

Book forum

On Gernot Böhme's

Critique of aesthetic capitalism

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Précis of the book. Aesthetic economy

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1. *Art and economy*

The title *Aesthetic economy* for my précis may still sound unusual. It is a bit strange using the term aesthetic as an attribute of economy. Those unaware of this may have thought the Aesthetic economy was something about the art's market. It is true, works of art are trade objects by now – at least those of certain well-known artists. There is an art market, and works of art may be seen as objects of capital investment or objects of speculation. Well, there may be collectors who gather works of art interested in the aesthetic value only, but there are many considering them as a capital investment instead. The same will be true with the important art collections of bank companies.

Yet, there is again another way to misunderstand the title of *Aesthetic economy*, namely in the sense of *Kulturindustrie* (culture industry). The term was patterned by Adorno to pinpoint the economization of the production – but more so –, the reproduction of art. This

way, Adorno criticized a tendency to vulgarize works of art and to make them mediocre. This is the case with exhibitions by which museums try more and more to fund themselves, and concert business and by broadcasting music. The term *cultural industry* does not point to an impact of aesthetics to economy, but rather the other way round, an impact of economy on production and reception of art.

2. Theories of economy

The term *Aesthetic economy*, here, designates a characteristic of economy itself, i.e. a certain phase of capitalistic development. The point is that aesthetic aspects become important to what commodities are, to advertising, even to the very production of goods.

There are precursors to such a theory of capitalism, two of which I want to mention: first, theories of capitalism as an economy of waste; second, theories of commodity aesthetics. Whereas capitalism – especially with Karl Marx – was conceived of as an economy of scarcity, busy with the saturation of basic needs, there was another, even subversive line of theorizing. This stretched from Veblen through Schumpeter to Bataille and others. According to them, capitalism was an economy mainly producing for luxury and waste, serving much more the luxury desirers of rich people than the needs of the broad population. Much closer to our time are the theories of affluent societies by Kenneth Galbraith (1999) and Herbert Marcuse (1966).

The second track of theories, which can be seen as forerunners of the aesthetic capitalism, are the theories of commodity aesthetics. Two proponents of commodity aesthetics are authors Wolfgang Fritz Haug (1977) and Jean Baudrillard (1972). In his work, Haug scrutinized the aesthetic outfit of commodities, a sort of design to make goods attractive at the market. Yet, he did not go as far as claiming aesthetics to pattern the commodities as such. Thus Haug continued to work with the Marxian dichotomy of *Gebrauchswert* and *Tauschwert*, of use value and exchange value. In respect to this, Baudrillard was more radical in his *économie du signe*: he demonstrated that there are commodities the exchange value of which functioned, not only within the range of market procedures, but had a meaning even in the area of using commodities. The point is, commodities were no longer used in the strict sense. Nevertheless, they were useful as sta-

tus symbols. But, sign commodities as status symbols, aesthetics did not yet intrinsically function.

3. *The staging of life-styles*

What is telling about aesthetic capitalism is that a main proportion of goods are no longer produced to be used and consumed in the strict sense, but for furnishing and embellishing the customer and enhancing his or her life. According to Marx's classical concepts, the use value of commodities was to preserve life. It was used with the purpose of being consumed, worn out or burnt (for heating). Even Plato – in his dialogue *The state*, when describing economics – does not restrict this to the production of basic needs, but states that people will want to reproduce their life on a higher level. Karl Marx, for this case, talks of *extended needs*. We shall see that this concept is no longer sufficient to conceive of the structure of needs and desires in the phase of aesthetic capitalism. What we can state already is: in the actual developmental phase of capitalism, production of goods is no longer just for meeting basic needs, i.e. for preserving life, but most of it is made for raising the level of life. Using commodities no longer means consuming them – that could result in satisfying markets very quickly; effectively ending economic growth. This way, goods becoming long life items no longer have to be replaced because of being worn out, but because of what Karl Marx called *ideelle Obsoleszenz*, ideal obsolescence: commodities get old because they become old-fashioned or because they were no longer compatible with the rapid development of technical progress. But, as we will see, there is an additional mechanism stemming from a transformation of the system of needs: aesthetic production of commodities will no longer meet needs which were to be satisfied and come to rest that way, but desires which will be increased when met. These types of goods when consumed simultaneously stimulate the appetite for more; the appetite for the next generation of that item, the next collection of clothes, next season's fashion, the latest technical devise.

This economic system change first affords a change in Marxian analysis of the concept of a commodity. For us, the value of most commodities consists in their power to produce a certain atmosphere of life, i.e. it consists in aesthetic or scenic effects. Karl Marx introduced the difference of use value and exchange value in respect of

commodities. The use value of a commodity consists in its faculty to be applied for a certain goal in ordinary life. The exchange value of a commodity consists of being valued for exchange on the market. That means that the commodity must already be attractive on the market – this is the point where aesthetics come into play.

The difference which appears within the analysis is the fact that the exchange value continues to play a certain role within the context of commodity use. That is, the exchange value of the commodity is transformed into a new use value – we call it the staging value. The commodity has become something valuable in the context of use, i.e. the context of life, because it stages a certain lifestyle. This may come along through providing an outstanding frame for ordinary life, some embellishment for example, but it may also be the case that the commodity serves to stage the lifestyle of the very person. People stage themselves by wearing certain brands, by preferring certain music bands, by furnishing their surroundings with the accessories of their hobbies. Thus the staging value of a commodity is a certain use value which is an outcome of transforming the exchange value. This is exactly why this phase of capitalistic development is called an *aesthetic* one. If commodities are made more attractive by certain aesthetic clothes, these are no longer done away – being just package, as Haug stated. On the contrary, their aesthetic outfit actually becomes the value according to which they will be useful in the context of life.

Naturally what we understand to be the aesthetic quality of commodities will be changed by this transformation; having some aesthetic qualities does not simply mean that a commodity is beautiful. This change was already working with using commodities as a status symbol. For commodities to be effective status symbols, it was not necessary that it had a nice appearance, what is actually necessary is that it had a precious appearance. Generally, what is at stake when commodities should have some staging value is that it contributes to engender an atmosphere. Advertising has been using this for some time: commodities do not appear in advertisements as such praising their quality and usefulness, no, they are shown as contributing to an atmosphere or the mood of some scene of living. You don't praise a kitchen knife by exposing its sharpness and its solidity as a product; instead it is shown as an ingredient of a scene by which somebody acts as a hobby-cook.

4. *Aesthetic capitalism*

The theory of capitalism, as being aesthetic capitalism, is made from the perspective of the consumers; its fundament is the system of needs and desires. This way it is in a respectful company – economic classics from David Ricardo to Hegel were written in the same perspective. This is true again for theories of capitalism as waste economy, which understand capitalism starting from luxury consumption of feudal strata up to the leisure class. Karl Marx conceived of capitalism as an antagonism between labor and capital. Piketty (2014) describes the capitalistic system in the perspective of capital accumulation. The perspectives mentioned do not exclude each other in the sense that one is right and the other wrong, but they make different traits of capitalism visible.

My perspective emphasized the growing impact of consumption for the system of capitalism and its stability, i.e. of continuous growth. While Sombart demonstrates that capitalism lived on the luxury consumption of baroque, more precise, the feudal class, around 1900 industrialists began to understand that they should expand mass consumption after the feudal class declined and lost their leading position with the bourgeois revolutions. This was, so to say, a clever move in order to assure further growth: on the one hand through raising payments for work, the revolutionary pressure of the working class could be appeased; on the other hand, with this turn workers were transformed into customers of industrial products. This process went hand in hand with the abolishment of late forms of subsistence economy – during 19th century worker's families still assured their reproduction alongside the payment for labor by small agricultural production. Moreover, further economic growth was made possible by extending the range of customers of industrial products.

In a sense, capitalistic development was self-perpetuating because of producing a huge demand of means for production and distribution – consider the boom of railway construction; not to forget the production for war, i.e. of weapons and fortifications – but this applies for any type of economy.

Now, the entire population being made costumers of industrial products, creating further economic growth that could not be expected to continue in this direction. The next phase of economy growth was managed by a strategy which could be seen as *outsourcing*. It is not the same as what we currently mean by outsourcing, i.e.

delegating certain performances from one company to another. Here, we want to understand this term as the transformation of household work turning into services. This meant to economize cooking, washing, sewing, a main part of cleaning, children's care, and life-planning. Economizing house-work does not mean what parts of the feminist movement claimed: paying for house work. The meaning here is: activities, which traditionally were performed at home, were transmitted to the public area, which means to the market – and from there become paid services. The process caused the side effect that persons, mainly women, were set free to become workers – or the other way round, a second or third person of the family had to go to work because household expenditure had been raised through outsourcing. Today we must state that this source of economic growth seems to be exhausted because there are no further activities in the sector of reproduction which could be transformed into services.

Since market saturation dooms further, economy growth may come to an end. Hence something new is taking place, something which could revitalize economic growth again – even for an endless period: I talk about transforming the systems of need and desires.

As mentioned already, theories of economy since Plato up to Marx includes ideas about an expansion of demands. Yet, what I pointed to as a trait of aesthetic capitalism is something much more fundamental: the transformation of needs into desires. It may be helpful to fix the terminology in order to make explicate what this transformation is about. By the term *need* I understand a type of demands which are satisfied when met: thus, if you are thirsty and drink something, the thirst goes away. In order to underline this relation, I will also refer to basic needs; examples are the need of drinking, of nourishment, of clothing, of protecting against climate conditions, of sex. Even erotic demands come to an end when met. Yet, there are demands – I want to call them desires – which do not come to an end when met. To the contrary, they will be increased. A classic example is the desire to become famous: if somebody becomes famous, he or she wants to get more famous.

Another example, where a wish is transformed into a desire, is the wish to be seen. This is already an example of aesthetic capitalism, because the desire to be seen has much to do with personal appearance, outfit, self-staging and, what is more, has engendered a huge branch of economy. The wish, or the demand to be seen, was origi-

nally a privilege of the feudal class, the court and the noble men, later of the upper bourgeois class – and then, first of all as an outcome of photography, step by step became the desire of everybody – and this way produced a branch of mass consumption. In this example the desire will be reinforced if you satisfy it. You can prove that through the steady growth of image production and distribution and a growing manifold of means to be present. Walter Benjamin (1937), in his famous article on *The work of art in the age of its mechanical reproduction*, postulated a human's right to be filmed. Today, everybody wants to be on television (at least once); and while the television capacities are limited, you can make yourself visible via YouTube or by broadcasting videos via WhatsApp.

Further examples where basic needs are being transformed into desires are to be found in the realm of nourishment and traffic. Thus, somebody who satisfied his wish to change places by traveling during his vacancies will afterwards wish to travel even a longer distance. The examples to be found in the realm of nourishment are much more alarming. I mentioned the demands to eat and to drink being basic needs which really can be satisfied, i.e. come to rest when met. Food industries managed to design drinks and meals which stimulate one's thirst or hunger. "When drinking beer, thirst really starts to get good!", says a Bavarian beer advertisement. I do not know whether beer contains any ingredients which stimulate further drinking; but what is true, chips contain ingredients that trigger appetite. People say that just a certain proportion of salt and sugar adds this effect to food. These strategies of food industries may cause obesity and thus have alarming consequences for people's health. For our context, it proves to be a telling example for the transformation of needs to become desires.

It may be questionable as to whether an endless increase is possible in this realm, but there are others with which this is true: thus furnishing our life is an open dimension. There are no limits to staging ourselves through clothing, furnishing apartments and houses. If it seems one could not live even more beautifully and richly, more perfectly and comfortably, there remains still the possibility of ideal obsolescence: for example, that exactly this type of furnishing is out – compared with the most recent trends of fashion or technical equipment – and must therefore be replaced.

Aesthetic economy is capitalism seen from the perspective of the system of demands. It is a phase of capitalistic development, and for sure not the last one. It sheds light on the history of capitalism, showing that the relationship of luxury consumption and growing industrial production was a fundamental trait of capitalism from the very beginning. Currently, this trait has patterned our entire society, and that means the behavior of everybody as a consuming person¹.

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On forms of aesthetic work: a comment on Gernot Böhme's *Critique of aesthetic capitalism*

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Most of what scholars from different fields came to write on aesthetics and the economy is easily relatable to Gernot Böhme's work that has specifically inspired many international researchers from fields beyond aesthetics and philosophy. My own background is in theatre, dance, film and media studies where the "aesthetic experience" has gained increasing importance over the visual or historic interpretations. The aesthetic experience also links the philosophy of percep-

¹ Thanks go to my son in law Dr. Andrew Wold who as a native speaker checked my translation of the text.

tion to management and organization studies, including creative industries management – which is the position from which I write today. In my comment I want to draw on Böhme's work to discuss questions pertaining to the particular nature of aesthetic experiences or “atmospheres” that we encounter in today's aesthetic economy. Have all forms of aesthetic work become conflated and is art nothing more than one aesthetic field among others? I shall gauge some opportunities for possible critical thinking about different forms of “aesthetic work” with regard to individuals' aesthetic competence or aesthetic literacy.

Timely and of political importance, the *Critique of aesthetic capitalism* addresses today's capitalism that has over the past decades further developed its aesthetic form and content. With regard to the increased aestheticization of the economy – comprising the strategic use of aesthetic practices in the realm of marketing, management and organization – the task of the new aestheticians, according to Böhme, is not to deal with only the fine arts but to make the broad range of aesthetic reality transparent and open to critical analysis. Indeed, management and organization studies and marketing research have also come to increasingly include aesthetic considerations into their inquiry (Taylor, Hansen 2005, Biehl-Missal 2011) to be able to explore new forms of economic value creation that practitioners in the economy of advanced capitalist societies have pushed for a long time now.

The increasing economic aestheticization should also explicitly be connected to a global growth of the creative industries, while Böhme's inquiry is starting off from the “culture industry”. The creative industries include a broad range of economic activities that are concerned with the generation or exploitation of knowledge and information and span across diverse cultural and creative areas such as music, fashion, performing arts, TV and film, architecture, art market and museums, publishing, games and many more. In this area, products and services are sold that are – in contrast to other traditional industries – distinctively non-utilitarian, hedonic, experiential and of symbolic value (Troilo 2013). Listening to music for example does not only fulfil a distinct use or need such as drinking water when thirsty. The product itself does not create value for the consumer, rather the entire consumption experience. Consumption is hedonic because it does not serve a goal, but the experience is this goal, engendering joy, aesthetic appreciation and satisfaction. The experience creates

symbolic meaning by communicating taste, social status, and many different values to other people – again giving value and “staging” the consumers themselves.

Beyond the creative industries, as Böhme has illustrated, the entire economy circles around not fulfilling distinct needs but heightening people's desires for ever more experiences. Böhme's theory is concerned with the full range of aesthetic work, which is defined generally as the production of atmospheres and thus extends from the fine arts to today's capitalist economy including consumption spaces and shopping architectures, interior decoration, advertising, makeup artists, stylists, and many more. Aesthetic work creates atmospheres that are conceived of as affective powers of feeling, spatial bearers of moods, created by a range of different material and transitory (acoustic, olfactory) elements and experienced in bodily presence in relation to persons and things or in spaces.

This leads us to the question of the small differences between art, creative industries' products and services, and the full range of aesthetic work, or whether these forms of work have become conflated and turned into all the same? Böhme's perspective on aesthetics as a theory of sensual perception beyond the arts still points to some differences that may be worth pursuing. It needs to be discussed whether it is feasible or useful to draw a distinction between autonomous art, artistic works in general, and aesthetic work in marketing and management as a possible starting point for a critique of the aesthetic economy.

Marketers for decades now make numerous efforts to produce atmospheres and to seduce their customers, they deploy an intricate range of interior and exterior elements, layout and decoration, which influences buying behaviour. Researchers have thus explored that symbolic qualities of store environments communicate various messages to consumers, of an emotional and sensual nature, and may bring about both aesthetic and instrumental value. As a response, critical marketing researchers have discussed the sensual perception of consumption atmospheres. Murtola (2010) criticizes contemporary shopping malls for appropriating utopian ideas of utopia and harmony for purely commercial purposes. People are made apathetic and numb, like on the lotus drug that she uses as a comparison: “As long as you stay within this world and keep on shopping, you can feel happy. But the happiness is ephemeral” (Murtola 2010: 47).

Aesthetic analyses of consumption spaces – in line with Böhme – have explored the atmosphere which is perceived bodily, be it visually, acoustically, olfactory, etc., unfolding an impact on the body and mood of those exposed to them (Biehl-Missal, vom Lehn 2015). Our aesthetic approach implies that people and materials, via their presence, extend into and coin the atmosphere of a place and influence people present. Following Böhme, the subject is considered to be absorbing affective powers of feeling into her or his own bodily state of being. Our analysis of a Starbucks coffee shop shows how different features (warm colours, soft seating areas, yellow lights, transparent window fronts, unobtrusive music and coffee odour) play together to create an enjoyable atmosphere, a romantic idealized reality of its own, which differs from the contested corporate reality and its less harmonious interaction with other groups of stakeholders, including critics.

More generally, in a continuation of Critical Theory, shouldn't such atmospheres be considered as instruments for mass manipulation which do not offer people a space to develop sensuality and thinking, but aim to intensify rather than satisfy people's desire to consume? These atmospheres can be seen as turning consumption into an obligation and strengthening an economy which is based on the exploitation of labour and consumption alike. In this way, as alluded by Böhme, there is not only aesthetic pleasure but also aesthetic manipulation with aesthetics representing a real social power. Aesthetics represents a social power when it manipulates states in people and when it unfolds its potential to construct a certain reality of excessive consumption that rests on global networks of precarious labour, exploitation of humans and nature.

It can be in greater detail discussed though, if not all aesthetic atmospheres contribute to a numbing down of the consumer, but also have the special power to open up people's experiences. We have once explored this thought with regard to the Jewish Museum in Berlin (Biehl-Missal, vom Lehn 2015). Historically, museums form part of a larger complex of exhibitions that relates to department stores, shopping arcades, trade exhibitions and world's fairs and all deploy similar strategies of what can be referred to as aesthetic work. While the cultural and creative industries primarily sell hedonic, non-utilitarian, symbolic experiences, to attract visitors within today's aesthetic economy or "experience economy", cultural places like museums put an increasing emphasis on sensual perception and visitor ex-

perience, in addition to the mere conservation and preservation of historical artefacts. This trend includes famous museum architectures like Zaha Hadid's MAXXI in Rome, Frank Gehry's Foundation Louis Vuitton in Paris, and also Daniel Libeskind's building for the Berliner Jewish Museum. With regard to the Jewish Museum, architecture can be seen as physical provocation of the visitor. Floors are tilted horizontally and torn vertically, hallways have ceilings that narrow down. The museum has hollow void spaces with walls of bare concrete, that emanate a cold atmosphere, referring to the absence of lives that have been annihilated. The walk through the space for visitors becomes an endeavour of "balancing" their personal understanding of German-Jewish history, of "finding a position" within this historical context literally on the bodily level in the space and in their minds as well.

Such an opposition constitutes an example of atmospheres in cultural spaces such as museums that seem to fulfil a special social function, namely the mediation of the encounter beyond economic efficiency. These seem to be spaces within the "aesthetic economy" that are not fully governed by economic concerns, but still leave room for political, artistic and social potential. Böhme (1993: 116) has once pointed towards this difference, writing about "autonomous art [that] is understood in this context as only a special form of aesthetic work, which also has its social function, namely the mediation of the encounter and response to atmospheres in situations (museums, exhibitions) set apart from action contexts".

Such atmospheres are products of aesthetic work, but are set apart from action contexts, and may enable people to explore and feel moods and moments in freer ways, emotionally and imaginatively, possibly contributing to, for example, a critical and embodied understanding of history. This happens without being influenced towards a specific economic purpose such as consumption – an action context that we typically find in seductive marketing atmospheres. One could argue that in the light of the similarities between museums and consumption spaces, "art forms" use a range of more challenging tools to aesthetically communicate with consumers, and also have more opportunity for providing spaces that do not necessarily lure and "numb" people, rather challenge them to play with their own associations and create their own meanings. In this way, it might be worth putting together further ideas that can contribute to a frame-

work of critical inquiry into atmospheres created by different forms of aesthetic work.

Aren't these spaces needed more than ever before to help people to work on their own existence today's aesthetic economy? Aesthetic competence or aesthetic literacy seems necessary when we look at much of individuals' aesthetic work. Böhme has described that people follow their desire to be seen – previously an opportunity reserved for privileged classes until technology has made it possible for everyone to have their fame on Instagram, YouTube and other social media. This includes a great deal of audio-visual portrayal of individuals, documenting their thirst for experiences, consumption, vacation, luxury objects. Social networks are full of traveling shots, #vanlife lifestyles, plastic surgery, and luxury consumption that individuals can produce and upload by themselves and which feed the desire for ever more travel, experiences and consumption – that also go at the expense of our joint natural resources.

Also, in architectures or monuments that try to create atmospheres “set apart from actions contexts”, people of all kinds take selfies and post them, for example even in the German Nazi Auschwitz concentration camp, or at Berlin's Holocaust memorial – while the first has led to a social media outcry and shitstorm towards an American teenager and the latter has led to the critical art project “Yolocaust”. When we look at the developments of celebrities who came to fame through Reality TV, social media and various online channels, there seems to be a deregulation of discipline and moral at the expense of an unsatisfiable desire for ever more attention in the aesthetic economy.

When continuing Böhme's assertions that the main part of industrial production is not for basic needs, but supports our desires, it is the aesthetics that does not only estrange or “numb” people, but helps them to come into being. Aesthetic work serves to put us into existence not only by staging and producing us (as consumers) among others, by providing us with different thoughts and giving us meaning. So, would it make sense to look for specific spaces somewhere in the broad range of aesthetic work, including the world of art, in which an aesthetic competence and literacy as a critical potential may unfold and grow?

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Aesthetic economy: the key role of atmospheres

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1. Staging value

A general question concerns the attribution of novelties to the current historical-economic period. I'll just point out, without engaging here in an articulated discussion of this point, that any attempt to identify the paradigm (no matter what type) of a given historical period – how long? When does it start (and maybe end)? How to account for exceptions? – is always epistemologically problematic. This does not mean that the immanent problematic nature of such an approach justifies its extraneousness to a philosophy worthy of the name.

a) In short, Gernot Böhme's thesis of a widespread aestheticization of life means that needs (a type of demands which are satisfied when met) have been transformed into desires (demands which do not come to an end when met and, to the contrary, are increased) addressed to commodities of which the increasingly sophisticated

staging strategies highlight above all (and in some cases only) the show value. The staging value would then in turn be transformed into a new type of use value. This conclusion cannot but involuntarily suggest, thus transforming into an old piece the famous distinction of Marx, the idea that values of use actually never existed, and that it is always the show value (what in ethnological studies would rather be defined as “symbolic”) to precede and motivate the use value. Would this theory hold up even without the programmatic distinction between the different types of value?

b) And besides, is not a risky or at least a questionable thesis to argue that the unfulfilled desires induced today by the economic dominance of staging value, and aimed at enhancing one's life such as one's reputation, equipment, status (Böhme 2017a: 51), are really an absolute novelty due to late capitalism? Isn't the fact that the economy no longer serves primarily for reproduction but for the intensification of life so different from what Kant already meant by talking about the beautiful as the “feeling of the furtherance of life”, thus implicitly suggesting that in every historical epoch the foundation of aesthetic judgment is a strengthening of the vital feeling? After all, provided that Böhme himself mentions an analogy with the baroque age, would it not be more likely to argue that what changes is not the nature of the value (from the use value to the show one) but only its extension and that therefore what we see is just a (obviously not necessarily positive) “democratization” of this aesthetic life, of the life meant as a staging?

But let's forget these and other problems that afflict any ambitious attempt – and already appreciable for this effort alone – to suggest a kind of philosophy (even ontology) of one's own time. So let's take as valid the general analysis proposed by Böhme of capitalism, defined as an aesthetic economy, which “produces primarily aesthetic values, that is, commodities that act as the staging of life” (Böhme 2017a: 68), and rather ask him further explanations on some possible repercussions of his more general aesthetic discourse on the issue, dear to Böhme and me and developed by both in numerous books and essays (just to mention our recent books in English: Böhme 2017b, Böhme 2017c, Griffero 2014, Griffero 2017, Griffero 2019), of atmospheric feelings.

2. *What is the link between aesthetic capitalism and the boom in atmosphere theory?*

In brief: atmospheres are for Böhme “space with moods” (Böhme 2017a: 93).

a) This forum seems therefore to me also a good opportunity to learn from him what in his opinion is the reason for the “success” of atmospheres in today’s humanities. Either one of these: atmospheres (exactly like the ecstasies of things, whose importance he has taught us to assess in our experience) have always existed, even before Hermann Schmitz (see Schmitz 1969), Hubertus Tellenbach (see Tellenbach 1968) and Böhme (at least from his seminal Böhme 1995) brought them to light, thereby clarifying a confused semantic sphere and especially building a new field of investigation, and the only thing that aesthetic capitalism really promotes are the relatively democratic means for staging oneself in an increasingly atmospheric way; or this atmospheric turn shows a phenomenon that has remained only implicit until now and that has been made fully possible precisely by today’s economic-political situation (late-capitalist, image- and information-based economy) – as Peter Sloterdijk also thinks – and/or by the overcoming of a previous linguistic-interpretative paradigm (as Hans-Ulrich Gumbrecht rightly suggests in, for instance, Gumbrecht 2012; 2014). My first question to Böhme then is: what is the relationship between aesthetic-economic desires, characteristic of aesthetic capitalism, and the atmospheres growing production and theorizing?

b) It is likely that Böhme thinks that the atmospheres to which we are normally and (increasingly?) exposed by today’s widespread design are desires more than needs, or desires in turn turned into needs. However, is it true then that, like desires, also atmospheres never find satisfaction, or isn’t it maybe possible to imagine that even in the atmospheric experience there is a threshold of saturation such that, as happens with the use value, the need for atmospheres disappears the moment it is satisfied? In other words, it would be interesting to know if for Böhme an atmospheric experience could (or should) have natural limits. After all, as Odo Marquard (see Marquard 1989: 100-12) argues, mass culture, distortedly realizing the avant-garde ideal of the transition from art to life so that the latter turns into a total work of art, might result even in an anaesthesia (going this way from aesthetics to anaesthetics).

c) If you interpret Sloterdijk in a certain way (see especially Sloterdijk 2016), one could also assume that today's attention to atmospheres is part of the greater attention to the vegetative sphere (one's moods, skills and even diseases) made possible by a surplus of waking time. This surplus would really enable not only luxury and everyday aesthetics but also atmospheres both as lived experiences and as possible subjects of analysis. But then atmospheres are just a surplus consumption induced by today's contagious demand for superfluous, even a kind of addiction, given that that the growing and irresistible tendency to dedicate oneself to one's own moods and to what eventually creates or transforms them (the atmospheres, in fact) is perhaps responsible for that discontents of prosperity (Böhme 2017a: 16), for a situation by which no one would ever be satisfied. Under this assumption, the ever-increasing number of atmospheres would just generate more and more dissatisfaction. Hence such a discontent in a time of atmospheric prosperity that everyday experience (e.g. in the media and fashion) could definitely be the cause of a burnout syndrome due to excessive exposure to emotional spaces. Lastly (on this specific point): is it possible to establish a kind of atmospheric "sustainability" criterion that provides the individual with the criteria and means by which they manage to be not fully involved in the (also atmospheric) performance principle?

3. What is atmospheric competence and what critical value can it have?

a) One of the undoubted merits of Böhme's aesthetics is certainly its renunciation of the axiological and dogmatic distinction between art and kitsch. In talking about the "re-emergence of taste as a strategy of social distinction" he argues that the social distinctions produced by taste "do not run between vertically-ordered strata or classes, but horizontally between groups within the same stratum", or that even marginal groups can "act as fashion trendsetters" (Böhme 2017a: 68-9). It results that the world of aesthetic economy will not be the realm of freedom dreamed of by Marcuse but it certainly, as Böhme repeatedly says, would allow a "dissolution of hierarchies" (Böhme 2017a: 69). Does not that sound a little too positive and optimistic in the face of the reality in which we live? Does not this unique opportunity of personal "distinction", i.e. of defining our "membership of

social groupings by developing aesthetic preferences" (Böhme 2017a: 69) – which includes maybe even that invention of the urban stroll made possible by the modern *flâneur*, who is no longer the rentier but the average citizen – also imply negative aspects that may not yet be fully apparent? The answer is difficult but the question I think is legitimate.

Of course, this democratization of the approach to the aesthetic realm is sharable, but it does not rule out the hard question of manipulation of our emotional life. Atmospheric competence is for me a critical tool consisting not only in knowing how to produce atmospheres but also in knowing how to defend oneself from them. But will it be enough, in order to take a correct critical stance, to understand how the aesthetic economy works and maybe be able to acquire the "discipline of not letting oneself be drawn into an upwardly-open spiral of increase" (Böhme 2017a: 18)? Where can a person find critical criteria that allow them to reject certain atmospheres, or at least to establish an axiological hierarchy of them, especially when what matters, as Böhme repeatedly states in his other books (as, for instance Böhme 2001), is exclusively the actual reality (the appearance) and not the factual one? Does not the (for me too) right aesthetical defence and autonomy of appearance with respect to physical reality entail the risk that the critical theory we are looking for cannot in any way be formulated?

Böhme suggests elsewhere to distinguish between sovereign human beings and the (presumed) autonomous ones praised by post-enlightenment intellectualism (with the damage we know of). Now, in investigating the relationship the former can and, indeed, must have with the atmospheres surrounding them one might suspect, precisely in the name of the desired atmospheric competence, that atmosphere experts are needed here and that they exactly are the sovereign human beings he thinks of. On the contrary, paraphrasing the types of musical behaviour envisaged by Adorno and adapting them to the issue of atmospheres, the defence of widespread design, of the atmospheres generated by "aesthetic work" (possibly even far from the world of art), should rather imply a defence of the emotional perceiver and the entertainment type, as opposed to the expert, the hostile perceiver and obviously the anti-atmospheric type. Or does the need for atmospheric competence (even a theoretical competence) imply perhaps the wish for a generalisation of the expert type, which would obviously be to the detriment of the pathicity in-

stead repeatedly requested by Boehme and, *si parva licet*, also by my pathic aesthetics?

b) In this respect, it may be useful to take a look at the Böhme's distinction between good and bad examples of facade aesthetics. This centrality attributed to the surfaces emblematically would show the reversal of the modernist principle that form follows function and, according to a controversial Böhme's idea, would be now deployed strategically in order to engender a certain atmosphere of urban living (see Böhme 2017a: 105). In line with his enhancement of an extensive aesthetic work irreducible to the world of art, he certainly does not criticize this surface aesthetics as such. However, it would be justifiably condemnable if "valuable architectural textures are obliterated with plaster, or if surface design deceptively obscures the true character of the building" (Böhme 2017a: 100). Consequently, certain atmospheres would be bad when they suggest, to give an example, "the beauty of shining, immaculate newness", "without acceptance of transience and imperfection" (Böhme 2017a: 100). Namely, when they are "spaces with moods" without moderation and sobriety, lacking the right taste for chiaroscuro and twilightness. The first requirement of a good atmosphere therefore seems to be that of not excessive affirmativeness and brilliance.

The second requirement of a good atmosphere excludes excessive contrast between inside and outside: in the case of architecture "the appearance of a building [...] in blatant contrast to its internal structure and function" (Böhme 2017a: 100) would engender a very bad ingressive atmosphere. To the requirements of chiaroscuro and correspondence between interior and exterior is then added a kind of cognitive competence. In fact, the total dyscrasia between inside and outside would disturb because of its bad taste not any person, for example not the citizen who is accustomed to a certain building, but only the visitor interested in architectural history. But this is a problem that, implying the cognitive penetrability of any aesthetic perception, could more generally affect the atmospheric approach, which I prefer to compare, in fact, to optical illusions and to their autonomy from the true/false contrast. So far some examples of bad atmospheres, which are so, in short, because they are a) too bombastic, b) imply an excessive divergence between inside and outside and c) annoy those who approach a place in order to experience its original historical atmosphere.

As to good atmospheric solutions, Böhme mentions the experiential integration in Sydney “of old facades in new buildings” (Böhme 2017a: 101). If I understand well, Sydney’s urban atmosphere would be good because it does not completely replace the old with the new. Nonetheless, talking about a warm climate due to the fact that the radical modernisation coexists (thanks to trees, street cafes, etc.) with the “urban living of the kind we know from old European cities” (Böhme 2017a: 101) seems a truly subjective criterion (as well as Eurocentric). It sounds goods, of course, as long as it does not claim to be applied in a geographically and generationally more universal way. The second example of a good atmospheric facade is that of a facade which appears “to allude to the subject matter” (Böhme 2017a: 104) of its inside, therefore a figurative correspondence of some kind between the outside and the “content or the life of the building” (Böhme 2017a: 104). In summa: good atmospheres are those that a) do not hide the history and the passage of time and b) whose exterior corresponds in some way to their inside in terms of content.

If I am allowed to make my own contribution on this specific point, I would suggest to conceive the atmospheric competence (or intelligence) a) as the skill to stage atmospheres, the ability b) to feel atmospheres, c) to understand them and possibly c) to distance oneself from them. Hence a “provisional atmospheric morality” (to paraphrase Descartes), whose three basic points I will list here to summarize. In my view, a good atmospheric competence should be able, first of all, a) to critically distinguish between benign and toxic atmospheres (full conscious that the latter are not only those arousing stress and distress but also the dissuasive-sedative ones), and, accepting the lack in our post-traditional societies of a paradigmatic place of atmospheric awareness – that is of a situation that may act as a paradigm of every other atmospheric experience – b) to learn to have as many and different atmospheres as possible, and thus to allow the resulting experiences interact with (and relativize) each other (a kind of “affective division of powers”). Lastly, this competence should also c) favour and foster those atmospheres where, as happens with a *trompe l’oeil*, an early pathic-immersive step might and should be followed by an emersion phase, as in the case of the powerful and influential but not oppressive and coercive atmospheres suggested by contemporary art, whose cognitive and affective discontinuities, in fact, always make a critical and healthy distance possible.

I do not foresee other ways of immunizing oneself (even only partially) against today's pervasive and partly manipulative atmospherization but without losing its affective richness. It would be an honour for me if Böhme could and would discuss this modest theoretical suggestion of mine and thus judge if it could help somehow in the formulation of a more mature critical theory of atmospheres.

I know perfectly well that there are more questions than answers in my discussion of Böhme's book. I feel justified by the fact that these are exactly the questions to which I cannot give a satisfactory answer myself. I hope that Böhme will be able to give me, as always, useful suggestions and answers. Just as I learned so much from him when I began to read his books about twenty years ago, I would not be surprised to learn so much again from a philosopher who was an important forerunner of a whole series of problems that the previous philosophy guiltily overlooked.

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Staging the law

Andreas Philippopoulos-Mihalopoulos (University of Westminster)

1.

There are three notions that characterise Gernot Böhme's *Critique of aesthetic capitalism*, and on which I am going to focus here. The first one is the development of the immensely important concept of *staging*, a concept that appeared earlier on in Bohme's work and has been tested in several contexts. Here, staging refers to the way economy has managed to stage itself in an aesthetic, atmospheric way. The second one is Böhme's methodology of choice, namely *phenomenology*, a choice that harks back to Bohme's early work and has continued unabated and somehow unquestioned throughout his oeuvre. And finally, the third one is the deeply political and critical way in which he deals with the concept of *atmosphere* – another concept for which Böhme can be considered a pioneer, having transposed it from meteorology to aesthetic studies, and imbuing it with a political hue of such force that would, I think, now be considered disingenuous to employ the term without these strong, critical post-Marxist connotations.

In what follows, I engage with the above by transposing them in the context of law and normativity. This is a context which Böhme has not quite addressed, and I am interested in doing this precisely because of law's perceived objectivity, abstraction, impartiality and indeed reliability that is in many ways in the core of modern and contemporary values, operating as perhaps the last bastion of truth or at least administration of justice. In other words, law is the last thing one thinks of when staging and atmospheres are discussed. Here, however, inspired by Böhme's work, I am making a different argu-

ment: that law, just like any other social system, has succumbed to the staging demands of our era.

2.

To put it rather grandly, law is undergoing a major transformation. What used to be a quest for justice, due process or at least legitimacy, all grand aesthetic questions of definition that characterised law ever since its modern inception, it has now become a quest for presentation or *staging* of the law. Indeed, the main question for law nowadays is “how should law present itself in order to be accepted as law?”; or, to put it differently, “how is law to stage itself in order to prove itself relevant?” This reveals a law as image-conscious and volatile as media or politics, relying more and more on its ability to “show off” (rather than actually to prove through its actions) its relevance. Law has to stage itself in a consumer-oriented way, to market itself in a socially-engaging way, and to package itself in a media-appetising way.

The above is, of course, intimately related to an understanding of law as commodity value (Pashukanis 1987). The most easily recognisable forms of law (state law, private law, corporation law and so on) have always been associated with an economic value, which would sit, albeit with some unease, both next to the functional value of the law as the order provider in society, and its ideal value as provider of justice. Law is needed for society to function, and as such forms part of the economy of exchange.

These days, however, this is slightly different: law's commodity value is, if not superseded, at least strongly complemented by law's staging value, namely its ability to communicate to the world that itself and none other *is* the law.

3.

Essentially, this is what Böhme calls aesthetic economics (Böhme 2013), namely the way in which commodities (and in this case, law) are staged (and in this case, presented as a contractual utopia of personal freedom): “to increase their exchange value, commodities are now presented in a special way, they are given a look, they are aes-

theticized and are put on show in the exchange sphere [...] to the extent that use is now made of their attractiveness, their glow, their atmosphere: they themselves contribute to the staging, the dressing up and enhancement of life" (Böhme 2017: 20). Just like every other commodity, law is packaged in order to become attractive, to the point that its "staging value" (Böhme 2017: 68) becomes much more important than its initial commodity exchange value. Law nowadays stages itself through media, both traditional and digital, by becoming spectacular, twitter-based and responsive to social pressures, sacrificing its supposed myth of neutrality for another myth, that of popular value. It stages itself in support of traditional and conservative regimes of property, and aesthetically sides with the old "art canon" of high art, while failing to recognise street art as art (Finchett-Maddock forthcoming). It stages itself with the help of technology, by becoming a service product given to entrepreneurship and innovation, computerised and binarised, standardised rather than contingent. It finally stages itself pedagogically so as to become a mechanical degree that leads to good exam results and even better career prospects, bypassing much needed spaces of open thought and critique. "The aesthetic quality of the commodity, the commodity aesthetic, acts to put life on show. Capitalism is to be defined as the aesthetic economy in so far as it produces primarily aesthetic values, that is, commodities that act as the staging of life" (Böhme 2017: 68). Life is, therefore, mediated by law and its aesthetic value, put on show via law.

But this is just the first step. The most important development is that the ontology of law and consequently life and the world, changes because of law's aestheticisation. To put it more simply, law's staging *is* the law. Law is its very own *skenographia*. It has become little more than the *enunciation* of its mode of enunciation, to put it a Latourian paraphrase (see Latour 2009). There is no other law beyond this stage, better or grander, more universal or more sovereign law that directs the staging and ultimately remaining solid, reliable, valuable *per se*, in touch with its social function and necessity. The stage is all there is: a scraggy immanence, brittle and unhinged, unable to entertain even the illusion of transcendence, of a better law to come.

In his work on law and aesthetics, Costas Douzinas writes

Let us take the example of the market model which has become dominant in neo-liberal capitalism. We increasingly see our relations with others and the world through a contractual imagery. [...] It operates both as a *mise-en-*

scene, a staging of human relations, and as a screen which approaches relations, encounters and emotions according to a model of offer, acceptance and consideration. While such an economic model is staged and artificial, it relies on the naturalising ability of the legal institution. (Douzinas 2011: 257)

But law is not only staging the world for us as mainly or even exclusively contractual, and therefore neoliberal. Rather, law is staging *itself* as contractual, thus feeding into a desire for contracts, this most illusionary guarantor of legal freedom. Law no longer mediates between us and whatever else, but itself becomes this whatever-else, ontologically becoming a body beyond direct human control². By staging itself as contractual, law meddles not just with the phenomenological mediation between subjects and world, but with the very ontology of the world and the taken-for-granted category of subjects. Law staging itself means that the world becomes absorbed in law's representation of the world: the only possible world is the one offered by the staged law.

This is not simply a question of epistemology, namely a phenomenological perspective on the world that can change if the subject in whose perception the world also falls, changes. On the contrary, this is an intervention on the level of ontology: by staging itself, law alters not just the representation of the world but the world itself. And because law is no longer a priori thought but only situationally, it can import nothing of its supposed ideals of equity, fairness and justice in that staging, unless of course this is what is needed in that particular staging.

4.

A way for law to stage itself is through the construction of a legal atmosphere of legality, fairness, universality, justice and other such values. While these values are integral in legal delivery, they need to be spectacularised in order for law to be relevant. Law invests on "an

² Yet always part of an assemblage in which human and nonhuman bodies converge. See Philippopoulos-Mihalopoulos (2014). In that sense, law needs to be rethought in the manner of Niklas Luhmann's (e.g. Luhmann 2004) post-humanism as an autopoietic body whose connection to human conscience is only a matter of contingency.

appearance or look, endowing [it] with a *radiance or glow*, an atmosphere" (Böhme 2017: 20). A legal atmosphere is the perfect set up for law's staging itself: once set up, the atmosphere perpetuates itself. It does so by converting into "needs" the various desires that the participating bodies have. Continuing with the neoliberal theme, law creates an atmosphere of contractual freedom, in which bodies simply cannot see the imbalance of power, because they are blinded by the apparent fairness and equality of opportunity that is in the core of a contractualised law. This desire is individualistic and neoliberal *par excellence*, and has to do with illusionary notions of achieving personal freedom through mortgages, promotions, new gadgets, sports shoes, trendier handbags, and so on. This is not about survival or covering of actual needs. This is pure surplus consumption which "is seldom referred to today as *luxury or extravagance*, because it is no longer bound up with certain privileges or limited to certain classes, but is now taken for granted as a universal standard of living" (Böhme 2017: 10)³ – or at least the universally aspired standard of living, even when basic needs are not covered. In generating and acting through an atmosphere, law matches the expectations of a consumerist society, while keeping on nurturing these expectations so that more of the same is needed. An atmosphere generates a cycle of addiction where, once the supposed desires are converted into "real needs", more of the same is offered continuously and in excess⁴.

On a different level, law is fed by and in turn feeds the ever increasing "need" for security, immunisation, segregation and distancing from risk: gated communities, shopping malls that prohibit all spontaneous street activity while imitating street culture; fortress Europe that professes tolerance and respect for human rights while fail-

³ This is the point of the analysis carried out in Sloterdijk (2013: 70, 198) as "a climatised luxury shell in which there would be an eternal spring of consensus". The affectivity of luxury finds its most prominent form in the Grand Installation of the glasshouse of capitalism: that "interior-creating violence of contemporary traffic and communication media".

⁴ Böhme (2017: 10) points out that "desires cannot be permanently satisfied, but only temporarily appeased, since they are actually intensified by being fulfilled". While this is true for the kind of desires that we could identify as false desires, and that form part of an economy of desire that is indeed inexhaustible, they have to be contrasted to the kind of desire that emerges from a body's movement and pause, namely the conative desire of a body that is ethically situated in relation to other bodies.

ing spectacularly to deal with the refugee issues of the early 21st century: all these are legal atmospheres that are engineered with the recourse of media, economy, politics, religion and so on. These atmospheres are naturalised because in a circular, simultaneous manner, they both create and nourish the supposed need for security and immunisation.

Perhaps the main point about atmospherics is that it relies on the desire of the participating bodies, often to an extreme degree, to preserve the atmospheric status quo. Foucaultian power welling up from everywhere means that law is not just top-down state law but an institutional affect in and between bodies. These bodies control each other and themselves even at absence of a top-down state-law. Individual self-policing vies with collective behavioural pressures to fit in, and the fundamental desire to belong becomes exploited by atmospherics. An atmosphere presents itself as an ontological singularity, quite apart from the rest of the world assemblage, but safe, insular, community-like, and, what is more, emerging rather than engineered. In other words, just as law needs to stage itself, so does an atmosphere: it needs to dissimulate the fact that it is engineered for a specific purpose, and rather appear as spontaneous, emergent and even inevitable.

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Responses

Gernot Böhme

1. Responses to Brigitte Biehl-Missal and Tonino Griffero

First of all I want to express my gratitude to both of them, not only for their critical remarks but much more for sympathetically joining me on my intellectual path. There are such a lot of questions and suggestions in their comments that I am forced to concentrate on only a narrow choice – but this way trying to get some steps further with our shared concern.

Let me begin with the problem of aesthetic criticism. The theory of atmospheres has widely opened the field of aesthetic concern – far beyond a theory of art – and this way “the axiological and dogmatic distinction between art and kitsch” (Griffero) had to be deconstructed: pop-art, jazz, advertising, marketing strategies had to be revalued. This being a sort of “democratizing” aesthetic concern, the question arises whether we still have resources of aesthetic criticism. Well, my intention to overcome the distinction between art and kitsch primarily was directed against the Kantian dogma that the perception of the beautiful must be disinterested. The fact that an aesthetic product emotionally affected you was an objection to the worth of it, or even a criterion of kitsch. Talking about the “Atmosphere of a painting”⁵ – thus the title of an essay of mine – was to devalue it. My concern here was to open the doors for approaching works of art via emotions, – not to refrain from critical judgments about good and bad aesthetic work. I appreciate that Tonino mentions my discussion of façade-aesthetics as to differences of quality.

But more generally: there is a problem – and I have no conclusive answer to it. The overall aesthetisation of our environment and the

⁵ See the essay Böhme (2019a), and its didactically extended version Böhme (2019b).

democratization of aesthetic consumption may go along with the loss of any committing criteria of aesthetic value. We must not forget that the relative validity of aesthetical judgment up to early 20th century was a heritage of the class society. Even for Kant – as well as for Goethe – aesthetically good was what was appreciated by the feudal class. Nevertheless, Kant may at least give us some hints in which direction we should move.

The democratization of aesthetics seems to support the common saying *Über Geschmack läßt sich nicht streiten* ("Taste cannot be argued"). We are prepared to refrain from criticism looking into the dwelling rooms of young people or getting information (see Orth 2019)⁶ about nowadays dwelling aesthetics in China; notwithstanding the overwhelming wave of children's plastic toys. The latter have been upgraded by the artworks of Tadashi Murakami and reached the level of museums. Taste seems to become something radically individual – or the other way round: many people of our day try to "realize themselves" through their individual taste.

Kant contests that one cannot argue about taste. To him, there may be a common sense about aesthetic judgment. Yet, taste is nothing you are born with – it is the outcome of education. And this education takes place every day at your home: through the way you equip yourself, your clothing, furnishing you communicate your aesthetic preferences, to your children, but as well to your visitors. Taste with Kant is what Moses Mendelssohn called *Billigungsvermögen*, your ability to appraise something. By your choices you suggest visitors to follow your sentiments and this way step by step you come to a common sense. Kant follows here Edmund Burke with his thesis that the beautiful has some community building power.

At Kantian times *éducation sentimentale* took place at your home. Today it should be the task of schools and museum didactics. It is clear that this way of *the aesthetic education of mankind* (Friedrich Schiller) will start already with the resource of our cultural heritage, that is with classical works of art. The problem is that up to date this means to again constrict aesthetics to the realm of art. Much is to be done to extend aesthetic education to become exercises in developing an atmospheric competence.

⁶ A reason for the dwelling kitsch that Orth's book presents may be that China lost connection to its aesthetic traditions by the Cultural Revolution 1966-1976.

The requested new type of aesthetic education cannot be restricted to drawing, painting, and sculpturing. I must include sound and light management, performances and spatial arrangements. But, this is only the side of production aesthetics. Tonino rightly points to the necessary competence to escape atmospheric manipulation. This includes not only an insight into the purpose of staged atmospheres but also some exercises in getting a distance. I have studied these requirements with the example of Nazi-Architecture as a design for building up the *Volksgemeinschaft* (see Böhme 2004: 162-69)⁷.

This aesthetisation of politics (Walter Benjamin) brings me back to the aesthetisation of commercial affairs and this way to the very topic of my book and to the field of Brigitte. I must not argue about the facts that in our days there is a very narrow relation of aesthetics with the production and selling commodities and with the value commodities have in the context of use – I call it the staging value. Acknowledging this Brigitte adds the influence aesthetic procedures have in fostering creativity and performing managerial activities. Here, statements underline Tonino's question whether there is a relation of the boom of atmosphere theory and aesthetic capitalism and the transformation of needs into desires. Yes, there is. The relation of both is based on the compelling demand of capitalism to grow. Our – Western and tiger-state's – economies are developed to a degree that we can agree with Herbert Marcuse and Kenneth Galbraith that we live in affluent societies, i.e. where the overall satisfaction of basic needs is secured and easy. Now – after several steps – we have reached a situation in which further economic growth can only be secured by a transformation of needs into desires. One of the main examples is the desire to be seen, which in our days nourishes one of the biggest sections of our economy. This is only one example. The general thesis is that further economic growth demands an overall aesthetisation of the sphere of production and consumption. As a consequence, my book should suggest, that researchers working in aesthetics no longer can neglect economies – and that the concept of atmospheres is the bridge between both spheres of human activity.

⁷ The English version of this essay will be published soon.

2. Response to Andreas Philippopoulos-Mihalopoulos

2.1.

Andreas' contribution coming late turns out to be advantageous: I had already finished my reply to Brigitte and Tonino, when Andreas' paper arrived. But this caused no damage because it is not really a comment on my book but rather a contribution of its own, analogous to my book. Whereas I opened the door of aesthetics for economic considerations, he opens it for juridical ones; more precisely to law making and the law public. I very much appreciate that and I am pleased to be informed, that the perspective of "atmospheres" will cause an elucidation effect also in the field of law. It is true, being a layman in this respect it is not easy to answer to Andreas' paper. The more so, that it totally lacks any example. Since my Starnberg period I am used to combine theory building with the scrutiny of case studies – which also can be seen with the book on aesthetic capitalism. Thus let me begin with an example which I studied in the context of the project of my grandfather's biography: the case of the so-called *Freiheitsgesetz* 1929.

2.2.

This case in particular is interesting in respect of Andreas' paper because it was one of the rare events of referendum during the period of Weimar Republic. Here we find a broad dispute of the intended law and a deep fractionalizing of society. Actually, the law was directed against the Young-Plan – after the Dawes-Plan (1927) the Young-Plan was meant to reorganize German reparation duties in combination with some steps toward regaining sovereignty – which was considered unemotional, rather to the favor of the Weimar republic. Yet, there were large and powerful factions which rejected the step by step policies of the so-called *Erfüllungspolitiker* ("fulfillment politicians"). Fulfillment meant to practically accept the regulations of the Versailles-treaty. Thus the *Freiheits-Gesetz* initiative was meant to stop the Young-plan and – what is more – to turn down German government and with it cause the republic's constitution to collapse. This in particular because §4 said representatives of the Weimar Republic could be punished by law if they signed any agreement containing the acceptance of German *Kriegsschuld*, i.e. article 231 of the Versailles

treaty according to which Germany was responsible beginning First World War⁸.

Now to Andreas' point: the law was a big issue of discussion under the heading of *Gesetz gegen die Versklavung des deutschen Volkes* ("law against slavery of the Germans") or brief *Freiheitsgesetz* ("law of freedom"). Here, we have an example of how law in the making appears in the public with a certain nimbus or atmosphere and thus becomes a topic of emotions rather than utilitarian rationality. In this case of *staging the law*, as in many others this atmosphere of the law is transmitted by naming it. The average citizen is not in the position to study a law in detail and make judgments about its origins and its purposes. He or she decides following the emotions which are connected with the law in the public. And these emotions are triggered by the appearance of the law in public – here mediated by the naming it *Freiheitsgesetz*.

2.3.

Politics in our days more and more degenerates to become reactions to social emotional waves: whatever happens: terror acts, natural catastrophes, ecological risks, traffic jams, social depravation – there will be a call for political action. And politicians in most cases react to such waves of excitement by making new laws. The guiding aspect is – as Andreas correctly states – the "increasing need for security and immunization". They do not appeal to prudence, they do not rely on virtues whatsoever, they do not trust neither into laymen nor professionals: they regulate and establish means of control. Their reaction is: they make new laws. In Germany the technical norms of DIN (Deutsche Industrie Norm) are also to be included into this policy, because to follow them is sanctioned by law. Anyway, if something bad or disastrous happens, politicians say: yes, we do something – and that is making new laws. Law-making is the average type of policy; its main purpose is to appease public excitement. These relations are what Andreas points to when talking about the *affective turn* in the field of law.

⁸ For details about this story see Böhme (2012: chap. 16).

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