

BEFORE THE LAW by KAFKA

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”/.../. And these questions are being answered to in an ambiguous way; e v e r y mode of interpretation remains open; each one of them keeps a certain probability, none of the is clearly certain. I.e. this alleged parable keeps repeating in a dense form similar problems, processes, contradictions, uncertainties, which are put forth in the novel *The Trial* as a whole..”

(W. Emrich, on *Before the Law*.)

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Many interpretations of *The Trial* start with the parable – or pseudo-parable ... - *Before the Law* in this novel, or anti-novel. Kafka regarded this parable as a text, that could be published separately, which also came about. The priest (der Heilige) in the Cathedral summons *Joseph K.* and tells him reproachfully that he mistakes himself concerning the trial. To illustrate the mistake of Joseph K., the priest is referring to the parable on the law and some of the comments, “legends,” that is known to him.

The man from the country has not yet come to know the law, according to this parable. There are only one entrance and one main gatekeeper. The fact that the guard suddenly becomes interested in the fleas in the guard’s collar proves to us that this alleged parable is a part of the play between 1. the hero, 2. Unconscious, A. and 3. B. Noticing the fleas, the hero uses an unconscious he has not got (*Unconsc. B.*), and with this noticing of the fleas, the parable is no parable anymore. Kafka breaks loose from the didactic pattern of parables. The parable is disintegrated, distorted much according to the dream language in Freud’s manifest dream. *Before the law* is parallel to *The Trial*, and a miniature copy of the bigger story, but the smaller thus not enlightening the bigger. We are with Kafka’s mentioning the fleas met in this parable once again with the genuine nauseatic Kafkaesque. In the fleas the man from the countryside has unconsciously spotted something forbidden, and he has managed to watch the guard in specie aeternitatis, thus punctuated the alleged parable – qua parable - from within. With the fleas in the collar, we have narratological once more come close to “the unnecessary detail”, and the connection between redundancy and irony pointed out by Weinberg/Sternberg:

”In accordance with his [Meir Sternberg’s] theory on redundancy of information a text can be

consciously redundant in order to create a certain effect, in order to draw the reader’s attention to a special phenomenon. The more a word is perceived as redundant, the more visible it becomes, the more power of suggestion it gets.”

ii.)In a kind of mystic of abundance, we might look at the redundant as connected to the Freudian forgotten and the suppressed. Thus, the meaning of the small story oscillates between the vast commentaries, the many legends, the row of gatekeepers on one hand and the smallest of detail on the other. ----. It is also quite possible to extract a meaning of the parable in regarding the use of SIL. The entire Law can be seen as a creation by the narrator. The man from the country does not mention the word “law”! Neither does the gatekeeper. But the narrator does. We must be sceptical.

Kafka, who was lawyer himself, seems through his entire work fascinated by *commentators*. Commentaries and commentators constitute much of the law, as it seems. Commentators are frequent with Kafka, and they are often discussed at length and shown in a critical light. The commentators are creating the law in processing the Law!

iii.)*Before the law* has inspired many critics, like Derrida, to put forth almost an entire metaphysics of right. Derrida sees *Before the law* as an anti-story, because he thinks that nothing at all happens in this tale, that it is static, just as is the case with *The Trial*. All that happens is postponing. Louizidou, and many more, underlines the absurd character of the law, and that the law is, quite like Montaigne and W. Benjamin asserts, a legitimate fiction, and in its origin and thus as a whole something mystical. Montaigne:

“Hence: Laws are maintained not because they are fair, but because they are laws, there is the mystical foundation of their authority; they have no other plea, and respond well to their purpose. They are often founded by fools, yet more often by men - in hatred of equality - fails in righteousness, but always by men who are vain and wavering. There is nothing so greatly or ordinary faulty as the laws. The man who obeys the law because it is right does not quite obey it as he should.”

We have implicitly presented with two views on justice [1.] justice is mystical, [2.] views, that the commentators and interpreters of the law and of justice (rom.: jus, the ”right”) may interpret as they like, and they do so. However, it is typically not included in real justice any allowance to determine its own interpretation rules. An interpreter has a right to interpret what is right.

In Kafka's own short story *To the questions of the law*, the same opinion on the Right [Justice] and on the law is expressed as with Montaigne, i.e., that the laws are the laws instigated by the nobles and that the laws evolve from power, and that the nobles constitute power, supported by the commentators. The judicial system is in its own right. The Law does not exist in any real sense, other than in the shape of something expressed by power itself and in commentaries on it.

This other "tale" by Kafka, is written in 1920, and is not at all integrated in *The Trial*, composed in 1914. A small "party" - this party may consist of anarchists, or the psychoanalysts - in the universe of the tale, has the opinion that the nobles should be deprived of power. People in general, though, "our people", are waiting for tradition to be accomplished. This will give them the law and the power.

Hamacher claims, in writing about Kafka's *Before the Law*, that the law of the law is: " /.../ that the law is obstructed. Law is what evades representation." As explained by Dahlberg, and as we have seen, that which is described in *Before the Law* is Justice. Thus "the law" is metonymy here. The Law is the edifice put in front of, id est before, Justice. The commentators are of course the lawyers, but in *The Trial* also both the priest and the painter Titorelli - yes, in fact everyone but Joseph K. are part of the judicial system in this strange universe of fiction. The commentators are beyond right or wrong. Without commentators there would be no law. Commentators are untouchables. The Law works because it is inaccessible, working in inaccessibility, and it works mainly by the process of processing itself. The track of the law is created, situated in temporality in a constant renewal of the law itself.

The Law will never be completed. It has to contain some part that is totally inexplicable, wholly mystical. Law was founded on something unexplainable. If it would be founded on something explainable, it would cease to exist. The positivists of Right asserts that Justice (Law) emanates from power, but power cannot define justice, but only determine the content of it, uphold the existence in its outer shape and execute its decisions. It might be mentioned, for an illustration, that Roman Law in the Justinian Era - 518-602 A.D.- comprised the predicament that the exact formulation of verdicts should be put forth in the forms of formulas, and that knowledge of the exact formulas was exclusively reserved for the priests assigned to different assemblies of law. With Kafka we are met with these views on the origins of the law, a.) that it has an inexplicable foundation, and b.) that it is

developed through endless series of commentaries and finally that c.) very often a priest, or the like, is a mediator between a. and b.. What comes clear to us in reading *Before the law* is that the Law is in all important respects the same in the world of *The Trial* as in our common world; hence it comes clear that the law is the same in all possible worlds, in all possible universes.

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