

## **A poverty of the spirit? Law, Property and Addiction**

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### **Voices on Law and Activism: Addressing The Work of Adam Gearey**

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## A Poverty of the Spirit? Law, Property and Addiction

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### Abstract

#### Keywords

*Addiction, Entropy, Habit, Property, Legal Morphology, Control, Drug Laws*

## Introduction

In Adam Gearey's 2018 'Poverty Law and Legal Activism'<sup>1</sup>, he narrates the origins of the critical legal tradition, back through the role of the lawyer within the community, in service, seeking to advocate for those denied access to justice. Poverty law as a term emerged to describe forms of social justice lawyering concerned with welfare rights, democracy and activism<sup>2</sup>, through practices such as legal aid lawyering, *pro bono*, class actions, that Gearey traces back through the twentieth century in the United States.<sup>3</sup>

Gearey speaks of poverty law as "illuminat[ing] a vital, articulate and eclectic tradition that links to contemporary struggles for social justice."<sup>4</sup> Within the text he highlights the intersectional critiques levied at the critical legal tradition, whilst arguing the diverging strands of critical legal thought found in Critical Race Theory, LatCrit, ClassCrit, are not so disparate after all. The concerns of poverty law are accentuated as a philosophical tradition based in action, where the Marxian concern of *praxis* is central; the lawyer as the point of contact for practical demands and demands being met.

Poverty is a laden term and one that has the potential to Other as much as the economic and spiritual structural processes of deprivation themselves. Critical legal

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<sup>1</sup> Adam Gearey *Poverty Law and Legal Activism: Lives that Slide out of View* (London, Routledge, 2018).

<sup>2</sup> Adam Gearey *Poverty Law and Legal Activism: Lives that Slide out of View* (London, Routledge, 2018), 14.

<sup>3</sup> *Pro bono* lawyering, the giving of legal advice free at the point of service, and without payment to the lawyer concerned, is a tradition found more predominantly within the US, however, also has a strong tradition within the UK context and other common law jurisdictions.

<sup>4</sup> Adam Gearey *Poverty Law and Legal Activism: Lives that Slide out of View* (London, Routledge, 2018).

studies have sought to interrogate the legitimacy law gives to these perturbations of power, Gearey not least highlighting the detachment of the soul from its creative potential though the existential trauma of labour conditions under capitalism. He states, “poverty is not just lack of income or opportunity but alienation from participation in social and political life and the reification of a sense of self that results in psychic and civic death.”<sup>5</sup>

This Thanatos is very clear when we are presented with addiction, a preponderance that lattices the lives of the clients poverty lawyers work with. Poverty law is almost silent on addiction<sup>6</sup>, as is critical legal studies.

There have however been some very relevant and important contemporary interventions on the role of law in addiction. Kojo Koram’s edited collection ‘The War on Drugs and the Global Colour Line’ (London, Pluto Press, 2019)<sup>7</sup> on race and the global drug trade is an important interjection on the role of law in the development of the racial embeddedness of narcotics markets across the world and the colonial genesis that continues to formulate drug policy today.

There has also been some significant work conducted in socio-legal scholarship, that offers critical insights into the agentic role of the lawyer in the cultivation of addiction. Kate Sear’s ‘Law, Drugs and the Making of Addiction: Just Habits’ (London, Routledge, 2019)<sup>8</sup> uses internationally-based empirical research on substance misuse, interpolating and analysing the intersection between lawyering and addiction-making. Simon Flacks similarly bridges the addiction gap in legal research, dissecting the occlusion of substance misuse and substance dependence from anti-discrimination law through discussing addiction and disability<sup>9</sup>.

Addiction expert Bruce Alexander calls addiction the poverty of the spirit<sup>10</sup>. Alexander recounts the genealogy of addiction in free-market society, through the impact of dispossession and colonialism and resultant pain of ‘dislocation’ as a result. Dislocation refers to the process of First Nation peoples removed from their land, their home, their soul. The prevalence of addiction is clear in the peoples of the Vancouver streets on which he bases his account; however, it is through this that Alexander argues addiction as an individual and collective consequence of psychosocial separation through market capitalism, most lucidly within the collective consciousness of homeless nations.

This alienation takes us back to Gearey’s framework within *Poverty Law and Legal Activism*, and how he uses the Marxian notion relating poverty with consciousness. The soul, the living being, the animate, as that which springs forth and is suffocated or damned by dependence and destruction, infers a human, subjective or spiritual

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<sup>5</sup> Adam Gearey *Poverty Law and Legal Activism: Lives that Slide out of View* (London, Routledge, 2018).

<sup>6</sup> [Addiction should be treated as a problem requiring a therapeutic solution \(Stringfellow, 1964, p.47\) in Gearey.](#)

<sup>7</sup> Kojo Koram (ed) *The War on Drugs and the Global Colour Line* (London, Pluto Press, 2019).

<sup>8</sup> Kate Sear *Law, Drugs and the Making of Addiction* (London, Routledge, 2019).

<sup>9</sup> Simon Flacks *Deviant Disabilities: The Exclusion of Drug and Alcohol Addiction from the Equality Act 2010* *Social and Legal Studies* 21(3) 2012 395-412.

<sup>10</sup> Bruce Alexander *The Globalisation of Addiction: A Study in Poverty of the Spirit* (Oxford, Oxford University Press, 2008).

concern that we may not extend to nonhuman entities. The paradigmatic shift within epistemologies across the social sciences and humanities that infer speculative and nonhuman knowledges, might allow for otherwise organic entities to also manifest addictive tendencies; or a method through which to consider a poverty of the spirit that might be attached to law itself. Thinking *speculatively* to see beyond addiction as a human concern might allow us to see the productive nature of addiction, as well as its deathly capacity. What more life-giving and life-determining can there be, other than the constructive capability of law.

What I would like to speak of in this piece is not only to discuss the way addiction is formulated by the practices and tactics of law whether through poverty law or otherwise, but to say that law itself is addition, and addiction is law. Combining *desire* and *destruction* through the work of Gilles Deleuze and Catherine Malabou, both addiction and law are explored as cumulative processes of material and immaterial yearning emanating from and within thermodynamic movements of order/disorder, destruction/creation and the tightrope of equilibrium known better as *entropy*, within and outside, human and other bodies. Addiction is described as rule-making, through the funnelling of attention to sediment layers of law as habit, routine and custom through repetition, leading to the ultimate expression of law, that of subjectivity and the crystallisation of form - the institutionalisation of property and the overcoming of uncertainty through control. Addiction is argued as the very extremity, the ultimate meaning, the very motor of legal morphology itself; the striving of life against death, a *speculative* genesis and the baroque pathways carved in the process.

## Addiction

What is addiction? We've all heard someone say, 'I've got an addictive personality', or 'I'm totally addicted to ...', a given something – maybe we've even uttered the words ourselves. Yet addiction, despite its prevalence and huge amount of research undertaken from psychology and neurology, to cultural studies and reprobate tropes within literary characters, remains a complex anathema that infers subtexts of will power, brain function, chemical reactions, early traumas, anti-social and abusive behaviours, spiritual awakenings, genetic scripts and the very crux of questions around nature and nurture, structure and agency (to name but a few).

Nothing so apparently *human* comes to mind such as the state in which we arrive when in the grip of longing around some substance, person, object, state of consciousness or thing. There is a whole, and the part has been removed, or was never there, and the whole seeks its completion. It is perhaps the most frustrating and humbling realisation of imperfectability, of uncertainty, a coping strategy for nature's agitations of which we are not in control. Yet what can be more organic, visceral and almost *nonhuman* than the consumption, merging and ingestion of elements, a reforming of boundaries, coagulation of life itself as it absorbs, responds, chemically reacts, and continues on in its determination to find its next source.

Addiction has been described as the opposite of connection<sup>11</sup>, where the search for the affirming being, soul, element, turns inwards and occupies the trinity of the

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<sup>11</sup> Gabor Mate

person to the point where the quest for oneness becomes isolation, infamy, and separation itself. This most tragic of stories has the capacity to be ignited in each of us; after all, as humans we are social beings, we need the touch, sight, and sound of the Other, even if we may deny such a need. Interestingly, the etymology of addiction derives from the Latin *dicere* (say, relate), which further links to the Greek *deiknunai* to 'show, point out, bring to light'.<sup>12</sup> Some, explained through various research which we will look at shortly, wear the scars and bear the brunt of their wanting more brutally and fatally than others, where *compulsion* and *dependence* become the rituals of their yearning.

In early definitions of addiction within the World Health Organisation, the term dependence was used in place of addiction, such as the definition in 1969.<sup>13</sup> Dependence has been described as,

“a state, psychic and sometimes also physical, resulting from the interaction between a living organism and a drug, characterised by behavioural and other responses that always include a compulsion to take the drug on a continuous or periodic basis in order to experience its psychic effects, and sometimes to avoid the discomfort of its absence.”<sup>14</sup>

It appears only in the early part of the Twentieth century that the word addiction itself, appeared within the Oxford English Dictionary. The first entry for the term was relating to drug use dated 1906, followed by the first use of 'addict' as a noun from 1909.<sup>15</sup> Poststructuralist interpretations of the power of language to construct reality will be familiar with how these definitions determine how addiction as a phenomena may have developed as a result. The determining role of discourse in the formulating of a formal account of addiction is just as present as in the case of the interpretation and defining of 'homosexual' (and the consequences therein), described by Brodie and Redfield as where, “the addict emerged [...] a little more than a century ago, of a medico-legal discourse capable of reconceiving human identity in the language of pathology.”<sup>16</sup>

How many of us truly know what it's like to be an addict, know their ins and outs, what it's like to flounder on the ground scratting for the next morsel of respite from that search for the outside? And if we cannot relate to that level of boundary-work, then perhaps we all at least can bring to mind one family member, one colleague, a celebrity, where the task is so clearly all consuming, the cliché of the distant cloudy eyes and the stance of dissociation ringing so true.

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<sup>12</sup> Janet Farrell Brodie and Marc Redfield (Eds) *Hight Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 1.

<sup>13</sup> Gary Watson *Disordered Appetites: Addiction, Compulsion, and Dependence* (Oxford, Oxford University Press, 2004), 3.

<sup>14</sup> Grinspoon and Bakular 1976,177 in Gary Watson *Disordered Appetites: Addiction, Compulsion, and Dependence* (Oxford, Oxford University Press, 2004), 3.

<sup>15</sup> Janet Farrell Brodie and Marc Redfield (Eds) *Hight Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 1.

<sup>16</sup> Janet Farrell Brodie and Marc Redfield (Eds) *Hight Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 2.

Recent research and scholarship, echoing therapeutic and treatment practices on the ground, have highlighted the pervasiveness of addiction beyond this most obvious of depictions, beyond substance 'misuse' and dependence, to *process* addictions such as food, sex, money, shopping, abuse, violence and status itself; to describe it as characteristic of late capitalism, propelled into a functioning part of our day, through developments in technology in turn structured by finance and privilege.

The idea that it is an individual's choice to use and misuse substances is interesting when considered in relation to specific trials that were undertaken in Miami, where participants suffering with crack-cocaine addiction predominantly of African-American and Latino descent, were given the option to use money provided by the trial, to either continue their drug habit or to invest it in an opportunity to get out of their drug habit.<sup>17</sup> Most in the study chose to invest the money outside of their addiction. This has been given as a demonstrable example of the exercising of will power within the decisions made by addicts around their drug habits. Yet this may not consider the layers of racial oppression and ghetto-isation played out in such an example of drug-taking where the participants used in order to escape the inevitability of their situation. Given another option, an opportunity to better themselves and practice some element of social mobility previously structurally unavailable, the participants saw a chance to no longer need to escape – a pull that was much stronger than the pull of the crack cocaine.

This example of choice theory is quite different from a Lombrosian essentialism, a presumption of the addict as irresponsible and confounded by demons, sketched and marked within their physical attributes and stigmatised for their individual lack of discipline. The organisational societal stratifications are present within the decision that addicts concerned made. According to phenomenologist Schalow,

“by the word *addiction* we no longer simply mean a clinical or medical diagnosis concerning a person's dependence on a specific substance, e.g., drugs or alcohol, but instead designate a broader historical and cultural transformation of our way *to be* (as well as an individually-based problem).”<sup>18</sup>

An astute summary of the choice model is given by recovered addict, neurologist and academic, Marc Lewis. He explains how addiction as volition comes from a cerebral perspective, from changes in thought processes. Addiction within behavioural economics is considered a rational choice, albeit not a very good one, whereby the short-term pleasure enjoyed from the decision to act out their desire outweighs that of other longer-term options. Hitherto this model encourages unsympathetic responses to what someone in the grips of a compulsion to use, really experiences, and the pain ensued. As Lewis states, “the choice model provides a convenient platform for those who consider addicts indulgent and selfish. If addiction is a choice, they reason, then addicts are deliberately inflicting harm on themselves and, more seriously, on others.”<sup>19</sup> Following developments in understandings of unconscious and autonomic reactions within our nervous system, the breaking down of the division between the Cartesian body and the mind through

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<sup>18</sup> Frank Schalow *Toward a Phenomenology of Addiction: Embodiment, Technology, Transcendence, Contributions To Phenomenology* (Springer International Publishing, 2017), 4.

<sup>19</sup> Marc Lewis *The Biology of Desire* (New York, Public Affairs, 2015), 2.

biological and neurological understandings of embodiment (confirmed ironically through the scientific method that Descartes promulgated), research has shown that our decision-making is never based on reason alone. Even if an addict may *think* they are choosing to take their drug, they may well be driven by an array of other unconscious and subconscious motivators that render choice as "... nearly always irrational."<sup>20</sup>

The disease model of addiction is sympathetic to the involuntary determination of the repeated infliction of a habit upon the seemingly helpless vessel of the person. Instead of categorising addiction as a singular and moral process, the disease model medicalised addiction, where addiction is seen as a malady of the reward system of the brain, and thus considered as a *disorder*. Understandably the categorisation of disease and disorder, infer a maladjustment, a medical underpinning that despite the conferment of it away from a social, psychological or existential part of being a being, also allow for funding for treatment and rehabilitation programmes as opposed to more draconian sanctions that continue to be reinforced through choice-based policy.

Lewis' 'The Biology of Desire: Why Addiction is not a Disease' is a neurobiological argument for the compulsion, dependence, withdrawal, as directed purely by habit and the funnelling of attention within the brain. Rather than the choice or disease model, Lewis describes the learnt nature of addiction, where it "results from the motivated repetition of the same thoughts and behaviours until they become habitual."<sup>21</sup> The reason the progression of the pattern becomes so overpowering is, according to Lewis, because it is learnt more deeply and more quickly than others, where all *attention* is focused on the drug of choice (whether that be a mind-altering substance, the nearest packet of biscuits or the reach for the smart phone). This is where the focus of want becomes so channelled to that one object, that all others become less appealing, resulting in the engrained recurrence of the habit that changes the brain's inner cabling.<sup>22</sup> This is not argued as a disorder but something entirely normal and a characteristic of being alive and living in the world we live in.

Brain changes that are rendered disordered therefore support the idea of the alcoholic or the drug addict 'losing control'. Environmental interventions from a very early age forge new pathways in reaction to trauma, leading to a personality that is sedimented with coping mechanisms, seeking control of external circumstances, that eventually manifest as habits to manipulate and transcend the experiences ensued and in the moment around them. It is easy to see how this might be understood again as a natural and fixed persona, addiction as an inimical part of someone since birth given the way it evolves within someone throughout their lifetime. The question of nature and nurture, the crux of all questions, we will return to in considering the role of desire in law (or desire as law). The Twelve Step recovery movement uses the disease model within its literature, albeit the original texts being unchanged since the 1930s and 1950s. This can assist the recovering addict as they can understand they are not a 'bad person getting good, but a sick person getting well'. The flip side of this is the connotation of a person always being an addict, as that which someone

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<sup>20</sup> Marc Lewis *The Biology of Desire* (New York, Public Affairs, 2015), 22.

<sup>21</sup> Marc Lewis *The Biology of Desire* (New York, Public Affairs, 2015), x.

<sup>22</sup> Marc Lewis *The Biology of Desire* (New York, Public Affairs, 2015), x.



is born into. For anyone who has undergone the journey of recovery they will know how life altering, and ongoing the process truly is. The neural pathways *can* be changed, but it takes a lot of work, vigilance, and awareness of how one's substance of choice was purely a temporal preoccupation of something much more soul-encompassing. The addiction lives on through other forms of obsessive, controlling, paranoid tendencies, way beyond the point of giving up where unless continued work on the self is ensued, those old neural pathways are inclined to revert once again<sup>23</sup>.

Relational addiction scholars<sup>24</sup> would argue against control as a driver, or destroyer, in addicts. They concur that the addict is not propelled by an internal drive to destroy or to be, but they are responding to relational and environmental circumstances mapped as assemblages. Inspired by the Bruno Latour's understanding of the body as a learning organism<sup>25</sup>, combined with researchers who have used Gilles Deleuze and Felix Guattari's *complex-desiring assemblages*<sup>26</sup>, this explains the way a person is attracted to their drug of choice due to being part of a wider encirclement of factors that create an accumulated almost collective moment of obsession. This territorialising and reterritorialising energy emanating from Deleuzian thought "enslaves by appeal, rather than by brute force."<sup>27</sup> Scholars who have started to use assemblage theories such as those found within continental philosophy have found ways of accounting for the spatio-temporal determiners of what it means to be addicted, how, where and the push/pull of other strange attractors in the mix. A lucid depiction of this is in Fay Dennis' work on the role of the 'trigger' within the lifeworld of the addict.<sup>28</sup> Triggers are deeply embedded past events, traumas, beliefs, that are reignited through an action, a response, any exchange be it verbal, physical, sensorial responses to being in particular places that are reminiscent for the person triggered, and impel their own individual – and decisive – emotional response. Dennis demonstrates through her research with heroin injectors, how their cravings can become stronger when approaching a given place they associate with their drug, and other instances, that demonstrate the relational and assemblant formation of these extreme forms of habit. Helen Keane equally talks of 'substances as events'<sup>29</sup>, and similarly Peta Malins' beautiful reliquary to the entrancement of dependence demonstrates the lived and embodied experience of addiction, within space and time:

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<sup>23</sup> Praxis creates, in a hesitant way, the new. It does not simply reproduce a "pre-established order" – a "stable, limited, dead artefact" (Castoriadis, 2005, p.77) – praxis as a work on the self (Gearey).

<sup>24</sup> Cameron Duff The place and time of drugs International Journal of Drug Policy 25 (2014) 633-639; Fay Dennis Injecting Bodies in More-than-Human Worlds (London, Routledge, 2020); Fay Dennis Encountering 'Triggers': Drug-Body-World Entanglements of Injecting Drug Use, Contemporary Drug Problems, 43 (2), 126-141; Peta Malins Machinic Assemblages: Deleuze, Guattari and an ethical-aesthetics of drug use Janus Head 7(1) 2004 84-014; Peta Malins Desiring assemblages: A case for desire over pleasure in critical drug studies International Journal of Drug Policy 49 (2017) 126–132.

<sup>25</sup> Bruno Latour How to Talk about the Body? The Normative Dimension of Science Body & Society 10(2-3), 205-209.

<sup>26</sup> Gilles Deleuze Desire & pleasure (trans. M. McMahon), unpaginated. <http://www.artdes.monash.edu.au/globe/delfou.html> (originally published as Désir et plaisir, in Magazine littéraire 325, October 1994, 59–65), accessed 9 October 2020.

<sup>27</sup> Gary Watson Disordered Appetites: Addiction, Compulsion, and Dependence (Oxford, Oxford University Press, 2004), 7.

<sup>28</sup> Fay Dennis Injecting Bodies in More-than-Human Worlds (London, Routledge, 2020).

<sup>29</sup> Helen Keane 13



“The aesthetic beauty of smoke curling upwards; the new relations forged with the lungs and breath; the shifting sensations of the body and its postures; the thrill of altered temporalities, spatialities and social connections; the visceral intensity of life and death so acutely inter-twined.”<sup>30</sup>

The nature of the assemblage infers the surrounding structures, where the notion of addiction as an individual choice is rejected and the role of generations upon generations of psychological, social, cultural, economic and political conditioning, renders a person confined to the genealogies within which they sit. No more prescient of this is Bruce Alexander’s dislocation theory, that explains the split between a person and society, where ‘psychosocial integration’ is lost through the expropriating practises of settler colonialism and the onset of free market society; where not just those bodies who were sold and removed from their lands by the colonisers suffer from psychosocial dislocation, but their ancestors, and so too society as a whole. If culture is the state of health of groups of people, then addiction may be the sickness.<sup>31</sup> Inversely, the imbibing of mind-altering substances, and the need to escape, has been marked as the beginning of culture in its very early stages.<sup>32</sup> Poignantly, Schalow asks, “Could it be the case that addiction is [...] is as much emblematic of an impending (human) crisis as a whole, rather than only a medical or clinical problem?”<sup>33</sup>

## Addiction *in* Law

“If addiction is a disease, then science will soon find an effective treatment for it, as has been the case for many other diseases, but that if addiction is a matter of choice, then the appropriate response is punishment.”<sup>34</sup>

Addiction is regulated and defined by law, most notoriously through the banning of certain substances across the Anglo-American world from the Twentieth century onwards, and the domino effect felt globally as a result. Firstly, this is through the regulation of substances such as heroin, crack-cocaine, marijuana, amphetamines, psychotropics; of which feeds into public health and harm reduction policies around *substance dependence*, relying on classification in medical terms for the law to respond accordingly. The use of language is, just within all legal perturbations, agential, catalytic, giving life to content and how those involved are protected, punished or otherwise. As such “a drug’s legal status influences choices concerning its use”,<sup>35</sup> and prohibitions establish the connection between addiction and criminal activity.<sup>36</sup> Just as conversed by Jacques Derrida,

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<sup>30</sup> Peta Malins Desiring assemblages: A case for desire over pleasure in critical drug studies *International Journal of Drug Policy* 49 (2017) 126–132, 126.

<sup>31</sup> Janet Farrell Brodie and Marc Redfield (Eds) *Hight Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 1.

<sup>32</sup> [Louis Lewin’s classic 1931 survey of the use of mindaltering plants—Phantastica](#)—In Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003), 1.

<sup>33</sup> Frank Schalow *Toward a Phenomenology of Addiction: Embodiment, Technology, Transcendence, Contributions To Phenomenology* (Springer International Publishing, 2017), 4.

<sup>34</sup> Gene M Heyman *Addiction: A Disorder of Choice* (Cambridge, Harvard University Press, 2009), 19.

<sup>35</sup> Gene M Heyman *Addiction: A Disorder of Choice* (Cambridge, Harvard University Press, 2009).

<sup>36</sup> Gene M Heyman *Addiction: A Disorder of Choice* (Cambridge, Harvard University Press, 2009), 2.

“the concept of drugs is not a scientific concept, but is rather instituted on the basis of moral or political evaluations: it carries in itself both norm and prohibition, allowing no possibility of description or certification— it is a decree, a buzzword (mot d’ordre). Usually the decree is of a prohibitive nature; occasionally, on the other hand, it is glorified and revered: malediction and benediction always call to and imply one another.”<sup>37</sup>

Over the years there has been a shift in semantics away from the lack of will and discipline of the classically portrayed alcoholic, to responses at the international level recognising drug and alcohol addiction as a syndrome; interestingly some thirty years after the Temperance movement that encouraged Prohibition in the US during the Great Depression. Clinicians during the nineteenth century would respond to alcoholism with psychological categorisations of weak individual willpower<sup>38</sup>, then using terms such as ‘dypsomania’, habitual inebriation, followed by alcoholism, disease of inebriation, to finally end up with the 1957 WHO definition of alcohol and drug addiction as,

“Drug addiction is a state of periodic or chronic intoxication produced by the repeated consumption of a drug (natural or synthetic). Its characteristics include: (i) an overpowering desire or need (compulsion) to continue taking the drug and to obtain it by any means; (ii) a tendency to increase the dose; (iii) a psychic (psychological) and generally a physical dependence on the effects of the drug; and (iv) detrimental effects on the individual and on society.”<sup>39</sup>

The transformation of addiction into a categorised medical concern came hand in hand with the development of the law. In the UK, the criminalisation of drugs began with the Defence of the Realm Act 1916 followed by the Dangerous Drugs Act 1920, although opium use had been regulated since the Pharmacy Act 1968. Opiate use was predominantly contained within the middle classes, such as opium smoking and the sniffing of laudanum. The Opium Wars and their racial perceptions were still infiltrating the conception of drug use along discriminatory lines. The way that the use or misuse of substances was construed with the UK has stemmed from a largely colonial Othering of opium use connoted as Asian, as degenerate. This story echoes in the US, where those ‘deviant subcultures’ deemed to be a threat to civil society through their criminal engagement with narcotics, were actually the urban poor, racial minorities and those who had recently emigrated to America. Addiction soon became the focus of an Anglo-American moral panic and a technology of exclusion, where in the words of Brodie and Redfield,

“it as a concept and a discourse in modern American culture resonated [...] around stereotypes of the opium-smoking Chinese immigrant, the “cocaine-

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<sup>37</sup> Jacques Derrida *The Rhetoric of Drugs* in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003).20.

<sup>38</sup> Mariana Valverde *Diseases of the Will: Alcohol and the Dilemmas of Freedom*. (Cambridge, Cambridge University Press, 1998).

<sup>39</sup>

crazed” and sexually threatening African-American male, the marijuana-smoking and violent Mexican youth of the Southwest.”<sup>40</sup>

In the US, the Harrison Narcotics Act 1914, was passed by Congress, to regulate the distribution of opiates and cocaine. Heroin had been developed and derived from morphine by Bayer, a pharmaceutical company, and made marketable in 1898 as a cough suppressant for pneumonia and tuberculosis. Those who were tested using the drug had no addictive side effects reported at the time. Recreational heroin came on to the streets in the early 1900s, used in East Coast cities by ‘heroin boys’ whose lower status in society made them vulnerable to the onset of the Harrison Act, moving from recreational social high to criminal act, as opposed to the opium eaters of the upper classes who were left to be dealt by physicians not the law.<sup>41</sup>

The banning of substances and the black market effect of criminalisation, continued on into the globalised ‘War on Drugs’ throughout the Twentieth Century<sup>42</sup>, originally a US policy that Desmond Manderson describes as implemented through modern drug laws around the world “[that] are a collection of extravagances, an expression of fury in legislative form.”<sup>43</sup>

Achille Mbembe’s ‘necropolitics’ comes to mind throughout the regulation of substance and the development of sections of society’s unhealthy patterns around their intake incurred through legally-enforced stigma, where the “ultimate expression of sovereignty resides, to a large degree, in the power and the capacity to dictate who may live and who must die.”<sup>44</sup> The necropolitical role of law within the classification of the addict has been documented by Sear through the reinforcement of sterile norms and tropes around addiction within the embedding of medical terms by lawyers within cases involving intoxication.<sup>45</sup> Razack similarly demonstrates the manner in which the ‘medicalisation’ of alcohol addiction has been used by authorities in Canada to justify deaths in custody of Aboriginal communities “with the inevitable consequence that they cannot be connected to the violence of an ongoing colonialism.”<sup>46</sup>

Within the criminal law, committing an offence whilst intoxicated is widely sentenced no differently than whilst intoxicated within common law jurisdictions, as *per Majewski* [1977] AC 443 and *Kingston* [1994] 3 All ER 353. Within the UK context,

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<sup>40</sup> Janet Farrell Brodie and Marc Redfield (Eds) *High Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 3.

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<sup>42</sup> As Koram states, the focus of most scholarship within drug studies is on the US in relation to the overrepresentation of African-Americans in US penitentiaries, incarcerated for drug-related offences. This is not surprising given the 2018 statistics of 33% of prisoners in the US being black males which is triple that their overall 12% of the US population, compared with 30% representation of white males who make up a majority 63%.<sup>42</sup> Nevertheless, there has been a need to look at the ways in which drug laws are implemented globally. See also Desmond Manderson *Substances as Symbols; Race Rhetoric and the Tropes of Australian Drug History* *Social and Legal Studies* 6(3) 1997 383-400.

<sup>43</sup> Desmond Manderson *The Semiotics of the title: A comparative and historical analysis of drug legislation* *Law Text Culture* 2(8) 1995 160-178.

<sup>44</sup> Achille Mbembe *Necropolitics* *Public Culture* 15(12) (2003) 11-40, 11.

<sup>45</sup> Kate Sear *Law, Drugs and the Making of Addiction* (London, Routledge, 2019).

<sup>46</sup> Sherene H Razack *Timely Deaths: Medicalising the Deaths of Aboriginal People in Police Custody* *Law, Culture and the Humanities* 9(2) 2013 352-374.

addiction is not included as a disability under the Equality Act 2010 despite 'substance dependence' being classified internationally within systems of disease classification as a disability.<sup>47</sup> This power of the law to create addicts, whilst to also protect them, is clear, and yet this capacity seems to predominantly produce addiction rather than an informed therapeutic response of legal concession, questioning whether all "notions of addiction support neo-liberal governance strategies."<sup>48</sup>

## Law as Addiction

"When the sky of transcendence comes to be emptied, a fatal rhetoric fills the void, and this is the fetishism of drug addiction."<sup>49</sup>

Addiction has been described as a 'threshold concept' where a being's lived inner world meets with the outside, to create an infused experience where each percolates the other. The threshold or boundary is familiar within legal thought so too, where the existence of a space between law and non-law is an important ongoing philosophical question. This recognition of the porosity of self and the corporeal is familiar to those in touch with recent scholarship of materialist feminism and speculative philosophy. New materialism posits variances of a modern-day animism, speculative thought gives prescience to the existence of realities external to the human mind; and both bodies of thought decentre and flatten ontological biases to account for the nonhuman as a result. As if the antennae of experience, Henri Bergson explicates an early notion of speculation as "to intervene [...] actively, to examine the living without any reservation as to practical utility [...]. Its own special object is to speculate, that is to say, to see."<sup>50</sup> Addiction and the extremity attached, is a speculative probing - a radar for the soul, a search party for meaning that continues incessantly whether consciously or otherwise. The motivation to consciously extend and expand one's self, to alter and to own one's experience in the world, is a "striving for Transcendence."<sup>51</sup> Whether a relational extension of early or latterly trauma, a person seeking escape may also be experiencing an array of possibilities within a given moment that project them into a safe space, a comfort blanket of numb that also may be generative of inspiration and visionary mindscapes.

Much as speculation within contemporary realist epistemology, the work of lawyers has been described by Sear as 'addiction-making' where through a process of legal practice as *anticipation*, lawyers antedate what the courts may do with their clients. In the process, she argues addiction discourses are materialised and stabilised,

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<sup>47</sup> Simon Flacks Deviant Disabilities: The Exclusion of Drug and Alcohol Addiction from the Equality Act 2010 *Social and Legal Studies* 21(3) 2012 395-412.

<sup>48</sup> Robin Mackenzie Feeling Good: The Ethopolitics Of Pleasure; Psychoactive Substance Use and Public Health And Criminal Justice Governance: Therapeutic Jurisprudence And The Drug Courts In The USA *Social And Legal Studies* 17(4) 2008 513-533.

<sup>49</sup> Jacques Derrida The Rhetoric of Drugs in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003).

<sup>50</sup> Henri Bergson *Creative Evolution* (CreateSpace Independent Publishing Platform 2014 [1907]).

<sup>51</sup> Frank Schalow *Toward a Phenomenology of Addiction: Embodiment, Technology, Transcendence, Contributions To Phenomenology* (Springer International Publishing, 2017), 22.

sometimes for the positive and other times, not so. Criminal justice interventions are reliant on ‘psy’ identities such as the addict in order to enforce available sanctions, where in “this sense, the role of psy in the justice system can be both productive and repressive.”<sup>52</sup> This normative response by legal professionals, is a “legal strategy [...] central to the emergence of addiction in law.”<sup>53</sup> Sear’s account of law in the making of addiction demonstrates the spatio-temporal, representational and material intra-actions that come together to create the fate of those clients who need help with their dependence to whichever drug it may be. The potential positive legal effects of ‘onto-advocacy’ as she calls it<sup>54</sup> is clear through the work of the lawyer with the addict, and reminiscent of the work of poverty lawyers themselves, where the self-reflexive role of the lawyer as law-maker is ever present. The creation of life worlds through the interpretation of text, is the bread and butter of law, a *diffractive* day job that gives rise to new thinking and new being through material happenings, just as Barad has described in her onto-epistemics.<sup>55</sup>

This account of law-making rests upon once again the agents of law as its vanguard, whether they be the judges, the lawyers, or the addicts themselves. What about the way in which law is formed and the features it produces. Some of these characteristics that are found in both law and addiction, are *repetition, desire, control, and destruction*. We will consider each of these similarities in order to see how law may be addiction and addiction may be law.

### *Repetition*

Both law and addiction are actualised through repetition, the detournement that happens as a result of their litany. Both are potentially different to other kinds of reiteration as they incur patterns that, according to neurology, are “learned more deeply and often more quickly than most other habits, due to a narrowing tunnel of attention and attraction.”<sup>56</sup> Within the processes of addiction, the brain identifies desire, and the most attractive goals will therefore be followed accordingly. Neurology tells us as the repeated and engraining of an action will change a brain’s circuitry and reinforce some neural pathways to the detriment of other ones. With law, the repetition of an act over time creates habit, which then turns into routine, tradition and custom. At what point the law is ‘ratified’ is a performative question, whether there may be force prior to legitimation or only once a custom becomes a rule. It is this embedding of attention, this digging of legal pathways, that creates confluences through which law can flow, much like the synaptic rivers within the brain.

Derrida spoke specifically on addiction in his reading of in Plato’s *Phaedrus*, where he interrogates the iterative nature of compulsion and dependence, through the power of the *pharmakon* and its generative/destructive nature. He considers,

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<sup>52</sup> Dawn Moore, Lisa Freeman and Marian Krawczyk Spatio-Therapeutics: Drug Treatment Courts and Urban Space *Social and Legal Studies* 20(2) 2011 157-172.

<sup>53</sup> Kate Sear *Law, Drugs and the Making of Addiction* (London, Routledge, 2019), 69.

<sup>54</sup> Kate Sear *Law, Drugs and the Making of Addiction* (London, Routledge, 2019).

<sup>55</sup> Karen Barad *Meeting the Universe Half-Way* (Durham, Duke University Press, 2007).

<sup>56</sup> Marc Lewis *The Biology of Desire* (New York, Public Affairs, 2015), x.

“the technical possibility for an individual to reproduce the act, even when alone (the question of the syringe, for example, [...]). It is this crossing of a quantitative threshold that allows us to speak of a modern phenomenon of drug addiction: namely, the number of individuals who have easy access to the possibility of repeating the act, alone or otherwise, in private or in public, and throughout that zone where this distinction loses all pertinence or rigor.”<sup>57</sup>

The *pharmakon* within Western philosophy, is the remedy, the poison, and the scapegoat, with an additional fourth meaning of the capacity to produce. In Phaedrus, the *pharmakon* (or drug) is presented to the king, as writing, for its capacity to repeat and therefore to hold memory, however the king rejects this as not for memory (mneme) but recollection (hypomnesis). Thus this is not a life-giving memory but acts as a “*pharmakon* [that] dulls the spirit and rather than aiding, it wastes the memory ...”<sup>58</sup> Whether bad or good repetition, a good drug or a bad drug, it is repetition all the same, where the *pharmakon* becomes both poison and antidote “at which point we would also feel that supplementary discomfort inherent in the indecidability between the two.”<sup>59</sup> A Freudian conferment of this would be to align the repeated acts as a blocking of trauma.<sup>60</sup>

For Derrida and also Deleuze who, we will turn to next, the power of this recital has a commotion of its own, which “excites a state of productive receptivity”.<sup>61</sup> The dynamism of addiction is seen as generative of positive states as well as those less so. Addiction is compelling, the funnelling of attention, just like the product that sits in the shop window inviting us in like magpies to a gem glinting in the sun. This repetition surrounds and encourages through its corpulent presence, reminiscent of the seriality of commodity production.<sup>62</sup>

### *Desire*

This fecundity, to be found within habit, is potent, where the fruits of the maladaptation become enrapturing and the *desire* for them becomes too strong to resist. The hunger for the desired object, becomes all encompassing, the repetition giving a concupiscence that only another turn of the wheel can satisfy, another tightening of the belt on the arm, another warm fuzz of stupor to fall down the throat. Repetition will spark continuity, a vitality through which desire may flow: “Feedback simply makes things grow. It doesn’t care what.”<sup>63</sup>

Desire is speculative, where it exceeds that which wants, and moves in a motion of reconnaissance, much like the anticipation of the lawyer, the echoing chasm of the

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<sup>57</sup> Jacques Derrida *The Rhetoric of Drugs* in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003), 23.

<sup>58</sup> Jacques Derrida *The Rhetoric of Drugs* in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003), 24.

<sup>59</sup> Jacques Derrida *The Rhetoric of Drugs* in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003), 25.

<sup>60</sup> Sigmund Freud *Beyond the Pleasure Principle and Other Writings* (London, Penguin Classics, 2003).

<sup>61</sup> Jacques Derrida *The Rhetoric of Drugs* in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003), 29-30.

<sup>62</sup> Janet Farrell Brodie and Marc Redfield (Eds) *High Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 4.

<sup>63</sup> Marc Lewis *The Biology of Desire* (New York, Public Affairs, 2015), 35.

void inside the addicted, that propels the consumption from the outside, within. Deleuze's understanding of *assemblant-desire* is to be found within the plane of immanence, where multiple actors, molecules, materials, may be propelled together in one moment to exasperate "desire to come out of its own immanence . . . its own productivity."<sup>64</sup> These composite junctures that release desire from itself, are those moments of suspension, such as shopping, injecting, checking technology, fantasising over a lover, that allows the desiring being to be at one with that object, whether inauthentically as such. Critical drugs scholar Malins has demonstrated the *rhizomatic* nature of addiction particularly in relation to heroin use, based on a Deleuze and Guattarian conception of assemblage, where that conglomeration of intensification is a merging of form and person, "nothing left but the world of speeds and slowness . . . A whole rhizomatic labour of perception, the moment when desire and perception meld."<sup>65</sup>

What does this tell us about any connection between addiction and law, and to go so far as to say, addiction *is* law? What brings the law to life and determines how law may move? Seeing the variant components that may make up an aggregation or convergence in law such as that expressed as the trajectory of desire, may also suggest desire is the compulsion of law. Just as Kathryn Yusoff spoke with her billion black Anthropocenes<sup>66</sup>, there can be no way that law is not separate from an ambition of material exploitation and expansion. Just as the body before the law is no more the law than the body, the mapping of desire across lands and peoples has already been made, through creative/destructive engrossment by unskilful, indignant minds. As Deleuze concludes, "power is an affection of desire", however, he also reinforced that "desire is never 'natural reality'" and that "...desiring-assemblages have nothing to do with repression".<sup>67</sup> What more than an emergence of craving and devotion, than the apparition of subjectivity itself, where to sediment layers of law as habit, routine and custom there is an ultimatum of expression in law, that of subjectivity and the crystallisation of form. This solidification of law is where a desire has led to a 'vitrified' reterritorialialisation, one that is not healthy, too fixed, too permanent. Just as property only goes to show how even the most viable form of asset containment through venture capital and investment in inner city spaces, could now possibly be in a downward spiral after the consequences of the Covid-19 in 2020. The yearning morphs and remaps itself, and does not care for settled assumptions and categorisations that law seeks to make, because ultimately it is never finished, and never entirely possible.

### *Control*

The assemblage of habit through desire also amounts to lamina of the undesired, the sedimentation of all denied and unwanted feelings and emotions that may impel the body to be drawn elsewhere. Whether a neurological argument of purely habit or a Freudian underpinning of historical strain, there is a trauma to the exegesis of law

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<sup>64</sup> Deleuze, 2001, p. 97–98 in

<sup>65</sup> Peta Malins Desiring assemblages: A case for desire over pleasure in critical drug studies International Journal of Drug Policy 49 (2017) 126–132.

<sup>66</sup> Kathryn Yusoff A Billion Black Anthropocenes or None (Minneapolis, University of Minnesota Press, 2018).

<sup>67</sup> Gilles Deleuze Desire & pleasure (trans. M. McMahon), unpaginated. <http://www.artdes.monash.edu.au/globe/delfou.html> (originally published as Désir et plaisir, in Magazine littéraire 325 October 1994 59–65), accessed 9 October 2020.



and addiction, addiction as law. The only way to assuage the pain is to assert control, silence the internal suffering for as long as possible, and deny the selfish actions of law's addict, its deranged institutionalisation of property and the overcoming of uncertainty through colonisation.

The *loss* of control with addiction is a complex tautology, an aporia, as it is in the desire for dominance over external and internal circumstances, that results in the addict being caught in an overpowering pattern of regulatory lack. This has been described as a 'controlled loss of control'<sup>68</sup>. It would make sense relating to chemical substances as they release themselves within the confines of the body, and then disappear, heightening the emotional reactions, in an altered manner to the 'visceral states and disturbances' outside of the euphoric and dysphoric states associated with substance use, that are argued to be triggered by beliefs<sup>69</sup>. It would also concur within a convergent menagerie that law may be, that control is an expression of lack of control. A desperate assertion of representation and aesthetic through the conglomeration of property. Violence, which is the ultimate method of control, is both present in law and addiction, and is a form of expression, which "...more typically carries important messages."<sup>70</sup> Just as desire may frustrate immanence to the point of its blocking by a substance or an unhealthy relation, violence is this unchecked turbulent compulsion underlying law and addiction, addiction as law, which causes an exertion and balance of order, and disorder.

### *Destruction*

This itinerance of law and addiction being one and the other poses questions of form, a morphic movement that is entropic and a kind of sublimation<sup>71</sup>. Just as Leslie describes the phenomena of liquid crystal, there are balancing acts at play in the search for equilibrium, a "petrified unrest proposes at one and the same time the frozen and the fluid, stillness and movement, the static and the fizzing."<sup>72</sup>

*Entropy* is the scientific thermodynamic evidence of the arrow of time through the corrosion and impairment of bodies stratified over an ageing process. In that sense, everything is a manifestation and process of decay, death; Deleuze even identifies the act of thinking with dying, however philosopher Ray Brassier disagrees stating, "the experience of dying defies the law of entropic explication governing physico-biological extensity and marks the apex of psychic life as a vector of negentropic complexification."<sup>73</sup> If positive entropy is the process of decay, thus negentropy is the generative flipside to this coin, an impelling force of poietic replication that strides

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<sup>68</sup> [Fiona Measham](#) in *Fay Dennis Injecting Bodies in More-than-Human Worlds* (London, Routledge, 2020), 4; [Darin Weinberg](#) argues for addiction science to consider the centrality of loss of control as actually self-governing behaviour, and as a lost and understudied element of addiction studies, [Darin Weinberg 2013](#) in *Fay Dennis Injecting Bodies in More-than-Human Worlds* (London, Routledge, 2020), 7.

<sup>69</sup> John Elster *Strong Feelings: Emotion, Addiction and Human Behaviour* (Cambridge, MIT Press, 1999), 194-95.

<sup>70</sup> Peter J Adams *Fragmented Intimacy: Addiction in a Social World* (Springer, 2008), 113.

<sup>71</sup> Esther Leslie *Volatile, Liquid, Crystal in Void* (Breda, Netherlands: University of Applied Science, 2015).

<sup>72</sup> Esther Leslie *Volatile, Liquid, Crystal in Void* (Breda, Netherlands: University of Applied Science, 2015), 75.

<sup>73</sup> Ray Brassier *Nihil Unbound: Enlightenment and Extinction* (London, Palgrave Macmillan, 2007), 194-95.

on, despite all, creating one moment to the next in production of the next iteration of life<sup>74</sup>.

The destructive/creative force of law and addiction are this very balancing act on the edge of experience, where entropy will tell us there can never be total control. To echo Georges Bataille, life itself exists only in bursts and in exchange with death.<sup>75</sup> As Shalow obliquely describes,

“By flying in the face of any rational counsel, the pull of the magnetic force of enticement clashes with the individual’s sense of self-preservation; an apparent irrationality abounds in which the addict proceeds along a self-destructive path, possibly succumbing to the compulsiveness of his/her cravings.”<sup>76</sup>

This risk, or *alea* reminds us of the addict’s determination to move towards annihilation, despite its obvious consequences. Catherine Malabou depicts this creative/destructive drive forcefully within her ‘ontology of the accident’<sup>77</sup>. The neurobiology of addiction already presented by Lewis that relays the repetitive carving of the brain by the same processes and pathways being followed and preserved, is further exemplified in the work on plasticity of Malabou. Due to the impact of trauma on the brain, no matter how large or small, a new direction in one’s life can be forged, through *accident*. Speaking with regard to dementia, “trauma, or sometimes for no reason at all, the path split and a new, unprecedented persona comes to live with the former person, and eventually takes up all the room.”<sup>78</sup>

Malabou enlightens the paradox of entropic movement, as it takes shape between the life-affirming and the life-removing. In the motility of magnetism and repulsion, there is a ‘plastic art of destruction’ where Malabou shows that “destruction too is formative. [...] Destruction has its own sculpting tools.”<sup>79</sup> She uses the laws of thermodynamics to demonstrate the flip side to creation as a fundamental law of life, that which makes life possible.<sup>80</sup> Referring to the work of biologist Jean Claude Ameisen, she describes how the “sculpting of the self assumes cellular annihilation or apoptosis, the phenomena of programmed cellular suicide: in order for fingers to form, a separation between the fingers must also form.”<sup>81</sup> Interestingly Malabou discusses this in relation to the prescription within to flee, to take flight, perhaps one of a line of flight. The addict only knows too well that wish to not be there, to redact one’s presence, as to be totally removed would stop the creativity but a redaction is a cry for help, a stop valve before a final death, and a simulation of absence. This taking flight, is simultaneously a recognition of that which Malabou describes, the

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<sup>74</sup> Or difference and repetition to place it in Deleuzian terms, see Gilles Deleuze *Difference and Repetition* (London, Continuum, 2001).

<sup>75</sup> Georges Bataille *Visions of Excess: Selected Writings, 1927–1939*, trans. A. Stoekl (Minneapolis, University of Minnesota Press, 1985) 94–95.

<sup>76</sup> Frank Schalow *Toward a Phenomenology of Addiction: Embodiment, Technology, Transcendence, Contributions To Phenomenology* (Springer International Publishing, 2017), 10.

<sup>77</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012).

<sup>78</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012).

<sup>79</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 4.

<sup>80</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 4.

<sup>81</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 4.

impossibility of taking flight, where the only option is to seek the very thing that one cannot do. Disappearance into an internal world that seeks forth within in order to flee to an exterior, is what the addict does. This circuitry of plasticity is the very crux of law, where only the apparition of legitimation is its content, there is little inside other than the space with which to consume. This destructive plasticity is almost representation itself, the appearance of form when there is only anything other than that occurring. Guattari calls this lack of possibility of an outside, as the 'echo of the black hole' being blocked, an obstacle in the path of entropy, where the "complete inhibition of the semiotic constituents of an individual or group, [...] then finds itself cut off from any possibility of an exterior life."<sup>82</sup>

Destruction as the moment of transformation<sup>83</sup>, could infer a utilitarianism, a 'development and destruction' paradigm where there are those who can be sacrificed in an overall design of colonialism and expansion. Maybe just like addiction's controlled lack of control, the very disorder within a system allows the rest to function. And yet it may also offer a juridical acceptance of alterity, where the only way for law to operate is to take a look at its own reflection in order to experience the other.<sup>84</sup>

What Malabou's ontology of the accident may help to explain is how within law, there is always the power to create, as well as destroy, an interior passage of life that then replicates itself as it swallows and reproduces the world around it. Indeed, "this recognition reveals that a power of annihilation hides within the very constitution of identity [...] is also the signature of a law of being that always appears to be on the point of abandoning itself, escaping."<sup>85</sup>

## Law's Addiction/Addiction to Law

"Law is as habit forming as cocaine and that in consequence one remedy for addiction to law might be to introduce a 12-step programme for juraholics: 'Hello, my name is [...], and I am a jurismaniac'"<sup>86</sup>

Coming back to the subject of poverty law, the consequences of the split in mind and body, the heart and the soul, those recipients of the work of poverty lawyers, are the law's very fix. As Gearey states, "Poverty law is important precisely because it is problematic. The subject is, quite correctly, a portal open to dark meditations"<sup>87</sup>. May law itself be in the grips of compulsion, and how have we become addicted to law?

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<sup>82</sup> Félix Guattari *Socially Significant Drugs* in Anna Alexander and Mark Roberts (Eds) *High Culture, Reflections of Addiction and Modernity* (Albany, State University of New York Press, 2003), 200.

<sup>83</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 11.

<sup>84</sup> "Destructive plasticity enables the appearance or formation of alterity where the other is absolutely lacking. Plasticity is the form of alterity when no transcendence, flight or escape is left. The only other that exists in this circumstance is being other to the self", Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 10-11.

<sup>85</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 10-11.

<sup>86</sup> (Campos, 1998: 189) in Peter Goodrich *Law-Induced Anxiety: Legists, Anti-Lawyers And The Boredom Of Legality* *Social & Legal Studies* 9(1) 2000 143-163.

<sup>87</sup> Adam Gearey *Poverty Law and Legal Activism: Lives that Slide out of View* (London, Routledge, 2018), 158.

When considering whether law is addicted or law is addiction itself, there are some considerations that can also be mapped on to addiction *per se*. When we speak of someone as addicted to something, are we also pointing out that they are not just the verb, the doing, but that they are also the thing itself. Everything is in a motion of flux and alternation, change and temperance, in a way that Karen Barad has so fundamentally demonstrated in recent years through her fusion of quantum mechanics and poststructuralist thought; the performance of matter itself, as it moves from thing-to-doing, doing-to-thing, in the constant alternation of the material making and unmaking of each moment.<sup>88</sup> Her account of measurement and representationalism and the agential space of the container, where measurements are “not simply revelatory but performative [,...] help constitute and are a constitutive part of what is being measured”.<sup>89</sup>

Law’s own obsessions are echoed in an anthropocentric perversion with law. The very construct of the neoliberal state, the ideological milieu in which we find ourselves globally installed, is the hidden rubric under which all decisions are implemented despite a veneer of distancing through the market. The intensification of extractive practices of privatisation inhere a removal of centralised governance towards a Smithian invisible hand, however, the story of neoliberalism narrates a heavy reliance on the functionality and instrumentalisation of state law in order to achieve its ends.<sup>90</sup> David Harvey depicts this well with the dependence-prescient ‘spatial fix’<sup>91</sup>, the way capital is fixed in land, us observing its very evidence as we look up at towering new office blocks and large project developments of (un)affordable homes, city skylines dancing with new constructions, in which assets are locked and fortified to increase value. As the world reels and reinvents after the onset of a global pandemic, the necessity of capital will have to morph and shift elsewhere in response to where it can get its next fix in order to survive as cityscapes change and labour migrates. The role of law within this is endemic, the proliferation of legal frameworks to protect financial interests as not far from “the notion of legal mania,” which “suggests both a bacchanalian celebration of law, a hedonistic or wild desire for legality, as well as the suffering of the addict or juraholic.”<sup>92</sup>

This material conjugality of law is reminiscent of Yusoff’s ‘material geophysics of race’<sup>93</sup> where the “presumed absorbent qualities of black and brown bodies [...] take up the body burdens of exposure to toxicities and to buffer the violence of the earth.”<sup>94</sup> Her specific inculcation of geology with property, and the

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<sup>88</sup> See Karen Barad *Meeting the Universe Half-Way* (Durham, Duke University Press, 2007).

<sup>89</sup> Karen Barad *What is the Measure of Nothingness? Infinity, Virtuality, Justice*. 100 Notes (Museum Fridericianum Verantsaltungs-GmbH, Ostfildern, Hatje-Cantz Verlag, 2012), 6.

<sup>90</sup> Peter Goodrich stated “In a thinly sociological sense the argument made is that the exponential proliferation of law and lawyers that occurred in the last half-century has led to a juridical saturation of social reality and the correlative absurdity of a political system that imagines that more law is the solution to all evils.” (Peter Goodrich *Law-Induced Anxiety: Legists, Anti-Lawyers and The Boredom Of Legality Social & Legal Studies* 9(1) 2000, 147).

<sup>91</sup> Harvey, David, ‘Globalisation and the Spatial Fix’, *Geografische Review*. 23-30, 2001.

<sup>92</sup> Peter Goodrich *Law-Induced Anxiety: Legists, Anti-Lawyers and The Boredom Of Legality Social & Legal Studies* 9(1) 2000 145-6.

<sup>93</sup> Kathryn Yusoff *A Billion Black Anthropocenes or None* (Minneapolis, University of Minnesota Press, 2018).

<sup>94</sup> Kathryn Yusoff *A Billion Black Anthropocenes or None* (Minneapolis, University of Minnesota Press, 2018).

larval manoeuvre of colonialism where those who were enslaved to build the Anthropocene are now used by the white privileged as shields against its violent blowback, speaks of the obsessive and destructive gathering task of accumulation. In her evocative work, she explains the stabilising process of property over burgeoning material, where the “cut of property [...] enacts the removal of matter from its constitutive relations as both subject and mineral embedded in sociological and ecological fields.<sup>95</sup> In a similar vein, Esther Leslie’s Marxist-infused works infer a geological and mattered underpinning of capital<sup>96</sup>, where she traces processes of extraction from bullion to clothing dye, determining the incumbent of value attached to the material, and the aesthetic and political configurations of the commodity fetish as a result.<sup>97</sup>

In Roman law the word *addicere* meant to bind, to legally ensue a relation between one and another, which gave way to the verb ‘to addict’, meaning “to bind, attach, or devote oneself or another as a servant, disciple, or adherent, to some person or cause”.<sup>98</sup> This grasping, and pulling in of the processes of law, its *jurismorphic*<sup>99</sup> movement, brings together addiction to law and law’s addiction, where the agents who operate within law’s world are those who also will strengthen its forefronts. Addiction is very much a frontier project, where not one morsel is enough, an internal appellation meets an externality, and the two are subsumed, consumed, and then the search resumed. For law and its mediators there is never enough, standing on the age of a volcanic eruption waiting for the magma to cool and coagulate – is not on step too far. The law wants the geology itself, through the fixation of property, and the crystallisation of form. This hounding course of subsumption, the fetish of the material, is a necropolitical turn where all are fodder for law’s emanations,

“[Its] morphology henceforth inscribes [a] register of undifferentiated generality: simple relics of an unburied pain, empty, meaningless corporealities, strange deposits plunged into cruel stupor.”<sup>100</sup>

This goes back to the heart of the poverty of the spirit of which Alexander spoke of, and is the core concern of Gearey’s work on poverty law - the processes of dislocation that are actualised through juridical frameworks, and determine the alienation felt across the poverty line, WEB Du Bois’ ‘colour line’<sup>101</sup>, as one and the same. The emptiness left by law as it speculates, it acquires and institutes itself,

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<sup>95</sup> Kathryn Yusoff *A Billion Black Anthropocenes or None* (Minneapolis, University of Minnesota Press, 2018), 16.

<sup>96</sup> Interestingly, she sees animism and technology through industrialisation as almost opposing forces: “Both animism and industrialism are human systems of praxis and belief. In this much they are mirrors: animism and industrialism both elicit ensoulment and things [...] Industrialism is the negative force of animism” in Esther Leslie *Derelicts: Thoughtworms from the Wreckage* (London, Unkant, 2013), 140.

<sup>97</sup> Esther Leslie *Synthetic Worlds: Nature, Art and the Chemical Industry* (London, Reaktion Books, 2005).

<sup>98</sup> Found in Janet Farrell Brodie and Marc Redfield (Eds) *Hight Anxieties: Cultural Studies in Addiction* (Berkeley, University of California Press, 2002), 1.

<sup>99</sup> To reference to Kyle McGee’s ‘jurismorphs’, K. McGee, “Aleatory Materialism and Speculative Jurisprudence (II): For a New Logic of Right,” in Althusser and Law (L. de Sutter, ed) (Nomikoi Critical Legal Thinkers BookSeries, New York: Routledge, 2013).

<sup>100</sup> Achille Mbembe *Necropolitics* *Public Culture* 15(12) (2003) 11-40, 35.

<sup>101</sup> W E B Du Bois *The Problem of the Colour Line at the Turn of the Century: The Essential Early Essays* (ed) Nahum Dimirti Chandler (Fordham, Fordham University Press, 2015).

where it rests and feasts on its next amulet; is the emptiness and void of an addict, the chasm that can never be satiated.

## Conclusion

The poverty of the spirit of which we first began, comes full circle to considering what we may do with law as addiction, and the creative/destructive force within all lines of flight. Gearey imparts poverty law as a space of *praxis*, ethics, and consciousness, which following from Sear's *onto-advocacy*, underpins the role of the lawyer within the addicted war machine that law can be. A deferment and reenergising of poverty law that places the lawyer in the community, may well be law's journey into recovery. Despite a suspicion at the way in which spiritual enlightenment may assist the recovering addict, cyberneticist Gregory Bateson divulged:

"It is, however, asserted that the non-alcoholic world has many lessons which it might learn from the epistemology of systems theory and from the ways of A.A. If we continue to operate in terms of a Cartesian dualism of mind versus matter, we shall probably also continue to see the world in terms of God versus man; elite versus people; chosen race versus others; nation versus nation; and man versus environment. It is doubtful whether a species having both an advanced technology and this strange way of looking at its world can endure."<sup>102</sup>

If there could be a way for law to recognise its own fallibilities, an acknowledgement of the material and geological extraction of its genealogy, understanding law as addiction and addiction as law may be the way to see a poverty of the spirit as "flee[ing] the impossibility of fleeing itself."<sup>103</sup>

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<sup>102</sup> Gregory Bateson *The Cybernetics of Self A Theory of Alcoholism Psychiatry*, 34, 1-18. (1971), 455.

<sup>103</sup> Catherine Malabou *Ontology of the Accident: An Essay on Destructive Plasticity* (London, Polity, 2012), 10.

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