

## Rehearsals

by Costas Douzinas

What does *World Rehearsal Court* mean? Does the world rehearse a new type of court, a new juridical form, a new type of crime or tort? Or, is it a new type of criminal to be tried in a novel setting? Or, is this a rehearsal of the coming world court, the first court to cover the whole cosmos on behalf of a global humanity? Is it a dress rehearsal of the International Criminal Court, perhaps, currently being built in The Hague and prefigured in the various war crimes tribunals for the former Yugoslavia, Rwanda, Sierra Leone?

The word “rehearsal” comes from the French *rehercier*, which means “to go over again, to repeat.” Is this court a novelty or a repetition? Are we witnesses to a rehearsal of the new, or is the court repeating once again what courts have always done? Certainly all the courtroom paraphernalia are there: full judicial regalia, the robes, the judges, the lawyers, the defendants, the guards and the rope dangling from the roof—a powerful memory and fearful anticipation of the sovereign power attached to the sedate proceedings of the court.

As Blaise Pascal put it, justice without force is powerless; force without justice is tyrannical. What links the world to its court? What lies between law and justice?

1. Judy Radul’s installation poses the question but does not give a straight answer. At first sight, “rehearsal” signals the anticipation and preparation for the new. The technological marvels, whose inexorable march is defining the twenty-first-century courtroom, are all there: still and revolving cameras, video screens and computer monitors, live surveillance circuit, talking heads and silent guards.

*World Rehearsal Court* repeats and mimics the way visual technologies are gradually colonizing the courtroom, mirroring the mirrors and screens of the court. Scholarly discussion of the judicial visual has mainly addressed the veracity and trustworthiness of images as evidence. But the pluri-visual staging of *World Rehearsal Court* is much more important. It goes to the heart of law’s iconoclasm, its enduring suspicion of images.

Modern law has been a verbal and writerly practice: language and words are its domain. After the Reformation, the common law was founded on spiritual community, social unity and political sovereignty and on the complementary exclusion of materiality and sensuality, of enemies without and within and of itinerants, idolaters and witches. This strategy, of inclusion and excommunication, spirit and body, reason and madness, is organized around an economy of acceptable and forbidden images, of icons and idols, of false images and spiritual likenesses, which, Medusa-like, can both fascinate and petrify.

In the same way that icons were excluded from churches, figures and imagery were banned from the law. The image had come to be seen as too worldly, sensual and corrupt and was replaced by the word. The further linkage of imagistic language with rhetoric led to the subordination of rhetoric to logic and logic's elevation as the proper method of science and of law. The fear of images was now displaced into judicial hermeneutics. It became the fear of plural meanings and interpretations; of diverse, local and informal jurisdictions; of contingent actions and sensual affects; of different logics and particular reasons.

The aim of secular jurisdiction is to cleanse the mind of impure thoughts and to cleanse the text of law of "painted words" and false figures.

2. But this reticence is now reluctantly receding. Despite law's traditional mistrust of and hostility to the image, visual technologies have invaded the courtroom and turned the judicial process into spectacle. Cameras, screens and monitors, glass walls and video loops, live broadcast and podcast are the new reality of the trial. In one sense, this is an effect of the galloping spectacularization of society. The explosion of images, the mediatization of daily life and the plentiful screens in every home, office and street could not have left the courtroom to its austere and quaint spatial arrangement. When all becomes image, law's fear of the image recedes or is displaced. And yet, like all obvious explanations, it is not fully convincing.

*World Rehearsal Court* is striking in the way it shows visual technologies framing the trial at all levels. Cameras and screens are everywhere: as evidence in photographs and videos; as transmitters of proceedings to the protagonists, to the audience in the courtroom, to the

visitors of the Belkin Art Gallery and to the TV viewers in the Gallery's front rooms; as surveillance eyes seeing and recording protagonists, and viewers seeing and being seen. Cameras and screens do not just represent what is already happening, but they make it happen: they present it by giving it meaning and making it available.

Does this change the nature of the trial, as various old-timers and liberal humanists fear? *World Rehearsal Court* indicates that it doesn't. If anything, visual technology mirrors and replicates the trial, in the way that Narcissus mirrored his visage in the water. The criminal trial has always been a framing device. It isolates a particular defendant and a series of facts and homes in on them. It narrativizes them according to approved plot lines and gives them authoritative legal definitions. Historically and politically complex situations are translated into the language of the criminal code and procedure. A plethora of decisions, actions and effects—some willed, others unintended and collateral—are projected on a single causal line: lawful/unlawful. Actors become perpetrators: guilty/not guilty.

This is what the law and trials do: they separate between legal and illegal, acceptable and blameworthy, normal and anomalous. Trials are camera-like framing devices: they circumscribe and underline; they include as legally relevant and exclude as incidental, contingent, external; they turn facts into events, random happenings into causal sequences, people into heroes and villains. Trials frame and separate inside from outside; they give formal normative or normalizing definitions. Trials were cameras and screens well before any technological innovations were introduced into their operations. They mirror, identify, (mis)recognize. Cameras and screens are the *mise en scène* of the trial: they stage and enframe it.

3. Perhaps more uncommon are the crimes and defendants of *World Rehearsal Court*. The “accused soldier” and the “accused former president of the Twenty-first Republic” point to the unusual, novel nature of the trial. These are trials for massive crimes and atrocities committed against civilians. They pierce the protections that sovereignty offers to political and military leaders and put on the dock the vanquished enemy, a lowly grunt following orders or the head of state or army who gave them.

This is a new but proliferating genre of judging. Nuremberg was its foundation stone; Eichmann in Jerusalem brought this type of judgment to wide attention; the trials of Slobodan Milošević, Saddam Hussein and Charles Taylor brought it to maturity. But what is new about such crimes?

They are in one or another sense crimes against specific people or groups of people but also more than that: they are crimes against humanity. The idea that humanity is split into evildoers and victims, that one part commits the most atrocious acts against the other, is a well-known depiction at least as old as the Bible or Thucydides. But for law, this is a new and revolutionary idea. Humanity does not have a state, an army or (until recently) a court. Nobody can claim to represent humanity and punish anti-human acts. That is, until now: the United Nations, the Security Council, NATO and the “alliance of the willing” have arrogated the role of humanity’s representatives and now call the evil to account. This is what the rehearsal tries out: a constrained space and a limited time in which the infinite wound of humanity will be narrated, agreed upon and judged. This is a world court precisely because the whole of humanity has been wounded.

Genocide, slavery and exploitation have accompanied humanity for centuries. Why did it take so long to create the stage on which humanity narrates its wounds? Why does the world rehearse its court for the first time now? There are political and institutional answers aplenty: the end of the Cold War, the increased sympathy and empathy of world opinion as displayed in humanitarian campaigns, the “never again” commitment. *World Rehearsal Court* indicates something more: it is precisely the visualization of courts and trials, their live transmission and streaming around the globe, that has made humanity feel as one, as a common nature or project that hurts and bleeds. The theatrical staging, filmically embedded in cameras and screens, isolates a common nature and displays it globally.

*World Rehearsal Court* does not represent suffering humanity; it projects humanity qua suffering and in so doing helps construct it as a common humanity. The rehearsed trials are supposed to bring the disjointed parts together and suture a common human essence. They recognize suffering as a permanent existential characteristic, the unavoidable effect of an original sin. Paul Ricoeur said that *la souffrance oblige*. *World Re-*

*hearsal Court* adds: it is suffering that creates a common humanity.

4. There is more. The rehearsing court is conducting “history trials.” These are part of a major cultural, political, moral and epistemological transformation in which the judgment of history and the work of memory are entrusted to law. Why? The legalization of history and memory must be attributed to the galloping amnesia of our societies. Historical and commemorative narratives anchor a nation in an imagined past and are routinely mobilized by the state for purposes of legitimation. But as the nation-state comes under pressure in the globalized world, history is severed from memory, and its identification with the nation loses its authority and pedagogical mission. Now, the future has become problematic and the past unpredictable. Late modernity needs no grand legitimating narrative other than the continuous reaffirmation of the present. “There is no alternative” is our state’s morning prayer.

At this point, the law—the other great institution that supported collective identities, nations and communities—comes into play. Law’s assumption of the role of historical umpire is an attempt to reinvest history with a defini-

tive and authoritative story after the demise of the national sagas and to do so with a modicum of (simulated) sacredness. An extensive record is produced in the court, but these traces of a disconnected past, found in testimonies, archives and documents, confirm the melancholy recognition that the past has lost its sacred nature and memory its foundational power.

But law’s temporal horizon is no longer the future, and its interest in the past comes from a flat present that neither remembers nor hopes. Law abandoned the perspective of the future at the same time that history dissolved into collecting individual memories. Law’s time is Walter Benjamin’s empty or “now-time.” Arraigned before the law, history is given again a canonical narrative and authorized evaluation. Law becomes a cure for failed memory, a kind of group therapy for amnesiacs. The future will know our fate through the digital archives of history trials.

5. I was feeling guilty when I started writing these notes. Various distractions had stopped me from visiting the exhibit to give a talk, despite promises I had made to Radul. Radul directed me instead to a website that offers a virtual

visit of *World Rehearsal Court*. More mirrors and screens, more monitors and glass walls, more reflections and refractions in a virtual and visual Russian-doll panorama. The password for the visitor was “guilty.” Everything was falling into place.

Immediately after the end of the Second World War, the German philosopher Karl Jaspers gave a series of lectures on German guilt. He listed four types of guilt: criminal (commission of identifiable violations of law), political (statesmen and citizens acquiescing to a regime committing crimes), moral (responsibility for actions felt by individual conscience in conjunction with friends and intimates) and metaphysical (universal responsibility for everyone alive who, witnessing terrible crimes, failed to act out of fear and self-preservation).

*World Rehearsal Court* amply displays the genres of guilt and culpability. Soldier and president share a surfeit of culpability. But the innovation of *World Rehearsal Court* is to stage the fourth and hardest type: metaphysical guilt. The reflection and refraction, the screens within screens, the glass walls and surveillance cameras create a hall of mirrors and multiply the effects of the trial. But

the mirroring effect is no longer confined to the main protagonists and their assistants. This is global visibility made for universal guilt.

“What was behind me faces me; it appears and disappears. By recording images of bodies and movements displaced in time, by doubling surfaces through reflection [Dan Graham’s] installations crystallize the fact that the position of the subject depends fundamentally upon a field given by another, by a field of fiction,” quotes Radul in her notes from Birgit Pelzer’s discussion of Graham’s digital phantasmagorias.

*World Rehearsal Court* goes further: the all-seeing eyes that mirror, reflect, enframe and embed thereby construct you and me as the (metaphysically) guilty subject before the law. The scopic field has always been divided. The eye, vision and visibility belong to *theos/theorein/theoria* and the heliotrope, to God and sun, to brightness and clarity, to light and En-lightenment. The eye identifies and separates, but at the same time it abandons and excludes. The vista opened by the penetrating eye is an enframing of vision, and it condemns the unseen, non-lit, dark side to non-existence. There is more:

the *fascinum* of the evil eye, the aggressive aspect of vision, mimics and mirrors the eye as its double. This twin reflects the eye and adopts its killing quality. Separation, splitting and demarcation are the business of the eye; this is how the eye acts on the I.

This dualism is instilled at the heart of subjectivity. The splitting between eye and its evil doppelgänger is reflected in the distinction between vision and gaze, the activity of seeing and the passivity of being seen. The modern seeing subject is captured in the field of vision, caught and manipulated by the operations of the social gaze. There is a dissymmetry between the eye and the gaze, between the subject of vision and the object of gaze. This dissymmetry links vision to struggles for power and normative claims.

Jean-Paul Sartre's voyeur is the model of modern subjectivity. He hears a rustle behind him and realizes he is caught looking through the keyhole. When seen, the viewer enters a Hegelian process of visual recognition and is transformed from an acting consciousness into full subjectivity: "*L'autre me voit, donc je suis.*" The subject emerges by being turned into a target of seeing, a seen object: I

see myself because somebody sees me. Shame and nausea emerge as the transcendental emotions organizing subjectivity, with the recognition that I am-as-object of the Other's gaze and judgment. The gaze comes from everywhere and nowhere in a ceaseless photographic action. Franz Fanon realizes that, as the only black man in a Marseille theatre, he is split between his own imaginary identity and the alienating and hostile gaze of those around him. The gaze is a violent constituent power; more than any constitution or law, it solidifies and estranges human existence. Jacques Lacan radicalized the idea of visual constitution as entrapment: "I see only from one point, but in my existence I am looked at from all sides ... We are beings who are looked at, in the spectacle of the world. That which makes us conscious institutes us by the same token as *speculum mundi.*"

This is what *World Rehearsal Court* repeats and exemplifies. A "normative screen" is interposed between the subject and the social gaze, filtering the objects of vision and determining the ways we see. Assembled in religious, moral and legal rules of guilt and culpability, the screen also determines how each of us is given to the world

to be seen, as handsome or ugly, pleasant or nasty, guilty or innocent. The first and foremost target of the normative screen is the capture of the ways in which the subject finds presence and identity through the recognition of her image. *World Rehearsal Court's* televisual screens are the material facade of the normative screen. Refracted the multiplying monitors and glasses, the normative screen places me next to soldier and president, as defendant, witness and judge: eternally guilty, even if my punishment, like that of Kafka's K, has been permanently postponed.

And it is Kafka's "man from the country" seeking the law who offers the most succinct comment for *World Rehearsal Court*. The man waits at the door of the law, where a guard keeps telling the man that the time to come to the law has not yet arrived and that many more doors/screens, each one guarded by a more ferocious guard, must be negotiated before he reaches the law. At his life's end, the man from the country finally learns that the door was uniquely his, his own exclusive access to the law. By waiting outside law's door and not penetrating the law, the man had obeyed the law, a law made just for him.

At *World Rehearsal Court's* door, we too learn, perhaps late like the man from the country, that the soldier and the president are avatars, necessary victims for an emerging humanity and universal guilt. *World Rehearsal Court*, like Kafka's law, was made for each man and woman from the country, you and me, subjects and objects of the screen. Kafka's guard closed the door at the end; can we hope that someone will switch the screen off?

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[www.worldrehearsalcourt.com](http://www.worldrehearsalcourt.com)

**Costas Douzinas** is Professor of Law and Director of the Birkbeck Institute for the Humanities, University of London. Previously, he was Head of the Birkbeck School of Law (1996-2001) and Dean of the Faculty of Arts and Humanities (2002-2006); he founded the Birkbeck Institute for the Humanities in 2006. Douzinas is a founding member of the *Critical Legal Conference*, and managing editor of *Law and Critique: The International Journal of Critical Legal Thought* and the Birkbeck Law Press. Douzinas' research focuses on political philosophy, jurisprudence human rights,

aesthetics and critical theory. His writing has been translated into eight languages, and his many publications include: *Adieu, Derrida* (2007); *Human Rights and Empire: The Political Philosophy of Cosmopolitanism* (2007); and *Critical Jurisprudence* (with Adam Gearey) (2005). Educated in Athens (LLB), London (LLM, PhD) and Strasbourg (degree for Teachers of Human Rights), he has taught at the Universities of Middlesex, Lancaster, Prague, Athens, Griffith and Nanjing and is a visiting Professor at the University of Athens. Costas Douzinas lives and works in London.