The Constituent Power of Architecture

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Abstract

The claim that law is grounded in representations of authority hardly requires justification. The article outlines one view of the power of representations of authority to subject society to the law, and attempts to shed light on the social significance of architecture as a medium of such representation. I will argue that representation sets apart the realms of the living and the dead while sustaining a complex relationship between the two realms. It houses the dead in a separate realm where they exercise authority over the living. Monumental architecture founds the authority of law, and the entire realm inhabited by the living, by relegating the dead to a separate sphere where they assume the position of ancestral lawgivers. Architecture can separate the living from the dead and anchor the rule of law by virtue of its claims to perpetuity and aesthetic form.

The Pauline identification of the church with the body of Christ has been generally interpreted in the Middle Ages as referring to the church as a community of believers or an institutional structure. The body of Christ was taken to inhere either in the congregation or in the law which governs it. Unfathomable and rich in associations, the image of the body of the Redeemer inspired occasional elaborations and embellishments of the standard interpretations. According to one such elaboration, prompted more than once by the splendor of a newly built church, the body of Christ dwells not only in the law and the community but also in some or all church buildings.[1] The association of edifices

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1. On the Thomistic and other formulations of the identity of church buildings with the Church, see Karsten Harries, *The Bavarian Rococo Church* (New Haven, CT: Yale University Press, 1983), p. 177. See also R. Horie, *Perceptions of Ecclesia: Church and Soul in Medieval Dedication Sermons* (Turnhout, Brepols, 2006). On the Byzantine church as the body of

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with the divine body suggests itself as a point of departure for a reflection upon the legal and political dimensions of architecture – not only upon its religious significance – since the divine body of the law or the community can be identified with the sovereign body politic.[2]

The following comments on the architectural embodiment of sovereignty proceed from the distinction between *immanent* and *transcendent* conceptions of sovereignty which I have elaborated in earlier work. According to immanent conceptions, sovereignty belongs to the living – to a Hobbesian monarch, for example, or to the community of the living as a whole. According to transcendent conceptions, sovereignty belongs fully or in part to other generations – most notably to the dead and among them primarily to the generation of the founders. The rule of law is seen in such theories as dependent upon the externality of sovereignty to the realm of the living. I subscribe to a view of sovereignty as shared by all generations, past, present, and future.[3] Sovereignty, I argue, vests in an imaginary collective body of which all generations partake and which is known to lawyers as the *corporate body*. As the common body of all generations, the sovereign body is fictively everlasting. Anthropologists and historians of law, such as Maine, Maitland and Kantorowicz, singled out two features of the corporation that call for its identification with the fictional body in which all generations are consubstantial: immortality and sovereignty.

The view of sovereignty that will be presupposed in the following pages entails that architecture, insofar as it can be regarded as the dwelling place of a sovereign body, houses the corporate body of the group, its intergenerational unity. Architecture provides the sovereign and immortal collective body with a dwelling that is situated outside the social.

Christ, see Robin Cormack, *Byzantine Art* (Oxford: Oxford University Press, 2000), p. 37. On the image of Christ as cornerstone, see Ladner, "The Symbolism of the Biblical Corner Stone in the Mediaeval West," 4 *Mediaeval Studies* (1942), 43–60.

2. The various theories of architecture which, following Vitruvius and his followers in the Renaissance, are based on the association of buildings with bodies of some sort, such as Heinrich Wölfflin's, Geoffrey Scott's and Adrian Stokes's, generally failed to identify the architecturally enacted body with the body politic. In *The Architecture of Humanism*, Scott offered an influential formulation of the somatic metaphor according to which the "method" of Renaissance architecture was "to transcribe in stone the body's favourable states." While the analogies drawn by Wölfflin between parts of buildings and body parts assume that each building stands for a whole human body, Stokes argued that we respond to buildings primarily through the establishment of "part-object relationships" onto which whole-object constructions may be projected. These different theories remain highly instructive insofar as the different states and parts of the body which they find expressed in architecture can be regarded as moments of the body politic. See, Geoffrey Scott, *The Architecture of Humanism* [1914] (New York: Norton, 1974), 177; Heinrich Wölfflin, "Prolegomena to a Psychology of Architecture," in *Empathy, Form, and Space: Problems in German Aesthetics, 1873–1893* (Santa Monica, CA: The Getty Center, 1994), 149; Adrian Stokes, *The Invitation in Art* (London: Tavistock, 1965), 42.

3. For my account of the contrast between immanent and transcendent theories, see Barshack, "Constituent Power as Body: Outline of a Constitutional Theology," 56(3) *University of Toronto Law Journal* (2006), 185.

It demarcates a realm for the exclusive occupation of the living by dispelling the presence of other generations and accommodating the corporate, intergenerational unity of the group in an external realm. Architecture thus divides the world inhabited by humanity into two realms: the spatio-temporal and law-governed realm of the living and the external realm of corporate unity in which all generations are consubstantial, sovereignty is vested and the law is given.

The constituent power of architecture consists in the capacity to set apart the living and the dead, to separate society from its corporate body. While the role of architecture in setting up horizontal boundaries between individuals has been widely noted, I will lay emphasis on its capacity to institute the vertical separation between the living and other generations, that is, between society and its corporate, intergenerational unity. I will refer to this power as the monumental function of architecture. The architectural separation between society and its corporate unity founds the law-governed, profane realm inhabited by the living. It founds the constitutional order because it pacifies sovereignty by housing sovereignty outside society. It fosters the social recognition of the law by providing the sovereign body, the group's absent unity, with spellbinding representations.

Architecture can house the corporate body outside society by virtue of its claims to perpetuity and aesthetic unity. The representation of permanence allows architecture to accommodate the corporate body since the corporate body, as the common body of all generations, requires an everlasting abode. Through the display of aesthetic form, architecture divides the world inhabited by humanity into separate realms. Aesthetic form has been traditionally characterized in terms of an interplay between a visible realm of diversity and a realm of hidden unity. The aesthetic organization of the social space postulates a realm of corporate, cross-generational unity behind the social realm of plurality and difference. It guards the sovereign corporate body outside society and upholds the rule of law. The collapse of the rule of law in fascist regimes is accompanied by the failure of aesthetic form in fascist art and architecture, despite their pomp and solemnity, to perform the monumental function of setting apart the living and the dead.

I. The Corporate Body

Insofar as architecture can be regarded as an embodiment of corporate perpetuity architectural theory should engage with the intricacies of this juridical construct. In the present section, I will outline the idea of a sovereign collective body that dwells outside society. I propose to supplement the characterization of corporate bodies in terms of immortality and sovereignty with the following claims:

A. The separate corporate personality of the family and the state is associated with the mythical person of their founding ancestors. The examples of the family and state suggest that the corporation is identified with the person of a founding ancestor of a descent group, such as the mythical, heroic founder of a Roman family, the founder of a royal dynasty, or the founding fathers of modern nation states. The symbols and names of corporate groups often refer, directly or indirectly, to their real or fictional founding ancestors. As Fortes explains, the corporate group is personified by ancestral authority since all members of descent groups are perceived as extensions of the same ancestral body or substance:

> The notion of a descent group as constituting "one person" takes many forms. The essential idea is that the living plurality of persons constitutes a single body by reason of being the current representation and continuation of a single founder. Whether this is conceptualized and expressed in beliefs about being "the children of so and so," or "of one womb," or "of one blood," or "of one penis," or – more metaphysically – of one spiritual essence or totemic origin, or of common ritual allegiance to ancestors or other supernatural agencies, the implications are the same. The group is one by physical perpetuation and moral identity.[4]

In his analysis, Fortes refers to the corporate unity that looms behind the "living plurality of persons." Fortes thus focuses his attention on living members of the corporation, regarding the sibling group as the paradigm of corporate unity. It is clear, however, that the image of the corporate body implies that both living and dead members of a descent group partake of a single body. The cross-generational nature of membership in the corporate body suggests that the corporate body dwells outside the social sphere.

The corporate-ancestral personality of the group is an absent, transcendent object of worship. Through its corporate personality – its mythical ancestors and their multiple totemic representations – the group articulates itself for itself. According to Hegel and Durkheim, notwithstanding the differences between their theories of religion, society's self-representation is its object of worship. If the corporation is associated with ancestral figures – and ancestral law – and constitutes the self-representation of the group, it cannot fail to be sacred. Furthermore, corporations, like the gods, are transcendent: they are absent and act through representatives. The religious dimension of political systems and families inheres in their corporate structure. National and domestic totemic symbols designate corporate entities and authorities; civil and domestic religions worship the corporate bodies of the state and the family respectively.

B. The corporate body originates in the projection of the sacred outside the social. Corporations come into being through the projection of sacredness from within the social onto a transcendent realm. Corporate formation secularizes the social: once sacredness is projected outside the group, a temporal realm of pragmatic interaction is founded. While the corporate body of the state is a sacred object of civic worship, its sacredness attests to the secularization of everyday politics. When sacredness is immanent to the group, ancestral-corporate authority and law are not recognized. Sovereignty vests then in the private body of a divine king, and is neither sanctioned nor constrained by higher, ancestral law. Divine kingship may be highly effective in periods of foundation but is hardly consistent with stable and continuous structures of rule. Thus, once foundation has been accomplished, the sacredness of divine kingship is projected onto the newly founded ancestral-corporate body.[5] From this moment onwards, sovereignty vests in the corporate,

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4. Meyer Fortes, *Kinship and the Social Order* (Chicago: Aldine, 1969), p. 304.
5. The process of development from the lawless, charismatic authority exercised in transitional periods to law-bound authority is indicated by many historical and anthropological examples. For a seminal analysis of divine kingship, see L. de Heusch, "Pour une dialectique de la sacralité du pouvoir" in his *Ecrits sur la royauté sacrée* (Bruxelles: Université de Bruxelles, 1987), 215.

as opposed to the private, body of the King, in the dynasty and the constitution. The king is seen as an ordinary mortal, an organ of a sovereign corporate order (the dynasty), and his rights as grounded in ancestral law rather than personal charisma.

It is the sacred communal body *that is projected outside the social and transformed into a corporate body.* By the notion of the *communal body* I refer to the group as a simple, inarticulate, immanent unity, generated through the dissolution of interpersonal boundaries. The communal body designates the merger of group members that comes into being in rites of passage, carnivals, natural disasters, fascist regimes, wars, revolutions, referenda, elections, and other instances of *communitas*. During these episodes the group contains and enacts its unity, which is ordinarily projected outside the social. The concept of the corporation, too, refers to the group as a single, sacred, collective body, but one that dwells outside the social. Sovereignty always vests in the collective body of the group: within society when the collective body is enacted, outside society when the collective body assumes the form of a corporate body.

The collective body of the group is the common body of the dead, the living and the yet unborn. All generations partake of it, whether as a corporate or a communal body. Thus, when the collective body is enacted, the dead and the yet unborn are rendered immediately present alongside the living. The communal body dissolves boundaries not only among living individuals, but also between the generations. Since it implies the simultaneous presence of all generations, the enactment of the communal body arrests the flow of time. Once the collective body is projected outside the social, the social space is cleared for occupation by the living. The realm to which Augustine and subsequent theologians dismissively referred as the *temporal realm* is established, and the burdens of temporal existence, the toils of production and reproduction, are embraced by society.

The merger of the living and the dead in the communal body accounts for the social surrender to the allure of death, which has been often observed in different types of ritual. Indeed, the form and very existence of corporate bodies should be understood as a response to the perils of communal presence. As celebrations of death, episodes of sovereign presence tend to result in bloodshed and hence cannot last for long. The transitional nature of communal presence undermines theories of immanent sovereignty. Funerals illustrate more clearly than other rituals the process which occurs in all rituals: the passage from identification between the living and the dead through the enactment of the communal body to the establishment of boundaries between the generations. They provide a concrete illustration of the transformation of the communal body into a corporate body. In funerals, the communal body is immediately present in the corpse. The community, Van Gennep noted in his account of funerals as rites of passage, passes through a phase of identification with the deceased.[6] The isolation and removal of the corpse are expected to re-establish the boundary between life and death, between the realms of the living and the dead. The projection of the communal body is accomplished through the disposal of the corpse and the simultaneous or subsequent transformation of the deceased into an immortal ancestor, a personification of the corporate order.

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6. *The Rites of Passage* (Chicago: The University of Chicago Press, 1960), 147.

The projection of the communal body and its transformation into a corporate body allow for an advanced degree of interpersonal separation and individual autonomy, and for the emergence of secular spheres of interaction. It amounts to a social acceptance of division and absence. The relegation of sovereignty to an external realm founds the rule of law and is in turn consolidated by the rule of law. The communal body is kept away from society through the legal institution of divisions and subdivisions between social groups, classes, spheres of interaction and branches of government. By implementing individual rights and duties, the law confronts the expansionist aspirations of the communal body. Similarly, the principal purpose of the constitutional separation of powers is the expulsion of omnipotence – of the collective body, or constituent power – outside the social.

C. The corporate body and the communal body correspond to social structure and communitas *respectively.* In earlier work, I proposed to read into Victor Turner's distinction between social structure and *communitas* two sub-distinctions which Turner himself did not consider.[7] The first is the psychoanalytic distinction between relations of mutual recognition among autonomous individuals and relations of violent fusion. Enhanced interpersonal separation is characteristic of social structure, violent fusion – of *communitas*. Another distinction that can be read into Turner's dichotomy is the theological distinction between absence and presence. Social structure can be seen as a state of absence, *communitas* – as one of presence. The combination of these two characterizations entails an account of *communitas* as *presence of violent fusion* – namely, as a communal body – and an account of social structure as the *absence of fusion*, that is, as a corporate structure.

The distinction between social structure and *communitas* corresponds, then, to the proposed distinction between corporate and communal bodies. The differentiation between corporate and communal occurrences of the collective body allows for an integration of the anthropology of structure and the anthropology of ritual within a single theoretical framework. During *communitas* the group enacts its communal body whereas in the course of social structure the group's collective body is projected, transformed into a corporate body, and worshiped from afar by separate and autonomous individuals. Interaction in social structure is mediated by differentiated, normative social roles which anchor interpersonal separation. In *communitas* roles and statuses dissolve as every individual partakes of the communal body. No boundaries are recognized between self and other, life and death, sacred and profane, or between different spheres of interaction such as society and state. Social stratification, legal mediation and conflicts of status and interest, which in social structure enhance individual autonomy, give way to an experience of universal twinship. The group is pervaded by constituent, seemingly boundless power, and claims freedom from superimposed laws and constraints. *Communitas* is an essentially lawless form of interaction: the normative system which structures everyday

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7.   See, for example, Barshack, "The Communal Body, The Corporate Body, and the Clerical Body: An Anthropological Reading of the Gregorian Reform" in L. Besserman, ed., *Sacred and Secular in Medieval and Early Modern Cultures: New Essays* (New York: Palgrave, 2006), 101. On the distinction between structure and *communitas*, the *locus classicus* is Victor Turner's *The Ritual Process* (Ithaca, NY: Cornell University Press, 1971).

life is, in the course of *communitas,* suspended, challenged, and sometimes reformed. Fundamental interdictions are violated and traditional authority replaced by a charismatic leadership devoid of a genuine legal sanction.

The presence of the communal body in communitas *arrests the flow of time.* In *communitas*, the presence of the communal body generates an experience of an eternal present and permanent immediacy. The temporal horizons of the past and the future collapse into an all-encompassing present, to which anthropologists refer as *mythical time*. As an experience of immediacy and boundlessness, *communitas* is oblivious to past and future, self-sufficient and carefree. The exuberance of the founding episode coincides here and now with the promised bliss of salvation. Past and future dissolve as all generations, the living, the dead and the yet unborn, are rendered simultaneously present through the enactment of the communal body.

If the presence of the communal body arrests the flow of time by precipitating the simultaneous presence of all generations, its projection draws lines between the generations. In the passage from *communitas* to structure, intergenerational unity does not disintegrate altogether but is projected onto a transcendent realm. As a result, generations succeed each other in time as moments of an immortal absent body instead of being simultaneously present. The ritual experience of timelessness and intergenerational communion gives way to corporate perpetuity, as an alternative avenue that allows humans to reach beyond temporal finitude. The relegation of sovereignty to ancestors and offspring opens up society to the horizons of the past and the future. The temporal organization of social life is thus premised on the fiction of corporate perpetuity.

D. The corporate structure as a legal order. In the passage from *communitas* to social structure, from a communal to a corporate body, the law steps forward. Traditional representations of the law in different media – learned, figurative, ritual, or oral-popular – point to its origin in ancestral/corporate authority.[8] The standard opposition between the rule of law and the rule of men reflects the intuition that ultimate law-making power does not vest among the living. Law-giving is the predominant function of corporate/ancestral authority: the more an authority is transcendent the more its function is reduced to that of law-giving.

The continuous existence and development of corporate structures depend on the regular enforcement of the law. Legal categories divide society into independent institutions and alienated groups and individuals in order to prevent society from embodying its unity, which finds refuge outside the social, in the realm of the corporate body. By dividing the group, ancestral law becomes the embodiment of its absent unity. As the source of social divisions and subdivisions, law functions as a common reference for the different segments of social structure. It is in relation to the law, for example, that the different branches of government are defined – one formulates the law, another interprets it and the last executes it – and thus it is in the realm of law that the unity behind the separation of powers dwells.

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8. Moreover, cultural representations of ancestors rarely omit reference to their juridical capacities. "… ancestors are projected as figures of authority to whom powers of life and death are attributed – judicial figures … rather than bountiful deities." Fortes, "An Introductory Commentary" in W.H. Newell (ed.), *Ancestors* (The Hague: Mouton, 1976), 1, at 14.

As an embodiment of the rule of law, architecture anchors interpersonal separation while housing the absent unity of the group.

II. Architecture as an Embodiment of the Corporate Structure of Society

The corporate structure of society is architecturally embodied. Architecture founds corporate social structures by accommodating the collective body outside the social. It divides the world into two realms, providing separate dwellings for the living and for the corporate, cross-generational unity of the group. Alongside its more evident function of accommodating the living, architecture accommodates the dead (and the yet unborn) in a separate sphere where all generations form a single body and ultimate law-making power is vested. In *Collage City*, Colin Rowe and Fred Koetter drew an analogy between the ways law and architecture, while evolving in history, always ground themselves in a "platonic reference" and in the "necessary fiction" of being "magically sanctioned and not entirely man made."[9] The platonic reference inherent in architecture (and in law) is a reference to the corporate body.

Different cultures regarded architecture as endowed with a world-making power. The inauguration of a house or temple was deemed in these cultures equivalent to the creation of the cosmic order. Eliade called attention to cross-cultural evidence that inaugurations of edifices are perceived as magical re-foundations of the cosmos, and the edifices themselves as pillars and mirrors of the cosmic order. Eliade's point was applied and developed by architectural theorists and anthropologists, such as Rykwert and Geertz, in studies of particular cultures.[10] However, contrary to the explanation implicit in Eliade's observations, the world-making power of architecture does not stem from the fact that by dividing space architecture simulates a larger spatial order and becomes a small-scale model thereof. Rather, architecture's world-making power emanates from its capacity to set apart the living and the dead and clear the social space for habitation by the living.[11]

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9. Colin Rowe and Fred Koetter, *Collage City* (Cambridge, MA: MIT Press, 1978), 146.

10. On inaugural rituals, see Mircea Eliade, *Cosmos and History: The Myth of the Eternal Return*, trans. W.R. Trask (New York: Harper, 1959), 20; on the symbolism of the center of the world, see Eliade, *Patterns in Comparative Religion* (London: Sheed, 1958), 373–82. Following Eliade's general observations, Geertz construed Balinese palatial symbolism, and Joseph Rykwert the scheme of the classical Greek city, as models of the Balinese and Greek cosmic orders, which ground and perpetuate these orders by representing them. See, Rykwert, *The Idea of a Town* (Cambridge, MA: MIT, 1988), 202; Clifford Geertz, *Negara: The Theatre State in Nineteenth-Century Bali* (Princeton, NJ: Princeton University Press, 1980), 11, 109.

11. The ancient Egyptians believed that the ordered world, which they conceived as coterminous with Egypt, is consolidated *vis-à-vis* the forces of chaos and death through monumental edifices constructed for the gods and the ancestors. Building for the gods and for the dead was regarded an inalienable duty and right of the king, a political duty as much as a religious one. As depositories of the power of *Re*, the creator of order, the pharaohs were obliged to fortify order against permanent threats of disorder and secure its continuity through monumental building projects. See Pierre Grandet, "Le pharaon bâtisseur" in Grandet, *L'Égypte ancienne* (Paris: Seuil, 1996), 45–6.

Architecture founds the law-governed temporal world of the living by housing the living and the dead in separate quarters.

The claim that the living and the dead reside in different parts or dimensions of the same edifices is hardly an innovation. It can be found in popular beliefs in various cultures and consequently in studies of phenomena as diverse as architecture, ancestral authority and horror literature. Among the issues that separate different accounts of this cohabitation is the nature of the relationship between the living and their dead neighbors. In his description of the relations between the quarters of the living and the dead Meyer Fortes seems to place emphasis on avoidance and awe. Fortes writes:

> Ancestors and other supernatural agencies have their sitting places in the homes and settlements of living people; to this extent they are incorporated in the social order. But not as humans are. Their place in their dependants' homes and communities is behind an invisible but precisely defined conceptual and dogmatic screen, as it were. This is the screen of religious ideology and ritual prescription, which can only be penetrated at proper times and places by the special instrumentality of prayer and sacrifice and the associated practices and observances which Tallensi call taboo rules.[12]

My own remarks depart from Fortes's and similar accounts in order to advance and elaborate a few general claims. The role of architecture, I will claim, is to place the living in simultaneous relations of cohabitation with and separation from *all* other generations, i.e., from the intergenerational unity of the group. This assertion derives any plausibility it might have from the cumulative appeal of the view that buildings can be understood as bodies (the so-called somatic metaphor), the juridical construct of the corporate body, and popular notions of the dead as dwelling alongside the living. I will further argue that the architectural gesture of separating the living from the corporate body founds the realm inhabited by the living, that is, social space and social time. The rule of law too rests on the power of society's material culture to set apart the living and the dead. Finally, I will suggest that the separation between the generations is accomplished through the aesthetic dimension of architecture. The present section sets out the more basic claim that architecture founds the corporate, constitutional order by performing the monumental function of separating the living and the dead and housing corporate unity.

A. Permanence and the accommodation of the dead. Architecture can accommodate the dead, and the corporate body as a whole, and found a world for the living by virtue of its claim to permanence. Since the dead, having already died, are immortal, they require a perpetual abode. The most lavish edifices bequeathed by history were constructed to lodge the dead and be as immortal as they are.[13] However, the claim to

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12. M. Fortes, "The Concept of the Person" in *Religion, Morality and the Person: Essays on Tallensi Religion* (Cambridge: Cambridge University Press, 1987), 247–86, at 258–9. On the place of the lineage ancestors in houses, see also Fortes, *The Web of Kinship among the Tallensi* (London: Oxford University Press, 1949), 54–9. Fortes has often insisted on sentiments of partnership and trust that unite the living and the dead; it is instructive that in discussing spatial divisions he accentuates tension and separation.

13. On ''eternal Rome'' as a political as well as architectural ideal see F.G. Moore, "On Urbs Aeterna and Urbs Sacra" in *Transactions of the American Philological Association*, Vol. 25

permanence is not confined to funerary architecture. It tends to spread and impregnate architecture at large whenever the corporate form of social structure and the idea of ancestral/corporate authority are consolidated. Kenzo Tange's exposition of the history of Japanese architecture provides one among the numerous cross-cultural illustrations of the correlation between structural consolidation and the rise of an imposing architecture: "The transformation of the chief deity of Ise from nature spirit to divine ancestors of the Imperial House and guardian deity of the state was paralleled by a gradual change in most of the buildings from the original primitive raised-floor-storehouse form to the imposing palace style…"[14] In more general terms, the permanence of the edifice embodies not only the immortality of ancestors but that of the group. It designates the perpetual unfolding of the sequence of generations.

Anthropologists have often noted the association of descent groups with houses and monuments.[15] The house or estate is not merely a symbol of corporate perpetuity but the actual residence of the corporate body. As the body of all generations, the corporate body must be accommodated in a dwelling that is everlasting. To be sure, the material perpetuity in question is a matter of fiction, representation and belief, not of engineering. Because it is fictional, permanence can be equally projected onto future and past. Once a building is inaugurated, it is elevated to the realm of perpetual things and appears as if it has always stood where it stands, in the same way that laws wear the patina of time immemorial upon their promulgation.

Hegel's view of the pyramid as the prototype of the art of architecture lends support to the proposed conception of architecture as the dwelling of a collective body which is absent, immortal and personified by ancestral authority. After all, the pyramids literally demarcate a hidden realm for the dead that seems to this day to be untouched by time. In Hegel's account, the history of architecture begins with a stage of "symbolic architecture" to which the pyramids belong. According to Hegel, the pyramids were preceded by constructions such as the Tower of Babel which belonged to the pre-history of architecture and which, like the pyramids, had the single purpose of conveying the unity of the group. In subsequent stages of its development, architecture comes to perform additional functions

(1894), 34–60. On temporary architecture, which indeed can be understood as an architecture of *communitas*, see Sarah Bonnemaison and Christine Macy (eds.), *Festival Architecture* (London: Routledge, 2008).

14. Kenzo Tange, "Ise: Prototype of Japanese Architecture" in Kenzo Tange and Noboru Kawazoe, *Ise: Prototype of Japanese Architecture* (Cambridge, MA: MIT Press, 1965), 45.

15. Fortes writes: "[Ancestors] are figuratively reimbodied in such material vehicles of their presence as memorial tablets or shrines and altars, which are appropriately enough placed in the home – be it ancestral hall or lineage home or the *ie* in Japan – which is in its turn *the material embodiment of the group* within which the deceased are reinstated." (emphasis mine – LB) Fortes, M., "An Introductory Commentary" in W.H. Newell (ed.), *Ancestors* (The Hague: Mouton, 1976), 1, at 7. Inspired by Lévi-Strauss's concept of "house societies," a number of authors have brought to light in recent decades the ways in which houses function as embodiments of intergenerational continuity. See, for example, the essays collected in Janet Carsten and Stephen Hugh-Jones (eds.), About the House: Lévi-Strauss and Beyond (Cambridge: Cambridge University Press, 1995); and in Rosemary A. Joyce and Susan D. Gillespie (eds.), Beyond Kinship: Social and Material Reproduction in House Societies (Philadelphia: University of Pennsylvania Press, 2000).

but its symbolic function always remains paramount. Through the construction of the Tower of Babel the diverse peoples that participated in its construction forged a unity:

> … the primary purpose behind such explicitly independent buildings is only the erection of something which is a unifying point for a nation or nations, a place where they can assemble…

> In the wide plains of Euphrates an enormous architectural work was erected; it was built in common, and the aim and content of the work was at the same time the community of those who constructed it. And the foundation of this social bond does not remain merely a unification on patriarchal lines; on the contrary, the purely family unity has already been superseded, and the building, rising into the clouds, makes objective to itself this earlier and dissolved unity and the realization of a new and wider one.[16]

The collective effort of erecting the Tower of Babel replaced traditional bonds of kinship by political unity. But the project failed to establish an enduring unity, and architecture had to wait for the construction of the pyramids in order to enter world history. The pyramids, like the Tower of Babel, were conceived to perform the symbolic function of embodying social unity, but they succeeded where previous attempts failed. The difference between the Tower of Babel and the pyramids can be couched in terms of the distinction between the communal and corporate bodies. While the Tower of Babel can be regarded as an enactment of the communal body, the pyramids manifest architecture's function of embodying a unity, a body, which resides outside the social.

The Tower of Babel was doomed to destruction by its self-identity. The intensity of presence in the turmoil of its construction thwarted the foundation of an enduring structure. In view of the inherent destructive tendencies of the communal body, the purpose of the megalomaniac project appears to have been none other than the elimination of the laborers. The pyramids, by contrast, epitomize the triumph of the corporate order, of law, temporality and absence, over presence. They overcome spatial presence by laying down the separation between the realms of the living and the dead. The concealment of the mummy divides the world inhabited by humanity into different realms. The pyramids overcome temporal presence by reifying the fiction of corporate perpetuity. They attest to society's concern for the afterlife of the mummy, that is, for ancestral immortality. They postulate an absent and immortal corporate body by means of reference to a hidden chamber whose everlastingness is guaranteed by the colossal dimensions of the edifice. Hegel regarded the pyramids as the beginning of representation in general, not only of architecture.[17] Representation, it can be said, depends on the power of architecture to effectuate the transformation of communal into corporate bodies. By demarcating a space for exclusive occupation by the living architecture underpins the various branches of representation, linguistic, legal and political.

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16. G.W.F. Hegel, *Aesthetics: Lectures on Fine Arts*, trans. T.M. Knox, vol. II (Oxford: Clarendon Press, 1975), 637–8.
17. *Hegel's Philosophy of Mind*, trans. William Wallace (Oxford: Oxford University Press, 1971), sections 457–8. On the origin of the image in portraits of the dead, see Hans Belting, *Likeness and Presence* (Chicago: University of Chicago Press, 1996), 88.

Doomed to devastation by the savagery of presence, the Tower of Babel provides a pro-
totypical example of the failure of architecture to accommodate the dead apart from the
living. However monumental in its conception, it failed to perform the monumental func-
tion of setting society apart from its corporate unity and of transforming the dead into law-
giving ancestors that reside apart from the living. Such a failure, we shall see, characterizes
totalitarian architecture albeit its ostentatious monumentality. A lesser crisis of ancestral
authority is illustrated by the emergence of the modern city square. Eric Hobsbawm noted
that democratization spurred a passage in public architecture from allegorical representa-
tions of the nation in statues that occupied the center of public spaces to orchestrated mobi-
lization of the public itself.[18] This transformation reflects the partial triumph of communal
presence over ancestral/corporate authority in the political culture of democracy. Since in
democracy, and especially in its totalitarian instances, the sovereignty of the collective body
is reclaimed by the living, the passage from traditional statuary to vast gathering areas testi-
fies to the monument's original function of accommodating a collective body that has been
severed from the community of the living and projected in the form of ancestral authority.

B. Social space and social time: the architectural construction of a world for the living.
By accommodating the dead in monuments, architecture provides the living with a realm
of their own. While the realm of the dead is invisible, stagnant and sovereign, the living
inhabit a worldly, temporal realm governed by a law that is authored by the dead. Through
the accommodation of the dead apart from the living and the separation between the group
and its collective body, the contours of social space and social time – the spatial boundar-
ies between individuals and the temporal boundaries between generations – are laid down
as fundamental legal categories of social structures. I will make a few comments on the
juridical and architectural fabrication of space and then briefly consider the production of
social time. The projection of the collective body allows for the delineation of spatial
boundaries between individuals and between different spheres of social action. Formless
communal presence gives way to an articulate, habitable, secular space. In *communitas*,
by contrast, the breakdown of interpersonal boundaries dissolves the social space. As
Arendt wrote on the totalitarian mass in *The Origins of Totalitarianism*, "[B]y pressing
men against each other, total terror destroys the space between them."[19]

Practices and narratives of settlement attest to the significance of the initial marking
of a place in the humanization and domestication of space. In a comparison of Homeric
and Biblical colonization narratives, Weinfeld notes that the first actions committed by
colonizers on a new land are the erection of pillars and altars and then the building of a
sanctuary.[20] The act of marking draws a line not only between our and no-man's land, or

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18. "… On the stage of public life the emphasis therefore shifted from the design of elaborate
     and varied stage-sets, capable of being 'read' in the manner of a strip cartoon or tapestry,
     to the movement of the actors themselves …" Eric Hobsbawm, "Mass-Producing Traditions:
     Europe, 1870–1914" in E. Hobsbawm and T. Ranger (eds.), *The Invention of Tradition*
     (Cambridge: Cambridge University Press, 1983), 263, at 305. On the transformation of the
     public sphere, see also Michael North, "The Public as Sculpture: From Heavenly City to Mass
     Ornament," 16(4) *Critical Inquiry* (1990), 860–79.
19. Arendt, *The Origins of Totalitarianism* (New York: Harcourt, 1948), 466.
20. Weinfeld, M., *The Promise of the Land: The Inheritance of the Land of Canaan by the Israelites*
     (Berkeley, CA: University of California Press, 1993), 36.

between ours and theirs, but first and foremost between the living and the dead. Prior to this elementary architectural intervention, the land is not yet a meaningful and habitable place. Different cultures recognize the all-importance of the transfer of ancestral bones to new lands settled by their descendants, or to old lands when an ancestor died away from home. Anthropology and history provide ample documentation of this practice, which demonstrates that a space for the living can be defined only in relation to an ancestral dwelling.

In a series of works, Christian Norberg-Schulz argued that the role of architecture is to express man's overall perception of an environment, a *sense of a place* that is dictated by its natural conditions. He views architecture as a concretization of the *character of a place*, or of the *existential space*, which he describes as the human response to natural, primarily topographical, features of an environment.[21] Contrary to Norberg-Schulz's position, natural features cannot give an environment a character and a meaning, its *genius loci*, before architecture has already performed the initial gesture of separating the dead from the living and establishing the authority of the former over the latter. Prior to this intervention of architecture, the dead are omnipresent to the effect that all landscapes possess the same inhospitable and persecutory character. The impression that a building has been in some way *discovered* by the architect in an environment, that it had been standing since time immemorial, captures a relationship between the building and the natural attributes of a place which can exist only once space had been domesticated by means of some prior elementary intervention. The building can be thought of then as having always stood where it stands because the fiction of corporate perpetuity becomes inscribed in space once the living have been set apart from the dead.

The claim that places are demarcated from wilderness through the accommodation of the dead was recently made by Robert Harrison in his book *The Dominion of the Dead*. The grave, Harrison saw, humanizes space and turns it into a place.[22] Harrison notes perceptively that the task of accommodating the dead cannot be confined to funerary architecture: houses become houses by making space for the dead. The present account of the accommodation of the dead differs from Harrison's already in its point of departure, the notion of the collective body outlined in the first section. While for Harrison nature is domesticated through the institution of some sort of alliance between the generations, architecture, I have argued, humanizes space by dispelling the communion of generations. Wilderness is domesticated through the accommodation of the generations apart from each other. It spreads wherever intergenerational boundaries are blurred. I will return to this point shortly while considering Arendt's account of the role of the artifice as a mediator between the generations.

Weinfeld's comparison of Greek and Israelite settlement narratives shows that the erecting of monuments is followed by the distribution of rights in land among the settlers and by the recognition of law generally.[23] By accommodating the dead, the monument at

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21. See, for example, Christian Norberg-Schulz, *Genius Loci: Towards a Phenomenology of Architecture* (New York: Rizzoli, 1980), 25–32.

22. Robert Pogue Harrison, *The Dominion of the Dead* (Chicago: University of Chicago Press, 2003), 24.

23. "… the divine laws written on the stones at the time of settlement were an integral part of the foundation ceremony …" (Weinfeld, 38). Weinfeld sums up the order of the "foundation

once domesticates space and brings the law into effect.[24] Laws were often inscribed on central public monuments not merely in order to be easily accessible, as Gagarin and other scholars explained ancient Greek practices,[25] but because they were *validated* by the monument. The proposed understanding of human dwelling as conditioned by the rule of law is at odds with approaches to architecture that are inspired by Heidegger, such as those of Karsten Harries, Robert Harrison and Christian Norberg-Schulz. From a juridically biased perspective, alienation appears as a condition rather than impediment to dwelling. By alienating the group from its body, architecture at once clears a space for human dwelling and entangles the subject in a network of alienated, jural relationships. Architecture renders the world habitable by laying down legal categories which separate and mediate between individuals and between generations, as well as between the subject of the law and itself. The complaints that modern architecture hinders authentic dwelling often betray an irrational aspiration for communal presence and a misunderstanding of the import of earlier architectural styles, which were equally entrusted with the task of keeping the subject in a state of alienation from various bodies – its own, the other's and the collective body.

Like social space, social time is produced through the accommodation of the collective body outside the realm of the living. The embodiment of corporate perpetuity in monumental architecture dispels the simultaneous presence of all generations in the communal body. By setting apart the living and the dead and projecting sovereignty outside the realm of the living architecture sets historical time in motion. By embodying the legal fiction of an immortal body that comprises past, present and future generations, architecture opens up the present to the horizons of past and future. It furnishes the material bedrock for historical continuity, repetition and change.[26]

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typology" as follows: "1. The obtaining of oracular confirmation for the settlement. 2. The erecting of monuments and altars and the offering of sacrifices on arrival at the new place of settlement. 3. The allotting of the land by means of divine lot. 4. The obligating of the settlers to observe the divine laws given to them. 5. The according of a prominent position to the leader-founder. 6. The cooperation of the leader-founder and the priest of the central shrine, whose graves are to be especially revered by the settlers …" Weinfeld, M., *The Promise of the Land: The Inheritance of the Land of Canaan by the Israelites* (Berkeley, CA: University of California Press, 1993), 40.

24. Architecture founds the law and at the same time already operates in the name of the law. The legal and architectural organizations of space are thus intertwined and interdependent. Like violence in Derrida's reading of Benjamin's "Critique of Violence," architecture is at once law-founding and law-conserving. The founding architectural separation between the living and the dead is already grounded in recognition of ancestral law. It carries out an ancestral command to provide the dead with a separate dwelling and to observe the boundary between the realms of the living and the dead. For Derrida's reading of Benjamin, see Derrida, "Force of Law: The 'Mystical Foundation of Authority'" (1990), 11 *Cardozo Law Review*, 919.

25. See Michael Gagarin, *Writing Greek Law* (Cambridge: Cambridge University Press, 2008), 39–93.

26. On the corporate organization of social structure as the institutional anchor of linear, historical time, see Barshack, "Time and the Constitution," 7(4) *The International Journal of Constitutional Law* (2009), 553.

While the corporate body is personified by ancestral figures, the monuments which embody it do not privilege the past over the future. The idea of corporate perpetuity envisages a succession of generations which extends equally into past and future. A typically perceptive remark of Fortes' on ancestor worship captures the symmetry between past and future that is built into the idea of descent. Ancestors do not preside only over the horizon of the past. As the emblems and guardians of corporate perpetuity, they show the way to the future. Ancestral worship is *future-oriented* because ancestors have a vested interest in reproduction. Fortes writes:

> [C]orporate groups ... are kept in existence by mobilizing the succession of generations regulated by the principle of filiation ... The dead are ... thought of as having a stake in the continuity, i.e. in the future persistence of the society to which they belonged in life. In ancestor worship this is accepted as just and natural; it is this that, paradoxical as it may sound, gives ancestor worship a future orientation, rather than, as might superficially be thought to be the case, a fixation on the past.[27]

While the various instances of the corporate body, such as law and architecture, are often taken to represent the past and the authority of the past, they lay down a temporal axis which stretches equally backwards and forwards. Aldo Rossi quotes Henri Pirenne's felicitous description of the ruins of ancient Rome as "stones of anticipation."[28] There is in the stones a reference to a future in which they will be redeemed that is almost as obvious and immediate as the reference to the past. In light of the proposed understanding of historical time it seems that ruins were chosen as locations for new settlements – a phenomenon described by Pirenne – partly because they embodied the fiction of corporate perpetuity.

Alongside the representation of continuity between past, present and future, the built environment has to visualize historical change in order to provide society with a lucid image of time. In *What Time is this Place?* Kevin Lynch argued that the urban environment can enhance the social comprehension of time by displaying historical changes in a way that sensibly connects the present to the past and the future.[29] While Lynch justly expects architecture to relate the living to processes of change, this can be done only where architecture performs its more basic, "monumental" function. By representing the fiction of corporate perpetuity architecture allows for the very distinction between past, present and future. According to Lynch too change has to be visualized as part and parcel of an overarching continuity. In terms of the foregoing formulations, the representation of

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27. Fortes, "An Introductory Commentary" in W.H. Newell (ed.), *Ancestors* (The Hague: Mouton, 1976), 1, at 6.

28. Aldo Rossi, *The Architecture of the City* (Cambridge, MA: The MIT Press, 1982), p. 92, quoting Henri Pirenne, *Les villes et les institutions urbaines*, 2 Vols. (4th ed.) (Paris: Alcan, 1939), p. 345. Rossi develops the idea by suggesting that monuments, rather than merely embodying a memory of origins, accelerate the process of urbanization.

29. On the visualization of historical change and development through "temporal collage" in the urban matrix and other means, see Kevin Lynch, *What Time is this Place?* (Cambridge, MA: The MIT Press, 1972), chapter 7, p. 163 ff.

continuity through change vindicates the autonomy of the realm of the living from that of the dead – the right of the living to change things – while placing the living within an everlasting corporate order. The social organization of time involves the reconciliation of corporate perpetuity with the power to innovate. Lynch saw that architecture and urban design can and should accomplish this reconciliation.

C. Arendt on buildings, laws and other artifices. In *The Human Condition* Arendt recognized the role of the monument in the fabrication of the inhabited space, to which she refers as the space of appearance or, simply, the world. For space to be habitable, to be a place of work and action, it has to be perceived by different individuals in the same way. Such an objective, shared social space, Arendt argues, is constructed through the deployment of durable artifices that constitute a "common world of things." In an oft-quoted passage Arendt adds that the common world of things "relates and separates men at the same time."

> … the term "'public" signifies the world itself, in so far as it is common to all of us and distinguished from our privately owned place in it. This world, however, is not identical with the earth or with nature, as the limited space for the movement of men and the general condition of organic life. It is related, rather, to the human artifact, the fabrication of human hands, as well as to affairs which go on among those who inhabit the man-made world together. To live together in the world means essentially that a world of things is between those who have it in common, as a table is located between those who sit around it; the world, like every in-between, relates and separates men at the same time.[30]

On several occasions, Arendt remarks that for the world of things to exist it has to be shared not only by the living, but also by different generations. Artifices constitute the world by making it common to successive generations, not only to different members of the same generation. By outliving their makers artifices establish a link between the generations.

> The reality and reliability of the human world rest primarily on the fact that we are surrounded by things more permanent than the activity by which they were produced, and potentially even more permanent than the lives of their authors. Human life, in so far as it is world-building, is engaged in a constant process of reification, and the degree of worldliness of produced things, which all together form the human artifice, depends upon their greater or lesser permanence in the world itself.[31]

The artifice, thus, mediates between generations much as it mediates between individuals. There is an asymmetry, however, between the synchronic and diachronic functions that Arendt assigns to the artifice. When Arendt describes the intermediate position of the

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30. Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), p. 52.
31. *The Human Condition*, 95–6. Sanford Levinson notes the analogy between monuments and constitutional documents as reifications of continuity. See Levinson, "Law as Literature," 60(3) *Texas Law Review* (1982), 373, at 376. On the consequences of attempts to reify continuity in changing societies, see Levinson, *Written in Stone: Public Monuments in Changing Societies* (Durham, NC: Duke University Press, 1998).

artifice between generations no mention is made of the need to *separate* the generations from each other. While according to Arendt the artifice mediates between the living by *separating* and *relating* them at the same time, as far as intergenerational mediation is concerned the function of the artifice is only that of *relating* the generations. The synchronic function of the artifice is to relate as well as separate between living individuals. The diachronic function is only that of relating the living and the dead through the reification of memory in the materiality of things.

Implicit here is an asymmetry between Arendt's conceptions of space and time. Space, Arendt states repeatedly, needs to be fabricated. The artifact is indispensable if a space between individuals is to be opened. By contrast, time does not have to be artificially fabricated. The temporal distance between generations, as opposed to the spatial distances among the living, is given. Nature, mortality, take care of separating the generations; culture is left with the task of forging artificial links between the living and the dead. Contrary to Arendt's position, I have argued that the diachronic and synchronic functions of the artifice are analogous. Law, architecture and other artificial embodiments of corporate perpetuity not only link generations to each other but first and foremost drive a wedge between generations. Since all generations are consubstantial in the sovereign body, the temporal distances between them need to be legally fabricated. The generations are artificially separated, from each other and from their pre-temporal communion, through the projection of the collective body outside the social and the institution of corporate perpetuity. Through legal and architectural representations of corporate perpetuity, the corporate order is postulated, the dead are set apart from the living and historical time is set in motion. While for Arendt the permanence of cultural objects establishes continuity between the dead and the living, the principal function of the permanence of material culture is to accommodate the dead apart from the living and thereby launch the flow of time.

Arendt's denial that time is artificially fabricated is related to her objection in *On Revolution* to the idea of constitutional beginnings.[32] Arendt opposed the idea of a mythical point of departure in which a law that binds successive generations ever after is laid down. Martin Jay wrote: "… Hannah Arendt drew on political existentialist tradition in viewing history as an illegitimate source of constraints on freedom …"[33] For Arendt, there is no privileged moment in which mythical time is transformed into historical time and eternal law is pronounced. Her endeavor to demythologize beginnings denies both the sovereignty of the past and the role of artifices, legal and architectural, in the production of time.

D. The ubiquity of the monumental. The monumental function of representing the dead before the living as dwellers of a separate and superior realm seems foreign to the spirit of modern architecture. Monumentality was generally regarded by modern architects as a thing of the past, an irrational and superfluous, if not oppressive, function that architecture should disavow in modern times. In the debate over the place of the monumental Siegfried Giedion advocated the contrary position. Once architecture

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32. *On Revolution* (New York: Viking, 1963).
33. Martin Jay, "The Political Existentialism of Hannah Arendt" in *Permanent Exiles: Essays on the Intellectual Migration from Germany*, p. 243.

fulfills its primary functions of providing shelter and organizing urban life, Giedion argued, it is legitimately expected to symbolize tradition and cultural identity.[34] Contrary to Giedion's position, monumentality cannot be reduced to a secondary function that architecture may or may not perform. It founds the spatial and temporal order within which architecture can offer shelter and cater for the quotidian needs of the living.

Monumentality is ubiquitous in different *types* of buildings much as it is common to different architectural periods and styles. If a house cannot accommodate the living without accommodating the dead, then the monumental function of architecture cannot be confined to imposing public edifices. The dead will pervade and perturb relations among the living unless a place is allotted to them – an intuition which inspired numerous folk and literary elaborations of the motif of the invisible inhabitant. As in Cortazar's "A House is Taken Over," ghosts and other imaginary beings would step out of the walls and hidden cavities to haunt the domestic space and torment its inhabitants. The living can be humanely accommodated only if a separate dwelling is reserved for the sovereign body of which all generations partake. Monumentality cannot be exclusively assigned to public buildings because it everywhere conditions the accommodation of the living. As Vittorio Gregotti saw, monumentality is coterminous with architecture itself. It is found wherever the intention is communicated to create "collective meaning over time." Gregotti's statement on monumentality calls for an extensive quotation:

> I believe that no distinction can be made between the architectural monument and the specific morphological quality of architecture. For one who builds or designs projects, the wish to create duration and collective meaning over time (in other words, the reason behind making monuments) is closely connected to the question of quality.
>
> The monument, when defined as the significant morphological value of a work, is in any case neither a theme nor a typology, nor can it be an explicit objective. One cannot order the construction of a "monument" (in the meaning that I have attempted to define above) in the same way that one orders the construction of a school or a theater, even though this is often done, and architects frequently try to pursue this task even when their clients have not requested it. The monument is also not a genre (as for example, the novel is for literature), nor a rhetorical form, nor a category of composition: it is hard to think of it as a creative material that can be as easily invoked as these.
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> From this point of view, it also becomes difficult to adopt the fashionable attitude of completely dismissing the polemical stance some architects of the modern movement have displayed

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34. Giedion stated his position as follows: "The people want buildings representing their social, ceremonial and community life. They want their buildings to be more than a functional fulfillment … This demand for monumentality cannot, in the long run, be suppressed. It tries to find an outlet at all costs." "In Search of a New Monumentality: A Symposium," 104 *Architectural Review*, no 621, (1948), p. 126. For a discussion of the debate over monumentality, see George Baird, *The Space of Appearance* (Cambridge, MA: MIT Press, 2003), p. 136.

toward the idea of monument. They were right on at least one point: the monument is not a question of monumentality, and the attempt to establish the effect that a work will have on those who experience it is one of the classic ways to produce kitsch.[35]

The ubiquity of the monumental to which Gregotti alludes derives, I have suggested, from the necessity to regulate the relations between the living and the dead. The artifice's claims to permanence postulate an invisible realm that is populated by ancestors and by the group's cross-generational unity. By allocating a perpetual and exclusive dwelling for the dead, the representation of permanence conditions the accommodation of the living in the temporal realm. However, the representation of permanence cannot by itself secure the accommodation of the dead. Permanence, or the intention to create "collective meaning over time," is inseparable, as Gregotti suggests, from the pursuit of "morphological value." In other words, buildings have to be perceived as forms that are aesthetically valuable *as well as* permanent in order to accomplish the separation between the living and the dead.

III. Aesthetic Foundations of the Rule of Law

Aesthetic form domesticates space by setting intergenerational, corporate unity apart from the world of the living. Form is capable of driving a wedge between society and its corporate unity because form itself consists in a differentiation between a realm of plurality and difference and one of hidden unity. By virtue of its aesthetic qualities architecture builds into the social space this differentiation between realms of plurality and corporate unity. The relation between the space in which the business of life takes place and that which is reserved for the dead and for corporate unity is thus structured as a relation between the layers of a work of art. Lévi-Strauss, Aldo Rossi and other authors pointed out that the urban space as a whole operates as a work of art, and Rousseau has famously referred to the state as a work of art in *The Social Contract*.[36] In the following pages I shall make a few general and tentative remarks on art's contribution to the consolidation of corporate structures, and then return to architecture in a short concluding discussion of totalitarian architecture.

According to an old and familiar theory in aesthetics, form consists in the ties between the different visible parts of a work of art. Wölfflin's view of the building as an "organic system," a plurality of elements coordinated by a single *telos*, echoes this

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35. Vittorio Gregotti, "On Monumentality" in Inside Architecture (Cambridge, MA: MIT Press, 1996), 61, 63.

36. Aldo Rossi, *The Architecture of the City* (Cambridge, MA: The MIT Press, 1982), p. 33. Rossi refers to Lévi-Strauss' *Tristes Tropiques* (London: Hutchinson, 1961), 127. On the city as a work of art, see also Lewis Mumford, *The Culture of Cities* (New York: Harcourt, 1970) [orig. 1938], 5. Rousseau's expression "work of art" may mean here a product of skill, experience and thought rather than artistic creativity. See Rousseau, *The Social Contract and Other Later Political Writings*, edited by Victor Gourevitch (Cambridge, Cambridge University Press, 1997), Book III, chapter 11.

theory.[37] Certain formulations of the theory of unity place greater value than others on the experience of diversity and discord as the medium through which unity has to manifest itself. In his *Inquiry into the Original of our Ideas of Beauty and Virtue* [1725], Francis Hutcheson famously characterized beauty as unity in variety, and argued that aesthetic failures derive from predominance of either principle at the expense of the other. The relations between plurality and unity in art have been studied from a variety of perspectives. My following brief and preliminary remarks are confined to one aspect of these relations, namely, their social and political import. Paraphrased in anthropological terms, Hegel's view of art as a spectre of the absolute seems to amount to the claim that an artwork's unity designates in some way the corporate, intergenerational unity of the group. It can be argued that the somatic metaphor in aesthetics, the view that works of art somehow stand for an ideal body, refers to the group's corporate body.[38] According to such a claim, it is the comprehension of the corporate, intergenerational unity of the group that is sought in the *interpretation* of law and art. Like law, art postulates an ancestral/corporate authority that inhabits a separate realm and whose will has to be fathomed. Both law and art invite the subject to grasp corporate unity through an interpretive engagement with different layers of meaning.

Social practices of creation and contemplation of art reinforce and regenerate the corporate structure of society, as a structure that is premised on the projection of corporate unity, by underscoring the distance between levels of signification. As objects of interpretation, law and art set apart the realms of the living and the dead – the manifest and the hidden – and then relate the generations through the interpretive effort to recover an ancestral message. The relegation of the collective body to an external realm is accomplished in art, as it is in social life, through the cultivation of diversity and contrast, complexity and negativity. Aesthetic form mirrors the corporate structure of society: in art and social structure greater distinctness of individual parts, and greater tensions between them, render unity ever more abstract and distant from the realm of appearances.[39] Art's engagement with plurality and discord reveals its inherent commitment to the autonomy of the temporal realm inhabited by the living, and its role in establishing that autonomy.[40] A crisis of form

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37. On the building as system, see Heinrich Wölfflin, "Prolegomena to a Psychology of Architecture" in *Empathy, Form, and Space: Problems in German Aesthetics, 1873–1893* (Santa Monica, CA: The Getty Center, 1994), p. 149, at 166.
38. For an elaboration of this claim see Barshack, "The Body Politic in Dance" in Peter Goodrich (ed.), *Law, Text, Terror: Essays for Pierre Legendre* (London: Glasshouse, 2006), 47.
39. In his illuminating analysis of the Winter Palace in St. Petersburg, Uriel Procaccia captures the correspondence between a despotic legal and political culture and an architecture that suppresses multiplicity and diversity of voices. Procaccia writes: "In public law and in politics, the blending of voices generates a constitutional order … In the art of architecture, it balances space against space, line against line, wall against window." Uriel Procaccia, *Russian Culture, Property Rights, and the Market Economy* (Cambridge: Cambridge University Press, 2007), p. 140.
40. It is in light of this capacity that we should read Wölfflin's perspicacious remark that "… all the decrees of formal aesthetics concerning *beautiful form* are nothing other than

portends the collapse of the separation between the realms of the living and the dead.

My understanding of aesthetic unity as the dwelling-place of corporate unity is inspired by the reflections on art of psychoanalysts such as Hanna Segal and Anton Ehrenzweig. The focus of interest of these writers lay naturally in individual rather than social processes. According to Segal, the creation of an artwork serves to repair the fragmentation and decay of the artist's inner world. As a follower of Klein, Segal speaks of reparation of the ''good object,'' namely, the inner source of self-love and vitality: "… all creation is really a re-creation of a once loved and once whole, but now lost and ruined object …"[41] Segal's main example is Proust's reconstruction in *Remembrance of Things Past* of the world of his childhood and its lost wholeness. For Segal, the value of a work of art derives from its capacity to integrate disparate elements into a complex whole. Through their engagement with the complexity of an artwork, the artist and members of his public attain the reintegration of their inner worlds. Segal adds that the overt elements of a work of art must comprise negative elements that anticipate failure of integration and reparation. These are traces of death and decay which Segal identifies with "ugly" elements that can be found in any artwork and which correspond to destructive elements within the inner world.[42] Art rejuvenates the inner world by integrating negative elements and thus domesticating their negativity. While the beauty or ugliness of individual elements depends on whether they evoke inner experiences of ''good objects'' or ''bad objects,'' the beauty of the artwork depends on the interrelations between individual elements. Fascist art and architecture, we shall see, do not allow for such a differentiation between artistic and non-artistic beauty. According to Segal, the process of reparation undergone by an artist is relived by the public. Through the contemplation of a work of art the public identifies with the author of the artwork and embarks upon a parallel process of reparation: "… aesthetic pleasure … is due to an identification of ourselves with the work of art as a whole and with the whole internal world of the artist as represented by his work."[43]

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the *basic conditions of organic life*. The force of form is … that which creates life …" (p. 160).

41. Segal, "A Psycho-analytical Approach to Aesthetics," 33 *International Journal of Psychoanalysis* (1952), 196, at 199; A. Ehrenzweig, *The Hidden Order of Art* (Berkeley, CA: The University of California Press, 1995 [1967]).

42. "ugliness must be present for a full aesthetic experience …" Segal, 1952, at 201.

43. Segal, 1952, 204. In a later text Segal explains: "The act of creation at depth has to do with an unconscious memory of a harmonious internal world and the experience of its destruction; that is, the depressive position. The impulse is to recover and recreate this lost world. The means to achieve it has to do with the balance of 'ugly' elements with beautiful elements in such a way as to evoke an identification with this process in the recipient. Aesthetic experience in the recipient involves psychic work. This is what distinguishes it from pure entertainment or sensuous pleasure. And we know that people vary in their capacity to accomplish such work. Not only does the recipient identify with the creator, thereby reaching deeper feelings than he could do by himself; he also feels that it is left to him to look for completion." Hanna Segal, *Dream, Phantasy and Art* (London: Routledge, 1991), 94.

Contrary to most psychoanalytic accounts of art, the transformative effect of art consists primarily in the reconstruction of a social rather than an individual self. The engagement with plurality, discord and absence, the interpretive quest for an artwork's elusive unity and the integration of negativity regenerate the corporate body. Once the object of reparation is identified as a social body or person, the psychoanalytic theory of art as reparation and the anthropological theory of art as a form of ritual renewal seem to complement each other. The shift from an individualist to a collectivist understanding of the transformative power of art changes our perspective on the role of the artist. According to Segal, the artist produces works in order to repair his own good object and consolidate the integrity of his own inner world. However, the artist can be seen as a public figure who revitalizes for the group its worn-out corporate body, its norms, myths and beliefs. Contrary to Segal's suggestions, the aesthetic pleasure of individual members of the public does not derive from their identification with the artist's private experience of reparation. Rather, the artist restores a collective object, the sovereign collective body, for and in the name of the entire group.

By referring to a sovereign body that dwells outside the social, art refounds the space and time inhabited by the living and the rule of law. Social space and time and the rule of law are anchored in the power of art to dispel communal presence. Art attaches individuals in a bond of love and belief to the invisible law-giving body, an effect which has been long recognized in the theology of architecture.[44] The age-old alliance between art and temporal and spiritual powers derives from art's role in grounding the authority of law and the entire order inhabited by the living. More than the other arts, architecture displays law's triumph over the communal body and induces the love of the rule of law as an order which transforms nature's indifference to life and death into an affirmation of life. Paul Valéry famously referred to the superior capacity of architecture (and music), in comparison to the other arts, to deliver humans from nature and accommodate them in a thoroughly humanized order.[45] He saw that architecture plays a more prominent role than other arts in initiating humanity to order and therefore in the fabrication of the subject. By enveloping the individual body, architecture locks the subject within order, that is, in an inescapable relation to an absent corporate body.

While the law-giving and life-affirming power of architecture is not unique to public buildings, it has been more often recognized in this context. For example, by Shamsul Wares, a Bangladeshi architect, commenting on the parliament building Louis Kahn conceived for Dhaka. Wares referred to Kahn as "our Moses," whom "we will always remember," since in designing the parliament building he "gave us democracy." In a brief, striking interview which concludes Nathaniel Kahn's movie about his father,

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44. See Ingrid D. Rowland, "The Architecture of Love in Baroque Rome" in Shadi Bartsch and Thomas Bartscherer (eds.), *Erotikon: Essays on Eros, Ancient and Modern* (Chicago: University of Chicago Press, 2005), 144; Liane Lefaivre, *Leon Battista Alberti's Hypnerotomachia Poliphili, Recognizing the Architectural Body in Early Italian Renaissance* (Cambridge, MA: MIT Press, 2005). On the love of ancestral authority see, for example, Fortes, "Pietas in ancestral worship" in *Time and Social Structure* (London: Athlone, 1970), 165–6.

45. Paul Valéry, *Dialogues*, trans. W.M. Stewart (Princeton, NJ: Princeton University Press, 1989), 96, 147.

My Architect, Wares referred to the parliament building's structural complexity and to the universal, impersonal love that the building imparts, the sort of love which animates the rule of law. The figures of the mythical law-giver and the mythical architect converge in Kahn not only because he constructed a residence for the legislator. Rather, Kahn's building discloses itself as the earthly manifestation of a divine law-giving body. As elsewhere in Kahn's work (and in "symbolic" architecture, to which Kahn's architecture has been too often likened), the building is enveloped by colossal geometrical structures that are devoid of evident function in themselves and blur the building's functional distribution.[46] These shapes confront the visitors with an elemental, primordial presence, at once menacing and serene, that seems, like the Tower of Babel, to enact the communal body. However, the sheer mass of the geometrical volumes is counterbalanced by structural complexity. By virtue of their irregularity, the cross-references, echoes and passages that relate the different spaces – seats of the different branches of government – point toward an invisible and abstract corporate unity. The confrontational juxtapositions and polyphonic interactions of Kahn's imposing geometrical volumes call communal presence into question, preclude ideological simplifications of the building's message and guarantee that it designates a very distant collective body, an abstract order that prescribes an autonomous approach on the part of each individual in pursuit of comprehension.

Complexity builds into space the principles of absent sovereignty and the rule of law. Alvaro Siza's words capture the power of complexity to set up a space for the living as concisely as his buildings.

> The clarity and the effectiveness of Architecture depend on an engagement with the complexity of the transformations which traverse the space; but this engagement is only able to transform Architecture when stability and a kind of silence is achieved through the design: the timeless and universal territory of order. Complexity and order create in the materials and the volumes and spaces a luminous vibration and permanent availability.[47]

Siza points out that complexity creates a sense of *clarity* and *availability*. This unsuspected result of complexity derives from its power to clear spaces for occupation by the living by severing the group from its collective body. In their account of classical architecture, Tzonis and Lefaivre claimed that architecture stages an opposition between familiar, "functional" elements and alien, purely formal stylistic elements as well as the resolution of this opposition. They referred to such resolution on a higher level as an edifice's cathartic effect.[48] The cathartic effect that Tzonis and Lefaivre assign to classical architecture, the power to achieve higher integration while maintaining a permanent tension between contradictory propositions, is not unique to classical architecture. It is the key to the power of different architectural styles to transform simple communal unity into complex corporate unity and anchor the corporate organization of society. In order to make space for the

46. On Kahn and ancient architecture, see Vincent Scully, *Modern Architecture and Other Essays* (Princeton, NJ: Princeton University Press, 2005).
47. Alvaro Siza, *Architecture Writings* (Milan: Skira, 1997), p. 36.
48. Alexander Tzonis and Liane Lefaivre, *Classical Architecture: The Poetics of Order* (Cambridge, MA: The MIT Press, 1986), 278.

living and regenerate the corporate structure, the display of complexity in art has to encompass traces of death or of the presence of the dead, that is, of the communal body. These are the "ugly elements" of an artwork in Segal's theory of art as reparation. Architecture intimates a transitional incarnation of the communal body, an advent of death, in order to refound life and law.[49] However imposing, architecture never displays an easy and secure triumph of the corporate organization of society. It stages an ongoing conflict between the corporate and the communal bodies, between law, form and life, on the one hand, and the utter presence of dead matter, on the other. Wölfflin's note that "*[t] he opposition between matter and force of form*, which sets the entire organic world in motion, is the principal theme of architecture"[50] captures the constancy of the conflict between matter and form.

The most confident realizations of different architectural styles set up order by calling for a constant effort on the part of their inhabitants of sustaining an elusive sense of unity.[51] Fascist architecture forms the most obvious exception to this principle. Elusiveness and apparent fragility of order are hardly tolerated in fascist art. Despite its colossal dimensions and ideological explicitness, totalitarian architecture often fails to postulate corporate perpetuity and buttress the corporate structure of society. While in humanist architecture form serves to dispel the presence of the dead and disband communal unity, fascist architecture seeks to precipitate the simultaneous presence of all generations in an everlasting present. In an essay on Albert Speer, Elias Canetti has argued that Speer's architecture was designed to propel the formation of vast crowds and to prevent them

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49. In contrast to Wölfflin's grasp of the dialectics of life and death played out by architecture, Wright viewed architecture as a sheer expression of life, devoid of negativity. See, Frank Lloyd Wright, "Organic Architecture" in *The Future of Architecture* (New York: Horizon, 1953), 222, at 228. This underpinned Wright's communitarian and "organicist yearnings," discussed by Baird. See George Baird, *The Space of Appearance* (Cambridge, MA: MIT Press, 2003), chapter 6. Whether Wright's actual architecture expressed his professed ideals is another question.

50. Wölfflin, p. 159.

51. Architects deploy a variety of means for intimating the precariousness of form, such as over-complexity and oversimplicity, the lush sensuousness of certain materials and surfaces, and emphasis on what Kenneth Frampton has termed tectonic honesty. While overcomplexity threatens to thwart the sense of order, oversimplicity – lifeless repetition, uniformity, symmetry – threatens to render unity trivial and "present." Utter conformity with a certain conventional style can be seen as a case of oversimplicity which deprives the individual elements and the overall form of vitality. [Mukařovský argued that the reproduction of conventional contrasts and tensions fails to generate effective heterogeneity; Jan Mukařovský, *Structure, Sign and Function* (New Haven, CT: Yale University Press, 1978), p. 77.] Tectonic statements and emphatic displays of the workings of natural forces and of the sensuousness of materials foreground the materiality of buildings and play out the tension between matter and form. As Wölfflin noted, the conflict between rigidity and gravity described by Schopenhauer instantiates the more general and fundamental one between form, life and law, on the one hand, and matter and death, on the other. On the diversity of expressions and effects of the tectonic, see Frampton, *Studies in Tectonic Culture: The Poetics of Construction in Nineteenth and Twentieth Century Architecture* (Cambridge, MA: The MIT Press, 1995).

from falling apart.[52] The concept of the corporation allows us to observe in the totalitarian gathering space the enactment of a single body which comprises the dead and the living alike.

In order to stimulate the immediate presence of sovereignty and generate an all-encompassing oneness, Nazi architecture refrains from cultivating distinctions between the overt and the latent. It aims at utter explicitness and outwardness. Because its meaning is exhausted by its surface, totalitarian architecture has been qualified as scenographic.[53] In a lecture entitled "What National Socialism has done to the Arts" Adorno described the tendency of Nazi art to rest content with the level of appearances in terms of a "taboo of expressing the essence, the depth of things" and a "compulsion of keeping to the visible, the fact, the datum and accepting it unquestionably."[54] Hitler's notion of artistic *clarity* amounted to a requirement that meaning in art should be transparent and unambiguous.[55]

The imperative of superficiality derived from the goal of enacting the oneness of the group. Since complexity entails the existence of multiple layers of meaning and dispels communal presence it cannot play a genuine role in totalitarian architecture. In a seminal study of the projects prepared by Nazi architects for the enlargement of the museum quarter in Berlin, Wolfgang Schäche demonstrated how the totalitarian version of Neoclassicism consistently simplified the language of classical architecture in favor of an "emphatic massiveness (heavy, bulky rustication) and a defiant bastion-architecture,"[56] which turned every building into a vehicle of militant propaganda. In other words, complexity and dialectics were eliminated in order to engulf the individual in an immediately present collective body.

As an enactment of the communal body fascist architecture posits the present state of affairs as one of plenitude and perfection. It leaves no room for social critique and utopian

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52. See Canetti, "Hitler, According to Speer" in *The Conscience of Words* (New York: Seabury, 1979), 145. Canetti's argument was put to use by Miguel Abensour in his compelling critique of Leon Krier's attempts to rehabilitate Speer. In order to argue that totalitarian architecture condenses the social, Abensour draws also on Arendt's claim that totalitarianism destroys the social space by pressing men against each other. See, Abensour, *De la compacité: architectures et régimes totalitaires* (Paris: Sens, 1997). Totalitarian architecture, I have argued above, destroys time much as it destroys space by precipitating the communion of generations.

53. See, for example, Kenneth Frampton, *Modern Architecture: A Critical History*, 4th ed. (New York: Thames and Hudson, 2007), 218.

54. Adorno, "What National Socialism has done to the Arts" [1945] in *Essays on Music* [Richard Leppert, ed.] (Berkeley, CA: University of California Press, 2002), 373, at 381.

55. On Hitler's notion of clarity, see Barbara Miller Lane, *Architecture and Politics in Germany, 1918–1945* (Cambridge, MA: Harvard University Press, 1968), 189.

56. Wolfgang Schäche, "Nazi Architecture and its Approach to Antiquity: A Criticism of the 'Neoclassical' Argument, with reference to the Berlin Museum Plans" in *Architectural Design*, 1983, 81, at 86. In another illuminating essay, Schäche proposed an overview of Speer's plans for the reconstruction of Berlin as thoroughly governed by an idolization of death and self-sacrifice, an analysis which lends support to the account of Nazi architecture as an enactment of the communal body. See, Wolfgang Schäche, "Sovereign Death. War, Destruction, Sacrifice and Death Cult in Nazi Architecture," 38 *Daidalos* (1990), 52–9.

aspirations. It shuns any avowal of precariousness and deficiency, any invocation of the negative and any reference to a distant goal or ideal through which an effective complexity is generated.[57] Nazi architecture, as opposed to truly monumental architecture, represents an attempt to collapse the succession of generations into an eternal present. Under fascism, Neoclassicism formed part of an aesthetics which denies time, confining beauty to self-evident and self-identical timeless forms. It was devised to liberate society from history through the construction of a timeless Valhalla. Wilhelm Kreis's view that Neoclassicism was the architectural expression of German soil[58] is instructive in that it reveals the quest for an ahistorical architecture that is validated not as a stage in the evolution of style but by reference to nature.

Like other architectural styles, totalitarian architecture is intended to stir love for the collective body of the group, but it does so in a distinct way and to a distinct effect. While under most regimes the object of political love is the corporate body of the group, under totalitarianism it is the communal body. The latter type of patriotic loyalty demands the sacrifice of individual autonomy and leaves no room for difference and plurality within society. The former type, the love of the corporate body, amounts to a commitment to the rule of law as an order that makes room for diversity and autonomy. While art generally serves to arouse the subject's love for the group's absent, law-giving corporate body, totalitarian ''art'' and architecture seek to engulf the subject in the communal body in a way that dissolves individual autonomy and the rule of law.

Totalitarian architecture does not allow for interpretation as a mode of contemplating the collective body which assumes its distance from the social, a mode of contemplating the dead which presupposes their relegation to a separate realm. Totalitarian architecture cannot be the object of individual contemplation and interpretive controversy. Its utter explicitness precludes an individual approach, the inner, interminable process of interpretation which consists in individual reconstruction of an edifice's abstract unity. Like Kitsch, totalitarian architecture repels any interpretation that is projected onto it. Since the modern autonomous subject emerges in the interpretive distance between the individual body and embodiments of corporate unity, totalitarian art and architecture cannot clear spaces for inhabitation by such subjects.

The same immediacy with which the communal body manifested itself in Nazi architecture characterized Nazi political culture in general. The rule of law collapsed once sovereignty was rendered obscenely visible in the figure of the leader. Already in the mid-thirties Franz Neumann saw that the Nazi legal system was premised on an

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57. Maurice Culot notes reverently that in the project *Atlantis* Leon Krier aspired to create a paradisiacal environment of human "perfection." See Culot, "An Island" in Leon Krier, *Atlantis* (Bruxelles: Archives D'architecture Moderne, 1987), 5–9.
58. Quoted by Kenneth Frampton in *Modern Architecture: A Critical History*, 4th ed. (New York: Thames and Hudson, 2007), 218. On Wilhelm Kreis, see Holger H. Herwig, "The Cult of Heroic Death in Nazi Architecture" in H. Herwig and Michael Keren (eds.), *War Memory and Popular Culture* (Jefferson, NC: McFarland, 2009), 105. On the distortion of classical architecture in the proto-totalitarian architecture of Tsarist St. Petersburg, see Uriel Procaccia, *Russian Culture, Property Rights, and the Market Economy* (Cambridge, Cambridge University Press, 2007), p. 140.

immanent notion of sovereignty. Nazi law, he observed, found in the will of the leader an immanent foundation.[59] An immanent theory of sovereignty, of the will of the leader as the ever present fount of the law, leaves no room for legal interpretation. Like Nazi art, Nazi law repudiated interpretation as an attempt to recover higher meanings. Nazi courts surrendered the autonomy of legal reason to political exigency, viewing law as an immediate expression and instrument of the political goals of the communal body.[60]

The reconstruction of the rule of law required a new architecture, one that is allowed to profess the mundane imperfections of the polity and forge a mystique of absent sovereignty. In describing the architecture of Hans Scharoun, the most prominent architect who worked in Germany in the aftermath of the war, as "mystical and pragmatic at the same time,"[61] Frampton captured the spirit of any architecture that allots spaces for the living and for the dead, and excels in doing both. Scharoun's *Philharmonie*, commenced a decade after the termination of the war, remains unsurpassed in the way it guarantees the autonomy and dignity of the individual in the midst of the public. It precludes uniformity of movement, instant decoding and ideological clarity that are sought in fascist gathering areas. The *Philharmonie* offers a different kind of clarity, illustrating Siza's ideas about complexity as a source of "luminous vibration and permanent availability." It welcomes the living and affirms their mundane individual existence through a combination of playfullness and unadorned functionality while pointing to another realm, inducing the love of the divine body and the love of law.

Acknowledgements

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59. Franz Neumann, *The Rule of Law: Political Theory and the Legal System in Modern Society* (Leamington: Berg, 1986), 289.

60. The "teleological method" of Nazi courts "encouraged judges to identify a particular ideological meaning and intent underlying a given law and then to use this 'intent' to undermine the wording of the law as such"; see Ingo Müller, *Hitler's Justice: The Courts of the Third Reich* (Deborah Lucas Schneider, trans.) (Cambridge, MA: Harvard University Press, 1991), 80–81.

61. See Kenneth Frampton, "Genesis of the Philharmonie" in his *Labour, Work and Architecture* (London: Phaidon, 2002), 264, at 267.