

CHAPTER TWO

DELUSIONS OF AGENCY: KAFKA, IMPRISONMENT, AND MODERN VICTIMHOOD

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*In this chapter, we explore the levels of imprisonment in Franz Kafka's *The Trial*. These levels include legal arrest, social containment and humiliation, and linguistic entrapment. Our chapter then traces the modernist narrative dream-structure of the novel in order to tease out thematic issues of guilt and innocence. The novel presents its drama in clearly defined domains: the bank, the law, the family, and so on. The tragic action and trajectory of the novel offer an analysis of some key features of modern victimhood. In this respect, the novel as a whole analyzes the modern scapegoat, and does so in terms of victimage within institutional and bureaucratic contexts.*

1. Contexts of Imprisonment

Though I think myself right, his mouth may condemn me;
though I count myself innocent, it may declare me a hypocrite.
But am I innocent after all? Not even I know that . . .¹

Everywhere there is organization, everywhere bureaucratization; like the world of feudalism, the modern world is broken up into areas dominated by castles, but not the castles of *les chansons de geste*, but the castles of Kafka.²

In this chapter, we explore how the central character of *The Trial*, Josef K., is claimed, trapped, and finally killed by a system whose nature and ambit he never comes to understand, and whose highest representative, the judge, never appears, and whose ultimate court of appeal, the high court, he cannot access. In keeping with the idioms of much modernist writing, and for reasons linked to the nature of modernity itself, the reader has to work to grasp the rules of the presented world, and indeed to make sense of the charges leveled against Josef K. We are readily tempted to the view that

the decision readers make concerning the protagonist's guilt or innocence says as much about the framework of reading as it does about the text itself. Yet it will be our contention that the novel is far from equivocal in this respect, that it *does* present cues that astute scholarship has only just begun to grasp, and that these cues *do* allow us as readers to see orders of guilt and innocence, and to form judgments on that basis.

In order to launch our inquiry, the next two sections of this chapter are devoted to the modernist contexts that frame the work, and their relationship to the kinds of imprisonment that Josef K. undergoes. In terms of the framing of the work, we know in advance that in his novels and short stories, Kafka frequently plays out some of the signal shocks of modernity by forcing his readers to grasp the world through the constricted, humiliated viewpoints of his protagonists. That is, Kafka's protagonists are often disoriented, mistaken about realities, and uncertain about what even the near-term future holds. The shocks are often physical, as when at the beginning of *Metamorphosis*, Gregor "awoke one morning from troubled dreams" to find himself actually "changed into a monstrous cockroach in his bed," (MM 2006, 1) or again, as when at the beginning of *The Castle*, an official demands a permit from K. after he has been snoozing at the end of a day's travel (C 1997, 3–6). If the protagonists are disoriented, so are we as readers, as we follow the spiral of these figures away from the world they surely thought they knew and understood down into another whose rules they—and we—only dimly understand.

Once we see the kinds of imprisonment that Kafka's protagonist undergoes, we are then in a position to inquire into the way the "trial" itself works, what is at stake, and ultimately to form a new view of guilt and innocence. After all, this is book about the "process" of a trial, and we as readers struggle to find how guilt and innocence might be established or assessed, and whether indeed we should see his as a story with a tragic trajectory, or whether he is perhaps guilty of some charges unknown to us. *The Trial* is fragmentary and morally complex. It is a tale whose dream-logic defies our attempts to make sense of its welter of heterogeneous materials: these include matter-of-fact statements, K.'s internal bewilderment and question-asking, and the text's own pieces of concrete observation. In treating questions of guilt and innocence as we proceed further into our analysis, we find that these issues of judgment operate in conjunction with the layerings of confinement and imprisonment that permeate the work from beginning to end. In this respect, later in this chapter, we draw on important work by René Girard on the nature of scapegoating and of victimage. In Josef K.'s unsuccessful attempts to claim victim status, we find, paradoxically, a situation in which he is actually the victim of a mechanism of scapegoating—just not the one he himself imagines it to be.

2. Modern Subjectivity

Few who read Kafka miss the traumatic dimensions of the text—even if they hold that the protagonists of his stories and novellas are ultimately guilty. Part of the trauma is indeed experienced by generations of readers as, in page after bewildering page, they encounter the frustrations of modern pettiness, of bureaucracy, of narrow-minded cruelty conducted by apparently well-meaning individuals. The shock of self-recognition has, in part, conditioned responses to the work, partially distorting critical scholarship and perspective and yet, in our view, ultimately supplying a guide to what an adequate ethical response to the text might be. In many respects, of course, Kafka was no more than a product of his time and place: an early modernist, writing in the years of a dying empire. The context is essential for it supplies an understanding of two key dimensions of the books—on one hand, the sense of impending gloom and horror, and on the other a peculiar loss of agency and indeed of personhood in the world. Yet being a product of this time and place, as we shall now see, lent his work possibilities that only those who lived then and there seemed able to realize.

Let us begin with the shock of modernity, its pervading oppressiveness, and horror. For many writers of this era, there was a brief hope that a cleansing war would shake off the torpor of late Romantic Europe. For most, though, a wiser sense of portent, danger, and even claustrophobia was uppermost. Nowhere were all these currents more visible than in the dying Austro-Hungarian empire. Even by the time of Kafka's own death at an early age, this massive empire had dissolved into nothingness. "Artists" of all kinds noticed, and their work still lets us *see what they saw*. The Austro-Hungarian world was a multiethnic imperial space, which generated astonishing critique in a starkly modern idiom, as evidenced by the cynically anarchic humor in Italo Svevo's *Confessions of Zeno*, from the Austro-Hungarian port city of Trieste (in present day Italy), and by Robert Musil (from Vienna), as well as Kafka himself from Prague.³

We cannot trace all these links here: Robert Musil's work will serve to illustrate our two principal contentions. First is the shocking onset of modernity itself. Such onset is clearly manifest in the Musil's novels, as in other modernist writers. Musil wrote two major works, *Young Törless* and the *Man Without Qualities*. The first of these two works, written when the empire was still intact, is a horrific tale of induction of a new boy into a military school. The story is as shocking today as it was when it was written. Musil's depiction of brutality in dark private places lends it an intensity, making it even more sinister than Kafka's own works. In one sense, of course, it is a "realistic" story in that we can envisage and

understand it in concrete terms. Yet it is so shocking that we are inclined to allegory; that is, to read the terrible story of the impressionable Törless as having wider import. If it is allegorical, and there are those who see it as prophetic of the undercurrent that led ultimately to Nazism, it is at another level just a book about what happens when boys are confined together in brutal conditions at school—a kind of institutionally situated *Lord of the Flies*. The “modernism” is not so much a formal innovation as it is a point of view, and a destabilization of established mores. The horror of the novel is perhaps the apotheosis of the *Bildungsroman* form it fulfils—except that the development is all in the wrong direction, and the idea that children left to themselves will not necessarily find goodness let alone “grow” through their mistakes.

Where the claustrophobic horror of Musil’s first novel lets us see how the modern world closes in on its protagonists, his mature work interrogates the very idea that *we have agency as individuals at all*. The tone, of course, has changed. In his later magnum opus, *The Man Without Qualities*, the logic of the shift of Musil’s narrative voice is itself terrifying: this novel is at once cool, ironic, and as a rule, even comically detached. This multivolume work—like Kafka’s incomplete at the time of the author’s death—describes the barbarity of civilized life in a way that makes its allegories less traumatic to read than *Young Törless*, and indeed, Kafka’s *The Trial*—but only on condition that we don’t reflect on what they mean as a whole. If, in other words, we can see that the Weberian world of rationality, bureaucracy, and state power produces all these works out of the ruins of the earlier imperial memories of faded Austro-Hungary, and it does so in distinct ways in each case. What gathers them together is the fact that the central characters’ respective agencies are stripped away. Törless is brutalized, to be sure. In the *Man without Qualities*, however, Ulrich is a protagonist whose defining characteristic *is that he has no characteristics*. The word *Eigenschaften* (qualities) also means something akin to “characteristics” or “traits”—and Musil has an unsettling habit of showing how his main characters struggle to claim or retain “personality” of any kind. For Musil, as for Kafka, there is a deep uncertainty as to selfhood, a sense that modern worldview sociologists like Durkheim describe in terms of disorientation, loss of center, loss of certainty.

Perhaps then a further point: in each of these works is a problem of what might best be called *ethical orders*. In *Young Törless*, we as readers identify with the dilemmas faced by the protagonist. He is young; what would—or could—we ourselves do in the same frightening circumstances? We condemn, straightforwardly, the school system that would allow such a situation to develop. In *The Man Without Qualities*, ethics itself is held up for question as high society ladies (Bonadea, Diotima, and her friends) come

to view the spectacle of the trial of Moosbrugger, the murderer-rapist.⁴ Yet we see already in all these works, and indeed of other writers from this region at that time, a common concern with ethics, with falsehood, with a certain inner brutality of the human that contrasts strikingly with the shimmer of civil veneer.

We do not need to look far to see similar patterns in Kafka's works (and indeed the ethical issues are so fraught that we need to treat them later in our chapter). At every turn, the central characters are ineffectual, the theaters in which they seek to perform are the wrong ones, and the things they think they need to do are misguided. In "Metamorphosis," indeed, paralyzed by indecision, Gregor is *himself* physiologically metamorphosed. In the case before us, the *Trial*, Josef K., caught in an impersonal judicial process, loses control over his own life—and is ultimately executed, "like a dog." In *The Castle*, *The Trial*, and *Metamorphosis*, we have only the perspective of the central protagonist, and it is to the issue of perspective and the modernist novel that we now must turn our attentions.

3. Modernism: Narrative and Character

Let us see how modernism manifests itself in terms of perspective in Kafka's work. In the modernist novel, we find a destabilization of narrative perspective, as well as of touchstone characters. As a result, much modern writing, whether programmatically modernist or not, undermines the certitudes of the Romantic first person or third person narrator. Such is also the case in Kafka's writing.

When the novel commences, Josef K. rings the bell for his breakfast and is disoriented by the immediate appearance of a warder in his room. Our point of view is his—even though the novel is in the third person. The narrative situation is strange, to put it mildly. The third person typically distances the reader, leading to the expectation of narrative in the omniscient Romantic or even later modern vein. Yet we come to realize very swiftly that our vision is as blinkered as that of the protagonist, and the "objective" vision we get is just that—the *objects that he sees*. There is much to say about the disjunction between the third person and the restriction of our focalization.⁵ At the opening of Franz Stanzel's *Theory of Narrative*, we are presented with a "typological circle," which compresses an entire theory of narratology into a single diagram.⁶ In his "wheel" of narrative, Stanzel gives examples and situates Kafka's work just across the border from first person narrative, alongside other works like Joyce's *Portrait of the Artist as a Young Man* and Woolf's *Mrs Dalloway*. The perspective is internal, like a Romantic first person novel, but the character is told in the third person. The effect is unsettling, disturbing the workings

of the novel, as we become less and less sure of what we initially took to be certitudes.

In a novel like this one, from the beginning we tend, as readers, to align our viewpoint with the character whose focalization defines the field of what we learn. We experience the world through Josef K.'s experience, and we tend in the first instance to trust his viewpoint. Yet we are constantly reminded that his experience is not ours—he is he, and we are we—and this is a third person narrative, after all. When at the beginning, Josef K. is told all this is happening because it is the law, he (as we might ourselves) says: “I don't know about this law,” to which he is told, “All the worse for you” (T 1953, 13). This passes beyond usual ignorance of the law and its procedures and precedents: Josef K. is not even aware of what it is the law here is accusing him of having done—and neither are we. By the end of the novel, however, we are left unsure as to whether his is the reliable point of view (if only because his struggles are so obviously futile). Kafka's ingenuity has been to slip under the reader's guard, to present his character in a way that makes him seem reliable, only then to undermine it all. In handling the ethical dilemmas the novel presents, we are forced by its author to work our way through the layers of entrapment, so that we can finally get some sense of the very ethical universe itself.

4. Trial and Imprisonment

We have seen that much of the “trial” of modern writing involves disorientation, misplaced or delusional agency, and a sense of entrapment in the very limitation of the narrative point of view. We can, in light of the above, now grasp how the novel has been framed, and in which respects it is indeed, a *trial*. At first, we might think that trial and imprisonment are unrelated. In this respect, however, we need to understand the special nature of imprisonment in Kafka's thought, and how nearly all levels of restraint placed upon him *also* concern the “trial” itself. Josef K., strangely, is neither imprisoned behind bars nor held in chains. This is not to say his imprisonment is not palpable and without effect. Quite the contrary, it *does* have effects, and these work on a number of levels. In brief, his form of “imprisonment” is constituted by (1) an arrest; (2) a series of court demands made upon him; (3) a variety of soft sanctions and social hostility and disapproval; (4) an apparent inability to communicate in the language of his interrogators; (5) the processes of judgement themselves require K. to perform in ways to which he is profoundly unaccustomed—and his own personality in this sense becomes the thing that limits his performance; and (6) his freedom—but not his personal liberty—is restricted. We can now look at each of these in a little more detail.

The first layer of trial and of imprisonment is *physical*. When we consider law and justice, we tend, as readers to think immediately of the physical manifestations of these things. In the *Trial*, indeed, we do see these things. There are police, there are officials of the court, and there is even a police station. Many television shows never get beyond this level of trial and imprisonment. We are informed at the outset of the novel, and at the same time as the protagonist himself is informed, that Josef K. is under arrest. The physical cage of the gaol, however, is hardly central to the story, and as we see later, the courthouse itself is hardly imposing. The entrapment of the protagonist does take place on this level, but Kafka's plot analyzes its workings and legitimacy at every point of the protagonist's decline.

If the level of imprisonment that is physical is one that works by startling him physically—in his bed, and eventually by executing him—the second level concerns the way he is forced to change his behavior in response to *official demands*. These are obscure, but recurrent—and the first of them opens the text itself. It may seem strange to think of demands as being restrictive, yet it only takes a moment's reflection on the nature of bureaucratic work-worlds to see how this might be so. Throughout the novel, we know that K. is monitored, his movements traced and assessed, his case considered.

A third level of imprisonment concerns the way the *society* around him responds to his arrest. He gains no support from those around. He is watched with keen interest, but we have the sense that most are glad that he is the one being taken away, and not them. Social approval and disapproval are powerful forces, and can be even more restrictive—and judgemental—than any court of law.

The fourth level of imprisonment—and of trial—concerns the way language *works*, or rather, *fails to work*. The failure here concerns the failure of communication itself. Witness the opening scene: “Who are you?” asked K., half-raising himself in bed. But the man ignored the question, as though his appearance needed no explanation” (T 1953, 7). The communication fails, and the imprisonment begins. In this exchange, language fails to communicate even the most basic information: What is he on trial for? Who is accusing him? Why? How might he defend himself? To whom should he speak? When, near the end of the terrible ordeal, he is in church, we see that Josef K. cannot even follow the advice offered by a priest. In this sense, we are reminded over and over again of his misunderstandings of the system, of his inability to hear advice, and, in his turn, of his ability even to present his case for trial. We see, at this level, how imprisonment in language, and his very failure to break through these bonds condemns him, and is indeed integral to the trial itself.

The fifth level of imprisonment, and indeed of trial, forces Josef K.—and his reader—to think about “*performance*” in the actual trial itself. Josef K.

is told to be “far more reticent” in his comments (T 1953, 19). In a host of observations through the book, we see Josef K.’s personality being assessed, even as we as readers form our assessments. The assessment is made through a myriad of small events as he misjudges his performances, as he is defiant when he should comply, compliant when he should stand resolute. As we watch with growing dismay, of course, we cannot be sure that we ourselves would perform any better than he does.

The sixth level of imprisonment/trial is the subtlest, and yet most obvious of all. It concerns the *disjunction between freedom and liberty*. Josef K. is led to the station, where he is told that he is under arrest, but this is not quite as he imagines it to be. He is sharply informed that “You have misunderstood me. You are under arrest, certainly, but that need not hinder you from going about your business” (T 1953, 21). This imprisonment is quite different from the usual kind. He is not going to be restricted physically. Yet things from now on are going to be anything but normal. One of the interesting disjunctions in *The Trial* is that K. retains, right until the end, every liberty, but no freedom whatsoever. Indeed, this supplies the basis for one interpretation of the ethical order of the novel. If we take this dimension as the end point of the novel, then we could contend that the “trial/imprisonment” of the protagonist is a case of free will being assessed, of his acute failure to act in a personally principled way, and a condemnation as a result of the fact that he does not exercise his liberty in a way deserving of freedom.

There is, perhaps, a further level of trial and imprisonment. It concerns the very structures of human sociality in the modern world themselves (these are derivative perhaps of the third point above). We flag these in advance, but will handle their detail later. For now, we observe only that it is not necessary for Josef K. to be a morally innocent man to be tried and found innocent of criminality. For this to happen, a social structure that requires scapegoats has to be in place, and in such a context, *any* candidate could be chosen, and *anyone* could be found guilty of just the same kinds of behavior as those exhibited by Josef K.

5. Guilty?

We open the ethical universe of this novel by posing a very simple question: *is Josef K. guilty?* In 1975, the Australian scholar Eric Marson showed just how prismatic the possibilities of interpretation of *The Trial* might be. In a compellingly argued (and strongly text-based) exegesis, he contends that most readers of Kafka’s *Trial*, and indeed his work as a whole, miss this key point: Josef K. is guilty. To the obvious retort that it seems tough to be sentenced to death for a crime that is never made manifest, Marson

contends that this is exactly the logic of Kafka's grim utopian visions, ideas that are even more obvious in his view in the *Penal Colony*.

Let us take the usual departure point of most readers of Kafka's work. One factor that has misled countless English, and it would seem, even German, readers of *The Trial* is, in fact, its widely cited and memorable opening sentence: "Jemand mußte Josef K. verleumdet haben, denn ohne daß er etwas Böses getan hätte, wurde er eines Morgens verhaftet" (T 2008, 3);⁷ [Someone must have been telling lies about Josef K., for without having done anything wrong he was arrested one fine morning (T 1953, 7)]. There are linguistic clues that we shouldn't make any preemptive conclusions about K.'s guilt or innocence. The German formulation "mußte" usually signifies an observation offered by a protagonist, not a narrator—and the subjunctive "hätte" reinforces this. Speirs and Sandberg contend, on the basis of this, that the recognition that Kafka, even in this opening sentence, is speaking from the perspective of K. removes at least one possible misprision: "we are not reading the story of a man who is arrested despite the *fact* that he is innocent, but rather the story of a man who *maintains* that he has been wrongfully arrested."⁸ But as the authors themselves conclude, "this is not the end of the problem, however."

For Marson, it is perfectly obvious that once rereadings of the above kind are conducted, we need to revise our initial impressions of our central character. Marson sees the central problem of culpability of *The Trial* in the repeated demonstrations of Josef K.'s selfishness. At all stages, he contends, the novel shows this, and it is most striking in his utter "self-concern exemplified by Josef K.'s behaviour to his mother," a woman who makes few demands on her son, and even those it seems, he chooses not to fulfil.⁹ For Marson, the courtesy with which Josef K. is treated is not evidence of a wider Arendt-style banality of evil, but rather, of the fact that Josef K. is so myopic that he never takes hold of any of the many opportunities the court presents to him to save himself. These, in Marson's view, and in keeping with the third level of imprisonment we detailed in the preceding section, are directed toward making Josef a better person, a more humble person, and one who is more self-aware.¹⁰

Josef K. is also portrayed as superior and snobbish, faults that are shown in his treatment of subordinates,¹¹ and more important still, in his inability to see that an imposing building (which he expected the court to be) is not the same thing as true justice. Josef K. believes too much in appearances, according to Marson, and as he puts it, gets everything wrong at every turn:

Readers . . . follow and adopt Josef K.'s opinions more or less at face value that the court in the novel is worthless and wrong, not so much because it executes K. but because it is unpretentious and has its existence in the dirty and musty attics of slum dwellings. Now it can be shown easily enough

that K. is a young man very easily impressed by externals, and it can also be shown that most of his opinions of the court are wrong.¹²

For Marson indeed, the misreading is part and parcel of Josef's culpable shallowness, selfishness, and snobbery. He may not deserve to die in this nonfiction world of ours, but he does in the Kafka world of fiction and does so simply because he is not just guilty, but is also utterly recalcitrant.

Marson suggests the court does occasionally make mistakes—and these are shown precisely because it then sets about rectifying them. In this view, the novel appears as an exploration of the modern psyche, which in the person of Josef, Kafka finds wanting. The ruthless pursuit of his criminality—located in his inner being as it were—then appears as a logic, a grim utopia indeed. The fantasy Kafka offers when read this way is one of a certain figuration of Judaeo-Christian judgement, in which the *real and inner guilt* of the person is first revealed and then punished.

Marson's interpretation has advanced the intellectual debate about this novel from the typical initial reader-response that the "figural narrative situation" (as Stanzel terms it) generates. Marson's reasons for going beyond the initial sympathy a reader feels for a character through whom the events are focalized are indeed sound. Yet there is no reason to cease our interpreting once we find a range of reasons for critiquing Josef's behavior. Quite the contrary in fact, given that, as readers, we have an ongoing—and ultimately well founded—intuition that if he is not completely innocent, then his guilt such that it is, is unexceptionable. Once we raise this as a problem, however, an entirely new order of problems presents itself, and these are what we seek to resolve in the remainder of our chapter.

6. Orders of Possible Guilt

If we hold the hypothesis that Josef K. is himself guilty in abeyance for a time, we may raise other possibilities of which there are at least two.

Perhaps, first of all, "the apparatus" is guilty. For all the reasons Marson gives concerning perspective, we as readers do tend to read it this way, and the weight of historical interpretation certainly lies here. If we adopt the view that Josef has—and as readers, we must, at least provisionally—then this reading is a staging post on the way to any other reading. But if this common reading is correct, then it will have to be given an adequate basis, and considerable specification of "the apparatus" will need to be supplied. This basis, we believe, is to be found in another apparent alternative ordering of the ethical world of the novel: the issue of victimhood itself.

Second, perhaps the behaviors of all concerned—including those of Josef K—are what lead to guilt being ascribed (rather than shown). "Guilt"

in this sense would actually be a secondary issue, and *we as readers would not even need to form a judgment*. We could pose this in terms of two related questions: (1) why are we so prone in our reading of this book, *hermeneutically*, to see K. as innocent, or at the very least as a kind of *victim*? And, more basically, (2) what historical conditions and philosophical presuppositions have conspired to make the very question of K.'s guilt or innocence a central interest? In respect of both questions, it is not a matter of setting them aside, for they are indeed essential. Rather it is a matter of *understanding* their import.

In our consideration of how these issues criss-cross one another, we do not need to avoid the dimensions of modernity's emergence in the present century (still less to question whether or not these stories are some sort of outward expressions of Kafka "working through his issues") in order to appreciate the sociohistorical context in which *The Trial* was written. Suffice to say that Kafka wrote into that moment in which Europe was sliding inexorably toward fascism, an historical shift whose consequences for victimhood—and its perception—are hard to overstate.¹³

Keeping all these things in mind, let us deal with each briefly, in order, and see how both of the hypotheses we advance in this section interrelate and might be supported. Our contention is that, despite his vanity and arrogance, Josef K. does indeed present to us as a *victim*, but in a sense that we wish to redefine. That is to say, he is a victim in the strict theoretical sense that he is subject to a victimage mechanism, in Girard's version of that term. "Victims" in this sense are not necessarily *innocent*, but rather, their guilt, if present, is unexceptional. Given that Josef K. is often regarded as "everyman"—or as Camus would have it, "like everybody else"¹⁴—it would hardly serve to demand of him a moral rectitude unknown among other ordinary humans. Not only is he a victim, however, he is—in all the senses we have invoked so far—a *modern victim*.

7. Josef K. and Job

Many commentators writing on Kafka make preliminary observations concerning Kafka's Jewish background. We believe this vein of criticism needs to be taken more seriously, as it supplies good reason to question the prevailing orders of interpretation of the novel (though not, as we shall see, of the sound intuition of the general reader that there is nothing unexceptionable in Josef's guilt compared with our own, as readers).

Let us begin with a letter from Gershom Scholem to Walter Benjamin, written in 1931:

I advise you to begin any inquiry into Kafka with the Book of Job, or at least with a discussion of the possibility of divine judgment, which I regard

as the sole subject of Kafka's production [worthy of] being treated in a work of literature. These, you see, are in my opinion also the vantage points from which one can describe Kafka's linguistic world, which with its affinity to the language of the Last Judgment probably represents the prosaic in its most canonical form.¹⁵

Scholem was neither the first nor the last to situate *The Trial*—or Kafka's work more generally—in the context of a biblical, indeed Jewish, idiom. As early as 1929, Margarete Susman argued that no oeuvre better models Job's wrangling with God better than did Kafka's. Max Brod's biography made similar arguments eight years later—as have Harold Bloom, Martin Buber, Northrop Frye, and George Steiner, among others. But what does the parallel amount to, if it exists at all?¹⁶

In itself, the shift to a study of victimage and Judaism has *not* led critics instantly to rethink the terms of guilt proposed by Marson. Quite the contrary: Stuart Lasine has written a thoughtful series of articles on certain biblical themes in Kafka's work. Lasine affirms that the Book of Job affords a particularly useful hermeneutic frame through which *The Trial* can be examined—indeed that the latter “affirms the same set of moral values [as] Biblical law.”¹⁷ In other words, for Lasine, where Job is ultimately, and rightly, vindicated by God, K.'s grisly end equally reflects divine justice: “K. is held accountable by the court and is punished in much the same way that God tries the guilty in the Hebrew Bible.”¹⁸ Hence, despite its theological mode, Lasine's thesis resembles in interesting ways that of Eric Marson's.

To press his case, Lasine draws on the work of René Girard, whose reading of this book figures Job as a scapegoat of his community. Girard's reading of the Book of Job fits into his broader theory of a “victimage mechanism” as being at the center of conventional culture—and biblical texts as the primary historical force by which this mechanism of culturally unitive acts of collective violence is (and continues to be) demythologized. For Girard, the Book of Job offers a prime example of the way in which certain biblical texts invert the relationship between victims of collective violence and persecuting communities. In this sense, the Book of Job is an immense *psaume* in that it depicts the unrelenting persistence of an accused person justifiably asserting their innocence; Job's “friends” constitute the persecuting community in their insistence that Job's misfortunes reflect his culpability.¹⁹

Girard himself has noted (although he has not himself analyzed) the parallels between the Book of Job and Kafka's narratives, especially with regard to the way in which those accused can become mimetically entangled in the accusations such that they themselves begin to doubt their own innocence.²⁰ Lasine argues that the parallels simply serve to differentiate in

a radical way the moral character of the two protagonists: "At every point Job and K. mark opposite poles of moral behavior and attitude in relation to others. This opposition extends to their status as *scapegoats*. While Job may well be the community's failed scapegoat, as Girard contends, for Lasine, K. merely adopts the pose of victim in order to evade his personal responsibility towards others."²¹ For Lasine, indeed, the conclusion is inescapable: where Job is rightfully vindicated, "Kafka's novel investigates and punishes K. according to the Biblical concept of divine administration of justice."²²

It is as much his evident moral failings as his inability to learn from them that brings K. to his violent end. Even more than this, Lasine sees K. is not only not a scapegoat, but is actually himself part of the mob, displaying the "same tendency to twist the facts to fit his theories that characterizes Job's *friends*, rather than Job himself."²³ Like Marson, Lasine goes to great lengths to catalogue K.'s moral shortcomings: his "motivated ignorance of himself";²⁴ his inability to "abandon the pose of detached spectator"; his unwillingness to examine his past; his attraction to a married woman; his willingness to "raise his hand against poor children"; his rejoicing "at the idea of his enemy's ruin";²⁵ his lack of concern about the sufferings of others, and so on.²⁶ Much of this is hard to counter; moreover, Lasine's already-comprehensive set of shortcomings could be supplemented with many others.

In our view, however, Lasine has missed one of the most essential aspects of scapegoat theory. We can pose this as a question: is it really the case that no questions beyond that concerning K.'s virtue, or lack of it, are sufficient (although perhaps necessary), to determine his status as a scapegoat? This seems to assume that scapegoats can be characterized in terms of a sort of primordial ontological innocence. *Ergo*, given his evident moral weakness, K.'s fate is precipitated by none other than K. himself, and is in perfect accord with conceptions of Biblical justice. Moreover—surprisingly in our view—Lasine takes his analysis a step further, suggesting that K.'s inability "to recognize that what the court does is *a function of K.'s own assumptions and his refusal to be personally accountable for his thoughts and deeds.*"²⁷

Irrespective of whether this is an accurate representation of "biblical justice," scapegoats do not have to be *innocent* to be scapegoats. In our view, a person's status as a scapegoat cannot be determined simply by an examination of his or her moral qualities. In structural terms, a scapegoat is determined by a capacity to unite a community whose polarization around him or her generates, or promises to generate, social unanimity—a person or group whose lynching or banishment functions to generate all communal senses of the *esprit de corps* following acts of collective violence.²⁸ That is to say, the designation of an individual, or a group, as a "scapegoat"

is not primarily *morally*, but *anthropologically* determined.²⁹ In our view, therefore, Josef K.'s primary error does not reside in his inability to be "personally accountable," to exercise some moral agency, but in his evident delusion that he is an *agent at all*.

Indeed, in the light of a truly anthropological theory of scapegoating, we contend that it makes better sense to preserve the shape of Lasine's analysis while flipping the indictment of K. on its head. As a perceptive reader of Girard, Lasine would presumably be sensitive to the fact that the world depicted in the novel offers numerous examples of what Girard would call a "crisis of distinctions" or "sacrificial crisis": of mutable symbols, widespread symmetries of identity, and blurring of cultural distinctions. During his first interrogation by the court, those he thought to be members of the audience, dispersed in the court, each according to their judgment of him, on closer inspection turn out to be colleagues, each with a "stiff and brittle" beard and "little black eyes" (T 1953, 56). K. sees that each wears an identical badge, the same badge as worn by the Magistrate himself (56). It is hard to not characterize this as a depiction of an accusatory community, a sign of—among other things—widespread cultural degeneration. In *The Trial*, the institution ostensibly *most* concerned with justice, the law courts, represent but a veneer of due process, and one that is both thin and brittle, as we see when an orgasmic "shriek" interrupts K.'s testimony and a "little circle" forms around the participants, the gallery spectators "delighted that the seriousness which K. had introduced into the proceedings should be dispelled in this manner" (55).

If this is indeed a court of "divine justice," then one has to ask what kind of deity is involved. Unable to find desired information about the machinations of the court—and based on information provided by the manufacturer—K. seeks out the court painter, Titorelli. This man, a confidant of many of the judges of the court, possessed of "considerable insight" into its workings, is enveloped in a burlesque of urban decay and decrepitude—of shifting shadows, "deafening din," and "sludge oozing about slowly on top of the melting snow" (T 1956, 150–1). K. stood before the painter and before his very eyes, the image of justice being painted transformed, such that it "no longer suggested the goddess of Justice, or even the goddess of Victory, but... a goddess of the Hunt in full cry" (T 1956, 163).³⁰

It is important to call attention to the fact that K. is a socially isolated bachelor who lives in a room in a boarding house. His authority extends only to his underlings and his customers at the bank. In victimary terms, K. presents an ideal admixture of vulnerability and power. After all, a victim needs to be in some radical sense vulnerable: victims are people *without community*—so that their lynching or banishment is not avenged—and powerful enough for the act of victimage to be sufficiently

cathartic. In this context, K. surely doesn't stand a chance against the "goddess of the hunt."

8. Modern Victimhood

According to Martin Parker, *The Trial* is an example of a genre he calls "the organisational gothic," a literary and filmic excursions into the horrors of bureaucratic rationality *in extremis*. We will supplement—and modify somewhat—this reading by contending that *The Trial* offers us a portrait of a peculiarly modern form of victimhood, that occurring within the context of oppressive and amoral forms of bureaucratic rationality. Kafka's work captures in a particularly vivid way the anxieties that the modern citizen feels in the powerful but absurd machinations of bureaucratization: a series of processes whose rationale and procedure are almost as opaque to those who are its functionaries as those being manipulated by it.³¹ Suffused with a stark but sometimes comic pessimism, Kafka's work offers a cultural critique analogous to Max Weber's image of the "iron cage" of bureaucracy.³²

Weber realized that the expansion of bureaucracy involves the danger of an inflexible, technically ordered, and dehumanized social order.³³ For Weber, bureaucratization represents one face of modern "rationalisation," of the widespread application of "rational calculation" to social institutions and processes.³⁴ But we should understand what this *means*. Malcolm Warner has argued that "in Kafka's work, the workings of bureaucracy are . . . far from 'rational'."³⁵ But this is not what "rational" means for Weber; "rationalization" isn't a synonym of "reasonable-ization," but names the way in which social institutions become increasingly constituted by rigid regimes of rules that prescribe the way particular practical or pragmatic ends are to be achieved. As an example of modern automation, these procedures operate largely independently of any exercise of judgement.³⁶ In the modern world at least, it is not always easy to distinguish the so-called rational or logical from the absurd. Camus argues that *The Trial* is indeed predicated on a certain "excess of logic."³⁷ Likewise, Kafka saw bureaucracy as somehow "springing straight out of the origins of human nature."³⁸ There are few institutions more bureaucratic than banks.

It is not the bank, however, that is the main source of K.'s troubles, but the law. Why might this be? We could survey some possibilities. Perhaps the law, according to the genre demands of the "organisational gothic," serves as a site of focus because modern bureaucracies are ultimately underwritten and structured by the diverse applications of legal rationality. For Weber, modern forms of social power are exercised through impersonal processes, and their legitimacy specified in terms of *legality*.³⁹ Perhaps

there are other reasons why the law is the privileged site of oppression in much of Kafka's work. Milan Kundera writes of the characteristic form of victimage in the twentieth century under the sign of "the tribunal," a term he borrows from *The Trial*:

Tribunal: this does not signify the juridical institution for punishing people who have violated the laws of the state; the tribunal (or court) in Kafka's sense is a power that judges, that judges because it is a power; its power and nothing but its power is what confers legitimacy on the tribunal. . . . The trial brought by the tribunal is always *absolute*; meaning that it does not concern an isolated act, a specific crime (theft, fraud, rape), but rather concerns the character of the accused in its entirety.⁴⁰

Kundera's assertion that "the tribunal" does not denote "the juridical institution" is perhaps overly restrictive; it may be truer to say that it need not necessarily denote the juridical institution. Anthropologically speaking, we could argue that modern courts represent an advance over pre-modern and tribal forms of "justice" because they are structured by the presence of a "transcendent," neutral judiciary; this insertion of a "disinterested" third party breaks the symmetry of oppositions and so lessens the risk that the retributive act will become endlessly reciprocated—in other words, a blood feud.

To be sure, like all forms of social transcendence, the authority underwriting a legal trial is not forever. And in certain political formations, as well as during episodes of cultural disintegration or "sacrificial crises," the judiciary risks simply becoming another player in a scene of ongoing, contagious violence. The image of society that Kafka gives in *The Trial* is one of overriding social decay, where officials seem to possess only nominal authority and superiors never appear, where distinctions between social actors, even in the courts become effaced. In these kinds of situations and their political correlates, legal machinery becomes simply a locus of absolute power, its legitimacy residing in power alone.

We can now put the two layers of interpretation together: this is a novel that simultaneously condemns the Weberian structures of legal and other apparatuses in our society and also does so in terms of victimage mechanisms. Ours is a double claim: *The Trial* represents a portrait of modern victimhood, with the adjective carrying the same weight as the noun. It is *modern* insofar as the judiciary, or the particular form of it represented in the novel, is a distinctly modern institution;⁴¹ it is a portrayal of victimhood insofar that it depicts a process of collective or unanimous victimage. Let us be clear. In *The Trial*, we witness the travails of a man who is arrested and charged with an offence that he cannot be informed about—a man who can find no advocates to act on his behalf—and subject to a system

whose impersonality and opacity cannot be overcome, whose relentless operation results in him being taken to a quarry by two men and killed “like a dog” (T 1956, 251).

9. Conclusion

With the closing of the novel, we arrive at the closing of our argument. In discovering the victimary structure of the book, in finding indeed that Kafka is actually analyzing this structure, we are returned to the possibility that the first reading of the novel offers—the deep intuition that the system itself is deeply and ineliminably guilty. For all the harsh humor of this text at its unfortunate protagonist’s expense (and Marson and Lasine, surely, have correctly divined this dimension of the work), the abiding humanity of the work and the wellspring of its perennial appeal lies in the fact that we can all of us relate personally to the struggles of this mean-spirited, but ever-so-modern, man. If he stands condemned, surely so do we all—and by the very processes of victimage that we ourselves participate in on a daily basis.

Shortly before the knife plunges “deep into his heart,” K. glances up to see a “flicker of light” on the top story of a house adjoining the quarry; a window flings open, and “a human figure, faint and insubstantial at that distance and that height, leaned abruptly far forward and stretched both arms still farther. Who was it? A friend? A good man? Someone who sympathized? Someone who wanted to help?” (T 1956, 250). There is left open, once again, the possibility—or perhaps, more accurately, an insinuation—of help, but this help, we now realize, will come too late. The agonizing last scene underlines the extent to which K. is without an advocate; at the mercy of a system whose rules he always only comes to know after the fact—if at all—we readers come to finally understand, even if K. himself never does, that his agency in this sorry affair has been delusional.

Unlike victimage in the sense that Girard has analyzed it, the sacrificial violence depicted in *The Trial* operates through an intricate series of displacements determined by modern “rationalisation”; instead of an angry mob, we have a bureaucratically dispersed series of actors, each “doing their duty.” Opposition to K. is both unanimous and evenly distributed through a network of seemingly arbitrary series of actors, processes, and demands. This is to say that in *The Trial*, bureaucracy functions like a mob in that no one person can be singled out as responsible for K.’s death. Yet, as with the other writers of this disturbing era, we cannot ourselves avoid a certain sense of responsibility. If K. is indeed pursued by “the god of the hunt in full cry,” it is worth reminding ourselves that such a “God” (or devil) may escape our attention because it seems to be characterized more

by inanity than insanity (T 1953, 163). As a narrative depicting profane violence struggling to sacralize itself through institutional “due process,” Kafka presents us with what might be called, to mangle Hannah Arendt, the banality of divinity.

Notes

1. The Book of Job 9: 20–2.
2. Sheldon S. Wolin, *Politics and Vision* (London: Allen and Unwin, 1961), 354.
3. This was a world with a felt sense of decline, witnessed in the extraordinary flowering of the small group of Secessionist painters (Klimt, Schiele) whose ornamental sense was accompanied by a more or less strong sense of inner decay (Klimt’s elaborate tableaux may have been beautiful, but some, such as his Judith painting, had ghoulish dimensions; Schiele’s images are confronting, even today). Vienna was also home to psychoanalysis, in the work of Sigmund Freud, whose pages drip not just with a negative view of human motivations, but also, with images of cities from past times (his lines on archaeology are particularly striking in this respect, as are his accounts of the buried city of Rome). These images are not presented for their own sake, but rather to show how civilization is itself a veneer, how histories lie buried literally beneath our feet—and also, within our psyches—see Sigmund Freud, “Civilisation and its Discontents,” *The Standard Edition of the Complete Psychological Works of Sigmund Freud*, Vol. 23. (London: Hogart, 1964), 69.
4. See for instance, Robert Musil, *The Man Without Qualities*, trans. E. Wilkins and E. Kaiser (London: Picador, 1979), 306–16.
5. In *Narrative Fiction: Contemporary Poetics* it is put thus: “In so-called “third person centre of consciousness” (James’ *the Ambassadors*, Joyce’s *Portrait*), the centre of consciousness (or “reflector”) is the focalizer, while the use of the third person is the narrator.” (Shlmoth Rimon-Kenan, *Narrative Fiction: Contemporary Poetics* [London: Methuen, 1983], 73.) In Kafka’s case, even this seems a bit inadequate, as we feel the narrator-role itself is contaminated by the constriction of vision.
6. Franz Stanzel, *A Theory of Narrative*, trans C. Gödsche (Cambridge: Cambridge University Press, 1984).
7. We thank Dimitris Vardoulakis for his observations on this sentence.
8. Ronald Speirs and Beatrice Sandberg, *Franz Kafka* (London: Macmillan, 1997), 68.
9. Eric Marson, *Kafka’s Trial: the Case Against Josef K.* (St Lucia: University of Queensland, 1975), 45–46.
10. *Ibid.*, 50 and 71.
11. *Ibid.*, 53 and 56.
12. *Ibid.*, 10–11.
13. J.P. Stern has compared the court in *The Trial* with those in the Third Reich. (J.P. Stern, “The Law of *The Trial*,” in *On Kafka: Semi-Centenary Perspectives*, ed. Franz Kuna [London: Elek Books, 1976], 29–35.)
14. Albert Camus, *The Myth of Sisyphus*, trans. Justin O’Brien (London: Penguin, 1955), 116.

15. Gershom Scholem, *Walter Benjamin: The Story of a Friendship*, trans. Harry Zohn (New York: New York Review of Books, 2001), 216.
16. If it were simply a matter of formal stylistic or syntactic homologies it would at least get us beyond the often facile psychoanalytic adumbrations of Kafka's work—of tying the often repeated motifs of his novels and short stories to his family drama, particularly his fraught relationship with his father (for instance, Derek Jones and Graham Handley *The Modern World: Ten Great Writers* [London: Channel Four Publications, 1988], 22; also see Anthony Storr *Dynamics of Creation* [London: Penguin, 1972], 76–80.) For different reasons, Dostoevsky has been subject to the same kind of hermeneutic taming—by making either the characters or the author himself some kind of paradigmatic case study of psychopathology. Although offering putative “explanations” of the literary object, such theoretical ruses act only to distance this work, and perhaps our implication in it. It might be worth considering what René Girard has said—that Dostoevsky might provide a more adequate account of so-called psychoanalytic phenomena than Freud can offer with regard to Dostoevsky's novels. (Girard, 36–60; Cf. Christopher Fleming, *René Girard: Violence and Mimesis* [Cambridge: Polity, 2004], 12–16 and 32–40.) As suggestive as Scholem's comments are, he develops them no further—and despite Benjamin's positive reaction to Scholem's letter, his own development of the religious themes in Kafka's work owe more to the Kabbalah and the concepts (and literature) of “Aggadah” and “Halakhah”—of Talmudic, Midrash, and legal sources respectively—than straightforwardly biblical ones. (Cf. Scholem, *Walter Benjamin: The Story of a Friendship*, 221.) Even Camus talks of Kafka's novels as “a theology in action.” (Camus, *The Myth of Sisyphus*, 114.)
17. Stuart Lasine, “The Trials of Job and Kafka's Josef K.,” *The German Quarterly* 63.2 (1990): 187.
18. *Ibid.*
19. For a summation of Girard's reading of the Book of Job, see Fleming *René Girard: Violence and Mimesis*, 121–3.
20. René Girard, *Job: The Victim of His People*, trans. Yvonne Freccero (Stanford, CA: Stanford University Press, 1987), 127.
21. Stuart Lasine, “The Trials of Job and Kafka's Josef K.,” 187 (our emphasis).
22. *Ibid.*, 191. In another essay, Lasine compares K. with Balaam, the “wicked” prophet from the Book of Numbers who “chooses to go down the wrong path for the wrong reasons, and is therefore rightfully led to punishment and death.” (Stuart Lasine, Kafka's *The Trial*.” *The Explicator* 43 [1985]: 22–23.)
23. Stuart Lasine, “The Trials of Job and Kafka's Josef K.,” 187.
24. *Ibid.*, 188.
25. *Ibid.*, 189.
26. *Ibid.*, 190.
27. *Ibid.*, 187 (our emphasis).
28. Indeed, the persecution of certain criminals—or criminal classes—involves both legal culpability and scapegoating. In debates about punishment, advocates of “restorative justice” have criticized retributivists not for advocating the punishment of innocent people, but for the way in which retributivism involves the scapegoating of the (legally) guilty.

29. We are not suggesting that there is not an “ethics” to anthropological inquiry. See Fleming and O’Carroll (2003, 2005).
30. Note also that in *The Illiad*, Artemis—the goddess of the hunt—wreaked revenge on Oeneus who did not sacrifice to her by sending the Calydonian Boar.
31. Walter Benjamin, “Letter to G. Scholem, 1938,” in *Correspondence*, Vol II (Paris: Aubier, 1980), 248. Weber often uses the image of bureaucracy as a kind of “machine.” (Max Weber, *Protestant Ethic*, 121; *Economy and Society* lix.) Camus argues that many of Kafka’s characters are “inspired automata.” (Camus, 118.)
32. Martin Parker, “Organisational Gothic,” *Culture and Organization*, 11.1 (2005): 159–60.
33. Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, ed. Peter Baehr, trans. Gordon C. Wells (London: Penguin, 2002), 121; and *Economy and Society: An Outline of Interpretive Sociology* (Berkeley: University of California Press, 1978), 289.
34. *Ibid.*, lix.
35. Malcolm Warner, “Kafka, Weber and Organization Theory,” *Human Relations* 60.7 (2007): 1025.
36. Max Weber, *The Theory of Social and Economic Organization*, trans. A. M. Henderson and Talcott Parsons (New York: Oxford University Press, 1947), 115; *From Max Weber*, ed. and trans. H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1974), 293–94.
37. Camus, *The Myth of Sisyphus*, 116.
38. Richard Heinemann, “Kafka’s Oath of Service: ‘Der Bau’ and the Dialectic of Bureaucratic Mind,” *PMLA* 111.2 (1996): 256.
39. Max Weber, *From Max Weber*, ed. and trans. H.H. Gerth and C. Wright Mills (New York: Oxford University Press, 1974), 299; cf. P. Lassman, “The Rule of Men Over Men: Politics, Power and Legitimation,” ed. S. Turner, in *The Cambridge Companion to Weber* (Cambridge: Cambridge University Press, 2000), 91.
40. Milan Kundera, *Testaments Betrayed: An Essay in Nine Parts* (New York: Harper Collins, 1995), 227.
41. Even so, we do not go as far as Ronald Gray does in asserting that *The Trial* particularly concerns the Austrian legal system of the early twentieth century.