

Treatment of Law in Franz Kafka's 'The Trial'

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I. Introduction

The correlation of literature and law has been visualized down the ages from the period of ancient Greek tragedy to the modern age. There are ample evidences that clearly provide the proof of the vast impact of many literary works done in the field of law. Shakespeare, Charles Dickens, Franz Kafka, Garcia Marques, Dostoevsky and many other well-known authors have left their signature marks by framing literary works utilizing law as the foundational pillar of their creative writings. Their works often highlight the ongoing socio-political systems of the contemporary age as well as the judicial systems of their times. Their ardent insight and critical analytical power help them to discover loopholes and narrowness of the judicial system, inadequacy of the proper right to self-defence, lack of proper knowledge of the common people regarding the legal procedure, injustice done by lawyers and other foibles and follies of the legal system. The trial is about the complicating legal system, its flaws, concept of justice, role of lawyers – in short, it is about law itself. Kafka referred to “the narrow keyhole of one’s own personal experience”² while providing the image at the supreme omnipotence of law in the society.

Down the ages the prime attempt of various literary authors behind comingling literature and law has been to demonstrate the need of becoming more sensible, to locate the deficiencies in the legal system, to teach the lawyers proper need of reanalyzing various theories regarding punishment and to become aware of the demands of some circumstances to put themselves in the shoes of the client or the opponent. Literature can give the proper lesson to become more humble and to judge a situation with profound objectivity. In Gulliver’s Travels, written by Jonathan Swift, law is attacked satirically. Charles Dickens has also offered a direct critique of the legal system in his famous work Bleak House. How an innocent individual who is imprisoned and finally sentenced to death is elaborately explained in Albert Camus’s stranger. Likewise Franz Kafka in the Trial has tried to highlight the ambivalence prevailing in the legal procedure. This paper will show how the complex and ambivalent nature of the legal system very often try to victimize the fate of an innocent individual who even falls prey to the danger

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² Fanouch, Gustav. Conversations with Kafka 35 Goronwy Ress (trans) 2 ed (New Directions Books, 1971)

of unending prosecution without allowing him to enquire about the nature of his guilt

II. Treatment of Law in the Trial

Franz Kafka grew up in Prague which had been created in 1867 and was part of the Austro-Hungarian Empire. There was a great deal of conflict in the Austro-Hungarian Empire due to the ethnic tension caused by the refusal of the Czechs to acknowledge the Empire's legitimacy and their resentment of the high concentration of Germans in important positions. The power-struggle between Germans and Czechs gradually became prominent causing a great trouble in the socio-political-cultural sectors of the Empire. Kafka was a member of the Jewish Community, a minority group, within the German population of the Empire. He visualized during the WWI how his own place, Prague, was moving toward the new Czechoslovakian government after the defeat of the Austro-Hungarian Empire in World War I.

In 1906, Kafka got the degree in Civil and Canon Law and began to work as a legal clerk for the civil and criminal courts. Later, he joined worker's Accident Institute for Bohemia. The rapid changes which both the government and the society were going left a profound impact in the mind of Kafka. He was very sensitive to and aware of the puzzling situation of the society especially in the field of law. Emphasizing the vagueness of the legal system of the contemporary society, Kafka offered a pointed critique of law and simultaneously the pre-war judicial procedure of the Austro-Hungarian Empire. Franz "Kafka used the law as a template for his"³ various works. His major works centering round the theme of law include the Trial, The Castle, Amerika and The Metamorphosis. "The novel is a satire against the pointless, corrupt and incomprehensible law proceedings. A sudden intrusion disrupts Joseph K.'s life and brings him into a battle of life and death. Unlike usual battles, Joseph K. can neither see nor flight back his enemies. Beginning with the arrest and ending in the execution, what judges Joseph K. is not only the invisible power but also the decaying law".⁴

French Marxist theoretician Louis Althusser points us the significant distinction between state power and state control. State power is maintained by using two types of apparatus, which are the ideological state apparatuses and the repressive state apparatuses. The repressive state apparatuses include law courts, the police force, the army and prisons. These things are trying to maintain hegemonic control of the state over the citizens.

³ Dargo, George. "Reclaiming Franz Kafka Doctor of Jurisprudence" (2007) Spring Issue Brandeis L J 495

⁴ Rana, Sujata, and Dhankar, Pooja, "The Law as Tyrannical Mystery in Kafka's The Trial". (2013) Language in India ISSN 1930-2940: 410

The term 'hegemony' was first coined by the Italian Marxist Antonio Gramsci 'Hegemony', according to Raymond Williams, is 'the social process as practically organized by specific and dominant meanings, values and beliefs of a kind which can be abstracted as a "World-view" or "Class outlook"'.⁵ (See page-158 of Peter Berry) 'Hegemony' is a process of making various processes of the social control seeming 'natural'. Law, being part of the repressive apparatus, sometimes is trying to dominate life of an individual. The purposes of establishing various law courts, appointing lawyers and creating new laws are only to give proper justice to the innocent as well as proper punishment to the guilty of the convict. Law provides the human beings the right to raise voice against the evil, instead of subjugating oneself under the amoral impact of committing any crime. It paves the way for the golden radiant future of a society free of any delinquency. But, often people are deprived of getting the helping hand of law in the proper way. The complexity of rules and regulations regarding law unscrupulous nature of lawyers and the proper method of investigation stand in the way of realizing the correct nature of the sin committed by an individual. 'The Trial' enquires into the field of locating the correct nature of guilt whether a person should be considered guilty without any legitimate charge against him or not. Kafka in this novel is trying to point out the loopholes in the system of law.

Tragedy enters into the life of Joseph K. when he finds himself under the charge of committing a crime, which is followed by his arrest for the ambiguous crime. Though K. is aware of having committed no crime, it is pronounced by the appearance of the two men who tell him about his offence. Everything regarding his offence is bewildering. He is never clearly told which kind of delinquency he has committed or what code of law applies in his case. Uncertainty, ambiguity and vagueness spread their wings far and wide. His guilt is always assumed by other characters whom he meets in the novel. All legal proceedings are conducted in isolated and out-of-the-way places. Joseph K. is continuously trying to clear himself of the charge which he has not committed in his opinion. The whole procedure includes various complications and puzzleness so that no one not even the court officials themselves can be able to grasp the nature of crime done by Joseph K. The lesser officers of the Court are corrupted the most powerful Judges are so remote that no one is sure that they even exist. Throughout the story K. is unable to discover his actual crime: "I cannot recall the slightest offence that might be charged against me".⁶ K. is actually fighting an ever-ending battle to solve a fruitless puzzle of law.

⁵ "Williams, *Marxism and Literature*, Oxford University press, 1977 P-101

⁶ Kafka, Franz. *The Trial* (trans). Willa and Edwin Muir. London: Vintage Books, 2009

In the *Trial*, Kafka has used multiple symbols to amplify the mysterious nature of the entire system of law including location and atmosphere of the court room, arbitrariness of the legal procedure and nature of the lawyers in the contemporary society. Symbols have the power to delve deep into the inner nature of a particular subject providing critical analytical perspective of various issues related to that thing. Kafka very skillfully adopts the technique of employing various symbols like darkness, light, dust to throw light on the complex nature of law. The very atmosphere of the Court is covered under the veil of darkness, dust and suffocation. Lack of air clearly points in adequacy of proper justice which a person is longing for. The darkness, dust and especially the fog surrounding the court give the clear vision of complex, ambiguous and puzzling nature of the judicial system. K. feels suffocating due to the lack of proper amount of air or figuratively due to the lack of transparent and fair judgement of the lawyers. In the court, everything is under the fog of mystery. Even the court is located in slum areas. Joseph K. first comes to a court which is in an attic, past a warren of stairs and alleys. As the novel progresses, multiple locations of the court are revealed. K. is also complaining about the suffocating atmosphere of the court room. Some situation is seen in Titorelli's studio where K. also finds court offices.

Titorelli a painter in the novel, has drawn a portrait of a judge, dignified and comfortable in his chair, but ready to rise from the chair holding the armrests. Behind the figure of the judge there is an image of the Goddess of Justice with wings on her heels and a blind fold over the eyes while holding a scale in her hand. The figure of the Goddess of Justice seems to be running. When Titorelli explains the figure of Justice as the amalgam of Justice and the Goddess of Victory, K. remarks "That's not a good combination.....Justice must stand quite still, or else the scales will waver and a just verdict will not be possible".⁷

K. with keen observation discovers that the picture looks less like Justice and "much more like the Goddess of the Hunt."⁸ Kirchberger admits that: "this ambiguous and kaleidoscopic picture behind the judge's back is a signified source of information about the organization served by the painter".⁹ The ambivalent nature of the image of Justice drawn by Titorelli clearly points out the impotence of law. The domination of law over the fate of an individual like Joseph K. proves the hegemonic violence of the legal system engulfing the basic human rights of proper justice.

⁷ Kafka, Franz. *The Trial* (trans). Willa and Edwin Muir. London: Vintage Books, 2009

⁸ Kafka, Franz. *The Trial* (trans). Willa and Edwin Muir. London: Vintage Books, 2009.

⁹ Kirchberger, Lida, "Franz Kafka's use of Law in Fiction". New York: Peter Lang Publishing (1986)

The concept of justice generally is connected with mercy and humanity, not with force, violence and victory. But, the very mingling of the figure of the Goddess of the Hunt with the Goddess of Justice indicates that the concept of justice is driven on by force and victory. “The small allegory hidden in an encounter between the protagonist and a painter is linked to ideas of natural justice and the institution of law, which does not always reflect the former”.¹⁰

Another important tool used as symbol to highlight the loopholes of the legal system is light. Around the figure of Justice there is brightness “like an embellishment or a sign of high distinction”.¹¹ Light focuses on the paradoxical reality that the little amount of light is not sufficient to erase the deep-rooted ambiguous nature of the legal system made powerful by the opportunistic and power hungry members of the society. This light only gives the mental satisfaction of vague safety to us. Thus, various symbols in the novel help to trace the location of injustice done by the protectors of law in many circumstances.

J P Stern has observed Kafka’s articulation of utter distrust regarding totalitarian as well as arbitrary nature of law in the Trial. Kafka himself in a note declared that he had deeply absorbed the negative aspects of his time which he didn’t had the right to change, but only to represent as it was. Perhaps, Kafka through his writing was trying to speak of the Jews and other ethnic groups in order to locate their real positions in the Nazi and Stalinist regimes. Still, the concept of raising voice against the weaknesses of the legal system can be applied to every era of the history of humanity. Kafka has satirized the actual procedure of a court trial by humorously staging trial of Joseph K. in an ambiguous manner. K. is seen as deprived of the proper right of self defence not for committing a crime, but for his ignorance and correct submission of various evidences during his trial in the novel. The court fails to serve its right duty assigned to the society not only for its ignorance but also for its innocence.

Throughout the novel various characters bring into light the despotic and the tyrannical system of law. Huld, Wilhem, Franz, Inspector, Magistrate, Usher’s wife and the Chaplain – all represent the vagueness prominent in the judiciary. The court in this novel seems to look at the lawyers with high disdain considering them as a menace of the entire legal system. These characters clearly illustrate this very fact here.

¹⁰ Harwood, Catherine. “Franz Kafka’s Literature and the Law”. (2007) Victoria University of Wellington. P-26

¹¹ Kafka, Franz. The Trial (trans). Willa and Edwin Muir. London: Vintage Books, 2009.

The character of the two wardens, William and Franz, furnish the notion of inaccessibility of the works done by the lower level officers to the higher authority. They are given the task of guarding K. for ten hours a day and to arrest him also without having the proper knowledge of the guilt or crime committed by Joseph K. when K. asks for producing the document regarding his arrest, both of them reply that they have not been provided with the warrant, as they are directly to perform the task of arresting him. While the lower level officials are ignorant of their own legal department, how an individual can be arrested for an anonymous guilt. This opens the possibility of lack of proper justice done by the high officials in the society.

The character of the inspector throws more light into the matter of ignorance of the officials regarding the legal procedure of investigating a case in the right way. Momentarily K. gets a hint of the optimistic ray when he is informed of his upcoming meeting with the inspector. But, soon this optimistic mentality turns into pessimistic one after listening to the utterance delivered by the inspector. The inspector informs Joseph K. that the only news which he can deliver to K. is the confirmation of his arrest by the wardners. He further says: "These gentlemen here and myself have no standing whatever in this affair of yours, indeed we know hardly about it..... I can't even confirm that you are charged with an offense or rather, I don't know when you are. You are under arrest, certainly, more than that I do not know".¹²

The interesting fact is that though K. is under arrest, he has been given the opportunity to live his daily routine life, to go to his work and also to visit various peoples in the society. The underlying truth is that under the guise of offering freedom to him he has been trapped as a convict of an unspecified crime.

The magistrate illustrates the vagueness of knowledge of guilt like the inspector. The magistrate conducts the trial of Joseph K. in a dream-like unreal situation. The trial room is located in an unexpected place – the top floor of the tenement in a poor family's backroom. The location itself compels Joseph K. to construct the impression of the entire procedure as a huge nonsensical joke. The magistrate even rebukes K. for being late to attend the trial. But, when K. looks into the magistrate's law books, he finds that those books are in reality pornographic novels. All these things help K. build up his conceptions about the legal system as a field full of corruption, loophole and callous court officials.

Another interesting character is that of Huld, the defense lawyer, giving evidence of the ignorance or lack of proper knowledge regarding a

¹² "Kafka, Franz, "The Trial". Willa and Edwin Muir (trans). London : Vintage Books (2009)

particular case handling by that official. The novel brings into light the very fact of inaccessibility of the lower level legal officials to the higher authority of the system of law during Kafka's time. The lawyers are completely in utter darkness about the evidences to be produced during the time of a trial or about the case documents. Huld often discusses about the case of K. in his bedroom which is not a professional room confer about any serious matter. Even, during his discussion he repeatedly wants to show his physical unstability due to the heavy work-load of handling too many cases. K. is accused of a crime which is beyond his knowledge. Naturally, he goes to Huld in order to get rid of the anonymous crime. Huld clearly gives the idea of the inner corruption and despotic nature of the Court when he opines that the arch value of defense relies on the matter of the counsel's personal contact with the court officials. Franz Kena exclaims: "It looks as though Advocate's aim is to exploit the obtuseness and cowardice of his clients for his own self-aggrandizement".¹³ When K. decides to go to another lawyer, Huld immediately without wasting his time summons another client, Block. By humiliating Block Huld desires to prove his supreme power over his clients. Huld also makes fictitious comments that he has a huge office of his own without any employee in that office. He also memorizes his old days when various young jurists used to work for him. Now-a-days he has limited his practice to certain cases like the case of K. This is not the actual fact. In reality, by constructing such comments him. Now-a-days he has limited his practice to certain cases like the case of K. This is not the actual fact. In reality, by constructing such comments Huld is trying to deceive himself, as he knows very well that he is nothing but a failure in the legal profession.

The character of the usher's wife helps the reader to enquire about the involvement of such persons who have no connection with the legal system from any perspective. Though the Usher's wife is completely ignorant of the legal procedures of the court, she is working s an agent of the court which is actually her home. She tries to influence K. by stating that she has personal connection with the judge. But, it is revealed later by her that the important papers examined by the judge at the time of K.'s trial are actually some obscene picture and a particular novel. Thus, the hypocritic nature of the contemporary legal system is elaborately explained by Kafka in this novel.

III. The Parable and Law

The parable "Before the Law" is contained in the novel, *The Trial*, by Kafka. It is a story of a man who wishes to gain entry to the law through an open doorway, but the doorkeeper prevents him from doing so. When the

¹³ Kuna, Franz, "Kafka : Literature as corrective Punishment". London; Paul Elek (1974)

man enquires whether he can ever go through. He begins to wait there years after years, but the doorkeeper does not allow him to go through the door. The man leaves no stone untried. Even, he tries to bribe the doorkeeper with everything he has. But, the situation remains same. Right before his death, he asks the doorkeeper why even though everyone seeks the law; no one else has come in all the years. The doorkeeper replies “No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it”.¹⁴ This story is narrated to K. by the chaplain whom K. meets in a cathedral.

Kafka’s parable of the entrance to the Law contains by and large the inner truth about the human situation and also about the correlation between law and the society. This particular parable raises many questions and allegorically tries to provide hints for the solutions to such problems. We are chased by the questions such as is the man from the country meant to represent K.? Is the Law truly unreachable? Does the doorkeeper speak the truth? “As it is only K. who is completely engrossed with the concept of getting in or figuring out his case and one who completely forgets what he actually needs to do. There are so many similarities between the man in the story and K., like the man in the story is not held there by anyone. He willingly waits his life out”.¹⁵ In fact, K. does nothing to fight against his unfortunate situation or to detect proper evidences in order to prove himself as one illogically harassed by the legal system. Further, the Chaplain’s conversation has left the impact on K. that there is no way to run away from the reach of the court as well as one has to submit himself to the hegemonic domination of the court.

IV. Conclusion

The prime focus of “The Trial” is to unveil the corresponding relationship between the legal system and the concept of justice. Law is supposed to provide fair and transparent justice to all human beings regardless of their actual social status or economic condition. Legal codes are implemented as well as legal courts are established to provide equal opportunity of justice, punishment and self-defense to every individual person in the society. The legal system is obliged to perform its duty as the protector of the basic human rights. Hence a person under the burden of ambiguous or arbitrary legal issues knocks at the door of justice for a ray of hope. But, there remains a cloud of doubt about the role played by the legal system in today’s society. Is the role assigned to the Court maintained

¹⁴ Kafka, Franz., *The Trial*, Willa and Edwin Muir (trans), London: Vintage Book, (2009), p-205

¹⁵ Rana, Sujata, and Dhankar, Pooja, “The Law as Tyrannical Mystery in Kafka’s *The Trial*”. *Language in India* ISSN 1930-2940(2013), P-420.

properly? Aren't there any corruption and hypocrisy among the legal officers? Is every one able to get proper justice aspired by that person? How can the inner dirt be removed from the legal system in order to provide the sense of equality to everyone? Actually, the hegemonic bureaucratic domination of the society over the legal system has contributed to a great extent to imbalance the foundational pillar of law. It has given enough opportunities to the power-hungry and opportunistic persons in the society to use their socio-economic-political power for their own benefits. That is why law has been corrupted gradually.

In the *Trial*, Kafka has tried to show how a person has to grow through series of exhaustible troubles due to the hypocritical nature of the contemporary modern legal system. Joseph K. goes to the court only to get rid of his unfortunate predicament. But, he gets nothing desired and the whole situation adversely turns against him. It can be opined that the novel gives us an image of the bleak world of law where the fair ray of hope and justice seldom visit to erase the potential corruption of the system. Joseph K. stands for the symbolic image of the modern-day man forming his concept about law not as the protector of the human rights but as a system subjugating itself under the influential power of the over-bearing government. The promised land of crime-free world under the guidance of law seems beyond the reach of humanity due to the unfairable interference of the bureaucratic social system. Though the novel provides a critique of the governmental system of the Austro-Hungarian court system, the novel also gives a cautionary note about the modern legal system. It is our duty to all these hypocrisies in order to construct a better human world.