Anne Wagner
Richard K. Sherwin *Editors*

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its empiricist methods, discard 'the vibe' from the mix in reading visuals and images because its truth cannot be secured with any empiricist precision; the vibe cannot be determined with certainly, so it simply does not exist.

However, 'the vibe' has the potential to function as a vivid heuristic device through its denotative capacities, charmingly illustrated in a moment from the iconic 1997 Australian comedy film *The Castle* (Beckingham 2000), where 'the vibe' was used by a barely competent lawyer to explain a gap in the text of the Australian Constitution when trying to argue why Australians have an unusual relationship to home ownership: 'There is no one section [of the Constitution], it's just the vibe of the thing … In summing up, it's the Constitution, it's *Mabo*, it's justice, it's law, it's the vibe and -- No, that's it. It's the vibe!' This marvellous passage (which was unsurprisingly unconvincing as an argument before the fictional court) sought to capture a sense of the relationship Australians have with home ownership that could not be described to the court in any 'real' terms nor could be defined with precision through the literal texts of the law (MacNeil 2007, 116–131). Yet the concept of home ownership, as an expression of property rights, is something embedded in the interstices of law through its jurisprudence, which the lawyer attempted to capture through 'the vibe'. But 'the vibe', as expressed in this passage from the film, has created its own denotation, 'a vibe' of its own, a shared meaning about the Australian experience. 'The vibe', in the Australian context at least, means *this* vibe, referenced in *this* scene. The word still captures its dictionary meanings *and* it leaves an image in the mind of this moment from this film. Despite this, ironically almost, the vibe is unconvincing for law. But I will suggest 'the vibe', as expressed through the schema of a Panofskian iconology, can be the tool through which that indefinable 'something' can be 'seen' by the judicial eye and perhaps enable it to see what *I* see.

17.2.2 A Panofskian Semiotic of the Visual: A Methodology of the Vibe

As I have suggested here, law has no effective language, no logic, through which it can read images or visuals in any way other than its conventional practices will allow (Goodrich 1996, 52; Darian-Smith 1999, 56–57). In order to find another way to comprehend them, I propose that it draws on insights provided by art history, a discipline skilled at reading visuals and images through processes of signification (Bal and Bryson 1991, 188–191; Potts 2003). Indeed, semiotics is used to enable art historians to explore 'the polysemy of meaning; the problematics of authorship, context, and reception … the claims to truth of interpretation' (Bal and Bryson 1991, 174). Yet as Pettersson implies, the readings of images are always open to interpretation, especially in poststructural readings of images (Pettersson 2001, 65). So in a sense, the open meanings that are of value to art history become, within law's empiricist logic, nothing other than the reading of signs as simply another form of the ideational or elemental. *Plus ça change*.

So rather than draw on a semiotics of the visual in its broadest sense, I propose the use of a more confined semiotic: Erwin Panofsky's iconology (Hasenmueller 1978). Developed in the 1930s, iconology is an interpretative method of reading images which aims to establish their meanings (Timmermann 2001). Interdisciplinary and contextual, the technique draws on a range of disciplines in order to 'find' objectively determinable meanings. Panofsky's work has thus been criticised because of its desire for certainty and truth and has been dismissed as an idiosyncratic, culturally conditioned, pre-war precursor to a more explicitly developed semiotic and its desire for objective, definable readings of the texts of visuals and images (Bann 2003; Preziosi 2009, 218–219). But while an open sign system is of fundamental value to art historians (Bal and Bryson 1991, 186–187), lawyers merely need to be given tools to assist them read images beyond the literal and formal, and it is precisely for the reasons Panofsky is criticised by art historians that I see a value in the use of this hermeneutic in the legal context through its creation of a 'synthetic intuition' that would establish a method to avoid the aporetic problems of the juridical-aesthetic state of exception that would dismiss 'the vibe' and replace its lack of form with a reconstructed image of the visual or the image for the purposes of law's empire.

Firstly, the technique shows that empiricist and literal readings of images and visuals are misleading and partial, and secondly, its schema offers a certainty and methodological rigour so that 'the vibe' moves from being a mere feeling to something which can be ascertained through a method, providing a sense of certainty while curtailing unbounded interpretations. Grounded in a tripartite schema of pre-iconography (observation), iconography (analysis) and iconology (meaning), the pre-iconographic description and iconographical levels function as correctives or controls to temper subjective interpretation pregnant within the iconological and thus open to the charge that the reading of the image will be irrational because of the interpretive tendencies of the viewer (Panofsky 1955, 38). In other words, a Panofskian iconology provides a technique to give the judicial everyman a device to construe visuals and images and in doing so allows the courts to see visuals that do not meet the expectations of literally, truthfully, obvious Australian archetype.

17.2.3 Speaking to Law: Meanings and the Place of Iconology

To the legal mind, superficially at least, the phases of the Panofskian iconological schema may seem familiar. A similar technique is found in Ronald Dworkin's interpretative schema used to find the law in hard cases. Law, as Dworkin reminds us, is not found through literal readings of statutes or cases, but exists as a complex set of rules and principles located within the interstices of its own texts. Dworkin's method aims to find those principles, its fundamental meanings, through a set of methods that speak to law's conservative practices and desire for certainty.

My purpose here is not to praise Dworkin, or to sanction his methods, which are problematic and impose their own limitations, but to explore how the legal imaginary can work within interpretative schemas and structures of the kind Panofsky constructed.

Like Panofsky, Dworkin uses a three-stage process: a pre-interpretive stage where a rule is found from the vast panoply of law, followed by an interpretative stage which seeks to find out what the rule actually means, and a final post-interpretive stage that uses the interpretation of the rule as the guide to ascertain the correct law to be used in the hard case under consideration (Dworkin 1986). There are differences of course, not least Dworkin's internalised hermeneutic differs from Panofsky's interdisciplinary and contextual hermeneutic, but both seek to interpret the correct meaning of either the law or the image in question.

So if law and its practitioners are more than capable of reading texts using interpretative devices, they should be open to be convinced that the reading of *images* as literal and descriptive is as problematic as reading *law* only through a literal and descriptive lens (Leiboff and Thomas 2009). Panofsky shows that visuals or images are much more than their literal or descriptive elements, thus showing in full light the problems that arise when the courts rely on the juridical-aesthetic state of exception.

So what does the method propose? Panofsky articulated his conception of the iconological through a series of different works (Panofsky 1955, 40–41), but for the purposes of this chapter, I rely on his celebrated synoptical table of art historical interpretations. The table sets up four delineators which are used in the process of engaging with the image or visual. These delineators are structural and formal in nature and seek to identify (1) the object of interpretation (what is being read or seen), (2) the act of interpretation (whether it is pre-iconographic, etc.) and (3) the equipment needed for interpretation (visual literacy), tempered by (4) a corrective principle of interpretation (evidence) (Panofsky 1972, 5–9). As will become apparent, the phases exist both independently and interdependently in their development of the process of interpretation of the visual or image under consideration.

The first phase, the pre-iconographic, concerns the reading of 'primary or natural subject matter' of the image or visual, which takes either a factual or expressive form, a process roughly similar to Dworkin's pre-interpretive stage. This matter, reminiscent of the literal and empiricist modes of viewing images used by the courts, is something capable of description by a viewer. Panofsky identified that the equipment needed here is simply practical experience or a familiarity with objects and events. While it may seem that 'any reading is good enough', this is tempered by the corrective principle of interpretation – here, the history of style or an insight into the manner in which, under varying historical conditions, objects and events were expressed by forms. This phase demonstrates that a bare reading of an image relying on certainties of the empiricist methods favoured by law is likely to be erroneous, as they fail to draw on correctives of the kind identified here.

The second phase – the iconographic – is interpretative and has some similarities with Dworkin's second stage. The object of interpretation of the iconographic is secondary or conventional subject matter, constituting the world of images, stories and allegories. The equipment needed for interpretation is knowledge of literary sources or familiarity with specific themes and concepts. The corrective principle of interpretation is the history of types, that is, insight into the manner in which, under varying historical conditions, specific themes or concepts were expressed by objects and events. These factors will be read into a visual or image, if the viewer has been introduced to these textual interpretants.

The third phase, in some ways reminiscent of Dworkin's third stage, is the iconological, which has as its object of interpretation the intrinsic meaning or content of an image or visual. The equipment needed for interpretation is synthetic intuition, a familiarity with the essential tendencies of the human mind, conditioned by personal psychology and *Weltanschauung*, which roughly translates to mean a fundamental cognitive orientation of an individual or society, the lens through which an individual interprets the world and interacts with it. In short, the ability to understand the meaning of a work requires an understanding of the conditions or circumstances involved in its creation. This, then, is an objectively grounded interpretation, tempered moreover by the corrective principle of interpretation for this category, namely, an understanding of the deep structures of the social condition underpinning the creation of the visual or image.

In order to ascertain the iconological, Panofsky requires the viewer to rely on the history of cultural symptoms or 'symbols' in general or an insight into the manner in which, under varying historical conditions, essential tendencies of the human mind were expressed by specific themes. So the visual or image is 'a manifestation of fundamental principles in a culture, a period or a philosophical attitude. Following Cassirer, Panofsky regards artistic motifs, images and allegories as 'symbolic forms', as 'symbolic equivalents of reality constructed by the intellect' (Timmermann 2001). In effect, the iconological phase seeks to find 'the vibe' by drawing on what is known about image or visual through symbols that represent the character of its creation. In short, to read an image or visual absent, the iconological or the 'vibe' is to read a partial and incomplete account of the image, as is the case in images foreclosed through the readings imposed by courts of a partial, literal and empiricist reading that characterises the juridical-aesthetic state of exception.

17.2.4 Hunnas, the Vibe and Panofsky's Method

In order to see the difference that exists between the two methods – the legal empiricist approach and Panofskian iconography – what happens when a song like *Do You See What I See*? is read against Panofsky's schema? Panofsky owned that each of his phases was interlinked and intertwined, and it is apparent when reading the song that it would be impossible to conceive of the phases as clear and distinct, but that

each contributes to build a reading of the visual or sound, in this case, that results in confirming the 'vibe' of the song as Australian. It is as though the 'synthetic intuition' he proposed, when employed to read a visual conforms with intuition more generally. In this case, the vibe starts to become apparent through reading the key images in the song of the summer, the sun, the light, the beach and a grinding and harsh sound, using knowledge of the time and place and oeuvre of Australian music in the 1980s. This iconographic method gives us a technique, formal though it is, to read the song as a whole, a sum of its parts both visible and invisible, as each phase is revealed.

In terms of the pre-iconographic phase, the primary or natural subject matter of the images created by song is that of a summer road trip to the ocean. Made concrete through images of tea towels flying by, light is hotter than the sun; its sound is harsh and grinding, not lyrical and sweet, suggesting a harsh Australian summer experience. The pre-iconographic must include knowledge about the song's New Zealand connections and images. The iconographic, or the secondary or conventional subject matter constituting the world of images, stories and allegories, makes meaning out the images of a blinding Australian summer and knowledge that the description of such an intense light could only exist in Australia. New Zealand is not a hot country; its light is diffuse and gentle, and the music it produces for the most part is lyrical and gentle. The sounds of 1980s Australian pub rock are evident in the harsh and discordant sounds; Mark Seymour's lyrics sit with the esoteric music of Nick Cave; The Go-Betweens, and The Cruel Sea, places music within both oeuvres. Iconographically, this could only be an Australian song. Finally, the iconology of the song, its meaning, is found in its harsh and discordant sounds and plaintive, angry lyric, a motif not of kangaroos and koalas, but of a middle-class angst that found its expression in pub rock laments. This is a very different Australia from one found in the picture postcards and newsreels. This, then, is the song's 'vibe'.

Yet there is always the chance that another person will read the song differently (Hasenmueller 1981). For all of its claims to finding an essential position, despite the objective correctives contained within the method, competing readings can still be made. And this is a complication; the chance that competing readings of the same visual or image will mean the courts will have to make decisions based, in existing terms, on mere opinion. Yet this is what courts always do; they are presented with different readings of the law and accounts of events from both 'sides', and they make decisions one way or another. The vibe, in the terms proposed here, establishes some kind of common ground in order to read the text of an image or visual – and if a choice needs to be made between competing readings, then the court will need to make a decision one way or the other. But first and foremost 'the vibe' – the adoption of the Panofskian schema – is designed to give voice to the meanings excluded from the reading of images and visuals by the courts. In the remainder of this chapter, I will consider what would happen if the court's reading of the images and visuals in question is tested against Panofsky's schema.

17.3 A Reverse Iconography: The *Project Blue Sky* Case

17.3.1 An Australian Television Industry

This word picture contained in *Do You See What I See*? has a certain ironic, real-life legal counterpart in a case that tells us that though the song would be treated as Australian because of the origins of its creators, the song itself would not be Australian. In 1998 Australia's ultimate court, the Australian High Court, decided that New Zealand television content had to count as 'Australian content' on television (Leiboff 1998). The decision was grounded in a Closer Economic Relationship Treaty between the two countries, which had been breached by rules establishing a transmission quota designed to ensure that Australian content would be shown on television, thus favouring the provision of services by Australians over New Zealanders. The rules breached the treaty because they tested the character of the content through a 'creative control test' designed to embed an Australian perspective through the input of Australian creators. The High Court decided that 'creative control' could not be squared with the meaning of 'the Australian content of programs', though the rules could count content created by Australians – for historical reasons. New Zealand content thus had to be counted in the transmission quota, and Australian prime-time television now shows New Zealand programmes about motorway patrols and ambulance services, displacing Australian cultural material.

While grounded in the primacy of a trade treaty, the decision could not have been made without an interpretation of what was meant by Australian content. Grounded in the factual, objective and elemental, the High Court's decision was based in their own common-sense view of the status of images and visuals, and through the *indicia certa* of those things recognisably Australian, a reverse iconography which 'corrected' an aberrant 'creative control' test to one grounded in literal, corporeal content. I will reach into the decision and the engaging set of encounters between the bench and counsel, where the court's idea of Australianness is open for all to see.

17.3.2 Images, Content or Origins: The Making of Australian Content

Australia encourages the creation and production of its own 'audiovisual content' in order to support a production sector and provide audiences with their 'own' content. Since television began in the late 1950s in Australia, broadcasters have been required to broadcast certain amounts of content created by Australians.[14] In the early 1990s

[14] Section 114 of the *Broadcasting Act 1942* (Cth) required the use of the services of Australians as far as possible in the production and presentation of programs, subsequently mandated in the mid-1060s as a quantitative requirement that 45% of commercial television content be Australian content. During the 1970s and 1980s, a more qualitative approach was taken, requiring amounts of Australian drama, variety programs, information programming and so on. A transmission percentage or point system operated.

a new Australian content standard, Television Program Standard 14 ('TPS 14'), was promulgated, but because of changes in the law,[15] it was speedily replaced in 1996 by the Australian Content Standard, as the contemporaneous *Explanatory Notes to the Australian Content Standard* indicated 'commercial television services to be predominantly Australian by requiring a minimum amount of Australian programming and minimum amounts of first release drama, documentary, children's drama and other children's programs'. It counted programmes created by Australian nationals or permanent residents as Australian content, and if key positions were filled by Australians – producers, directors and writers and actors or on-screen presenters – content could be made anywhere, so long as it was 'under Australian creative control'.

Recognising the difficulties that may be found in the court embracing 'the vibe', the test sought to construct an Australian culture *through* the nationality of the creators of the work, rather than trying to rely upon the *indicia certa* of Australianness that would deny an Australia identity to creative outputs like those of *Hunters & Collectors*. Yet in the *Project Blue Sky* case, the High Court could not accommodate and could not understand that a creativity without literal, clichéd or stereotypical elements was capable of constituting Australian content. These readings can be found throughout the judgments, which I will come to shortly, but there is another extraordinary source that reveals quite what the court was struggling with in the exchanges between members of the Bench and counsel in the transcripts of the hearings in the case. I will let these encounters speak for themselves.

The first exchange occurred in the very short special leave hearing between counsel for the regulator, Mr Gyles QC and one of the members of the Bench, which resulted in the High Court deciding to hear the case in full:

KIRBY J: Is it possible to make the whole thing work by saying, "You have got certain Australian content obligations but because of 160, for "Australia" read "Australia and New Zealand".

MR GYLES: That, your Honour, is the argument which my learned friend has eschewed at all times.

KIRBY J: Why? New Zealand is very close. It almost did join us. It is still in the covering clauses [of the Australian Constitution].

MR GYLES: Yes, and it is said, except in matters of rugby, they are quite close, your Honour. It is, in our submission, not logical to suggest that you can have Australian content fixed by a standard which fixes a particular level of Australian content but says you can satisfy that by New Zealand content. We submit that that is logically and legally nonsensical.[16]

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[15] The *Broadcasting Act 1942 (Cth)* was repealed in 1992 and replaced with the *Broadcasting Services Act 1992* (Cth). Old s 114 was replaced with s 122 (2) (b), which required the regulator to make standards for commercial television, 'in relation to the Australian content of programs'. It also had to conform to s 160 (d), requiring it to act in a manner consistent with Australia's obligations under any convention to which Australia was a party or any agreement between Australia and a foreign country.

[16] Project Blue Sky Inc and ORS v Australian Broadcasting Authority S219/1996 [1997] HCA Trans 135 (11 April 1997) http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/HCATrans/1997/135.html

Rugby matches between the two countries were of real significance in this case. Rugby, or Rugby Union, is a code of football that is, generally speaking, popular with members of Australia's legal profession.[17] Australian content, as conceived by the regulator, is much broader and much more comprehensive than a football match between two countries, comprising rules about news, current affairs, drama, comedy, documentaries and much more. But this theme was to continue in the full hearing, where the problem of characterising the 'content' of rugby matches was central to considering the meaning of the 'Australian content of programs'. It is found again in this second exchange which occurred in argument before the court, this time between a vexed Chief Justice and Counsel for the New Zealand production company which had commenced action against the regulator:

BRENNAN CJ: Mr Ellicott, I am having a difficulty understanding the Standards definition of Australian programmes. This is clause 7 of the Standards. If the Bledisloe Cup is played in Melbourne, is that an Australian programme?[18] If it was played in Auckland, is it not?[19]

MR ELLICOTT: I think there is an exception in relation to that, your Honour. It is still an Australian programme … [clause 7] would take the Bledisloe Cup in Auckland into account by Australian film crews.

BRENNAN CJ: Provided the earlier paragraphs of that subclause are satisfied as well.

MR ELLICOTT: Yes, it is oriented towards Australian producers and actors and I do not think finance…

BRENNAN CJ: Then the Bledisloe Cup in Auckland with a cast of thousands would be mainly New Zealanders, would they not?

MR ELLICOTT: They certainly would, your Honour. It is much better when you are watching the AFL grand final, your Honour [sic].

BRENNAN CJ: It seems that this definition though is really looking at two quite disparate matters. One is the cultural content of a programme and the second is its origins … so that one says, "Well here is an Australian content. It was made by Jane Campion in New Zealand,[20] but *it is an Australian story about the outback". Well then, one can see very clearly that that can be an Australian programme* [emphasis added].

MR ELLICOTT: What is important first of all, in answering what your Honour has put to me, is to look at what [the regulator has] actually done …: 'it is produced under the creative control of Australians who ensure an Australian perspective'.[21]

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[17] A little explanation is needed however. Two of Australia's states are 'rugby' states – Queensland and New South Wales. It is noted that the Chief Justice was from Queensland, while Mr Ellicott QC was from Victoria, where Australian rules football (AFL) holds sway, and its inhabitants on the whole have a lesser familiarity with the nuances of rugby.

[18] The annual series of rugby matches between Australia and New Zealand – some matches are played in each country.

[19] New Zealand's largest city.

[20] A New Zealand film director who also works in Australia.

[21] Project Blue Sky Inc and ORS v Australian Broadcasting Authority S41/1997 [1997] HCATrans 302 (29 September 1997) http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/HCATrans/1997/302.html

The problem of the rugby match continues in the final encounter, again between Mr Gyles QC and Kirby J. Mr Gyles QC tries to continue the rugby analogy:

> **MR GYLES**: Your Honour, whilst you have the content Standard open at page 17, I could work the Chief Justice through the Bledisloe Cup – it might be interesting to see how that works its way through.
> **KIRBY J**: Would you explain to me what that Cup is all about?
> **MR GYLES**: Your Honour, it is about a game called Rugby between Australians and New Zealanders which is from time to time played in New Zealand. Let us consider a game played at Wellington. It is 7(4). The producer of the programme must be Australian under (a) and the director must be an Australian under (b), (c) "not less than 50% … of the on-screen presenters … are Australians. So if one has Simon Poidevin and Chris Handy and Gordon Bray and nobody else,[22] you comply with that …
> **KIRBY J**: It does not qualify as a drama programme?
> **MR GYLES**: No; not under the definition, your Honour, although it does, from time to time, in the living room.

The rugby match became the ideal vehicle through which the court ventilated its confusion about the meaning of Australian content – or was it New Zealand content. It reveals the extent to which it focussed on the physical and tangible – players, supporters, commentators and locations – and not the feel or the vibe of the game and its atmosphere. But it was the Chief Justice's mystification about 'the cultural content of a programme' on the one hand and its 'origins' on the other and the problem of 'seeing' content created in New Zealand as Australian that is most telling. There is a clear sense of what makes something Australian – a film about the outback, for instance, even in the hands of a New Zealand director – would qualify as Australian because it is visibly, definably, verifiably Australian. But the music of a band like *Hunters & Collectors* would struggle.

17.3.3 The Australian Content of Programmes

The narrow conception of Australian content, in the eyes of the court, found full expression in the judgment itself where it relied upon the juridical-aesthetic state of exception to 'correct' the misconceived polysemous 'vibe' that the broadcasting regulator had included in its Australian content rules, and reconstitute a 'true' conception of what constituted Australian content in its place (though the court conceded that vibe-based rules could remain but only because they had been relied upon historically).

Two judgments were delivered, in much the same terms, one by the Chief Justice and the other by the remainder of the court as a majority, the latter deciding that the Australian content of programmes:

> is a flexible expression that includes, inter alia, matter that reflects Australian identity, character and culture. A program will contain Australian content if it shows *aspects of life*

[22] The former are Australian representative players who at the time were commentators, and the latter is a renowned Australian rugby commentator.

> *in Australia* or the *life, work, art, leisure or sporting activities* of Australians or if its *scenes are or appear to be set in Australia* or if it focuses on *social, economic or political issues* concerning Australia or Australians.[23]

Yet there is nothing flexible about this interpretation. It is a literal pre-iconographic reading of images identifiable because they 'look' Australian. This reading ignored the possibility that the iconological, the vibe would also constitute Australian content. The majority appeared to recognise, at a practical level, that such an open test would allow any content created about Australia, wherever it was created would count as Australian content, and they grudgingly accepted that

> Given the history of the concept of Australian content as demonstrated by the provisions of TPS 14, a program must also be taken to contain Australian content if the participants, creators or producers of a program are Australian. *Nothing in the notion of the Australian content of programs requires … that such programs should be under Australian creative control*.[24] (emphasis added)

This abrupt dismissal of the creative control test denies the possibility that 'the vibe' or nonliteral Australian content may 'count' under the rules. But the Chief Justice would not have accepted even the limited concession of the history of TPS 14; for him, Australian content is only to be found in its literal presentation: 'The "content" of a "program" is what a program contains … "Australian" is the adjective describing the matter contained in the program; but the matter contained in a program is not its provenance'.[25] Unlike the majority, he refused to allow the creators a stake: 'There is neither historical nor textual foundation for the proposition that the term can be used to classify programs by reference to their provenance'.[26] But the Chief Justice went on to engage in an exegesis of elemental and the ideational in determining what was meant by content, which he saw as the expression of ideas, retrofitted to a particular iconography of Australia:

> The content of a program for broadcast may be difficult to define in a statute, for it has to do with the communication of sights and sounds that convey ideas and the classification of an idea as "Australian" is a rather elusive concept. But that is not to deny the reality of Australian ideas; they are identifiable by reference to the sights and sounds that depict or evoke a particular connection with Australia, its land, sea and sky, its people, its fauna and its flora. They include our national or regional symbols, our topography and environment, our history and culture, the achievements and failures of our people, our relations with other nations, peoples and cultures and the contemporary issues of particular relevance or interest to Australians.[27]

But there is something in this characterisation of Australian content by the Chief Justice, through the sights and sounds included in his list, that is reminiscent of Cassirer and Panofsky's 'symbolic forms', an attempt by him to capture the sense in which forms function as symbolic equivalents of reality constructed by the intellect.

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[23] *Project Blue Sky v Australian Broadcasting Authority* (1998) 194 CLR 255 [88].

[24] *Project Blue Sky v Australian Broadcasting Authority* (1998) 194 CLR 255 [88].

[25] *Project Blue Sky v Australian Broadcasting Authority* (1998) 194 CLR 255 [22].

[26] *Project Blue Sky v Australian Broadcasting Authority* (1998) 194 CLR 255 [26].

[27] *Project Blue Sky v Australian Broadcasting Authority* (1998) 194 CLR 255 [22].

Following from his vexed response to the characterisation of the rugby match as both placeless and placed in one, the Chief Justice ultimately set out a listing of Australian types as archetypes. Rather than embedding content, this is mere empty symbolism, through the denial of the role of the creator in embedding their experiences into the text of that content. This is a literal pre-iconography, through which stories and events that do not function within a preconceived notion of Australianness cannot be given voice. The iconological is thus dismissed through the attempt to capture a literal image, but the image without meaning cannot carry the iconological.

17.3.4 Retrieving the Iconological in the Australian Content of Programmes

The High Court's conception of a circumscribed Australian content has excluded nonliteral forms of Australian content from law's conception of what constitutes Australian; ironically, the test created by the court permits content created by non-Australians to count as Australian, if they display images of Australia. This is the juridical-aesthetic state of exception rendered as a state of confusion, as literal text as misconceived text. So, would the use of Panofsky's schema have enabled the High Court to comprehend a vibe-based creative control test of the kind constructed by the broadcasting regulator that would find a space for creative outputs that are not literally or stereotypically Australian?

To find this out, I will also use the trope of the rugby match and the polysemy of the literal reading of the visual references that so vexed the Chief Justice – would the location matter, would the preponderance of New Zealand spectators matter, and so forth? The pre-iconographic shows us that the teams from each country, unequal numbers of supporters in team colours, commentators, camera angles, and so on mean that literally speaking, the literal reading of the rugby match results in a nonsense interpretation of the event. It is neither Australian nor New Zealand but a set of bare elements that are devoid of meaning. It takes more to create an image or visual expression, and this is found in taking the bare and literal pre-iconographic elements to shape them into more than the elements that constitute the pre-iconographic. This may be found in the super-added elements that go on to create a television programme and that shape its content to create a vibe, which may include the views expressed by and the call made by commentators, the camera angles chosen by the director, and so on. To watch this rugby match in New Zealand on New Zealand television is a very different experience to watching it in Australia on Australian television. Even if both use exactly the same feed, the commentary differs, the replays differ, and the directorial choices of crowd images differ. The creation is not the same as the bare material, the *indicia certa* which can be vouchsafed through one team which wears gold and one which wears black, and a location either in Australia or New Zealand.

But there is more. These rugby matches are iconological in their own term, which informs the iconographic and is easily read through the history of the matches and the epic and enduring struggle for supremacy between the two countries, perhaps exemplified by the New Zealand Haka grounded in Maori tradition that is used as a challenge to Australia. And, unfortunately for Australian fans, Australia routinely loses to New Zealand. Iconologically, the *Weltanschauung* will, as Mr Gyles QC recognised, constitute the drama that occurs in the living room when watching the game,[28] and that is the vibe that makes the content Australian, even though the original text from which that vibe is created is identical.

The decision of the High Court to misread the text of the Bledisloe Cup is an exemplar of the juridical-aesthetic state of exception. Here it resulted in a legal interpretation that has created a precedent that is perverse in its practical consequences, because it abjured a complete rendering of the text of a trans-Tasman football match by focussing on the pre-iconographic at the expense of the iconological.

17.4 Making the Image Fit the Legend

17.4.1 Iconology and Australia's Movable Cultural Heritage Law

Australia's *Protection of Movable Cultural Heritage Act* 1986 (Cth) protects its culturally significant objects, or movable cultural heritage, by retaining them in Australia using the device of refusing an export permit for an object.[29] Deciding which objects are to be protected occurs in a number of stages and includes the searching of a taxonomic listing of objects, after which a series of tests are used to determine the relative cultural significance of the object in question. Decisions to refuse exports are routinely reviewed, in order to have the object's status overturned, and through these reviews, we find what the judicial eye sees when looking at culturally significant objects.[30]

[28] Having been in New Zealand once during the Cup and having watched the broadcast of the match, I know just how different the vibe was – the images emphasised the accent and demeanour of the commentators and the proliferation of black (the New Zealand team is the All Blacks).

[29] Supplemented by the *Protection of Movable Cultural Heritage Regulations* 1987 in Australia is a party to the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, 17 November 1970, Paris, and this legislative schema has been created in order to meet the requirements of this convention.

[30] Reviews are carried out on the facts, by judges, other lawyers and sometimes laypeople with particular expertise, who sit on the administrative tribunal responsible for reviewing government decisions.

17.4.2 Misreading Iconologies and Misreading Legislation

Law sees objects in much the same way it sees other images and visuals as elemental, ideational and describable in physical terms only. The problem for Australia's legal decision-makers is how to construe the cultural significance of an object if its meaning is determined only through its describable and quantifiable physical characteristics. In the leading decision determining what makes an object culturally significant, the relevant administrative tribunal was faced with a conundrum involving a physically insignificant metal object that was considered for cultural heritage protection. The metal object in question was a Victoria Cross ('VC') medal, the rarest and highest award in British and Australian military honours. The particular medal had been awarded to an Australian for bravery in World War I,[31] but the tribunal could see nothing in the legislation that would let it protect it because it was not an Australian but a British Imperial medal minted in England using gunmetal from Crimean War cannon.

This disjuncture between object and its cultural value and significance is exemplary of the interpretive practices undertaken in the juridical-aesthetic state of exception. 'Seeing', in this situation, was not believing until the tribunal creatively construed (or perhaps invented) a way to protect the medal for the nation, which it did by conceptually detaching the physical object from its political and social significances for Australia through narrative:

> Certainly, it is the power of emotion which endows an otherwise unexceptional piece of gunmetal with the heroic status a VC possesses. But it is the power of emotion which is responsible for idealism, loyalty, patriotism, and so many other attributes to which we, as individuals and as a community, aspire. Similarly it is the power of emotion, as well as reason, which makes us respect our history and learn from its lessons.[32]

The tribunal, much like the High Court in the Australian content case, had a keen sense of Australianness in mind when making its decision. But this time, the tribunal turned to iconology writ large in order to read the object in a way that corresponded a sanctioned national narrative and identity. But this was a reading that had come about because it misread the object vis-a-vis the legislation. It had to play with the law to help the object conform to its iconological status as an emblem of the Anzac spirit and personal bravery. In doing so, the tribunal drew on the bifurcation in the law relating to art objects, especially concerning their authenticity, between the description of the object on the one hand (as fact) and questions about its qualities or attributes on the other (as opinion) (Leiboff 2001). But if it had read the object using a Panofskian schema, it would have seen that the legislation actually protected objects because of their meaning and vibe; the objects in terms of describable physical characteristics were not meant to be distinct but integral to its cultural significance.

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[31] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275.

[32] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 296.

17.4.3 A Piece of Moulded Gunmetal Decorated with a Ribbon

Section 7 (1) of the *Protection of Movable Cultural Heritage Act* establishes what is conceived of as the 'movable cultural heritage of Australia' through the listing of certain types of objects which are of 'importance to Australia'. It sets out the reasons why certain objects are important to Australia in order to establish a National Cultural Heritage Control List,[33] which is to be made up of 'objects that are of importance to Australia, or to a particular part of Australia, for ethnological, archaeological, historical, literary, artistic, scientific or technological reasons'.[34] But this enumeration and description of important objects is also used to guide the reading of an object's cultural significance under the key decision-making provision in the Act, s 10 (6).[35] Section 10 (6) (a) requires that the decision maker has regard, among other things, to the reasons referred in s 7(1) that are relevant to the object to which the application relates, and s 10 (6) (b) provides that it has to refuse an export permit

[33] *Protection of Movable Cultural Heritage Act* 1986 (Cth) s 8; s 7 (1) lists categories of objects:

(a) Objects recovered from
  (i) The soil or inland waters of Australia
  (ii) The coastal sea of Australia or the waters above the continental shelf of Australia
  (iii) The seabed or subsoil beneath the sea or waters referred to in subparagraph (ii)
(b) Objects relating to members of the Aboriginal race of Australia and descendants of the indigenous inhabitants of the Torres Strait Islands
(c) Objects of ethnographic art or ethnography
(d) Military objects
(e) Objects of decorative art
(f) Objects of fine art
(g) Objects of scientific or technological interest
(h) Books, records, documents or photographs, graphic, film or television material or sound recordings
(j) Any other prescribed categories (there is no (i))

[34] *Protection of Movable Cultural Heritage Act* 1986 (Cth) s 7 (1).

[35] The Protection of Movable Cultural Heritage Bill 1985 (Cth) *Explanatory Memorandum*, Clause 8: National Cultural Heritage Control List indicated that

> The List will be based on the categories given in clause 7 and will set out for each category those criteria which will be used to determine whether or not an object falling within that category may be judged to be of such importance that its loss would significantly diminish the cultural heritage of Australia.

The Protection of Movable Cultural Heritage Bill 1985 (Cth) *Explanatory Memorandum*, Clause 10: Grant of Permits provided that

> When considering the application, the expert examiner, the Committee and the Minister shall all take into account, amongst other things, the reasons listed in clause 7 which are relevant to the object the subject of the application and whether or not for those reasons as elaborated in the categories and criteria prescribed in the Control List the object is of such importance that its loss will significantly diminish the cultural heritage of Australia.

if it is satisfied that the object is of such importance to Australia, or a part of Australia, for the reasons in s 7 (1) that its loss to Australia would significantly diminish the cultural heritage of Australia. These tests are replete with signification and are built out of a Panofskian model, from the pre-iconographic descriptives of objects and the reasons for their significance to a series of indicia of value and significance through which the iconographic is determined, before the final determination of the iconological in s 10 (6) (b).

But in this case, the tribunal misread this structure and treated the pre-iconographic in an entirely different sphere of analysis from the iconological. It recognised that the value of each Victoria Cross 'entirely transcends its physical manifestation',[36] but that on the basis only of its physical characteristics … there would be no question of withholding an export permit'.[37] Instead, to protect the iconological, it bypassed the object, by creating a different vehicle through which the iconological would be recognised: a separate and distinct 'intangible'.[38] Ignoring what was already contained in the legislation, because it could see nothing there that would allow it to protect a physically valueless object, 'a piece of moulded gunmetal decorated with a ribbon',[39] it misread both object and legislation (Leiboff 2007).

For the tribunal, an object could only have cultural value if it was materially and physically valuable. It could not see value beneath the skin, beneath the veneer of its materiality and corporeality. In its eyes, the medal was an insignificant object made up of gunmetal and a ribbon. Its eye misread the Victoria Cross as having *no* significance because of its material composition, and from there it misread what 'movable cultural heritage' sought to comprehend that it incorporated within it a value other than its material form. So the tribunal dismissed the phrase, the 'movable cultural heritage' as being merely *descriptive* of a physical object. It then had to try to explain why a physically insignificant object could be important, which it did by looking outside this statute in order to determine what was meant by 'cultural heritage' generally. Deciding that it included customs, outlook, religion, folklore, music or history, it conceived that while the VC was physically lacking as movable cultural heritage, the associated accounts and stories related to the VC would be recognised separately, as a discrete intangible:

> [Its] value lies not in its tangible qualities but in its intangible. Its intangible qualities are twofold. The first is its symbolic quality. It symbolises courage, bravery, devotion to duty and self-sacrifice. It is public evidence of the very great value that we as a community place upon these qualities. A VC's intangible quality also lies in its power to direct the community's attention to an event or time in its history. This is a quality shared by objects such as the Old Gum Tree at Glenelg in South Australia and the Dig Tree in New South Wales which is associated with Burke and Wills' last expedition.[40]

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[36] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 295.

[37] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 295.

[38] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 294.

[39] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 295.

[40] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 295–296.

The language of 'quality' used here reinforces the tribunal's reliance on the conventional bifurcated model of reading objects in art law. But its approach helped it deal with another problem – its origins: 'There is thus nothing Australian about its origins or its physical properties. The … medals regarded as Australian have acquired their Australian identity solely through the nationality of their recipients'.[41] Unlike the court in the Australian content case, the tribunal was not shy about making a connection between the object and the person who was able to give the object its meanings, its vibe. The tribunal seemed very pleased with its sophistry, in which this construction, or invention, of the intangible cleared the way to save this object from export.

But the tribunal still had to make a decision about the medals against s 10 (6) (b).[42] Armed with the newly minted 'intangible' and with the characterisation of VCs as unique symbolic objects,[43] the tribunal inevitably concluded that if the medals were to be exported, then they must be regarded as lost to Australia's cultural heritage, as an important or notable signpost to an outstanding Australian action in World War I and a symbol of heroic qualities which were exhibited in that action and which are themselves part of Australia's cultural heritage.[44] Therefore, the decision under review was affirmed.[45]

17.4.4 Retrieving the Pre-iconographic and Iconographic

While the creation of the intangible 'worked' to achieve the outcome that conformed to the iconological, thus protecting the medal, the tribunal made a serious mistake in its interpretation both of the object and the legislation itself. It effectively cleaved the object and its iconology into two separate and distinct modes of reading, divorcing the iconological from the objective correctives found in the pre-iconographic and iconographic.

Yet despite the rupture, the tribunal had relied upon these two other factors throughout their reading of the VC. In terms of the pre-iconographic, the medal itself and the associated material relating to the circumstances surrounding the award of the medal were considered in detail in the judgment. From this point, the iconographic, the world of images, stories and allegories, was replete throughout the judgment. All the elements needed were at play, but because the tribunal could not see the object beyond its literal physical form, it could not bring these facets to play in reading the object. Here, it resulted in an iconological reading of the

[41] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 296.
[42] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 296–297.
[43] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 296–297.
[44] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 297–298.
[45] *Re Truswell and Minister for Communications and the Arts* (1996) 42 ALD 275, 298.

circumstances surrounding the award of the medal in which the tribunal drew on a Weltanschauung that perhaps saw much more in the relationship between war and the actions of its heroes and its relationship with the Australian identity than was actually there to see.

But it is the footprint, or trace of the law left behind by the decision is problematic. By treating the physical object as merely describable fact, it leaves the meanings of the object open for any interpretation at all, leaving a mawing gap to be filled in the juridical-aesthetic state of exception.

17.5 The Archibald Prize

17.5.1 An Artistic State of Exception

The annual Archibald Prize for portraiture awarded by the trustees of the Art Gallery of New South Wales has been the subject of controversies and disputes since it was first awarded in 1921. Most of them have been played out in the public arena, occasionally spilling into the courts, where, as the examples in this part of the chapter show, the judicial eye deploys the juridical-aesthetic state of exception to achieve the desired result by engaging in a strategic act of visual dysphasia. In short, the courts explicitly avoid looking at the images or visuals at all and are thus grounded in an almost 'pre' pre-iconographic, to avoid seeing the obvious state of the images, as a device to protect the integrity of the trustees' aesthetic judgement against the terms of the trust document establishing the prize. In a sense, the prize, its associated competition and the legend of its benefactor are what act as the iconology, and the pictures themselves are almost a sideshow, rather than the main event.

The prize and its stipulations are constituted through the terms of the will of the late Mr J F Archibald.[46] Archibald may well have approved of all the controversy surrounding the award of the prize because he was a controversial character himself. Born in 1850s Victoria, he co-founded the magazine *The Bulletin* in pre-Federation Australian in 1880 in order to advocate for an Australian nationhood, culture and identity in place of the series of separate British colonies located on the Australian continent. But he was inconsistent in the extreme. A champion of a racist white Australia policy through the pages of his publication, John Feltham Archibald, chose to change his name to Jules François, a curious French conceit indeed. His legacy looms large in Australia, and the prize and its reputation are legendary, even

[46] Archibald was interested in art, and he served as a Trustee of the Art Gallery of New South Wales. In 1900, he commissioned a portrait of the poet Henry Lawson and was so pleased with it that he left money in his will for the prize. Art Gallery of New South Wales Archibald. Prize.09, History: Who was JF Archibald? http://www.thearchibaldprize.com.au/history/jf_archibald

among people who have no real interest in visual culture. Winning the prize or having a picture included in the associated exhibition can make an artist's name.

But the legal controversies surrounding the prize are not, ostensibly at least, about art at all (it is claimed) and are instead grounded in the drafting of the terms of the will.[47] Yet it is the character of the visual that is central to the existence of the dispute and the way in which that visual is created fundamental to the interpretation of the text of the will. With its references to 'best', 'portraiture', 'preferentially of some man or woman distinguished in Art Letters Science or Politics', 'painted' and 'picture', the award of the prize to aberrant images have been challenged by adherents of a traditional and conservative portraiture practice, when the prize has been awarded to images that challenge and confront the notion of portraiture, painting, and pictures.

17.5.2 A Human Being Painted by an Artist

The most celebrated (and perhaps most tragic) of the Archibald disputes occurred in 1943 (Eagle undated). The award of the prize to the acclaimed Australian artist, William Dobell of his friend and fellow artist, Joshua Smith,[48] was challenged in court.[49] Smith was disturbed by the representation of him, and he suffered a breakdown as a result of seeing his image as depicted by Dobell.[50] Dobell's health was to suffer as well as a consequence of the legal dispute itself. Joshua Smith is depicted in a nonliteral, mannerist style of a kind made famous by El Greco that Dobell made his own. Joshua Smith is shown with elongated neck and limbs, his

[47] Clause 10 (a) of Archibald's will provides for the award of

> 'an annual prize to be styled 'The Archibald Prize' for the best portrait preferentially of some man or woman distinguished in Art Letters Science or Politics painted by any Artist resident in Australasia during the twelve months preceding the date fixed by the Trustees for sending in the Pictures the Trustees to have the right to exhibit such winning Picture in the said Gallery for a space of not more than two months from the date so fixed. If during any such twelve months no competing picture shall in the opinion of the trustees be painted worthy of being awarded a prize then such income shall be accumulated and invested as hereinafter authorised with liberty to the trustees at any part of such period to purchase by such accumulations or part thereof any portrait that may have won any prize so given such exhibited or purchased prize to bear a label endorsed 'The Archibald Prize'. (Extracted in *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [4])

[48] Australian Government Culture Portal: "The Archibald Prize and Australia's premier art awards" http://www.cultureandrecreation.gov.au/articles/archibald/

[49] *Attorney-General v Trustees of National Art Gallery of NSW* (1944) 62 WN (NSW) 212

[50] Joshua Smith's parents wanted to buy the painting, but Dobell refused to sell it to them as he thought they may destroy it, selling it to Hayward instead. Eagle Joshua Smith himself won the prize the following year: Joshua Smith http://en.wikipedia.org/wiki/Joshua_Smith_(artist)

face gaunt and linear.[51] The style and character of the painting was impugned on the basis that it was not a portrait, but it was, instead, a caricature. The case against the trustees failed, because Roper J would not interfere with their decision because they had not demonstrated any *mala fides* in awarding the prize to Dobell.[52] Despite this, Roper J engaged in an analysis of the image, in order to ascertain if the trustee were correct in their decision that the picture was a portrait:

> The question of whether a particular picture is a portrait … depends on the formation of opinions by the observer to whom it is propounded … before this Court should interfere in the administration of the trust it must be satisfied that *as a matter of objective fact and not of mere opinion the picture is not a portrait*, so that the opinion formed by the trustees to the contrary is founded upon a wrong basis of fact and is not truly an opinion upon the question to which the minds of the trustees should have been directed. If this is the proper test, as I think it is, it is not necessary to interpret the word portrait in order to come to the conclusion that the suit fails; because the evidence is overwhelming, in my opinion, that at least there is a proper basis for forming an intelligent opinion that the picture in question is a portrait.[53] (emphasis added)

This passage reveals that Roper J shifted his gaze to interrogate the notion of *portrait* as 'fact' rather as 'opinion', a device that allowed him to avoid considering whether Dobell's elongated visual style would be open to a challenge on the basis that the image was not a portrait. By shifting the judicial eye away from *style* to one grounded in a literal meaning of portrait as an image of 'a human being and painted by an artist',[54] the court neatly avoided the problem of 'style', and the decision of the trustees vouchsafed. In short, the painting merely had to be 'a pictorial representation of a person, painted by an artist. This definition connotes that some degree of likeness is essential, and for the purpose of achieving it, the inclusion of the face of the subject is desirable and perhaps also essential'.[55] So if that bare minimum were achieved, then the picture would be a portrait, even if it might have fitted into another genre or type of painting such as the type proposed by the relators in the case, as a caricature or fantasy. In a final opinion on the character of the picture, he noted:

> Finally I think that it is necessary to state my opinion on the claim that the picture cannot be included as a portrait because it is proper to classify it in another realm of art … that would only establish to my mind that the fields are not mutually exclusive, because in my opinion it is in any event properly classed as a portrait.[56]

In a set of reasons replete with 'opinions', Roper J seemed to disown the criticism that he was engaged in aesthetic decision-making or intrusion into the realm

[51] In a coda that seems almost impossible to credit, in 1958 the picture was burnt in a fire at the home of its owner. In 1969, it was poorly restored and was effectively disowned by Dobell. Images of the restored painting and its state after the fire can be seen at Archibald Controversy Painting http://www.artquotes.net/masters/william-dobell/portrait-of-an-artist.htm

[52] *Attorney-General v Trustees of National Art Gallery of NSW* (1944) 62 WN (NSW) 212, 214.

[53] *Attorney-General v Trustees of National Art Gallery of NSW* (1944) 62 WN (NSW) 212, 214.

[54] *Attorney-General v Trustees of National Art Gallery of NSW* (1944) 62 WN (NSW) 212, 215.

[55] *Attorney-General v Trustees of National Art Gallery of NSW* (1944) 62 WN (NSW) 212, 215.

[56] *Attorney-General v Trustees of National Art Gallery of NSW* (1944) 62 WN (NSW) 212, 215.

of art. But though he used the word 'opinion' on numerous occasions, he had not engaged in any opinion-making at all that would, to his mind, constitute aesthetic decision-making. By simply treating the image as a fact – a human being painted by an artist that bore some resemblance to that person – Roper J read the image to identify a known human, an exercise within conventional legal analysis of 'fact finding'. In doing so, whether he meant to do so or not, he engaged in one aspect of Panofsky's tripartite system, namely, the pre-iconographic practice of identification of the image, leaving its meaning and value open to radical interpretations that are the stuff of the juridical-aesthetic state of exception.

17.5.3 It Is Hard to Think How It Could Be Otherwise

While the interpretative openness of the juridical-aesthetic state of exception was used in the Dobell case to achieve the desired outcome, the most recent Archibald Prize dispute some 60 years later is an exemplary rendering of its use, in which images are construed as textually impotent to achieve the desired legal outcome. In 2004, the award of the prize by the trustees was impugned by a rival artist who asserted that the portrait had not been 'painted' as required under the terms of the prize trust. The winning portrait by artist Craig Ruddy of the indigenous actor David Gulpilil was created from a mass of lines, which appeared to have been 'drawn' rather than 'painted'.[57] Relying on the reasoning in the Dobell case,[58] Hamilton J found that the trustees had awarded the prize to a portrait that had been 'painted'. There were no grounds on which to find that they had not properly exercised their duties, so the prize could not be interfered with.[59]

While reaching the same conclusion as Roper J, Hamilton J radically avoided entering into a reading of the visual in order to do so. This time, the case centred on the techniques and media used to create the portrait, and not the mode of representation concerned. And because of this, it seems, Hamilton J felt obliged to observe that 'The Court is in no way concerned with the merits of the portrait … The sole issue for the Court as a court of equity is whether the award was in breach of the terms of the charitable trust in the execution of which the first defendant awarded the prize'.[60] I suspect he realised that there was more to visual than the judgment could bear to see, because the technique used to create it was that of 'drawing', making it impossible for the image to be read in Roper J's terms, as 'human being

[57] The image may be seen at Australian Government Culture Portal: The Archibald Prize and Australia's premier art awards http://www.cultureandrecreation.gov.au/articles/archibald/

[58] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [20].

[59] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [31].

[60] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [3].

painted by an artist'. If he had looked too closely, he could only have decided the image was drawn, and not painted. Thus, in an extraordinary interpretative gesture at the conclusion of the judgment, Hamilton J demurred from making any finding of fact about the visual at all:

> I do not intend to proceed to a judicial finding of fact as to whether or not the work is 'painted'. I have already commented that there is a certain appearance of strangeness in courts making determinations concerning the qualities of works of art. That matter is better left to those involved in the art world … or, for that matter to any 'intelligent' viewer, using the word 'intelligent' in the manner in which it was employed by Roper J. Since a judicial finding on this subject matter is not necessary for the determination of the proceedings, I think it better not made.[61]

But throughout the judgment, Hamilton J had to consider what was obvious to anyone looking at the image. Accepting the position of the (losing) plaintiffs and Roper J that '"painted" conveys the meaning that the portrait must be a painting, not a work made by some other means',[62] Hamilton J took 'into account the impression the portrait creates on the viewer' to decide that he really could not decide if this was a painting or a drawing:[63]

> minds may well differ as to whether, if the picture must be placed in a single category, that category should be "painting" or "drawing". But, in view of those matters, I find it impossible on any objective basis to exclude the portrait from the category of a work which has been "painted", which is the real issue here … whichever characterisation was made, it was a matter of judgment or opinion.[64]

The impression, of course, is that the painting's 'vibe', its feeling, is that of a painting. But facing the facts that he decided not to find, there is no question that Hamilton J would have had to have seen a drawing. So he radically avoided looking at the image at all, other than listing and describing a preponderance of elements that constituted the contents of the canvas – how could tangled hair be represented other than the ideation of lines – leaving an impression that he had seen what to his eyes was very much a drawing:

> The portrait depicts Mr Gulpilil's head, shoulders and upper torso. It appears, from the evidence, that Mr Gulpilil has a mass of tangled hair. This is represented in the portrait by a mass of lines. It is hard to think how it could be otherwise. Close examination of the portrait shows the presence of many lines, some appearing almost as line on line, as has been said, in the depiction of Mr Gulpilil's face and body. On the other hand, there are present in the face and parts of the body substantial areas which appear as solid masses of black. The portrait is supported upon wallpaper, which appears to have a yellow pattern on a light background. Despite this colouring in the wallpaper, the principal impression of the portrait is that it is in black or shades of grey.[65]

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[61] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [32].

[62] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [25].

[63] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [29].

[64] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [29]–[30].

[65] *Johansen v Art Gallery of NSW Trust* [2006] NSWSC 577 [6].

Hamilton J chose to avoid Panofsky's pre-iconographic phase by electing *not* to read the primary or natural subject matter of the visual, instead only seeing lines and impressions on a canvas. Those lines and impressions were dangerous to the interpretation of the law under consideration, for these would take the image into the realm of drawing and not painting, thus leaving the award of the prize invalid and void. But this reading of the lines without more is, in Panofsky's schema (and in the terms of the will), a nonsense, for no image, no portrait that is painted is comprised of its elements at the expense of the whole. The reliance on the *indicia certa*, the lines and methods used to create the image, meant that Hamilton J was painted into a corner, as it were, leaving the image disassembled into its elemental parts which could not be retrieved. If on the other hand the Panofskian schema were employed, the court would have seen much more than lines on a canvas, and it would have been able to read the visual intuitively. Even though a synthetic intuition, Panofsky's iconological approach would require a court to see what was actually there to be seen as a whole. But this would require an acceptance that law's reliance on and belief in the clarity provided by the verifiable and identifiable is more radically uncertain, nihilistic even, that the visual as vibe. Instead, Hamilton J radically sees nothing, resulting in a paradoxical visual nihilism, by preferring the iconology of the law as a precise and perfected form of viewing the image instead of accepting the iconography or iconology of the visual or the image.

17.6 Conclusion

This aporetic gesture by Hamilton J is an application of the juridical-aesthetic state of exception in its archest form, in which *everything* that is visible to the eye is invisible to the court, in order to achieve the desired legal outcome in the case that the decision of the trustees should not be interfered with. But this process of avoidance shows that it is impossible for law to do what it claims, and not engage with the visual, as law must read the images given to it to interpret and consider. It is a mere empty gesture to suggest that law leaves the reading and interpreting of visuals and images to others. But even if the courts were to be convinced that guidance from interpretative schemas, such as Panofsky's, would assist them in the process of dealing with the visuals and images that so vex them, they would find ways to avoid its tests and techniques, because it is just so legally useful to pick and choose from the mass of elements and stories that sit in and around canvases, lyrics, music and film, instead of accepting the potentially truth claims that are located in the vibe. So I suspect that the courts would always find a way to occlude what they did not want to see and see what they want, leaving visuals and images in a perpetual *legal* state of exception. Do you see what I see?

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Chapter 18
The Iconography of the Giving of the Law: A Semiotic Overview

Massimo Leone

Abstract Biblical passages that narrate how the Tables of the Law were transmitted from God to the people of Israel have been the object of many interpretations, both in Jewish commentaries, Christian exegeses, and secular analyses. A semiotic ambiguity characterizes these passages: on the one hand, Moses is described as the one who transmits to the people of Israel a normative message written directly by God; on the other hand, he is described as the one who transcribes for the people of Israel a normative message that God has transmitted to him orally. Interpretations emphasize either the former or the latter version, with important consequences for the way in which the semiotic status of the Tables of the Law is imagined: sculpted directly by God or carved by human hand, a written message from God or a 'divine dictation' from God to Moses. Furthermore, Christian interpretations of such ambiguity play a fundamental role in the way Christianity proposes itself as an alternative to Judaism: a religion where the Law is written on hearts versus a religion where the Law is written on stone.

From the first centuries CE on, both Jewish and Christian images have represented the Biblical passages mentioned above, but it would be superficial to consider these visual representations as mere illustrations of the Biblical text and its commentaries. On the contrary, in many cases images too work as commentaries, proposing their own interpretation about the semiotic status of the Law. For once, it is not verbal language that develops a metadiscourse on images, but images that embody a visual metalanguage on words (although this visual metadiscourse, in turn, needs the verbal metadiscourse of semiotics in order to be analyzed and interpreted). The chapter proposes a survey of these visual commentaries on the key Biblical episode of the Giving of the Law, from the frescos on the walls of the synagogue of Dura-Europos to Chagall.

M. Leone (✉)
Department of Philosophy, University of Turin, Turin, Italy
e-mail: massimo.leone@unito.it

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18.1 Introduction

The Biblical passages that narrate how the Tables of the Law were transmitted from God to the people of Israel have been the object of many interpretations, both in Jewish commentaries, in Christian exegeses, and in secular analyses. A semiotic ambiguity characterizes these passages. On the one hand, Moses is described as the one who transmits to the people of Israel a normative message written directly by God; on the other hand, he is described as the one who transcribes for the people of Israel a normative message that God has transmitted to him orally (Leone 2001). Interpretations emphasize either the former or the latter version, with important consequences for the way in which the semiotic status of the Tables of the Law is imagined: Is it sculpted directly by God or carved by human hand? Is it a written message from God or a 'divine dictation' from God to Moses? Furthermore, Christian interpretations of such ambiguity play a fundamental role in the way in which Christianity proposes itself as an alternative to Judaism: a religion where the Law is written on hearts versus a religion where the Law is written on stone (Leone 2000).

Starting from the first centuries CE, both Jewish and Christian images have represented the Biblical passages mentioned above. Yet, it would be superficial to consider these visual representations as mere illustrations of the Biblical text and its commentaries. In many cases, images too work as commentaries, proposing their own interpretation of the semiotic status of the Law. For once, it is not the verbal language that develops a metadiscourse on images, but images that embody a visual metalanguage on words (although this visual metadiscourse, in its turn, needs the verbal metadiscourse of semiotics in order to be analyzed and interpreted).

As regards Jewish visual representations of the Giving of the Law, they face the paradox of depicting an episode that is probably the most central Biblical reference for the characteristic 'aniconicity' of Judaism: How can some Jewish images represent this episode, given its narrative proximity with the episode of the Golden Calf and the consequent interdiction of any idolatrous image?

As regards Christian visual representations of the Giving of the Law, they face the opposite challenge of legitimizing such transposition from the written text to its depiction. In the patristic typological exegesis of the Giving of the Law, this Biblical episode is turned into a figure—a prefiguration—of both the advent of Christianity (the Law carved on stone will be replaced by the Law instilled in hearts) and the so-called *traditio legis*, the transmission of the religious jurisdiction over the Christian Church from Jesus to Peter (Moses then becoming a typological prefiguration of Peter). As a consequence, Christian images (figures) seek to reveal, through their visual language, this relation between the Biblical episode of the Giving of the Law in the Old Testament and what it signifies in relation to the 'New Testament.' However, Christian visual representations of the Giving of the Law often propose their own interpretations, which contradict the main trends of Christian exegesis.

The Judeo-Christian iconography of the Giving of the Law is old, abundant, and complicated. The following sections will propose a general overview and dwell on the most significant visual representations of this theme.

18.2 The Early Jewish Iconography: Dura-Europos

One of the first known visual representations of the Giving of the Law is in the cycle of frescos depicting Biblical episodes that decorated the third-century synagogue of Dura-Europos (currently in the Damascus National Museum), located near what is today the village of Salhiyé, Syria (Rostovtzeff 1932, 1938; Sonne 1947; Goodenough 1953–1968, 11: 3; Perkins 1973; Kraeling 1979). The second wall of the synagogue was decorated with an image of Moses on the Sinai. Unfortunately, the upper part of the fresco is missing. Moses' legs and a fragment of one of the Tables are visible, but the precise postures, gestures, and movements involved in the Giving of the Law are not.

The following fresco in the cycle, which decorated the third wall of the synagogue, represents Moses reading the Law for the people of Israel. To most regards, this last image can be considered as denying the idea of any direct communication between God and the people of Israel. The role of Moses as a mediator is strongly emphasized. He is depicted while he reads and, maybe, also interprets for the people of Israel the Law that God dictated to him. Furthermore, the Law is not represented as a series of characters sculpted on stone by 'the finger of God,' but as a series of lines written on papyrus or parchment, as a 'humanized' script. The Jewish religious doctrine of a divine writing is therefore contradicted, or at least downplayed, by an image depicting the human practice of reading.

And yet, this interpretation is uncertain. The frescos of Dura-Europos have triggered a debate developing on several levels. At the central level of methodology, interpreters of these Jewish frescos have been confronted with the key problem of all interpretations of Biblical images: Should visual representations be 'read' through the written text, or should images be considered as an autonomous interpretation, beyond the written text? Two scholars, both prominent in the literature about the depictions of Dura-Europos, answered this question in opposite ways.

Carl H. Kraeling, the archeologist who led the team that 'discovered' Dura-Europos, in *The Synagogue*, which is the final report of research conducted on the site by the joint archeological mission of Yale University and the French Academy, seems to interpret the frescos as a visual representation that does not contradict the Bible and the early Jewish religious literature (Kraeling 1979). Kraeling does not deny the exegetical value of the frescos of the synagogue of Dura-Europos but believes that they do not challenge the established knowledge about the early history of the religion of Israel. According to Kraeling, these images belong to an old tradition and have their origin in illustrations that can be found in mostly propagandistic works of Jewish religious literature in the Hellenistic era.

On the contrary, Goodenough, who wrote a monumental work on Jewish symbols, and devoted three volumes exclusively to the synagogue of Dura-Europos, holds a different opinion: images must be interpreted with reference to their independent and specific meaning, beyond the meaning that they receive from verbal texts:

> That these artifacts are unrelated to proof texts is a statement which one can no more make at the outset than one can begin with the assumption of most of my predecessors, that if the symbols had meaning for Jews, that meaning must be found by correlating them with Talmudic and biblical phrases. (Goodenough 1953–1968, 4: 10)

On the basis of these methodological stands, Kraeling and Goodenough propose different interpretations of the role of the frescos of Dura-Europos in relation with the early Jewish religious culture. According to Kraeling, these images can be easily integrated in the religious culture of early Judaism:

> If our understanding of the pictures is correct, they reveal on the part of those who commissioned them an intense, well-informed devotion to the established traditions of Judaism, close contact with both the Palestinian and the Babylonian centers of Jewish religious thought, and a very real understanding of the peculiar problems and needs of a community living in a strongly competitive religious environment, and in an exposed political position. (Kraeling 1979, 353)

Goodenough, on the contrary, situates these frescos outside of the orthodoxy of the early Jewish religious tradition:

> While the theme of the synagogue as a whole might be called the celebration of the glory and power of Judaism and its God, and was conceived and planned by men intensely loyal to the Torah, those people who designed it did not understand the Torah as did the rabbis in general. Scraps stand here which also appear in rabbinic haggadah, to be sure […] But in general the artist seems to have chosen Biblical scenes not to represent them but, by allegorizing them, to make them say much not remotely implicit in the texts […] The Jews here, while utterly devoted to their traditions and Torah, had to express what this meant to them in a building designed to copy the inner shrine of a pagan temple, filled with images of human beings and Greek and Iranian divinities, and carefully designed to interpret the Torah in a way profoundly mystical. (Goodenough 1953–1968, 10: 206)

Any semiotic interpretation of the way in which the Giving of the Law is visually represented in the frescos of the synagogue of Dura-Europos must take the same dilemma into account. On the one hand, the image of Moses reading the Law can be interpreted with reference to Kraeling's perspective. Hence, it would not be a visual representation downplaying the early Jewish tradition of the divine origin of the Law but a simply descriptive image where Moses is depicted while reading and interpreting for the people of Israel the Law that he has received from God. Moreover, the fact that the Law appears not as carved on stone but as written on papyrus or parchment would not strange. It would be nothing but a visual reference to the Jewish idea of the possibility of producing human replicas of the divine message in keeping with rules that are thoroughly described in the Deuteronomy.

On the other hand, according to Goodenough's perspective, this image of Moses is 'revolutionary': first, because it gives an iconic shape to the very moment when the interdiction of an iconic shape is solemnly established and, second, because it hints at the human nature of the Law, represented as written on a scroll that Moses calmly unrolls in his hands.

It is impossible to choose between Kraeling and Goodenough. The dilemma must remain unresolved. Images reject a definitive interpretation and open a gap of ambiguity between the verbal text and its visual rendition. However, if one accepts the hypothesis that the frescos in the synagogue of Dura-Europos constitute a visual semiotic system, then it is important to point out the following difference: the fragment of fresco representing Moses on the Sinai contains a depiction of the stone Tables, whereas in the following fresco Moses is reading from a scroll of papyrus or

parchment. This visual difference seems to suggest a semantic difference between the Commandments, carved on stone, and the Law, written on other materials. The former is written directly by God, while the latter is the object of a tradition requiring a human activity.

The two poles of this visual and semantic difference characterize, in increasingly complex ways, all the following iconography of the Giving of the Law.

18.3 The Early Christian Iconography

Scholars have been expressing diverging opinions as regards the influence of the frescos of the synagogue of Dura-Europos on the early Christian iconography. There is convincing evidence that this influence was minimal (Gutmann 1988). However, Goodenough's thesis according to which early Christian iconography was strongly influenced by early Jewish iconography is also persuasive:

> A very small amount of investigation showed that Christian art had not begun with representations of the Christian message directly. The mosaic designs in Santa Maria Maggiore, which represented scenes from the Old Testament, for example, appeared to be older than those which represented specifically Christian scenes or figures. (Goodenough 1953–1968, 1: 26)

Goodenough rejects the hypothesis of an autopoiesis of the Christian imagery. According to him, Christian visual representations do not originate in the aniconic desert of Judaism but in relation to the vast quantity of visual material provided by the early Jewish iconography. It is in the framework of the typological relation between the Christian and the Jewish early iconographies that depictions of the Giving of the Law in the Roman catacombs must be interpreted.

In the Roman catacombs, the Giving of the Law is visually represented 15 times (Fiocchi Nicolai 1998). A typological reading would immediately suggest a comparison between the depiction of Moses and that of Jesus in the same context: just as Jesus is the Logos of the 'New Testament,' Moses, who is the agent of the Logos in the 'Old Testament,' appears in the catacombs as Jesus' prefiguration. However, if Jesus is undoubtedly the agent of "the writing of the Law on human hearts" (the writing that Paul celebrates in his exegesis), then the agent of the writing of the Law on stone (that of the 'Old Testament,' according to the Christian point of view) is an enigma: the parallel between Jesus and Moses falls short of taking into account the difference between the human nature of the former and the divine/human nature of the latter. And the question remains: Does Moses in the catacombs receive the Law directly by God, the real agent of its writing?

The iconography of the Giving of the Law in Christian images of the first centuries seems to embrace the interpretation that the Law is directly transmitted from the finger of God to the hand of Moses. However, an important change in the iconography of Moses takes place from the fourth century on. Inspired by coeval exegeses, Christian images begin to represent Moses, no longer as the prefiguration of Jesus, but as the prefiguration of Peter (Wilpert 1903). In relieves of sarcophagi (120 times)

(Benoît 1954), funerary paintings (26 times), glass decorations (4 times), and also on a brass lamp (Florence, Archeological Museum), Peter is represented through a typical Mosaic iconography: he hits a rock with a stick, and water miraculously springs out.

In the fifth century, influenced by Augustine's typological reading of Moses, the Christian iconography systematically represents Peter as Moses. However, Peter becomes the protagonist of a new iconographic theme, the *traditio legis*, where Jesus gives the Law to him (Vieillard 1929, 6; Gerke 1932; Cecchelli 1937). Probably inspired by a lost mosaic that used to decorate the church of Saint Peter in Rome—first reproduced in a little apse in the church of Saint Constance (third century) and subsequently in the sarcophagus of Saint Sebastian (370 circa)—from the fifth century on, this iconography becomes quite common, often accompanied by the caption: *dominus legem dat*, "the Lord gives the Law."

This iconographic theme is central in relation to a semiotic history of the depictions of the Giving of the Law. Whereas the early Jewish literature insists on the exclusively divine origin of the Law (maybe with the only exception of the frescos of the synagogue of Dura-Europos), the early Christian iconography absorbs this interpretation but adapts it to the relation between Jesus and Peter. The Law is still written by a divine agent (albeit under a human guise), but it is given to Peter, founder of the Catholic Church. The effects of this parallel on the visual legitimization of the Church as an institution are difficult to overestimate.

Furthermore, writing is still the medium chosen by God, and by Jesus, to communicate the Law, but the Tables of stone disappear from the iconography of the *traditio legis*: the transition from the Law of the 'Old Testament' to that of the 'New Testament' is visually embodied by the passage from stone to parchment. The early Christian iconography of Moses also manifests the same passage (see, for instance, the visual representation of some episodes from the life of Moses in the wooden relieves of the gates of the Roman Basilica of Saint Sabine, fifth century [Wiegand 1900]).

18.4 The Christian Iconography in the Middle Ages

The Ashburnham Pentateuch (seventh century, Paris, National Library, nouv. acq. lat. 2334) depicts the Giving of the Law with new features. The image of this Biblical episode is juxtaposed with the visual representation of the Giving of the Law from Moses to the people of Israel. The Tables, which are completely absent in the first scene, are perfectly visible in the second. Hence, this new iconography represents Moses' mediation between God and human beings, but simultaneously rules out any direct intervention of Moses on the text of the Law. As soon as the Tables are given to him, they disappear in order to subsequently reappear before the assembly of the people of Israel. The same visual

composition characterizes also some later medieval depictions of the Giving of the Law, for instance, those of two twelfth-century manuscript Bibles executed in Tour.

In this new iconography, the support of the divine writing changes again. The Law is neither carved on stone nor written on papyrus or parchment scrolls but on a support that looks like a volume. This passage from the Tables of stones to the scroll of papyrus and consequently to the volume of parchment is a result of the technical evolution of human writing, but it also embodies an evident semantic transition between different conceptions of the divine/human origin of the Law and of the permanence/impermanence of its message.

A seventh-century stone carving from Constantinople clearly shows Moses as he receives the Law from the hand of God. Even though coeval Biblical commentaries usually adhere to Augustine's exegesis of this Biblical episode (Leone 2001), depictions often represent the communication of the Law as unidirectional, where human beings are totally passive in receiving the Divine writing. Thus, images contradict the Biblical narration and contribute to the shaping of the idea of a divine writing of the Law: when God decides to communicate with human beings, he adopts their own instruments. However, in the Constantinople carving, the distinction that the early Jewish iconography usually maintained between the writing of the Law and that of the Decalogue is obliterated. The support of the writing of the former becomes the form of the writing of the latter.[1] Therefore, images attribute to the writing of scribes the same status of the divine writing.

In the ninth century, the iconography of the Ashburnham Pentateuch is still predominant, but with a significant difference. In a miniature of the Grandval Bible (834–843 circa, London, British Museum), for instance, the writing of the Law is present in the upper part of the image (transmission between God and Moses) as well as in the lower part (transmission between Moses and the people of Israel). The Giving of the Law therefore assumes a vertical structure, but simultaneously Moses becomes more and more the protagonist of the institution of the divine Law among human beings.

The Carolingian Bibles of Charles the Bold (National Library) and Louis the Fat (Basilica of Saint Paul outside the walls) show a similar visual structure. The Bible of Alcuin at the British Museum also depicts the Giving of the Law by an image divided into two parts: the first occupied by God and Moses, the second by Moses and its people.

An exception to this medieval visual structure is represented by a later Spanish-Jewish manuscript (fourteenth century, Sarajevo Haggadah, currently at the Museum of Sarajevo). The composition is still predominantly vertical, but God disappears from the image. Not even His hand is visible. However, the context that this image was supposed to illustrate might explain this exception: not a Bible, but a "haggadah," an anthology of mostly apocryphal stories related to the Biblical narration (Derenbourg 1898).

[1] See Ginzberg (1998, 3: 119) that mentions the Jewish legend according to which it would be possible to roll the Tables of stone like a parchment scroll.

18.5 The Christian Iconography in the Renaissance

In the fifteenth century, the Christian iconography of the Giving of the Law was strongly influenced by Lorenzo Ghiberti's visual representation of it in the decorative plaques of the *Gates of Paradise* for the Baptistery of Saint John in Florence. Commissioned on January 2, 1425, the plaques were installed, 27 years later, on the door of the baptistery facing the cathedral (Paulucci 1996, 124–126). This iconographic invention was influenced, in turn, by the new fifteenth-century Florentine taste for Biblical scholarship. One of the most acclaimed interpreters of Ghiberti's *Gates of Paradise*, Richard Krautheimer, suggests that the iconography of the Giving of the Law was inspired, particular, by the fifteenth-century Florentine literate Leonardo Bruni: "The Giving of the Law is presented just as he proposed it, with the sound of trumpets (*buccina suonante*), corresponding to the description in Exodus 20:18" (Krautheimer 1956, 170–171). Furthermore, Krautheimer stresses the dependence of the new iconography elaborated by Ghiberti on the prominence of Ambrose's exegesis among fifteenth-century Florentine literates:

> The very simplicity of the scheme of the Gates of Paradise suggests a new and different exegetic approach. In opposition to the scholastic approach of the Middle Ages, which ultimately stems from Saint Augustine, this simplicity of symbolism is much closer to the writings of Saint Ambrose. Such a direct approach as the program of the Gates of Paradise brings to mind patristic, rather than scholastic writings.
> Patristic, not medieval, ideas do, indeed, underlie the entire final plan of the Gates of Paradise. (ibidem)

Krautheimer claims that Ghiberti was influenced by Ambrose's Biblical exegesis through the fifteenth-century Florentine humanist Ambrogio Traversari, whose personal library contained "a complete collection of the Latin *patres*: 49 volumes of Saint-Augustine, 17 of Saint Jerome, 9 of Saint Ambrose, 20 of Saint Hilarius" (ibidem). According to Krautheimer, there is strong correspondence between the way in which Ambrose interpreted the Bible and the way in which Ghiberti depicted it:

> In the history of scriptural exegesis Saint Ambrose had been first and foremost in working out a comprehensive and intelligible outline of the whole Bible. His allegorical commentaries on the Old Testament show his method. *Hexaëmeron* in six books and *De Paradiso* concern the Creation. They are followed by *De Cain et Abel* in two books, *De Noe et Arca* in one book, and *De Abraham* in two books. *De Isaac et anima* and *De bono mortis* treat the story of Isaac and Rebecca, and *De fuga sæculi* and *De Jacob et vita beata* that of Jacob. *De Joseph patriarcha* concludes the series.
> By and large, then, the division of Ambrose's treatise into chapters corresponds to the layout of the first six relieves of the Gates of Paradise in which are represented the stories of the Creation, Cain and Abel, Noah, Abraham, Isaac and Jacob, and Joseph. (ibidem, 175–176)

However, Krautheimer's hypothesis seems to excessively downplay the importance of Augustine's Biblical exegesis in fifteenth-century Florentine scholarship, which is evident also in the composition of Ambrogio Traversari's library. In the specific case of Ghiberti's iconography of the Giving of the Law, Ambrose could

Fig. 18.1 Lorenzo Ghiberti. 1425–1452. *Moses receives the Tables of the Law* (Bronze panel n. 8 from the "Gates of Paradise," Florence, Baptistery of Saint John (East door). Currently at the Museo dell'Opera del Duomo, Florence)

hardly replace Augustine as an exegetical source of the visual representation, since the bishop of Milan devotes little consideration to this Biblical episode in his writings (Leone 2001). On the contrary, it seems quite evident that Ghiberti and his intellectual entourage were still, at least as far as this specific plaque is concerned, under the influence of Augustine. A semiotic analysis of this image will corroborate this hypothesis (Fig. 18.1[2]).

On the one hand, Ghiberti's Giving of the Law contradicts the Biblical text by eliminating the scriptural ambiguity that the Fathers of the Church were confronted with. In Ghiberti's iconography, the Law is only one, and God writes it and gives it to Moses. There is no human contribution to this transmission. The image works as an agent of simplification of the exegetical doctrine, since it cannot visually transpose all the interpretative nuances that characterize the exegesis of this episode.

On the other hand, scholars' contribution to Ghiberti's iconography is evident in the way in which some of these nuances are visually translated by certain details in the visual composition. For example, the posture of the arms of both God and Moses is quite significant. The two Tables do not look as joint, as in the previous iconography, but separated and even at a certain distance from each other. God's deictic gestures emphasize this separation. The first Table is vertically presented to Moses

[2] All figures are partial reproductions for scientific purposes only.

by God's left hand, whereas the second Table is horizontally placed by God's right hand into Moses' left hand. Such composition of the visual scene is not fortuitous but probably refers to the exegesis of the Biblical episode that Augustine proposes in the *Quaestiones*, largely followed by medieval and early modern interpreters (Leone 2001): one of the two Tables regulates the relation between God and human beings, while the other regulates the relation among human beings. Thus, there are two Laws that are transmitted from God to Moses and from Moses to the people of Israel, not one.

The post-Ghibertian iconography of the Giving of the Law adopts the exegetical simplification of the image by often representing the Biblical episode as isolated, as *una tantum*. The Biblical episodes of the broken Tables and of the second Giving of the Law are often neglected, and the Deuteronomy is usually excluded from the iconographic project. Insofar as the image is obliged to represent instants, the process of the Giving of the Law becomes *momentum* in its iconography.

The entire fifteenth century is dominated by the iconographic invention of Ghiberti, subsequently adopted by Cosimo Rosselli in the frescos of the Sistine Chapel (1481–1483). However, the Spanish altarpiece of Ona constitutes a remarkable exception to this iconographic trend: God appears as a personal agent, and instead of giving the Tables with the Law carved in them to Moses, He dictates the Law to him, who writes it down on a diptych with a pen. Such peculiar iconography is probably influenced by the Augustinian exegesis of this Biblical episode through the commentaries of Isidore of Seville, as well as by the Spanish iconography of Saint John at Pathmos.

Fifteenth-century Flemish Biblical illustrations of the Giving of the Law hardly ever follow the example of coeval Renaissance depictions, but adopt a more conservative iconography. In the De Keyser Bible, for instance, printed by Merten de Keyser in Antwerp in 1530, Moses receives from God two Tables of stone. The horns on the head of Moses, consequence of an erroneous translation from Hebrew ("horned" instead of "beaming"), become a recurrent iconographic attribute (which appear, for instance, even in Michelangelo) and signal an emphasis on the depiction of the second Tables of the Law, after the Biblical episode of the Golden Calf. However, such iconography is mostly modeled after earlier representations (Baudrier 1964–1965, 12: 347–8, 351, 357–8):

> There are some free-style imitations of the woodcuts made by Erhard Schön, Hans Springinklee and several anonymous artists for the *Biblia cum concordantiis Veteris et Novi Testamenti*, which was printed and published from 1518 onward by Jacob Sacon in Lyons though financed by Anton Koberger of Nuremberg. (Rosier and Bart 1997, 1: 19)

18.6 The Christian Iconography in the Early Modern Period

In the sixteenth century, Giulio Romano replaced Ghiberti as the main source of visual representations of the Giving of the Law. Romano's depiction of the Biblical episode in the *Vatican Logge*, whose authorship has been confirmed by most art historians (Hartt 1981: 28), tends to depict the writing of the Law as an

exclusively divine activity, in line with the most prominent exegetical tradition of the time.

Giulio Romano's frescos also inspired the sixteenth-century Flemish tapestries representing the Giving of the Law. Ferrante Gonzaga's tapestries, for instance, woven by the workshop of Dermoyen in Brussels between 1545 and 1550, represented certain episodes of Moses' life after the model of the Vatican *Logge* (the series has been lost entirely, with the exception of an element now at the Museum of Historical Monuments at Châteaudun). Early modern tapestries usually follow the coeval pictorial iconography of this Biblical episode, with some exceptions: a tapestry made in Brussels around 1550, now at the Museum of Vienna, represents Prometheus as a 'pagan' prefiguration of Moses, according to the cultural trend of Christian 'moralization' of the Greek and Latin mythology, quite common in the sixteenth and the seventeenth centuries. As Prometheus stole fire from the pagan Gods, so Moses 'stole' the Law from the Biblical God. The parallel evidently suggests an active human participation in the passage of the Law from God to human beings, in keeping with the cultural and ideological episteme of Renaissance humanism. Other sixteenth-century tapestries, instead, suggest a more orthodox comparison between the Giving of the Law in the 'Old Testament' and the evangelical episode of the Pentecost in the 'new one' (see, for instance, the tapestries of La Chaise-Dieu, fabricated around 1518).

In the seventeenth century, the popularity of the life of Moses, in general, and of the Giving of the Law, in particular, as iconographic theme for tapestries is attested by a cycle modeled after Charles Poerson (before 1663) and by the Gobelins tapestries modeled after Poussin and Le Brun (1683–1684) (Delmarchel 1999, 323). The trend of composing the iconography of these tapestries following those of famous pictorial representations continues throughout the eighteenth century, but usually with the mediation of tapestries fabricated in the previous century (for instance, the *Life of Moses* woven by van der Borcht's workshop in 1730, inspired by the Gobelins series).

18.7 The Christian Iconography in the Modern Era

In the eighteenth century, a new parallel enriches the already complex metaphoric history of the iconography of the Giving of the Law. Moses is no longer compared to Jesus, or Peter, or Prometheus, or the Apostles in the day of the Pentecost, but to Saint Marc the Evangelist. An illustrated in-folio English version of the Bible printed in Oxford in 1723 by John Baskett, "Printer to the King's Most Excellent Majesty," avoids depicting the Giving of the Law but includes an engraving that represents Moses while descending from the Sinai with the written Tables. The agency of the writing of the Law is not explicitly represented, but it is implied through the visual parallel between the main scene and a secondary scene below it, which is a visual representation of Saint Marc writing his Gospel. The new parallel suggests that the Law of the 'Old Testament,' carved on stone during a mysterious

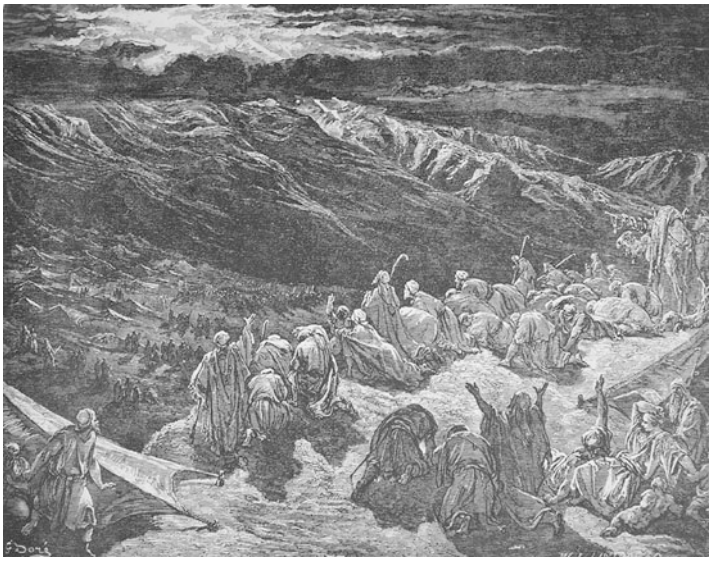

Fig. 18.2 Gustave Doré. 1866. *Moses receives the Tables of the Law* (Cupper engraving from *La Sainte Bible selon la Vulgate*, 2 vols, French Trans. J.-J. Bourassé. Tours: A. Mame et fils, in-folio)

moment of communication between God and Moses, is superseded by the Law of the 'New Testament,' whose human origin is clearly recognizable not only in the Evangelists, but also in the incarnated divinity of Jesus. The Law carved on stone Tables, as Saint Paul suggested in his interpretation, is replaced by the Law written on human hearts.

However, the more traditional iconography of the Giving of the Law, meant as a transmission of the divine writing to Moses, does not disappear in the modern era. On the contrary, the *Illustrations of the New Testament by Westall and Martin, with description by the Reverend Hobert Counter*, published in London by Edward Churton in 1836, represent Moses reaching his hands out to God in order to receive the Law. In his commentary to the engraving, Hobert Counter writes:

> From the summit of this holy hill the Deity proclaimed in an audible voice the terms of the covenant which he made with his chosen people, together with the precepts of the moral law; and when this was done, he delivered to his accredited minister Moses, the tables of stone upon which these precepts were "written with the finger of God," and designed to be a rule of life "for perpetual generation." (*Illustrations* 1836, commentary of the engraving "Moses receiving the Tables")

This commentary demonstrates that Augustine's interpretation of the duality of the Tables as related to the duality of the Law (the Law of the Covenant and the moral Law) is still prominent in the Christian culture of the first half of the nineteenth century, and any reference to Moses' participation in the Giving of the Law is excluded.

However, no depiction of the Giving of the Law is more representative of the nineteenth-century iconography of this Biblical episode than Gustave Doré's visual representation of it (1866) (Fig. 18.2).

The engraving representing Moses on the Sinai iconically translates the ambiguity of the Biblical text without pushing it toward a precise direction. The image does not show either God or his human interlocutor, and the perspective chosen by the illustrator places the people of Israel in the foreground. Thus, in this visual composition, the Giving of the Law is interpreted as a mythical moment of religious foundation, where clouds and mist surround human history. Unlike any previous image, this one proposes to viewers a point of observation that coincides with that of the Israeli crowd. In other words, the viewers' point of view is construed in a way that they feel the same incertitude of the people of Israel: What is happening on the Mount Sinai? Is God dictating the Law to Moses? Is he giving the Law to him, already perfectly written on the Tables of stone? When Moses descends from the Sinai with the Tables of the Law, will they have the authority of a divine writing or the incertitude of a human transcription?

18.8 The Postmodern Iconography: Focus on Marc Chagall

Postmodern visual representations of the Biblical Giving of the Law are too numerous and various to be effectively summarized in a short article. In the postmodern era, the 'secularization' of 'Western' culture breaks the ties between the exegesis of the Biblical text and the iconography of its visual representations. The artist becomes an autonomous exegete of the Bible, and, to a certain extent, the exegete becomes an autonomous artist of interpretation.

Among the dozens of twentieth-century artists that have visually represented the Giving of the Law, perhaps none did it with more sensibility toward both the past exegetic and iconographic tradition of this Biblical episode and its new connotations in the postmodern era than Marc Chagall.

Chagall[3] was raised in the Russian village of Peskovatiki (Harshav 2006), at the periphery of Vitebsk (Amishai-Maisels 1994), where he came in contact with both the religious culture of Chassidic Judaism and the visual culture of Russian Orthodox Christianity. He also trained as a visual artist in Saint Petersburg and Paris, and witnessed both the extraordinary human developments and the terrible human tragedies of the twentieth century (Harshav and Harshav 2004).

Chagall's Biblical illustrations must be placed in the context of the artist's long collaboration with the Parisian art merchant and publisher Ambroise Vollard,[4] which began in 1923 with the commission of the illustrations for Gogol's *Dead souls* (1923–1925), continued with the commission for the illustrations of La Fontaine's *Fables* (1926–1930) (Pontiggia 2003), and eventually, around 1930, led Chagall

[3] Peskovatiki, at the periphery of Vitebsk, at that time Russia, now Belarus, 1887—Saint Paul de Vence, 1985 (Wullschlager 2008).

[4] Saint Denis (Réunion), 1866—Versailles, 1939; see Sorlier et al. (1981).

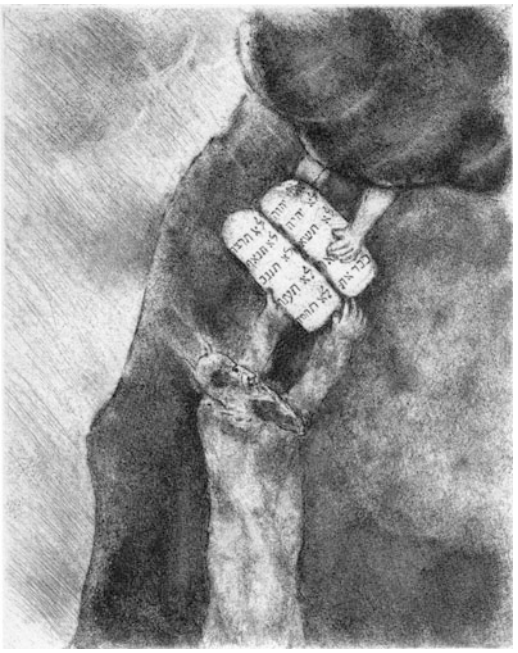

Fig. 18.3 Marc Chagall. 1956. *Moses receives the Tables of the Law* (Etching. 45.5 × 34.5 cm. Illustration n. 37 of *La Bible* by Marc Chagall, 2 vols, 105 illustrations. Paris: É. Tériade (editions Verve))

himself to propose to Vollard a five-volume illustrated version of the Bible, including the books of *Genesis*, *Kings*, *Prophets*, the *Song of Songs*, and the *Revelation.*[5]

Chagall's engravings were inspired by the artist's journey to Palestine, and preceded by 40 sketches (gouaches and oil paintings). Elaborated under the influence of Maritain's integral humanism, the 105 engravings were published in two sections: 66 of them were printed by Maurice Pontin before Vollard's death in 1939, the remaining engravings by Raymond Haasen between 1952 and 1956.

In its original 1956 version, Chagall's engraving *Moses Receives the Tables of the Law* is a 282 × 227-mm etching, bound in a volume together with 104 more etchings and placed as the 37th illustration of the series *The Bible* (Fig. 18.3).

The paratext of the illustrations, for instance, the Biblical captions from the 1638 edition of the Geneva Bible, orient the interpretation of the viewer. However, this section of the chapter will deal mainly with the way in which the chromatic patterns created by Chagall give rise to a specific visual exegesis of the Giving of the Law.

The abovementioned etching is offered to the viewer as a perceptible surface emerging from a conglomeration of colors, figures, and positions. The spectator can easily single out the plastic formants[6] of some of the figures (the Tables of the Law,

[5] The literature on this project is quite vast; see Maritain (1934, 1935), Shapiro (1956), Bellini (1985), Rosensaft (1987), Dall'Aglio (1989), Di Martino and Forte (1999), Corradini (2000), Pontiggia (2003), Martini and Ronchetti (2004), and Schröder (2004).

[6] In Greimas's semiotic theory, plastic formants are configurations of shapes, colors, and positions that are recognizable, in a certain visual culture, as simulating objects of the "macrosemiotics" of 'the real world.'

the face of Moses, a cloud), but the plastic organization that underlies these figures is not obliterated by their recognition; on the contrary, it keeps expressing an autonomous meaning, connoting both that of the figures and that of the deeper levels of the semantic articulation of the image.

The semiotics of the fine arts, among all visual disciplines, can rely on a specific method to describe and analyze this plastic level (Calabrese 2003). Faithful to one of the central postulates of semiotics—the one inherited from Ferdinand de Saussure's linguistics according to which meaning emerges as difference within a relation—the semiotics of the fine arts describes and analyzes the plastic level underlying the manifestation of a visual text as a network of relations that express differences and, hence, possible paths of meaning, among chromatic, eidetic, and topological elements.

As regards the chromatic dimension of Chagall's etching—the dimension on which the present chapter focuses upon—the series of illustrations that compose Chagall's *Bible* relies only on the spectrum from white to black, through different nuances of saturation and brightness of gray. Hence, given its 'nonchromaticity,' the 37th illustration of the series presents itself as a system of relations between more or less saturated and bright nuances of gray. Describing and analyzing them is impossible without considering the way in which the chromatic dimension interweaves with the eidetic dimension of shapes and the topological dimension of positions. It should not be forgotten either that, especially in the perceptible manifestation of an engraving, color is offered to perception also as print of the artist's gesture, as texture (an element that, unfortunately, disappears in digital reproductions of engravings).

In the top-right corner, there is an area that appears as deep-dark gray, almost black if confronted with the other areas of gray along the diagonal stretching from one angle to the opposite one: a very circumscribed and bright white area almost at the center of the image and a more elongated area below, where levels of saturation and brightness in gray are intermediate between those of the first two areas.

The spectator recognizes in these three plastic formants (the black stain top-right, the white stain in the middle, and the gray one bottom-left) three figures of the engraving, respectively, the cloud that hides the face of God, the Tables of the Law, and the body of Moses, but does not cease to receive the semantic connotation that the structure of these plastic formants projects over the figures they underlie. In order to prove it, it is sufficient to proceed with a simple test of mental commutation: What different meaning would come about if the cloud hiding the complexion of God was candid, if the body of Moses was pitch black, if the Tables of the Law were off-gray?

Before jumping to the level of interpretation, it is necessary to complete, inasmuch as it is possible in this circumstance, the description and the analysis of the plastic-chromatic dimension of this etching. An irregular line proceeding from the bottom-left toward the top-right corner divides it into two chromatically different areas: a clearer area on the left and a darker one on the right where the spectator is able to identify, through a series of complex but instantaneous inferences, the Mount Sinai. Such difference resonates with the system of chromatic relations already described. The dark gray of Sinai is slightly less dark than that of the divine cloud, whereas the clearer gray of the area on the left of the Sinai recalls that of the figure of Moses.

Limiting the description and the analysis of the chromatic dimension of this etching to such cursory indications would be tantamount to betraying the visual text and the way in which the typical graphic language of Chagall expresses itself therein. This etching, indeed, does not present itself as a neat contraposition between uniform chromatic blocks (dark gray versus white versus light gray, etc.) but as tension between chromatic microareas, further complicated by their appearing as internally agitated by the tension between microareas of chromaticity and texture.

Let us consider, for instance, the blackish block of the cloud. Bright variations are visible both near its borders (in particular, in the 'arms of God') and in the circumvolutions of the cloud itself. Let us consider the Tables of the Law. The black of the Jewish characters of the Commandments stands out, being even sharper than that of the divine cloud. Let us consider the figure of Moses. It is all a tension between different kinds of gray. The eyes, the temples, and the beard are quite dark gray, but the body and the arms are lighter, and the face, the head, and its horned rays are almost as white as the Tables of the Law. The dark gray of the Sinai is not uniform either: the part on the right of Moses, the one under the divine cloud, is lighter, while the part on his left is darker. And also in the latter part, some relevant nuances can be perceived: two thin streams of light seem to depart from the horned rays of Moses' head, run through his dark body, light up the Sinai, and cross the threshold between the mount and the light area of the sky. Finally, the sky too is agitated not only by the 'oblique rain' texture typical of Chagall's etchings but also by a 'patchwork' of clearer and darker spots.

A tentative interpretation of the etching will now be proposed in order to be re-elaborated and reconsidered after the analysis of the other levels where the meaning of the image can be articulated. If, as one deduces from the description and the analysis of the narrative level of this etching, the tale of the Biblical episode of the Tables of the Law represented in Chagall's etching is the tale of a communication, the chromatic dimension of the etching contributes to this tale by depicting the communication of the Law as a communication of Light. This effect of meaning is further emphasized by the choice of an achromaticity where the only salient differences are those of brightness between different nuances of gray.

Hence, the Tables of the Law are a luminous object that God—hidden underneath a thick layer of blackish clouds through which, nevertheless, the divine luminescence filters—hands to Moses; his body is gray, but his arms, and especially his face, light up at the moment of the transmission. The horned rays of Moses project the Light of the Tables, which is the Light of God, beyond the blackish curtain of the Sinai, toward a clearer elsewhere—the one beyond the oblique line that runs across the etching—whose gray color is very similar to that characterizing the part of the Sinai below the divine Light.

To summarize, the gray nuances of Chagall's etching seem to narrate the Biblical episode of the Tables of the Law through a mystique of Light, in which a very luminous but invisible God chooses to communicate a part of His own Light to the gray world of human beings through the Law, the only visible aspect of the divine Light, whose transmission to Moses lights him up and turns him into a channel of communication.

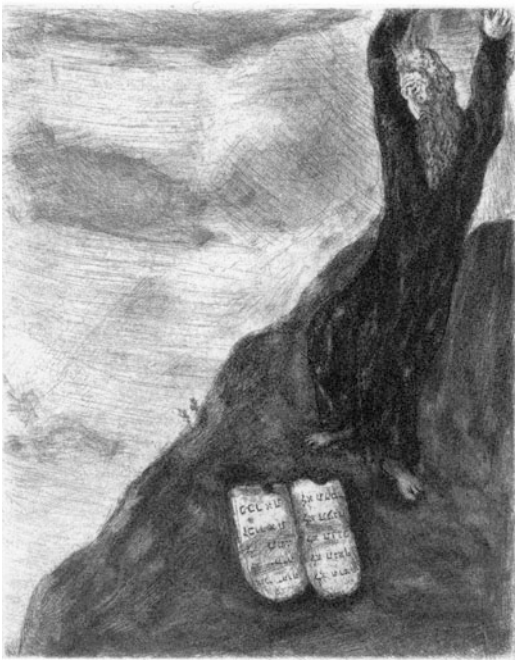

Fig. 18.4 Marc Chagall. 1956. *Moses breaks the Tables of the Law* (Etching. 45.5 × 34.5 cm. Illustration n. 39 of *La Bible* by Marc Chagall, 2 vols, 105 illustrations. Paris: É. Tériade (editions Verve))

In this tale of nuances of gray, the very dark gray bordering on black does not characterize only the cloud that hides the face of God and the Mount Sinai before it gets lit by the Light of the Law but also the Hebrew characters that inscribe the Law on the Tables. Chagall, indeed, does not represent Moses as the scribe of God but as the one who receives from God a Law already inscribed by the divine writing (Leone 2001). That the darkness of the hiding place of God characterizes also his writing is perhaps not casual. As the blackish layer of clouds simultaneously veils and unveils the divine face and his Light, so the obscure divine writing simultaneously veils and unveils the Law, handing it to human beings and to the fallibility of their interpretations.

Such reading of the chromatic dimension of this visual text is corroborated by contextual elements such as the Jewish religiosity to which Chagall was exposed since his childhood, the characteristic conceptions of the Law of this religiosity, as well as by textual elements, such as the chromatic structure of the 39th engraving, which visually narrates how Moses, angered by the episode of the Golden Calf, broke the Tables of the Law (Fig. 18.4).

Here, the clothes of Moses immediately become pitch black, a black even darker than that of the cloud covering the face of God in the previous engraving. No filtering of Light lights up these cloths. The Tables of the Law lose their whiteness and take on the dirty gray of the slopes of the Sinai, a gray where the Hebrew characters of the Law do not stand out any longer but become opaque and blurry. Finally, the demarcation line between the sacred space of the Sinai and the profane one of the

Fig. 18.5 Marc Chagall. 1956. *Moses and the Tables of the Law* (Project for a poster never printed. II test. 52.07 × 36.83 cm. Source: Cain 1960: ill. 115)

surrounding territory tightens up hermetically, blocking any passage of Light between the divine and the human, between transcendence and immanence. In short, as Chagall narrated the giving of the Tables of the Law through a configuration of nuances of Light, so this second etching narrates the loss of the Law through a reversal of such luminous configuration.

Chagall depicted the same episode in many color engravings as well. Observing the series of these artworks on the basis of what the semiotic analysis was able to detect in the grayscale etchings, one has the impression that Chagall seeks to find the right chromatic arrangement to communicate through colors what the etchings of *The Bible* express through their 'chromatic asceticism.'

The project for a poster, never printed, reproduced in the following figure, represents a narrative moment that, in the Biblical episode of the Tables of the Law, follows their transmission to Moses and precedes their being broken by him (Fig. 18.5).

It shows Moses hit in the face by a yellowish halo that propagates from the top-left corner of the image, departing from the top of the Tables of the Law. This impression is confirmed by the analysis of the posture of Moses, his horned head turned away from the Light so as to escape its unsustainable glare.

The way in which the arrangement of the chromatic dimension of the plastic formants contributes to the textual manifestation of this visual narration of the Giving of the Law—meant as a tale of communication of Light—and thus giving a 'chromatic coat' to the actants of this communication (the divine, the human, the

Fig. 18.6 Marc Chagall. 1956. *Moses and the Tables of the Law* (Lithograph. 59.05×41.27 cm. Poster advertising the issues of *Verve* devoted to *La Bible* by Marc Chagall. Source: Cain 1960: ill. 114)

object of communication), is even more evident in the lithograph executed by Chagall in 1956 to advertise for the issues of the magazine *Verve* devoted to his *Bible* (Fig. 18.6).

Here the same interaction of meaning between the chromatic dimension and the posture of Moses, characteristic of the previous image, is articulated with further precision. Moses turns away from the glare of the Law, but at the same time embraces the Tables as if they were a beloved body (also a heavy body, held from below with both hands!). The elegance of this posture lies in the fact that it manifests itself as a chromatic narration: the vivid yellow of the Tables rejects the blue of Moses' body, which nevertheless turns blood red in the hand that has received the Tables of the Law. As it has been already pointed out in the literature on Chagall's *Bible*, his iconography of the Giving of the Law often proposes an anthropomorphic representation of God as well as a theomorphic representation of Moses. Both are expressed mostly through arms and hands—those that give the Tables of the Law and those that receive them—represented as very similar if not identical.

The chromatic dimension, interlacing with the other dimensions that compose the visual narration, seems to unfold the story through the semantic opposition between the yellow of the Tables, a 'warm color,' and the blue of the body of Moses, a 'cold color,' where blue is also a 'celestial color' opposed to the 'terrestrial color' of

Moses' hand. The deep meaning of this lithograph hides behind this chromatic yellow-blue-red triangulation, a meaning that can be interpreted, of course, in many different ways, but can be summarized as follows: through the giving of the Tables, the divine transcendence 'infects' the body of Moses, but this lithograph of Chagall is not so much about the body of Moses becoming 'celestial' and hieratic as about the Law becoming 'terrestrial' and corporeal. In other words, through the Giving of the Law, Moses is tainted by transcendence, but at the same time, the Law, which he transmits from God to human beings, is tainted by immanence.

In this lithograph, color is manifested not only as a uniform chromatic diffusion (as in the poster reproduced in Fig. 18.5) but as "chromatic graphics." It is associated with the print of the artist's gesture and manifested as texture from the point of view of the plastic formants' structure. Hence, the Light of the Tables is embodied in two intensely yellow beams that—as if they were the sign of an instantaneous divine writing—dynamically 'scrape' the stylized shapes of the Tables. The blue of Moses' face 'breaks' the borders of its eidetic structure and, as in the previous image, spills out, giving rise to a sort of halo. Finally, the red spot expressing the embodiment of the Law not only reproduces this 'aesthetics of smear' but also contains a vortex of dark-red lines, suggesting that all the energy of the image (as well as that of the artist) is concentrated in this spot.

All the artworks by Chagall representing the Giving of the Law deserve an in-depth semiotic analysis, as regards not only their chromatic dimension but also all the levels in which the generation of their meaning can be decomposed. Each of these artworks proposes a 'theological-visual laboratory' where a certain arrangement of forms, colors, postures, and textures, together with that of figures, discourse, and narration, embodies a variant of the relation between the actants involved (God, Moses, the Law, sometimes also human beings) and the values they incarnate (transcendence, immanence, the Norm, etc.). However, despite these variants, or maybe exactly because of them, a certain way of conceiving and visually representing the giving of the Tables of the Law is revealed, a way that is typical of Chagall and that it would be difficult to grasp without the transversal and serial point of view of the semiotic gaze.

In the lithograph reproduced in Fig. 18.7, for instance, the triangulation of blue, red, and yellow appears again as a typical element of Chagall's iconography. Yet this time, it is the Tables that have a 'celestial' color, whereas the face and the body of Moses light up in red (Fig. 18.7).

The peculiarity of this lithograph resides above all in the introduction of certain plastic details that underline the dynamism of the communication God-Law-Moses-human beings: a clump of tiny yellow stain, of increasing dimension, seems to spring from the Tables and spread beyond their surface, 'staining' the face of Moses.

It is interesting to notice the way in which the representation of the divine writing changes in Chagall's artworks. Whereas in the etchings of *The Bible* such writing consisted in neatly carved Hebrew characters, in the lithographs this writing either disappears completely (replaced by color as in Figs. 18.5 and 18.6) or becomes a tangle of colorful lines (as in Fig. 18.7). In other cases, writing is evoked by a stylization

Fig. 18.7 Marc Chagall. 1956. *Moses and the Tables of the Law* (Lithograph. 35.56×26.67 cm. Published in *Verve: an Artistic and Literary Quarterly*, nn. 33–34 (ed. Tériade). Source: Cain 1960: ill. 124)

of lines and dots. The effect of meaning entailed in these changes is not easy to univocally identify. Certainly, the absence of the Hebrew script bestows a more abstract character not only upon the visual representation but also upon the narration that it embodies (God gives to Moses a Law that transcends the specificity of a language and its alphabet).

By comparing these lithographs, one realizes that the 'theological-visual laboratory' of Chagall explores different possible chromatic arrangements but usually within a certain combinatory grid that may constitute the core style of the artist's visual language, at least as regards this iconographic theme. The posture of Moses in relation to the Tables, the triangulation of colors, the quality of the texture, and the interlacing between the various dimensions of the plastic level do not change, and yet each lithograph, albeit in the framework of these regularities, is unique for it proposes small variations in the chromatic, eidetic, and topologic style, in the figurative, discursive, and narrative arrangement, which sometimes bring about considerable differences in the overall semantic structure of the image.

A detailed analysis of all these variants would require an entire volume, but let us consider, for instance, the lithograph reproduced in the following figure (Fig. 18.8).

The cloud that in *The Bible* covered the face of God was turned into a couple of curb and black lines, which confine the yellow of the divine Light in the top-right corner of the image. The predominant chromatic tonalities of this lithograph are

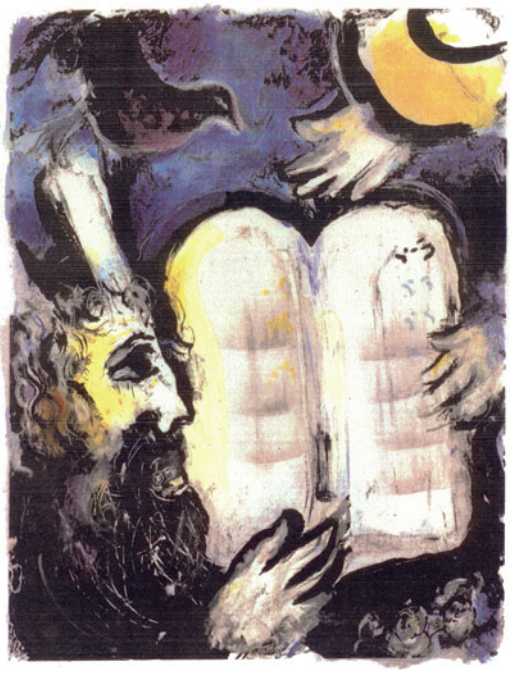

Fig. 18.8 Marc Chagall. 1962. *Moses and the Tables of the Law* (Lithograph. 128.27 × 165.1. Poster for the exhibition "Chagall et la Bible," Geneva, Rath Museum, July-August 1962. II version. Source: Cain 1960: ill. 362)

dark, but it is evident that the yellow stripe that appears on the left border of the Tables—the one contiguous to the face of Moses—and the stain of analogous color that taints the face narrate the communication of the Law-Light through a gradient of saturations of yellow, from the intense yellow of the full transcendence to the less saturated yellow of Moses' face.

18.9 Conclusions

Given its limits, the present chapter could only propose a necessarily sketchy and cursory exploration of the iconography of the Giving of the Law through two millennia of Jewish and Christian visual representations. Some interesting trends were detected: first of all, images of the Law and its transmission from God to Moses and from Moses to the people of Israel are not merely a visual translation of the Biblical text and its Jewish or Christian commentaries, but constitute a rich corpus of 'visual exegesis,' a 'visual theological laboratory' which is sometimes at odds with the more traditional written exegesis. The impact of frescos, miniatures, paintings, engravings, etc., on the way in which believers imagined this foundational moment of the history of both Judaism and Christianity throughout the centuries should not be underestimated. Through these images, indeed, and depending on the specific historical and sociocultural contexts, the Law was pre-

Fig. 18.9 Marc Chagall. 1956. *Moses receives the Tables of the Law* (Lithograph. 35.56×26.67 cm. Published in *Verve: an Artistic and Literary Quarterly*, 33–34 (ed. É. Teriade). Source: Cain 1960: ill. 126)

sented either as the product of a purely divine writing or as the product of Moses' mediation between the communicative intention of God and the human reception of His message.

One of the most elegant lithographs Chagall devoted to this iconographic theme may represent a very accomplished depiction of this dilemma (Fig. 18.9).

God is a black cloud with two small pale blue reflexes on the edges. As it happens with clouds, everyone can stare at it and imagine a face therein. Along the diagonal running from the top-right corner to the opposite one, a left hand comes out of the cloud. It is a stylized hand, drawn with four black strokes that do not 'close' the line of the fingertips but open it toward the space below. Down appears the Law, evoked through two black strokes—which look like the wings of a seagull (a Law that flies through the air between God and Moses)—and few dots, also black. Further down, the right hand of Moses is identical to the left hand of God, the head of Moses is lit after the encounter with God on the Sinai.

This story has been told thousands of times, and yet this lithograph by Chagall renews it by narrating it through colors. The whole background is pale blue, but the part between God and Moses is agitated by more saturated stains, as if they were animated by a shock of colorful energy. Two white stains light up the body of Moses, the first on the face that sees God and the second on the hand that receives the Law. But the visual pivot of the lithograph is in the two thick sun-yellow strokes that explode in the pale blue of the sky, between the black of the divine cloud and 'the

wings' of the Law. As in a mystical comic strip, Chagall's lithograph does not represent a God who carves the Law on the Tables of stone and silently hands them to Moses, but a God who speaks, a God-Logos, a God whose sun-yellow voice accompanies the Giving of the Law to human beings.

This is an artist-God who, like Chagall, does not dictate his Law with a stony alphabet but transmits it through a colorful voice.

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