But we all know that the law is empty; we don't really have to read Kafka to realize this. Short of God, Law is perhaps the penultimate Big Other, the marker of authority and as such is full of holes. And, as Aristodemou astutely notes, when we become too fearful of law's failures, we turn to literature to paper over the papering over. This is where I think things get really interesting. Aristodemou tells us, literature, poetry, metaphor and the like are the very last gasp of human denial before we get to the Real; even as it is the final papering over, literature is also a link to the Real itself. Aristodemou tells us that "the hope is that art can approximate truth and help us lift the veil separating us from the Real" (127). If the real is unbearable, perhaps we can only see it, like the Gorgon's head, refracted by representation. Literature is unburdened as law is by the responsibility of being truly true and so it is more porous. Furthermore, it is the closest to what is being papered over. By virtue of that proximity, literature is, you could almost say, in contact with that which it serves to hide; it is both a barrier and a conduit in this sense.

The upshot for Aristodemou is that literature is the safest way for us to experience something that we both crave and fear. The anxious trembling subjects that we are can perhaps only bear to approach to the Real via this thin veil. Maybe that is the best we can do and for Aristodemou, that is probably enough. When our protection and denial become the basis for our transition into truth and self-recognition, this is the moment where law and literature converge.

Interestingly, even this complicated message is best conveyed, as is perhaps exceptionally appropriate, by Aristodemou's wonderful readings of literature. That is, she conveys what she is saying directly but I think her message is best borne and understood through her analysis of writers ranging from Balzac to Houellebecq. Aristodemou's analysis, for example of Gabriel Syme's *The Man Who was Thursday* is a case in point. In that novel, police officers go undercover to infiltrate an anarchist organization only to discover that the organization is entirely composed of undercover cops. As Aristodemou explains it, when the cop/anarchists think about trying to "expose" and bring down the president of the organization, they inadvertently expose what they most fear. She writes "Like a subject at the end of analysis [the subject] has encountered the truth in the form of the non-existence of the Big Other. [The President] … turns out to be not an infallible Being but as divided and lacking as he is" (125).

In this way, the means of disguising the truth; the police, the fictional covers of identity are the means by which the truth is encountered, however reluctantly. Their deepest fear, it turns out is not the president's power but its opposite; for without him and the menace he poses, there is nothing to prevent these officers from enjoying full jouissance and that is the most terrifying thought of them all.

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A World Without Privacy. What Law Can and Should Do?

Austin Sarat (Ed.), Cambridge University Press, 2015. 280 pp. $99.00 (Cloth). ISBN: 978-1-107-08121-5

In his introduction to *A World Without Privacy*, Austin Sarat quickly establishes that the title of this volume does not allude to an end of privacy as a legal concept. In United States

common law alone, the reader learns that the debate accommodates an array of positions, each diverse enough to answer the challenges from what Sarat records as "new modalities of surveillance, new reproductive technologies, the excesses of the Bush Administration, and the continuing war on terror" (5) with admonitions and resistance, as well as apologias and reconciliations. Perhaps the most striking example of this diversity might be the question whether to understand privacy as a zone of personal sovereignty that is to be kept as free from public intervention as sensibly possible, or whether to renounce this focus on the idea of autonomy and perceive privacy not as "the trumpeting of the individual against society's interests, but the protection of the individual based on society's norms and values" (8).[1] Other disputes concern the efficacy of the "'reasonable expectation of privacy' standard" (10 f.) for determining the legitimacy of search and seizure, as some argue it would effectively subvert the purpose of the Fourth Amendment; or the possible scope of privacy expectations on commercial social media platforms, whose business model depends, after all, on the disclosure of user information to advertisers. Ambiguities like these allow the notion of privacy to appear so deeply engrained in legal discourse that it is difficult to imagine it losing its centrality any time soon.

Instead, what is at stake in the four chapters, plus the Fore- and Afterword, is privacy as a cultural formation and the specific experiences of sociality it enables. Each author offers a different response to the tropes of a culture of privacy undermined by state and corporate practices. The range of topics addressed in this collection varies from broad and general analyses to engagements with more specific problematics.

Following Austin Sarat's summary of the developments in American legal history that came to shape current debates on privacy, Neil Richards sets an almost optimistic tone in Chapter One. Here, Richards claims that a number of present worries concerning privacy resulted from misunderstandings and concludes that clearing these out of the way would be a first step towards judicious policy. This view is contrasted by Kevin Haggerty's contribution in the fourth chapter, where he argues not only that privacy is indeed in decay, but also that this is merely a continuation of a longer trend. Couched in-between these two wholesale diagnoses, the reader finds Rebecca Tushnet's and Lisa Austin's more narrowly focussed essays. In Chapter Two, Tushnet sheds light on the community-building potential of pseudonymous communication (as distinguished from full anonymity, where no persistence of identity is maintained), which she believes is an aspect often neglected in favor of the defensive purposes that the assumption of an alias may serve. In Chapter Three, Austin remarks that legal scholarship will be ill-equipped to deal with contemporary issues in communications privacy if it keeps its emphasis on questions of consent, and as an alternative, suggests looking at privacy through the lens of power. The volume ends with another call to action by Ronald Krotoszynski, whose Epilogue speaks in support of a comparative law perspective on privacy matters in the United States for the sake of a more comprehensive discussion.

While this breadth of topics alone makes a compelling display of the manifold shapes of privacy as a social phenomenon and their (mis-)representation in law, further variety ensues from the different approaches each contribution takes. For instance, in Richards's

1. Citing Daniel Solove, "'I've Got Nothing to Hide' and Other Misunderstandings of Privacy," *San Diego Law Review* 44 (2007), 763.

essay, society almost becomes a kind of spectral entity that reveals and expresses itself only through the law it enacts. Here, law figures as a forum for permanent public deliberation on good and bad conduct and privacy, accordingly, as "the rules […] for managing the collection, use, and disclosure of personal information" (35). Therefore, privacy, too, is not a static concept, but always relative to cultural and historical conditions. Furthermore, Richards's viewpoint entails that law can be used as a counterweight to all that is perceived as a threat to privacy, and during the emergence of our information society, such endeavors would be all the more relevant.

Haggerty's contribution renders privacy, in reference to Émile Durkheim, as a "thing in the world, a reality of individuals and groups" (194), and hence as *in itself* invariable over time. Moreover, privacy here finds itself implicated in a zero-sum game with surveillance; ruling out the possibility of law reacting to new modes of surveillance by carving out new space for privacy. If one were to follow Haggerty, legislating for privacy would require disabling surveillance, nothing more or less. Unless this condition is met, law that nominally protects privacy may, nonetheless and despite all good intentions, support surveillance in practice.

Tushnet's chapter presents the reader with a more anthropological outlook, and regards privacy in relation to friends and family rather than state and corporations. In her account, law is more of a distant reference point than the central aim of the argument; where law is mentioned, the reference is less concerned with its letter or its practice than it is with its spirit. For example, she notes that current constitutional doctrine regarding freedom of expression in the United States actually protects and acknowledges some of the features she highlights as valuable in her analysis of pseudonymous speech, but the reason for doing so would still be deferral of harm rather than a recognition of the power "that comes from being unseen or partially seen" (129).

Finally, Lisa Austin argues, through a close reading of property law and the concept of trespass in particular, for nothing other than a new legal philosophy of privacy. In her interpretation, the central concern of property law is not redressing injury, but "[enabling] us to do things that we otherwise could not" (176), and thus, she infers, the appropriate concept to think about privacy violations would not be that of a legal wrong, but that of a diminution of liberty (cf. 175). Her article shares some common ground with Haggerty's, such as the zero-sum logic regarding the surveillance–privacy relationship and the suspicion around possible counterproductive effects of privacy legislation, but where Haggerty bemoans an "inability of the privacy establishment to meaningfully check the expansion of surveillance" (233), Austin's contribution proposes a possible way out of this deadlock.

These juxtapositions reproduce only a fragment of the essays' rich arguments, yet I hope they demonstrate that the volume will make an excellent starting point for anyone wishing to obtain an overview of current issues surrounding privacy at the intersection of law and culture. Furthermore, the laudably clear style employed by the authors should make this book appeal beyond academic audiences to readers without a specialist's knowledge, and given the current significance of privacy as a topic of public discussion, its readership could indeed not be large enough. In the light of the ongoing revelations about intelligence agencies' mass surveillance activities, the question what *privacy* is, what it can and what it should be, has come to seem nearly synonymous with asking what

democracy is, can and should be. *A World Without Privacy*, thus, is a timely contribution to what will without doubt be a defining debate of the twenty-first century.

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Crime, Desire and Law's Unconscious
By David Gurnham, Routledge, 2014. xxi + 148 pp. $135.00 (Cloth) ISBN: 978-0-415-51660-0

David Gurnham's *Crime, Desire and Law's Unconscious* demonstrates the importance of psychoanalytical theory by discussing sexual criminal offenses in Canada and the UK in relation to legal, literary and cultural narratives which construct subjects caught in a ''dance'' between crime, law and desire. The analytical framework draws on the work of Sigmund Freud and Jacques Lacan to illuminate how ''the repressed'' (desires, traumas and memories) re-surface within legal, literary and cultural narratives. While psychoanalytic theory has widely been dismissed as empirically invalid, Gurnham's analytical framework employs it as a probing agent into unconscious forces which he argues are present in legal, literary and cultural sites. The book focuses on two main sites of inquiry: the criminalization of desires, and the legal construction of normative sexuality within judicial decisions. In revealing unconscious forces within the law, Gurnham argues that we are able to understand desire, criminality and human behavior by drawing on psychoanalytic theory and literary sources including Publius Ovidius Ovid and William Shakespeare.

The book is theoretically complex, and thankfully provides a much-needed guide to psychoanalytic traditions for the reader. In chapters one and two, Gurnham discusses psychoanalytic theory in detail, illuminating how the ''repressed'' (desires, traumas and memories) return through speech and imagination. In particular, Gurnham highlights how psychoanalytic theory is a metaphoric or literary probing agent, providing critical insight into the intersection between crime, law and desire in the context of legal, literary and cultural narratives. Gurnham posits that using psychoanalytic theory can reveal ''law's unconscious.'' In chapter three, the book focuses on the criminalization of HIV transmission arguing that the criminalization of HIV transmission represents an unconscious wish to conquer death through reducing vulnerability to the inevitability of death. However, transmission of HIV among partners is not reducible to consent, and those with HIV are not merely the demonized criminals. By analyzing the criminalization of HIV transmission, Gurnham argues that it is a symbolic attempt to gain control over human morality, a desire reified within legal consciousness through narratives of predators using diseases as weapons. The fourth chapter draws on media narratives present in sexual assault trials in the UK, arguing that within these narratives rests unconscious assumptions about race, class, authority and sexuality. Gurnham argues that consumption and desire as they appear in media reporting, highlight a form of repressed eroticism in which ''white meat'' feeds the appetites of criminals and spectators in the context of sexual exploitation.

The fifth chapter draws on the work of Susanna Moore, Marquis De Sade and JG Ballard to criticize ''normative constructions of sexuality citizenship.'' In analyzing