

## *LAW-LESS* SILENCE

# Extraordinary Rendition, the Law, and Silence in Edmund Clark's Negative Publicity by Clare Fuery-Jones

Haven-like, an indoor pool is bathed in gentle natural light. All is still: we observe an undisturbed tableau of leisure, ease. The outside greenery beyond the glass walls reiterates a sense of rightfulness that only nature (ancient, constant, removed) has the capacity to invoke. Yet, what this photograph bears witness to is shocking, discomfiting, extreme. Created by British artist Edmund Clark,<sup>1</sup> *Swimming Pool in the Hotel Gran Meliá, Palma de Mallorca*, (2011–2015) (fig. 1) (*Pool*) is part of his body of work titled *Negative Publicity*.<sup>2</sup> An investigative “dossier” on extraordinary rendition, Clark produced *Negative Publicity* in collaboration with counter-terrorism researcher Crofton Black.<sup>3</sup> “Extraordinary rendition” is the term for Western government-sponsored secret (or invisible and silent) abduction and extrajudicial transfer of people to circumvent laws on interrogation, detention and torture.<sup>4</sup>

*Pool*, like all images in *Negative Publicity*, depicts a site of extraordinary rendition.<sup>5</sup> Its benign banality is deceptive; this space has stood context to legal malpractice. The only clue the photograph gives of this is its potent sense of silence. Silence reigns here. Its pervasive atmosphere overdetermines our experience, or visual sensations, of what we see. Silence is Clark’s primary *aesthetic* tool. Significantly, it is also the metaphor, indeed, the entire lens through which he considers his subject. Extraordinary rendition is carried out hidden from public view and standard legal process—it is a silent act which utilises everyday processes and contexts as, paradoxically, a means of maintaining its invisibility. In evoking scenes that emphasise the critical link between silence and extraordinary rendition, Clark enjoins his viewers to consider also, and more broadly, the relationship between silence and the law; and why the rule and rationality of the latter is challenged and exploited in contexts which privilege the former.

At issue, I argue, in this series of photographs, is not only extraordinary rendition as particular and problematic event, but the broader metaphysical contexts of the law and silence in which it functions. In this sense, Clark, a

- 1 Known for his work on the War on Terror and incarceration, photographer Edmund Clark investigates systems of control which impact upon how we consider and relate to others, and the status of our society as a whole. His projects include *Guantanamo: If the Light Goes Out* (2010), *Control Order House* (2012) and *My Shadow’s Reflection* (2018).
- 2 Though exhibited in a variety of exhibition formats, *Negative Publicity* was first realised as a publication. I use *Negative Publicity* to refer to its publication. Included within the publication alongside Clark’s photographs are a series of explanatory essays by Black, found imagery and documents. Edmund Clark, *Swimming Pool in the Hotel Gran Meliá, Palma de Mallorca*, 2011–2015, photograph (digital print), 28.0 x 35.0 cm (in publication), in Crofton Black and Edmund Clark, *Negative Publicity: Artefacts of Extraordinary Rendition* (London: Aperture, 2015), 117. *Pool* is my own shorthand title for this image.
- 3 Crofton Black and Edmund Clark, “The Long Read: Edmund Clark and Crofton Black on the War on Terror,” interview by Nils-Hennes Stear, *British Journal of Photography*, August 1, 2016, <http://www.bjp-online.com/2016/08/long-read-edmund-clark-and-crofton-black-on-the-war-on-terror/>.
- 4 “Rendition” stands in contrast to the legal process of extradition. It is the process governments use to detain and transport people they suspect of terrorist activity against whom they have insufficient evidence to lay charges. “Extraordinary” rendition occurs when illegally-detained prisoners are at risk of serious harm because of their treatment incurred as part of this process. Many countries (including the United States and the United Kingdom) have revealed themselves to be, if not actively involved, then complicit in rendition since September 2001; Black and Clark, *Negative Publicity*.
- 5 *Negative Publicity* focuses specifically on sites, channels, and spaces used by or acquired for US-led extraordinary renditions. *Pool* depicts a resort in Spain where crew members who flew rendition flights stayed between operations; Black and Clark, *Negative Publicity*, 117.



FIG. 1

Edmund Clark, *Swimming Pool in the Hotel Gran Meliá, Palma de Mallorca*, 2011–2015, photograph (digital print), 28.0 x 35.0 cm (in publication).

visual artist, tackles what is notionally an unrepresentable subject—extraordinary rendition, secretive and untraceable—by alluding to the further-abstract terms contextualising its existence: the metaphysic of silence destabilising the sovereignty of the metaphysic, law. Exploring not just the theory, but the grounded reality of these terms and this relation, Clark’s photographs are catalysts for considering how the law and silence interact to shape our seeing and thinking about the world.

In tracing the sites, logistics and bureaucratic obfuscation which define how extraordinary rendition operates, *Negative Publicity* reveals the powerful effect of this process’ appropriation of the mundane:<sup>6</sup> why would something that appears to be superficially routine lie beyond legal remit? Silence-as-banality is what “gentrifies” extraordinary rendition by disappearing it into the plethora of generic procedures we assume are governed by—constitutive of, in fact—the law (that overarching construct to which we defer, and assume, holds us safe). Yet, what Clark’s photographs bear witness to is the law put on hold as it were, and despite superficial appearances of normality, inhibited from functioning justly. In *Negative Publicity* we observe scenes apparently mundane, without legal breach. The invisibility of extraordinary rendition—its *silent* operation—enables this double-status: its ability, that is to function at once both in and outside of the law. The law is therefore both undermined and appropriated by extraordinary rendition. Silence is the means of this deception. Or, put differently, silence is the defining feature of the “state of exception” extraordinary rendition occupies in relation to the law.<sup>7</sup>

Through giving silence an image, a visibility, Clark’s photographs act as fora which call us, as viewers, to account; urging us, as witnesses, to care. It is in this regard that Clark’s *Negative Publicity* series resonates with Michel Foucault’s notion of “*parrèsia*”<sup>8</sup>—an attitude dedicated to truth in the sense that one remains aware, assertive and in control of how one sees, acts, and responds to the world and others in it.<sup>9</sup> Opposite to its role in relation to extraordinary rendition, silence in *Negative Publicity* ultimately initiates a dedicated parrhesiastic awareness, enabling us to reassess processes and spaces we take for granted, to reclaim both environment and metaphysic.

Towards this conclusion, I will first explore the law and silence as metaphysical operations generative of effect, discussing the law’s relationship to silence, and, how extraordinary rendition relates to both. Analyses of two further works in *Negative Publicity*—representative of aesthetic visual structures that I will term “trace” and “strikeout” image types<sup>10</sup>—will show *how* Clark’s photographs function as images of silence that propose his alternative envisioning of extraordinary rendition, and our response to it.

6 Clark’s *Negative Publicity* photographs depict the ordinary boardrooms, recognisable airports and familiar suburbia in which extraordinary rendition has taken place. Gathered as well are copies of email chains, banal third-party agreements and other bureaucratic paraphernalia which underpin its functioning.

7 See Giorgio Agamben’s *State of Exception*, translated by Kevin Attell Chicago: The University of Chicago Press, 2005.

8 Michel Foucault, “Parrèsia,” trans. Graham Burchell, *Critical Inquiry* 41, no.2 (2015): 222.

9 Martha Cooper and Carole Blair, “Foucault’s Ethics,” *Qualitative Enquiry* 8, no. 4 (2002): 519.

10 Eyal Weizman, “Strikeout: The Material Infrastructure of the Secret,” in *Negative Publicity: Artefacts of Extraordinary Rendition*, Crofton Black and Edmund Clark (London: Aperture, 2015), 287.

Finally, I will examine these images' invocation of parrēsia as their ultimate achievement.

Philosophical in origin, the term “metaphysic” denotes a fundamental and enigmatic transcendental structure which shapes the world as we physically experience it.<sup>11</sup> By virtue of their intangibility, that is, their lack of physical iteration, metaphysical constructs are both hard to define and broadly associative. The laws of society are manifestations of a metaphysical “Law” or sovereign rule<sup>12</sup>—built upon the paradigmatic epistemology of time and place—which determines the limits of how we act, and gives some shape, also, to how we think. The Law alludes to many things other than itself (morality, justice, authority, control; the list stretches on).<sup>13</sup> Though Silence does not represent an ideological structure, it does underpin (or is the name for) aspects of our experience, acting as an opening through which we think about and connect to definitive areas of our lives (such as self-reflection, religion, nature, art).<sup>14</sup> Along with other metaphysical frameworks (like Love and Mortality) we interpret our reality by considering it in terms of, or perceiving it via, these non-embodied standards which define human existence.

Law and Silence are clearly not only metaphysical: they also manifest as particular events or actions which realise tangible effects. “The Law” becomes “a law” when, for example, basic principles underpinning it (perhaps “rightness,” perhaps “fairness,” perhaps only “maintenance of authority”) are enacted, as in a judicial proceeding.<sup>15</sup> “Silence” becomes “a silence” when its metaphysical presence presents as a particular reflection—of perhaps “clarity” or “void”—thereby giving specific colour to an experience. Or, when it is actioned towards a specific end, as in the case of its “disappearing” extraordinary rendition. The transcendental power and authority of both the metaphysics of Law and Silence lies, though, in them maintaining an abstract status; it relies, that is, on such transposition (from metaphysic to effect) being left unacknowledged, on their remaining detached from the everyday, and thus irrefragable for failures or alterations in their standards and functioning.

Representative of the metaphysical standards by which we interpret, judge and know our world, the Law and Silence are evidently not removed, latent mechanisms, but speak of and to the nature of our societies—are

11 Metaphysics is a complex, wide-ranging and highly contested field, originating in its Western philosophical iteration with the pre-Socratics. Its subjects of study, and the possibility, even, of studying them, have been debated since this time. See D.W. Hamlyn, John Finnis, “metaphysics, history of” in *The Oxford Companion to Philosophy*, ed. Tom Honderich (Oxford: Oxford University Press, 2005), <https://www.oxfordreference.com/view/10.1093/acref/9780199264797.001.0001/acref-9780199264797-e-1586>

12 From this point, capitalisation of “Law” and “Silence” will denote each in their metaphysical capacity, assuming also the potential of this capacity to generate tangible effect. Without capitalisation (“law” or “a law,” “silence” or “a silence”), these terms will be understood to refer to (particular) instances, events or processes functional (and visible) within the everyday.

13 See John Finnis, “law, history of the philosophy of,” in *The Oxford Companion to Philosophy*, ed. Tom Honderich (Oxford: Oxford University Press, 2005), 497–500.

14 Steven L. Bindeman, *Silence in Philosophy, Literature, and Art*, Leiden (Leiden: Brill | Rodopi, 2017), 2.

15 These basic principles are themselves strongly contested. See John Finnis, “law, problems of the philosophy of,” in *The Oxford Companion to Philosophy*, ed. Tom Honderich (Oxford: Oxford University Press, 2005), 500–504.

reflective of who we are. Failing to acknowledge them as such problematically allows us the possibility to overlook our own responsibility in relation to how and what the Law, and Silence, may effect or act as context to. Clark's photographs draw us to attend to their under-considered nuances: to the *real-life effects* that can stem from a metaphysic, to the metaphysical context which broadens or deepens the significance of particular actions, events or processes and ultimately, to our inherent responsibilities to both.

Throughout this essay, the Law will be considered as a compilation of its metaphysical content and effective function, inclusive of the official principles upon which our societies are built, the authoritative framework under which they function, and, the (judicial) processes that carry out these principles and insure this framework. Considering the Law holistically, in terms of both its content and function, requires also establishing a sense of its boundaries, or encapsulation. This is difficult, for as Giorgio Agamben asserts, the Law's boundaries (between "legality" and "illegality") do not mark the Law's end, or a point at which it becomes irrelevant.<sup>16</sup> Rather, its entwinement with our world, lives and philosophies that means it stands as point of reference for, and is therefore implicated in, things that it is not.

Importantly, the Law's sphere of interest is not limited to elements which abide by it and positively advance its motives, but encompasses processes with like points of interest, like means of force—as extraordinary rendition is about order and control<sup>17</sup>—and yet run counter to the *laws* of that society (the principles and best practice enacted in its legislation).<sup>18</sup> As all things depend on contrast to reassert their own definition, so the Law is constituted in its content by what stand as non-legal actions.<sup>19</sup> In turn, non-legal actions are not defined by what they are, but by their status in relation to the Law. Paradoxically, the Law hence stands authority to its own "states of exception"—contexts in which the Law is both active and inactive, sovereign and outcast.<sup>20</sup> States of exception are not merely spaces of non-legal action (defined as such by virtue of their relation—as contrast—to the law), but also spaces in which such actions may posit a law-like force (superficially resembling legal action or status), yet be void of principles and value

16 Jessica Whyte, "Its Silent Working was a Delusion," in *The Work of Giorgio Agamben : Law, Literature, Life*, eds. Justin Clemens, Nicholas Herron and Alex Murray (Edinburgh: Edinburgh University Press, 2008), 69.

17 See John T. Parry, "The Shape of Modern Torture: Extraordinary Rendition and Ghost Detainees," *Melbourne Journal of International Law* 6, 2 (2005): 522–525 for his discussion under heading "Modern Torture as an Exception," exploring why and in what circumstances practices like extraordinary rendition are implemented; how legal loopholes are exploited in order to justify this. As well, under "Beyond Interrogation and Punishment: Torture as Total Domination" (525–226), on how torture (for example, extraordinary rendition) represents a (twisted) drive to impose order and control.

18 The very possibility of this occurring is a basic paradox (or "problem") at the heart of the Law and its implementation; Finnis, "law, history of the philosophy of," 497. For examples of legal frameworks which are intended to prevent the practice of extraordinary rendition, but which (paradoxically) *provide* the legal context for its functioning, see Parry, "The Shape of Modern Torture: Extraordinary Rendition and Ghost Detainees," 520–521.

19 Andrew Norris, "The Exemplary Exception: Philosophical and Political Decisions in Giorgio Agamben's *Homo Sacer*," in *Politics, Metaphysics, and Death : Essays on Giorgio Agamben's Homo Sacer*, ed. Andrew Norris (Durham: Duke University Press, 2005), 268–9.

20 Stephen Humphreys, "Legalizing Lawlessness: On Giorgio Agamben's *State of Exception*," *European Journal of International Law* 17, no.3 (2005): 681.

pertaining to the Law.<sup>21</sup> The danger of this, as Agamben iterates, is that “in extreme situations “force of law” floats as an indeterminate element that can be claimed both by the state authority... and by a revolutionary organisation.”<sup>22</sup> Such instances in which co-opting of the Law’s power over principle occurs Agamben identifies as manifesting a “force-of-law.”<sup>23</sup>

Extraordinary rendition is such an action. Occupying a state of exception, it functions with reference, but not adherence, to the Law. Carried out under the guise of normal operating procedure, its lack of lawful principle or value is rendered invisible. Its occurrence within the everyday is significant: this is not a context normally considered as existing beyond the bounds of conventional legal remit, but one that should be firmly subject to legal standards.

Silence is what transforms this otherwise “normal” arena: an obfuscating zone of non-accountability, silence manifests as classified documents and disappeared persons, yet also, as banal email confirmations, recognisable airport hubs, soulless boardrooms. It is the officially enforced, and casually apparent “nothing to see here” which creates a state of exception—or sub-strata—of legal ambivalence within our legally-abiding everyday in which extraordinary rendition operates.

Consequently, the Law is held in a constitutive bind: reliant on that which it is not to define what it itself is, it also posits, and therefore stands authority to, these very actions it does not condone. Such ambivalence is exploited by actions like extraordinary rendition which effect law-like force, without the Law’s principles. Its silence—formulated as a mask of mundanity and a deliberate suppression of anything extraordinary—defines, or marks, its operational context as a state of exception in relation to the Law, and that which allows extraordinary rendition to play out as a “force-of-law.” Silence is thus what the Law must grapple with—what Clark emphasises must be recognised—in redressing the ambivalent space surrounding its standard remit.

The means by which the Law and Silence generate their effects, along with particular aspects (or capabilities) of their natures are what determine how the former relates to the latter; how the latter can define a state of exception to the former. Firstly, it is through language that Law, as metaphysic, manifests; it is through language that Law begets laws—the functional matter which guides judicial process or other legal procedure. Language hence stands as the conduit via which the Law’s ideological existence can transform into effective action.<sup>24</sup> In another sense, the Law is both binding and bound; it is the determining lens through which we consider what stands as appropriate action and the right ways to live, yet the expression of its power is itself reliant on (bound to) language as the mechanism by which to effect its own authority.<sup>25</sup> Though we are held, used

21 Giorgio Agamben, *The State of Exception*, trans. Kevin Attell (Chicago: The University of Chicago Press, 2005), 38.

22 Agamben, *The State of Exception*, 38–39.

23 Agamben, 39.

24 Remedios Regina de Vela-Santos, “Verging on divine: The matter of Benedictine silence and the justification of law and language,” *Journal of Pragmatics* 43, 2011: 2349–2350.

25 de Vela-Santos, “Verging on divine,” 2350.

and protected by it, rarely, as part of daily life, do we take time to consider and question the ways in which the Law—through laws, using language—saturates our structures of experience and being. (And, as outlined above, this is even to the extent of it remaining *at issue* in relation to non-legal matter.)

Like the Law, Silence is a metaphysic in that it gives shape to a range of human experience and existential conundrums, existing as a physical context, or metaphorical or emotional means of expression and understanding. It is, however, much harder to codify or divorce from how we experience it because, unlike the Law, Silence has no use for language. For instance: on a still, moonless night, with only the stars for company; in a medieval cloister, ensconced by ancient stone and ancient meditation; or, in communion with a work of art to which we ascribe a particular resonance, we experience something deeper, more spiritual, less structured or articulable than when we observe patterns of law-bound behaviour, or consider the rights or wrongs of an action in light of the law's (many-stated, enmeshed) principles. Silence is more instinctual, sublime, felt than is the law. Put another way, whereas the Law is positively defined by language, in the sense that language is the means by which the Law manifests itself as seen and understood (into laws),<sup>26</sup> Silence is negatively defined by language, standing as its limit point, its absence.<sup>27</sup>

Despite this relation, Silence must be understood (as implied above) to be infinitely more than language's "other half"—commonly given as silence's literal definition.<sup>28</sup> It consequently differs from the Law in this fundamental sense: the basic constitution of Silence (as multiple and difficult to assert as this is) is founded upon unstructure, air (space), boundlessness and paradox, whereas the L/law proposes rule, certainty and rational process. It is by virtue of this difference that silence functions so effectively as a challenge and obfuscation to legal process; how it can be the constitutive context to a state of exception, "filling up" the ambivalent space of non-definition the Law surrounds itself with.

A particular paradoxical capacity of Silence is its ability to both reveal and hide. As will be made clear, the Law is unable to "deal with" Silence in either capacity. It is this dynamic that *Negative Publicity* mobilises as a means of exploring extraordinary rendition in terms of S/silence (as a state of exception) and the Law. Through Silence (expressed particularly in circumstances outside of everyday routine, such as art), things previously obscured can be *made visible*, become clear. Silence creates spatial, visual, aural, felt openness in which to concentrate, absorb and analyse. In this way, Silence acts as a condition (or setting) for revelation and allows for issues or objects usually obstructed by the noise and clutter of daily life to come to the fore.<sup>29</sup> On the other hand, Silence can hide and obstruct. This is a mute silence, a secretive, furtive silence which can cause frustration and anxiety, which can

26 de Vela-Santos, 2349.

27 Paul Goodman, "Not Speaking and Speaking," in *Speaking and Language: Defence of Poetry* (New York: Random House, 1971) pp.16–17.

28 Bernard P. Dauenhauer, *Silence: The Phenomenon and its Ontological Significance* (Bloomington: Indiana University Press, 1980), 4–5.

29 Bindeman, *Silence in Philosophy, Literature, and Art*, 21.

do violence.<sup>30</sup> In such instances, Silence functions as a screen, impeding any attempt to access what it may conceal.<sup>31</sup> It is in this sense that silence functions in relation to extraordinary rendition—forging its state of exception in respect to the Law.

Revelatory silence exists as lacunae—as *open gaps*. Obstructive silence exists as blankness—as *closed gaps*. Whereas the former is limitless in its evocative potential, the latter gives nothing away, and is therefore equally undefinable, uncontrollable. In *Negative Publicity*, Clark creates two types of images which correspond to these alternative effects of silence. The notions “trace” and “strikeout” encapsulate, respectively, the complexity of aesthetic, metaphoric and emotional effect these types of silences generate when evoked visually by Clark. Dealing, as it professes to, in evidence, rationality, fact, revelatory silence presents an excess of material for the Law to manage; obstructive silence, a dearth, giving nothing from which to work. The Law can only ask: what could become from this, or, what might there be, already, behind this? These gaps that Silence exists in and as, equate to, for the Law, absences in understanding and control.<sup>32</sup> Silence thereby represents a challenge to the Law’s authority, occupying the space beyond its sure, standard sovereignty.<sup>33</sup> It is ultimately because Silence runs counter to language, non-participant in the structural framework which instantiates the Law’s functional capacity, that it remains always outside the Law’s remit.

*Negative Publicity* explores extraordinary rendition as representative of a “real-life” consequence of the Law’s inability to handle or negotiate Silence in either form (despite its ambivalent boundaries providing the very means—or vacancy—for silence to occupy). Employed as a means of hiding its presence, obstructive silence, in the form of banality, acts for extraordinary rendition as the blank, non-referential screen the Law is unable to work with or from. Masking its presence using *what we know*, no alarm bells are sounded: there is “nothing to see here.” For ourselves, in everyday life, there is little occasion to notice what is, on the other hand, very odd about this dynamic: familiar processes and spaces *should* generate avenues of connection and relation, rather than closure. The fact that some of Clark’s photographs manifest this sense of obstruction give us the opportunity to recognise that *something is not right*. As an artistic forum, and thus operating as part of an alternative context to everyday routine, *Negative Publicity* provides us the opportunity to take note.

In sum, extraordinary rendition in its “real-life” occurrence evidences what is at stake, and what is at risk, because of the Law’s ambivalent boundaries, and the resultant space it is surrounded by. In this space, non-legal actions occur from which the Law seeks to differentiate and absolve itself. Yet, at the same time, the Law acts as the primary touchstone, or term,

30 Langdon Gilkey, “The Political Meaning of Silence,” *American Journal of Theology & Philosophy* 28, no. 1 (2007): 22.

31 Roumen Dimitrov, “Silence and invisibility in public relations,” *Public Relations Review* 41 (2015): 638; Silence equates to hiding, when, for example, governments refuse to provide the public with information.

32 de Vela-Santos, “Verging on divine,” 2349.

33 de Vela-Santos, 2349-2350.

in relation to which such actions are defined. While the Law relies on the contrast with these non-legal activities to ensure its own sense of self, this ambivalent space can manifest states of exception—vacancies which posit “force-of-law,” which maintain the Law’s power, yet purge it of its value. In the case of extraordinary rendition, S/silence defines its state of exception, shrouding it in banality and inconsequence. The incompatibility between Silence and Law impedes the latter’s ability to face the former. Ultimately, the Law is both responsible for, yet paralysed by, its own exploitation, and the means by which such instances are iterated and maintained.

What *Negative Publicity* describes is an ambivalent triangular relationship at play here: extraordinary rendition, manifesting as a “force-of-law,” uses Silence—a metaphysic oppositely structured to the Law—as a means to “blend in” to “normal” context, and as a result adopt a “lawful” façade. At the same time, this “disappearance” of extraordinary rendition through obstructive silence—its creation for extraordinary rendition of a state of exception in relation to the Law—allows the Law (and thereby, allows us) to blindside itself (ourselves)—to ignore procedures which, because of their problematic means, do damage to the integrity of shared ends. When revelatory silence could provide a conduit for the Law to reflect and face contradictions of process and principle, it is not sought, the Law instead succumbing to the obstructive silence which masks, deceives, exploits. It is with the aim of evoking such complexity that Clark chooses the content and crafts the aesthetic of his photographs.

My argument rests on the possibility that visual art can embody something—a concept, sensation, feeling—other than itself; that art can mean and *be more* than what its physical constitution, or subject, seemingly mean. And, that our response to an artwork of this kind is based not only on our aesthetic appreciation of the artist’s handling of a medium, or of the narrative the image describes, but on how we think and feel in relation to that (other being) which the artwork evokes. Metaphor and symbol, communicated through visual signs, and the way such content is arranged (via form, structure, style) are often catalysts for this surplus meaning of art; these are the tools by which an artwork signals or manifests its being something other. Think, for example, of particular renditions of the mother and child: Raphael’s *Tempi Madonna* (1508)<sup>34</sup> may be one, or Jan van Eyck’s *Madonna at the Fountain* (1439).<sup>35</sup> Both are iterations of supreme tenderness—the glance from the mother to child, how she holds her hands, gently gathering the weight of her baby, the spirit, or quality, which exudes from the delicate line and soft glow created by the artists. We do not merely see the tenderness; we *feel* it too.<sup>36</sup>

These instances typify what is a “synesthetic endeavour,” in which, as

34 Raphael, *Tempi Madonna*, 1508, oil on wood, 75 x 51 cm, Alte Pinakothek, Munich, accessed April 6, 2020, [https://library.artstor.org/asset/SCALA\\_ARCHIVES\\_10310197828](https://library.artstor.org/asset/SCALA_ARCHIVES_10310197828).

35 Jan Van Eyck, *Madonna at the Fountain*, 1439, oil on panel, 24.9 x 18.2 cm, Royal Museum of Fine Arts, Antwerp, accessed April 6, 2020, [https://library.artstor.org/asset/ALUKASWEBIG\\_10313647058](https://library.artstor.org/asset/ALUKASWEBIG_10313647058).

36 Other examples of artworks manifesting the being of something else could include the *meditations* Mark Rothko crafts from colour and complex layer, or the horrifying sense of disgust embodied by some of Albert Tucker’s darkest paintings.

Toby Kamps describes, “one medium . . . stimulate[s] a response associated with another,”<sup>37</sup> like when we experience a taste that has been known to us as a smell, when music makes us cry as if experiencing physical pain or joy, when our breath is taken away not by exertion but by beauty. Clark’s photographs are synaesthetic images that establish a direct and profound relationship with the metaphysic Silence as a unique means of exploring how extraordinary rendition functions in terms of both this metaphysic and that of the Law. Ultimately, synaesthesia is the means by which Clark enables viewers to adopt a parrhesiastic approach to what *Negative Publicity* reveals—extraordinary renditions occupying a state of exception in relation to the Law through a manifestation and effect of Silence.

In *Negative Publicity* Clark engages Silence towards both revelation and obstruction. He constructs two main image types, or *visual* formats: the “trace” and the “strikeout”.<sup>38</sup> Correspondent to the more general “open” and “closed” senses of silence, these terms refer specifically to their artistic iteration by Clark and encapsulate how his use of Silence defines both the aesthetic and experiential effect of his artworks. Whereas the “trace” image type, by virtue of its composition and included content, seeks to invite viewers to develop a connection between themselves and what the image alludes to, the “strikeout” attempts to block viewers access, providing no points of connection. Though the physical content of what all Clark’s images depict has been associated with extraordinary rendition, and thus affected by silence in its obstructive form, the way Clark has chosen to photograph his subjects determines the nature of the Silence evoked. His trace images transform instances of obstructive Silence into revelatory ones; his strikeout images emphasise the obstructive quality.

I will turn first to Clark’s “trace” aesthetic—evocative of what Silence may look and feel like in its revelatory mode: open, unpredictable and ungovernable. “Traces,” Francesco Mazzucchelli says, can be considered as “condensed narratives” that “concentrate memory into material form.”<sup>39</sup> Further to this, Kitty Hauser explains that a trace is that which outlasts its “immediate object,” indicating that “something has happened here.”<sup>40</sup> Silence informs the notion of trace—that is, as objects or spaces which pose many possibilities for becoming, for alluding to and meaning things beyond their immediate use or constitution. The trace is hence an expansive, extrapolatory notion, unfixed, with a continuing story. Additionally, it is in silence—in settings without clutter, without loud, obtrusive content—and, in this instance, with the artwork acting as conduit, that spaces and objects can function as traces. By referring to “trace images,” I hence refer to those which purvey an

37 Toby Kamps, Steve Seid and Jenni Sorkin, *Silence* (Houston: Menil Foundation, 2012), 64.

38 Eyal Weizman, “Strikeout: The Material Infrastructure of the Secret,” in *Negative Publicity: Artefacts of Extraordinary Rendition*, Crofton Black and Edmund Clark (London: Aperture, 2015), 287.

39 Francesco Mazzucchelli, “From the “Era of Witness” to an Era of Traces: Memorialisation as a Process of Iconisation?” in *Mapping the ‘Forensic Turn’ Engagements with Materialities of Mass Death in Holocaust Studies and Beyond*, ed. Zuzanna Dziuban (Vienna: New Academic Press, 2017), 178.

40 Kitty Hauser, “Tracing the Trace: Photography, the Index, and the Limits of Representation,” in *Shadow Sites: Photography, Archaeology, and the British Landscape 1927–1955* (Oxford: Oxford University Press, 2007), 61–2.



FIG. 2

Edmund Clark, *Outside the Home of a Family Rendered by the CIA with Assistance from MI6*, 2011–2015, photograph (digital print), 19.2 x 15.3 cm (in publication).

aesthetic that encourage close looking at objects and spaces. In Clark's trace images he emphasises the spaces and objects in such a way as to allow the silence in which they exist, to reach out, welcome and involve the viewer. Clark thereby *deconstructs* the instance of obstructive silence—the setting for extraordinary rendition—by which these contexts have been affected, and is responsible for activating, transforming, his subject into traces.

In *Outside the Home of a Family Rendered by the CIA with Assistance from MI6* (2011–2015) (fig. 2) (*Courtyard*),<sup>41</sup> stark, arid sunlight is softened by honey tones of the balcony overhead; a soothe of shade softens the glare that would otherwise blind our view—of tablecloths, socks, hung out to dry, terrazzo tiles chipped and dusty, palm fronds still, unruffled. We are sheltered here, embraced by the walls of this internal courtyard—the frame of Clark's photograph. As visual and symbolically aural barriers, these walls instantiate quiet, stillness, and removal from the outside world (but for the sky—a shape of transcendence floating overhead). For the viewer, positioned by Clark to stand within the space, there is a sense of *experiencing* the S/silence,<sup>42</sup> rather than merely observing it from without. In this way, we are affected by what S/silence does: that is, encourages focus, close looking, reflection.

As described elsewhere in *Negative Publicity*, this photograph depicts the home of a family rendered by the CIA with the aid of MI6.<sup>43</sup> Yet *Courtyard* is fundamentally a domestic scene which presents recognisable habits and ways of everyday life. The space itself and its objects may prompt recollection, act as signifiers—as traces which, by virtue of Silence clearing for them a setting, allude to more than themselves. What this “more” may be is undefined, infinitely possible: the prints on the tablecloths are about a loved summer dress, nana's kitchen; the tiles, a tatty roadside motel; the balcony, Romeo and Juliet; the palm fronds are dreams of an island escape, or the crunch of them dried under foot. None of these are certain, or planned, or necessarily rational. Such allusions, grounded (or freed, rather) by the ever-possible—by Silence which does not define, or inhibit, but allow for infinite becomings—are law-less. It is this effect of Silence—its revelatory capacity, not linguistically bound—the Law is ill-equipped to deal with.<sup>44</sup> *Courtyard*, with its space and objects activated by the silent setting, with these traces themselves representing the capacity for Silence to manifest extrapolations ungovernably, explores one side of Silence: the side which the Law distances itself from, the side which would promise a possible revelation of extraordinary renditions presence, if only there was a care to attend.

In *The Facility at Antaviliai, Front View* (2011–2015) (fig. 3) (*Facility*),<sup>45</sup>

41 Edmund Clark, *Outside the Home of a Family Rendered by the CIA with Assistance from MI6*, 2011–2015, photograph (digital print), 19.2 x 15.3 cm (in publication), in Black and Clark, *Negative Publicity*, 061; *Courtyard* is my own shorthand title for this image.

42 By “S/silence” I mean both the broader metaphysical notion, and this particular instance of iteration, in *Courtyard*. Subsequently, I will use “L/law” to invoke the metaphysical structure, and the functional, or tangible laws which constitute the effectual elements of this framework.

43 Black and Clark, *Negative Publicity*, 060.

44 de Vela-Santos, “Verging on divine,” 2349.

45 Edmund Clark, *The Facility at Antaviliai, Front View*, 2011–2015, photograph (digital print), 15.5 x 24.2 cm (in publication), in Black and Clark, *Negative Publicity*, 049; *Facility* is my own shorthand title for this image.



FIG. 3

Edmund Clark, *The Facility at Antaviliai, Front View*, 2011–2015, photograph (digital print), 15.5 x 24.2 cm (in publication).

Clark expresses the alternative iteration of Silence—evidencing how it works (or *should* work) in its obstructive capacity, and particularly, in forging a state of exception for extraordinary rendition to occupy. In a daily-life context, obstructive silence, in relation to extraordinary rendition, does its work. That is, the adopted banality serving as mask misleads us into thinking all is normal with nothing at stake. Evoked in an artistic form, however, we are given the context to take note. Silence in *Facility* blocks access, rebuffs, and therefore arouses suspicion in the viewer. Eyal Weizman terms this kind of effect a “strikeout.”<sup>46</sup> According to my interpretation, a strikeout is an aesthetic trope which, though not in the form of a black line through text, functions in the same manner—it enacts the notion of “hiding in plain sight.”<sup>47</sup> Rather than the black line (or, for that matter, pixilation), a strikeout presents other aesthetic qualities that evoke censorship. In the case of Clark’s strikeout photographs, Silence is the conceptual basis, and the aesthetic quality (iterated as “a silence”) which establishes for the viewer both a visual and experiential sense that they are being actively prevented from “looking into” rather than merely “at” these images.<sup>48</sup>

A large residential structure sits behind an iron garden fence, seemingly at the end of a cul-de-sac, bounded by tall coniferous trees. Though two cars are seen in its vicinity, the house itself is inactive, shut: curtains are drawn, entrances, openings sealed. This impenetrable façade blocks access and, as Clark places us some distance down the driveway, we can only look from the outside rather than occupy this setting; we are observers rather than participants, and by virtue of this, excluded. This space exists in, as, dead S/silence. Without any active traces the S/silence here functions to obstruct and deter.

The setting seen in *Facility* is not essentially different in nature to that in *Courtyard*: it is domestic, populated with familiar objects (car, bin, basketball hoop). Yet strangely, *Facility*’s atmosphere, what it evokes, and what we feel in communion with it, differs drastically. Whereas in relation to *Courtyard* we become perturbed once informed of the darker occurrences belying its hospitable countenance, confronted by *Facility* we are unsure as to why such a banal array of building-object should deny us connection. In transitory, mundane situations, this sense may not be noted or wondered at. Experienced here, however, in this artistic context, and in relation to the contrasting image *Courtyard*, it takes on significance. Obstructive silence, in a familiar place—a setting we should be able to find connections to—becomes suspicious when we are given the chance to notice it. Extraordinary rendition relies for its continued functioning on such opportunities for revelation not being provided or experienced—as they are in *Negative Publicity*, an artistic forum. It is only because of this circumstance, that *Facility*’s status as strikeout is iterated: by virtue of this being a work of art, rather than a view experienced during an everyday, fleeting moment, the very fact that something is being hidden cannot succeed in hiding itself. This effect is realised

46 Weizman, “Strikeout: The Material Infrastructure of the Secret,” 287.

47 Liam Kennedy. “Seeing and Believing: On Photography and the War on Terror,” *Public Culture* 24, no. 2 (2012): 281.

48 Black and Clark, *Negative Publicity*, 007.

regardless of Clark’s mirroring, rather than tampering with, Silence as it exists in relation to extraordinary rendition.

In *Courtyard*, Clark has sought to deconstruct the obstructive silence which situates extraordinary rendition, turning it into a revelatory form which activates the space and objects seen into traces. In *Facility*, he has retained Silence in its obstructive form. In the case of the former, viewers are actively engaged by virtue of what Clark has caused his art to do; in the case of the latter, viewers are actively engaged simply by virtue of their exposure to this scene occurring in an artistic context—we are placed in a position whereby we have the opportunity to notice the uncanniness.

*Negative Publicity* brings to light the various strands of unaccountability which define extraordinary rendition. A procedure which works, as it were, on the “underside”<sup>49</sup> of the Law, in the ambivalent space the latter allows itself to be surrounded by, extraordinary rendition corrupts the integrity of this *effective* metaphysic—its content and principles, its force and authority. Carried out in everyday spaces, using everyday processes, extraordinary rendition corrupts these too. It is, however, their very use which mask its presence: banality is extraordinary rendition’s means of silencing itself, and what and whom it affects. Silence ensures extraordinary rendition’s unaccountability in creating and maintaining for it a state of exception. In turn, this insurance relies on the Law’s incapacity to negotiate—recognise even—how Silence functions to do just this. Through doing the deconstructive work not carried out by the Law’s own processes, Clark’s photographs seek to redress this shortcoming: extraordinary rendition is, as it were “outed,” and its S/silence broken. Unrestricted in terms of how it can relate to Silence, art is able to access, and work with Silence, in ways the L/law cannot.

Clark’s showing of extraordinary rendition’s S/silence is not, though, a destruction of Silence itself (that is, of its metaphysical underpinning), but a repurposing: through evoking Silence’s revelatory capacity (its freeing, lawless capacity), and saturating viewers in artistic fora underpinned by S/silence, Clark’s photographs effect the space and intent to take more note. We become the conduits via which Silence overturns itself, becoming instead dedicated self-reflection geared towards realising attentiveness as action. This dual possibility I will name *parrēsia*, as defined, or (re)negotiated by Foucault.<sup>50</sup>

Further work is required before arriving at this final extrapolation of Clark’s photographs. What constitutes this unaccountability, our inattentiveness? How does this transform into self-reflection, into *parrēsia*? And what is the role of S/silence, as found in Clark’s photographs, in all of this?

The inattentiveness that Clark’s photographs call to account is rooted in our making assumptions: either, that the Law functions according to the (“principled” and firm) standards it professes itself constituted of, or, that the Law in the abstract (metaphysic) is wholly separate from its effect, that is, its real-world presence. Both assumptions are predicated on another that is more

49 Desmond Manderson, *Danse Macabre: Temporalities of Law in the Visual Arts* (Cambridge: Cambridge University Press, 2019), 174.

50 For his full explication on *parrēsia*, see Foucault, “*Parrēsia*,” 219-253.

basic: that the Law has definite boundaries, that it is not implicated, by virtue of its own constitutive ambivalence, in actions not of its own conception. *Negative Publicity* thus asks us to reconfigure our *own* understanding of the Law: to consider its entanglement with subjects and actions other to itself, and the problems such activities like extraordinary rendition pose to the Law's integrity as a metaphysic, to its overall authoritative status (as grounded upon moral rightness). The value of such a status, our trust in it, can only decrease with our realising the Law's own culpability: the fact that, in states of exception, legal force is retained without legal value and that Law, unable to assert its sovereign constitution, is without the means to address this exploitation. Clark's photographs propose that through facing and working *with* Silence, the attentiveness required to notice and question extraordinary rendition can be established. A consequential realisation is that the silence of the law in relation to extraordinary rendition can only, ultimately, be *our* failure: if it is without the tools to redress its shortcomings, it is because we, through practising assumption rather than critique, have not questioned its constitutive integrity.

Through what Wendy Kozol describes as “looking elsewhere”<sup>51</sup>, Clark achieves a destabilisation of the normative narratives (the background to our inattentiveness) we associate with the workings of law; that is, autonomously, honestly, with proper process, and at a distance from our daily, practical lives. In Andrea Liss' sense, Clark's photographs are “courageous enough to ask the viewer to look at the difficult [content] again, to allow themselves to be implicated, to be involved with embarrassment.”<sup>52</sup>

The silent, thoughtful settings and atmosphere which define Clark's images embody, or symbolise, the nature of what we must adopt in order to confront the issues *Negative Publicity* addresses: redressing extraordinary rendition, the Law's failings, *our* failings, involves us asserting our self-reflective capacities. Cast in Foucault's terms, self-reflection implies care and curiosity. It is also both a meditative and active state, of concentration, focus and criticality.<sup>53</sup>

I like the word [curiosity] . . . It evokes “care”; it evokes the care one takes of what exists and what might exist; a sharpened sense of reality, but one that is never immobilized before it; a readiness to find what surrounds us strange and odd; a certain determination to throw off familiar ways of thought and to look at the same things in a different way; a passion for seizing what is happening now and what is disappearing; a lack of respect for the traditional hierarchies of what is important and fundamental.<sup>54</sup>

51 Wendy Kozol, *Distant Wars Visible: The Ambivalence of Witnessing* (Minneapolis: University of Minnesota Press, 2014), 5.

52 Andrea Liss, *Trespassing through Shadows: Memory, Photography, and the Holocaust* (Minneapolis: University of Minnesota Press, 1998), 91.

53 Cooper and Blair, “Foucault's Ethics,” 526.

54 Cooper and Blair, 526.

Adopting this attitude is ultimately a commitment to not take things for granted, allow standards to go unquestioned, or let actions pass. Clark's photographs use S/silence to reveal the law's absence, simultaneously invoking a context in which to consider the ramifications of this: the incongruency and detriment of "force-of-law." *Negative Publicity's* S/silence is hence ultimately geared towards viewers exercising, to our full capacity, our critical, careful, curious ways of being. And thereby, as Foucault implies above, become better attuned to how we are and to what is happening around us. This self-reflective work is, I argue, a step towards us, as viewers, conducting the further work initiated by *Negative Publicity*. That is, a calling to account the incoherence between what Western democratic law professes to uphold, and the secretive, underhand, earthly processes in which it finds itself entangled. And furthermore, a self-recognition of our own responsibility in relation to the Law, both in terms of its conception, and implementation; in relation also to extraordinary rendition.

The possibility for realising this surplus capacity of Clark's photographs ultimately depends on the effectiveness, or depth, of our own self-reflection. It is through us that Silence itself gains a *useful* value—a presence—and presents the possibility for enacting *parrësia*. Espoused by the Ancient Greeks, and central to their regime of self-care, *parrësia*, literally interpreted, means "truth-telling,"<sup>55</sup> or, more precisely, "freedom to tell the truth."<sup>56</sup> Importantly though, as Foucault emphasises, *parrësia* is not a direct disclosure of a fact (a truth), but rather, the realisation of a free-thinking attitude that establishes the open-ended conditions required for negotiating truth.<sup>57</sup> It is a practice, or "technology of the self,"<sup>58</sup> which proposes self-reflection as key to enabling an attitude of conscious engagement towards achieving this. Inward attentiveness serves then as the basis for externalising this attitude, whereby we take responsibility for what we interpret about our surroundings (questioning aspects presented as "given") and how we respond to them.

Arrived at through S/silence, and through the self-reflectiveness Clark's photographs encourage, *parrësia* is the ultimate symbol and action manifested through *Negative Publicity*. Using *parrësia*, we come to attend, to consider, to recognise the flaws—in the L/law, in us—which allowed, or countenanced, extraordinary rendition to function. Further, *Negative Publicity* reveals extraordinary rendition as made possible not just by our laws and silences, but also by the metaphysical assumptions of the Law and Silence. It is a meditation on the intertwining of metaphysic and effect convincingly demonstrating the potential for the artistic forum to evoke this structure. From S/silence, self-reflection—to *parrësia*: a commitment averse to inattentiveness, averse to *silencing*. Extraordinary rendition, the Law, Silence, and us.

55 Colin Koopman, "The Formation and Self-Transformation of the Subject in Foucault's Ethics," in *A Companion to Foucault*, ed. Christopher Falzon, Timothy O'Leary, and Jana Sawicki (Hoboken: John Wiley & Sons, 2013), 535.

56 Koopman, "The Formation and Self-Transformation of the Subject in Foucault's Ethics," 536.

57 Koopman, 536.

58 Mark G. E. Kelly, "Foucault, Subjectivity, and Technologies of the Self," in *A Companion to Foucault*, ed. Christopher Falzon, Timothy O'Leary, and Jana Sawicki (Hoboken: John Wiley & Sons, 2013), 517.

In *Negative Publicity* Clark makes it clear that we are affected by, yet ultimately *responsible* for, both the underhand practice and two metaphysics alike.

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