

# The Sirens' Song: Speech and Space in the Courthouse\*

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The law averts its face and returns to the shadows the instant one looks at it; when one tries to hear its words, what one catches is a song that is no more than the fatal promise of a future song. (Foucault and Blanchot 1987, 41) Like sailing, gardening, politics, and poetry, law and ethnography are crafts of place: they work by the light of local knowledge. (Geertz 1983, 165)

"It's a remarkable piece of apparatus," said the officer to the explorer. ... (Kafka, "In the Penal Colony," trans. Willa and Edwin Muir, in Franz Kafka, *The Complete Stories*, ed. Nahum N. Glatzer [New York: Schocken, 1971], p. 140)

Law is composed of space and speech. There is a link between the verdict and the courtroom, between the seat of justice and the legal pleading. Space and speech are complementary, cooperating in a strategy to separate and isolate the judges' knowledge from the knowledge possessed by the defendant and from that of the third party—those who are not yet either accused or judges. The seat of justice is a system of doors, corridors, chambers, and horizontal and vertical sections that channel legal speech and produce its vowels and consonants. The legal space is the sound box of legal speech.

One function of the legal space is to swallow up the elements of power and will that dominate legal speech and to stifle the awareness that the court's authority to punish and issue verdicts is a license for violence, penetration, rape, negation of the body. Legal speech does this by means of rules that seem at first glance to have something else in mind—perfecting the law's ability to distinguish truth from falsehood—but that in fact block the channels of communication between the several communities of legal discourse, obstructing the exchange of information between judges and defendants and among the defendants themselves.

The prohibition of hearsay testimony is an example of an effective barrier to communication

between the different legal communities. On the surface, it is intended to guard the court against evidence that is not trustworthy; in practice, though, it dilutes the world of speech, gossip, and the knowledge conveyed by word of mouth, because the trial is a matter of luck, and the judge is interested in the worst for the defendant. The rule against hearsay testimony silences all those who are not in the first circle that surrounds the court and forbids others to quote them or attribute any opinions or statements to them. This devalues speech that, with regard to its status in the legal space and hierarchy, is "behind the back." The result is a judicial face that has no back; or, more precisely, a back and belly that are joined and keep switching places. The legal space supports this theoretical physiognomy of the law. The courtroom is structured so that only the judge's front side is illuminated. The door between the judge's chambers and the courtroom channels judges' entrances and exits so that one never sees their back. The essential attribute of this elimination of the back is revealed by the little dance that attorneys perform when they leave the courtroom, their face always towards the bench and their feet cautiously shuffling backwards towards the door, until they pass through it.

The rule against hearsay evidence allows a voice only to those in the first circle around the court, which contains those whom the court can summon and dismiss, order them to speak, or silence them with another order. This allows it to control of the world of speech and writing that extends beyond it. The system that is essential for controlling speech, with no taint of secondhand information or rumors, is rather simple. Thanks to the rule against hearsay, the voice of subversive speech groups located on the margins of the world of law, with their wonderful and terrible stories about what takes place in the courtroom and their gossip about judges, prisons, and jails never reaches our ears.

The acoustic insulation created by the rules of relevance, laws of evidence, and inadmissibility of hearsay supplements the walls, corridors, and internal

division of the physical space. Their interconnections must not be seen as mutual reinforcement and nothing more; the legal space is home to an array of images and world pictures that are projected onto legal speech and reflected back from it onto legal speech. This is a feedback process involving pictures of the law, compounded of air and matter, of the legal space and legal speech.

Another way to control legal speech involves certain mimetic conventions, notably the use (to which we shall return below) of a rhetoric that moves along the axis of metonymy rather than that of metaphor, as well as clear distinctions between the absurd and the sublime, between the superficial and the profound, between the banal and the unique, between the traditional and the new. The preservation of the purity and boundaries of speech is typical of the discourse of power and sex, which are especially apt to camouflage themselves, because control of speech is one of the main goals of the power relations that prevail in law.

In what follows I shall be looking for the invisible links between the legal space and the legal text and at their common effort to create a vocabulary, gestures, and rules of conversion and concealment. I want to see law that does not retreat into the shadows, to listen to the sirens' song without yielding to the total seduction that swallows up the words and the music. I do this on the margins of the law, where the hidden link between space and speech is weaker. Objects that have been forgotten and now sit alongside texts on the fringes of the legal canon are swept there, standing out in their deviance, and consequently subversive and plotting evil. I will look closely at the courthouse and plug my ears against the indictments, the tears of the murder victims, the anger of those who have been robbed and the terror of those who were raped. Instead of sitting in the courtroom, exposed to the judges' glare, I will steal away to the suspended causeways that connect the judges' chambers to the stairwells and the judges' lounge and restroom; instead of reading the verdicts published in the bound volumes I will open only the first pages, with their ostensibly neutral list of the litigants' names. My motivation here is to elude the ceaseless clamor of chewing on precedents. I will tear out a random page of a verdict and expose it to diseases, assault by errors, word combinations, and name switches, all of which reveal the true shallowness of legal language, a continuum between front and rear, between belly and back that keep interchanging their positions. I will review a legal lexicon, a remote, men-

dacious, and foolish book, in search of the legal clichés there. In another section I will try to analyze law against the grain, across its main rhetorical axis of metonymy and along the axis of metaphor instead. Scanning the law against the fibers partially unravels the rigidities of legal speech and makes it possible to create an alternative discourse at the very centre of the law.

This is effectively disinterring dead horses. The Aztecs of Mexico believed that the conquistadors from across the sea were gods and immortal. The Spaniards, having become aware of this belief, did what they could to foster and exploit it. When Cortés learned that the Aztecs thought that his horses, too, were divine, he had the mounts killed in a battle buried during the next night, so that the locals would not see their carcasses on the field and begin to have doubts about the invaders' divinity. Legal texts are strewn with the buried carcasses of dead horses, the secrets of chance and contingency, and the illogical violence of the law.

### **The Seat of Justice: The Tel Aviv Courthouse**

Legal interpretive acts signal and occasion the imposition of violence upon others: A judge articulates her understanding of a text, and as a result, somebody loses his freedom, his property, his children, even his life. (Cover 1986, 1601)

The court interprets the law while also inflicting violence and punishment. These two domains of activity create opposing fields of knowledge, forged by the interaction of speech with stubborn space and matter. Interpretation joins together, packages, and creates meaning. Punishment and pain take apart and destroy. Interpretation is a holistic, liberal, cognitive, and beneficial act of civilization; punishment and pain touch levels of meaning that are opposed to civilization, the deep knowledge that the world is arbitrary and contingent. Pain leads to questions about the relationship between the body and the soul, between social values and the inner emptiness that gapes open when sentence is pronounced. The structure of the courthouse zealously preserves the division between these opposed fields of knowledge. The courthouse is a punishment machine that transmits pain from the judge to the defendant. Attorneys, the public, relatives, and police officers are all part of the transmission mechanism, serving as the gears and flywheels of a complex machine. They guarantee that the pain will

be transmitted in one direction only, that the pain that goes down in the elevator packed with prisoners will not return to the courtroom in bloody clothes, wild and threatening. The inner architecture of the Hall of Justice in Tel Aviv, with its hidden recesses, creates and operates the punishment system that begins with an interpretive act and concludes with annihilating violence. The Tel Aviv Hall of Justice, seat of the district courts, magistrate's courts, and other lesser courts (including traffic court and small-claims court), as well as the registrars' offices, the holding cells, and the bailiff's office, floats there on Weizmann Street like an iceberg in the North Sea, one-third visible and two-thirds sunken and folded into itself. The visible sections are the public areas, the entrance foyer, the corridors, the staircases, the various secretaries' offices. To enter the public areas you use the main entrance on Weizmann Street, which serves the public at large, relatives, litigants who are not in detention, and attorneys. The second third, hidden away, is the "Forbidden City" of the judges, into which they sneak every morning through a small door in the building's northern façade on J. D. Berkowitz Street. The small door is opened by the judges' key and locks itself behind them. Having entered the Forbidden City, judges are isolated from the rest of the building. They have special elevators and internal staircases to convey them to their chambers and thence into the courtroom, through the door behind the bench. Within the courtroom there is no passage from the bench into the room itself.

Most of the Forbidden City is suspended in midair. Only the judges' chambers are on the same level as the public areas. When judges want to go somewhere in the Forbidden City, they climb several steps from their chambers and enter a network of narrow causeways that float in the space between the floors. These hanging galleries lead to the lavatories reserved exclusively for judges, to their lounge on the first floor, to their private elevators and stairwell. The suspended causeways are hidden from public view, bordered by a parapet that leaves a narrow slit just above the floor. When a weary litigant raises his eyes heavenward, in despair, he beholds a vision: a pair of legs walking in midair, proudly supporting an invisible judge as she makes her way to the lavatory and lounge in the Forbidden City. From the public areas, then, justice is faceless but wears black shoes. This is actually quite logical, because in the courtroom only the judge's head and upper body show above the bench; but now litigants can use their imagination, sharpened during the course of the interminable trial, to connect the feet they see on the causeway with the head known from the courtroom and produce a judge

who is almost complete. But no matter how the parts are assembled, no matter the angle, about a fifth of the judge will still be missing—the plane where the legs, moving forward resolutely, turn into the static head that floats above the robes—the bodily zones of passion and passivity. This part remains invisible, so that litigants can take it to be the hidden seat of the supreme judicial wisdom. The segmentation of judges in the courthouse is a spatial manifestation of their absence from the judicial process as an entity with a biography. One of the sharpest contradictions between judges' knowledge and defendants' perceptions is expressed here. Defendants (and the public at large) attribute their bitter fate or good fortune at the end of the process to the judge's personality—whether the general judicial disposition or that of the chance occupant of the bench on the day of the trial—to the judge's good mood or transient irritation, to his personal circumstances, family ties, or attitude towards a particular class. None of this is to be found in verdicts. A proposal to analyze some verdict as a function of the judge's personality would be taken as contempt of court. Character witnesses and psychologists are frequently summoned to testify about the defendant's soul, but they are not available to testify about a judge whose ruling we want to evaluate or interpret. In every other intellectual field, scrutiny of the creator is deemed a legitimate matter for exegesis; but this is sacrilege when it comes to the law. The "scientific" aspect of the law rejects any "ideological" examination of judges' worldview or any gossipy or popular study of some judge's boorishness or cordial personality. The contents of law journals reveal the extent to which the elimination of the judges is a "scientific" practice. A systematic survey of the legal periodicals of the Israel Bar Association, Tel Aviv University, and the Hebrew University uncovers an intellectual conspiracy to make the judges vanish from the judicial process, a sort of organized body-snatching. All cooperate to eliminate the judges' physical, historical, and psychological lives. I have never encountered a single article devoted to some aspect of the judge as a subject, as a social construct, as a person, as a unit of meaning. In this way, the law has reached a blissful state of authorial concealment. Judges are totally transparent in the judicial process. Law journals write about judges when they retire or die. Only then, after they leave the arena that employs some magic power to protect them by rendering them invisible, are judges returned to their physical bodies.

The American judge John T. Noonan wrote about the disappearance of the judge's person and body from the judicial process in his book *Persons and*

*Masks of the Law* (1977). He associates the judges' vanishing act with the disappearance of the human body from the legal arena, a deliberate hocus pocus that makes it possible for judges to employ invasive and violent methods against abstract legal entities. In Noonan's opinion, it was this suppression of the human body that enabled slavery to persist in the United States for centuries with no challenge or astonishment, incorporated into a liberal legal system and a constitution that is more solicitous of civil rights than any other. The slave, bodiless and faceless, had no existence in the law as an independent entity, but only as chattel. He was swallowed up by the legal institution of private property, leaving no trace of his individual passage. An assault on the principle of slavery was tantamount to an attack on the fundamental right to property. The United States Supreme Court overturned legislation that automatically emancipated a slave brought to a free state by his master. In an opinion signed by the Chief Justice himself, the court ruled that a law that deprived an American citizen of his liberty or property only because he travelled to some territory in the United States, or brought his property with him, was unconstitutional, because it deprived him of his property without due process of law.

It was only after slaves emerged from the status of private property that they fell into the judicial line of sight. Slavery is possible, writes Noonan, in a legal system that accepts Hans Kelsen's definition that, for the law, the natural physical person is no more than the "personification of a complex of legal norms." Only the ontological status of the human body as an entity that cannot be reduced, concealed, absorbed, or exchanged keeps it from being swallowed up into the entrails of other legal concepts that roam the arena of law like hungry sharks. An Israeli instance of a departure from the special ontological status of the human body in the law is found in the report of the State Commission of Inquiry into the Interrogation Methods Employed by the General Security Service for those suspected of terrorist activity (the Landau Report). The license it granted interrogators to employ "moderate physical pressure" in the name of security swallows up the human body into the belly of the powerful legal institution of "state security." But what is sauce for litigants is sauce for judges as well. Their bodies' disappearance from the judicial process distorts the legal arena just as much as the disappearance of litigants' bodies. Peter Gabel, one of the leading lights of the critical legal studies movement, has written about the judge's disembodiment. He juxtaposes the posture of the

judge sitting on the bench with that of a soccer goalie with her repertoire of moves:

In her play the goalie is present in her body, and her mind and body are relatively unified in the sense that she lives her project as a goaltender through the coordinated "praxis" of her movements. In light of the weight and poise of her presence, it would be difficult to casually push her backward.

Contrast the physical presence of a judge. He sits on an elevated platform, his body almost entirely concealed by a black robe. His movements are usually minimal and narrowly functional, involving mainly the head and the hands. We could say that *his being is in his head* and withdrawn from his body. [...] In light of this absence of bodily presence, if he were standing, it would be very easy to push him off balance with a slight push. (Gabel 1989)

It is doubtful whether the judge would be able to get back to his feet. Litigants are well aware of this. The judge's physical weakness hovers in the courtroom like a defendant's wet dream.

The third third of the courthouse, too, is hidden from view: this is the Netherworld, the kingdom of the prisoners transported to the building in closed vans, brought there from the detention centers in Abu Kabir and Ramle and the interrogation cells of the General Security Service. The vans enter through a large electric gate on Berkowitz Street and pull up in the lot on the other side of the now-closed gate. The prisoners climb out of the van, shackled to one another, isolated from the outside world, isolated from the passions that induced them to commit their crimes. They belong to that vast wandering tribe of transgressors, the chain gang; like their counterparts of the nineteenth century, the prisoner's regular mode of daily life is a constant journey. They spend most of their time on the move, from the police station where they are interrogated to the lockup, and from there to the courthouse and its Netherworld – which, like the Forbidden City, is a separate realm concealed within the walls of the Hall of Justice. The chain gang's constant movement is not interrupted once they reach the courthouse. In armored elevators, where a metal screen divides the prisoners from their police escorts, they are transported from the fetid cages in the basement to one of the courtrooms. Prisoners' continuous cycle from cell up to courtroom, there to be tried, lectured, punished, and then

back down to the police van that returns them to the lockup or prison, is the vital fluid pulsing through the courthouse, or the steam that flows in the punishment machine and never halts for even a single day.

These three regions of the courthouse are separate from one another; the portals between them are almost invisible, often hidden by heavy furniture that has not been moved in a long time. The three different communities that inhabit this building could easily be unaware of the others' existence. The judges might consider the rumor that somewhere between its walls lies the Netherworld, with red-eyed, crimson-garbed residents who emanate a putrid odor, is a despicable fiction, a fabrication meant to discredit them. The prisoners, too, might nod with compassion at one of their number who claimed that hovering above them is the Forbidden City, with paths traversed by headless justice—were it not that judges and prisoners meet at least once in their lives, in the courtroom, which is the crossroads where all the regions meet.

There is no fourth kingdom in the courthouse, one that would be the realization and embodiment of acquittal, a sort of Paradise to counter balance the Netherworld, to which those found innocent would be taken. Just as, having been pronounced guilty, the criminal is led off by guards to the basement and then to prison, liberators would enter the courtroom at the moment of acquittal, strike off the defendant's manacles, and lead him to the fourth kingdom hidden within its walls, the realm of innocence. A formal space of innocence would be a tangible sign of the verdict of acquittal. The liberators, like the jailers, would almost float across the courtroom, summoned for their mission of emancipation in an adjacent courtroom.

The courthouse is the stage for at least two experiences that are polar antitheses. Robert Cover described the opposition between the judge and defendant as follows: "The perpetrator and victim of organized violence will undergo achingly disparate significant experiences. For the perpetrator, the pain and fear are remote, unreal, and largely unshared. They are, therefore, almost never made a part of the interpretive artifact, such as the judicial opinion. On the other hand, for those who impose the violence the justification is important, real and carefully cultivated. Conversely, for the victim, the justification for the violence recedes in reality and significant in proportion to the overwhelming reality of the pain and fair that is suffered" (Cover 1986, 1629).

The judge interprets the law by applying cultural methods that create meaning: analogy, contrast, deduction, induction. Judges create a genealogy of events, a happy family of elements connected to a rich infrastructure of meaning. The defendant, facing them, experiences pain that destroys meaning. Pain, unlike interpretation, produces absolute ignorance; bounds are erased, families of meaning break down, blood relations, friendship, and love lose the intimacy that characterized life before the trial. This is an alternative knowledge that is discriminated against and persecuted, preserved by small communities that have no control over the means of representation. As Elaine Scarry put it, "The intense pain [...] destroys a person's self and world, a destruction experienced spatially as either the contraction of the universe down to the immediate vicinity of the body or as the body swelling to fill the entire universe" (Scarry 1981, 35).

Attorneys frequently observe that immediately after a verdict that condemns the defendant to a long prison term, he remains seated in the dock, dazed and mute, isolated from his social context, outside his family, unaware of the sentence. He is powerless to extract meaning from the words just addressed to him from the bench. He does not know that the trial is over. The judge has already left the courtroom and the defendant stares in confusion at his lawyer: "What happened?"

The main function of the courthouse is to give tangible form to the separation and isolation of knowledge that interprets and gives meaning from the subversive knowledge that verdicts create absolute ignorance, that the judge and the defendant belong to hostile communities that operate on the basis of antithetical principles. This is why its architecture insulates judges from the defendants' knowledge that judges are violent men who deal out death and pain, who rather than creating law and meaning in fact kill meaning.

No one really rules the Hall of Justice. True control of its space would imply unlimited access to all parts of the building. The Hall of Justice is a congeries of spaces and cells, each of which offers sanctuary and comfort to its particular denizen, who is indifferent to the fate of the residents of the adjacent cells. Each of them is the inhabitant of a physical space, with walls and bars, as well as the resident of the walled-in social knowledge of his cell.

The courthouse cannot totally preserve the separation of its several zones; the forbidden knowledge of defendants penetrates the Forbidden City, to which it relates with mockery and parody. It is only a seeming separation, interrupted from time to time by strange and grotesque intrusions from one part of the Hall of Justice to another. Such are the judicial legs that make their sudden appearance in the public space. They have the nature of a will-o'-the-wisp, a *fata morgana*, an upside-down city at the distant horizon. This phenomenon reveals the uneasiness of the separation between the punitive power and the interpretive power. The problem is both topographical and conceptual. These are parallel worlds, alternate worlds, that are wrestling for control of the same place. The bizarre manifestations that are an integral part of the experience of the courthouse disclose the negligence in the maintenance of separate worlds. The courthouse is a heterotopia, a place where alternative regions intermingle and create spatial strategies of confrontation, interpolation, shifting, overlapping, inversion, assimilation, and absorption.

Michel Foucault (Foucault 1986, 22) describes the heterotopia as a place in which objects are placed and arranged in zones that are so different that it is impossible to find a common ground for all of them. A heterotopia is a locus of crisis; it can juxtapose in a single real place several spaces that are quite different and even incompatible. Foucault mentions cemeteries, hospitals, and psychiatric institutions. The courthouse satisfies Foucault's principles of the heterotopia. Heterotopias are always equipped with gates—a system of opening and closing that isolates them and monitors admission. They are not open to the public; either entry is compulsory—as with a hospital, prison, or barracks; or those who enter must undergo a rite of purification. Heterotopias trouble rest and undermine language. In a heterotopia, objects cannot be assigned a specific name. Syntax is destroyed—not only that which structures sentences, but also the less obvious syntax that allows words and objects to survive alongside or opposite one other.

The irksome incessant reflections of the separate worlds in the Hall of Justice create a perpetual backdrop of hushed and mocking murmurs that subvert legal language, expose it as low, superficial, and clownish. The legal *ratio*, honorable and quite lacking in self-irony and environmental humor, is constantly being penetrated by weird and shameful visions. Because of the truncated mirrors, with their larger-than-life close-up of limbs without a head, these visions have a somewhat pornographic character. In

the courtroom, which, like every road junction, is a place of magic and power, judges perform the great judicial act that gives them dominion, without access, over the other tenants of the Hall of Justice—the act of summoning and ejecting. With a single word, with a nod of the head, the gesture of a finger, the prisoner is brought up from the Netherworld into the courtroom; and with the same word and gesture the judge sends him back there. By virtue of the miraculous power produced by their ability to declare someone in contempt of court, judges can issue an order that causes any person in the courtroom—including attorneys and witnesses—to vanish at once into the Netherworld. Judges' power to command a person's presence transcends the courtroom: a subpoena can bring a peaceful resident of any place in the country to that Netherworld.

The Hall of Justice is a huge wheel of Swiss cheese, largely hollow on the inside, crisscrossed by tunnels—a sea of a thousand cavities. Judges, police officers, attorneys, prisoners, witnesses, relatives—all appear from various holes and later vanish into them, in compliance with the noiseless summonses of judges in distant courtrooms. There used to be a system of doors connecting the several worlds, but these have now been hidden and forgotten. Today the passage from the Netherworld to the forbidden districts takes place through the courtrooms. It is far from uncommon, in the middle of a trial, to see a door connecting the courtroom to the holding cells open, after which a police officer and prisoner enter, chained together, rapidly crossing the courtroom on their way to a disembodied judge, their face bearing a foolish expression of hope—for an explanation, for meaning, for a verdict. Cases of illegal penetration or infiltration from one realm to another are rare. All three communities agree to and accept the total separation among the regions. The Forbidden City and the doors to the judges' chambers are guarded only by the court bailiffs, who are unarmed and not visibly powerful in a physical sense. They are very different from the security men who accompany prime ministers or other senior officials. I once asked some of them about attempts to infiltrate the Forbidden City; they could not remember any. All the same, not long ago a disciplinary panel convicted an attorney for entering the chambers of Justice Aharon Barak without permission. The slap on the wrist he received—a fine of several hundred sheqels—shows how uncommon the phenomenon is and thus in no need of strong deterrence.

It is true that attorneys are occasional visitors to all three regions, but their entry visas are limited. Their visits to the Forbidden City are more ceremonial events than a true entrance. From time to time judges invite them into their chambers, but I have never heard of an attorney's being invited to tour the more exotic sites of the Forbidden City, such as the restrooms; in particular, they are never invited to take a short stroll with a judge, engaged in friendly conversation, on the hanging causeway.

Attorney's permits to visit the Netherworld are also limited. Sometimes they pass through the door at the side of the courtroom that leads there, in order to have a short conversation with a client; but this penetration is limited by the unwritten three-stair rule. That is the maximum distance they are allowed to descend; but it is far enough to feel the noisome wind blowing from below. They halt at a point where they can still maintain eye contact with the courtroom. Anyone who goes further, beyond the three stairs, risks never being able to return to the public areas. This is not a rule that is recorded in the lawbooks or regulations, but all obey it. The architecture of the courthouse and the arrangements for entering and leaving it are not protected by guards or demarcated by walls, doors, and corridors. It is an abstract and conventional architecture, only part of which needs to be materialized in concrete or locks. This is the practice encoded in the architecture of the courthouse, like a legal code enshrined in concrete. There is informal communication between the various regions of the Hall of Justice. Passersby on Berkowitz St. may see a man lying on the pavement, not far from the judges' entrance. This is not some down-on-his-luck fellow who has flung himself to the ground to appeal to a judge who has already gone past and entered the building through the small door, but a séance, an attempt to communicate with the Netherworld. Generations of prisoners have passed on the oral tradition that prisoners' voices can be heard through the air shafts that open here. The man lying on the ground places his ear against the grill that covers the air vent. Then he puts his mouth to it and shouts, calling directly to the bird held captive in the bowels of the building.

Judges never penetrate the Netherworld, just as one cannot imagine prisoners' entering the judges' chambers. But it is not so unusual for a judge to suddenly materialize in the public areas, in his full height and substance. These are usually judges of the magistrate's court, or court registrars—judges in potentia, as it were, midway in their metamorphosis from defen-

dent to judge. Judges in the public areas appear in small groups, a sort of judicial commando squad, somewhat tense and nervous, ready for any danger. A judge outside her courtroom is ill at ease; because the judicial magic that can make people vanish is ineffective there, she is compelled, against her will, to tolerate their continued physical existence and monochromatic presence that affects her the same way as it does the regular denizens of the public areas.

No detention cells are as malodorous and humiliating as the holding cells in the courthouse. The prisoners are filthy; the street clothes or house dress they happened to have on when they were arrested is wearing out; buttons are falling off and the stuffing is coming out of the fancy jackets. It is strange to see how quickly almost all the former status symbols fall into tatters. It brings to mind an ethnographer's account of some liminal place where the transition from one social status to another occurs, such as the sites where children enter adulthood through coming-of-age rituals. What takes place in the courthouse is the transition from the former stage of a free human being to the more adult stage of a human being locked up in a community of prisoners. As described by Victor Turner (Turner 1982, 26), the liminal place is dark and concealed, like the sun during an eclipse. It is a place that stands apart from society—a forest, a desert, the outskirts of a village. Life there is cut off from the normal dialogue with society, in a liminal stage, naked and nameless, wallowing on the ground like an animal. The liminal status blurs the contrasts between life and death, between male and female, between those who eat and those who excrete. It is both, at one and the same time. It is a moment when they are dead to their former status but have not yet been reborn in their new one. It is a process of erasure or of leveling, in which all marks of the former status are erased but those of the new status have yet to be registered. Over days of detention in the holding cells of the courthouse, the signs of the free man disappear one by one. The clothes turn into rags; a beard distorts the smooth cheeks of civilian life. It is only when the alteration of clothes to rags is complete and the judge realizes that the detained man has shed all the signs of his former status and is ripe for a new status that he pronounces sentences. The detainee, now a convict, is sent to prison, where he will be shaved, showered, and issued a prisoner's uniform.

The courtroom, which lies outside the walls of the Forbidden City and beyond the River Styx that encircles the Netherworld, is the only possible meet-

ing place for judge and prisoner. During a trial, as during a love affair, the two gradually grow closer. The false barriers drop and the lies are uncovered one after another, as if the two had never inhabited different worlds. The verdict is the culmination of this encounter. At that moment, the defendant faces the judge, stripped of all his secrets; but it is precisely then that the denizen of the Forbidden City is repelled by him, suddenly aware of the tragic gulf between them. And then, in an act the defendant perceives as shameful betrayal, he orders that the man be hidden from view for the duration specified in the sentence. As soon as the verdict has been handed down, the judge withdraws into the Forbidden City. The confused prisoner, still trembling from the intensity of the climax, from the blows of the punishment apparatus, is led to the armored elevator that carries him back to the depths. And the public scatters outside, hurrying to its schemes and criminal conspiracies, its destructive relationships—the raw material of the punishment apparatus.

### The Law Library

Law is a place and a text that complement and reflect each other. You cannot separate the place of the law from the law library. In this section I will consider two books—the first is actually a series, with no start or end; the second is ostensibly a single volume, the legal lexicon, but actually an infinite series of mutual reflections.

Every year the Israel Bar Association publishes a new volume in the series of Supreme Court verdicts. These *Collected Verdicts* usually have four parts—some 3,200 pages, 350 verdicts, bound in official blue-green cloth.

The first page of each volume of *Collected Verdicts* lists the justices of the Supreme Court during that term by seniority. They are its authors, working in the mode of the “chain novel,” with each team of three justices writing one episode. On rare occasions, when there are double episodes (known as a rehearing), five or more justices collaborate. The larger number of authors detracts from the story’s completeness and plot line, but there can be no doubt that it remains a single plot. The litigants are the changing actors in the series. They retain their names only in the heading that introduces each ruling. In the text of the verdict they are stripped of their former names and recast as “the plaintiff” and “the respondent,” “the prosecution” and “the defendant.” The other characters who took part in the criminal drama,

too, lose their own names and become archetypes—the “victim,” whether of murder, rape, or robbery. What we have before us is the primordial couple of prosecutor and defendant, splitting repeatedly, discarding their clothes up and down the courtroom. This is the principle of obsessive repetition that Deleuze and Guattari refer to as the “paranoid series.” In their book on Kafka they write:

The characters in *The Trial* appear as part of a large series that never stops proliferating. Everyone is in fact a functionary or representative of justice (and in *The Castle*, everyone has something to do with the castle), not only the judges, the lawyers, the bailiffs, the policemen, even the accused, but also the women, the little girls, Titorelli the painter, K himself. Furthermore, the large series subdivides into subseries. And each of these subseries has its own sort of unlimited schizophrenic proliferation. Thus Block simultaneously employs six lawyers, and even that’s not enough; Titorelli produces a series of completely identical paintings.” (Deleuze and Guattari, 53)

The schizophrenic power that inheres in the law and is exemplified by the principle of obsessive repetition, unlimited proliferation; the clear feeling that the litigants who people the pages of the *Collected Verdicts* are the incarnations, fragments, the husks of a single warring couple, ancient, Gnostic, the archetypal internal contradiction that is not susceptible to mediation, just as width can never reach a compromise with length: this is precisely what Dickens has his London solicitor in *Bleak House* say:

We are always appearing, and disappearing, and swearing, and interrogating, and filing, and cross-filing, and arguing, and sealing, and motioning, and referring, and reporting, and revolving about the Lord Chancellor and all his satellites. ... This counsel appear[s] for A, and that solicitor instruct[s] and that counsel appear[s] for B; and so on through the whole alphabet, like the history of the apple pie. And thus, through years and years, and lives and lives, everything goes on, constantly beginning over and over again, and nothing ever ends. And we can’t get out of the suit on any terms, for we are made parties to it, and MUST BE parties to it, whether we like it or not. (Dickens 1981)



In his introduction to the novel, J. Hillis Miller wrote that it is no surprise that synecdoche is Dickens' preferred mimetic device. "Each character, scene, or situation stands for the innumerable other examples of a given type" (Miller in Dickens 1981, 11).

These innumerable types, the obsessive repetition of a single conflict, find direct expression in the volumes of *Collected Verdicts* immediately after the names of the justices, in the titles of the verdicts. In keeping with the English tradition, each verdict is named for the opposing parties, separated by the word *versus*, running from "Aloni *versus* the Minister of Justice" through "Putzkov *versus* Pe'er." It is a global conflict: on one side we find Shehadeh Tamimi, Spiegelman, Shantsi, et al.; on the other side Giladi, Chupnik, the Minister of Defense, the State of Israel, et al. The line that divides them expresses an essential rivalry, perpetual conflict, eternal hatred. They pursue one another to the ends of the earth, changing disguises, occupations, identities, gender, and language, but the opposition always remains symmetrical: the *versus* is planted between them like an axe.

The separation of the parties' names by *versus* expresses one overt clash in a series of hidden and endless conflicts. The *versus* that links them in the title of the verdict is a fixed marker of competing relationships and tactics, different lifestyles, and antithetical procedures of daily life. In the phrase "Bakshi *versus* Yardeni," *versus* has the same semantic reality as the litigants' names. It is a third party, with an autonomous existence, not dependent on the two litigants who hold on desperately to its two ends. The compiler of the list of litigants at the start of each volume of *Collected Verdicts* knows this too; right after the list of cases in the normal order they appear a second time, but now with the respondent preceding the appellant: "Chofanier, Jabbar *versus*." The *versus* has jumped from its accustomed place between the two parties and won its own place in the verbal space of the verdict's title.

The verdicts are a window, opened briefly, on the arena of certain practices in daily life, which are generally hidden from view, concealed in the big cities, in the business districts, in the marketplace, in the prisons, in the hospitals, or on the beach at Tel Baruch (a favorite haunt of prostitutes and their clients). These are all activities of daily life that by their very nature are not documented and avoid documenting themselves. They have no PR agents and are not perceived by superficial eyes on the qui vive for objects worthy of artistic representation. In their daily

life, the litigants prefer camouflage, flanking maneuvers, and feints over open movement. The parties on the two sides of *versus* are engaged in continuous guerrilla warfare. As noted by Michel de Certeau, the daily processes that are exposed by verdicts—"dwelling, moving about, speaking, reading, shopping, and cooking"—only "seem to correspond to the characteristics of tactical ruses and surprises: clever tricks of the 'weak' within the order established by the 'strong,' an art of putting one over on the adversary on his own turf, hunter's tricks, maneuverable, polymorph mobilities, jubilant, poetic, and warlike discoveries" (Certeau 1988, 40). A verdict in the case of "John Doe v. Richard Roe" is an armed conflict between two systems that organize space and time in different ways, accumulate different material worlds, and juxtapose antithetical tastes.

By the time a case reaches the Supreme Court it has already been plucked naked, its facts reduced to archetypes. If the appellant is holy, the respondent is impure; if the petitioner is tall, the respondent is a dwarf; if the defendant is bold, the accuser is a coward; if the applicant is a master, the respondent is a slave. The *versus* separates them like a curse they are trying to escape. "Hi there!" calls Tchaikovsky to Kaplan from the other side of the *versus*. "We are brothers, almost the same, twins, really. Let's find a compromise." They try to draw closer to each other, but then the curse complicates them in a murder, a property dispute, drug smuggling. There is no way to get past the *versus*. They try to tunnel through it, each digging from his own side, but they never meet up. Each exits at the far end and finds the *versus* still between them. They are like Punch and Judy, each trying to reach out and grab his reflection's neck from the other side. In one episode they both live in a condominium—he upstairs, she below. He wants to build on the roof; she wants to hang her laundry there. In the next episode he is an attorney and she is his client; he is a man and she is a woman; she wants a child and he wants to be free. Punch struck Judy on the head with a blunt instrument, but this time he hit her too hard and crushed her skull, so Punch is alive and Judy is dead. In the next episode, a new team of writers brings Judy back to life. This time she is young and he is old; she convinced him that he had stomach cancer, so he committed suicide and left her everything in his will. These are all different stories found in a single volume of *Collected Verdicts*, but there is no way to avoid identifying the same characters in all of them.

Until they were exposed in the verdicts, the litigants lived under the public radar, furious and

angry with each other, unrestrained, wild in their isolation, possessors of a secret history, warped and subversive—until, as if by spontaneous generation from slime, they were reborn as public litigants, complete in every detail, from the nose that turns white with anger to the tiny mouth that is always curling down in humiliation. They become the indentured servants of the legal skirmish into which they were sucked, with no way to escape. They drag it from the Magistrate's Court to the Supreme Court, in a journey that takes eight or ten years. Until one fine morning they trudge up the stairs in the Supreme Court building in Jerusalem, like two beetles transporting a bit of trash several times their own size. They enter the courtroom—usually Number 3, which is the smallest—aggravated, disheveled, exhausted. They say, submissively, that we, "*Avneri versus Shapira*," request a ruling. Please, Your Honors, remove this huge particle that is crushing us into dust and to whose careful conveyance we have devoted our lives until now.

Our hope of finding that the verdict is an ethical treatment of desire and its limits, of power and its restraint, is disappointed. Only rarely do we find evil incarnate in the dock. The penal code stipulates that the motive for a crime is not part of the crime and consequently is not relevant in the courtroom. The deed whose history is unfolded during the trial begins later, when the passion took material form as a criminal offense; and the story of the deed reaches its conclusion when the signs that the criminal left strewn all along the way, tiny confessions of blood, sperm, and urine, lead to him. But before passion can be realized as a criminal offense, there is ample time for it to be watered down and weakened. So much effort is needed for a crime—the planning, the complex conspiracy that accompanies every criminal act like a black hood, keeping tabs on one's accomplices—who are always lazy, garrulous, careless. All these dull the edge of the felony; and the trial, instead of dealing with the passion that breaks bones, deals with evasions and arrests, and mainly with the failure to advance the evil intention from potential to actual.

In most verdicts, only about twenty percent of the text is new material; the rest consists of quotations—a recycling of previous judgments, a cannibalization of older texts. Judges are constantly reusing well-known episodes from years past; it would be quite injudicious for a judge to take a single legal step without a quotation to support him. Without one, he feels as if he is buck naked, exposed to the elements, disgraceful and embarrassing in his presumption to distinguish truth from falsehood. Judges cite previous

rulings of others, and frequently their own; weak judges cite strong judges with a sort of Oedipal lust. In some verdicts, one has the sense that it was recycling itself even before the text was printed, its end citing its beginning, like a snake swallowing its own tail. With one last effort the text would self-destruct, vanishing into the void with a soft hiss. Judges quote, because the daily lives of litigants, with their pointless and meaningless disputes, mad and mendacious, trigger horror. Daily life as pictured in the legal process is, as Stanley Cavell observes of Wittgenstein, an arena of illusion, trance, and loss (Cavell 1989). Wittgenstein's proposition in the *Philosophical Inquiries*: "Make the following experiment: say 'It's cold here' and mean 'It's warm here' Can you do it?—And what are you doing as you do it? And is there only one way of doing it?" (Wittgenstein 1981, §510)—is a daily experience for every set of litigants. Against the real world, a quotation serves as a crutch, reliance on a judge who preceded you; and later the feeling of a warm hand on your own shoulder, when someone else quotes you. Judges are like the blind men in the painting by Pieter Bruegel, each relying on the next one's blindness, quoting themselves to death. Would you trust them to decide between good and evil?

Citations are also the never-ending dialogue that judges conduct among themselves and with their judicial forebears who have already gone to their final reward—that is, who have retired from the bench and reacquired their flesh-and-blood substance. This dialogue by citation plays a major role in sustaining judges' subjective reality, just as conversation helps preserve the many segments of social reality. In the words of Luckmann and Berger, "The most important vehicle of reality-maintenance is conversation. One may view the individual's everyday life in terms of the working away of a conversational apparatus that ongoingly maintains, modifies and reconstructs his subjective reality" (Berger and Luckmann 1966, 172). Conversation serves to keep the self-understood up-to-date; as the dictum of rabbinic law (frequently cited by Israeli judges) has it, "The self-evident requires no proof." Aspects of reality that are not the topic of ongoing dialogue gradually fade away until they vanish from sight and wink out of existence. In order to play these cognitive and social roles the conversation must be unending. Any disruption of the dialogue leads at once to an uncomfortable sense of cracks in the self-evident elements of reality. Judges' perpetual need to quote includes hackneyed texts that have been cited dozens of times in the past. Stale passages that in no way strengthen the argument or add to its persuasive force are inserted within quota-

tion marks. So intense is the urge to quote, so great is the fear that truncating a passage would expose the judicial reality as random and arbitrary, terrifying in its material poverty, that judges frequently quote themselves, morphing into divinities with two bodies, one earthly and historical, the other abstract and hovering constantly above them. It is a glorious union of denotator and denotatum. The citation of judicial predecessors also performs the ritual of calling up the dead: the ghosts of the fathers of the judicial tribe are summoned to counsel their descendents in times of crisis and hardship. Alongside the normal quotation, which preserves the discourse that encompasses all members of the judicial tribe, there is also deviant citationism, manifested in misquotations of earlier authorities. This is a form of cannibalism in which the leaders are consumed and incorporated into the eaters' bodies. The chain of judicial rulings is a noisy and nonstop banquet, at which judges eat, chew, gnaw, nibble on, and spit out other judges, and sometimes even themselves. Readers of *Collected Verdicts* discover that the plots of the rulings it contains sink under the weight of facts that are piled high and wide. A verdict swells, like the corpse in the apartment of the couple in the play by Ionesco, and will soon fill the entire world. Every handful of sand in the clear plastic bag that the Criminal Identification Unit has brought to the courtroom (State's Exhibit 1) is an entire world: for example, traces of the Siberian steppes trapped in the soles of the shoes of a new immigrant from the Soviet Union, who met a woman at an evening course and used a pressure-cooker cover to kill her ("Kogan v. the State of Israel"). Reflecting on the Italian novelist, Carlo Emilio Gadda, Italo Calvino writes about multiplicity: "... the least thing is seen as the center of a network of relationships that the writer [or judge] cannot restrain himself from following, multiplying the details to that his description and digressions become infinite. Whatever the starting point, the matter in hand spreads out and out, encompassing every vaster horizons, and if it were permitted to go on further and further in every direction, it would end by embracing the entire universe" (Calvino 1988, 107). A tremor passes down the chain of judges. "That's terrible," they whisper, and tighten their grip on the bowed back of the blind man ahead of them in line.

In addition to citations, another device for presenting subjective reality as self-evident is the cliché. If quotations are the firmament of judicial discourse, the cliché is its ground. Clichés are well hidden in verdicts, dressed up as substantiation, probability, deduction. To detect its character and qualities we must extricate it from the verdict and set it on its

own feet. This is done on the margins of the law, in the definitions section of the judicial lexicon and my personal inventory of self-evident known facts that do not require proof.

Laws and regulations generally include a section of definitions or glosses, a sort of short dictionary of the terms that appear in that item of legislation. Someone actually went to the trouble of compiling, alphabetizing, and publishing them (*Lexicon of Legal Terms in Israel*, edited by Amnon Lorch and Ami Folman). This is a vast collection of definitions, like a phrasebook for tourists in a foreign country, and an amusing read. Some definitions resemble a scorpion's tail that curls around and stings the word being defined to death. The law has various means to effect the self-destruction of a good word. In one case it may expand the sense endlessly and obfuscate everything the word formerly denoted; for example, when the right side of a motor vehicle is defined as "including the left side" (left side: including the right side). In other cases the murderous deed is performed by restricting the sense repeatedly until the word is strangled to death.

Travelers in a spaceship to the dead planet "Earth" at the far end of the galaxy might find this lexicon an interesting diversion. The crew, including a professor of artificial languages and a poet, discover the lexicon on "Earth" and use it as the basis for reconstructing the creatures who once inhabited this scorched globe: what they ate, how they propagated, what made them laugh. First they look through the lexicon for definitions of matters of life and death. It turns out that these creatures did not have independent energy. "Live," the explorers read, refers to what is "connected to an external source of electrical voltage"; "dead" is what is "disconnected from all voltage sources and has no electrical charge." As long as they were plugged in, the inhabitants of "Earth" were frantic and insecure. The days grew longer and shorter in arbitrary fashion. The lexicon defines "day" as three different time intervals. "Night" varies according to the natives' age and sex: a toddler's night is twelve hours, a child's ten, a teenager's six. A woman's long night began at 6:30 in the evening and ran until 6:30 the next morning. Evidently because of the different lengths of men's and women's nights, her life passed more quickly and she grew old before the man, as indicated by the definition of "elderly couple": "A couple in which the man has reached age 65 and the woman age 60." How wasteful, self-centered, and voracious was that race, which defined a fish as "an animal that lives in the water whose flesh serves for

human consumption." "Human beings," who evidently dominated the planet, are defined, *inter alia*, as those who tend cattle "in order to slaughter them or purvey their flesh to consumers." In another place, in a different statute, "man" is defined as a "market-stall owner": does this mean that those who had no stall were eaten by the stall-owners? These human beings, whom our crew are no longer so sorry to find extinct, could see no further than the end of their noses. Air, which the spacecraft's sensors have found to be a mixture of nitrogen and oxygen a hundred kilometers deep, was defined by the stall-owners as that "portion of the atmosphere with which humans come into contact," while the blue water that covers two-thirds of the planet was "the coastal waters of Israel": that and no more?

The legal epistemologist can find an astonishing collection of clichés, prejudices, and asinities in the lexicon—the building blocks from which judges construct reality. It seems appropriate to supplement the lexicon with an anthology of what the courts have designated "self-evident facts that do not require proof." As an amateur epistemologist I have amassed a respectable collection of these, all of them genuine: "Summer is hot and winter is cold"; "streets meet and form intersections"; "items sent by mail arrive"; "waiters replace the labels of cheap champagne with the labels of expensive champagne"; "people who drink alcoholic beverages may totter when they walk but remain perfectly lucid." And, to cap them all: "A person who falls suddenly sticks his arms out in front of him and does not wrap them around his body." Taken in combination, the lexicon of legal terms and anthology of self-evident facts that do not require proof constitute an absurd dictionary of conventional facts, of the sort imagined by Flaubert and whose composition he assigned to Bouvard and Pécuchet, the protagonists of his last book. Their definition of an instrument: "If used to commit a crime, it is blunt, unless it is sharp." The legal lexicon, by contrast, defines a work tool as "a firearm of a type so declared by the Interior Minister."

### Metaphor and Metonymy in the Law

Legal discourse develops chiefly along the axis of metonymy. However, by chance or intentionally, as a coincidence or as a message emitted from deep layers as an icon or symbol, we may be astonished to see it as a metaphoric mode of expression. In the word of Roman Jakobson, "the development of a discourse may take place along two different semantic lines: one topic may lead to another either through

their similarity or through their contiguity. The metaphoric way would be the most appropriate term for the first case and the metonymic way for the second, since they find their most condensed expression in metaphor and metonymy respectively. [...] A competition between both devices, metonymic and metaphoric, is manifest in any symbolic process, be it intra-personal or social" (Jakobson 1990, 129, 132).

In the law, metonymy first asserts its primacy in the stage of the police investigation. As noted by the nineteenth-century legal scholar, James Stephen (Stephen 1964), society is fortunate that criminals, and especially murderers, cannot avoid leaving behind a trail of signs that ultimately lead to their identification. The rhetorical device of the criminal investigation is metonymy—reading the signs and replacing a footprint with a foot, dried semen with a penis. The indications are carried by bodily fluids: urine, blood, semen, tears. Emptying the bladder is a confession. The yellowish liquid in the test tube of the forensic laboratory contains the drugs we took, the alcohol we drank, the tranquilizers we gulped down to get through the difficult days; semen is the secret and terrible historian that records, quietly and behind our back, the fact that we engage in homosexual intercourse or are not picky in our choice of our partners. "You will soon die an agonizing death," chirp the tiny spermatozoa in chorus. The vital fluids we carry inside us are a fifth column, a nest of spies who will betray us to the police at the first opportunity. Forensic science recruits our own body and turns it into an undercover detective. In a trial, such as a murder trial, the similar and unique chase each other. All the exhibits submitted by the prosecution and the defense refer to one another. The tire marks are a linear image, a hasty impression left behind by the murderer's car. The hair in the sink of the bathroom of the hotel where the victim spent the previous night belongs to him; and by chance it was not flushed down the drain or wiped away by the chambermaid. A chilling picture emerges, a flat and one-dimensional universe, centered on the corpse that was carted away from the site and replaced by a chalk outline, resembling an elongated sausage. A murder trial is an animation of the signs that presaged the evil. Every object collected and every item submitted in evidence refer to the others and to the grave, violent, and furtive scene from which they were taken. It is a world rather like that described by Nabokov in his short story "Symbols and Signs," in which parents visit their son in a psychiatric hospital. He is "incurably deranged in his mind": "man-made objects were to him either hives of evil, vibrant with a malignant activity that he

alone could perceive, or gross comforts for which no use could be found in his abstract world" (Nabokov 1948).

Not long ago, the Supreme Court ruled that bite marks (in this case they were made by a set of false teeth) are sufficiently distinctive and unique to provide absolute identification of their owner. Henceforth, biting constitutes its own semantic field. This is a festive event, like the birthday of the sonata. Justice Kedmi (Criminal Appeal 517/86) has equipped us with the poetic aspects of a bite: "the pattern"—that is, the form of the bite; "the domain of the mark," which is the impression the tooth leaves on the skin; and the "domain of the curve," or the shape of the jaw. The metonymic world of legal evidence, which references and quotes, is a supreme example of the legal discourse, which also references and quotes. The relationship between the tooth mark and the tooth is also one of quotation and reference. As noted, the main metonymic axis of the law creates a world with no depth, a place where a chalk outline replaces the corpse and blocks off meanings that might emerge from the depths of the narrative. The distinction between deep narrative and surface narrative, according to Greimas, is that between meanings revealed on the outside of the narrative and those that are deep and paradigmatic, outside time, concealed in its depths (Greimas 1971). As Hayden White noted (White 1978), scanning the legal text against the metonymic grain and along the metaphoric grain transforms it into a mediator between the events it reports and pre-generic literary structures. These structures yield fundamental meaning by assigning new events to primordial cultural paradigms. This mediation is accomplished by means of the icon (in Peirce's sense), the symbol, and the metaphor.

When we read the stories told by the verdicts, we often have a vague sense that at some hidden level they share common narrative paradigms. Minor details recur stubbornly; characters have symbolic names; the court mentions objects or physical traits that are quite irrelevant to the plot of the verdict, giving them the ambiguous status of symbol or icon. A vague sense emerges that the verdicts are held up by a hidden scaffolding of primary symbolic plots.

The "Boy Who Cried Wolf" is a frame tale, a general formula for a diverse and branching family of events. On the surface, the story is the antithesis of the carnival, preferring the villagers' grimness and gravity over the clowning shepherd who keeps crying "wolf, wolf" and pretends to be terrified. There is also

the compulsive repetition of the cry "wolf," which exposes the joke and parody as a repetitive obsession and imitation of the real and lethal wolf. This is not the place to look closely at the deep plot of the wolf, the shepherd boy, and the villagers, with their interdependence, asynchrony, and lack of a common language. But how threatening and terrifying it is when wolf and shepherd appear in a ruling by the Supreme Court—Criminal Appeal 26/89, "Zev v. The State of Israel" (published in *Collected Verdicts* xliii 4 634). [Zev is the Hebrew word for "wolf" in addition to a common name.] The appellant, Zev, a shepherd (and we cannot avoid a thrill when we learn that Zev-Wolf, too, tends sheep) who lives in Shilo (on the West Bank) saw Arab shepherds congregating, in the court's words, "in worrisome proximity to the settlement, including a playground full of toddlers" (the role-switch between wolf and shepherds will inform the plot till its climax). Zev-Wolf decided to chase the Arab shepherds away. "First," write the justices, "he yelled at them *ruhu min hon*" ("get away from here" in Arabic). After that, he began firing volleys in the air, while advancing towards them. And when this failed to send them packing, he (the "wolf") decided to up the ante by shooting in a different fashion, aiming at the ground halfway between himself and the shepherds, who were 40 to 50 meters away. The appellant (the "wolf") lowered his rifle to his hip and from this position fired a single volley in a short arc of an imaginary circle with him at the centre. The shots killed one of the shepherds, Goda Abdallah Awwad, and wounded another, Rizek Abu Na'im. One of the sheep was killed as well. It should also be noted that the shepherd Rizek testified that "at the height of the incident he shouted at the appellant (whom he had known for some time), 'Israel, Israel [which happens to be the wolf's first name], don't shoot—it's me, Rizek.'" This narrative has such turbulent depths: a wolf, Israel, shepherds tossed on the water like fearsome sea monsters that inspire nightmares. The names Zev and Israel, the shepherds, the death of the shepherd and the death of the lamb at the hands of the "wolf" are a string of coincidences, what Jung calls "synchronizations" (Jung 1985). They are reflections, series, doublets, multiplicities that cannot be explained by the principles of cause and effect, but by some other acausal principle, which assumes that in addition to cause and effect there is an independent force at work in nature, the force of reflection.

I can imagine a legal doctrine in which people's names are held to be relevant circumstantial evidence for determining guilt or innocence. According to Derrida, a person's name lies outside the bounds of

discourse, it is both present and absent; it is neither assimilated nor absorbed. Persons' names are untamed and arbitrary elements, associated with a dimension that obeys metalinguistic and genealogical laws. This is a level that legal discourse cannot control, a choice made without supervision. Legal discourse is troubled by these feral names, small and overcrowded islands of a family discourse that is hostile to the legal discourse. This is why family lacunae swarm in the depths of verdicts. Verdicts make extremely sparse use of person's names, which they replace by "the victim," "the appellant," "the accused," "the prosecution," "the respondent."

### A Page Torn from *Collected Verdicts*

A page torn from the full judgment, ripped out of a volume of *Collected Verdicts* and removed from the law library, is left defenseless, with no antibodies, plagued by allergies, a victim of immune-system failure. Outside the legal bubble, it is exposed to diseases, petty annoyances, bites, and rips. It is a page torn from "Zev v. The State of Israel," discussed in the previous section. This is an unquiet text, beset by severe acrophobia at the sight of the metaphoric abyss that gapes below it. The legal language advances cautiously on the thin membrane of surface tension, in tiny steps. The slightest downward pressure of the leg would crack this surface and eliminate the line that divides speech from the subjects that howl below it, confound the judges' portal with that of the criminals.

Deleuze compared Lewis Carroll's surface language with Antonin Artaud's deep language:

Alice progressively conquers surfaces. She rises or returns to the surface. She creates surfaces. Movements of penetration and burying give way to light lateral movements of sliding; the animals of the depths become figure on cards without thickness. All the more reason for *Through the Looking-Glass* to invest the surface of a mirror, to institute a game of chess. Pure events escape from states of affairs. We no longer penetrate in depth but through an act of sliding pass through the looking-glass, turning everything the other way round like a left-hander. [...] But the world of depths still rumbles under the surface, and threatens to break through it. Even unfolded and laid out flat, the monsters still haunt us. (Deleuze 1997)

Similarly, legal discourse is possible only when there is a separation between language and body. This need to stifle the body's squalling is one of the secrets of the judges' vanishing act. Compared to Lewis Carroll's language in *Alice in Wonderland*, that of the schizophrenic Artaud is depth without surface. Objects are filters, and when the surface is pierced, words lose their meaning: "The moment that the pinned-down word loses its sense, it bursts into pieces; it is decomposed into syllables, letters, and above all into consonants which act directly on the body, penetrating and bruising it" (Deleuze 1980).

The changes I marked on the page are quite random. When the surface tension is broken, everything is possible. But they also offer a stolen glance at the Supreme Court's technique of story and plot, and especially the motif of children versus shepherds, who function here as the wolves of the fable. Even though the children are not significant and their presence in the plot is accidental—in the final analysis, the shepherds really were shepherds and not wolves—they make several appearances on the first two pages of the verdict: Ms. Mansur, who first saw the Arab shepherds in the wolf's skin at a distance of only twenty-five meters from her house and five meters from the settlement's perimeter road, "thought it appropriate to hustle the children into her house." Whereas the appellant (Israel Zev-Wolf) saw the shepherds "in worrisome proximity to the settlement, including the playground full of toddlers." Which explains the graffiti scrawled across the page of the verdict: "Children mean health."

Translated from the Hebrew by Lenn J. Schramm.

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