

Toying with the law: Deleuze, Lacan and the promise of perversion

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Abstract

This article proposes that Deleuze's psychoanalytically inspired theory of humour and irony provides an underappreciated way to theorize acts of resistance that adopt a structurally perverse position towards a law or authority. In his books *Coldness and Cruelty* and *Difference and Repetition*, Deleuze explains that the law is susceptible to two kinds of subversive procedure. The first, which he calls irony and which he aligns with sadism, reveals a gap between the law and its principles. The second, which he calls humour and which he aligns with masochism, exposes a gap between the law's interdictions and their consequences. For Deleuze, humour and irony harbour the potential to overturn or overthrow the law. Drawing on Lacanian psychoanalytic theory and contemporary examples – alt-right 'free speech' demonstrations in the United States and protests surrounding Russia's 2012 parliamentary elections – the article argues that Deleuze overstates the transformative potential of perversion. Nevertheless, his account remains useful for showing the circuitous routes that some subjects take to enjoy their position within the law. Given the global rise in right-wing authoritarianism in recent years, this may prove to be an important insight.

Keywords

Deleuze, Lacan, law, protest, psychoanalysis, resistance

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Barnaul, Russia. 11 February 2012. Disney Pixar's Wall-E braves the cold and snow to express his dissatisfaction with Russia's disputed parliamentary elections. By his side a Lego man holds firmly to a placard reading: 'A thief should sit in jail, not in the Kremlin'. Nearby, a despondent Shrek holds a sign that reads: 'We've got elections but nothing to choose from'. As passers-by chuckle to themselves, the plastic ne'er-do-wells have their photos taken by police for the purposes of evidence. A police officer with a notepad records the sentiments expressed on the banners of the 200-odd toys present: 'I'm doing my job. I'm writing what I see', the officer explains to the gathering crowd (*Moscow Times*, 2012).

The motley crew of dolls, figurines and teddy bears, dubbed a 'nanoprotest' by its human organizers, the Barnaul Decemberists, was the latest in a series of protests against Russia's recent parliamentary elections and subsequent suppression of civil disobedience in anticipation of Putin's re-election campaign the following month (White, 2013). The toys were intended to accentuate and hyperbolize the near impossibility for Barnaul's human citizens to exercise their right to hold demonstrations. As one organizer put it: 'whilst the authorities restrict our constitutional rights to freedom of peaceful assembly, the rights of toys have so far been untouched' (*Sputnik*, 2012).

Boston, USA. 19 August 2017. A week after right-wing demonstrations in Charlottesville, Virginia, led to the murder of an anti-fascist counter-demonstrator, the right-wing group 'Boston Free Speech Coalition' hold a 'free speech' rally. The most recent in a succession of far-right appeals to free speech against what they consider the encroachment of political correctness and 'cultural Marxism', the rally invites 'libertarians, conservatives, traditionalists, classical liberals, Trump supporters or anyone else who enjoys their right to free speech' to assemble and exercise their right to speak out against the supposed disintegration of American values (Kew, 2017). Despite the organizers' claims that the rally is unrelated to the events in Charlottesville, the short notice cancellation of speakers with white-nationalist associations and the presence of far-right iconography give credence to concerns that the event is commandeering the language of free speech to push a white-nationalist agenda. Indeed, several months later, Richard Spencer, a leading voice of America's 'alt-right', explained on his podcast that the alt-right does not believe that free speech is absolute. Rather, the language of free speech must be adopted for 'radically pragmatic' reasons if the alt-right is to advance its agenda in the United States (Holt, 2018).

Though these actions are clearly more dissimilar than they are similar, this article argues that both occupy a stance towards the law that with Deleuze we could call perversely comical. Barnaul's nanoprotests are an exercise in obeying the law – in this case the Russian government's ban on protests – to bring about its absurd and unintended consequences. Deleuze calls this 'masochistic humour'. Far-right free speech defenders, meanwhile, are an exercise in exploiting the empty form of the law – in this case the formal right to free speech – to reverse its underlying principles. Deleuze calls this 'sadistic irony'. Both, he argues,

are means of ‘subverting’ the law that are inherent to the structure of the law itself (Deleuze and von Sacher-Masoch, 1991).

Deleuze’s philosophy has contributed immensely to theorisations of politics, law and protest (De Sutter, 2012; Lefebvre, 2005; Zevnik, 2011). Yet comparatively little has been said about his theory of humour and irony from the late 1960s (Colebrook, 2004; Ford, 2016), let alone how this theory might help us to understand the intersections of law, enjoyment and resistance. Moreover, those who have applied Deleuze’s philosophy to the theorization of political resistance have done so largely in opposition to his period thinking in conjunction with the psychoanalytic theories of Freud and Lacan (De Vries and Rosenow, 2015; Nail, 2013; Routledge and Simons, 2016). Yet this period of Deleuze’s thought can tell us a great deal about politics, resistance and the law and can thus contribute to broader and ongoing discussions about what makes for an effective act of resistance. This article explores the political stakes of Deleuze’s theory of humour and irony from *Coldness and Cruelty* and *Difference and Repetition* with the help of Barnaul’s nanoprotests and America’s far-right. The aim is not to provide an exhaustive treatment of Deleuze’s account of law and resistance nor an in-depth analysis of these struggles but to think with and from Deleuze’s discussions of humour and irony to show how his works of the late 1960s can help to differentiate and theorize two mutually incompatible logics of resistance that we should expect to find in very different social contexts. In the process, the article contributes to a growing literature that addresses points of convergence and divergence between Deleuze and Lacan (Nedoh and Zevnik, 2016).

The article is divided into three parts. First, I introduce the account of law, humour and irony that Deleuze advances in *Coldness and Cruelty* and *Difference and Repetition*. In these works, Deleuze argues for the existence of two forms of law: classical law and modern law. While both are susceptible to the procedures of humour and irony, it is only in modern law that these take on a perverse character and that the full stakes of Deleuze’s analysis become apparent. Second, drawing on the examples of Barnaul’s nanoprotests and America’s alt-right, I look in detail at the operations of masochistic humour and sadistic irony. Here, the point is not to argue that the subjects involved in these protests are structurally perverse in a clinical sense but that the kind of political practice they engage in reflects the perverse logic examined by Deleuze. Finally, in the third section I contest Deleuze’s claim that the perverse procedures of humour and irony harbour a radical potential. According to Deleuze, masochistic humour and sadistic irony can ‘overturn’ (Deleuze, 2004: 5–6) or ‘overthrow’ (Deleuze and von Sacher-Masoch, 1991: 87) the law. This has led some commentators to conclude that perversion not only transgresses the bounds of the law but that it produces entirely new, anti-Oedipal, forms of subjectivity (Lauwaert and Britt, 2015; MacCormack, 2004). Or, put differently, that perversion indicates a form of subjectivity that lies beyond the structuring limitations of the law broadly conceived as the ‘symbolic order’ or the ‘network of law and culture that binds all subjects’ (Caudill, 1992). In contrast, I will argue that both humour and irony are conservative in character

and derive their enjoyment from the law itself. Thus, what makes Deleuze's account of humour and irony useful is not that it suggests a new and effective means of moving beyond the law but that it shows the circuitous routes some subjects take to enjoy their position within it.

Humour, irony and the law

What could humour and irony have to do with the law? For Deleuze, the answer is everything. In his psychoanalytically inflected work from the 1960s, Deleuze advances a theory of law that reveals its susceptibility to two kinds of subversive procedure. The first he associates with humour, the second with irony. He writes:

There are two known ways to overturn moral law. One way is by ascending towards the principles: challenging the law as secondary, derived, borrowed or 'general'; denouncing it as involving a second-hand principle which diverts an original force or usurps an original power. The other way, by contrast, is to overturn the law by descending towards the consequences, to which one submits with too-perfect attention to detail. By adopting the law, a falsely submissive soul manages to evade it and even to take pleasures it is supposed to forbid. . . . The first way of overturning the law is ironic, where irony appears as the art of principles, of ascent towards the principles and of overturning principles. The second is humour, which is an art of consequences and descents, of suspensions and falls. (Deleuze, 2004: 5–6)

What intrigues Deleuze about the procedures of humour and irony, then, is not what they have to say about the comic *as such* but what the comic can tell us about the dialectic of law and enjoyment. For Deleuze, humour and irony expose a strictly formal and indelible element of play at the upper and lower scales of law, a gap, that renders it susceptible to subversions, torsions and insubordinations. Humour and irony in this sense must not be thought of as somehow contingent or empirical; they are not the effect of a particular law's content or of a given law's application at a certain time or place. Rather, the possibility of humour and irony is implicated in the structure of law as law. Or, put differently, *all* law is necessarily open to humour and irony by virtue of being the law.

In *Coldness and Cruelty*, Deleuze argues that there have been two understandings of law in the Western philosophical tradition: the 'classical' law of Plato and Christianity and the 'modern' law introduced by Kant and further elaborated by psychoanalysis. While both are susceptible to the procedures of humour and irony, it is only with the modern form of law that we come to fully understand the intricate dialectic of law and enjoyment, humour and irony, and – I argue – what these have to tell us about the perverse and conservative structure of some forms of protest.

Classical law

Deleuze distinguishes classical and modern law by the relationship they establish between their principles and their consequences. This, in turn, defines how humour and irony can be achieved within their respective structures.

According to Deleuze, classical law derives its principle and its authority from something beyond itself, a 'higher' idea or a Supreme Good. In *The Republic*, for example, Plato has Socrates describe the Good as that which allows us to know and measure worldly justice but which is 'not being, but superior to it in rank and power' (Plato, 1997: 1130). Since classical law refers to a transcendent principle for its authority, it follows that the law can only be a secondary or derived power. It is the 'representative of the Good in a world that has more or less forsaken it', which is to say that the authority of classical law hinges on the inscription of a gap between the law itself and its principle (Deleuze and von Sacher-Masoch, 1991: 81).

From the perspective of its consequences, meanwhile, classical law claims that since the law has the Good as its principle it is able to direct subjects towards the 'best' possible path of action. The subject who follows the law can, as Deleuze puts it with important theological undertones, know that they are acting 'righteously' (Deleuze and von Sacher-Masoch, 1991: 82). Importantly, classical law 'does not impose on the subject a conception of the good – but helps her seek and achieve her own' since it operates 'on the assumption that wise people will know what is best for them and make the right choices, the laws only need to ensure that wisdom prevails' (Berges, 2009: 67).

Thus, classical law presents itself as a closed circle. From the perspective of its principles, it derives authority from a self-legislating and transcendent Good. From the perspective of its consequences, it is by following the law that the subject knows it can achieve the best path of action. Yet Deleuze claims that this ostensibly self-contained logic includes within it 'the free play of thought at the upper and lower limits of the scale of the law', and therefore cannot help but introduce the operations of humour and irony (Deleuze and von Sacher-Masoch, 1991: 81). There is, he writes, 'a great deal of irony in the operation that seeks to trace the laws back to an absolute Good as the necessary principle of their foundation', just as 'there is considerable humour in the attempt to reduce the laws to a relative Best in order to persuade us that we should obey them' (Deleuze and von Sacher-Masoch, 1991: 82).

The irony of classical law stems from the fact that it admits to having no direct authority of its own but instead derives authority from an infinitely superior Good. This structure introduces an exploitable gap between the law and the Good. Deleuze finds an example of classical irony in the death of Socrates. As he explains: 'the laws put their fate in the hands of a condemned man, and ask that he should sanction their authority by submitting to them as a rational man'. Little wonder, Deleuze says, that according to Plato's *Phaedo*, 'the disciples present at the death of Socrates could not help laughing' (Deleuze and von Sacher-Masoch, 1991: 82).

The irony of Socrates' death is that he dies for the Good while *appearing* to be submitting to the law (Ford, 2016: 93).

As for the logic of classical humour, Deleuze does not provide an example. He says only that it is based on 'the attempt to sanction the law by recourse to an infinitely more superior Best' (Deleuze and von Sacher-Masoch, 1991: 82). This would be a procedure that exploits a second gap in the law with respect to its consequences by following the letter of the law to the point where adherence brings about entirely unintended consequences. James Williams has provided an excellent illustration of this kind of humour at work in the movies of Laurel and Hardy:

Ordered to deny any knowledge of a thing – 'You have not seen me. Right!' – they pursue that order in situations where an admission of knowledge is now required – 'Have you seen this man before?' 'Never, officer' 'Arrest that man!' Or, when given an order that needs to be loosely interpreted – 'Never get your gun dirty.' – they turn unflinching obedience into the worst kind of subversive action – 'No don't fire, you'll tarnish the barrel!'. (Williams, 2003: 36)

In both cases, a rigorous adherence to the content of the law brings about its calamitous subversion. The Deleuzian humour is derived from the excess that is produced by splitting the actual consequence of the law from its intended consequences.

Modern law

Deleuze finds his paradigmatic instance of modern law in Kant's categorical imperative: 'Act only according to that maxim whereby you can, at the same time, will that it should become universal' (Kant et al., 2002: 36). But while Deleuze takes Kant as an exemplary figure of modern law, we should be careful not to limit his theory to Kant's moral philosophy. Deleuze has in mind a much broader transformation in thought that is introduced by Kant but carried forward by a succession of thinkers, the most important of which for Deleuze are Freud and Lacan.

Deleuze claims that Kant's properly revolutionary gesture is to do away with the idea of a transcendent principle or Good and to install in its place the law as an empty and unverbalizable *form*. As Deleuze puts it, with Kant:

the law is no longer regarded as dependent on the Good, but on the contrary, the Good itself is made to depend on the law... For the first time we can now speak of THE LAW, regarded as an absolute, without further specification or reference to an object. (Deleuze and von Sacher-Masoch, 1991: 82)

This move has severe consequences for the structure of the law and the subject who is expected to obey it. From the perspective of modern law, classical law's claim that we ought to obey because it is the image of the Good and that by obeying we can know that we are being righteous is strictly speaking unethical. In Kant's

language, this would be a ‘pathological’ motivation for obeying the law since it originates beyond the pure form of the law and in the pleasure that is derived from ‘being good’. For Kant, and modern law more generally, one can only act ethically when one follows the law because it is our duty and *only* because it is our duty (Zupančič, 2012: 7–19). Thus, the gaps in classical law between its letter, its principles and its consequences no longer exist.

The closure of these gaps makes the classical form of humour and irony impossible. Irony can no longer be achieved by exploiting the gap between the letter of the law and the good, since the good is now made to depend on the law. Similarly, humour can no longer be achieved by excessively pursuing the consequences of the law’s content since the law is now a pure form without content. But by eliminating the possibility of classical humour and irony, Kant inadvertently makes himself susceptible to a modern and properly perverse kind of humour and irony. Modern humour and irony will no longer exploit the gap between good and the best but will exploit a gap inherent to the empty form of law itself and the stain of enjoyment that this gap introduces into the functioning of the law. Following Lacan’s text *Kant avec Sade*, Deleuze claims that the masters of this procedure are none other than Leopold Sacher-Masoch, who Deleuze associates with humour, and the Marquis de Sade, who Deleuze associates with irony. As Lacan had already made clear, despite Kant’s remarkable effort to remove pathological motivation from his ethics, he nevertheless leaves the door open for the attainment of illicit, structurally perverse, pleasures that stem *precisely from the empty form itself* (Lacan, 2007).

There are two parts to this argument that are essential to how modern masochistic humour and sadistic irony function. First, there is the question of the pure form of the law itself. As we have seen, Deleuze claims that ‘the modern law is the representation of a pure form and is independent of content or object, spheres of activity or circumstances’ (Deleuze and von Sacher-Masoch, 1991: 83). This is an extremely precise formulation. Modern law is the *representation* of a pure form independent of content, which is to say that by emptying the law of all content we are not left with the form of law itself but with the *representation* of a pure form that marks the absence of a content. In Lacan’s words, we are presented with the form itself as ‘substance’ standing over and above whatever content might come to fill it (Lacan, 2007: 649, 659).

What strikes both Deleuze and Lacan about this is the remarkable similarity between the structure of Kant’s pure form of law and the psychoanalytic theme of castration as the precondition for desire. By removing all pathological content from his conception of moral law, Kant does not do away with an idea of the good. Instead, he represses it, or in Lacanian terms he ‘pushes it below the bar’, which is to say that he makes it unknowable, or that he makes it unconscious (Lacan, 2007: 647). It is by repressing the good that the pure form of law gains its hold over the subject as what Freud called a *vorstellungsrepräsentanz*, a representative of a repressed content (Freud, 2005: 33–46; Lacan, 1997: 71–75). How so?

In his theorization of castration, Freud had also developed an understanding of law that required the repression of an originary content. For Freud, the renunciation of a first desired object (the incestuous desire for the mother as the original Supreme Good) is the price that must be paid to enter into the symbolic order (Freud, 2001b: 62). As Žižek writes, it is by renouncing:

the incestuous *content* that the paternal Law emerges as its *formal* metaphoric substitute. To resort to a rather worn-out word-play, we attain the big Other (the symbolic Law) when we cross out the M in M-Other and thereby hollow out a gap around which the Other turns in its vicious circle. (Žižek, 2008a: 230)

Hence, for both Kant and psychoanalysis, it is only by repressing an original content (the incestuous object, the Supreme Good) that we get to the law as a pure form. We cannot go ‘straight to the form’ but must pass through an act of repression, the Good must be pushed below the bar, to carve out the space for the subject of modern law to emerge. ‘The law cannot specify its object without self-contradiction, nor can it define itself with reference to a content without removing the repression on which it rests’ (Deleuze and von Sacher-Masoch, 1991: 85).

This, then, is the first characteristic of modern law: as a pure form of law it is predicated on the repression of an original content, on a properly Freudian primal repression that is the price that must be paid to enter into the symbolic order. As we shall see through the US alt-right’s appeals to free speech, what puts the law into trouble here is the presumption that the empty form of law will nonetheless coincide with a fixed idea of the good.

The second part of the argument follows necessarily from the first: the subject of modern law is an irrevocably guilty subject. Unlike the subject of classical law who could *know* that they were acting righteously by obeying the law, modern law’s unknowable content means that its subject receives no such guarantee. The modern subject is thrown into a world where they can neither know nor sufficiently obey the law and where they are for this reason hopelessly guilty. As Deleuze puts it:

If the law is no longer based on the Good as a preexisting higher principle, and it is valid by virtue of its form alone, the content remaining entirely undetermined, it becomes impossible to say that the righteous man obeys the law for the sake of the Best. In other words, the man who obeys the law does not thereby become righteous or feel righteous; on the contrary, he feels guilty and is guilty in advance, and the more strict his obedience, the greater the guilt. (Deleuze and von Sacher-Masoch, 1991: 84)

It was of course Freud who first isolated the agent of this paradox, who explained its effects and who named it the ‘superego’ (Freud, 2001a). The superego, Freud claims, emerges as the internalization of the norms and prohibitions that are placed upon the subject during its integration into the symbolic order. Significantly, on several occasions Freud makes a link between the superego and Kant’s categorical imperative. In *The Economic Problem of Masochism*, for instance, he writes

that: 'The super-ego – the conscience at work in the ego – may become harsh, cruel and inexorable against the ego which is in charge. Kant's Categorical Imperative is thus the direct inheritance of the Oedipus complex' (Freud, 2001a: 167). What Freud finds interesting in Kant's categorical imperative is precisely its 'harsh, cruel and inexorable' aspect, its unflinching and sadistic character, which is all the more implacable since it berates the subject from within and takes pleasure in assailing it with impossible demands.

This, then, is the second characteristic of modern law. As Aristodemou writes: 'when form is all there is to the law, and no specific content is prescribed, then the law itself functions like a taboo: arbitrary and impulsive' (Aristodemou, 2015: 60). As we shall see in the case of Barnaul's nanoprotests, what puts the law into trouble here is its susceptibility to a humorous subversion by a subject who takes the law's punishment as the precondition for its enjoyment.

In summary, we could say that what distinguishes modern law from classical law is the discovery that the law as Other is not 'out there' as the Supreme Good, but 'in here'. Or, in Lacanian language, modern law begins with the realization that our desire is the desire of the Other; it is the law inscribed in the unconscious by the act of symbolic castration (Lacan, 2016a: 150). Modern law is therefore predicated on Lacan's *nom du père* – which in French suggests both the 'Name-of-the-Father' and the 'No-of-the-father' – an injunction that serves to represses an originary content so as to give rise to the pure form of law and the subject whose desire is structured around it. Another way to explain the difference between modern and classical law is to say that in classical law the Good operated as the Other of the Other – as a fantasmatic guarantor of the law – that could be exploited by playing upon the gaps this fantasy formation introduced between the law and its principles on the one side and its consequences on the other (Lacan, 1997: 185). In modern law we come to see that the Other does not exist. We do not know what the Other wants from us and it is precisely this that makes modern law function.

These two factors – the pure form of law and its persecutory super-ego – are for Deleuze the preconditions for modern humour and irony, which he says are now directed towards the 'subversion of the law' (Deleuze and von Sacher-Masoch, 1991: 86). But while Deleuze argues that the subversive operations of modern humour and irony can turn the law 'upside down' or even 'overthrow' it (Deleuze and von Sacher-Masoch, 1991: 86, 89), I want to argue that both – no matter how subversive they might appear – are conservative gestures that derive pleasure from propping up the law. What nevertheless makes Deleuze's typography of humour and irony useful is the way it helps to grasp the underlying structures of these ostensibly subversive acts. To see how, we need to explore Deleuze's theory of modern humour and irony.

Sadistic irony

For Deleuze, modern irony 'is still in the process or movement which bypasses the law as a merely secondary power and aims at transcending it toward a higher

principle' (Deleuze and von Sacher-Masoch, 1991: 86). But there immediately seems to be a problem. If in classical law irony could be achieved by exploiting the gap between the letter of the law and a transcendent idea of the Good, how is it to be achieved now that authority is derived from the pure form of law without reference to an outside? Deleuze's answer is that modern irony must take aim at the pure form itself. His guide for this manoeuvre is the Marquis de Sade.

Deleuze's elaboration of modern irony strongly echoes Lacan's reading of Kant and Sade in Seminar VII and *Kant avec Sade* (Lacan, 1997, 2007). In these texts, Lacan claims that Sade's fantasies reveal an ambiguity in the Kantian moral system. As Lacan shows, providing we remain at the strictly formal level of the categorical imperative it is not impossible to will into being a Sadian world that is fundamentally opposed to what Kant had intended. This would be a world that is not oriented towards the good 'but in the direction of its opposite, the Idea of Evil' (Deleuze and von Sacher-Masoch, 1991: 87). Lacan:

if one eliminates from morality every element of sentiment, if one removes or invalidates all guidance to be found in sentiments, then in the final analysis the Sadian world is conceivable – even if it is its inversion, its caricature – as one of the possible forms of the world governed by a radical ethics, by the Kantian ethics as elaborated in 1788. (Lacan, 1997: 79)

How is this the case?

If we grant that the empty form of law is a law whose content must remain undetermined and unknowable and if we grant that a moral maxim can be made of any action where it can be willed that one's action become universal, then there is no reason why we should be limited to Kant's image of the good. Moreover, the architecture of Kant's theory suggests its own Sadian subversion. To demonstrate, Lacan extracts a maxim from Sade's writings: "I have the right to enjoy your body," anybody can say to me, "and I will exercise this right without any limit to the capriciousness of the exactions I may wish to satiate with your body." (Lacan, 2007: 648). Such a maxim clearly rejects all pathological motivations for following the law and accepts that 'the will becomes bound to the law only by eliminating from its practice every reason that is not based on the maxim itself' (Lacan, 2007: 649). Thus, while it might well lead to the most debauched moral universe we could imagine, it is nevertheless compatible with Kant's categorical imperative and the modern form of law (Zevnik, 2013). In this way, Sade exposes the arbitrary association of the good and the empty form of law.

But Lacan makes another turn of the screw that is crucial to Deleuze's conception of modern irony. By introducing a split in his maxim between the subject of enunciation (the subject who speaks) and the subject of the statement (the subject who enters the symbolic via the enunciation), he emphasizes the superegoic and capricious aspect of modern law discussed above. "I have the right to enjoy your body," anybody can say to me But who is the subject who recounts this maxim to us? And who is the subject who claims they can exact any satisfaction they wish?

Lacan's answer is that the latter is the superegoic side of moral law that exacts what it wishes from the subject. As Žižek explains:

Via the reference to Sade, Lacan reads the absence in Kant as an act of rendering invisible, of 'repressing', the moral Law's enunciator, and it is Sade who renders it visible in the figure of the 'sadist' executioner-torturer – this executioner is the enunciator of the moral Law, the agent who finds pleasure in our (the moral subject's) pain and humiliation. (Žižek, 1998)

For Lacan and Deleuze, then, Sade makes explicit what Kant kept implicit: the split in the structure of modern law.

The contours of modern irony are now apparent. As is well known, in Kant's moral universe the subject is ordered to respect the freedom and autonomy of other individuals. In the imperative Lacan extracts from Sade, the subject is ordered to do precisely the opposite: to make use of the other's body, to impose upon it the subject's darkest, most deviant impulses. Yet, for all that, the universal form of the law remains intact. Even more damningly – and this is where Deleuzian irony enters – the Sadian maxim was already built into the structure of the Kantian moral edifice. Sade merely accentuates the pre-existing split between the assertion of a universal ethical injunction (Do your duty!) and the moral universality of the injunction itself (a particular image of the good) (Žižek, 1998).

So what is modern irony? Like classical irony, it is an attempt to transcend the law. But unlike classical irony it does not attain its goal by exploiting the gap between the letter of the law and the Supreme Good. Instead, modern irony is derived from the exploitation of the gap *within* the empty form of law itself. As Deleuze explains, it is a movement achieved by a subject 'monstrously reduced to a pure superego which exercises its cruelty to the fullest extent' on a radically externalized ego so as to stage the disavowed split internal to the structure of modern law (Deleuze and von Sacher-Masoch, 1991: 124). The irony of this gesture is that it owes its condition of possibility to the structure of the law itself. The Deleuzian lesson, then, is that when the law is a pure and empty form it is always possible to stage the disjuncture between form and its repressed content.

Is this not precisely what we see at work in the alt-right's appropriation of the language of free speech? Without wanting to get into the vast and complex philosophical debates around the origins, limits and paradoxes of free speech (Passavant, 2003), there is something properly ironic in the strict Deleuzian sense about an overtly exclusionary, patriarchal and white-supremacist movement announcing themselves the 'defenders of free speech'. The Boston Free Speech Coalition describes itself as 'a coalition of libertarians, progressives, conservative, and independents' that aims to 'peaceably engage in open dialogue about the threats to, and importance of, free Speech and civil liberties' (Boston Free Speech, n.d.a). By protesting, they claim to be doing their duty 'as individuals who value liberty' to defend the rights and moral standards enshrined in the American Constitution 'from violent terrorists' (Boston Free Speech n.d.b).

With Deleuze at our side we can see that such bombastic proclamations attain their political purchase from precisely the empty form of liberal understandings of free speech.

John Stuart Mill, for instance, argues that free speech must be extended to all since without the individual's enjoyment of free speech humanity itself is deprived of a 'clearer perception and livelier impression of truth' (Mill, 2009: 30). Similarly, Hannah Arendt writes that the point of free speech is not that 'a person can say whatever he pleases, or that each of us has an inherent right to express himself just as he is' but that 'only in the freedom of our speaking with one another does the world, as that about which we speak, emerge in its objectivity and visibility from all sides' (Arendt, 2005: 128–129). The problem with this understanding of free speech is that it operates within what Lacan calls the order of 'traditional ethics' (Lacan, 1997: 314). It presumes that the other whose voice we hope will give us a clearer impression of the truth shares our image of the good – in this case, the presumption that we *should* hear the voices of everyone. Žižek calls this kind of other a 'decaffeinated other'. The views of a decaffeinated other might be different from our own – we might even find them highly offensive – but they are nonetheless the other in our own image; they are an 'Other deprived of its Otherness' (Žižek, n.d.). But, to borrow from Alenka Zupančič, what happens when the other is *really* the Other? When their enjoyment, their image of the good, is fundamentally incompatible with our own (Zupančič, 1998: 43)? Do we extend free speech to those who wish to speak out against free speech? This well-known ambiguity, or 'paradox of intolerance' in Karl Popper's words, lies at the heart of modern law and it is precisely what the white nationalist free speech defender exploits (Popper, 2002).

Clearly the moral universe of the far-right is fundamentally opposed to that of liberal tolerance. But by privileging the empty form of free speech over its repressed content, the far-right exploits the gap between the assertion of a universal ethical injunction ('respect the free speech of all!') and the moral universality of the injunction (the assumption that we share a common notion of the good). What makes this a properly ironic gesture in the Deleuzian sense is not that the far-right deploys the right to free speech in the hope of bringing about its opposite. Were this the case it could be argued that the far-right is extraneously commandeering the language of free speech. Deleuze's point is much more radical: what is ironic about white-supremacist claims to speak in the name of free speech is that the possibility of such an inversion is *intrinsic* to the liberal right to free speech itself.

Masochistic humour

The modern humourist faces a predicament not dissimilar to that of the modern ironist. Since modern law pushes its content below the bar it is impossible for humour to be attained by following the letter of the law beyond all reasonable limits. And yet Deleuze explains that modern humour is still achieved by 'scrupulously applying the law' to 'demonstrate its absurdity and provoke the very

disorder that it is intended to prevent' (Deleuze and von Sacher-Masoch, 1991: 88). How is the modern humourist to surmount this impasse? How is it possible to scrupulously apply a law that has no content? For Deleuze, it is Masoch who shows us the way: modern humour is achieved by turning the very absence of content into the means of achieving a humorous subversion.

We often think of the masochist as the subject who submits to the law absolutely, yielding all power and authority to it in exchange for a perverse pleasure. Deleuze disagrees. A close reading of Masoch leads him to conclude that this 'apparent obedience' conceals a 'criticism and a provocation' that is no less capable of subverting the law than sadistic irony (Deleuze and von Sacher-Masoch, 1991: 88). But whereas the ironist takes aim at the law's principles, the masochist aims at its consequences and pushes the law to the point where it brings about a humorous subversion.

The key to this manoeuvre lies in the operations of the superego which, as we saw, emerges when the content of the law is pushed below the bar. Since in the absence of an explicit content the law cannot be followed to the limit ('Never get your gun dirty!'), the modern humourist submits themselves to the pure form of the superego injunction itself: 'Obey!'. This total submission to the law leads Deleuze to argue that modern humour is distinctly masochistic:

The essence of masochistic humour lies in this, that the very law which forbids the satisfaction of a desire under threat of subsequent punishment is converted into one which demands the punishment first and then orders that the satisfaction of the desire should necessarily follow upon the punishment. (Deleuze and von Sacher-Masoch, 1991: 88–89)

Within the modern form of law, it is only by submitting oneself absolutely to its superegoic injunctions that the law can be made to facilitate precisely the kinds of pleasure it is supposed to forbid. Importantly, contrary to common misconceptions about masochism, it is not pain that the masochist aims at but the evocation of the law's punitive and prohibitory aspect. It would, Deleuze writes, 'be a mistake to confuse this temporal succession with logical causality' (Deleuze and von Sacher-Masoch, 1991: 89). The point is that it is only by having acquiesced to the law that the masochistic is in a position to demonstrate its absurdity. Humour is derived from exposing how the law's interdictions open a gap between the law and its consequences. Hence, for Deleuze, the masochist is not the passive subject who prostrates themselves before the law. On the contrary, '[t]he masochist is insolent in his obsequiousness, rebellious in his submission; in short, he is a humourist, a logician of consequences' who by falsely submitting to the law achieves pleasures it was intended to forbid (Deleuze and von Sacher-Masoch, 1991: 89).

It is precisely this logic that underpins Barnaul's nanoprotests. The use toys is not just a clever way to attract media attention but more fundamentally a way to undermine the law by playfully submitting to its interdictions (Nim, 2016). That this was the aim is evidenced by the steady escalation of absurdity that

characterized the protests. As in much of the world, protests in Russia must be granted a permit by the local authorities. After unsanctioned protests led to the arrest of several participants, organizers in Barnaul decided to change strategy. Knowing that a permit for a second event would not be forthcoming, the Decemberists used toys instead of people. In this way, they obeyed the law's prohibitory injunction 'Do not have protests without a permit!' and yet nonetheless achieved the very thing the law was supposed to prevent. When the first nano-protest was shut down by Barnaul's authorities on the grounds that it did not have a permit, the Decemberists submitted a permit for a similar, larger protest. The slogan for the event was to be 'For Honest Elections', the expected participants were specified as: '100 Kinder Surprise toys, 100 Lego men, 20 toy soldiers, 15 stuffed animals and 10 toy cars' (Pfeifer, 2012). The permit was rejected by Barnaul's authorities, who took the opportunity to release a statement:

As you understand, toys, especially imported toys, are not only not citizens of Russia but they are not even people.... It is possible that the people who have applied are inspired by their toys and consider them friends but the law unfortunately has a different point of view...neither toys nor, for example, flags, plates, or domestic appliances can take part in a meeting. (O'Flynn, 2012)

The absurdity of this statement echoed around the world and made the Decemberists international news overnight (Nim, 2016). At the same time, Russian authorities across the country began to repress opposition, arresting protestors in Moscow and raising maximum fines for conducting unsanctioned public gatherings. Faced with the law's demand not to organize mass toy protests, the Decemberists responded with a plan to organize one-toy pickets across the city. Since one-person pickets were not technically covered by the law's prohibition, the event would obey the law and – it was hoped – it would be funny enough to apply further pressure to Barnaul's authorities. As a Decemberist representative explained, 'We wanted to hyperbolise these attempts, to strip bare the farce of the officials' struggle with their own people' (quoted in Nim, 2016: 101).

The Decemberists were not alone in their use of comedy during the election period (Prozorov, 2014). When Putin cried during his acceptance speech, activists across Russia took to Twitter to provide explanations: an eyelash caught in his eye, sinusitis, cutting onions and so on (Harding, 2012). Muscovites also burned effigies of Putin, mocked his attempts to downplay the significance of protests and waved banners reading '146 percent of Muscovites are for free elections!' (Barry, 2011). Nevertheless, the Decemberists' protest is unique. It is humorous in the strictly Deleuzian sense. When Barnaul's officials declared that it was illegal for humans to take to the streets, the Decemberists had toys protest for them. When the first nanoprotest was declared an unsanctioned public event, the Decemberists submitted a permit. When this permit was rejected, the plan to place one-toy pickets across the city was enacted. Each time, the law's interdiction provided the means for its subsequent subversion. It was precisely by submitting to the law's

injunctions with an ‘excess of zeal’ that the Barnaul Decemberists could open a gap between the prohibition and its consequences (Deleuze and von Sacher-Masoch, 1991: 88). What makes this humorous in the Deleuzian sense is not that the nano-protests caused Barnaul’s authorities to make fools of themselves; the farcical official response is undeniably funny but it is not an example of Deleuzian humour. Rather, the properly Deleuzian humour of the nanoprotests springs from the fact that the law’s subversion was found *within* the formal structure of the law itself.

The promise of perversion?

Political practice was not the focus of Deleuze’s theory of humour and irony. Nevertheless, as commentators have observed, Deleuze appears to imply that his theory of perversion, humour and irony has a revolutionary potential (Cosgrove, 1999; Kazarian, 2010; MacCormack, 2004). At the end of his analysis of humour and irony, for instance, Deleuze writes that, ‘[f]rom the idea that the law should not be based on the principle of the Good but on the form alone’ the sadistic ironist ‘aims at the subversion of all laws’, whilst it is by ‘making punishment into a condition that makes possible the forbidden pleasure’ that the masochistic humourist strips the law of its capacity to prohibit and punish’ (Deleuze and von Sacher-Masoch, 1991: 89). And what is a law that cannot prohibit? For Deleuze, then, humour and irony can ‘overturn’ (Deleuze, 2004: 5–6), ‘overthrow’ (Deleuze and von Sacher-Masoch, 1991: 89) and ‘subvert’ the law (Deleuze and von Sacher-Masoch, 1991: 87). They can bring about its unintended consequences or exploit its form in the name of another radically opposed principle. The strong suggestion here is that by exploiting gaps within the structure of law, masochistic humour and sadistic irony might usher into being new forms of subjectivity, new principles of law or even forms of social expression beyond law.

The problem is that in making such pronouncements Deleuze and his followers fall victim to a frequent misunderstanding of perversion. It is often thought that the pervert is the subject who operates beyond the law, who ‘goes to the end’ and freely enacts the kinds of sordid fantasies that the neurotic subject (the ‘normal’ subject who has submitted to Oedipal law) can only dream of. From here, it would follow that the pervert might offer an opening onto new ‘anti-Oedipal’ and uninhibited forms of enjoyment (see MacCormack, 2004). But here Deleuze misses a crucial Lacanian insight: the pervert’s incessant staging of transgressive practices is not the expression of uninhibited *jouissance* (or enjoyment) but of the desire to set limits to their *jouissance* by bringing the law into being. For Lacan, while it is true that the pervert transgresses social norms, this is not because they are operating beyond the law but because they desire their full integration *into* the law (Žižek, 2009: 17). As Lacan explains:

if we know something now about the pervert, it is that what appears from the outside to be an unbounded satisfaction is actually a defense and an implementation of the

law inasmuch as it curbs, suspends, and halts the subject on the path to *jouissance*. (Lacan, 2016a: 150)

Thus, the pervert is a paradoxically conservative figure. It prostrates itself before the law not as a means to transgress but to bring the law into being, 'to make the Other as law (or law-giving Other) exist' (Fink, 1999: 180). As Žižek writes, 'the irony should not escape us: the pervert, this "transgressor" *par excellence* who purports all rules of "normal" and decent behavior, effectively longs for the very rule of Law' (Žižek, 2009: 17).

In his later years, Lacan underscored the pervert's dependence on the law by writing perversion as *père-version*, or a declension towards the father, to emphasise the pervert's demand that the father announce the law (Lacan, 2016b). It is this structural characteristic that distinguishes the perverse unconscious from the psychotic or the neurotic. In the neurotic structure, the father has intervened as the agent of prohibition to bar access to the mother. The subject has, in Lacan's language, been 'castrated' and entered into the symbolic order as a lacking subject, or as a subject of desire. In psychosis, the father does not intervene, the subject is not castrated, and so the subject is not integrated into the symbolic order. In perversion, meanwhile, the situation is more complex. The law intervenes but it is not forceful enough to bring about castration. Like the neurotic, the pervert 'perceives that the mother lacks the phallus', that she is a subject of desire, but unlike the neurotic the pervert disavows 'this traumatic perception'; they push out of mind that there is a lack in the Other (Evans, 1996: 139). Hence, the pervert is not psychotic because they accept the function of the law, but neither are they neurotic since they have not ceded to the law. This gives perversion a peculiarly divided structure. From one perspective, the pervert is the subject who has disavowed the law and refused to give up the *jouissance* that it receives from the mOther. And yet from another, the pervert is the subject that tries to set limits to its own *jouissance* and to achieve separation from the mOther. In the pervert we find these tendencies operating simultaneously: the pervert is the subject who knows full well that the law has not forced them to give up access to their mother and their *jouissance* but who nonetheless desperately desires separation from this unbearable *jouissance*. Gestures that appear to be in the pursuit of unlimited *jouissance* are in fact in the pursuit of getting someone to stand in for the father and set limits to *jouissance* (Van Haute, 2002: 244).

The masochist and the sadist achieve this goal in opposing ways (Wright, 2013). In the case of the sadist, it is often assumed that they derive pleasure from imparting pain and suffering on their victim. Yet things are not so simple. In his discussions of perversion, Lacan draws a distinction between the consciously staged fantasy and unconscious desire. The eccentricity of the sadist's fantasy lies in the fact that they unconsciously identify with the victim of their exactions. This characteristic of sadism is graphically illustrated in Ferenczi's study of the young boy Arpad. Ferenczi describes how Arpad would enjoy play-acting killing chickens. Arpad's game was to make a fake chicken out of rolled-up paper before

‘slitting its throat’ and playing as if he were the one who were dying by giving ‘an excellent imitation of its death agony’ (Ferenczi, 1994: 241). Here we see an identification with the one upon whom the law is pronounced. The sadist is both the law-maker *and* the law’s subject. By playing both parts the sadist brings the law into being (Fink, 1999: 191). It is because the sadist ultimately identifies with their victim that the sadistic fantasy must be seen as conservative in character. The aim is nothing less than to set limits to their *jouissance* (Lacan, 2016a: 110).

When this is understood, the ‘subversive’ potential of the alt-right’s claim to be the defenders of free speech is cast into doubt. Though the far-right’s privileging of the empty form of law over its intended content permits them to ironically subvert principles of free speech, with Lacan it must be said that insofar as the far-right’s message gains traction, it is less to do with the subversive potential of this move than it is with the well-established libidinal appeal of fascistic ideology (Deleuze and Guattari, 2012; Žižek, 2008b). What the use of sadistic irony itself aims at is much more ordinary and common sense: the reassertion of a set of laws, traditions and prejudices that are perceived to be under attack. It is, in short, the conservative gesture *par excellence*.

In the case of the masochist, Lacan agrees with Deleuze that their submission to the law, their apparent renunciation of enjoyment for the sake of the Other’s enjoyment, should not be taken at face value. For Lacan, the masochist’s conscious submission to the law is the consequence of the subject’s unconscious fantasy. As he says:

What escapes [the masochist’s] notice, even though this is a tangible truth, lying around all over the place in everybody’s reach, though never seen at its true function level, is the fact that [the masochist] is seeking the Other’s anxiety. (Lacan, 2016a: 152)

For Lacan, the masochist’s conscious commitment to the Other’s enjoyment masks the unconscious desire to produce sufficient anxiety in the Other to force them to enunciate a law that would set definite limits to *jouissance* (Lacan, 2016a: 163). Thus, the masochist’s fantasy ‘is a final and distorted attempt to at last establish the law of the father’ and in so doing to achieve separation from the mother (Van Haute, 2002: 244). Deleuze is therefore not wrong to say that ‘[t]he masochist is insolent in his obsequiousness, rebellious in his submission’ (Deleuze and von Sacher-Masoch, 1991: 89). But we should immediately add that what is aimed for is not the subversion of the law but its bringing into being.

Once it is understood that the masochist aims at producing sufficient anxiety in the Other to make them announce the law, the logic of Barnaul’s nanoprotests becomes clearer. It is indeed the case that the Decemberists submit to the law ‘with too-perfect attention to detail’ and so produce a properly Deleuzian humour (Deleuze, 2004: 5–6). But it would be a mistake to think that the aim is to overthrow the law. On the contrary, the protests should be understood as a circuitous way to *enjoy* the law. Each escalation of the demonstrations – unsanctioned public gatherings, unsanctioned toy protests, sanctioned toy

protests, one-toy pickets – functions to provoke sufficient anxiety in Barnaul's authorities to have them pronounce further clarifying prohibitions. As Filip Kovacevic argues, this kind of repetitive provocation of the Other is utterly dependent on the law and thus not in a position to 'overthrow' it or move beyond it (Kovacevic, 2011).

Conclusion

This article has argued that although Deleuze overstates the subversive potential of humour and irony his theory remains useful insofar as it highlights two mutually exclusive and counterintuitive paths that subjects take to enjoy their position within the law. Given the recent rise in right-wing authoritarianism, from Donald Trump to Viktor Orbán and Jair Bolsonaro, this could prove an invaluable insight. It is common to see those opposed to such figures turning to the logic of masochistic humour explored here through the Barnaul Decemberists. The creation of effigies or caricaturing of Trump, for instance, depends precisely on a submission to him with too great an attention to detail. Yet as we have seen, such humour does not overturn the law but derives a secret pleasure from it. The article has also shown that those who support right-wing authoritarianism can find the means to advance their political projects in the empty form of the bourgeois right. The alt-right's appeals to free speech are ironic in the Deleuzian sense because liberal tolerance provides the means for its own subversion, a subversion that identifies with and enjoys the empty form of modern law. Such insights, developed by reading Deleuze and Lacan together, inoculate us against the false promise of perversion and of masochistic humour, and of sadistic irony in particular. They suggest that a different path will be needed for those who seek to overthrow or replace the law.

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