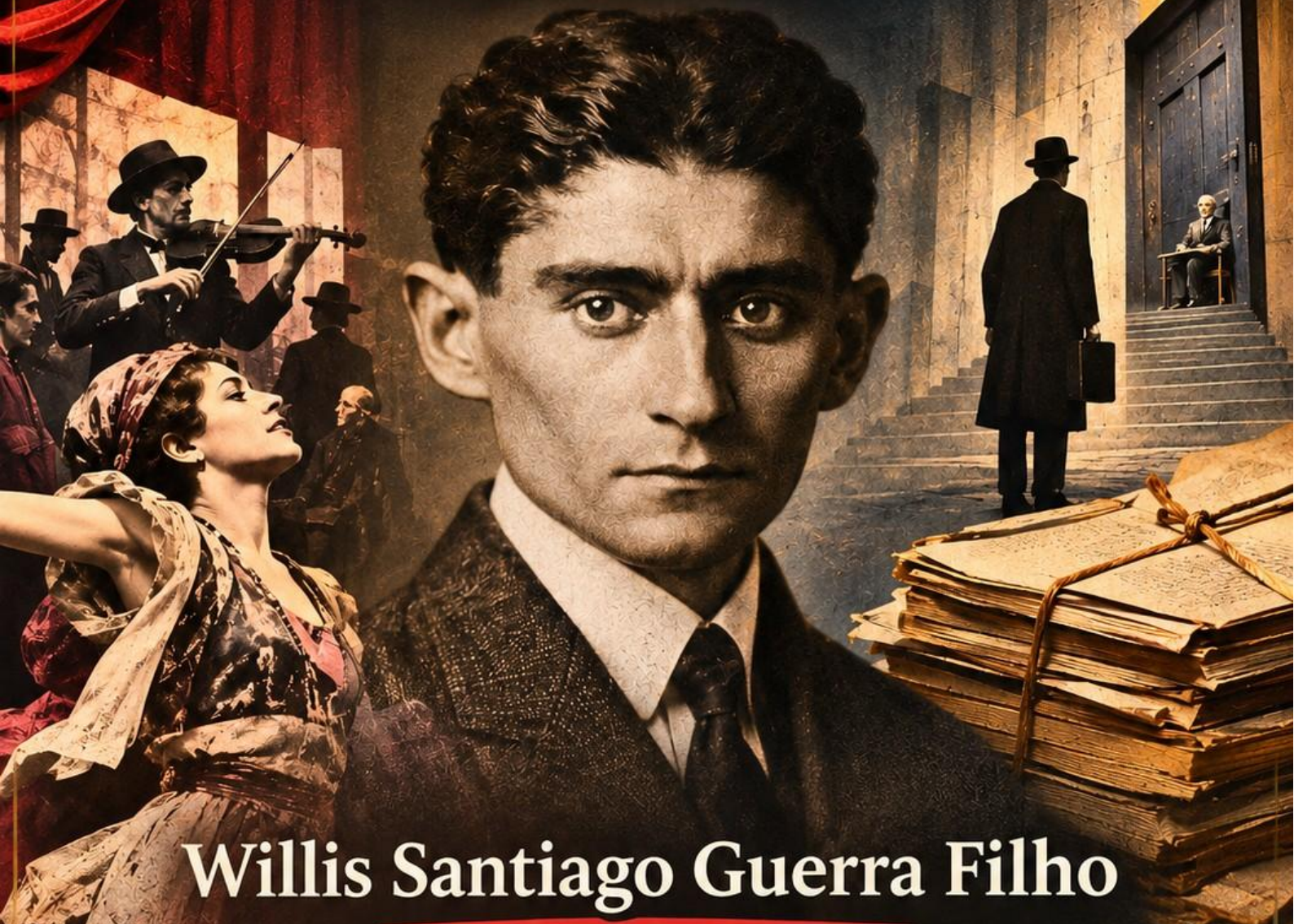
RESEARCH ARTICLE

Yiddish Theatre, Eroticism, and the Economy of Procedure in Franz Kafka

Exempla of a Confiscated Gesture



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Abstract

The Yiddish theatre that FRANZ KAFKA attended at Prague's Café Savoy between September 1911 and January 1912 need not be proved a thematic source of *Der Process* in order to work as a hermeneutic laboratory. There Kafka met an economy of gesture in which the body functions at once as presence, evidence, and value. In the novel that economy does not vanish. It is seized by procedure and converted into a currency of admission. The article distinguishes the gesture of exhibition ("look at this") from the gesture of admission ("let me in") and tests the resulting hypothesis of a *confiscated gesture* on a series of exempla, each of which places the body under a different condition of exposure, recognition, and resistance. JIZCHAK LÖWY's open hand on the Savoy stage offers a countermodel; Leni's webbed hand shows incorporation into the procedural circuit; Rotpeter's scar contests a record from within a status already granted; Kafka's refusal to let the insect of *Die Verwandlung* be drawn marks a limit of visual capture. Confiscation is defined not as suppression but as the appropriation, by an apparatus, of the conditions under which a bodily manifestation becomes recognizable. Against the thesis of GILLES DELEUZE and FÉLIX GUATTARI, for whom desire produces the apparatus, the article argues for capture: a gesture older than the procedure is taken over by it. Elsa is kept as a remainder, the outside the narrative abandons. OSWALD DE ANDRADE names the operation Josef K. does not perform, devouring the code instead of petitioning it, while THEODOR W. ADORNO's reading of Kafka's mimicry as incorporation of the enemy's strength obliges the argument to separate the character from the author. In dialogue with TAURINO ARAÚJO's *Hermenêutica da desigualdade* (2019), the article finally asks how admissibility may reproduce asymmetries between concretely situated persons and abstract procedural positions. Its formula inverts the usual theatricalization of law: procedure is theatre after the apparatus has eaten the gesture.

Keywords: FRANZ KAFKA; Yiddish theatre; JIZCHAK LÖWY; gesture; procedure; eroticism; admissibility; living currency; anthropophagy; inequality; exempla.

Resumo

O teatro iídiche a que FRANZ KAFKA assistiu no Café Savoy de Praga, entre setembro de 1911 e janeiro de 1912, não precisa ser demonstrado como fonte temática de *Der Process* para funcionar como laboratório hermenêutico. Ali Kafka encontrou uma economia do gesto na qual o corpo opera ao mesmo tempo como presença, prova e valor. No romance essa economia não desaparece, sendo confiscada pelo procedimento e convertida em moeda de admissão. O artigo distingue o gesto de exibição ("veja isto") do gesto de admissão ("deixe-me entrar") e submete a hipótese do *gesto confiscado* a uma série de exempla, cada um deles pondo o corpo sob uma condição distinta de exposição, reconhecimento ou resistência. A mão aberta de JIZCHAK LÖWY no palco do Savoy oferece um contramodelo; a mão palmada de Leni mostra a incorporação ao circuito processual; a cicatriz de Rotpeter contesta um registro a partir de um estatuto já concedido; a recusa de Kafka a que o inseto de *Die Verwandlung* fosse desenhado marca um limite da captura visual. O confisco não se define como supressão, mas como apropriação, por um aparato, das condições sob as quais uma manifestação corporal se torna reconhecível. Contra a tese de GILLES DELEUZE e FÉLIX GUATTARI, para quem o desejo produz o aparato, o artigo sustenta a captura, sendo o gesto anterior ao procedimento que dele se apodera. Elsa fica como resto, o fora que a narrativa abandona. OSWALD DE ANDRADE nomeia a operação que Josef K. não realiza, devorar o código em vez de lhe pedir ingresso, ao passo que a leitura de THEODOR W. ADORNO, para quem a mímica de Kafka incorpora a força do inimigo, obriga o argumento a separar o personagem do autor. Em diálogo com a *Hermenêutica da desigualdade* de TAURINO ARAÚJO (2019), o artigo pergunta, por fim, como a admissibilidade pode reproduzir assimetrias entre pessoas concretamente situadas e posições processuais abstratas. A fórmula que daí se extrai inverte a teatralização corrente do direito: o procedimento é o teatro depois que o aparato comeu o gesto.

Palavras-chave: FRANZ KAFKA; teatro iídiche; JIZCHAK LÖWY; gesto; procedimento; erotismo; admissibilidade; moeda viva; antropofagia; desigualdade; exempla.

1. Two Theses, and the One That Matters

A persistent misunderstanding runs through the critical reception of KAFKA. It takes the erotic scenes of *Der Process* (the novel known in English as *The Trial*) for interludes, moments of respite, human matter interposed between the parts of an apparatus that crushes it. Read in this way, the scenes are superfluous. None of them advances Josef K.'s case, none brings relief, and all of them end in interruption. The correction is simpler and harder. These scenes do not interrupt the procedure. They are the procedure in another register.

The correction is not new, and presenting it as new would be a mistake. In 1975 GILLES DELEUZE and FÉLIX GUATTARI wrote that where one believed there was law there is in fact desire and desire alone, and that everyone, from the priest to the little girls, belongs to justice not by the transcendence of the law but by the immanence of desire (DELEUZE; GUATTARI, 1975, ch. 5). BENITO MAESO's dissertation, which reads the bond between Leni and Josef K. as an "end-relation" occurring inside the very organism of power, belongs to the same line (MAESO, 2013, pp. 142–144). What the present article proposes is narrower and, in one decisive respect, opposed. For Deleuze and Guattari desire produces the apparatus. Here a gesture that existed before the apparatus is captured by it. Immanence of desire against confiscation of gesture: the whole claim of the article lies in that difference.

It therefore does not need an ontology of desire in Kafka, the erotic as a universal function of the apparatus. It needs a narrower genealogy, harder to refute. Kafka found in the Yiddish theatre an economy of gesture in which the body can function simultaneously as presence, evidence, and value. In *Der Process* that economy does not disappear. It is confiscated by procedure and made to circulate as the price of admission.

The formula "in Kafka desire is always desire for admission, never for encounter" would overstate the case. The word "always" turns a reading of one novel into a statement about desire as such, and the book itself supplies the remainder that refutes the universal, namely Elsa. In *Der Process*, the desire that becomes narratively decisive tends to turn into desire for admission. What does not turn is not refuted. It is abandoned by the narrative. The difference matters, for it replaces a law of desire with the description of a capture, a procedural confiscation in the service of admission.

The confiscated gesture, accordingly, is not necessarily one whose performance an authority prevents. It may also be one whose meaning comes to depend in advance on a concrete institutional addressee. The apparatus need not stop every movement. It can determine the conditions under which a movement will be recognized. This is an interpretive hypothesis of the present article, built on Josef K.'s conduct before the court, and not a formulation attributable to Kafka.

Josef K. is often described as a failed reformer. A reformer, however, recognizes the competence of the forum and asks it to decide otherwise. Josef K. makes no request of that kind. He hires a lawyer, drafts a petition he never submits, visits the painter, seeks out whoever seems to stand on the inside. None of these attacks the court; all of it feeds it. He is, more exactly, a conformist (GUERRA FILHO, in press). To ask to be let in is already to have postponed the question of the legitimacy of what one wants to enter. REINER STACH observed that Josef K. becomes a victim because he cooperates (STACH, 2016). The observation holds,

but the lesson is not simply "do not cooperate". What the Savoy allows us to think is more precise. LÖWY offers his hand and says, in substance, *look at this*. Josef K. offers his body and says, in substance, *let me in*. The gesture of exhibition and the gesture of admission are not the same act. Confusing them is the error the novel stages.

1.1. Method and Scope of the Hypothesis

The inquiry combines a hermeneutic reading of delimited passages of Kafka's corpus, a contextualization of his experience of the Yiddish theatre, and conceptual comparison. The episodes of LÖWY, Leni, Rotpeter, and the refusal to depict the insect are examined through four questions, namely who presents himself or herself, before whom, by what means, and under what conditions of recognition. The Savoy is used as an interpretive countermodel, with no claim to prove causal influence on the novel. The dialogue with TAURINO ARAÚJO's *Hermenêutica da desigualdade* is an explicitly comparative theoretical extension, not a retrospective attribution of intentions to Kafka regarding the gesture of entering or that of exhibition (ARAÚJO, 2019).

Confiscation of the gesture does not mean its suppression. It designates the appropriation, by the apparatus, of the conditions of recognition of a bodily manifestation. What presented itself as presence comes to depend on an instance that fixes its pertinence, its value, and its admissibility. The hypothesis is not that every form of recognition is oppressive. It is that institutional authorization can convert presentation into a requirement of entry and thereby redistribute unequally the possibility of being heard.

The episodes thus form a series of exempla in the old rhetorical sense, cases that test a claim rather than ornament it. The series is not cumulative proof of a finished thesis; each exemplum tests a distinct limit of the procedural capture of the gesture. Plurality is a requirement of the demonstration. It prevents the experience of the Savoy, the eroticism of the court, the defence before the academy, and the refusal of figuration from being reduced to undifferentiated instances of one and the same fate. For the same reason the series includes countermodels and resistances. Without them the hypothesis would become totalizing and could no longer be checked against the corpus itself.

A first exemplum shows the stakes. Leni shows Josef K. the web of skin that joins two fingers of her right hand. What might have remained a bodily singularity, displayed within a personal relation, acquires value in the erotic-procedural circuit in which Leni approaches the accused precisely as accused. The court does not physically seize the hand. What is confiscated, on the hypothesis proposed here, is the autonomy of its meaning, now mediated by a procedural status and by K.'s expectations of admission. ADORNO had already insisted that the web

between Leni's fingers matters more than the excursus on the law (ADORNO, 1981; cf. MAESO, 2013, p. 62), and the hand, as JOSÉ CALVO GONZÁLEZ has shown, is a privileged site of Kafka's legal hermeneutics (CALVO GONZÁLEZ, 2020). By contrast, LÖWY's open hand on the Savoy stage offers a presence to the audience's perception without depending on any prior qualification of its bearer as accused. The contrast does not establish a historical origin of the novel. It makes visible the difference between exhibiting and asking for recognition under imposed conditions.

2. The Savoy as Countermodel, Not as Cause

Between September 1911 and January 1912, the Lemberg company led by JIZCHAK LÖWY (Isaac Meir Levi, Warsaw 1887 – Treblinka 1942) played at the Café Savoy in Prague, in a narrow room among dining tables. The repertoire mixed GOLDFADEN, GORDIN, LATEINER, songs, and farces. Kafka missed almost no performance. He described those actors as Jews in a particularly pure form, people who live in religion without effort, without understanding, and without misery. On 18 February 1912, in another hall and another register, he gave at the Jewish Town Hall the introductory talk he had organized for a recital by LÖWY (MASSINO, 2007; KAFKA, 1990).

The two moments should not be confused. The first is theatrical experience, made of presence, song, hips, hands, and the warmth of a language without official grammar. The second is a public intervention. Kafka translates that experience for an assimilated audience and names the price of its reserve. Yiddish, he said, is everything, the words, the Hasidic melody, the essential character of that Eastern actor, and once it has taken hold of the listener he will forget his former reserve. He will feel the unity of the language so strongly that he will be afraid, yet no longer of Yiddish, but of himself (KAFKA, 1993).

The sentence matters because it displaces the object of fear. One does not fear the minor language. One fear discovering that the admission one sought, to cultivated German, to the law of the city, to the forum, has cost a form of presence one already had. That is the hermeneutic hypothesis of this article, and it should be held as a hypothesis. The Yiddish theatre need not be shown to be a thematic or causal source of *Der Process* in order to serve as a laboratory. It is there that Kafka met a form of bodily presence that allows us to recognize, retrospectively, the constitutive theatricality of procedure. The Savoy is not the empirical origin of the novel. It is the ontological countermodel of the court.

The court says: *show that you belong*. The theatre says: *you are already here; look*. Only this difference makes Yiddish necessary to the interpretation. Without it the Savoy would be biography. With it, the Savoy is the place where gesture did not yet ask procedure for

authorization. Its theatre, moreover, lived on improvisation with the audience and on a humour that drew strength from apparent submission (MAESO, 2013, p. 67). Value there was still negotiated in the room.

WALTER BENJAMIN would write, two decades later, that Kafka's work constitutes a code of gestures whose meaning is not evident even to the author, gestures that receive their meaning only through attempts in multiple contexts, the theatre being the place of such experiments (BENJAMIN, 1977). What Benjamin describes as method, Kafka lived as attendance. Theatricality is not a later application of the reading. It is its instrument, with a date, an address, and above all a status that should not be inflated: a hypothesis of recognition, not a law of derivation. That status also separates the present reading from EVELYN TORTON BECK, who sought to derive the prose from particular plays (BECK, 1971), and from MAESO, who attributes to the Löwy friendship a "tremendous influence" on the literature (MAESO, 2013, p. 67).

DELEUZE and GUATTARI allow one further step, and only one. Minor literature is not the literature of a minor language; it is what a minority does within a major language (DELEUZE; GUATTARI, 1975). The Yiddish of the Savoy is the virtuality that the German of Prague does not dare. Kafka does not write in Yiddish. He writes, in the German of insurance offices and courtrooms, what that stage showed him the forum cannot house: a body that presents itself without asking to be let in.

3. Four Positions of Exposure

Kafka's diary entry of 7 January 1912 describes LÖWY as someone who produces evidence with his body. He steps forward a little, opens his eyes too wide, tugs at his coat with an absent-minded left hand and holds out the right, open and large, and the spectators, the entry concludes, must acknowledge that he is seized, even if they are not, and explain to him how the misfortune described could have come about (KAFKA, 1990, 7 Jan. 1912). The open hand does not illustrate the misfortune. It offers it for inspection. The gesture can be at once performance and record. The sequence is not body, expression, meaning, but body, exhibition, evidence, recognition. That discovery separates the present essay from a merely erotic reading of Kafka.

BECK wanted to derive a direct influence of plays on prose; MARTIN PUCHNER preferred a modernist antitheatricalism in which gesture is decomposed to serve the page (BECK, 1971; PUCHNER, 2002). The philological dispute need not be settled. What the Savoy deposits in the reading is an economy of showing, and economies in the plural, not a single one.

The exempla occupy four positions, and the typology is stated here once for the whole article. LÖWY occupies the position of *presentation*: on the poor stage he offers his hand and asks that a misfortune be recognized. He is *on stage*. Leni occupies the position of *incorporation*

into the circuit: she opens her hand and exhibits the web between two fingers, and the anomalous body enters the circuit as an attraction. She is *inside*. Rotpeter occupies the position of *contestation of a prior record*: he lowers his trousers to show the scar of the second shot and defends himself against a newspaper that describes him falsely. He is *before*. Kafka, finally, occupies the position of *interdiction of figuration*: writing to KURT WOLFF, he asks that the insect of *Die Verwandlung* not be drawn, not even from a distance. He is *refused*, or rather he refuses.

In none of the four operations is the body a matter of modesty; in all of them it is a matter of record. The typology implies no chronological sequence, and it is not a scale of intensities of confiscation. Not every gesture examined has been confiscated. LÖWY embodies the regime of presentation that makes the difference perceptible; Leni stages the erotic-procedural appropriation; Rotpeter mounts a defence against a description that precedes him; the refusal to depict the insect resists visual fixation. The criterion is the distribution of the power to define what the shown body means and what effects its gesture may produce. In legal terms the same axis translates as presentation, belonging, contestation, and the exclusion of a proof that would destroy what it purports to show.

4. *Vor dem Gesetz*, as a Hypothesis

The legend the chaplain tells in the cathedral is usually read as an allegory of exclusion. A man arrives, asks to enter, is held back, grows old waiting, and dies learning that the door was meant for him alone. The reading proposed here inverts the sign of the episode, and it is important to say so: it inverts but does not claim to show that the inversion was written into the text (GUERRA FILHO, in press). The Masoretic tradition offers an exact model for this kind of operation. Between *ketiv*, what is written, and *qere*, what is read, the scribes refused to alter the consonantal text even where it seemed truncated or theologically awkward, while tradition instructed the reader to pronounce otherwise. In some celebrated cases the *qere* reverses the sign of the *ketiv*, reading *lô* with *waw*, “to him”, where *lō’* with *aleph*, “not”, stands written (TOV, 2022). A reading that claims legitimacy must answer to what is physically inscribed, yet it may, within that accountability, read against the letter. One of the present authors has developed elsewhere the consequences of that structure for the letter of the law (GUERRA FILHO, 2026d).

The man from the country can be read as someone who comes from a form of life not yet confiscated by the forum of the city. The law he seeks, from this perspective, is not the rule of living but the apparatus that replaces it. Kafka’s text does not say that life in the country was good or that life in the city is mistaken; the episode, however, allows admission to be thought

as an exchange whose cost the petitioner does not reckon. The third step is the riskiest and must remain in the conditional. The doorkeeper's refusal may be understood as a favour if, and only if, one accepts that entering that law was not worth what it cost. Without that premise the favour collapses into cynicism.

The door meant only for him may be read, in a temporality the essay assumes as its own and not as doctrine of the text, as the door through which he came out. Entrance and exit would coincide at the threshold. The man would remain immobilized in a zone of indistinction between exclusion and inclusion, which is abandonment in the sense GIORGIO AGAMBEN gave the word, invoked here only to name that neither-inside-nor-outside, and not to make the legend an allegory of *homo sacer* (AGAMBEN, 1995).

Note the radiance that breaks from the door when his sight is already failing. In an octavo notebook of 1917 Kafka wrote that only the party can truly judge, but that as a party it cannot judge, so that there is no possibility of judgment in the world, only its glimmer (KAFKA, 1992). The word is *Partei*, the party to a suit, which gives the fragment its juridical edge. What the dying man sees, on this hypothesis, is not the Law. It is the reflection of what will never be decided. It is also, if the analogy is accepted, the last light of a footlit stage without a verdict.

Two laws are at stake, and distinguishing them is what the hypothesis requires. One is the law of the forum. The other is law as a rule of life, a form whose content is the very exercise of living, the *lex animata* of the Franciscan rule. The man from the country, in this reading, left the second in search of the first and did not notice the exchange. The assimilated spectator at the Savoy, ashamed of Yiddish and longing for the father's German, makes by analogy the same exchange. The talk of February 1912 named its price: fear passes from the foreign language to one's own face.

The door also reorganizes the duration of existence. In the parable the man asks to enter, receives the indeterminate possibility of a future authorization, waits for years, and grows old before the doorkeeper. We propose to call *confiscation of time* this transformation of the possibility of acting into a prolonged availability for someone else's decision. The expression is an analytic category proposed here, not Kafka's; the dimension of waiting itself has, of course, been widely studied.

If the admission sought is not worth its cost, the currency paid for it is doubly useless: it does not buy the entrance, and the entrance would not deserve to be bought. That, again, is the hypothesis of the essay, not the literal content of the legend. What the legend offers, with less risk, is the scene of the request. Josef K. will repeat it with his body. LÖWY did not repeat it. He presented himself.

5. The Capture: Bodies, Agencies, Archive

The women of *Der Process* cannot be reduced to a single monetary function. What recurrence demonstrates must be differentiated by mechanism and by the agency each of them still exercises within the circulation (KAFKA, 1997; cf. MAESO, 2013, pp. 137, 142–144). Here the category of *procedural duplication of status*, which TAURINO ARAÚJO proposes for the selective ways in which legal form doubles the situated person with a position, proves exact (ARAÚJO, 2019, pp. 139–140).

5.1. The Body That Belongs

The usher's wife, in the empty courtroom, offers herself to K. and in the same movement informs him that she cannot: she belongs to the examining magistrate and to the law student. The student carries her off on his shoulders to take her to the magistrate; the husband looks on, powerless. She is a thing with two owners. Here the body is the scene of jurisdiction, for whoever carries it demonstrates the forum. Her agency is minimal and precisely this: to show K. that there is an inside to which she belongs and he does not. She does not administer the currency. She is what the currency buys once the apparatus has taxed belonging.

5.2. The Body That Administers the Circuit

Leni is a different operation. She is drawn to the accused as accused. Her affection has a procedural status for its object, not a person, which makes her the most rigorously juridical character of the novel. To love an accused because he is accused is to recognize the only identity the apparatus produces, the status that procedure lays over the person. Leni is not, however, merely a monetized object. When she opens her hand and charges K. his admission to the circuit of administered desire, she also administers the currency. She keeps the agency of a money-changer, and this ambivalence prevents her from coinciding with the usher's wife. She is inside, and because she is inside, she sets the fare.

Her eroticism does not suspend the court's relations of power. It makes perceptible, in the body and in proximity, the circulation of access and expectation. None of this cancels Leni's initiative or authorizes reducing her to passivity. The hypothesis is that the erotic gesture can simultaneously express desire and be read within the procedural economy surrounding the accused.

5.3. The Body of Approach

Fräulein Bürstner, in the opening chapters, fixes the topography without belonging to the court in the same way. K. kisses her violently, on the throat and the face, like a thirsty animal, in the room where the arrest took place that morning. The irruption occurs on the site

of the procedure and takes animal form. Bürstner is the body that lets K. approach the apparatus without yet being one of its parts. She then disappears from the decisive economy, not like Elsa, who preceded the trial, but like someone who has been used to inaugurate the erotic register in the place of arrest.

5.4. The Body That Reproduces the Apparatus

The girls in the corridor outside TITORELLI's studio are not a troublesome neighbourhood. The painter himself says they belong to the court. They pester, repeat, occupy the passage. They reproduce the apparatus in the form of insistence without decision, the same economy of protraction on a domestic scale. None of them gives K. what he came for. All of them produce the sense that something has been done.

5.5. The Archive Was Already Currency

In the volumes K. opens in the empty courtroom, expecting law books, he finds the engraving of a naked man and woman on a sofa and a novel whose title promises the torments Grete had to suffer from her husband Hans. These are the books the judges study. Whoever looks for the law finds bound pornography, and the finding is not a scandal. It is information about the nature of the thing.

The passage is the hinge of the essay. Neither GEORGES BATAILLE nor PIERRE KLOSSOWSKI is needed yet. The architecture of the novel itself produces the fusion of legal archive, erotic image, authority, and the circulation of bodies. The living currency need not be imported; it is born on the shelf where the law should be. What the French authors will allow, in the next section, is only to ask who sets the value of what that shelf already puts into circulation.

6. Who Sets the Value

TITORELLI lists three possibilities, and only the first contains what matters. Actual acquittal exists only in old legends, and no one has ever seen it. Apparent acquittal suspends the charge without extinguishing it. Indefinite protraction keeps the case at the lowest level through constant diligence. That is the economy of the erotic scenes the novel chooses to narrate. None acquits. All produce provisional relief while the charge remains intact, and all must be repeated. Diligence is the only virtue the court recognizes, and it is the virtue of whoever keeps running what could have been refused, the court included.

KLOSSOWSKI should not enter merely to confirm that the body is currency. He should allow the question the novel already stages: who sets the value? (KLOSSOWSKI, 1970). At the Savoy value circulates between actor and audience, rising and falling with the song, the

hand, the laughter. At the court, value is priced in advance by the apparatus. In Leni, erotic value depends on the procedural status of the accused, all of them, as accused. In Rotpeter, the scar is a currency the dominant circuit will not convert; it is shown and buys no entry. Four regimes of quotation on a single support. The living currency ceases to be an analogy and becomes a price list.

BATAILLE would occupy a still narrower function. For him eroticism is the approval of life even unto death, and sacrifice withdraws something from the circuit of utility to offer it to the sacred (BATAILLE, 1949; 1957). The Kafkan apparatus does the reverse. It returns whatever remained sacred to the circuit of utility and turns transgression into paperwork. There is no ecstasy, only dispatch. Bataille is not asked to explain Kafka; he is asked for the name of the operation the court performs on the feast the Savoy still knew.

BENJAMIN, in the 1921 fragment on capitalism as religion, describes a cult without dogma or theology that neither expiates nor redeems, whose operation is to make *Verschuldung* universal, debt and guilt gathered in one word (BENJAMIN, 1985). A system of this kind is not made to acquit. It is made to last. Everything that circulates in it as payment increases the debt. The gift the doorkeeper accepts, only so that the man from the country will not think he left anything untried, obeys this economy. So does contact with Leni.

7. Admissibility and Inequality

Hermenêutica da desigualdade raises inequality to the rank of a fundamental legal concept and criticizes the automatism by which formal equality may conceal real asymmetries. It distinguishes the concretely situated person from the virtual subject foreseen by the legal model and proposes the de-differentiation of subjects and situations as a critical operation of interpretation in the face of temporal or technological, real or spatial, and above all social inequalities, which manifest themselves selectively as procedural duplication of status or as disregard (ARAÚJO, 2019, pp. 5, 139–140, 179–180). EDUARDO BOAVENTURA DE SOUZA has shown that this legal hermeneutics carries a poetics within it, so that poetry is not an ornament added to law but a way of questioning the rigidity of its forms of perception without dispensing with normative justification (BOAVENTURA DE SOUZA, 2023).

The comparison does not turn characters into real litigants. It makes visible the question of who may present his or her difference without having it reduced beforehand to a label of admissibility. The possibility of manifesting oneself is not a guarantee of institutional recognition. Subjects who perform formally comparable acts may meet unequal conditions of hearing, credibility, and effect. This is a proposed application of Araújo's hermeneutics to the problem of gesture, not a thesis to be extracted literally from Kafka.

A question of legal theory follows. Procedure may not only assess claims but also define in advance the ways in which a claim becomes recognizable. The Kafkan problem, in this light, begins before the verdict. It begins when a person reorganizes his own presentation around an authority whose legitimacy he cannot submit to the same examination. Araújo's methodological path from reality to dogmatics, from dogmatics to zetetics, and back to a reasoned dogmatic decision, which develops the distinction between zetetic and dogmatic inquiry introduced into Brazilian legal theory by TERCIO SAMPAIO FERRAZ JR. (FERRAZ JR., 1988), offers a methodological counterpoint to the circularity of the Kafkan court. It starts from concrete reality, formulates provisional legal answers, questions their premises critically, and only then returns to decision. The path contains a step whose Portuguese name carries the whole contrast. *Diligência* means both diligence and the procedural measure by which facts are inquired into before judgment. In Titorelli's court, diligence is the only virtue recognized, and it serves indefinite protraction; in Araújo's path, the *diligência* is the step that inquires and then gives way to decision.

Araújo's own poetry supplies a second counterpoint, this time from within literature. In *O pendor ao drama — Tributo a Franz Kafka* the confiscation of gesture appears with almost clinical exactness, when a man's gentle voice, which simply "went on being", is "used / as evidence", and the women are "always women / called upon / to hold / some end of it" (ARAÚJO apud GUERRA FILHO, 2026a). Presence becomes proof without having asked to; the women hold the ends of a procedure that is not theirs. Yet the same poetics, as a reading of Araújo's *Poema absurdo* and of this very tribute has argued, does not abolish coherence but institutes another order of admissibility, in which a clock may have a right of defence and a youthful goblin may take part in a judgment (GUERRA FILHO, 2026a). The impossible is made competent without petitioning. That is the exact inversion of the court in *Der Process*, where what is possible must still ask to be admitted.

8. Elsa, the Remainder

Elsa is a waitress in a wine tavern who receives visitors during the day only in bed. K. visits her once a week. Hers is the erotic relation that precedes the trial, not annexed by the court, the only one about which nothing strange is said. After the first mentions she disappears. K. stops going.

She should not be read merely as proof that what the court does not administer disappears. That formulation still makes the apparatus the sole subject of the sentence. Elsa is more interesting as the demonstration that the novel still contains an outside of procedure, and that this outside is precisely what the narrative abandons. She is the remainder the thesis needs

to keep. Without Elsa, the “always” would settle in again. With her, the essay describes a capture and the narrative price of not letting oneself be captured, which is to leave the stage.

The last thing K. loses is not, then, only his freedom. It is the only desire that passed through no procedure at all. The book does not say that this desire was full encounter. It says only that there was a place where the body was not yet a file. The narrative chooses not to remain there.

9. Welles, or What the Camera Must Rank

Criticism of 1962 accused ORSON WELLES’s film of having added to Kafka an erotic atmosphere that did not belong to him. Welles replied that he had drawn the whole of the film’s dirty erotic charge from a single element, the obscene page inserted into the court’s law books, and observed that the insertion comes from Kafka (BOGDANOVICH; WELLES, 1992).

The statement confirms the hinge of the shelf. A punctual detail, once staged, proves to be an organizing principle. Welles does not invent the material; he distributes it. The distribution is his. The material is not.

Kafka’s eroticism is hard to see on the page because the prose records it without emphasis, with the same unrelieved clarity with which it records a corridor or a form. To stage is to rank. The camera, forced to choose what fills the frame, makes explicit a structure the novel left in an almost neutral register. DELEUZE had compared Kafka’s architecture of sudden contiguities and remote distances to Welles’s deep-focus wide-angle compositions, as in the corridor leading to TITORELLI’s room (DELEUZE; GUATTARI, 1975; cf. MAESO, 2013, p. 26). ADORNO, writing to BENJAMIN, went further and called Kafka’s novels the last, vanishing textual links to silent film, in which a gesture must be exaggerated to be recognized at all (ADORNO; BENJAMIN, 1994; cf. MAESO, 2013, pp. 51–52). Welles thus works as a hermeneutic experiment. If the text seems not to rank the erotic, what happens when a mise-en-scène is forced to do so? The film may be read as a critical reply to the novel without ceasing to be an adaptation. The two operations do not exclude each other.

Welles replaced the groan with which the book ends by an explosion and declared that his Josef K. neither deteriorates nor surrenders (WELLES, 1962b). If the Josef K. of the novel is the man of the gesture of admission, a K. who refuses to collaborate at the end is not a variation of style but an objection. The Yiddish theatre, as countermodel, stands on the side of that objection, not because LÖWY was a hero of refusal, but because the gesture he practised still said “look” and not “admit me”.

10. Rotpeter, Preciado, the Insect

In his report to the academy Rotpeter tells of the two shots he received, one in the face, which earned him his name, the other below the hip, which left him lame. A newspaper notice claims that his ape nature is not fully repressed, since he lowers his trousers to show the second wound. He reacts with fury and declares that he takes his trousers off before whomever he pleases, that nothing will be found there but well-groomed fur and the scar of a shot, and that everything is in broad daylight (KAFKA, 1994).

What takes place there is a petition. A single element of proof is left to him, the body, and a single way of producing it, exhibition. He shows the scar as his right of reply, exercised with the flesh for lack of any other vehicle. It is also, in ARAÚJO's vocabulary, an answer to *disregard*, the selective contempt by which a record precedes and diminishes the person it describes (ARAÚJO, 2019).

Rotpeter, however, is not simply outside the forum, and here MAESO's reading obliges the essay to be more exact than its first draft. Rotpeter's whole career is a gesture of admission. He learned to spit, to drink, to say "Hallo!", by imitating those among whom he wished to belong, and he ended on the variety stage, performing his humanity for a living (MAESO, 2013, pp. 53, 95–96). He did not seek freedom; he sought a way out. The scar is therefore shown not from outside the circuit but from within a status already granted. Exhibition and admission meet in him, which makes him the hinge of the series rather than its counterexample. His display is at once defence, performance, conformity, resistance, and negotiation. It produces evidence in a hearing and, in producing it, confirms the tribunal that listens.

PAUL B. PRECIADO took up the report before an academy of psychoanalysts and described the learning of language as a passage from one cage to another (PRECIADO, 2020). The objection holds against hope placed in an outside, not against the economy of the price of entry. To leave may lead into another enclosure. The distinction this essay maintains is therefore not between an infernal inside and a redemptive outside. It is between asking for admission and exhibiting what the record falsified, knowing that exhibition also inhabits an enclosure. Rotpeter does not redeem. He only prevents the record from being taken for nature.

The letter to KURT WOLFF must be kept apart, in the margin, as the Masoretes kept their readings beside an untouched text. On 25 October 1915, about the cover of the first book edition of *Die Verwandlung*, Kafka asked that the insect itself not be drawn and not be shown even from a distance (KAFKA, 2005). Rotpeter exhibits the body; Kafka refuses the image of the transformed body. These are two strategies against capture, an excess of exhibition and an interdiction of representation. Gregor shows no scar; Kafka prevents the insect from being shown. The refusal belongs to a category that law lacks, the unofferable, which one of the

present authors has developed from the *Ungeziefer* itself (GUERRA FILHO, 2026c). The sequence of exposure is then complete. LÖWY shows the gesture; Leni shows the anomalous body inside the circuit; Rotpeter shows the scar against the record; Kafka prevents the body from being figured. A phenomenology of exposure, not a catalogue of examples.

11. What Oswald Allows Us to See

OSWALD DE ANDRADE is not summoned to confirm what BATAILLE and KLOSSOWSKI would already have said, nor to explain Kafka with a ready-made Brazilian key. *A morta* and the *Manifesto antropófago* allow us to see what those two do not name, the difference between circulation and devouring (ANDRADE, 1928; 1937).

KLOSSOWSKI thinks the circulation of the sign-value. OSWALD introduces the possibility of consuming the code that claims to consume the body, the permanent transformation of taboo into totem. Beatriz, the Dantean muse lowered to a corpse, remains at the centre of the stage and goes on producing images, a living currency inverted, a sign that does not ask for entry into the forum because it already occupies the altar. Elsa disappears; Beatriz stays dead and operates. Between the two lies the difference between a novel of procedure and a theatre of devouring.

The phrase "anthropophagy of the apparatus" is justified only if the apparatus is what is eaten, or what eats. The essay has so far shown mainly the second operation, capture, confiscation, pricing, administration. That is the apparatus devouring life and, more precisely, devouring the theatre. *Der Process* does not theatricalize law. Law devours the theatre. Procedure is theatre after the apparatus has eaten the gesture.

The first operation, anthropophagy against the apparatus, is not performed by Josef K. He does not devour the code; he petitions it. Rotpeter and the interdiction of the cover approach refusal, not devouring. Here, however, ADORNO forbids a too easy conclusion. Kafka, he wrote, seeks salvation as in ages past through the incorporation (*Einverleibung*) of the enemy's strength, and his humour reconciles myth through a kind of mimicry; the only, weakest, smallest possibility that the world may not be in the right is to grant it that it is (ADORNO, 1981; cf. MAESO, 2013, pp. 67–68). The German word means taking into one's own body. Adorno's Kafka is thus closer to OSWALD than the present argument first allowed, provided the distinction between character and author is held firm. The character asks for admission. The author, by hyperconformity, by taking the court's language literally until it betrays itself, incorporates it. Kafka was named Franz, as the Emperor was; he gave the hero the other half of the imperial name, Josef, and left him the petition while keeping for himself the mimicry. OSWALD names what remains outside the book, the open incorporation of the enemy code. Without this

distinction Oswald would be a commissioned authority. With it, he marks the external limit of the thesis, and Adorno marks the place where Kafka's own writing already touches that limit.

The opposition between circulation and devouring thus gains a third comparative term, the critical revision of the criteria of recognition. Oswaldian anthropophagy imagines the transformation of the code; the hermeneutics of inequality questions, within legal practice, the asymmetries the code may naturalize. They are not equivalent answers and must not be attributed to Kafka. They are different ways of exposing the limit of a gesture reduced to currency.

12. Conclusion

The Yiddish theatre allows us to understand that gesture, in Kafka, is not born as a sign of procedure. It is a form of presence prior to procedure, which procedure later captures, converts into evidence, and circulates as a currency of admission. At the Savoy, value still oscillated between the one who showed and the one who saw. At the court, the price list is already posted.

In *Der Process*, the desire to enter the law of the city is already a first form of conformity to the apparatus. Before obeying the law, Josef K. already obeys the desire to be admitted by it. That is the sentence the novel authorizes, and not a general anthropology of admission.

LÖWY: look at my gesture. Josef K.: let me in. Rotpeter: look at my scar. Kafka: do not draw the insect. The currency of the gesture names exactly this transformation. The gesture that was presence becomes value; value becomes price; price becomes procedure; and procedure turns the very attempt to escape it into a new form of circulation.

The results of this reading are three. The Yiddish theatre offers a hermeneutic countermodel, not a demonstrated causal origin. The economy of procedure converts certain bodily presentations into evidence and values of admission, by capture rather than by the immanent production of desire. The encounter with the hermeneutics of inequality allows the question of asymmetric conditions of recognition to be formulated beyond the novel. The scope of the comparison is conceptual, not empirical. It does not describe real courts on the basis of a fiction, nor does it derive Araújo's legal theory from Kafka's work.

Before the door, two attitudes remain possible. One may ask for admission and pay with contact. Or one may open the hand, show the scar, refuse the figure, knowing that none of these refusals redeems. They only prevent the glimmer of the door from being taken for the Law.

Passages and Translations

Usher's wife, the student, and the court's books: *Der Process*, "Im leeren Sitzungssaal / Der Student / Die Kanzleien". Bürstner and Elsa: "Verhaftung" and "Gespräch mit Frau Grubach / Dann Fräulein Bürstner". Leni: "Der Onkel / Leni". Titorelli, the girls, and the three outcomes: "Advokat / Fabrikant / Maler". Chaplain and legend: "Im Dom". Death "like a dog": "Ende". Rotpeter: *Ein Bericht für eine Akademie* (1917). Talk on Yiddish: 18 February 1912. Description of Löwy: diary, 7 January 1912. Letter to Kurt Wolff: 25 October 1915. Party and judgment: Oktavheft G, October 1917. Oswald de Andrade: *Manifesto antropófago* (1928); *A morta* (1937).

The novel is cited as *Der Process*, with the spelling of Kafka's manuscript preserved in the historical-critical edition of Roland Reuß and Peter Staengle. Unless otherwise indicated, translations from German, French, and Portuguese are the authors' own.

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