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Research Article:

The Abjection of Law: Machinic Assemblages and  
Kafka's "Before the Law," and *The Trial*

*Subashish Bhattacharjee*

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The Abjection of Law: Machinic Assemblages and  
Kafka's "Before the Law," and *The Trial*

*Subashish Bhattacharjee*

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"I look on white, and it turns into gray —  
When will that creature give me back my breath?  
I live near the abyss. I hope to stay  
Until my eyes look at a brighter sun  
As the thick shade of the long night comes on."

— Theodore Roethke, "The Pure Fury"

Franz Kafka's parable of law, "Before the Law" ("Vor dem Gesetz," 1915), is usually read as a 'negative'<sup>1</sup> fragment that espouses the tenets of alienation. The parable was later included in his extended legal allegory, *The Trial* (*Der Prozess*, 1925)<sup>2</sup>. The parable follows the tale of a man from the country seeking legal aid and, surprisingly similar to Josef K.'s situation in *The Trial*, of being convicted without any discernible cause, and of his encounters with the 'closed doors' of law. However, the parable, while proactively resonant with the ideas of Gilles Deleuze and Félix Guattari's 'minor literary'<sup>3</sup> mode, also builds up on allotropes<sup>4</sup>, haecceities<sup>5</sup> and rhizomatic proliferations of those haecceities themselves that produce a combinative affect of lines of flight that destabilize legality in the canonical ordinance of the construct's performativity<sup>6</sup>. Jacques Derrida's reading of the parable in his essay "Before the Law" (1991, delivered as a lecture to the royal Philosophical Society in London in 1982) also serves as an important marker in the unfolding of the parable's structure and allows for a better integration of the allotropic view of law that is

dystopically represented in Kafka's parable by showing the duality of the legal apparatus in both the parable and the subsequent novel that was developed from the similar premise. The structure of the following paper semantically borrows from Slavoj Žižek's 'organs without bodies', as opposed to the Deleuzoguattarian Body without Organs, presenting several strands of singularities that leads to an 'assembled-reading'<sup>7</sup> as a proposed interpretation of Kafka's "Before the Law" and *The Trial*.

The defendant is returned time and again by the doorkeeper who does not refute the possibility of justice but, for the man from the country, it is "not just yet"<sup>8</sup>. The waiting continues for years and the defendant displays no attempt to forcefully procure admittance besides bribing the doorkeeper, who accepts the bribes but never allows the man inside—an act which the defendant does not protest enthusiastically but repeats till its forced conclusion. The man asks the doorkeeper, right before his death, why no other individual besides himself ever came for similar purposes of trial or legal affairs, to which the doorkeeper replies that this *singular* entrance was meant only for this man from the village and none else, and will therefore be shut now that the undertrial is about to die. The priest reasons the prohibition of admittance by culling the fear of the doorkeeper himself: "The argument originates in the door-keeper's naivety. They say he does not know the interior of the law but only the path he has to patrol in front of the entrance. The ideas he has about the interior are held to be childish and it is assumed he himself is afraid of what he tries to make fearful for the man" (Kafka *Trial* 169-70). The naïveté of the doorkeeper with issues regarding the interiority of the court showcases a satirical understudy of the very title of the parable—"Before the Law" is never enacted or performed 'before' the law, and neither is Josef K.'s trial a process that is familiar in legal historicity. The doorkeeper, as the representative of law in equitable position as the warders in *The Trial*, is predetermined to be the individual who curbs entrance into the court and is correspondingly familiar with its proceedings. But the doorkeeper's professed and

actual ignorance is a refutation of the myth and an establishment of the assemblage that eventually produces divergent repetitions of law.

In his final dismissal of K. the priest sums up the role of law not as transcendent to the former's situation but as something which is immanent to the function it has been ordained in societal affairs: "The court asks nothing of you. It receives you when you come and it releases you when you go" (Kafka, *Trial* 173). Thereby explaining the apparent lack of cause by justifying the 'process' itself and not the purported crime or K.'s perpetration of the same. In Deleuze and Guattari's reading of the allegory, *The Trial* does not represent "a law that is forever 'other' or transcendent. On the contrary [...] the wanderings in Kafka's texts are positive. There is an intensity or enjoyment of movement itself, of opening doorway after doorway, of crossing space [...]" (Colebrook, *Gilles Deleuze* 138). Interpretation is the *ill* adjudicator in the imposition of law, and the old man in the parable and Josef K. both attempt to interpret it as a goal or origin which produces or maintains action—not as "an *effect* of action", and as something which will always be out of reach, "always cruel and arbitrary" (ibid). Deleuze and Guattari read Kafka's ambiguous rendition of law as the production of new intensities. Opposed to the emancipatory and active reading of Kafka by Deleuze and Guattari is the traditional reading of "Before the Law" and *The Trial* where we see "the law as what must always remain hidden; we can only produce images and interpretations of the law, never the law itself [...]. [On] this reading, we are essentially alienated and guilty, and Kafka's fictions are symbols of this alienation, our loss of any sense of a present or presentable God or law" (Colebrook, *Gilles Deleuze* 137). But Deleuze and Guattari read literature against the hermeneutic methods that assign fixed identifiers in terms of interpretation or facts, and argue that "literature shows that literature is about affects and intensities" (ibid)—a mode of reading that would validate the various interpretive mechanisms that we would use to intensify meanings and *effects*.

Derrida, in his essay “Before the Law,” states that “[in] Kafka’s story one does not know what kind of law is at issue—moral, judicial, political, natural, etc. What remains concealed and invisible in each law is presumably the law itself, that which makes laws of these laws, the being-law of these laws” (Derrida 191-192). The ‘being-law’ could thus be construed as a malevolent instrumentation of the law that goes against its societally accepted canons and instead reflects Kafka’s interpretation of his being-Jewish. To enter into relations with this being-Jewishness is akin to entering into relations with the law, “as if it had no history or at any rate as if it no longer depended on its historical presentation [...] [merely to] let oneself be enticed, provoked, and hailed by the history of this non-history” (192). Derrida’s focus “on the institutional, ethical, and juridical implications of any such question: what is the law according to which a text can be classified as ‘literary’ or ‘nonliterary,’ and who is entitled (and by what legal authority) to make such a decision?” (Attridge 181) anticipates the performative disjunction of the text and the role of law, obliquely insisting on the decentering of the denominators or the faculty of denomination as an erasure of haecceities. Without any definite identifier of law in the parable as well as in the novel, the reader and the legally enmeshed subjects being read are placed within a continuum of rhizomatic proliferation of ‘flat’ ontology in which “individuals are primary, and can send out connections in any direction regardless of hierarchy” (Welchman 265). This limitless and unmotivated rhizomatic proliferation skewers the performative identity of law, of the process of trial and also the subjects who are being tried upon, gradually shedding accepted markers and ontologies in order to embrace a simulated virtuality that justifies these shifting coordinates. Also, to develop in accordance with Deleuze’s third definition of haecceity pointing to the semiotics of events, the uniqueness of law is not captured by a catalogue of laws, rules, regulations and constitutions, but by the fact that it receives a definite status.

An instance in the novel, *The Trial*, when Josef K. meets the painter Titorelli, who is also the court painter, is an expansion of the parable itself when the latter states, in the context of obtaining a complete acquittal:

[The] lowest judges [...] have no authority to pronounce final acquittal; this authority is vested only in the highest court, which is inaccessible to you, to me, and to *everybody*. How things look up there I don't know and, we should add, we don't want to know."

(124)

The layers of *unknowing* that restrict movement of the defendant in the court of law is commonplace in the novel as well as in the allegory if we look at the figure of the doorkeeper in "Before the Law" as comparison to the above encounter. The series of doorkeepers have no acquaintance with the subsequent keeper or even with the authorities who reside in the chambers, therefore placing the title itself in an imbroglio:

There is a singularity about relationship to the law, a law of singularity which must come into contact with the general or universal essence of the law without ever being able to do so [...]. [This] singular text [...] names or relates in its way this conflict between law and singularity, this *paradox* or *enigma* of being-before-the-law; and *ainigma*, in Greek, is often a relation, a story, the obscure words of a fable.

(Derrida 187)

The resolution to this imbroglio of never 'being-before-the-law' in "Before the Law" and of never actualising the trial in *The Trial* is suggested by Derrida at the end of the parable:

The door-keeper realizes the man has reached the end of his life and, to penetrate his imperfect hearing, he roars at him: 'Nobody else could gain

admittance here, this entrance was meant only for you. I shall go now and close it.'

(Kafka, *Trial* 167)

The singular objective of law is in place as a mediator with the defendant but never appears or produces any reasons for its interference until the obliteration of the subject causes this singular performative to be exhausted and be replaced with another univocal, simulated, singular line of flight:

[The] hands of the one gentleman were at K.'s throat while the other drove the knife into his heart and turned it there twice. With his failing sight K. Could still see the gentlemen right in front of his face, cheek pressed against cheek, as they observed the decisive moment. 'Like a dog!' he said. It was as if the shame would outlive him.

(178)

The *monstrosity* of law in the parable, its abject being that both attracts and repels is a rudimentary haecceite, "accidental form," as Deleuze and Guattari determine

An accidental form [...] has a 'latitude' constituted by a certain number of composable individuations. A degree, an intensity, is an individual, a *Haecceity* that enters into composition with other degrees, other intensities, to form another individual.

(Deleuze and Guattari 295)

The being that Josef K. constitutes before his trial, before his obtaining the knowledge of the parable of law, is one that exists in a separate and distinct latitude, and only evolves into the conclusive 'dog' state with the intervention of an allotropic law that itself is fragmented and posits in multiple states of *lawness*. The lines of flight that the reader experiences from the parable is that this legality is not stable and that its logos is deregulated. Ideological, political and other factors may be inducted into the context of contemporaneity, but in the Kafkaesque, burdened by a

Deleuzoguattarian formulation, the law is itself reduced to a terminal velocity whereby it restricts the assemblage of the subject to a 'plane of consistency', where "a body is defined only by a longitude and a latitude" (Deleuze and Guattari 304). Thus, by acting in latitudinal and longitudinal divisions, the legal or the subject's physical body is reduced to a performative. And this performative of the law or of Josef K. in *The Trial*, or even the old man from the country disrupts accepted and polar considerations and enacts another true being of the law itself—an enactment of ambiguity in law: "The moment in which one's staid and usual cultural perceptions fail, when one cannot with surety read the body that one sees, is precisely the moment when one is no longer sure whether the" (Butler xxiv) institution encountered is one that uphold legality or not. "The vacillation between the categories itself constitutes the experience" (ibid) of the institution. The resultant ambiguity is a product of the pretension of reality that we necessarily affect when we encounter the unreal, or the *virtual*, that is, ironically, the real itself: "In such perceptions in which an ostensible reality is coupled with an unreality, we think we know what the reality is, and take the second appearance" of law "to be mere artifice, play, falsehood and illusion" (Butler xxiii). To adapt further from Judith Butler, in the context of the parable "Before the Law," 'what is law?, how it is produced and reproduced?, and what are its possibilities?' are some of the questions that we may distil into this parable as an interrogation of the moral, social and political relations in a modernist framework.

The performative of the legal (id)entity produces the simulacra that, while also defining the assemblages of its adjutant contexts, alienates the subject, the Body without Organs<sup>9</sup>. The assembling *machine* therefore obtains the apparition of abjection. This ambiguous mechanism is the equivalent of a combined concoction of the hideous manipulation of re-production in *Frankenstein* and the societal distortion that one may witness in Aldous Huxley's *Brave New World*, where the spectre of law that visibly haunts K. is simultaneously a product of societal and constitutional



amendment, a human construct or a *monster*, as well as a utopian formulation that has dwindled through ideological corruption. However, despite this *monstrosity* of law that K. witnesses in *The Trial* and the old man witnesses in “Before the Law,” the role of abjection is upon the assemblage, i.e., K., and not upon law. Adjudged from a perspective of Julia Kristeva’s conception of the abject<sup>10</sup>, as that which is “excluded in order to set up the clean and proper boundaries of the body, the subject, the society or nation,” and from which “ambiguity [...] must be excluded or prohibited so that identity can be stabilised” (Oliver 1), it is the roles of the old villager and Josef K. respectively which are abject, and not law. Law, in “Before the law” and *The Trial*, on the contrary, is Kafka’s own version of the Heideggerian *Ereignis*—an original, unique event that is consistently repeated and reiterated. The abjection of the human element, the apparent perpetrators of unspecified crimes, extending further from Kristeva, presents a contrast to the Lacanian ‘object of desire’<sup>11</sup> that would have helped the characters as well as the readers to coordinate their desires, “thus allowing the symbolic order of meaning and intersubjective community to persist” (Kristeva 2). The legal process in both the parable and the allegory attempts to eliminate apparently innocent individuals as an act of self-preservation from the possibility of constitutional transgression that the abjection of the individuals may lead them to, as “abjection preserves what existed in the archaism of pre-objectal relationship, in the immemorial violence with which a body becomes separated from another body to be” (Kristeva 10). Kristeva herself specifies instances from modern literature where we encounter the abject, the archaic before such rudimentary binaries as self/other and subject/object, as she states that in these works “‘subject’ and ‘object’ push each other away, confront each other, collapse, and start again—inseparable, contaminated, condemned, at the boundary of what is assimilable, thinkable: abject. Great modern literature unfolds over that terrain: Dostoevsky, Lautremont, Proust, Artaud, Kafka, Celine” (Kristeva 18).

The allotropic nature of law in both the parable and the allegory is based on a fundamental distinction between its object and its abject being, alienating or appropriating the subjects in various stages depending on their mode of passivity. The emergence of the Kafkaesque conception of law follows from both the actual and the virtual, and to borrow from Colebrook's comparison of the principle of relativity, it is "not located in an observer but considers the relation between time and space as two mapped functions, without a consideration of a point of view for whom this principle would be 'lived'" (Colebrook, "Legal Theory" 14). There are indeed no fixed loci which the subjects can *be* in, or experience, but there are mapped references that convolute the notion of this relativity where the canon of law, the transgression of law and the abjection of law collapse together, and the absence of 'law' is given as a 'literary effect':

Kafka's style of writing does not create an interior psychology that would explain events, nor a realistic milieu that would allow us to locate events within history, nor a mode of dialogue or narration that would enable us to reduce the events of the story to a specific scene or gathering of characters.

(ibid)

But the *objet* that Kafka does achieve in his renunciation of the 'realistic milieu' is his sense of shifting assemblages where the markers and the identifiers do not hold specific or well-defined semiotic affiliations, and where the abject is absolved of criminality and offense, the transgressive becomes normative, and the transmogrification of probabilities and singularities results in a univocal but not unilateral assemblage that we may conclusively determine from the Walter Benjamin's remark that "Kafka's entire work constitutes a code of gestures which surely had no definite symbolic meaning for the author from the outset; rather the author tried to derive such a meaning from the ever-changing contexts and experimental groupings" (Benjamin 122).

<sup>1</sup>Colebrook, *Gilles Deleuze* 137.

<sup>2</sup>Subsequent citations will be from Idris Parry's translation of *The Trial*, 1994.

<sup>3</sup>In the concept of minor literature Deleuze and Guattari connect the political struggles of minorities to the formal experimentations typical of the modernist avant-garde. What makes possible this rapprochement of politics and formal innovation is Deleuze and Guattari's view of language as a mode of action in continuous variation" (Bogue 2010: 170).

<sup>4</sup>"Each of two or more different physical forms in which a particular element exists" (OED).

<sup>5</sup>For Duns Scotus, the "'thisness' . . . of an individual that distinguishes it from any other individual" (Welchman 2005: 265). We shall follow the Deleuzoguattarian concept of haecceities in this paper.

<sup>6</sup>Performativity is "the notion that one's identity is actualised through the accomplishment of certain performances and does not pre-exist these actions" (Murphy 2005: 446).

<sup>7</sup>Used by the author of this paper.

<sup>8</sup>"Jetzt aber nicht." Translation by the author of this paper.

<sup>9</sup>"A phrase taken from Antonin Artaud, the Body without organs (BwO) refers to a substrate that is also identified as the plane of consistency (as a non-formed, non-organised, non-stratified or destratified body or term. . . . The BwO is proposed as a means of escaping what Deleuze and Guattari perceive as the shortcomings of traditional (Freudian, Lacanian) psychoanalysis" (Message 2010: 37).

<sup>10</sup>*Abjet*.

<sup>11</sup>*Objet petit a*.

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