

# Chapter 20

## Law, Code, and Governance in Prophetic Painting: Notes on the Emergence of Early, High, and Late Modern Forms of Life and Governance

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**Abstract** This contribution aims to demonstrate how forms of governance are inextricably intertwined with the forms of life that give rise to them and how such forms of life/governance tend to emerge, historically, in the sensory sphere – on canvas in particular – before they do so symbolically, or conceptually, in the spoken or written word. In other words, emerging forms of life/governance leave traces first in ‘prophetic’ painting before they do so in tracts, books, texts, film scripts, installation art, and so on. This is demonstrated with regard to three historical periods that, each, saw the birth of a particular form of life/governance, that is, early modernity (roughly from 1470 to 1520), high modernity (1750–1800), and late modernity (1940–1990). This contribution includes discussions of ‘prophetic paintings’ by early modern painters such as Jean Fouquet, Gerard David, Domenico Ghirlandaio, Antonello da Messina, and Quentin Metsys; high modern painters such as William Hogarth, Joseph Wright of Derby, and Henry Fuseli; and, finally, late modern painters such as Jackson Pollock and Mark Rothko.

### 20.1 Introduction

The basic question this chapter addresses is whether paintings are the vehicle *par excellence* for new or emerging forms of life and the forms of governance that are inextricably part of them. In other words, do forms of life and governance appear as art before they do so in the sphere of the conceptual? To ask this question is to inquire whether forms of life/governance express themselves in the sensory sphere (e.g. the domain of the visual) before they do so in the domain of abstract symbols and concepts.

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The late art historian Francis Haskell asked himself a similar question in his essay on ‘Art as Prophecy’ (1993: 389–430). A close analysis of Jacques-Louis David’s pre-revolutionary painting *The Oath of the Horatii* [1784] led Haskell to surmise that the painting, in its depiction of solemn, stringent, virile, and merciless patriotism, might have foreshadowed the events of 1789. Ultimately, however, Haskell remained undecided on the issue of the possibility of prophetic painting. If there is such a thing as prophecy in art, he notes, the capacity on which it rests is unevenly distributed among artists and has less to do with the reasoned divination of things to come than with particular sensibilities accumulated in the individual painter.

Prophetic painting is not about an artist first picturing, in his mind’s eye, a scene in the future, or a vision of the future, which he then proceeds to compose and arrange on his canvas or panel. Prophetic painting is not – or at least, not necessarily – about painting events or scenes that are *deliberately* divined, imagined, and prophesied. There is another way of looking at prophecy in painting that holds that *all* painting, to an extent, is prophetic. This is because all painting somehow expresses at least to some extent *emerging* forms of life. By ‘emerging’ is meant here a transition from the realm of the virtual, from the not-yet-actualised, from sheer *intensity* to the actual and the *extensive* (Deleuze 2003; but see also, e.g. Murray 2006, 2007). This transition takes place, or so it could be argued, first and foremost through the senses. Painting in this sense might be regarded as the location *par excellence* of the actualisation, in matter, of emerging forms of life.

Haskell himself hinted at this when he fleetingly remarked that if there is anything like ‘prophetic power’ in art, it should reside in ‘sensitivity’, that is, in a certain non-reflective, nondeliberate, and nonconceptual emergence, through the bones and the flesh of the artist into actual matter. To be sure, much in painting *is* the result of symbolic or conceptual reflection, of reason and deliberation. But something in painting – in *all* painting, potentially – involves the sensory expression of the new, of that which is continuously becoming. In this sense, to the extent that painting expresses something of a newly emerging reality, it is prophetic. Perhaps art historian Michael Baxandall described it best in his *Patterns of Intention* (1985) when he spoke of the *charge* of the work (i.e. the will to find a new solution to an existing problem), its *brief* (i.e. the work’s historical, cultural, and technological context), and the nature of the *resources* which the painter perceives to be available and is able to marshal (i.e. painterly skill and biography). It is in this sense that we will consider prophetic painting here.

Emergent forms of life, or elements of it, are likely to leave traces first on panels and on canvases, before they do so in the symbolic or conceptual sphere. I hope to demonstrate this by taking a closer look at a number of paintings spanning five centuries. The main focus will be on the emergence of *modern* forms of life/governance, that is, in early (1470–1520), high (1750–1800), and late modernity (1940–1990). One might be able to detect, in modern life and governance, a certain preoccupation with the complexities of inner selves. That which is to govern, and which is to be governed, in modernity, is the complex inner self. That which lurks secretly underneath the surface of mass and mere organism – a complex of boiling potential, deliberations, aspirations, intentions, imaginary tactical manoeuvres, and so on – is what

governance (i.e. the governing self as well as the governed self) is to divine, reflect upon, work with, and put to productive use.

In what follows, I will focus first on the early modern emergence, on panels, of a form of life/governance that flows from the sudden discovery of the contemplative nature of the complex inner modern self. I will then move on to the emergence, on high modern canvases, of a new form of life/governance. This is one whereby the complex inner self gradually territorialises and codifies. The emergence of the final, late modern form of life/governance announces the actualisation of a process whereby the complex inner self, governed and governing, begins to engage in unrelenting de-territorialisation and de-codification.

## 20.2 Complex Inner Selves: Their Emergence and Discovery

The work of a fifteenth-century Dutch-Flemish painter, Gerard David, is a good place to start. His diptych *The Justice of Cambyses* [1498], for example, captures, in our view at least, an emerging, indeed actualising early modern form of life/governance well (see Figs. 20.1 and 20.2). I have elsewhere analysed this painting in some depth (Lippens 2009). Briefly, both panels rehearse the story (first told by Herodotus) of the arrest, and subsequent execution, during the rule of the Persian king Cambyses III,



**Fig. 20.1** Gerard David, *The Justice of Cambyses* (1498). Panel 1: The arrest of Sisamnes. Groeninge Museum, Bruges

**Fig. 20.2** Gerard David, *The Justice of Cambyses* (1498). Panel 2: The flaying of Sisamnes. Groeninge Museum, Bruges



of a corrupt judge Sisamnes. The first panel depicts the arrest of the judge. His crime (accepting a bribe) is pictured in the backdrop (the past).

The second panel shows Sisamnes, in utter agony, being flayed alive. His son, Otanes, in his capacity as the newly appointed judge, is depicted in the backdrop (the future). He is seated on this father's throne which is draped with the latter's flayed skin. The first panel shows us events in a very static, indeed almost frozen, manner. The public square is barely visible in the background, and nothing worth of note seems to be happening there. The main events take place within the strict enclosure of the courthouse. The static, unchanging nature of royal authority and order dominates the scene.

On the second panel though, there is much more dynamism to be noted. All events take place in the open, in the public square. The seat of authority is placed at the fringes, at the margins of public life. The seat of authority, or the courthouse, is an open house. People move in and out freely, casually even. However, ambiguity seems to reign in the public square, particularly in the furtive, somewhat aloof glances which those who participate in public life seem to be throwing hither and thither. The new judge – new authority – allows himself or allows itself to be watched and scrutinised. But does he, and do we? He himself seems to be watching us, furtively, askance. But is he? It's not all that clear. There is a lot of ambiguity around. It's as if everybody in the square is wondering about something, wondering, perhaps, about what others might be wondering about.

Law is only skin-deep in an age when wonder, contemplation, and divination are beginning to take centre stage in life/governance. Law could never be more than a practical instrument in the hands of those who, whether governed or governing, are growing ever more tactile and tactical. This newly emerging, actualising form of life/governance is a *tactile* one: burghers and governors, in public squares, have just discovered, with something of a daze-inducing shock, the complexity of *their* inner self and are beginning to wonder about the complexity of the inner self of *others*. They are beginning to wonder about that which lurks – or which might be lurking – behind or underneath surfaces, skins in particular (do have another look at David's second panel). Their wonder is tactile: it tries to feel its way, in divination, behind the appearance of skin. This form of life/governance is also a *tactical* one. In the realm of possibility that has opened up in public life and in public squares, and in the complexity, or at least the potential for complexity, that has emerged in its wake, the issue for complex inner selves becomes to divine and contemplate the tactical opportunities (as well as the dangers) that could be hiding in them.

The newly emerged complex inner self is tactical also in the sense that it becomes important – whether one is governed or governing – not to betray one's tactical contemplations prematurely. In public squares, it is beginning to pay to project a seemingly indifferent, furtive, aloof, in short, ambiguous look. Such projections of course only fuel further divinations and contemplations. All this might be visible, at least to some extent, on the panels of David's diptych. Bret Rothstein recently (2008) claimed that *The Justice of Cambyses* stirs 'ruminative viewing' in spectators. Such ruminative viewing is quite normal before what Harry Berger calls early modern 'optical' and 'textural' paintings (rather than mere 'decorative' and 'graphic' ones), that is, paintings where the artist felt free to add his own optical perspective, or his own textural creativity, to the painting process. Such paintings tend to activate what Berger has termed an 'observer shuttle' (1998: 43) whereby the viewer moves back and forth between the painting and his or her imagination. But the point that is made here in the contribution at hand is that there is a lot of ruminative, indeed existential viewing going on in the very scenery of David's painting itself.

The way in which David painted the public square on his second panel was quite novel. A new form emerged there on that panel, in 1498; a new form of life/governance, one might say. If one compares David's panel with the painting, by an unknown master, of *The Execution of Savonarola* (painted also in 1498), the contrast immediately becomes clear. Whereas the former suggests movement, mobility, porous boundaries (e.g. between the open square and the courthouse), and deep ambiguity, the latter shows the Florentine square as a vast desert-like space where small groups of static, neatly delineated, separated groups or factions remain immobile around the scene of Savonarola's execution.

The close of the fifteenth century has often been read as a defining, existential moment in Western history. Some point to the impact of the catalyst year 1492 which will have prompted contemplative self-reflection on a massive scale. Others read Giovanni Pico della Mirandola's *Oratio de Hominis Dignitate* (published originally in 1486) as the event when existential, self-reflective, contemplative modern man – that is, man who contemplates options in order to choose and build his own

life – was born. That existential moment of self-awakening, it could be argued in passing, was probably first captured on Jean Fouquet's first panel of his Etienne Chevalier diptych, that is, *Portrait of Etienne Chevalier Commended by St. Stephen* [1450]. That panel depicts the rich courtier, painted against a backdrop in perspective (the emerging modern future), as he seems to be praying to and looking at the whitish immobility of *The Virgin and Child* [1453–1454] on the other panel, looking back, as it were, on a past of static, unchanging order whence he has just managed to wrestle himself from.

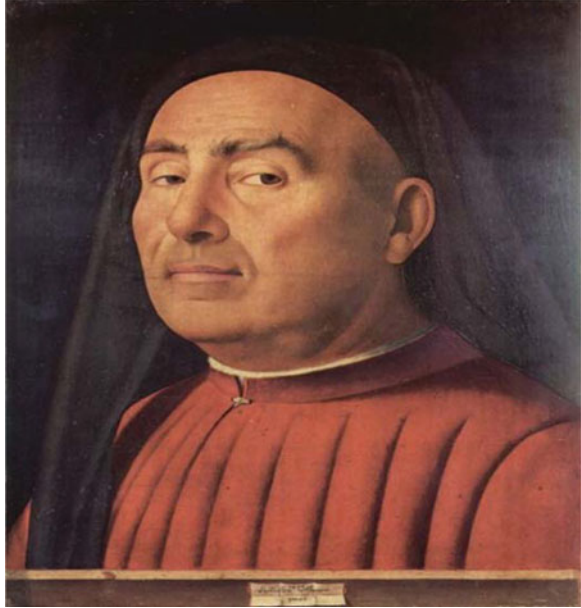
There is no point in discarding or rejecting these views on the birth of early modern 'existential man'. Here, we merely wish to add that David's diptych could be read as the visual harbinger of an emerging form of life/governance – the burgher form of life/governance – whereby complex inner selves suddenly, and slightly dazed still of the effects of their self-awakening discovery, had to come to terms with the existence of the complex inner selves of others as well and with the opportunities, risk, and dangers therein. The burgher, by the end of the fifteenth century, has come to realise that life is about opportunities and risks, about tactical manoeuvres, and about the uses of ambiguity in the tactics of social mobility. Those that govern are, they too, fully immersed in this emerging form of life/governance. They suddenly experience the need, indeed the practical necessity (as Machiavelli would a few decades later argue, in his *Discourses on Livy*), to read or divine that which lurks or hides behind the ambiguities in the body politic, in order to tactically mobilise it. They too are beginning to wonder about that which, in all its complexity, moves behind ambiguous surfaces.

The issue, in other words, in early modern life and governance is to contemplate ways to take account of or deal with others' likely *perspectives* in the ongoing construction of one's own (compare with Berger 1998, 32–33 in particular). What tactical ponderings are going on behind furtive glances, behind skins, behind the slightly ambiguous posture of those who walk past in public squares? David's diptych captures all this. But the preoccupation with surfaces and skins, and, more importantly, with that which might possibly dwell underneath or behind them, had already emerged on panels well before 1498.

Let's consider this early modern preoccupation with surfaces and skins, and with what those might be hiding. Domenico Ghirlandaio's well-known *Old Man and his Grandson* [1490] shows a grandfather who looks with a tender smile to his grandchild who, sitting on the man's lap, in turn looks him in the eye. The old man's face and nose are seriously disfigured by boils and warts. But that seems not to be an issue in this painting. What is important is the tender exchange of gazes between a loving grandfather and a grandson. It is as if their eyes are feeling their way through or behind the surface of skin. On Ghirlandaio's painting, a diseased and disfigured skin is no longer expressive of sin or moral depravity. It's only a surface. What is important is that which is hidden behind it, for example, motives, sentiments, and deliberations.

Now let us have a closer look at the early modern interest in the glance. Another Italian painter, Antonello da Messina, was, like Ghirlandaio, influenced by Flemish painting. He painted a series of portraits (during the 1460s and 1470s mostly) which

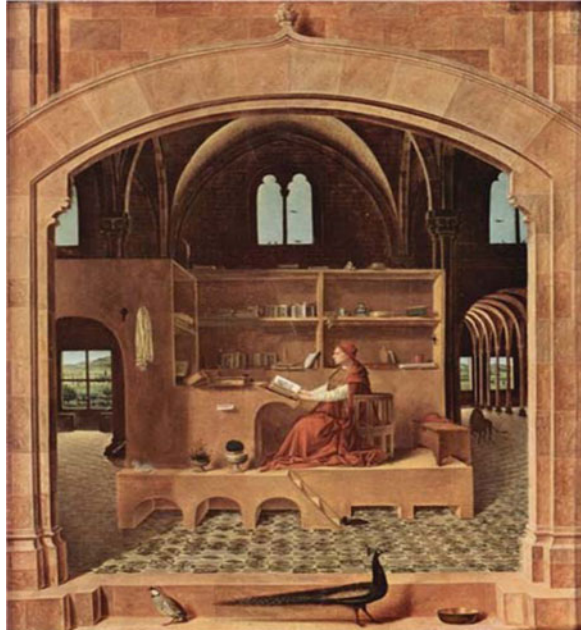
**Fig. 20.3** Antonello da Messina, *Portrait of a Man* (1476). Museo Civico d'Arte Antica, Turin



strike us as quite modern. The look in the eyes of da Messina's models, as they appear on his panels, goes way beyond what had hitherto been painted by his Flemish inspirers. There is a certain inquisitiveness to be noted in da Messina's painted glances which moderns will recognise. Do have a look at one of his many portraits, that is, his *Portrait of a Man* [1476] (see Fig. 20.3). The spectator is bound to wonder about what might possibly be going on behind this man's slightly aloof, slightly inquisitive look. One answer to that question might not be too far-fetched: the man is probably wondering about what is going on behind our own wondering eyes. This really is a qualitative leap from, for example, the Van Eyck brothers (1440s and 1450s mostly). Antonello da Messina even went so far as to endow the Holy Virgin, in his *Mary's Annunciation* [1475], with a similarly inquisitive, slightly enigmatic look in her eyes.

Da Messina's portraits, and the spectators who view them, seem to be caught up in a web of mutually shared wonder. They are bound to ask questions such as the following: What is going on behind the eyes? What is going on behind surfaces? What are others – complex inner selves just like me – thinking about? What plans are they contemplating? Which move are they likely to make next? The early modern *tactile* preoccupation with surfaces, skins, and glances – and, to be more precise, with the possible *tactical* contemplations that lurk behind them – would, in painting, find its ultimate culmination, or so it could be argued, in Flemish painter Quentin Metsys' work *Suppliant Peasants in the Office of Two Tax Collectors* [1515]. That painting shows two tax collectors and two peasants, all with grotesquely contorted faces and blemished skins, eying each other up with bewildered,

**Fig. 20.4** Antonello da Messina, *St Jerome in his Study* (1474). National Gallery, London



inquisitive, and suggestive gazes. Each of the characters in the painting seems to be trying to second-guess the motives, intentions, tactics, ponderings, and future moves of the others.

But let us return to Antonello da Messina. Before he embarked upon his series of portraits, he had already completed his *St Jerome in his Study* [1474] (see Fig. 20.4). The painting shows St Jerome translating the Gospel in his study. The painting is full of symbolism, but that is not what interests us here (on this symbolism, see Jolly 1983). St Jerome, the translator, and therefore also the bringer of new and as yet unknown, enigmatic tidings, is sat in a building which da Messina has broken open (not unlike Gerard David, on his second panel) in a Matruschka sort of way.

The spectator is able to look through the different layers of the building into its very heart. There, we find St Jerome. We may now wonder about what could possibly be going on behind the layers of the saint's flesh and blood, in the deep recesses of his mind. What is going on in St Jerome's mind? What is going on behind surfaces?

The small selection of paintings we have been discussing so far may go some way to showing how emerging modern complex inner selves, still stunned by their self-awakening, as well as by the very discovery of this self-awakening itself, produced a form of life and a form of governance (both inextricably intertwined) which materialised, from quite early on, on painted panels. On these panels, we are able to recognise typically modern preoccupations with the complexity of the self, with tactical manoeuvres, with the practical necessity to take the complexities of selves



into account, with the contingencies of opportunity and risk, with self-presentation, with the sheer indeterminacy of choice, and so on. All this happens quite a while before corresponding ideas emerge, conceptually, in print (e.g. in Machiavelli's *Discourses on Livy*). On such panels, one might indeed be able to witness the birth of modern, indeterminate, indeed existential man. Let us now move on to the emergence of a high modern form of life/governance.

### 20.3 Complex Inner Selves: Territorialising and Codifying

In his recently translated *The Eye of the Law* (2009), Michael Stolleis traces the symbolic deployment of the figure of the eye (usually depicted within the frame of a triangular shape) in successive regimes of authority and governance since the seventeenth century. First, it represented God's 'watchful eye', then the eye of the absolute Sovereign, later still the eye of the law (and the constitution), or the nation, *Volk*, 'the people', and so on. It is worth noting that the 'watchful' eye here stands, symbolically, not just for 'surveillance' or for 'warning' and 'punishment', but also, at least potentially, for 'protection', 'providence', or indeed 'formative' and 'productive'. During the eighteenth century, it is the law and the nation – or the constitution – that become the location of the watchful eye. The emphasis in its symbolic connotations gradually moves towards the formative and productive properties of the eye and the gaze (even though their other properties never completely disappear). It is this transition which will form the backdrop of this section here. The formative and productive dimension of the gaze forms part of what we call the high modern form of life/governance.

William Hogarth was one of the great diagnosticians of the eighteenth century. The word is used here in a Nietzschean sense (but see also Deleuze 1994). His works have great diagnostic force. Firmly embedded in a 'post-Newtonian universe' (Asfour 1999), Hogarth diagnoses what he believes to be a very serious problem in mid-eighteenth century (British) society, that is, the lack of a stable and stabilising centre or the lack of 'civilisation' amidst rampant 'savagery' (Dabydeen 1981). Let us consider his *An Election Entertainment* [1755] (Fig. 20.5). Again, I am not interested in the symbolic dimension of this painting. I do note, however, that the theme of the painting is politics or the political. The centre of this canvas is almost completely taken up by the white expanse of the empty table. The table is empty since one of the women has managed, in all her fleshy desire, to rake all foodstuffs and cakes to her side. The empty, blank centre is left vacated. All around the empty centre, the buzz of frenetic, uncontrolled activity – sheer disorder – reigns. The centre doesn't hold anything. Nothing seems to be keeping sheer bodily desire in check (see also Krysmanski 1998a, b). If there are any complex, inner selves present, they have decided to allow desire to play out.

The centre does not seem to structure, produce, or harness any of the available energies. This is a recurring theme in many of Hogarth's diagnostic works (his ironically named *Progresses* in particular; see, e.g. Momberger 1999): if left unchecked,

**Fig. 20.5** William Hogarth, *An Election Entertainment* (1755). Sir John Soane's Museum, London



desire shall, step by step, lead to sheer chaos. The early modern, self-aware, and reflective pondering self has all but disappeared. It could be that more than two centuries of absolutist rule had made tactile and tactical games with, within, and between complex inner selves rather obsolete and had installed forms of life/governance that were geared more towards the mere physical control and management of pure bodily desire. The Italian jurist Cesare Beccaria would, about a decade after *An Election Entertainment*, publish his *Dei Delitti e Delle Pene* [1764] in which he made a plea to replace the regime of fleshy desire and its control with a quantitative *mechanics* of calculation which, he hoped, would ultimately, and indeed *naturally*, bring about stability and order.

But it was not long before a newly emerging form of life/governance crystallised on canvases, for example, on those of Joseph Wright of Derby. His *An Iron Forge* [1772] is worth a closer look (see Fig. 20.6). Wright has often been dubbed the painter of the Industrial Revolution par excellence (e.g. Cieszkowski 1983). But there is more to his work than that. The very centre of the painting is, here too, taken up by whiteness. But unlike Hogarth's empty whiteness, this one here is of a productive kind. The light from the white-hot ingot radiates outwards, and as it travels to the corners of the forge, it not only throws light on objects and on those who are present, it actually *forms*, indeed produces, them. This is a light that, in the words of Bille and Sørensen (2007), has 'agency'. It produces pride in the blacksmith who owns the forge (have another close look at the smith's facial expression). It produces well-being in him and in his family. It produces a sense of security in them. It forms their selves. The radiating light is productive. The forge is productive. It not only produces objects. It also produces selves. Out of nature's raw materials, out of the chaos of nature, out of sheer desire, it produces stability and order (see also Solkin 2003). The selves that are forged out of nature's sheer chaos have something stable, orderly about them. The stability and order that are forged out of sheer natural

**Fig. 20.6** Joseph Wright of Derby, *An Iron Forge* (1772). Tate Britain, London



desire are, in turn, indistinguishable from the features of the selves that emerge from the productive process, the former depending on the latter, and vice versa.

It is possible to retrace a gradual build-up in Wright's work up to *An Iron Forge* [1772]. Wright had been painting similar chiaroscuro works which, all of them, have a bright light at their centre. This is a light that, in the poetics of Gaston Bachelard, 'takes its time to light the whole room progressively'. A light whose productive 'wings and hands (...) move slowly as they brush the walls' (1988: 68; see also Bille and Sørensen 2007: 279). At a time when Beccaria was writing his *Dei Delitti*, Wright was making preparations for his *A Philosopher Giving that Lecture on the Orrery* [1764–1766]. The light in this painting emanates from a mere mechanical clockwork, that is, an orrery. The clockwork merely mimics the natural law of physics (the orbits of the planets, to be precise). Around the orrery are gathered a number of people whose faces are partially illuminated – in chiaroscuro style – by the light that 'brushes' past them. Here, we are still in a natural mechanics. That which is produced by the light is produced by clockwork that merely mimics nature. That which is thus produced – the selves of spectators, for example, can therefore be nothing but the effects of the mimicry of those very natural mechanics.

However, a few years later, in his *An Experiment on a Bird in the Air Pump* [1768], Wright has the radiating light flowing from a lamp placed under a device (a vacuum air pump) used for scientific experiments. Again, the light illuminates a multitude of faces. The air pump seems to represent a station somewhere halfway between a mere natural mechanics and a mechanics of production. An air pump is, after all, a productive machine. It mobilises certain laws of physics to produce certain *willed* effects. That which is thus produced is then not the mere effect of a

mere natural mechanics. It is *also* the result of a certain productive will. A few more years later, Wright paints *A Blacksmith's Shop* [1771]. As is the case in *An Iron Forge* [1772], the whiteness of the light, again placed at the centre, comes from a glowing hot ingot. It illuminates the faces of the workers who – unlike the blacksmith's family in *An Iron Forge* – are still absorbed in their productive work (see also Solkin 2003: 179–180 on precisely this point). The faces (and the selves) of the workers are completely focused, full of concentrated, stable, ordered *will*. That which they are about to produce will be too.

Some have called Wright a painter of the sublime (e.g. Paulson 1969: 291; Solkin 2003). One could argue though that on Wright's canvases, a new form of life/governance is emerging. This form of life/governance is not just about laboriousness and about transforming brute nature into civilisation; indeed, authors such as Locke and Hume had already written on these issues well before Wright (on this, see Solkin 2003, *partim*). This is a form of life/governance that is, once again, based on an interest in inner selves. The inner self here has to be produced. It has to be kneaded into shape. Governance here is about the willed production of stable, ordered, indeed *centred*, inner selves. Those who govern, and those who are governed, in this form of life/governance, have an interest in kneading and shaping their (and others') inner self. They have an interest in stabilising it, centring it, and ordering it. The very aim of all this production is to make the inner self in turn *productive*. Indeed, neither fleshy desire, nor a mere mechanics of nature could ever be productive. Desire and natural mechanics don't need an inner self at all. Where they reign, the inner self is absent. For there to be production or better *productivity*, there needs to be an inner self that, willingly, takes part in the productive process. And for there to be willing inner selves, they, in turn, need to be kneaded, indeed *forged*, into shape.

This emerging form of life/governance, then, crystallises around a certain will to *produce* inner selves – one's own and those of others – into *productive* shape. The inner self then, in this very process of production, is to become less complex, more stable, ordered, and centred. In other words, the potentially limitless complexity of the inner self, for it the self to acquire any productive capacity at all, will have to lose some of its complexity. This may come about by organising it, or by allowing it to self-organise, around a centre. The productive light radiating outwards from this centre should then stabilise the potentially restless complexity of contemplating, ruminating selves, ordering them and preparing them for productivity as the 'wings and hands' of the light 'brush' past them – remedying, as it were, the lack so vividly diagnosed by Hogarth (see again Paulson 1969: 292).

Wright's paintings seem to have captured some of this emerging form of life/governance. This happened two decades or so before Jeremy Bentham published his *Panopticon* [1787]. It may be a bridge too far to point to Wright's paintings as the immediate preconceptual precursors of Bentham's tract. Indeed, there are many differences to be noted here. One of the distinctive features of Bentham's *Panopticon*, that is, its centrally located tower that houses the eye of power, is darkened. No light radiates from it. However, there *is* light in the *Panopticon*. It 'brushes' past the concentrically positioned cells where it performs its kneading, shaping work. It produces subjects, as Michel Foucault (1977) argued. It produces fitting, *productive*

subjects. With its ‘wings and hands’, it tries to reach the farthest capillaries, nooks, and crannies with an *eye* on doing its productive work. The ‘eye’ indeed...It is the ‘eye’, the organ of light, the eye at the centre that guides the light on its productive travels. It is the eye at the centre that, within the inner self, at its centre, installs a productive will or, to be more precise, a will to production.

All this could of course also be related to what Michael Stolleis (see above) has described as the move, during the closing decades of the eighteenth century and during the early nineteenth, towards a political imaginary whereby the ‘watchful eye’ of governance is gradually situated at the centre of the law of the nation – the constitution, if you wish – from where it is then supposed or even expected to perform more productively, that is, to *produce* fitting citizens. The constitution of a society is a work of intense labour; it is a *productive* process. The constitution of a nation does not come naturally. Desire – and the mere management of it – won’t suffice. Natural laws of physics – or the attempt to mimic them – will simply not do. The eye of governance, says Foucault, would move into the centre of the many, mushrooming institutions of society, where it was to perform its most important task, that is, the productive constitution of upright, dependable citizens and disciplined, normalised workers. And that task, as we have argued, is about organising and centring the inner self of ‘citizens’ and ‘workers’. The form of life/governance which we have seen emerging on Wright’s canvases is one that needs inner selves to be focused on or centred upon the productive will to production. For the constitution to be able to productively organise its territory – for it to be able to territorialise – it needs inner selves that are themselves territorialised (to borrow from [Deleuze and Guattari 1984](#)), that is, organised, structured, or arranged according to particular codes. For the constitution to be able to perform its productive task appropriately, it needs inner selves that are codified and that are willing to codify.

The constitution of societies, nations, and inner selves is a never-ending story. That which is repressed is bound to return in some way or other, at some point in time. The *return of the repressed* is inevitable. Henry Fuseli’s well-known painting *The Nightmare* [1781] is probably one of the first to depict this. The painting materialised on canvas some 6 years before de Sade started work on his *Justine* (another repressed returning). At the centre of Fuseli’s *Nightmare*, we find, again, an expanse of whiteness. This whiteness is impotent, non-productive whiteness (it’s the whiteness of a dress of a woman who is either asleep, having nightmares, in a coma, or experiencing sexual ecstasy; [Moffitt 2002](#)). The inner self has disappeared. The whiteness in the painting, once again, stands for emptiness. The centre of the painting is once again a vacated space. The animal-like incubi (rampant, uncontrolled desire; disorderly nature) have taken over. Some romantics who came after the ‘gothic’ Fuseli would focus, it should be noted, on nature in a more positive light.

Let us now shift our attention to the emergence, in the latter half of the twentieth century, of the late modern form of life/governance. Whereas the high modern form of life/governance was about the territorialisation and codification of nations and of inner selves, the late modern form of life/governance is about de-territorialisation and de-codification.

## 20.4 Complex Inner Selves: De-territorialising and De-codifying

Jackson Pollock, one of the so-called abstract expressionists, achieved his signature style a few years after the Second World War. His *Autumn Rhythm: Number 30* (Fig. 20.7) was completed in 1950. Pollock never made a sustained effort to write (or even talk) about his work. Much of what we know about his own thoughts derives from a few scattered statements of which the following string of words is perhaps the most telling: ‘technic is the result of a need...new needs demand new technics...total control...denial of the accident...States of order...organic intensity...energy and motion...made visible...memories arrested in space...human needs and motives...acceptance’ (published posthumously, cited, e.g. in Emmerling 2007: 69 and in Varnedoe and Karmel 1998: 56).

Pollock used the then quite novel ‘dripping’ technique (‘new needs demand new technics’) to paint his massive canvases which were placed on the floor when the artist was working on them. He allowed, in other words, the laws of physics – sheer and utter nature – to do much of the work. But that does not mean that he relinquishes control (Cernuschi and Herczynski 2008). On the contrary, Pollock’s work is all about achieving and maintaining ‘total control’. Nothing in his painting is mere accident (‘denial of the accident’) or chaos. Pollock wants to achieve total control in and through his very engagement with sheer, physical nature. Such engagement should allow one to acquire some level of mastery, not just over nature but also over oneself.

Explorations in sheer ‘organic intensity’, and the immersion of oneself in the sheer physical laws of ‘energy and motion’, should provide one with the capacity and with the abilities to exercise control over one’s life conditions. In immersing



**Fig. 20.7** Jackson Pollock, *Autumn Rhythm: Number 30* (1950) (266.7 × 525.8 cm) (Courtesy of the Metropolitan Museum of Art, New York, ©The Pollock-Krasner Foundation ARS, NY and DACS, London 2009)

himself in the physics of nature (the sheer size of his canvases allowed for such ‘immersion’), Pollock however still maintains or attempts to maintain ‘total control’ over the painting process. He wants to decide and choose himself where and how the dripping paint is going to fall and how it will leave traces of trajectories on the canvas. It is Pollock, and not physics or nature, who is to make the choices and the decisions. ‘Total control’ here is about having the capacity and ability to choose, to decide in the sheer, naked presence of the raw physics of nature. This capacity and this ability can be acquired, and trained even, if one is prepared to venture into this naked physics of nature (e.g. in the sheer *Rhythm of Autumn*), that is, if one is prepared to abandon all human law and code. In order to be able to acquire and maintain the capacity and ability to choose and decide in ‘total control’, one must first relinquish *all* law and code.

‘Total control’ cannot be achieved or exercised if one is still in the realm of human law and human codes. Control here is not about subscribing to or adopting particular forms of human organisation. Control is not about territorialising and codifying a particular space. It is not about mobilising the force of particular laws and codes in particular territories. Control is, on the contrary, about giving up all belief in, and all dependency on, coded territories. One does not just abandon law and code with a measure of control. Control, or at least the potential for control, resides *precisely* in this very move away from all coded territory. It is, in other words, about achieving and exercising utter and complete *responsiveness*. Responsiveness can only be achieved if one is prepared to abandon all rigid code and law. One should even give up or flee from one’s inner self. The inner self, insofar as it is organised, or coded, or territorialised, diminishes one’s capacity and ability for responsive control. In other words, it diminishes one’s *sovereignty* (see on this in more detail, Lippens 2011a, b). One should even give up one’s gender or indeed biological code (e.g. in transgender choice).

It is worth noting that Pollock used to start his paintings by drawing the outline of human figures on the canvas. The figures would then be washed away under the unrelenting, energetic dripping of the painter’s natural, physical but ‘totally controlled’ choices and decisions (see, e.g. in Varnedoe and Karmel 1998: 87–137). Only in the ‘total’ relinquishment of *all* law, of *all* code, of *all* territorialisation (and that includes the territorialised self itself), away from all that is not sheer nature, can one hope to find ‘control’, that is, the capacity and ability to choose and decide properly, responsively, in utter sovereignty. Only there can one find, ‘accept’, and deal with real ‘human needs and motives’.

Pollock’s painting technique betrays his will to ‘subvert’ even the laws of physics. It suggests ‘a defiant refusal to conform, a stubborn resolve to “outwit” the very natural order with which his own abstractions were meant to be consonant’ (Cernuschi and Herczynski 2008: 635). ‘Total control’, that is, absolute choice and decision, requires utter and complete de-territorialisation and de-codification. Pollock’s paintings, then, are the actual, physical representation of such explorations in the free, un-coded zone of nature; ‘memories’ of what happened and of what was chosen and decided ‘arrested in space’.

This should not come as too much of a surprise to late moderns. Authors such as Stephen Lyng (e.g. Lyng 2004) have been able to show how much in what we now know as ‘edgework’ (i.e. risk-seeking behaviour such as base jumping), particularly since about the 1970s, is precisely about the search for a completely de-territorialised, code-free natural zone where the edgeworker then hopes to be able to build up his or her capacity, ability, and skills of responsive control. But Pollock’s and edgeworkers’ exploits are indicative of a broader late modern form of life/governance to which we will now turn our attention.

This form of life/governance implies a turn away from all law and all code and, indeed, from the self (a coded territory in its own right) itself. Life and governance are no longer about producing, fashioning, steering, or guiding inner contemplative selves. They are, instead, about allowing and stimulating the free circulation of desire and choice. In this form of life/governance, those who govern and those who are governed are no longer interested in the construction of coherent (i.e. coded and territorialised) selves. Selves no longer need to have a coded core. They have, in fact, already turned into collections of mere trajectories of choices. They have de-territorialised. They have been de-codified. Their trajectories resemble Pollock’s paintings. In consumer societies (which thrive on unrelenting, indeed relentless choice), there is little point in re-codifying or in re-territorialising selves, least of all one’s own. Echoing existentialism, one could say that selves *are* their choices. They are what they have chosen and what they continue to choose.

To be in control means to circulate freely, away from all law and code, and to exercise sovereign choice. To be in control means to have the capacity, and to be able to keep de-territorialising, and to keep de-codifying. It is to have the capacity and the ability to keep choosing *otherwise*. That goes as much for those who govern as for those who are governed. Seen in this perspective, Pollock’s *Autumn Rhythm* does not so much represent the *unconscious* (whether repressed, or disciplined, or set free) as, rather, natural, responsive, total control. That requires abstract ‘flatness’ in subjectivity (Joselit 2000), that is, a flatness that no longer hides and no longer has any use for interior depth and complexity, for ambiguity, or for centred inner selves. It is in that sense that Pollock’s work might perhaps be said to ‘address the non-human’ (Moses 2004).

But if the late modern form of life/governance has emerged around the potential for sovereign, totally *responsive* free circulation, indeed the quasi-permanent de-territorialisation of natural choice and control, then it has also produced quite paradoxical effects. If coded territories are to be avoided, fled even, in attempts to achieve natural responsive control, then the potential for de-territorialisation and de-codification must not just be stimulated and maintained but also safeguarded or protected. That which is to be kept at bay, neutralised, or, if necessary, destroyed is nonresponsive rigidity (more precisely, that which is *perceived* to be nonresponsive rigidity). And that can only happen, paradoxically, through coding and territorialisation. Two years after *Autumn Rhythm*, Pollock completed his *Blue Poles: Number II* (Fig. 20.8). Here, suddenly, the natural rhythm of choice and control seems to gradually territorialise. Admittedly, it is unclear whether the ‘blue poles’ represent older forms of coded social organisation that are disappearing under or





**Fig. 20.8** Jackson Pollock, *Blue Poles: Number II* (1952) (210×486.8 cm) (Courtesy of National Gallery of Australia, Canberra, ©The Pollock-Krasner Foundation ARS, NY and DACS, London 2009)

washed over by an emerging new, late modern way of life or whether it is this new way of life that, quite naturally or organically, produces newly emerging protective ‘poles’. The fact that this painting was completed only after a series of ‘signature Pollock’ drip paintings could lend support to the second hypothesis.

In what Guy Debord once called a *Society of the Spectacle* (1967), governance tends to take place by means of twin strategies which sociologists such as Zygmunt Bauman (e.g. 1993: 139) have recognised as *seduction* and *repression*. The basic strategy is one whereby one allows oneself to be seduced by circulating commodity/image. Those who fail to choose *responsively* (and responsibly) will be met with repression. One might add that repression takes two forms, that is, ‘hot’ repression whereby ‘offenders’, that is, nonresponsive organisms and their rigid desires, are made to *feel* and ‘cold’, detached repression whereby offenders, deemed to be nonresponsive, rigidly coded physical mass, are dealt with accordingly. Both strategies however share one feature: neither is based on an interest in the inner complex self.

Those who govern and those who are governed, those who seduce and those who are seduced, those who repress and those who are repressed all share a lack of interest in the complex deliberations of inner selves. There is no need to read the complex inner self. There is no longer any need to harness its energies. There is no longer any need to *productively* knead the inner self into shape. There is no longer any need for a contemplative inner self at all – or so script writers and directors of zombie movies have caricatured from about the late 1960s or early 1970s onwards. Moreover, in late modernity, there is nothing to produce, build, or construct. There is nothing to work *towards*. Having arrived ‘beyond history’ (in Fukuyama’s 1989, words), there are no longer any projects to orientate selves towards.

The age ‘beyond history’ is a thoroughly post-constructive age. The smooth circulation of responsive, sovereign choice is not just the terminus of history, it has also become second nature; indeed, it *is* now sheer nature. ‘Beyond history’, the complex

inner self has turned natural. The form of life/governance in the post-constructive age, ‘beyond history’, is about natural, responsive interventions in natural, freely circulating flows. Like ‘edgework’, life and governance are *natural* life and governance. That which has to be kept at bay, controlled, destroyed, or otherwise dealt with is unresponsive, rigidly coded or ‘unnatural’ organism or mass.

This *natural* form of life/governance often leads to quite paradoxical outcomes. That which is deemed to be *potentially* unresponsive or rigid tends to be prohibited, or blocked off, out of precaution.

The ‘precautionary principle’ (Pieterman and Hanekamp 2002; Pieterman 2008) in governance has made quite some headway in our post-constructive age. Whereas in an earlier age one might have been prepared to calculate possible risks in order to deal with them in a number of ways, all with an eye on the construction or completion of overarching projects and end goals, ‘beyond history’ such calculations are now in the process of being abandoned. That which, in all its potential rigidity, might (just might) pose a threat to the free and responsive circulation of choice and sovereign control, should, indeed *must* be blocked off and nipped in the bud before it emerges, however paradoxical such precautionary measures may be. There is no need to calculate and manage risks. We have already arrived ‘beyond history’, into sheer nature. Calculations of risk serve little purpose in sheer post-constructive (second) nature.

The late modern form of life/governance may be one that thrives on de-territorialising and de-codifying choice and control; it cannot, of course, escape its own territorialisation and codification. It has itself territorialised and codified around its own perceptions of rigid, unresponsive, ‘unnatural’ organism and mass. However, such perceptions tend to modulate according to the fluctuations of circulating flows. In his ‘Postscript on Control Societies’ (1995: 177–182) – a reflection on Foucault’s work – Gilles Deleuze phrased it most succinctly when he claimed that a now bygone, disciplinary era which was coded and territorialised according to ‘order words’ has now been superseded by an age where circulations and flows are merely controlled by the modulated application of mere ‘passwords’ (see also Dillon and Lobo-Guerrero 2009). Passwords regulate circulation and flows according to perceived local or localised necessities. Their goal is not to order or structure populations at their very core (i.e. at the level of the complex inner self). They merely regulate mass and organism according to specific, local circulatory exigencies.

Much in what we have described so far in this section seems to have been captured by, if not prefigured on, Pollock’s signature canvases. But he was not the only painter who, in those immediate post-war years, allowed some of the late modern form of life/governance to emerge in paint (see Lippens 2010). Like Pollock, Mark Rothko had, until the Second World War, explored mythological themes in a bid to express something of the universal in human experience. Auschwitz made such attempts look very problematic and prompted artists such as Rothko to move towards abstraction as the format in which the tension between on the one hand the *tragic* particularity of each and every singular responsive *choice* and the ineradicable expanse of unfulfilled potentiality on the other, or, in other words, the tension *within* the will to utter sovereignty, could be expressed (see also Zucker 2001; Pappas 2007).

**Fig. 20.9** *Mark Rothko, No. 24 (Untitled) (1951) (236.9×120.7 cm)*  
 (Courtesy of Tel Aviv Museum of Art, Gift of the Mark Rothko Foundation, Inc., New York, 1986, ©1998 Kate Rothko Prizel and Christopher Rothko ARS, NY and DACS, London 2009)



After the war, Rothko moved to painting his so-called *multiforms*. In those paintings, Rothko had irregular shapes of different colours move and flow and sometimes coagulate on canvas. In a way, those multiforms somehow express the *tragedy* of life (Rothko had read Nietzsche). The movement of the flows suggests, on the one hand, creative potential and, on the other, eternal disruption. But the coagulations of the flows too suggest both creative potential and blockage simultaneously. It would not take long though for Rothko to develop his signature style. Let us have a closer look at his *No. 24 (Untitled)* which he completed in 1951 (Fig. 20.9).

On this painting, the irregular shapes and flows have crystallised into distinguishable shapes that float seemingly peacefully in each other's immediate vicinity. But that doesn't mean that the tragic tension within human experience has now gone. The shapes in this and similar paintings, according to Rothko himself, are entities that go 'without shame and embarrassment'. They are 'actors who are able to move dramatically without embarrassment and execute gestures without shame'. They do so 'with internal freedom, and without need to conform with or to violate what is probable in the familiar world' (Rothko 2006: 58–59). They don't allow themselves to be coded or territorialised. And they won't recognise any code or territory either. They just go 'without shame and embarrassment', not unlike Nietzsche's Zarathustra. They are unafraid to explore in all assumed sovereignty.

Note how canvases such as *No. 24* showed here have open borders. And the boundaries between the entities are irregular and porous. The tone of the colour

within each of the entities is unevenly distributed, suggesting, perhaps, internal heterogeneity or boiling tension.

The entities look the tragedy of life in the eye and abandon all code or law or even coherence. They may explore or perhaps only dream about exploring the outside (hence the open borders and porous boundaries). Internally heterogeneous and diverse, they float ‘without shame and embarrassment’. Like Nietzsche’s Zarathustra, they know that every move, every decision, and every choice made is one made in eternity and for all eternity. This is why they assume full sovereignty and refuse to submit to law and code. But this is also why they waver, hover, and float in a sea of sheer, yet-to-access potential, in the midst of what they perceive to be other, fearless sovereigns. *Other, fearless sovereigns...*: just so many sources of rigidity, just so many hindrances, so many quanta of mass and organism whose circulation must be controlled by mere ‘passwords’.

As with Pollock, in Rothko too, there is a tension between on the one hand the will to complete and utter sovereignty, that is, fearless, un-coded, responsive, ‘natural’ circulation and control, and, on the other, the perceived necessity for security, that is, for protection against any form of rigidity that threatens to undermine their very sovereignty. In other words, here, we see control playing out as the eternally recurring flight from all law, code, and territory, on the one hand, and as the very paradoxical institution of law, code, and territory, on the other. This tension, it should by now go without saying, is present – and *boiling* – within late modern selves, whether governed or governing. Rothko would later (e.g. already in his 1953 painting *No. 61: Rust and Blue*) produce canvases with shapes, or entities, that have less irregular, more pronounced boundaries. The borders of the painting would still remain open though, and the boiling internal heterogeneity of the entities would even increase (suggesting even more boiling tension and pressure). But the boundaries between entities would tighten.

## 20.5 Conclusion

The focus in this chapter has been on the emergence, in modern painting, of forms of life/governance (i.e. in early (1470–1520), high (1750–1800), and late modernity (1940–1990)). The aim was to detect the emergence, in ‘prophetic painting’, of forms of life/governance, before they did so in the symbolic or conceptual sphere. I have thus compared conceptual work on governance dating back to 1500–1520, to 1780–1800, and to 1970–1990, with a number of paintings from, respectively, 1470–1500, 1750–1780, and 1940–1970. I hope to have been able to contribute new insights, however small, to governance studies. Indeed, it may be fair to argue that efforts, within socio-legal studies and governance studies, to focus on painting as a source of information about law, justice, and governance, have been few and far between. Studies that focus on painting as the medium that *announces* (rather than illustrates) the *emergence* (rather than the mere existence) of *forms of life/governance* (rather than views on and practices of justice and punishment) are very rare

indeed. It is precisely this lack in current socio-legal studies that this contribution set out to address.

One might be able to detect, in modern life and governance, a certain preoccupation with the complexities of inner selves. That which is to govern, and which is to be governed, in modernity, is the inner self. That which lurks secretly underneath the surface of mass and mere organism – a complex of boiling potential, deliberations, aspirations, intentions, imaginary tactical manoeuvres, and so on – is what governance (the governing self as well as the governed self) is to divine, access, reflect upon, work with, and put to productive use. One could argue that the first traces of this mode of governance, as well as the form of life of which it is a part, appeared on panels sometime between 1470 and 1500, decades before conceptual works such as Machiavelli's appeared on the scene.

Later, in high modernity, paintings such as those by, for example, Joseph Wright of Derby (and others who painted between 1750 and 1780) seem to have been the harbinger of a form of life and governance whereby the self (again, the governing self as well as the governed self) sheds a mechanistic and calculative habitus to gradually emerge as that which is to be productive and that which is to be produced (i.e. kneaded or forged into normalised shape). Jeremy Bentham's 'Panopticon', some 20 years after Wright, would subsequently express this emerging form of life/governance conceptually.

Late modernity saw works from a variety of post-war (1940–1970) painters visually announcing a form of life/governance whereby any interest in the inner self (whether it be the governing self or the governed self) gradually faded away. Life and governance here emerge as mere control of circulation and flow. Late modern control encompasses all attempts, however paradoxical, to institute and protect natural, sovereign responsiveness through the mere management, destruction, or precautionary prevention of what is deemed to be rigid, inflexible law, code, and territory.

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