

The Kafka's Rights

A Dialogue with Judith Butler*

It is well known that after Kafka's death his friend Max Brod collected and secured his manuscripts, before he escaped to Israel to avoid the Nazi extermination (he died in Tel Aviv in 1968). Afterwards, the manuscripts were delivered to Brod's secretary, Esther Hoffe; Hoffe had indeed been asked by Brod to donate Kafka's works to a public archive. A part of these ended up in the German Literature Archive of Marbach. Later on, the Archive tried to buy from Esther Hoffe's daughters the rest of the manuscripts that Max Brod had left to their mother. Starting from 2007, this request started a series of legal actions involving the German Literature Archive, the National Library of Israel and Hoffe's daughters, all of them contending for Kafka's heritage. Indeed a peculiar and aporetic heritage, one that was made impossible by Kafka himself, since he had entrusted Brod with his own manuscripts with a mandate to destroy them.

In June 2015, after over ninety years of vicissitudes, relocations and sales, three judges from Tel Aviv District Court decided that Kafka's manuscripts are the property of the National Library of Israel.

The judges wrote in the verdict: "As far as Kafka is concerned, is the placing of his personal writings – which he ordered to be destroyed – for public sale to the highest bidder by the secretary of his friend and by her daughters in keeping with justice? It appears that the answer to this is clear". In the context of a controversial between private actors and a German cultural institution, the Israeli judges finally transformed the Hoffes' "mismanagement" and enrichment into a justification for Kafka's nationalisation.

However, who owns Kafka? Who does he belong to? What does it mean to transform into Israeli national heritage the writings of an author who seems to have constantly tried to produce a diasporic poetics, connotated by non-belongingness and absence of roots? How can the nationalisation of Kafka's works by Israel coexist with the same writer's ambivalence towards the Zionist political project? Which are the purposes and the political aftermaths of the transformation of his writings into state property?

In 2011, Judith Butler tried to answer to these extremely topical issues – while the trial was still underway and its outcome was yet to be seen – through the essay *Who owns Kafka?*, published in the «London Review of Books» (it was translated in Italian and published in «il lavoro culturale» in 2016). In this essay,

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by combining historical reconstruction, philosophy, political theory and literary criticism, Judith Butler seizes the opportunity to develop again some of her most cherished themes: the relationship between language and subjectivation; the establishing of political subjectivities by means of the undoing of identity-related tenets and goals; the tension between diasporic condition, messianism and nation-state; the thorny situation involving Judaism, Zionism and dispossession of the Palestinian people. As Judith Butler demonstrates, these are not only Kafkaian themes, but also potentially paradigmatic elements for a destituent consideration of Kafka and his heritage.

1) On several occasions you have remarked/observed how every form of social belonging becomes problematic in and for Kafka. This attitude is clear both in the skepticism expressed for belonging to the Jewish world (it is worth remembering Kafka's joke, made famous by Arendt, about the Jewish people: "My people, provided that I have got one"), and in the most pressing themes of his writing – such as the persistence of destinations which are irreparably unknown or what you call the "poetics of non-arrival" – used as a narrative expedient given to the characters in order to definitively dodge any sort of family bond and community, any sort of suffocating territorialization; so much so that even their relationship with housing seems to be affected by similar attempts of subtraction (the renouncement to shut themselves up in "one's own flat" that you quote in *Who Owns Kafka?*). If Kafka seems to be fascinated by the *galut* mythology, his characters, as well as the writer himself, seem to be radically immune to any operation of redemption or release. Indeed, in the world they inhabit there is neither a possible redemption nor a habitable inscription, as if the exile were constitutive and belonging were singularly placed between the mirage and the goal. This is probably why in Kafka such belonging does not reveal itself as an imposition or a destiny, but rather with the seductive patina of the promise or of the opportunity (that "opportunity to start from one point, like all the others, to trace the radius of a circle, then, like all the others, to describe my perfect circle around this point" and stay there appropriately). Every community, every castle, every America or Palestine seems to be just as many allegories of that nest that the main character of *Der Bau* builds with zeal but only to be better locked up. How can we escape from the seduction that the opportunity and the promise of belonging keeps on flashing before our eyes? And again: how is it possible/can we think about a belonging that is not an appropriation and a capture?

JB: It seems true that Kafka understood the perils of belonging, but he also understood something of the unchosen character of kinship and community. As much as we may want to derive something like a Kafkaian theory of belonging, that cannot quite work. His figures seek to leave, to escape captivity, but

like Odradek, they keep rolling down those same stairs. What is perhaps less often remarked upon is the subterfuge ways that infinity enters into these figures, suggesting a deformation and continuation of some notion of the divine. Much depends on how we imagine redemption. It will not come from a single man, symbolizing a grand synthesis or bringing a message from God. In some ways, Kafka's work releases us from that expectation. Similarly, the animal figures who assume human longings take apart the human form, giving it both creaturely and objectal forms. How, for instance, would we read "Red Peter" from the Report to the Academy in relation to Odradek? These figures are peripheral to the human, but they disclose its implication in the very kinds of beings from which it has been traditionally distinguished. It would not be enough to say that poor Odradek should not be objectified. Odradek is on the far side of the process of objectification, and yet there is that laughter that rustles like leaves. And there is that infinite tumble down the stairs, even a kind of imagined eternity that will outlive the father figure and the lines of kinship. These are, drawing from Adorno, the small rays of hope that are generated from figures of damaged life. But they are not hope for redemption.

2) In your text on Kafka, you mentioned that "weird form of hope that can emerge from an interrupted sociality". This occasion is often provoked by an impasse in the communicating ability of language, by an arrest of the linguistic dispositive that works producing misunderstanding and misinterpretation. Examples are the occasions of destitution of commands and orders, their not being recognized as orders and commands. It is as if the interrupted sociality of which you talk about was, first of all, the interruption of a sociality based on hierarchy and command, and therefore on the performative value of language. The communicative experience of Kafka's main characters becomes purely intensive, deprived of a symbolic or significant use so as to put itself at the limit of the pure affirmation. Does this weird form of hope maybe allude to a form of de-territorialization towards the symbolic space in which the subject has already been captured? A liberation from the "space-time conditions of the here" as an opening towards "an unspeakable beyond"?

JB: Perhaps, but that seems more close to Deleuze's understanding of Kafka's writing as undertaking a deterritorialization. I understand him as contesting the very basic terms of chronology and sequence, especially in his scattered parabolic statements on the messianic. And sort parables like *The Bucket Rider* presume that human figures can traverse great distances with curious vehicles. In *Conversation with a*

Suppliant we can see how the gravity of bodies does not quite work, and how even the separate parts of a body are not always coordinated in a kinetic way. So yes, the basic presuppositions about bodies having integrity, bound by gravity, conditions of mobility, are all called into question. For me, one of the larger questions is why the body tends to fall into pieces when there is no adequate language. This leads to the broader question, what is the relation between the body and language in Kafka's writing? The Tower of Babel and the Great Wall of China are both structures that cannot hold. Their foundations are not foundations, and their ability to stand is tenuous – fatally so. But when the very conditions of communicating or building a common understanding are undermined, then an architecture fails. The architecture is what might shelter a body or secure its passage, but no such linguistic architecture is in place. Even the directions that might help the explorer understand how to operate the terrible machine in *The Penal Colony* is not readable. All this relates to the epistolary discussion between Scholem and Benjamin about how best to read Kafka, whether he believes in law, whether there is a key that can decipher the relation between studying the law and living one's life. Scholem understands the absence of God to provide that key, but Benjamin insists that the key was always lost, and that law has now to be understood as story. Our post-theological job, then, is to read fiction, since there the specific arrangement of the loss of eschatological temporality assumes a specific form. Fictions constellate for us the wretched condition of a law that we can no longer follow because it does not communicate to us.

3) Kafka's writing seems to be populated by figures who tend to retreat themselves against an uninhabitable reality, by figures pushed by the urgency of escaping from the world as it is. To this extent, the parable performed in *The Departure* is masterful, when the first-person narrator confesses that he wants to go "only away-from-here", "always away-from-here". And yet, such a need for evasion seems to preserve a purely individual figure, a non-communicable and non-sharable one, just like an escape line that must be pursued in solitary. The intimacies in Kafka are always resolved in punctual intensities, while the covenants always proceed on the side of power (the executioners of the *Trial*, the crowd judging in the tale *The Blow on the Door*, etc.). We wonder if Kafka's retreat from power relations can open up towards common and convivial gestures capable of dodging capture devices, or if it seems destined to be resolved into an imperceptible becoming - both to itself and to others.

JB: I understand the "away-from-here" in the parable called *Das Ziel* to name a desire to be away from every possible "here", even to find a way to "go over" – as mentioned in *The Parable on Parables* or

Gleichnisse. Those moments raise the expectation of leaving an earthly place for a heavenly beyond, but that never takes place. In its place, we are left with “deictic” language: the here and the beyond. The parable itself contains the devastated expectation, but is also a new form that is born of that sequence. We are conscripted, as it were, into the desire for the beyond, the emancipation from the here and the now, only to have that expectation defeated not through any sequence, but in its absence. Nothing happens; no one goes; but the gestures are constellated in a still form that raises, laments, and negates the possibility of a liberatory sequence. We are asked to think outside the terms of progress, to be sure, and redemption, but the parable contains both the expectation and its disappointment in a form that is economical and clear. The form emerges from that dashed expectation, but it also reanimates and dashes again, not to leave us in the ditch, but to produce a form that carries and crystallizes the history of that longing and its disappointment. The fact that we feel both means that we have not moved beyond the promise or its break; they become the scene of the present, and give new literary forms that arrest and thematize expectant sequence.

4) Kafka’s narration is populated by a multitude of inept and inadequate subjectivities, radically incapable of coinciding with any place offered to them. We recall the praise of *Odradeck* made by Adorno, where the philosopher highlights its “total uselessness in a world dominated by capitalism that tries to exploit every object for its own purposes”. Here Adorno seems to fall, however, in the same mistake already warned by Bataille, which suggested to identify, next to the restricted economy of profit, an enlarged economy able to recover and exploit every material, every fault of the existing. In the dominion of capital, not even Odradeck, closed in his autistic and perpetual motion, seems immune to the fatality of capture. In this sense, it seems very appropriate his proposal to recognize in this creature - if such a statute can in spite of everything be recognized - an allegory of Kafka’s own writing, for which “it almost causes distress to me to think that it can survive me”. A writing that is far from being useless or unusable, if it has ended up unexpectedly feeding the phantoms of nationalism and identity. As you have clearly showed in your text, the relation of Kafka with the precipitate of his writing is, to say the least, ambiguous: if, on the one hand, the pain for its possible survival is at the base of the intentions of burning all traces, on the other the gesture of destruction is interrupted and deferred, leaving others the responsibility to take charge of it. Even if Kafka was aware that the survival of his writing would nourish the always approachable figure of a mythological “Author”, he did not stop writing, that is, he did not stop making a risky gesture “that leads to another world”. It is as if this gesture is not resolved in the simple – and yet necessary – resistance

to the un-liveable figure of this world, but reaches out to an unimaginable elsewhere, to a usability yet to be invented, towards future readers that do not cease to miss it. The radical distrust of this world and the strange form of hope that has already been discussed: wherever the writing intends to go, it will not be anywhere as we know it ...

JB: that is perhaps so. We will not find figures who secure their liberation in his work, and we will not find ourselves suddenly transported into new landscapes that relieve us of the burdens imposed by prior places. You can say that he did not stop writing. That is true. But he wanted his work destroyed, and the writing he did undertake was only partially in the forms of stories and novels. Even the parables are extracts from a set of diaries. And his letters are perhaps more substantial than any of his novels. When he started to form Hebrew letters in his final years, I am not sure whether he was seeking to write something, or whether he was dealing with the graphic form of the letters, both drawing and writing. My sense is that he gives us a way to think about law under conditions in which legal realities are becoming normalized nightmares throughout the globe. Millions waiting for refuge, for papers, very often not understanding the language or the map. Detention in which no one is charged with any crime, and no timeframe exists for anything remotely resembling a trial. Kafka's own descriptions of these states are often dry, but that does not mean there is no moral outrage. It is not directly expressed precisely because he is communicating that "this is now the accepted way of things". The power of his description is to be found partially in his tone, the mimicry of neutrality and dispassion, not only the animals who speak.

5) Several times the writing of your works has proved to be an opportunity for comparison with writing and with Kafkaesque figures, so much so that some texts seem to assign to the Prague writer a privileged place within contemporary political thought. On the other hand, his name does not occur only in texts explicitly related to Jewish culture, as is the case with *Parting Ways*, but it appears on all occasions, namely when it is necessary to deal with the eminent cruxes of contemporary politics. As an example, in *Gender Troubles*, the tale *In the penal Colony* is recalled in order to outline the paradigm itself of the field of masculine power, as well as to indicate the ritualistic ways by means of which the cultural apparatus set up the inscription of the bodies. In *Giving an Account on Oneself* there are numerous Kafkian references that permit to articulate the relationship between recognition, judgment and ethical violence. Also in the most recent *Notes Toward to the Performative Theory of Assembly*, Kafka is brought into the play in order to show the specific task of the prison institution, whose operational regime shows the need for a reproduction of

the prisoners' body and, at the same time, its limitation and mortification. Beyond these insistent though fragmentary references, one may well wonder if you have ever had an interest in rethinking the figure of Kafka, even in the awareness of the difficulty – or the danger – concealed in returning such a figure to the role or myth of the author.

JB: I am always reading his biographies and his letters along with his literary works, and I do not understand this as relating the life of the man to his work. The notes he left, the letters he wrote, the notebooks – these are all his writing. And those who reconstruct his life depend often on these written traces of the life to reconstruct his formation. I am especially interested in the years in which he was attending Yiddish theatre, but also sometimes showing up at a Zionist Congress, relaying the multi-lingual conflicts with great dispassion and humor. His failed efforts to become political are, in my view, quite laudable. At one point at a World Zionist Congress, he apparently sketched the hats of all the interlocutors while they were debating the political future. He was drawing and writing his world, but also given over to the theatrical gestures that carried whatever traces of Yiddishkeit were important to him.

His letters relay a condition of bodily anxiety, of course, and yet more harrowing scenes of bodily subjection pervade the writing. Gregor turns into an insect and loses his capacity to use language. It is unclear whether Josephine the Singer ever sings or even talks. The animal figures who do not speak might be understood as bestialized humans. But that may be too quick. As animals, they have a distance from the human form, even a relation to a temporality that has little to do with finitude or redemption. When they do speak, when Red Peter mimes human speech, he brings out its gestural dimension in a way that mirrors Kafka's description of gestures in the Yiddish Theatre. There is an exhilarating mimesis or citationality that accompanies this protracted debasement, or emerges precisely from that condition. The language of law, and the language of conversation, breaks up into parts that recall and foreclose communications that would guarantee an outcome. The body starts its walk, only suddenly to be gliding or to find that there is no way to coordinate its limbs. Those very conditions constitute the release from space and time. They are what is left of political redemption, as it were, that depend on full communication or historical resolutions of a final sort. The distance from the world follows from a painful immersion, one whose unbearability necessitates breaking up or even vacating the human form, and yet the absence of an escatological or teleological redemption, the loss of expectant sequence, shakes the coordinates of the world and re-constellates space and time.

After the completion of my manuscript on *Violence, Non-Violence*, I hope to turn to Kafka to write another book, a book that I imagine to be my last book. The book will consider the problems of law and justice

in relation to Kafka's literary forms. I plan to start with the parables and the diary entries, the smallest textual contributions he left, in order to understand both the relation between the desire for justice and the impasses of law, even in the injustices of law. My sense is that, through literary form, Kafka gives us an understanding of legal violence that is distinct from Benjamin's although, as we know, Benjamin derived much from Kafka. Indeed, I hope to include in this study a close reading of Benjamin's letters with Scholem where they explicitly clash about the question of what it means to live in the law, or according to law. Benjamin suggests there that story and fable emerge precisely on the condition that there is no way to know whether one can follow the law, or even read the law. Derrida's own writing on law and justice will be important to this project, but I will stay closer to Kafka's own texts, focusing not only on the parables, but the stories, and *The Trial*. I have also written a short piece that discusses the contemporary problem of detention camps in relations to Kafka's stories (*Infinite Detention*, MLA, January 2018). So perhaps you would like to consider this as well.

As you will see, the breakdown of due process, which requires that evidence be shown and openly examined, of the right to know the crime of which one is charged, and the temporality of detention all come into play. I believe that Kafka gives us both a structural and phenomenological understanding of a form of waiting, which is a permutation of living on, that takes place in relation to a cruel and impassable law. There is as well a messianic understanding of the end of law, the dissolution of law, that allowed Benjamin to link Kafka to anarchism, although that would have never been Kafka's choice. Kafka's give us another understanding of the theological-political than the one currently articulated in the shadow of Schmitt.