudelaire," Manet wrote to his friend from out the midst of the tumult, "insults are beating down on me like hail. I've never been through anything like it."² Perhaps Manet did not foresee the degree of the reaction to *Olympia*, but it would be absurd to think he didn't expect the nature of the reaction. The letter to Baudelaire speaks indirectly of such: saying he had never been through anything like the battering he was currently receiving both from the Parisian public and the press gives implication that he had nonetheless been battered, if to a lesser degree, before. And he had, two years earlier at the Salon of 1863, when his *Le Déjeuner sur l'herbe*³ was likewise met with a considerable lack of approval in the Salon des Refusés, garnering from the crowd "a veritable clamor of condemnation."⁴

Yet even then Manet could not have been surprised by the reception. In content, *Le Déjeuner* "was a daringly modern scene," and in

¹ Michael Fried, *Manet's Modernism, or, the Face of Painting in the 1860s* (Chicago: Chicago University Press, 1996), 101. Note that *Olympia* was submitted with and displayed beside a second work, *Jesus Mocked*, which itself garnered no small derision. Though that was often but an afterthought to the venom aimed at *Olympia* in published response.

² Ross King, *The Judgment of Paris: The Revolutionary Decade that Gave the World Impressionism* (New York: Walker & Company, 2006), 151; quoting Wilson-Bareau, ed. *Manet By Himself*, 33.

³ The painting was titled by Manet *Le Bayed*, but was dubbed *Le Déjeuner* by the Salon-goers, and the name stuck, then being used even by Manet himself. King, 87-88.

⁴ King, 87, quoting *Le Courrier artistique* (May 30, 1863). While the critics were generally less than approving, there was among them a broader response, ranging "from hostility to enthusiasm" (Charles Harrison et al., *Art in Theory: 1815-1900* [Blackwell, 1998], 510); also, King, 88. The Salon des Refusés was created by order of Napoleon III in response to public outcry and the mass rejections by the Salon jury. Out of the over 5,000 works submitted, only 2,217 were accepted. King, 59. Many popular artists found themselves among the rejected. But for the most part, the Refusés consisted of artists who either were not talented or capable enough to meet the standards and conventions of the Salon, and those who, like Manet, out and out rejected those standards and conventions. Harrison, 509-10.

its painting “proved [itself] as defiant in execution as it had been in conception.”⁵ As well, it was a “marked assault on the bastions of nineteenth-century art,” taking its composition for its depiction of two Parisian gentlemen with a common prostitute from *The Judgment of Paris* by Raphael, who was “revered above all other painters by the conservative members of the Académie des Beaux-Arts.”⁶

Yet, if *Le Déjeuner* was an assault against that establishment embodied in the Salon, *Olympia* was a guided missile strike. While *Le Déjeuner* was “defiant,” *Olympia* was – and still is – flagrantly blasphemous.

Religiously blasphemous? Indirectly, in that *Olympia* was, in part, an affront to the prudish Parisian morality of the day. It was blasphemous also, in a broader sense, in that it challenged contemporary social mores, conventions of artistic practice, and reigning (and reining) concepts of nudity, sexuality, and beauty. Beyond that, though, and most importantly, it is blasphemous in the most fundamental sense of the term: it challenges definition itself, challenges the meaning of the world; challenges not only social convention but accepted reality: all because *Olympia* – and be careful to discern I speak of the *painting* and not the subject thereof, something Manet himself, in the creating of *Olympia*, was at pains to do – is *beautiful*.

While the event might have been relatively localized in comparison with the global repercussions of the release of *Satanic Verses* (which will later serve as the main example-for-analysis for this discussion), the displaying of *Olympia* can yet hold its place along side *Satanic Verses* in the history of violent responses to literary, artistic, or musical works.⁷ Audience response ranged from mockery to fear, from disgust to moral outrage, from extreme anger to uncontrollable laughter.⁸ The notoriety of the work (and of Manet, who was the subject of like mockery and derision in the streets of Paris⁹) was matched by the crowds who came to the Salon to view the work, reaching numbers and intensity (each feeding the other)

⁵ King, 41, 49. On the technical aspects of *Le Déjeuner*, see King, 41-50.

⁶ *Ibid.*, 41.

⁷ For a number of reasons, in part developmental, in part stylistic, and not the least because there is a great likelihood that the reader knows little concerning the presentation of *Olympia* in the Salon of 1865, I will devote much more space to the details of *Olympia* than I will to *Satanic Verses*, which will later stand as the axis of this exploration.

⁸ *Ibid.*, 152-53.

⁹ “He became the butt of songs and jokes, ‘pursued as soon as he showed his face,’ according to one version of events, ‘by rumors and wisecracks, the passersby in the street turning to laugh at the handsome fellow, so well dressed and correct, who painted such filth.’” *Ibid.*, 154, quoting Jacques-Émile Blanche, *Manet* (Paris: F. Rieder & Cie, 1924), 36-37.

of near riot levels.¹⁰ Gendarmes had to be posted to protect the artwork from vandalism.¹¹ Near the closing of the Salon, *Olympia* and *Jesus Mocked* were moved from their original position – one of prominence – to one “at a height where even the worst daubs had never been hung, above the huge door of the last room”; so high, “you could hardly tell if what you were seeing was a piece of bare flesh or a bundle of laundry.”¹²

While *Olympia* occupied Gallery M, it held the chamber in “an atmosphere of hysteria and even fear.”¹³ Ross King, in his recent history of art in 1860s Paris, *The Judgment of Paris*, writes of the event:

Some spectators collapsed in “epidemics of crazed laughter” while others, mainly women, turned their heads from the picture in fright. “Nothing can convey the visitor’s initial astonishment,” wrote the correspondent for *L’Époque*, “then their anger or fear.”¹⁴

The critics – though with some small, and one notable exception – were equally virulent. I offer a few excerpts to give understanding to that phrase:

A much more pronounced ugliness is still apparent in Manet’s paintings [. . .]. They are offensive eccentricities [. . .].¹⁵

Art sunk so low doesn’t even deserve reproach. ‘Do not speak of them; observe and pass on,’ Virgil says to Dante while crossing one of the abysses of hell.¹⁶

Olympia can be understood from no point of view, even if you take it for what it is, a puny model stretched out on a sheet. The colour of the flesh is dirty, the modeling non-existent. [. . .] Here there is nothing, we are sorry to say, but the desire to attract attention at any price.¹⁷

This *Olympia*, a sort of female gorilla, a grotesque in India

¹⁰ Wayne C. Anderson, *Manet: The Picnic and the Prostitute* (Boston: Editions Fabriart, 2005): 144-45.

¹¹ Fried, 308; see also Paul Jamot, “Manet and the *Olympia*,” *The Burlington Magazine for Connoisseurs* 50.286 (January, 1927): 27-28.

¹² Jules Clarétie, in *La Figaro*, as quoted in Harrison, 516.

¹³ King, 152.

¹⁴ King, 152, quoting *Le Moniteur des arts* (May 5, 1865); *Le Monde illustré* (May 13, 1865); and *L’Époque* (May 17, 1865), respectively. With art history being a touch out of my field, I am leaning a bit against the shoulder of King’s recent description of the Parisian art world of the 1860s.

¹⁵ Charles Clement in *Le Journal de débats*, as quoted in Harrison, 514.

¹⁶ Paul de Saint-Victor in *La Press* as quoted in Harrison, 514-15.

¹⁷ Théophile Gautier in *Le Moniteur universel*, as quoted in Harrison, 516-17.

rubber outlined in black, apes on a bed, in a state of complete nudity [. . .].¹⁸

The expression of her face is that of being prematurely aged and vicious; her body, of a putrefying colour, recalls the horror of the morgue.¹⁹

Olympia herself – modeled by Victorine Meurent, who was when Manet met her a working class *modèle-occasionel*, and generally considered a woman of no particular beauty²⁰ – was considered “‘ugly’ and ‘stupid’ as well as cadaverous,”²¹ filthy, undesirous, strange, and obscene. “For many Salon-goers in 1865, Victorine reclining on her bed was a threatening sight.”²²

As stated above, the public reaction, and the critical barrage, was, in the end, the consequence of what can only be considered a deliberate attack upon the Paris art world, and upon Paris itself. As describes King, “By dint of both its style and its subject, *Olympia* almost seemed calculated to raise the same wrathful response as *Le Déjeuner sur l’herbe*.”²³ The attack was, essentially, three pronged: there was a direct thrust against Parisian society, a broad swipe against the male art-viewer particularly and sexuality in general, and finally a second major thrust against the conventions and conventionality defined and defended by the Salon and the Académie des Beaux-Arts.

Olympia is undoubtedly a prostitute, though in comparison to the *filles insoumises*, or “unruly woman,” portrayed by Victorine in *Le Déjeuner*, here the part played was that of high-end courtesan. It would have been a rarity among the Salon attendants – if not an impossibility – for her not to be recognized as such. Prostitution at the time was flagrantly

¹⁸ Armédée Cantaloube in *Le Grand Journal* as quoted in Harrison, 517.

¹⁹ Victor de Jankovitz in *Etude sur le Salon de 1865* as quoted in Harrison, 518.

²⁰ King, 37. A *modèle-occasionel* was, essentially, a free-lance model (as opposed to being permanently employed by an artist). As King describes her, there was

little [. . .] to distinguish Victorine, her looks included, from the scores of other young women who hovered on the margins of Parisian artistic life. Nicknamed *La Crevette* (“The Shrimp”) because of her short stature, she was nothing like the exotically beautiful women favored by members of the Académie des Beaux-Arts. Her face was round and expressionless, her eyes hooded, her nose blunt above a small mouth, her limbs short, her trunk fleshy. (37)

Manet used Victorine first in 1862, and after that in a number of paintings, including *Le Déjeuner* (*Ibid.*).

²¹ *Ibid.*, 153.

²² *Ibid.*, 153.

²³ *Ibid.*, 109.

open. By act of Napoleon III, it had been legalized in Paris. At the time of *Olympia* there were approximately 5,000 *filles de maison*, or registered prostitutes in Paris. At the same time, there were over 120,000 unregistered *filles insoumises*.²⁴ Remarkably, that amounts to 13% of the population of Paris.²⁵ To call the *filles de maison* prostitutes, however, is really to mislabel them: they were courtesans, who "worked in a brothel [and] entertained a better class of client, [. . .] often adopting for themselves an exotic name such as Arthémie, Octavie, or Olympe."²⁶

It is also false to characterize prostitution in Paris as a mere sex-for-sale offering: there was pageantry involved. The prostitutes and courtesans presented themselves to be seen, to perform a value centered more upon the fetishistic than the basely sexual. They were commodity, yes, but their value lay not only in gratification but also – and perhaps more so – in possession. To attract men of greater wealth, they had to appear, in garb, mannerism, and reputation, to be of greater value.²⁷ In fact, the daily lives of the highest echelon of courtesans, "glamorous and wealthy" women, was a continual subject within the Parisian press.²⁸ Courtesanship, after all, could be an extremely lucrative business, the supreme example of which was Lizzie Howard,

the bootmaker's daughter who conquered London society, won Louis-Napoleon's heart and, in 1851, supported his regime by lending him 800,000 francs with which he was able to entertain (and to bribe) important members of the French military. [. . .] Miss Howard [was] rewarded for this and other services with the title of Comtesse de Beauregard. By 1863, she [was] retired, at the age of forty, to a life of modest luxury at Versailles.²⁹

And yet, at the same time, Parisian cultural mores were extremely prudish. Women were barred from the upper deck of omnibuses lest they expose part of their leg in the climb. Indeed, female flesh was "a forbidden sight in Paris."³⁰ As such, the courtesans and prostitutes and the Parisian men who patronized them played a complex psycho-social game. One necessary purpose of the prostitution was, of course, sex. But that brute sexuality was concealed, publically, behind a performance of glamor and social – not sexual but *social* – attractiveness. The same game was played also within the halls of the Salon, with the nakedness and sexuality of the

²⁴ *Ibid.*, 79.

²⁵ *Ibid.*, 80.

²⁶ *Ibid.*, 107.

²⁷ Charles Bernheimer, "Manet's *Olympia*: The Figuration of a Scandal," *Poetics Today* 10.2 (Summer, 1989): 255, 261.

²⁸ Sharon Flescher, "More on a Name: Manet's 'Olympia' and the Defiant Heroine in Mid-Nineteenth-Century France," *Art Journal* 45.1 (Spring, 1985): 27, 30.

²⁹ King, 80, citing on the loan Jasper Ridley, *Napoleon III and Eugénie* (London: Constable, 1979), 285-6.

³⁰ *Ibid.*, 77.

portrayed women concealed beneath the performance of Salon conventionality. These games, and all these games served to conceal, was forced into the open by *Olympia*.

Not that this was the first presentation of prostitution – an unacceptable subject³¹ – in the Salon. For example, as already stated, *Le Déjeuner* carries ample cues to mark the women depicted as *filles insoumises*. Even though it too gave attack to Parisian prudishness, which prohibited any “mingling [of the sexes] at the various bathing spots along the Seine, demanded that women be “covered in shifts,” and arrested men for going topless,³² “the public had found *Le Déjeuner* merely ridiculous, a farcical jape that might, at its worst, bring a blush to the cheek of a young maiden [. . .].”³³ As well in the 1863 Salon, dubbed by the critic Théophile Gautier the “Salon of Venuses” for its abundant population of nude goddesses, Alexandre Cabanel garnered the greatest attention with *The Birth of Venus*,³⁴ a painting openly attacked as vulgar because of the writhing pose of the depicted Venus: a pose which made Venus to look like a common prostitute.³⁵ Yet, Cabanel got away with the depiction because of his “unimpeachable technique.”³⁶

Manet, however, was of a contemporary movement in art which was forcibly breaking away from that accepted technique. He

applied his paint to the canvas with the same supposed lack of control and finish that had put one critic in mind of a floor mop. As in *Le Déjeuner sur l’herbe*, he painted Victorine’s face, torso, and limbs with non of the sculptural three-dimensionality and careful modulations of color to which Salon-goers were accustomed. Instead, using sharp contrasts of color, he created her body through a series of flat planes, producing a two-dimensional image that almost served to make the canvas seem a parody of Titian’s curvilinear *Venus of Urbino*.³⁷

The “parody” existed not only in breaking from the technique of the Académie: the posing of the model itself was severe break from well established tradition. In a very real way, the Académie could be said to be defined by the nude, in the same (if inverted) manner that the ‘nude’ was wholly defined by the Académie. Within formal training, it was (and probably still is, to one degree or another) a well established rule that the human figure had to be mastered nude before it could be mastered clothed. One had to understand the frame (and, even, the frames’ frame) in order to understand how cloth hung from that frame. For that basic – and I would say obvious – assumption, the nude became an inherent element to both

³¹ Ibid., 108.

³² Ibid., 77.

³³ Ibid., 153

³⁴ Ibid., 77.

³⁵ Ibid., 108.

³⁶ Ibid.

³⁷ Ibid.

artistic instruction and artistic production. Yet, by the time of Manet, there had developed within the Salon tradition a firmly established conventionality surrounding the nude. Models would not lower themselves so as to stand naturally before the artist: they took their poses from the figures found in the art tradition.³⁸ In fact, the models would take pride in their ability to exactly duplicate the established repertoire of poses. For that, there developed a self-perpetuating circle of conventionality: the models reduplicated established poses for artists of the Salon; up-and-coming artists learned from those established poses, and then produced art that reiterated the poses, both on canvas and in their expectations of their models. That which was lost was the actual body of the model. It was not, in the end, the nude human body that was the subject of instruction and production, but the body 'draped,' as it were, within firmly established conventionality.

And that conventionality served a purpose, as it must for the conventionality to exist. That purpose: to permit the erotic pleasure of the female nude, without subjecting the viewer to the erotic power of naked sexuality. As Bernheimer states it:

[N]akedness [was] valuable not for its individuality, the marks of one woman's fleshly embodiment, but for its transcendence of these marks in a formalized language intended to feed male fantasies while it erases any potentially threatening signs of woman's desiring subjectivity.³⁹

In part, it would have been this conventionality that prompted a comment made by Manet some years before *Olympia*. As described by King:

[Up until 1862] Manet had not sent a nude, either male or female, to the Salon. But the sight of Parisians taking a dip in the Seine reminded him of Titian's *Le Concert champêtre* in the Louvre, a painting that featured two women and two men in a rural landscape, the women nude, the men fully clothed. [Manet's friend, Antonin] Proust remembered how Manet stared at the bodies of the women leaving the water before remarking: "It seems that

³⁸ Anne Coffin Hanson, *Manet and the Modern Tradition* (New Haven: Yale UP, 1977), 91.

³⁹ Bernheimer, 258. Generally, in such criticism, it is pointed out that the primary viewer of the female nude in art would have been a male. (E.g., Bernheimer, 258, himself citing Berger's *Ways of Seeing* [1972] in example.) Though, at such exhibits as the Salon, to limit viewership to males only, that is, to withhold women from participation in the established conventions of the Salon, seems to me a rather arbitrary and unnecessary exercise. The conventions that made the female nude safe for male viewing would have also made it safe for female viewing. While what each sex is being from may be different, the primary functioning of an established social convention, operating to permit an event while removing any socially disruptive potentiality of that event is the same, regardless of sex.

I must paint a nude. Very well, I shall paint one." However, he explained to Proust that his own painting would include "people like those you see down there" – modern-day Parisians instead of the elegant sixteenth-century Venetians of Titian's work. "The public will rip me to shreds," he mused philosophically, "but they can say what they like."⁴⁰

The phrase "It seems that I must paint a nude" carries multiple readings. First, there is simple pragmatics. To enter full conversation with the Salon, and the Parisian art-world, he would have to take up the subject which was so much an integral part of the Académie tradition. Likewise, what better way to critique through performance the conventionality that ruled the Salon than to operate that critique within one of the bodies of conventionality that was so inherent to the Salon.

Finally, though, there is the primary meaning. To truly critique the conventionality, he would have to do a *nude*: a portrayal of a naked human, of naked sexuality, in all its power, in all its danger, in all its vibrant *reality*. Olympia's being a courtesan functions greatly to that end, particularly within the social moment of mid-nineteenth-century Paris. As the prostitute, the courtesan, she functioned within a set of established codes whose purpose was, again, to conceal the animality, the venality, the material danger of sexuality (which can be understood in terms of both lust and disease) within a commodifying conventionality. "The attraction of the courtesane [*sic*] for bourgeois writers and intellectuals," writes Bernheimer, "derived from their vision of her artificial brilliance, ostentatious falsity, and spectacular theatricality. [. . .] The courtesan did not signify the sexual body so much as its production as elaborate spectacle."⁴¹ As with the Salon nude, the display, even though it is a display based on sex, found its determination not in sexuality but in cultural codes. It is those codes then that become the subject of sexual desire; after all, the body is concealed, hidden, erased from language. There is in its place a code, a semiotic myth:⁴² one "artfully constructed as a montage of accessories that defends against the threat the female sexual body symbolizes in the unconscious, the threat of disease, contamination, and death."⁴³

Two sets of codes are thus in play: that of the Salon portrayal of the nude; and that of the prostitute in portrayal of her fetishistic commodification. Both sets of codes are wholly disrupted by Manet. The viewer is presented with a body, but without a stable performance of sufficient codes and conventions so as to make the body readable within the

⁴⁰ King, 22-23, quoting Antonin Proust, *Édouard Manet: souvenirs* (Paris: H. Laurens, 1913), 43; see also Hanson, 92. King gives note that at Manet's time, *Le Concert champêtre*, painted around 1508, was thought the work of Giorgione (King, 22n24).

⁴¹ Bernheimer, 261.

⁴² The term *myth* used in this instance in the manner of Roland Barthes's *Mythologies*.

⁴³ *Ibid.*, 262.

field of socially established meaning. Olympia is presented in close proximity to a very recognizable pose. Yet, in color and technique, and in her positioning, either through the tense hand over her sexe or the openly confronting gaze of Victorine's quite human face, that tie to the tradition is thwarted: she is not painted to be a goddess, but to be a recognizable Parisian. With the codification of the prostitute, the elements of the image function to make her unreadable: she is herself, after all, nude, and devoid of the displays that would commodify the prostitute as she would be seen in the streets of Paris. And those elements in the painting that can offer recognizable symbols themselves are presented conflictingly. E.g., she is prostitute, or courtesan in a brothel, and yet she can afford the employ of an exotic, black servant. She is courtesan, and yet she is whore, and yet she is a woman of means.⁴⁴ The viewer has nothing between which they may find secure, stable safety from the sexuality being displayed – by Manet, but also within the functioning of the work by Olympia herself – before the viewer.

And there is much for the 1965 Parisian to fear in *Olympia*. For example, there is the cat – which replaces the sleeping lapdog found in Titian's *Venus* – with its noticeably phallic tail: *les chattes* being at the time slang for both prostitutes in general and female genitalia. Thus the conflicting cues: a commodifiable female sex symbolized by a powerful, phallic cat. As well, the apparent dirtiness of Victorine connected to a connotation of "moral contamination."⁴⁵ *Olympia* was painted darkly, yellow skinned, in a coloring that could not but evoke a response of dirtiness, and thus, in turn, of dirty sex,⁴⁶ quite the opposite of the meticulous displays expected of courtesans. And beyond all else, there is that tensed, clenching, left hand. "The customary *Venus Pudica* gesture appeared to have been transformed [. . .] into an act of self-gratification."⁴⁷ Olympia's ungodlike hand "enraged and exalted the critics as nothing else did."⁴⁸ It competes with – or cooperates with – Victorine's direct stare as the center point of the energies of the painting, and pulls the full semiotic confusion

⁴⁴ See Bernheimer, 260-63, for a discussion on this point of class ambiguity.

⁴⁵ King, 153.

⁴⁶ Anderson, 145.

⁴⁷ King, 153. To note, King gives particular emphasis to there being political and legal fight – at the time of the Salon of 1865 – against a rapidly spreading pornography industry, spurred, if not created, by the development of photography (King, 153-4). However, while other sources do note the similarity of the pose of Olympia to pornographic photographs in circulation at the time, the pose is too directly tied to the art tradition coming through such as Titian and Giorgione to put too much weight to pornographic influences. More likely, the pose within pornography came from the poses viewed up on the canvases of Académie-accepted artists.

⁴⁸ T. J. Clark, *The Painting of Modern Life: Paris in the Art of Manet and His Followers* (Princeton: Princeton UP, 1985), 135; as quoted in Bernheimer, 269.

down into the blunt truth of *sexe*. Like the direct stare, it is a gesture of power, of control, and of self-possession: conflict indeed with the known, knowable, defined entity that was a Parisian courtesan.⁴⁹ It is, even for its subtleness, a most obscene gesture.

And *Olympia* was indeed considered by “not a few onlookers” as “a shameful obscenity that should never have been put on public view.”⁵⁰ The painting was in every way vulgar: in its subject, in its depiction, in its composition, in its technique. And at the time, it was vulgarity instead of ugliness which marked the opposite of beauty.⁵¹ The Salon, the high temple of beauty, had been invaded:⁵² *Olympia* presented to the viewer sex without either the “surface sensuality” with which the Salon tradition dressed its nudes, concealing the reality of the subject matter behind the ideality of art, nor with a moralizing which would justify the presentation.⁵³ As Zola wrote:

when our artists give us a Venus, they correct nature, they lie. Manet asked himself, why lie, why not tell the truth; he makes us recognize Olympia, that girl of our day whom you meet on the sidewalks and who hugs her thin shoulders in a scanty shawl of faded wool.⁵⁴

Or, as writes a contemporary critic: “What better answer, to the double standard which allowed the warm appreciation of the Salon *Venus* but banned the mention of an ankle from polite conversation, than to make a picture which would ask the spectator if he even dared to look?”⁵⁵

Or, to say it in within the field of discourse of this text, *Olympia* is blasphemy. Note some merely ‘technically’ blasphemous statement, said in passing for some rhetorical effect; not some brief content set to stand in argumentative opposition to religious dogma; nor some counter-culture exclamation of pagan or otherwise ‘demonic’ truth, which can only be ‘untruth’ when measured against the Truth of Christian (or Islamic, or other) doctrine. *Olympia* is high blasphemy, is high treason against not a deity but the very notion of *deity*, against deity-as-creator in the painting’s own, continuing creating; is *high* blasphemy in same sense one speaks of *Olympia* as high art; and within the purview of the creative the two are the same. Not identical, not equivalent, not concomitant with each other: the words are interchangeable.

It is no surprise, then, that people responded to *Olympia* with anger,

⁴⁹ See Bernheimer, 267-69, as concerns *Olympia*’s hand.

⁵⁰ King, 153.

⁵¹ Anderson, 149.

⁵² As to the question of why the Salon judges accepted *Olympia* in the first place, and then put it in so prominent and privileged a position, consensus seems to be that their intent was to teach Manet – and those like him – a lesson, to defeat the new counter-movement by giving them what they sought: a place before the Parisian crowds.

⁵³ Hanson, 100.

⁵⁴ *Ibid.*, 100, quoting *Mes haines* (Paris, 1928), 269-70.

⁵⁵ *Ibid.*, 95.

with fear, with turned heads or hysterical laughter – with offense. For *Olympia* is blasphemy. Its attack, ultimately, is not at codes or mores, but at the very existence of codes and mores. The means lay in part in the confusion of those codes, by their being in part presented, in part denied. Yet, I argue, there is reason beyond, reason that still operates in this time and place far outside of Paris of 1865. Namely, that *Olympia* is *beautiful*. As Alfred Sensier, the one marked exception to the primarily negative reviews, wrote:

Armed insurrection in the camp of the bourgeois: it is a glass of iced water which each visitor gets full in the face when he sees the BEAUTIFUL *courtisane* in full bloom.⁵⁶

The hysteric is actually a quite natural result when faced with the confusion of an object which refuses to be read, and yet demands to be seen; which does not permit its understanding, its identification, its naming as according to accepted conventions, which directly confronts the viewer with the raw energies of sexual potency, and yet calls to the viewer with the beauty of this work. And the work is beautiful: strangely beautiful, but then all true beauty can be said to be strangely beautiful. And that is because true beauty is living beauty, in the very sense of the potency, the potentiality of *Olympia's* sexuality. As Sensier spoke of it: "*Olympia* is a very crazy piece of Spanish madness, which is a thousand times better than the platitude and inertia of so many canvases on show in the exhibition."⁵⁷ Subject, composition, and technique had become rigidly conventionalized. And it is as such that Cabanel's writhing eroticism was protected by the conventions of Académie technique: his Venus was knowable, was recognizable as the expected goddess, even if she was indecently posed; and, the painting, by its otherwise strict adherence to technical and other conventions, was thus a success, was thus 'Art,' was thus 'beautiful.' *Olympia*, however, offers no such comfort. Cabanel's beauty, as viewed by the Parisians of the day, lay not in the sexual potentiality of the writhe, but in the inert platitudes of the Salon. Yet, seen outside Parisian eyes, seen through the lens of the offensiveness that led critics to label Venus a common prostitute, there is indeed beauty, though one muted by the unenergized technique. *Olympia's* beauty on the other hand is much more potent: existing in equal potency even today, even if the socio-cultural attack on Paris is long past its primacy. In final word, this description of *Olympia's* beauty by Jamot, which in its ideation pushes us forward:

Manet's *Olympia* is worthy to be compared with acknowledged masterpieces. It is worthy because Manet, like Titian and Goya, was actuated by purely pictorial considerations. The creation of a great painter with a frank and healthy outlook is this young girl who looks at us so calmly stretched on a bed, her shoulders raised on the pillows, one slightly outspread hand crossing the body to

⁵⁶ Harrison, 518 (italics and caps the author's). Sensier wrote under the pseudonym Jean Ravenel.

⁵⁷ Ibid., 518.

support herself above the hips, an unforced pose but one not seen before in a picture. A passage of painting of admirable exactitude and subtlety is the flowered silk stuff which breaks the uniform whiteness of the sheet, though it is hardly lighter than the pale flesh of the woman. The drawing throughout is sensitive and broad, apparently easy but actually masterly, the modeling greatly simplified but the construction certain, throwing the figure into full relief without the assistance either of shade or shadow. No other modern painter had displayed such brushwork, such a decisiveness of outline, so free a use of colour, such sharpness of contrast, such brilliancy of accent, such a mixture of elegance and forcibleness.⁵⁸

II.

"There has to be a transcendental signified for the difference between signifier and signified to be some where absolute and irreducible."

-- Jacques Derrida, *Of Grammatology*⁵⁹

Olympia is blasphemy in the basic Western sense of the word: the denial of the divinity of the Christian deity; more exactly, the denial of deity, period, whatever its name, dogma or affiliation. But *Olympia* is 'art,' and is not religious either in subject or composition. How is it then blasphemous in the classical sense?

Olympia does not make any overt statements about religion. It is not making some statement whose content is recognizable as being blasphemous, and whose criminality is recognized as injury to the divine, as treasonous to the divine order of being, as having its effect in the celestial realm, and only consequently in the material. *Olympia* blasphemes not in content, but in its nature, in its own being in the world. Its blasphemy is very material, both in effect and purpose. It is not, as it may be perceived by contemporaries, a 'victimless' crime. In fact, it is a mass crime, injuring (not "having injured," but the ongoing present participle) not single individuals but the whole subscribing membership of systematized fields of societal norms.

That it offends the grammatical aspect of being, that mode of being that undergirds the social aspect of human reality. This mode of being (and, as such, of thinking) is the field and function of the political conscious of society. It is the modality of the socially constructed world, what Peter L. Berger describes as "an ordering of experience," "a meaningful order, or *nomos*, . . . imposed upon the discrete experiences and meanings of individuals."⁶⁰ Berger continues:

⁵⁸ Jamot, 31.

⁵⁹ Jacques Derrida. *Of Grammatology*, trans. Gayatri Chakravorty Spivak, (Baltimore: Johns Hopkins University Press, 1997), 20 .

⁶⁰ Peter L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion* (New York: Doubleday Anchor, 1967), 19.

To say that society is a world-building enterprise is to say that it is an ordering, or nomizing, activity. . . . Man's sociality presupposes the collective character of this ordering activity. The ordering of experience is endemic to any kind of social interaction. every social action implies that individual meaning is directed toward others and ongoing social interaction implies that the several meanings of the actors are integrated into the order of common meaning.

Grammatical world-building is the creation of known reality. It is the means by which the mind makes sense of the endless unknown of the world in which humans exist. Unable to face the awesome infinity of Reality, the mind, in concert with others, creates a manageable world, a defined world, a known and thus knowable world, which is accepted as reality in place of the overwhelming experience of Reality as it actually exists. In parallel it is, as C.G. Jung describes it, "manifestly an instrument of culture,"⁶¹ in that it also makes 'known' other people, as well as the individual *identity* against the chaos of the great unknown, and thus psychological safety in the surety of self-definition.

The grammatical mode exists in opposition to the creative, the symbolic aspect of being. (Ultimately, "opposition" is not the correct word; though, it will suffice for this moment.) Jung uses (among others) the opposed terms "directed thinking" and "fantasy thinking."⁶² The division does not speak of two areas of knowledge, or two fields of exploration, but of two different modes of thought. The former is that which underlies Berger's nomizing activity of world-building. Writes Jung: "The whole laborious achievement of our lives is adaptation to reality, part of which consists in directed thinking."⁶³ Directed thinking is "reality thinking, a thinking that is adapted to reality,"

by means of which we imitate the successiveness of objectively real things, so that the images inside our mind follow one another in the same strictly causal sequence as the events taking place outside it.⁶⁴

It is the mode of thinking through which reality is made understandable, cognizable, ordered, rational. It is the mode of communal language, through which "we think *for* others and speak *to* others."⁶⁵

The latter mode is the thinking of dreams, of creativity; it is unconscious thinking; it is "effortless, working as it were spontaneously, with the contents ready to hand, and guided by unconscious motives";

⁶¹ C.G. Jung, *Symbols of Transformation*, trans. R.F.C. Hull, (Princeton: Princeton University Press, 1956), 16. There Jung also uses the terms "adaptive" or "logical" thinking or "thinking with directed attention," and "dreaming" or "subjective" thinking.

⁶² *Ibid.* at 18.

⁶³ *Ibid.* at 12.

⁶⁴ *Ibid.* at 11.

⁶⁵ *Ibid.* at 12.

where the former "produces innovations and adaption, copies reality, and tries to act upon it," the latter "turns away from reality, sets free subjective tendencies, and, as regards adaptation, is unproductive."

Note that the two do not stand in mutual opposition. Creative thinking is the more primordial. Grammatical thinking is a construct within primordial thinking, created to permit the mind to "adapt" itself to reality and to the demands of the social arena of which directed thinking is a necessary condition.⁶⁶ The primary function of language is the adaptive function: it is the means by which people communicate, interrelate, and organize socially. But in that language is a creation of the (primordially unconscious) mind and not of Nature, language also functions creatively. In every speaking and reading *both* modalities are functioning. This is critical. Each does not exclude the other. Though in that the purpose of the grammatical is to make sense of the chaotic stream of sensations that is experienced Reality, it works *against* the creative mode, always working to suppress the functioning of the creative and, even, awareness of its presence. Every utterance functions, potentially, through both modalities. The operative question is to what degree is the creative suppressed by the metaphysics of the grammatical.

That suppression does not function equally across individuals or societies, as was recognized by Ortega y Gasset in his observation on the reception of modern art, "The Dehumanization of Art."

Every work of art arouses differences of opinion. Some like it, some don't; some like it more, some like it less. Such disagreements have no organic character, they are not a matter of principles. A person's chance disposition determines on which side he will fall. But in the case of the new art the split occurs in a deeper layer than that on which differences of personal taste reside. It is not that the majority does not *like* the art of the young and the minority likes it, but that the majority, the masses, do not *understand* it.⁶⁷

The distinction he is making is not that the new art is merely 'new,' and the masses do not 'understand' it in the way a person would not understand a

⁶⁶ The relationship is functionally equivalent to that between the conscious and unconscious as described by Freud.

⁶⁷ José Ortega y Gasset, "The Dehumanization of Art," *The Dehumanization of Art and Other Essays on Art, Culture and Literature*, trans. Helene Weyl (Princeton: Princeton University Press, 1968), 5-6. Ortega y Gasset is speaking of Western audiences, as is Jung when he critiques the overly directed-thinking-controlled society. The majority of Jung's work was with intent of revealing the extreme imbalance in Western society, the unhappiness it brought to its citizens, and the need to establish a healthier balance between the grammatical and the creative, between the societal and the individual. This is not saying that other populations are exempt from the observation (in whole or part). I am simply pointing out that the argument has a known target.

new language, or a never-before-encountered puzzle which has but to be figured to be mastered. He has observed something more fundamental: a divergence between the majority and the minority in the way art is *engaged*, one that is determined along the lines of directed and creative thinking. The evidence lies in art itself: "Let us remember that in epochs with two different types of art, one for minorities and one for the majority, the latter has always been *realistic*."⁶⁸ And there we see the connection to *nomos*: modern art can not be understood by the majority not because it is new and as such merely 'different' from something seen before, but because it functions outside the socially oriented *nomos*. In essence, there is nothing in the established *nomos* that tells the mass what they are supposed to get out of the painting: speaking of abstract art,

A painting or a poem without any vestiges of 'lived' forms would be unintelligible [to the majority], i.e. nothing – as a discourse is nothing whose every word is emptied of its *customary meaning*.⁶⁹

Again, it is not that the new art – and Manet is considered by many to be the progenitor of modern art – proffers a new meaning that simply has not yet made it into the *nomos*. It is not merely that *Olympia*, in having as its subject a prostitute, offered the Parisian populace a subject to which it was not accustomed (though it undeniably did). *Olympia*, rather, speaks a different modality of meaning: that is, a 'creative' meaning. The artwork successfully refuses the suppression of the creative by the grammatical to a sufficient degree that in perceiving the work the majority could not readily read a directed meaning onto it – and the majority reads primarily through directed meaning. As such, the 'dreaming' of the art (to use Jung's word) is beyond them, and you have, with early twentieth-century abstract art as with its nineteenth-century progenitors, the violent reactions of the Salon and the Parisian public. The creative is fundamentally disruptive to their psyches, which is dominated by the grammatical. The art is in every sense of the word *meaning-less*. And its meaninglessness is an affront to their understanding of the world. Modern art, in essence, points out both the limits of the social *nomos* *and* its artificiality: that it is a construct *within* the primordial unconsciousness of creative thinking.

Modern art . . . will always have the masses against it. It is essentially unpopular; moreover, it is anti-popular. Any of its works automatically produces a curious effect on the general public. It divides the public into two groups: one very small, formed by those who are favorably inclined towards it; another very large – the hostile majority. (Let us ignore that ambiguous fauna – the snobs.) Thus the work of art acts like a social agent which segregates from the shapeless mass of the many two different castes of

⁶⁸ Ibid., 12. The emphasis is mine.

⁶⁹ Ibid., 17-8. The emphasis is mine.

men.⁷⁰

The art points out, the art demonstrates to the majority (even, *upon* the majority) that the nomos is a fiction; that their *known reality is not real*; not that their Truth is not true, but that *Truth is not*. Which is exceedingly problematic to society, because in order for a nomos to function as the stabilizing reality of society it must be taken for granted, it must function unquestioned – it has to *be* reality. “Socialization achieves success [only] to the degree this taken-for-granted quality is internalized.” As Berger continues:

It is not enough that the individual look upon the key meanings of the social order as useful, desirable, or right. It is much better (better, that is, in terms of social stability) if he looks upon them as inevitable, as part and parcel of the universal “nature of things.”⁷¹

Psychological internalization of the nomos creates a reality which functions socially (and individually) only in that it can suppress the fiction of its own reality. A rupture in the nomos – which reveals that fictionality – must be repaired or it will call into question the nomos itself. To the degree the rupture can not be repaired, ignored, or concealed, to the degree the individual cannot conceal from itself the idea that its believed ordering of reality is not real, and to the degree that the individual is unable to accept or handle that questioning of reality, there will be psychological and emotional consequences – in the same manner that something repressed within the unconscious, when it erupts into the conscious and reveals the construct of repression, causes psychological and emotional effects.

The nomos operates in a dual action: it creates an ordering of the world by which the individual is protected against the inherent chaos of Reality, and then retreats from cognition, anchoring the psyche in knowledge that that world-ordering of the nomos is the world-as-it-is by basing the world-ordering not on itself but on some external, transcendental narrative. The end result is the simple belief that reality as it is understood to be. Variation from that norm can not simply be something ‘different.’ Variation calls into question the reality of reality. And if that variation is of a degree that can not be tolerated within the natural give and take of the nomos, it must be dealt with through the mechanisms of the conscious and of society as a whole. A such, it is not surprising that the individual “who strays seriously from the socially defined programs [would be] considered not only a fool or a knave, but a madman.” That madness is not only label, it is projection of what the unconscious does know – that reality is not real. “Subjectively, then, serious deviance provokes not only moral guilt but the terror of madness.”⁷²

I would simplify the last sentence: it is not madness that is the

⁷⁰ Ibid., 5. Keep in mind that the term “Modern Art” is here being used to describe art that has this effect. Be wary of the fallacy of assuming a work of art has this effect simply because it is labeled “modern art.”

⁷¹ Berger, 24.

⁷² Ibid.

source of terror, it is what the madness speaks to their own psyche: doubt in reality. "Madness" is the label that brackets that doubt, and categorizes the threat as a manageable element of the understood reality. "Terror" – or, as is more frequently used, "horror" – is the primary word. The idea is approached through a simple progression. "Fright" is the response to an immediate, unexpected, threatening event. In horror films, it is the psychotic murderer jumping out of the closet when the audience doesn't expect it. Fright can be contrasted with "fear," which is continuous rather than instantaneous. Fear is the response to the threat that is known, recognized and forthcoming, but not yet immediately present. (Note the threat can be imaginary; it need not be real.) It is the ongoing response of the audience watching the person walk through the house, knowing the killer is there and may at any point get them. It is the emotion that converted countless women to strict bathers after their having seen *Psycho*. That in turn can be contrasted with horror, which is the same ongoing response, only the source of the fear, while recognized as existing, is not 'understood,' or, more importantly, understandable. Fear and fright operate at a more instinctual (even, physical) level. Horror, on the other hand, is deeply psychological. It is tapping into the dark void that lies within the soul. It functions out of the suppressed knowledge that the world is in fact chaos, unknown, unknowable, and as such a potentially all-consuming threat to the psyche, a recognition the whole of the defensive measures of the psyche function to protect the individual from recognizing. In its most basic form, horror is the poking a hole in reality and pointing to that hole, saying 'here is something which you can not understand, but which you know, intuitively, is more real than reality itself. Something which, because it is more fundamental than your conscious reality, can not be killed, destroyed, or in any way removed – because you can not kill that which is not.' Thus the horror of such films as *The Exorcist*, or *The Shining*, which operate as well through fright and fear, but generate through their art an *intuitive* awareness of something that can not be understood. Horror is the negative experience of the opposite and antithesis of the *nomos* – that which can not be rationally understood. It is mysticism, negatively perceived. It is also *ecstasy*.

Berger gives an example of the psychological 'horror' response to the questioning of the reality of reality:

[T]he sexual program of a society is taken for granted not simply as a utilitarian or morally correct arrangement, but as an inevitable expression of "human nature." The so-called "homosexual panic" may serve as an excellent illustration of the terror unleashed by the denial of the program. This is not to deny that this terror is also fed by practical apprehensions and qualms of conscience, but its fundamental motorics is the terror of being thrust into an outer darkness that separates one from the 'normal' order of men. In other words, institutional programs are endowed with an ontological status to the point where *to deny them is to deny being itself* – the being of the universal order of things and, consequently, one's own

being in this order.⁷³

The nature of division between the two castes of people which Ortega y Gasset describes can now be understood in fuller light. (As well, why the word *opposition*, earlier, was an insufficient term.) The division is not simply a split between those who think grammatically and those who think creatively; rather, between those whose psyches are dominated by the grammatical, and as such are unable to think creatively to any great degree and for whom the creative is more a threat to the grammatical than not; and those who are able to think creatively even in concert with the consequential, continual, and necessary questioning, unhinging, and unmaking of the ontological basis of the reality of the nomos. What Ortega y Gasset recognized is that the nomos is internalized to different degrees with different people, and that the far majority of people (in the West, at least) are unable to move out from under the reality-controlling functioning of the nomos to any substantial degree. For them, the nomos is Reality – that is, after all, its function and purpose – and anything otherwise is aberrant, is unnatural

III.

"I am afraid that we have not got rid of God because we still have faith in grammar."

-- Friedrich Nietzsche, *Twilight of the Idols*⁷⁴

"The core of blasphemy . . . is religious belief."⁷⁵ So writes Leonard B. Levy in his history of blasphemy, *Treason Against God*.

An obvious statement. Though, a second reading offers a clarification that, ultimately, is the pinion of the matter: the core of blasphemy is religious *belief*. Yet blasphemy is also *and inherently* a socio-political concept. Even in fifth-century BCE Greece, where the political state was open to criticism and the gods not, blasphemy – or in their terms *impiety* – still functioned as the outer-limit of *socially* acceptable speech. Impiety was understood as "any act or expression contemptuous of the gods or depraving holy matters."⁷⁶ Yet, in that the material world was still understood as an mythic reality, the gods still understood as manifest in the workings of Nature, society, however much it was the construct of humanity (and thus open to criticism), was as such still woven from the threads of the divine. To criticize the gods was to criticize the very foundation of Greek identity and social belief. The origin of the cosmos was open to speculation, but the divine nature of natural phenomenon was not. The law against impiety thus served, according to Demosthenes, two purposes: that the individual charged pay the penalty of their own acts, and

⁷³ Ibid. (italics mine).

⁷⁴ Friedrich Nietzsche, *Twilight of the Idols*, trans. Judith Norman, (Cambridge: Cambridge University Press, 2005), 170.

⁷⁵ Leonard B. Levy, *Treason Against God: A History of the Offense of Blasphemy* (New York: Schocken Books, 1981), 4.

⁷⁶ The whole of this discussion on Greece from Levy, 7.

that others be warned, "and may fear to commit any sin against the gods and against the state."⁷⁷

Contemporary ideas of blasphemy stems, as would be expected, from Christian, biblical sources: specifically the laws of the Israelites as delivered by Moses at Sinai. Even there, the social aspect of blasphemy is overt: "Thou shalt not revile the gods, nor curse the ruler of thy people."⁷⁸ The relationship between the social and divine does also move in the opposite direction, from the earthly to the celestial. The medieval canonists went to canonical and Roman law texts for confirmation that blasphemy was of the highest offenses. In the Roman texts, the measured of the seriousness of an offense was by the station of the victim: the more elevated was the victim, the greater was the offense. Thus, offense to the divine was of the gravest nature.⁷⁹

To consider the two elements separately, however, over simplifies. In that earlier cultures were predominantly structured with a priestly class that functioned both in the religious and the socio-political, the two ideas can hardly be separated. Blasphemy as a social proscription can not have been sourced extra-socially. But in that it is derived from religious *belief* rather than the material religious institutions (that is, profanation of material artifacts is an extension of profanation of the believed, immaterial, sacred plane), blasphemy emerges from the meeting point of religious ideology and material society. Though, there too the opposing current is as equally valid – religious and material reality emerge from the black lines of blasphemy. Says Levy,

Because blasphemy is an intolerable profanation of the sacred, it affronts the priestly class, the deep-seated beliefs of worshipers, and the basic values that a community shares.⁸⁰

But the opposite must also be recognized. If blasphemy is direct challenge of the transcendental signified, of the originating definition of the world-structure that makes up understood reality, the blasphemy not only identifies an affront to core community mores but also the establishment of the those mores through the interpretations of dogma by the priestly class.

Though, that priestly class is also the field of mediation between the ideological and the material, and must successfully adapt ideological structures to the pressures upon society or risk putting society in conflict with its own world-narrative. The narrative as *nomos* is fighting to maintain a definition of reality that is always in some degree of conflict with the

⁷⁷ Quoted by Levy. See 340n13.

⁷⁸ Exodus 22:28. The verse has served to establish a biblical foundation for lese-majesty. Levy, 15. Though, whether the Old Testament or the Talmud does support the notion that cursing a ruler was actually blasphemous is contested (342n29).

⁷⁹ R.H. Helms, *The Spirit of Classical Canon Law* (Athens: University of Georgia Press, 1996), 259.

⁸⁰ Levy, 6.

cosmos as it is experienced. As such, the crime of blasphemy becomes, primarily, a means of maintaining social stability. Levi continues:

Punishing the blasphemer may serve any one of several social purposes other than setting an example to warn others. Punishment propitiates the offended deities by avenging their honor, thereby diverting wrath: earthquakes, infertility, lost battles, floods, plagues, or crop failures. Public retribution for blasphemy also vindicates the witness of the believers and especially of the priests; it reaffirms communal norms; and it avoids the snares of toleration.⁸¹

As Neville Cox restates it in his book on Irish blasphemy law, *Blasphemy and the Law in Ireland*, blasphemy laws exist only for two purposes.⁸² On one hand, it is to defend the divine from insult, an act inseparable from the threat of divine retribution: "a common assumption among our ancestors. . . . Blasphemy was a natural cause of famine, pestilence, and earthquake," and there existed "impressive legal authority to that effect."⁸³ Commentators on canonical law continued to support that view into the 16th and 17th centuries. While you may not find a current legal authority to the point, the idea is still alive at the popular level in the U.S. One need only remember the veracity with which Christian religious leaders declared the AIDS epidemic a direct consequence of the spread of homosexuality, as a plague visited upon the U.S. people.

While the first purpose protects the divine, and the earthly from retribitional response, the second purpose of blasphemy laws directly protects society from the defamation of the functioning of the divine within society. That is, as with the Greeks, above, blasphemy law protects what is perceived as the very foundations of society. As Pierre Klossowski described it:

The theoretic hierarchy was reputed to have put an end to the ancient law of the jungle; man created in the image of God cannot exploit man, every man in a servant of God. On the pediment of the theocratic hierarchy is written the proverb: The fear of the Lord is the beginning of wisdom. The king, appointed by God, is his temporal servant; the lord, appointed by the king, is the servant of the king; and every man who recognizes that he is the servant of his lord is a servant of God.⁸⁴

The fear here is not that the divine will act in retribution to the blasphemous act, but that the unchecked challenges of the societal 'wisdom' will erode at the very basis of society, and society will collapse

⁸¹ *Ibid.*, 6

⁸² Neville Cox, *Blasphemy and the Law in Ireland* (Ceredigion: Edwin Mellen Press, 2000), 76.

⁸³ Helmholz, 260.

⁸⁴ Pierre Klossowski. *Sade My Neighbor*, trans. Alphonso Lingis (Evanston: Northwestern University Press, 1991), 53.

for want of its core truth. Note, the fear is that of devolution, of descent into chaos. The erosion of societal truths is not perceived positively, as a step to positive social restructuring. The foundation of society is also, after all, the foundation of reality itself; and as such, collapse of society is collapse into its opposite: chaos, and, in Christian terms, sodomic states of sin. In a substantial way, they are correct. Though, the ‘foundation’ which they covetously defend is not that which they *perceive* as the foundation. The perceived foundation is itself a creation of the nomos. What is actually under threat is that which is not seen: the nomos itself, more specifically, that narrative the nomos has created to give *meaning* to the world-construct, the narrative that imputes belief that ‘this *is* reality’ into the world-building of the nomos.

It is this system of legitimation of the nomos that serves the necessary function of internalization. Legitimation, most simply, is the “socially objectivated ‘knowledge’ that serves to explain and justify the social order.”⁸⁵ Where nomos is the believed reality that organizes the experienced world, the legitimation is that system of beliefs – functioning through communal knowledge, just as the nomos – that creates, justifies, and purposes the nomos. The legitimation is the kernel and narrative that defines reality as a whole, explaining what was, what is, and what will be. Note that legitimation functions by providing an *exterior source* – by providing the transcendental signified – to the individual. Reality is believed *not* because the individual’s own experiences tell them that those experiences, and their interpretations thereof, are *real*. Rather, reality is believed because of the authority of the transcendental. In projecting the source outside individual experience, the nomos is internalized, and suppresses its own presence in the psyche.

Legitimation functions both objectively and subjectively. Where the internalized nomos functions to create the perceived reality, the legitimation serves as the explanation of the reality the permits the constructed nature of reality to disappear into the unseen. Thus both legitimation and nomos must function as a part of the objective reality and yet be internalized fully within the psychological conception of that reality.⁸⁶

Unsurprisingly, “religion has been the historically most widespread and effective instrumentality of legitimization.” What religion offers the nomos is a preternatural aspect of reality. By situating the contextualization of reality outside the material religion can function to give narrative order to material reality without the risk of material reality ever impinging upon its tautological oversight. “Religion legitimates social institutions by bestowing upon them an ultimately valid ontological status, that is, by *locating* them within a sacred and cosmic frame of reverence.”⁸⁷ A supreme example offered by Berger is the occultic idea that “everything ‘here

⁸⁵ Berger, 29.

⁸⁶ *Ibid.*, 32.

⁸⁷ *Ibid.*, 33.

below’ has its analogue ‘up above’.⁸⁸ This very ancient and universal idea legitimates the earthly institutional order by establishing a synonymous relationship with the celestial orders. As such, “by participating in the institutional order men, *ipso facto*, participate in the divine cosmos.” An example of such an analogue within the contemporary U.S. – a legitimation that is currently under attack, and that is demonstrating active defense against such an attack – is that of marriage. The idea of gay/les or other non-traditional marriage is a direct attack upon an institution that has had a long-standing and central function within the legitimating institution of conservative Christianity. To call the idea of marriage into question is no mere ripple in the *nomos*. Marriage is tied by way of earthly/celestial analogue – the ‘marriage’ of Christ to the Church, e.g. – to the very core of Christian (or other religious) legitimation of the *nomos*. The fundamentality of the threat to the *nomos* is seen in the societal energies with which the threat to marriage is being combated. The *nomos* is not simply having to modify the definition of reality to accommodate changing material pressures (as with, say, the slowly increasing importance of ecological conservation within U.S. society), it is the underlying Truth of reality-as-believed that is having to adjust: no small task, culturally speaking.

Considering the history of the West, it should be an obviousness that English – and by extension American – common law origins of blasphemy law is rooted in the dual notion of Christianity as the established religion of England and of England being likewise established in Christianity – the latter being necessary consequent to the former. The pivotal case in English common law, the first recorded case where common-law courts took jurisdiction in a case of blasphemy *qua* blasphemy, is the 1676 *Taylor’s Case*.⁸⁹ Taylor’s crime was blasphemy of a religious nature – that is, defamation of God and Christ. The substance of the act was his saying aloud and in public that

Christ is a whore-master, and religion is a cheat, and profession is a cloak, and they are both cheats, and all the earth is mine, and I am a king’s son, my father sent me hither, and made me a fisherman to take vipers, and I neither fear God, devil, nor man, and I am a younger brother to Christ, an angel of God, and no man fears God but an hypocrite, Christ is a bastard, God damn and confound all your gods, Christ is the whore’s master⁹⁰

– words taken down by the good mayor of Guildford (the site of the crime). Six days in Bedlam gave no hope that the continuous blaspheming could be chalked up to madness, and he was passed up to the high court of England, which claimed jurisdiction – withholding the case from ecclesiastical courts – because the language “tend[ed] immediately to the Destruction of all Religion and Government.” As such, Taylor was prosecuted in the King’s courts for a high misdemeanor. On conviction, he was sentenced to be

⁸⁸ *Ibid.*, 34.

⁸⁹ 1 Vent 293, 3 Keble 607 (1676).

⁹⁰ This description of *Taylor’s Case* in Levy, 312ff.

pilloried in three places wearing a sign “for blasphemous words, tending to the subversion of all government,” and fined 1000 marks. Let me bookend this brief description with the decision of Lord Chief Justice Matthew Hale: such kind of wicked words were not only an offense to God and religion, but a crime against the law, State and Government, and therefore punishable in this Court. For to say, religion is a cheat, is to dissolve all those obligations whereby the civil societies are preserved, and that Christianity is parcel of the laws of England; and therefore to reproach the Christian religion is to speak in subversion of the law.⁹¹

Taylor’s Case established common law jurisdiction over blasphemy, and did it through the readily perceived assumption that English society was founded upon and sustained by Christian belief. Disruption of the fabric of religion would inevitably result in the disruption of the fabric of society. Even more, questioning *any aspect* of accepted or established Christianity questions also *the very foundation* of English society. As such, blasphemy is a very real concern of the English state.

Again we see how blasphemy marks the limits of free expression in a society. It shows the limit of what a society’s nomos can bear before it must react to protect the internalized nature of its own construction. A blasphemous act by definition calls to question the nomos: it disorders perceived reality. Simply by existing it disassembles the grand narratives that explain and define reality, that make reality understandable and the world safe. And again we see how blasphemy is fundamentally a *social* crime. Its very purpose is to limit freedom of expression. To view it as an *exception* within freedom of expression jurisprudence is to misunderstand the nature of the event. Within the nomos expression is not an unlimited field within which blasphemy marks out forbidden regions. Rather, the infinite field is blasphemous, and within it lies the pocket of permissible discourse.

The response to blasphemy gives measure to the size of that pocket. Mosaic law – the law of a small populace wandering homeless in a harsh landscape – demanded, quite frequently, death. In such a society sedition could quickly escalate to broadly damaging consequences, and it needed to be suppressed quickly and efficiently. The medieval canonists, ecclesiastical lawmakers and as such defenders of the sacred, did not consider the death penalty as a legitimate punishment for blasphemy. The normal response in the 16th century was either fines or corporal punishment. Though, the latter could yet be severe by today’s standards, including piercing or amputating the tongue.⁹² And though the canonists would not consider implementing severe punishments for blasphemy, that did not mean they considered the crime of any less severity. For them, blasphemy was contrary to natural, divine and human law. As a crime it weighed heavier than homicide. (Taylor’s fine of 1000 marks was beyond

⁹¹ Levy, 313-14.

⁹² Helmholz. 261-62.

high enough to guarantee he would never be free from imprisonment.) If the canonists did not proscribe sentences of measure equal to the crime it was not because of error in the biblical reading. Rather, it was because of the practical fact that no one would remain alive.⁹³ Without surprise, then, "the principle complaint of the canonists . . . was not that the canon law of blasphemy had 'chilled' the free discussion of ideas. Their complaint was quite the reverse: that the law had not proved 'chilling' enough."⁹⁴

IV.

"However impeccably the content of an 'other' culture be known . . . it is its location as the closure of grand theories, the demand that, in analytic terms, it be always the good object of knowledge, the docile body of difference, that reproduces a relation of domination . . ."

-- Homi Bhabha, *"The Commitment to Theory"*⁹⁵

Again: "The core of blasphemy is religious belief." By now, the difficulties of the subject should be becoming apparent. "Belief": as in a religious belief system that serves to legitimate the nomos. "Religious": as a *social* construct, one fixed upon a point that conceals the chaos of being by being posited *outside* of being where it can both define all within reality and escape needing to be defined by reality, where it can fix meaning without threat of meaning contradicting its own existence. "Blasphemy": understood within the nomos as offense against the divine, though in fact offense against the nomos itself, or, more specifically, against *the surety* of the nomos, a surety assumed and unquestioned, so obvious as to be unapparent and unknown. Blasphemy is undeniably felt by the individual, but what the individual is responding to is the threat to the self as it is established within the surety of community identity (that is identity of the self as equated with community). There are no material effects of blasphemy: no ominous clouds darkening the sky, no blood red sun. Its negative result is wholly psychological: the uneasiness of psychological threat to the "victims'" own psychological well being. The sentence is simple but the idea behind it is profound: *accepted Reality is being questioned*.

In 1841, Anglo-American blasphemy law underwent a profound shift in definition in the case of *R. v. Hetherington*,⁹⁶ in which a Chartist journalist was prosecuted for publishing allegedly blasphemous books. While the court did not break from the line that Christianity was yet the law of the land and thus afforded protections from certain expressions, it did break in saying that the blasphemous element of an utterance could not wholly to be found in the "matter of opinion," but also depended greatly upon "the tone and style and spirit."⁹⁷ The shift was firmly affixed in the

⁹³ *Ibid.*, 262.

⁹⁴ *Ibid.*, 283.

⁹⁵ Homi Bhabha, *The Location of Culture* (New York: Routledge, 1994), 31.

⁹⁶ 4 St. Tr. (n.s.) 563.

⁹⁷ *R v. Hetherington* at 590-1, as quoted in Cox, 12-13.

common law in two 1883 cases, *R. v. Bradlaugh*⁹⁸ and *R. v. Ramsay & Foote*,⁹⁹ both penned by the same justice, Coleridge LCJ. From the latter: “If the decencies of controversy are observed, even the fundamentals of religion may be attacked without the attacker being guilty of blasphemous libel . . . [; t]o asperse the truth of Christianity cannot *per se* be sufficient to sustain a criminal prosecution for blasphemy.”¹⁰⁰

Cox sees *Ramsay & Foote* as “not a development of the offense of blasphemy” but rather “the creation of a new offense while retaining the existing name of the crime.” The crime *after Ramsay & Foote* no longer serves its original purposes, neither that of defending the deity nor that of defending the underpinnings of society. The shift from content to form carried with it the abandonment of treating any sacrilegious utterance as automatically blasphemous.

What had occurred within English society that created the change in attitude? A shift in the nature of the religious transcendent signified. The truth of reality was no longer the Scholastic notion wherein reality, as an extension of god’s being, carried within it the divine truth of god’s being. The legitimation of truth in language had moved away from the presence of divinity within truth and toward other sources of legitimation of truth (such as scientific verification). Blasphemous language thus was not *per se* *counter* to the divine truth of Creation. As such, blasphemy had come to require more than content: it also needed a malicious act. The more important consequence – especially in that the *per se* element of blasphemy is not wholly removed from English law – the perceived ‘victim’ of blasphemy shifted from God and society to the sensibilities of the offended individual.

Cox makes two related points of notice. Firstly, calling these new offenses “blasphemy” sets them in conflict with the nature and purpose of the historical notion of blasphemy. Secondly, and as a consequent, the new form of the law still carries with it many “inappropriate elements of the ancient law.”¹⁰¹ Primary on that list would have to be that blasphemy would still be founded in Christianity as the established religion of England.

The second point is undeniable, and not at all surprising. For the shift in the first point is in the end a difference not in the nature of blasphemy, but only in its *appearance*. What had changed leading up to *Ramsay & Foote* was the English *nomos*. The social history of the Victorian era is defined by that shift. The narratives of natural science, of history, or philosophy and morality could no longer be defined by an all controlling and all defining God. The greater *nomos* of England could no longer sustain itself through appeals to an offended god. As such, the justification of blasphemy shifted from an assumed deity to something a little more acceptable: the experience of the offended person.

Fundamentally, however, blasphemy is still the same societal event: the maintenance of the *nomos* and its legitimation. While religion has lost

⁹⁸ 15 Cox C.C. 217.

⁹⁹ 15 Cox C.C. 23.

¹⁰⁰ *R. v. Ramsay & Foote* at 235, as quoted in Cox, 15.

¹⁰¹ Cox, 76-77.

its position as a priestly caste within society, religion is yet a functioning basis of legitimation. All that has really changed as per blasphemy proper is how the event manifests itself: that is, how the *nomos* identifies the event. It is still a function of legitimation; however, one that fits with religion conceived as a post-Enlightenment concept. Before, where society and religion were overtly and inherently melded, where it was the divine first of all and society secondly that were the victims of blasphemy, that class which stood as the presence of the divine within society acted also as the voice of offense. They were the manifest sign of the beliefs and mores of society, and the tangible assurance of the divine narrative. By the mid-Victorian period the priestly class could no longer serve such a purpose to the degree necessary to the needs of the *nomos*. So the voice of blasphemous affront moved to the new center of religious experience: the individual.¹⁰²

Note that within this shift in the narrative lies the inherent ability of the *nomos* to adapt to practical reality. It is not describing a shift from the grammatical to the creative. The narrative has changed, but the primary event is still the same: the reaffirmation of communal norms. Note also that the shift is not yet complete, historically speaking. Levy was speaking of the historical notion of blasphemy when he wrote,

Punishment propitiates the offended deities by avenging their honor, thereby diverting wrath: earthquakes, infertility, lost battles, floods, plagues, or crop failures.¹⁰³

That blasphemy laws still exist on the books of the states in the U.S. is not admittedly demonstrative of much other than that sometimes old laws don't die but simply fade away. As well, the possibility of such a law withstanding a constitutional free speech challenge is essentially nil after *Morley* (“above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content.”¹⁰⁴) and the theoretically more important *R.A.V.* (“content-based regulations are presumptively invalid”¹⁰⁵). Yet, while the political system of the U.S. has successfully excised a constitutive religious legitimation of government, the language, beliefs, and mores of conservative Christianity has not yet followed suit. Blasphemy – a social function couched in religious belief – still exists. It was not long ago that the statement that the AIDS epidemic was a retribitional plague visited upon the blasphemous acts of homosexuals was frequently heard in pulpits and in the media. Fundamentalist Christian television (and pulpits) still plies its believers with the language of a retribitional deity. The conflict being played out in England where English society is being forced by globalization to face the issues of Christian establishment is also being played out here in the U.S. The primary difference is that in the U.S.

¹⁰² Of course, this shift may have culminated in the social upheaval of the nineteenth century, but it began centuries earlier.

¹⁰³ Levy, 6.

¹⁰⁴ *Police Department of Chicago v. Morley*, 408 U.S. 92, 95-96 (1972).

¹⁰⁵ *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992).

religion has been constitutionally removed from functioning in government as a recognized establishment.¹⁰⁶ Nonetheless, the popularity of Christian 'histories' of the U.S. in specific, and the nature of the majority of Christian media in general, if not the greater tenor of how conservative Christianity speaks itself to the nation as demonstrated in the responses to the Cincinnati Mapplethorpe exhibit, or the nationwide picketing at showings of *Life of Brian* or *The Last Temptation of Christ* (or, more recently, the response to *The Da Vinci Code*, or, even and inversely, the response to *The Passion of the Christ*), the continuing battle with the growing presence of homosexuality, the continuing so-called 'debate' over evolution and the current rise of creation science, or even the state of utter emasculation of the nation's public school textbooks, gives ample evidence that the older nomos of social/religious union is still quite alive, and struggling to cast U.S. policy in its image.

But this is the visible surface of the phenomenon. This is a group of people who share a common social norm speaking reality as defined by their functioning nomos. The underlying event, that which is the same whether we speak of blasphemy in the U.S., in Ireland, in Egypt or in Pakistan, or in Iran or Chechnya, is that of nomos and legitimation.

Which prompts a question: England, even if behind the U.S. in terms of religious establishment, is being forced to address the issues of the *ideological* influence of religion on social policy and the law, inevitably because Europe, and beyond that the majority of the world, is but a channel crossing away, what of a U.S. response, when both an isolated geography, an isolationist history, and a far more rural population limits the effect of those pressures?

V.

"All art is at once surface and symbol. Those who go beneath the surface do so at their peril."

– Oscar Wilde, *The Picture of Dorian Gray*

Cox recognizes this in finding a pattern in arguably the two most famous contemporary blasphemy incidents: Rushdie's *The Satanic Verses*, and the Jyllands-Posten Mohammad cartoons. In that *The Satanic Verses* serves a central position in *Blasphemy and the Law in Ireland*,¹⁰⁷ it will also be the primary focus here. Though, the controversy around the cartoons fits the pattern. The facts of both incidents are readily available, so I will limit myself to the most elemental narrative.¹⁰⁸ Briefly, the framework is as

¹⁰⁶ I make this rather generalizing statement recognizing the arguments as to the nature of the First Amendment division of church and state. For my purposes here, the general statement is sufficient, and the various arguments unnecessary to address.

¹⁰⁷ *Blasphemy* was published five years before the Jyllands-Posten events.

¹⁰⁸ Cox couples *The Satanic Verses* with the *Gay News* controversy of 1976 (23ff).

follows.¹⁰⁹

The publication of the text: Rushdie’s *The Satanic Verses* was published in September, 1988.

There is a hurt committed, which is not recognized by the West. There were both national and international protests to both the publication of *The Satanic Verses*. The most important to our purpose is the action brought by the British Muslim Action Front under British blasphemy law.¹¹⁰ The case resolved in favor of the defendants, hinging on the fact that the case-law was clear: blasphemy in England was applicable only within the scope of Christianity, the established religion of England. While the court considered the result a “gross anomaly,” and implied that its preferred result would be the abolition of blasphemy laws, they deferred taking any substantial action: the onus of change, whether to broader acceptance or abolition, belonged to Parliament and not the court.¹¹¹ To compound the issue, the Secretary of State for the Home Department refused a petition to expand the blasphemy laws. Like the court, he fell back upon the incapacities of the legal system. Unlike the court, however, he used Christianity as a point of argumentative power, saying, “The Christian faith no longer relies on the law of blasphemy, preferring to recognize that the strength of their own belief is the best armor against mockers and blasphemers.”¹¹²

Violence emerges from the void: In February, 1989, the Ayatollah Khomeini issues his fatwah. Rushdie went into hiding. The fatwah did have its consequences, including the murders of the Italian and Japanese translators of *The Satanic Verses*.

Apologies are drafted, but drafted out of fear rather than any honest emotion: Rushdie’s apology came the day after the fatwah was announced.¹¹³ Previous to the fatwah, Rushdie had continued his life as though oblivious to what was going on.¹¹⁴

Yet, the apologies only serve to eliminate on the part of the offenders the need to deal with the original hurt: Even were it to be completely genuine, the apology fails because it is motivated by the violence rather than by the original harm. Indeed, once the violence has occurred, it would be difficult at best for any apology – whether ingenuous or honest is irrespective – to appear genuine. In that it no longer appears connected to the initial injury, the apology can no longer function within the core conflict. Only, by the time of the apology, the core conflict has changed: it is no longer about the single incident of blasphemy and offense,

¹⁰⁹ The five point structure is primarily from Cox’s presentation, though the essential ideas are present in the book. The headings are primarily Cox’s language.

¹¹⁰ *R. v. Bow Street Magistrates Court ex parte Choudhury* 1 All ER 306 (1991).

¹¹¹ *Bow Street*, 317; Cox, 36.

¹¹² G. Robertson and A. Nicol, *Media Law* (3d ed., Penguin, 1993), 163, as quoted in Cox, 37.

¹¹³ Cox, 43.

¹¹⁴ *Ibid.*, 37

it is now a conflict of ideologies, whose natures operate to distinguish themselves each from the other.

I simplify because for the moment the Rushdie affair can be sufficiently described as a basic, cultural blasphemy: the grammatical blasphemy of the conflict of two already-established ideological constructs. Of the other two gross categories of blasphemy – that of the individual speaking grammatical blasphemies that are not part of an established societal nomos, and that of the creative blasphemy – the former is in essence the same situation, only there is only one ideological construct involved. In that such constructs are, to the degree they are not in negotiation with each other, actively operating to establish the other as a false reality and thus as an *irrelevant* (if not heretical, demoniacal, evil, or mad) reality, each thus functions irrespective of the other. The basic two-society grammatical blasphemy is very readily understood then as two one-society blasphemies. For if the moment of agonism is missed as an opportunity for negotiation between the two ideological constructs, then the energies point outward, and the controversy settles into two groups violently defending their own realities. With the apology coming late, within the context of violence, it is transformed from a true apology (which is an opening for communication between the parties) to at best a gesture of mollification, no longer functioning to resolve the conflict, rather functioning to minimize violence as each party bunkers within their own ideological point of strength: in the sureties of their own nomos, which they *know* is real. As such, the *other* is most obviously *wrong*, and *need not be addressed*.

But I am getting ahead of myself.

With the *Satanic Verses* controversy we see such a bunkering – that of retreating into Christian religion – in the comments of the Secretary above. An equally if not more primary ideological struggle, though, appears in the opposition of (Islamic) religious fundamentalism vs. freedom of expression fundamentalism. 'Freedom of expression' is itself one of the legitimations of the broader nomos of the West. In a nutshell, as Cox points out, Rushdie became "a martyr to the cause of freedom of expression."¹¹⁵

VI.

*"Well you say that it's gospel
But I know that it's only church."
-- Tom Waits, "That Feel"*¹¹⁶

What has happened.

First, there occurs a blasphemous act. In this instance, the publication of a book which is perceived as blasphemous. (All blasphemous acts are *perceived* as blasphemous – that is the nature of the offense/response situation. There is only perception, but a perception that carries with it the whole of metaphysical presence.) The act is of sufficient potency as to generate a response from the challenged nomos.

¹¹⁵ Ibid., 44

¹¹⁶ *Bone Machine* (Island, 1992).

That response serves as the measure of whether the act is legalistically blasphemous (i.e., the act creates no actual offense outside of that by legal definition the words degrade the nature of the deity), or whether the act is blasphemous in the sense of an actual felt offense (the society, through the person of its membership, undergoes an actual psychological response to the questioning of its socio-moral underpinnings). Recognizing this, the question of the possibility of a bare knowledge offense (the question whether blasphemy can be actionable on the mere knowledge of the act’s occurrence, without the offended persons actually witnessing or otherwise encountering the act) reveals a curious answer. A blasphemous offense does not *need* observation to exist: bare knowledge is sufficient to cross the threshold of blasphemy-as-injurious-act because the actual injury, and the actual injured – the surety of the nomos – operates *psychologically*, not materially. If blasphemy is *believed* to exist, then it *does in fact exist* – irrespective of any actual material event. The nomos *must* then act to eliminate the perceived threat. Thus the energies readily available to witch hunts and the like: the injury *can exist without an offender*. What is called “bare knowledge” of the event of blasphemy is thus actually its inverse: blasphemy in its purest form, as a purely psychological, self-maintaining function of the nomos.¹¹⁷

Where there is a threat to the nature of a societal construct, that society must respond, verbally or violently, within societal systems or in disobedience thereto. Here, the initial response culminates, within the British societal framework, with legal action. Notice that by acting within English societal norms multiple ideological axes are functioning simultaneously. The offended class is self-identified (or is in the process of self-identification) both as Muslim *and* as English. In that they are not just legally but ideologically integrated to some degree within the English nomos, they can legitimately attempt to assuage the pressure on the Muslim nomos through the systems that operate as part of the English. In that the Muslims are striving to enter English society, they are in negotiation with the English nomos (just as England is in negotiation with the Muslim nomos brought with them when they immigrated). Because the English nomos is the dominant, it has, by far, the higher inertia, which puts psychological pressures on the minority group: they must change the most in the negotiation; and, in that the religious legitimation of the Muslim ideology is so heavily embedded in material society, the gradient of change is all the more radical. In that there is negotiation between the two

¹¹⁷ Since ideology functions by demarking the other against the identity of the nomos, the agonism of blasphemy is a necessary function of the nomos: it must always to some degree be creating blasphemies (and other antagonisms against the other) in order to reiterate and affirm societal borders. The more fundamentalist the ideological construct (that is, the more rigid its narrative and the deeper its associated society is embedded within that narrative), the more the nomos needs such antagonisms to defend itself *against* negotiation with the other, for any such negotiation will carry with it a dissolving of the assuredness in the grand narrative, and with it the slow diminution in power of the nomos itself.

constructs, the individual is caught in between realities, simultaneously finding identity in each against the other while they try to meld the two into a single grand narrative. In ironic consequent, when the Muslims lose because of the role of Christianity-as-legitimation within the dominant nomos, *both* axes end up under attack.

Firstly, as Muslims they are identified as holding a secondary rank within the English legal system. The construct they are trying to enter is rejecting them as not-welcome, fully, within the fold. Their yet-incomplete identification as 'English persons' is, in essence, disqualified: they are *not* part of the English nomos, no matter how much they may be permitted to participate in the material systems thereof. The dominant nomos is, in fact, undergoing its own reaction to blasphemy. Insofar as "England" has not yet fully adapted its own narrative to permit full integration of Muslim persons within that nomos, the idea of "British Muslim" is still a blasphemous idea. As such, the dominant nomos must react to protect the purity of its own identity. Thus the comment of the Secretary of State for the Home Department, above.

Secondly, Rushdie's blasphemous act against the Muslim axis is legitimated by the dominant nomos. The legitimacy of their own Muslim reality has been flatly, officially, and publicly *denied*. Which is to say, they have flatly, officially, and publically been called out as *believing in falsehoods*. The original blasphemous attack as such is not eliminated but exacerbated. Indeed, I would argue that the transitional position of the Muslim British exacerbates the situation even further in that the British Muslims can not avoid being subjected to ongoing blasphemy: in identifying their Muslim character as blasphemous to England, England has become blasphemous to the Muslim British, who, in the same breath, are in the psychological limbo of forced negotiation between their native culture and the culture of the society in which they now live. The Court's decision not only defended Rushdie's blasphemy, it committed new, grander blasphemies on top of it.

Because of the cultures involved, there are even more logs for the fire.¹¹⁸ For one, Islamic society has not undergone the cultural shift described above. The religion of Islam functions within Islamic society in way Christianity did in the Middle ages. Established religion in the West has diminished in its legitimating function and no longer exists for the most part as an overtly defining section of material society. Yet, in Muslim society, the religion of Islam still performs its legitimating function as part and parcel of material society. It cannot be said that the West has yet emerged on the other side of this transformation. Nonetheless, the it is farther along than not. This systemic conflict creates a serious problem of translation between the West and Islamic societies in that the conflict of the two nomoi is not only substantive but also to a great degree functional. It's not only the factual nature of reality that is in conflict between the two societies, it is the very formation of society, and the degree of authority by which religion legitimates the reality construct.

Also, there is the brute fact that Christianity has in a very real way

¹¹⁸ See Cox, 41ff.

been at war with Islam since the Crusades. There has never been a period of reconciliation or negotiation between the two grand societies. To explain by analogy, where two languages are forced into negotiation with each other – for example, consider a place on the Gulf Coast early in the age of exploration, where the desire to trade creates the necessity of language-learning – there will develop a pidgin: that is, each side will learn and adapt enough fragments of the other language as is necessary to facilitate the practical aspects of the business of trade. If the energies of interaction grow and expand, that pidgin can develop into a creole, a kind of hybrid language that is recognizable of both parent languages yet also developing its own independence. Over time it may mature into a true language of its own, derived from both parents but wholly independent of each. After a thousand years of interaction between the Islamic and Christian societies, there exists today between the two cultures at best only a rudimentary pidgin.

Worse, the relationship is imbalanced. Muslims feel themselves to be in the lesser position, fighting for legitimacy on the world stage – a position the West is more than ready to affirm (and which it necessarily does affirm as a natural course of its own *nomos*). As such, writes Richard Webster, "what Muslims see in Rushdie's fictional adaptation of ancient stereotypes is not simply hatred, but the long, terrible, triumphalist hatred which the West has had for Islam almost since the beginning."¹¹⁹

It is no surprise then how readily the *Satanic Verses* controversy extends beyond the shores of England. While the Muslim British are a constituent of English society in the broad sense, they are none-the-less Muslim, an identity constituent with the sacrosanctity of Islam, which is but a sub-culture within England. The denial of the Muslim *nomos* in England is a denial of the same *nomos* in Iran. Granted, by the time of the fatwah, the controversy has become highly politicized. The fundamentalist elements of the societies involved became the dominant players. (Though, it may also be said that the players became more fundamentalist as they retreated into their respective ideological world-building.)

The three elements of *nomos*, fundamentalism and politicization are heavily intertwined. Though, they must also be recognized independently: not a terribly easy proposition. The difficulty is solved by refusing point definitions. Fundamentalism is, within the social event, a measure of the degree to which the individual's reality is defined by the *nomos*. Using classic psychoanalytic terminology, it is the a measure of the degree to which the cultural superego controls the individual's independent psyche. The term is generally used to mark an extreme belief. Though, being extreme in terms of its legalistic metaphysics does not parallel the number of its membership. Since the *nomos* functions through common societal norms, politicization and fundamentalism readily run hand in hand: especially in a society such as the Islamic, in which a legitimation (religion) and the psychical reality it legitimates is deeply mutually identified.

A societal or individual response to a threat to the *nomos* is fundamentalist to the degree that the response serves and is guided by the

¹¹⁹ Richard Webster, *A Brief History of Blasphemy* (Oxford: Orwell Press, 1990), 40, as quoted in Cox, 42.

reiteration of the nomos. That is the part and parcel of fundamentalism: the person acts not as an individual but as part of the societal collective, the reality of the situation being defined by the nomos rather than by an individual, psychological engagement. The individual acts in continuity with that reality and, simultaneously, in affirmative performance of that reality.

It is not merely that the nomos defines reality for the fundamentalist: the fundamentalist is themselves defined by that reality. The reality being, in the end, a psychological construct, a *fiction* as it were, the fundamentalist must act always according to and in reiteration of what, to them, is capital-T Truth. And in that the reality is a shared reality, established within the cultural mass, the fundamentalist action is always a group action. It is out of this dynamic that fundamentalist Christianity as a whole can be able to publicly and actively condemn, say, *The Last Temptation of Christ*, without themselves as individuals (even to overwhelming percentages) having seen the film. What they know to be true is established within the collective mass as spoken to them by those persons who function in present day as their priestly class. And what the collective mass accepts as truth *is Truth*. Their own independent judgment is irrelevant to the reality defined by the societal norm. In fact, the more psychological energy is involved in maintaining the stability of the nomos, the more any independent thought is perceived as a threat, irrespective as well of whether the result of that thought sides with or against the nomos. The threat is not solely the content of the thought; the threat is also in its core the break from the societal mass – which is ultimately performative of the artificiality of the societal reality.

Politicization is not by necessity driven or governed by the nomos. When the situation becomes politicized, it is a simple thing for an individual, if they can assert their own identity as mouthpiece of the nomos, to be able to manipulate actions of the societal population to their own ends. Curiously, the populace will be oblivious to the manipulation so long as the machinations do not conflict with that which is most critical in the moment: the stability of their world-building as maintained against the perceived (and as such very real) threat to that world-building. Morally, this posits the interesting question of whether the populace can in fact be blamed for their actions when they are acting according to their most fundamental morality, which emanates from the most sacred core of the nomos.¹²⁰

When, in Cox’s schema, the apology does come it is working more *for* the conflict than in mediation of it. Through ideological bunkering and politicization the situation has fully elevated to the societal. That the apology comes from fear rather than regret or some other individual emotion is not itself a cause of the failure of the apology but rather symptomatic of the retreat into ideology. The apology merely marks the

¹²⁰ This carries obvious implications into, e.g., post war settlements and war crimes trials, hinting at the idea that culpability for such crimes lies only in either the *very nature of the society involved* or in the leaders to move that nature to their will.

occurrence of the individual’s irrelevancy (outside of their ability act within the political). There is no longer an issue of injury: there is only a power struggle.

VII.

“A time must come in which society, from politics to art, reorganizes itself into two orders or ranks: the illustrious and the vulgar. That chaotic, shapeless, and undifferentiated state without discipline and social structure in which Europe has lived these hundred and fifty years cannot go on. Behind all contemporary life lurks the provoking and profound injustice of the assumption that men are actually equal. Each move among men so obviously reveals the opposite that each move results in a painful clash.”
– Ortega y Gasset, *“The Dehumanization of Art”*¹²¹

Let us for the moment break the apology away from any singular historical moment or any recognized pattern of historical events. To understand its complexity requires (or, its complexity is) the recognition that the apology serves the greater ideological context: capriciously speaking, an apology is not an apology is not an apology. The character and nature of the apology can vary greatly from situation to situation, and is heavily dependent upon various elements, the primary being the intention of the blasphemer, the nature of the offense as experienced by the offended, and the desire of the offended as regards an apology.¹²² These elements are not independent and impossible to isolate from each other. In the end, however, they all go to answer a simple question: what, exactly, is any particular blasphemer apologizing *for*? Which then, depending on the answer, prompts another, far more fascinating question: *should the blasphemer be apologizing at all?*

The full field of the question is tintured primarily by the blasphemous act itself. As previously discussed, irrespective of the positions or intents of the individuals involved, the essence of blasphemy is its challenge to the internalized nomos. Blasphemy does not exist except that there is an internalized, world-defining narrative whose ontological truth is called into question by the blasphemy. The blasphemous act can be of two natures. On one hand, the act can be the uttering of a *different* nomos. If there is enough power inherent to the utterance, it can be recognized as a challenge to the dominant nomos. This kind of blasphemy is continually demonstrated through cultural prejudices and xenophobias. At a practical level, it behooves a trader to know the customs and mores of the foreign people he is trading with so as not to offend their societal constructs and elicit a negative response. The core of the grammatical blasphemy is primarily substantive: the world-building of the other clashes with the world-building of the offended society. The conflict that arises can

¹²¹ Ortega y Gasset, 7.

¹²² The previous discussion already covers such material factors as the timing or positioning of the apology.

be settled through mediation and slow mutual adaptation, through conquest or imposition of an ideology, or through the drawing of lines followed by retreat away from the point of contact and back into respective narratives. So long as the narratives do remain in contact, and thus in conflict, even though the societies erect ideological barriers refusing the power of presence to the other, so also will the societies be in conflict, and so also will the nomos of each society be acting to defend itself against that conflict, either through denial of the other or through unconscious mediation with the other. The greater the degree that the conflict touches on the more fundamental elements of the world-building construct – especially as with legitimations such as religion –, the more energy will be put into the conflict, both at an individual and societal level, the more the response will be the denial of the other nomos, and the less will be the ability of the nomos to quietly adapt to the external pressures outside the vision of the societal conscience. Nonetheless, grammatical blasphemy is known blasphemy. It is the necessary other half of the binary.

Creative blasphemy also exists as a threat to the nomos; only, the nature of the blasphemy – and as such, its threat – is a modally different. Instead of being a counter-nomos, an other standing in opposition to the dominant half of the binary, it is perpetual disruption of nomos itself (not “of *a* nomos,” but “of nomos”). It is not an other definition opposed to a dominant definition, it is an Other to the very structure and functioning of the dominant nomos. It is not-definition. Where grammatical blasphemy is B set against A, creative blasphemy is not-A. Creative blasphemy does not offer an alternative reality, it reveals that believed reality is not in fact real.

The obvious immediate solution to a creative blasphemy is to eliminate it. A difficulty arises in that creative blasphemies often carry an identity or characteristic, or operate within a specific arena, that give the blasphemy protection within the society. A primary example would be the arena of art, which frequently finds itself in opposition to the will of societal ideologies. Yet, depending on the historical moment, art can nonetheless be protected from the dominant nomos by a powerful enough minority.¹²³

If a creative blasphemy can not be eliminated, the nomos will respond instead by nominalizing it, by covering up its creative being with a definitional skin.¹²⁴ The process is not that different from normal world-building. The nomos identifies “tree” or “wife” or “Democrat” as it is understood within the grand narratives, and when an individual looks at that material object to which the definition applies, they see and understand the object to be the definition as established in the nomos, rather than as the material reality of the object understood as “tree.” A blasphemy is different only in that the blasphemy itself operates to destroy the label put upon it.

¹²³ As well, there is a second difficulty with elimination. A creative blasphemy can continue to resonate in the minds of susceptible persons even after the blasphemy is eliminated.

¹²⁴ For a more developed discussion on the idea of ideological ‘skin,’ see Judith Butler’s *Gender Trouble* and before her Mary Douglas’s *Purity and Danger*.

As such, the label may be given more energy, to assure the viewer sees the blasphemous object as the *nomos* needs the viewer to see it. Through nominalization, the blasphemous event can be transformed, as it were, into something not threatening to the *nomos* (or, even reaffirming of the *nomos*). This can be done through, say, giving art objects fixed "readings" to stand in place of true engagement with the object. Simply enough, teaching "This poem means this," or, "This is Manet's *Olympia*. It was painted in the 1860s as a reaction to Salon formalism. It is a picture of a prostitute or courtesan. The model Manet used also became a painter." Through pre-established definition there is maintained control over meaning, and supplying meaning eliminated the necessity of the student's reading or viewing – and thus potentially engaging for themselves – the text in question. It is the purpose of the skin to prevent just that: actual individual engagement with the creative blasphemy. To note, the nominalization does not change the nature of the utterance. It changes the *perception* of the utterance. It represses the experience of chaos by hiding it behind narrative grammar. The creative utterance continues, but is not perceived.

Embedding the utterance within a historical, scholarly, religious or other narrative is how the blasphemy is brought safely into society. When the blasphemy cannot be eliminated or nominatively 'skinned,' however, the *nomos* can yet expel the blasphemy. This is very regularly witnessed in the U.S. through conservative Christianity's responses to socially deviant popular artists. Works such as that of Marilyn Manson, Robert Mapplethorpe, Ozzie Osborne, even Tom Waits, or contemporary music as a whole (if you remember the religious right's anti-rock movements of the '80s, or the response to rock-and-roll in the '50s), in being identified as, say, "demonic," or more simply "sinful." The purpose, source, nature and content of the work is thus both known and understood: it is of the devil; it is not of god. Yet, instead of hiding the blasphemy behind a safe skin where the individual can not see it, the *nomos* here creates strong, societal pressures for the individual not to look at it at all, and even, if possible, to materially eliminate the blasphemy. It is such characterization that permits the bizarre contradictions of such events as witch-burning, or book-burning or -banning, which on their face are purely in conflict with fundamental moral and ethical beliefs (as in Christianity's Golden Rule, or U.S. constitutional liberties). With the blasphemy strongly identified as counter to the 'divine' order, they can be expelled and eliminated without creating psychological dissonance – at least, to the degree the individual is themselves subjugated under the *nomos*.

These are after-the-fact negotiations of the societal construct with the blasphemous utterance, however. Our concern here is with the initial conflict – the initial societal response, and the function of apology within that matrix. Which is not to say the above can not occur within the immediate moment. For example, characterizing an event as "demonic," "heretical," "heathen/pagan" or otherwise barbaric, is a knee-jerk response by the *nomos* via religion, and it is an amazingly efficient way to quickly deal with threats to the *nomos*. In societies where such a response can be followed with an equally immediate material response the initial conflict is easily remedied. However, blasphemy as we are considering it here

concerns societies where the processes of resolution are much slower and more methodical. The state-as-legitimation in an increasingly global reality must continually negotiate a broad variety of *nomoi*, both within its boundaries and without. In the West it is generally not the state that reacts to the act of blasphemy. It is an individual or group to bring the blasphemy into the legal/political arena.

There is in the discussions of legal issues of blasphemy a frequent confusing of the intent of the act and the act itself. In part this is caused by the context of the discussions involved. But, concomitantly, it is also caused by a false understanding of what blasphemy actually is, and a failure to recognize that blasphemy *does not depend on intent* to be blasphemous. In final analysis, intent is *utterly irrelevant* to the question of whether an utterance is in fact blasphemous: all that matters is that the societal *nomos* perceives a threat to its stability. The locus of blasphemy is not in the *will to act* but entirely *within the utterance itself*. Indeed, attempting to be blasphemous but failing to in fact denigrate the sacred in the eyes of the target *nomos is not blasphemy*. It is the equivalent of attempting murder by pointing a finger and saying "bang, you're dead."

This does not mean intent of the utterer is irrelevant to our discussion, however. There are two distinctions that need to be made. First is that which underlies the confusion above: blasphemy and the intent to do malice are two independent acts. Intent only factors in the latter. To "intend blasphemy" is merely to intend to make the utterance (with, generally, a belief or other psychological stake inherent in the utterance). If the blasphemous statement is made with the intent of malice to others, there are in fact two injuries: the malicious act and the blasphemous act, one to the individual who is the target of maliciousness, one to society as a whole.

The second distinction, already mentioned, lies within the first: whether or not there is intent to blaspheme. An Islamic individual speaks in passing in conversation at a diner in the Vatican of the idea associated with polygamy within an unspoken context that accepts the notion as morally legitimate. Has the speaker committed blasphemy? Yes: by denying the legitimacy of the governing morality of Catholicism the individual blasphemed the dominant ideology. Did the individual intend to blaspheme? Not necessarily: a passing thought that is to the Islamic individual quotidianly legitimate would not generally be made with intent to undermine an ideological basis. Could the blasphemy be intended? Yes: but in the end the blasphemy is not in the making of the statement. Rather, it is any performance of an other *nomos* within the dominant *nomos*, whether by vocalization with belief or by simple performance of cultural mores: say, a woman in Topeka putting on a t-shirt rather than an abaya. Obviously, the question arises, how can the actions of a person in Topeka be blasphemous to, say, Muslims in Iran? What if the woman was in the center of a Mosque in Tehran? What if the woman was standing just over the Iranian border? What if it was a film of a woman putting on a t-shirt in what appears to be a mosque in Tehran? What of a film of a woman putting on a t-shirt in Topeka being played in Tehran? What difference if the woman was Iranian? European? African?

The answer ultimately lies not in the act or the act's locus or historical verity but in the degree that the act *as perceived* is threatening to

the governing nomos. The measure of the severity of blasphemy (or whether blasphemy in fact occurs) is found in the sensitivity and severity of reaction of the nomos. (An act could legalistically be blasphemous but in fact be no threat to the nomos, and as such would not in fact or experience be blasphemous. Indeed, state action against such an act will generally cause a negative reaction from the populace. Legalistic blasphemy describes the degree to which the nomos has adapted: within the nomos, even though the act is contrary to aspects of the prevailing belief system, performance of the act may yet be acceptable (e.g., accepted forms of protest or justified civil disobedience), and as such action against it becomes the blasphemous act.)

But even with the measure of blasphemy being found in the societal nomos rather than the act itself, there can still be a question of whether the blasphemous act was intended. The question is merely did the woman *intend to put on a t-shirt rather than an abaya*. Generally, that is an empty statement. It gains power to the degree that the woman knows that the act is actively counter to the dominant nomos – for example, the t-shirt says “Fuck the Draft,” or the t-shirt is transparent and the woman does not wear a bra, or the t-shirt merely says “I don’t believe in God.” Keep in mind we are excluding the notion of act with intent to do malice. Knowledge that the act is counter-cultural does not mean that the act intends to injure any *person*. They are two *different* motivations. But the act, nevertheless, is *intentionally* blasphemous. Which means what?

Merely this: that the act is intended to be counter to and disruptive to normativity of the dominant nomos. More simply, that the person was not acting like everyone else, like it was expected for her to act. It is paradigmatic: to be different is to be blasphemous. A further step must be taken however: and that is it must be asked, *What kind of blasphemy was the individual intending to perform?*

1. The individual could be intending only to speak a grammatical utterance which is non-blasphemous in their own nomos – that is, correctly conforms to their own ideology – but which is nonetheless blasphemous to the dominant nomos. Conversely, the individual could be intending to speak a grammatical utterance which is non-blasphemous in the dominant nomos that is likewise by accident blasphemous to a minority nomos.
2. The individual could be with knowledge speaking a grammatical blasphemy within and against a nomos without the utterance being anchored within a second nomos (that is, counter to A without also be affirmative of B). That is intentionally speaking a grammatical utterance counter to the dominant nomos (without necessarily intending to conform to some other nomos).
3. The individual could be intending to speak a creative blasphemy.

Of the three, the second situation describes what is generally thought of as the event of blasphemy: the blasphemer who intends the act knowing their statement of a minority ideology functions to disrupt the societal norm. The first situation describes the situation that underlies

oppression of a minority other – e.g., the current attitudes of the dominant U.S. nomos to homosexuality. Obviously, there is a good deal of overlay with the two. As concerns legal culpability, these two situations are functionally equivalent (again, outside of intent acting within the measure of remedy/punishment). Though, whether the offended nomos is dominant (as in the *Gay News* controversy) or minority (as in *The Satanic Verses*) will effect how the events play out.

The third is the most interesting case, and the most revealing theoretically (and, ultimately, legally, socially, and liberatorily). It is the blasphemy of *Olympia*. But, further and full consideration of it will have to wait until later.

What is essential here is the recognition that in blasphemy the blasphemer is *innocent of any action against any other individual*. Rather, the blasphemer is, whether with knowledge or not, guilty only of performing something outside the dominant nomos. What makes the event blasphemous, however, is not the act of the individual, but the response of the nomos. As such, the primary action lies not in the individual, but in the societal mass.

That is, in terms of the functioning of the nomos, *blasphemy is a reversal of guilt*. The primary action is the nomos acting to protect the dominant narrative: blasphemy does not exist *until* the nomos reacts to a threat. When it does, it attempts to eliminate, exclude, or cover up the threat. The oppressive act of elimination must also be covered up, though, or the nomos would itself be speaking its own guilt, and more importantly its own functioning. If society sees blasphemy as defense of a narrative, a narrative that is supposedly grounded in transcendent truths, that naturally spurs the question of why the grand narrative needs to be so defended – that is, why the fundamental *truths* need to be defended – which is revealing the artificial nature of the grand narrative. So the nomos must shift the perception of the action from societal oppression to individual action: it is the blasphemer who is the guilty individual, not the nomos.

The distinction between the blasphemous and malicious act functions also within the reception of the blasphemous utterance by the offended party. The dividing question is, Was the offended party offended because the utterance was blasphemous (irrespective of whether any malice was intended), or was the offended party offended by the maliciousness of the utterance (irrespective of whether the utterance was blasphemous or not)?¹²⁵

It is easy enough to recognize how blurring the distinction between the two permits the nomos to regulate blasphemous acts (especially in a society that has shed a priestly caste) by labeling the psychological response to the acts as a response to maliciousness. As well, it is a similar conflation of content with use or result of use that permits blasphemy, obscenity, and all the like to be regulated under broad, undefinable categories such as nuisance law. It is as simple a thing to regulate what would otherwise be legal enterprises by saying the societal result of the

¹²⁵ The confusion here goes to the heart of applying Feinberg’s analysis.

enterprise is a disruptive nuisance, and as such should be closed (or closeted, or exiled). And the nuisance laws do bring to the surface the action of the nomos: the smooth functioning of society is being protected. What is important for our purpose is what is being concealed: a mechanism by which otherness is being legitimately suppressed. By legitimating the regulations under nuisance, the true nature of the event as a blasphemous event is being erased. The onus of immorality or criminality is put on the actions of the offenders rather than on the actions of what is in fact an oppressive societal mass. What is lost, as will be seen, is the possibility of a socially productive reaction to blasphemy – i.e., a resolution of a blasphemous action that responds directly and constructively to the true nature of the injury and the causes thereof.

The presence of malice makes the suppressive actions of the nomos all the easier to legitimate, especially in that the object and focus of malice need not be individuals, but could be religion itself, or societal mores or constructs. Malice against the religion is not necessarily blasphemy, however; and maintaining the distinction would serve not only in legal/nominal distinction but also in approaching, societally or psychologically, the source of the malice to an end of truly beneficial resolution. Even if the malice were against the offended individual, there must be caution in confusing the malice and the utterance used to enact the malice. The statement could be a legitimate critique or grievance aggravated emotionally through the negative effects brought about by the root cause underlying the grievance. Through the combination of the religious aspect and the presence of malice, a legitimate grievance can be quashed under the actions of societal maintenance. If blasphemy is in fact involved, it makes the societal repression all the easier.

Though the judges in the Rushdie case – where the grievance is on the part of the offended – did not agree with the law as it existed, by passing the onus of the grievance onto the legislature they were nonetheless reiterating the dominant nomos, and thus asserting the inferior position of the Muslims within the British legal system. Washing their hands of the burden of recognizing the blasphemy – even if with legal justification – was not at all an effective sidestepping of the matter. Rather, it reaffirmed the Christian hegemony and dismissed not the blasphemy (which is recognized implicitly in the affirmation) but that there was grievance asking to be addressed. More importantly, the potential for negotiation between agonistic nomoi. Which is *not* to say the court should have recognized the Muslim claim of blasphemy. But, just as a person should have the right within open discourse to cast a biting critique, so also should the target have the same right to cry out in response, "that hurt!"

These last sentences may raise the question whether Rushdie's intent in writing the book was malicious. Whether or not Rushdie was being malicious, it can safely be said that the book was intended to be a critique of conservative Islam. The book is a knowing blasphemy of no small severity. It is difficult to sever completely such critiques from the idea of malice, since the critique carries within it the dislike of the critiqued nomos. However erudite or socially positioned, the intent of a biting critique is, in the end, to *bite*. What is being bitten, however, is critical to the event: it is not the Muslim people; it is Muslim society. I personally do

not believe Rushdie’s critique would be deserving of legal consideration of malice. The issue at hand, however, is not in the end Rushdie or *The Satanic Verses*, but social hierarchies, and a clash of world-building constructs.

In such we see that the desire of the offended in the apology is as important an element as the other two elements. Perhaps even more so in that we are here getting to the question of negotiation between the opposed ideologies. The hinge issue is whether the injury of the offended is based on the threatened nomos or on the individual’s own, true psycho-emotional response. If it is based on the nomos the purpose of the apology is capitulation to the nomos by the blasphemer with consequential elimination of the societal threat and simultaneous reiteration of the reality of the dominant nomos. As Cox points out, Rushdie was very much caught in this type of situation: in having been “set up as a martyr to the cause of freedom of expression,” the fear of a true apology was that it might be “misinterpreted as capitulation.”¹²⁶ *The Satanic Verses*, being critical of orthodox Islam, is, because of the societal nature of Islam, blasphemous. Islam demands apology for the work because the nomos is threatened and needs to be stabilized through the removal of the threat, preferably by the speaker of the threat himself *performing* the truth of Islam. As such, to apologize for the work is retraction of the critique as unfounded in the face of the ultimate truths. If the injury is based, rather, in individual, emotional responses (for example, a valid critique delivered in a crude or violent manner), the injured has a right in discourse to be heard, and ask an apology for the manner of delivery.

What would have been a more beneficial event would have been if Rushdie could have been able to speak his emotions about the people who were injured and killed without having to retract the critique: it would be difficult to believe that Rushdie, when writing *The Satanic Verses*, did not believe it would pass into the world without incident.¹²⁷ He was, after all, critiquing a deeply entrenched ideological structure, one with numerous and potent material mechanisms at hand that it can mobilize to its defenses – and as such, mechanisms powerful persons within the society can mobilize to their own ends.

Critique of religion is by definition blasphemous to that religion. That Anglo-American society is in various stages of shrugging off the social castes of religious legitimation does not mean that they should expect Muslims to be in the same state of political cognizance. The Muslim community did respond with an actual grievance which deserved to be recognized. But what nature of recognition? The Muslims seek recognition and apology. Yet, it is a very different situation between the offended people seeking apology for the individual, emotional grievance and seeking apology for the threat to the nomos. The latter desires reassertion of societal, communal constructs at the expense of the expressions and thoughts of the individual. The former is concerned not with the critique

¹²⁶ Cox, 44.

¹²⁷ And it is known that Rushdie was aware of the more-than-likely negative reception the book would invite.

but with the emotional result of the critique. One is inherently repressive. One is potentially progressive. For the latter is seeking *silencing of the threat* and the re-establishment of the hegemony over the individual, while the former recognizes not just the right of the individual's expression, but the *very existence of the individual as an individual*, rather than as a voiceless, faceless iteration of the social norm. In essence, the former is seeking *the continuation of discourse*, even if, initially, only at a basic, emotion level, where the latter is seeking continual restatement of the fixed truths of reality.

Discourse – the free exchange of ideas – is in its very nature detrimental to the nomos and as such has to be suppressed to levels that the nomos can tolerate without its populace losing faith in the reality of reality. (Again I point to the emasculation of public school textbooks in the U.S. as an example.) The nomos does this by creating a "false" discourse of customary, established meaning: established within the fixed narratives through which the world is recognized and known collectively, without aberration or irruption; legitimized through the establishment of the transcendental Truths that act as the establisher and establishment of reality. Even science and philosophy must act in accord with this false discourse: and the endless and intricate logical explorations of the Scholastics are testament to the *degree* of exploration that can occur without ever straying from established Truth any further than the nomos can tolerate.

The stronger the society-stabilizing functionality of the nomos, i.e., the more fundamentalist the societal mass, the less there is discourse within the nomos. The primary character of the social nomos is stillness (or, in Derrida's preferred word, sedimentation). Blasphemy is an unsettling in that stillness, whether through the counter-positioning of an other nomos or through the disruption of very nature of what it means to know. For a narrative to function as world-defining, the narrative can not be questioned beyond the flexibility of the narrative. The narrative must be internalized so as to appear as the narrative as spoken by reality itself, rather than a narrative external to reality that organizes one's perceptions and understanding of reality. Speech functions as the primary method of reiterating that narrative within society, and as such must be limited through the mores of society so as not to question the narrative. Discourse is as such limited to reproduction of the nomos or trivial individual utterances that either do not carry the energy to be disruptive of the nomos or are readily recharacterized so as to exist safely within the nomos or to permit the nomos to remove the speaker to places where the speech can not harm the nomos. Any statement that carries enough energy to force its recognition by the populace and which does not reiterate the nomos will invariably create a societal disturbance which is the manifestation of the nomos adapting to the force of recognition to what degree it can, and of the nomos suppressing to what degree it must (and vice versa – the primary concern of the nomos is maintaining the belief in the reality it establishes, not maintaining any specific reality).

Within the narrative, there can not be conflict or the narrative can not serve its purpose, which is both to create the stability necessary and constituent to communal society and to satisfy the need to collective

identity. That surety is created through performance: through repetition – and the re-assurance – of the known. And the known is that which is established within the collective identity. To speak the *nomos* is to speak always what has already been said. To speak *new* is to speak a counter-nomos blasphemy, which must be silenced to preserve the hegemony. To speak *creatively* is to reveal the artificial nature of the reality-construct. That also must be silenced, or the sure safety of reality itself is at risk.

That said, we can now return to the apology, and the final two questions posited above. The penultimate, *What would the blasphemer be apologizing for?*, has already been answered. Which leaves us only to finish with, *Should the blasphemer be apologizing at all?* (That is, for the *blasphemy itself*.)

If the blasphemous act was the critique of ideology, then no liberated philosophy would desire an apology. For the apology will only serve to subsume the individual and the statement of the individual back within the collective state. It can only serve to re-establish the dominant ideological construct over any challenging construct through the removal of energies from the critique. As well, it acts only to satisfy the construct’s greatest wish: to silence not only the blasphemous utterance, but also *free discourse in its entirety*. The liberated purpose of an apology would only be served when the apology *further*s discourse, which can only happen when the blasphemy itself is permitted to stand and is accepted as a legitimate critique – that is, *when it is the blasphemy that is recognized (as opposed to the offended state of the supposed ‘victims’)*.

When Cox writes

It could well be argued that because Muslims do take their religion so seriously, and by virtue of their vulnerable position in British society, Muslims actually merit more protection against religious abuse than Christians do.¹²⁸

he confuses a number of elements. First, “religious abuse” confuses malice and blasphemy. The latter can not be considered “abuse” under any normal understanding of the term – except from within the dominant ideology as legitimation of the defense of the ideology. Second, the idea of “taking a religion so seriously” would not, within the socio-legal context, be a liberatory reasoning for protection of a group. It could, however, be a reason for protection of a liberatorily constructive – i.e., discursive – society: the more ‘seriously’ the religion is taken – and the word here carries the idea of the religion pervading the society’s functioning as a legitimation of the social *nomos* – the more the religion is a *threat* to a society based upon equally shared freedoms. A liberatory society should be defending itself not against the ‘injury’ that might occur to a religious institution but against the potential threat of that institution to the open discourse that is an imperative for a free society. Finally, I agree that the vulnerable position of a minority group should always merit it extra protection. But protection in what nature? Not protection against disruption of its *nomos*, but, rather, *protection of its ability to participate in societal discourse*. And as well, in the initial context of blasphemy *it is always the*

¹²⁸ Ibid., 43.

*blasphemer that is the minority.*¹²⁹ (In the Rushdie affair the Muslim British became the minority when the context expanded from the initial blasphemy to the appeal to the state for recognition and cure.)

Note, finally, that the defense of open discourse should not be confused with freedom of expression fundamentalism. The latter itself is establishing an ideology which serves, paradoxically, to *suppress* freedoms in defense of that ideology. That is, as an ideology it is to the fundamentalism’s benefit that it also suppress discourse disruptive to that ideology: and any shutting off of discourse is injury both to a liberatory society and to the individuals within that society. Part of the failures of the parties in both the Rushdie incident and the Danish cartoons incident is that right at the moment when discourse needed to be the most open, the ‘liberal’ parties instead retreated into the bunkers of their own freedom of expression fundamentalism, closing off any generation of a discursive field. Now, it may be wishful thinking that the Muslims would have entered into the field of discourse – I do not want to guess at the motives in either case. Had discourse been offered, the refusal to accept the invitation to inter-engagement is their right. Free discourse includes freedom not to participate in discourse.

Yet, had the discourse been opened and the Muslims not participated, that refusal to participate would also act as an abandonment of their original claim of injury. For what, in the end, is a blasphemy claim? It is not injury to an individual, but a claim within a legal arena to *legitimize the elevation of their ideological construct over the expressive existence of the individual* – which is, in the end, nothing other than requesting that the legal system functions as an facilitating arm of state oppression. That is something all the more troubling when the blasphemous utterance was blasphemous because of its *creative* nature. If I may repeat the quotation that headed this final part of this essay:

A time must come in which society, from politics to art, reorganizes itself into two orders or ranks: the illustrious and the vulgar. That chaotic, shapeless, and undifferentiated state without discipline and social structure in which Europe has lived these hundred and fifty years cannot go on. Behind all contemporary life lurks the provoking and profound injustice of the assumption that men are actually equal. Each move among men so obviously reveals the opposite that each move results in a painful clash.¹³⁰

Ortega y Gasset is revealing the ultimate negative of the legal and social pursuit of blasphemy, in whatever form: the societal repression of the

¹²⁹ This needs qualification: the blasphemer – even one of a dominant nomos blaspheming a minority nomos – is nonetheless individually subjected to the response of the blasphemed nomos (remembering the event of the blasphemy lies in the offended nomos, not the offending individual; and the initial response of the nomos is against the individual).

¹³⁰ Ortega y Gasset, 7.

creative individual. If one is to establish a liberatory legal/social theory, it must be premised upon that recognition: *the very nature of society functions to the suppression of the individual, creative act*. Liberalism, if it functions within society, if it functions *as part of a nomos*, is likewise then functioning to the suppression of the individual. That is, it is in its very nature functioning to the suppression of the very freedoms it claims to defend.

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