



RDL

REDE BRASILEIRA
DIREITO E LITERATURA

GUSTAV KLIMT'S *JURISPRUDENZ*: LAW, PUBLIC SPHERE AND SOVEREIGN VIOLENCE

RAFAEL LAZZAROTTO SIMIONI¹

TRANSLATED BY FELIPE ZOBARAN

ABSTRACT: This research aims at discussing a possible reading of Gustav Klimt's painting *Jurisprudenz*, from a juridical perspective, in order to explain its potential of meaning regarding the relation between law, sovereign violence and public sphere in peripheral countries like Brazil. In order to do so, this paper is based on three analytical aspects, which are deeply interconnected: The Renaissance's revival of pagan Antiquity, Freud's psychoanalysis, and the ambivalent relationship between Law and sovereign violence. Klimt articulates these three dimensions through a) elements of Greek mythology; b) in a Freudian dream-like atmosphere; c) placing the observer in the political role of one of its main characters. Methodologically, this research identifies the references of Klimt at his lifetime and proposes a dialog with the previous interpretations and reflections made by Schorske, Minkkinen, Rodriguez and Manderson, among other authors that dedicated themselves to study the *Jurisprudenz* of Klimt. *Jurisprudenz* presents a visual narrative that allows one to understand the rupture of the *cogito* self by the *desire self* (Freud), the exception/sovereign violence of Law (Schmitt, Benjamin, Agamben), and the creative construction of the Law by democratic participation in new forms of public sphere (Habermas).

KEYWORDS: Gustav Klimt; *Jurisprudenz*; Law; sovereign power; public sphere.

¹ Post-Doctorate in Theory and Philosophy of Law at Universidade de Coimbra. Ph.D. in Public Law Universidade do Vale do Rio dos Sinos (UNISINOS). Master's degree in Law at Universidade de Caxias do Sul (UCS). Professor at the Postgraduate Program in Law at the Faculdade do Sul de Minas (FDSM) and at the Post-Graduate Program in Bioethics at Universidade do Vale do Sapucaí (UNIVÁS). Pouso Alegre (MG), Brazil. ORCID: <https://orcid.org/0000-0002-8484-4491>. CV Lattes: <http://lattes.cnpq.br/0651879354342863>. E-mail: simioni@ufmg.br.

1 INTRODUCTION

Niklas Luhmann (2005, p. 303) observed that the art system produces few direct effects on other autopoietic systems. Maybe he's not right. Art constructs imagery, symbolic relations or forms of representation of reality that are deeply inscribed in our culture and can produce resonances of high impact in other social systems, especially politics and law. Art has the capacity to surprise, interrogate, (re)present absences, to potentiate new ways of producing meaning in society and the world. The visual arts, together with music and literature, possess an innovative, critical and reflexive potential to think the law. Through its aesthetical structures and the autonomy of its symbolic forms of communication, art is able to establish unusual, surprising and creative relationships about law and society.

The visual arts, in their creative operability, manage to connect ideas and feelings, concepts and bodies, objectivities and subjectivities. They connect, in the same space of signification, the worlds of what *is*, of what *ought to be*, and of the *desire to be*. The visual arts are not just systems representing the spaces and relations between the objects of the world. They also establish forms of representation of different temporalities. In the field of art, “forms are not only significant: they are ‘resounding’” (Didi-Hubermann, 2013a, p. 352).

The *Jurisprudenz* of Gustav Klimt (Figure 1) is an astounding work. Its geopolitics establishes different relations of the whole artistic tradition of the Middle Ages and European Renaissance. Instead of the figure of the Greek goddess Themis subjugating crime, Klimt puts in the foreground an old man, naked, in a state of suffering and humiliation, subdued by a monstrous octopus and in the presence of three naked, sinister women, who seem to be indifferent towards the man. At the bottom of the image, above, as if they were distant and also indifferent to the naked man, three goddesses: *Veritas*, *Justitia* and *Lex*. A scene that develops in a paradoxical environment, like those of dreams, in which our fears and desires meet.

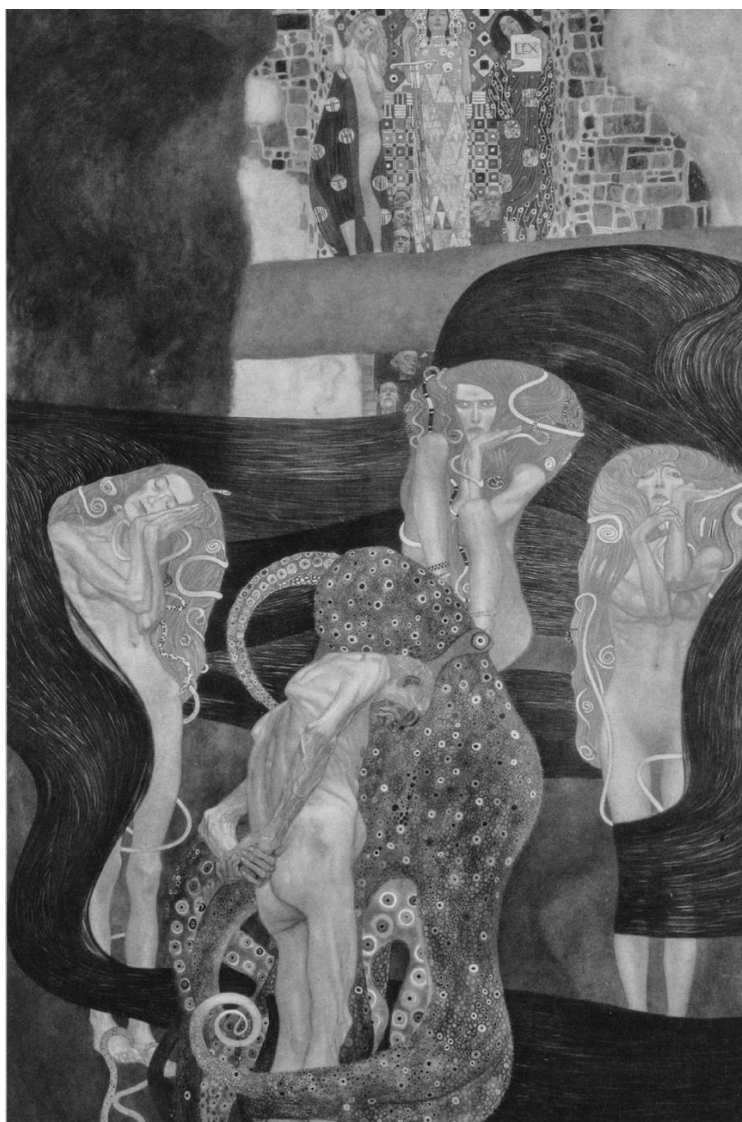


Figure 1 – Gustav Klimt, *Jurisprudenz* (1903-1907).
Courtesy of the Archiv Leopold Museum, Vienna, Austria.

The map of the symbolic relations present in this work by Klimt broke with all the preceding history of the artistic representations of the law or of Justice and subverted the pretension of the law to regulate the definition of its own sense. As a snapshot, a *mis en scène*, Klimt reveals a new way of understanding the relationship between law, society and sovereign violence. It is no longer a question of idealized law, but of law in its practical operation: law acting on the human body, an ambivalent game between visceral and sidereal, violence and justice, gaze and indifference, care and humiliation.

This research aims at proposing a possible legal reading of Klimt's painting *Jurisprudenz*, establishing a relation between law, sovereign violence and the public sphere. In order to do so, three keys of reading are used, which reveal three dimensions of meaning in Klimt's work, which are deeply connected to one another through a) the elements of Greek mythology; b) in a Freudian dream environment; c) placing the observer in the political role of one of its main characters. We want to demonstrate that *Jurisprudenz* is a special work of art for the law, as it transcends space, time and its condition of object of the physical world. It does not merely represent the relationship between law, sovereignty and society. It is, at the same time, the object of its own representation.

To achieve these results, we will follow a systemic methodology of second-order observation (Luhmann, 2005, p. 102), which allows us to analyze, from the perspective of the paradox of self-observation, the correlations between iconographic discursiveness and its referents of meaning. This style of observation also makes it possible to establish relations with other theoretical frameworks, both from the political readings of art and from the artistic readings of politics and law. Among these references, we would like to call in particular the thinking of Giorgio Agamben (1995) on the relationship between law and sovereign power, which makes it possible to discuss the readings of Schorske (1981), Minkinen (1990), Rodriguez (2012) and Manderson (2015), on the work by Klimt. The second-order form of observation (Luhmann, 2005, p. 102) allows a dialog between these authors and the references of the time, especially the *Oresteia* of Aeschylus, which is a central reference in the concept of the *Jurisprudenz* by Klimt.

2 JURISPRUDENZ, BY GUSTAV KLIMT

Gustav Klimt produced a singular work of art for the bourgeois legal culture of Austria. In 1894, Klimt and his colleague Franz Matsch were hired by the Ministry of Education² to perform five large paintings on the roof of the newly built Noble Hall in the University of Vienna. The project

² The decision was made by the Council of the University of Vienna and ratified by the Ministry of Education – at the time called *Ministerium für Kultur und Unterricht* (Schorske, 1981, p. 211).

provided for a central painting and four peripheral painting. The central painting symbolized the Enlightened thought, with the victory of light over the darkness, while the four peripheral paintings symbolized, each, the four main schools of the University of Vienna: Theology, Law, Medicine and Philosophy.

Matsch was responsible for painting the representation of the School of Theology and for the central figure on the ceiling, *Der Sieg des Lichtes über des Dunkeln* (1897), “the triumph of light over darkness”. Klimt, who was already a consecrated master of decorative painting, was in charge of representing the Schools of Philosophy, Medicine and Law – which in the classical European tradition is called School of Jurisprudence.

The University’s expectation was a work which, with Klimt’s realistic and decorative talent, could represent the Schools in line with the spirit of bourgeois enlightenment thought. Something like “Illuminated Themis subduing the darkness of crime” would no doubt please. However, between the time of his hiring and the process of creating the works, Klimt changed his style and aesthetics deeply.

He abandoned the historical-classical style that made him a famous decorative artist and became deeply involved in experimental research, with the purpose of promoting a new pictorial language, a new art form capable of expressing the human condition of the time (Schorske, 1981, p. 22). In his pictorial research, Klimt developed an introspective and orphic aesthetic, replete with ambiguous and fluid figures. As if, instead of a supposedly objective substantial reality, a symbolic world of abstract and indefinite essences entered the picture. A language that resembled more the form of dreams and their symbolic relations than that of reality and its traditional references of meaning.

Unlike the realistic language of his colleague Matsch, Klimt’s *Philosophie*, *Medizin* and *Jurisprudenz* formed a series of works carried out with symbolic figures and surreal relationships. Sinister objects, symbols and relationships, which marked deep ambivalences between life and death, health and disease, light and darkness, good and evil. Nude female bodies, extremely sensual, have made the three works the object of much criticism, protest and dissatisfaction (Schorske, 1998, p. 134; Néret, 2005, p. 8).

There were open hearings, witnesses, specialists, critics. In the end, the works were judged “inappropriate” for the University.

The legal community at the time accused Klimt of reducing the law, in *Jurisprudenz*, to a sole function of execution and punishment (Minkkinen, 1999, p. 185). And his supporters simply observed that the law was just that: a system of punishment. Simplistic interpretations soon identified the central figure of the monster octopus punishing a naked man with the figure of Leviathan humiliating a citizen in front of three women – who supposedly were the Furies or Erinyes of the Greek trilogy *Orestes*, by Aeschylus (1988) –, with the three goddesses, in the background, representing *Veritas*, *Iustitia* and *Lex*.

However, this was a very superficial reading of the work. In this research, we want to follow a different path in order to unlock the possibility of other more interesting critical readings to think modern law and the operative relation that it establishes with the sovereign power, the public sphere, and society.

The law, in Klimt’s work, is not only about violence, bureaucracy and positivist formalism. Nor is it plain irrationality or a game between reason and passions. Klimt presents several visual metaphors and unusual symbolic relations to the law, unprecedented in the European artistic tradition.

But the paintings for the colleges were never installed there. Klimt rescinded the contract, returned the fees he had received, and took back the three works. He then sold them to the Lederer family at the end of World War I. In 1943, the works were removed to the basement of the Immendorf Castle (Manderson, 2015, p. 541). With the arrival of the Soviet troops and the surrender of the Nazi army in 1945, a fire in the castle destroyed the three paintings, along with another 70 works of Klimt and other artists. Only monochromatic photographs were left of it, since there was no color photography available at the time. But it is said that the predominant colors were gold, black and red. Colors that are not natural. As if to say that law is not something of Nature, but a social construction, the product of sovereign violence, the work of a weapon, and not of a sublime metaphysical essence.

Simply by choosing colors does Klimt speak of a law that is no longer conceived of as natural law, but as sovereign violence, a social construction.

Sovereign power and bare life. Care, abandonment and destruction. As Agamben's foreboding, *Jurisprudenz* by Klimt is a portrait of the ambivalences of modern law. Not that Klimt anticipated the thought of Agamben, even because, although quite close to Carl Schmitt and Walter Benjamin, it does not matter whether the artist was conscious or intended to establish the relationships he truly established. A work of art is an operative space of meaning (Didi-Hubermann, 2013b, p. 173). Its function is not limited to portraying the thought of a given historical moment, but above all to trigger resonances of meaning about the formation of our culture (Manderson, 2015, p. 518). Art, like jurisprudence, is also a narrative that unfolds in time. There is not, therefore, commitment to the intention of the author. We also do not care about the legislature's intention in law. It is a question of taking advantage of the symbolic potentialities, the iconographic relations that the artist has established and that allow us to understand today the relations that art, free from the epistemic chains of law, can signal.

3 THE REVIVAL OF PAGAN ANTIQUITY, PSYCHOANALYSIS, AND THE POLITIZATION OF ART

In order for our reading of Klimt not to be summarized as mere iconographic analysis, we need to understand the discursive context in which *Jurisprudenz* was thought. There are three important, intrinsically related vectors of meaning operating at the end of the 19th century in Vienna: (a) the revival of pagan Antiquity operated by the European Renaissance; b) the politicization of art in the vanguard artistic movements; and c) the rupture, promoted by Freud's psychoanalysis, of the subject as *cogito*, as reason, by the subject as desire, the subject as the place in which *Eros* and *Thanatos* live together.

The Renaissance marks a profound transformation in the field of art. Like Humanism in science and philosophy, the Renaissance puts man at the center of the discursive system of art. It is no longer, as in the art of the Classic or the Middle Ages, a sacred dualism between divine grace and the sin of men. The Renaissance breaks with this Judeo-Christian tradition and initiates a movement that revives pagan Antiquity, based "on the knowledge

that was, then, about Antiquity, of resorting to the works of Antiquity to incarnate life in its external movement” (Warburg, 2013, p. 22).

The artistic movements of the late nineteenth century, however, go beyond the renunciation of religious dogmatism and its replacement by the dramas of human existence. In movements such as that of the Viennese Secession, of which Klimt is one of the founders and leading exponents, art ceases to be a decorative object and becomes a vehicle for transformation and social criticism (Schorske, 1981, p. 22; 1998, p. 151). In Klimt’s work, one can clearly observe the transition from a concept of merely decorative art – *art nouveau* – to an art with political function. Art assumes a political role in the late nineteenth century.

However, it was not only in the field of art that the renewal of pagan Antiquity took place. The most experimental sciences of the time, such as Sigmund Freud’s Psychoanalysis, also called for symbols of non-Christian mythology, especially Greek mythology. The first publication of Freud’s *The Interpretation of Dreams* (1901) occurred in November 1899, exactly during the period of defining the concept and creative process of Klimt’s *Jurisprudenz*. For Freud (1901, p. 143), guilt is bound up with temptations, whose tentacles may be symbolized in the figure of that monstrous octopus, which seems to embrace the humiliated man in the nakedness of his guilt. Suffering, then, would be in his own moral consciousness, represented by the octopus and its tentacles, whose suckers are also eyes: looks of reprobation, moral judgment, and condemnation. Meanwhile, truth, justice and law are distant, as externalities, indifferent and insensitive to the true human condition.

Is *Jurisprudenz* the portrait of a Freudian dream? The embarrassing dream of nakedness that humbles us with its truth? Or the desire to go somewhere or do something, but with obstacles that keep us from getting in the way or do what we want? Or would it be the portrait of a scene from Greek mythology, such as the judgment of the matricide Orestes in the Aeschylus trilogy (1988)? But if the naked man is Orestes, where are Apollo and Athena, who are central characters of this judgment? And who or what is symbolized by the octopus, that sovereign power inscribed in an aquatic scene, dark, cold, and indifferent to the suffering of the naked life of its victim?

Greek mythology, political philosophy, and psychoanalysis. Under these three vectors it becomes more interesting to read the powers of signification of Klimt's *Jurisprudenz*. Instead of questions that trigger excluding responses of the type *either this or that*, the symbology in the geopolitics of Klimt's image organizes several overlapping layers of meaning. It's not about this or that. This painting explores the ambivalences, paradoxes, and struggles of the human condition. It does so by articulating elements of Greek mythology, in a Freudian dream environment, and placing the observer in the political role of one of its main characters.

Apparently, it is a two-dimensional work, with space and depth of field. However, this work involves even the observer – me, you, us – who look as if from outside. As we look at *Jurisprudenz*, we inevitably participate in it. We become one of its main characters. It not only (re)presents the relationship between law, sovereignty and society. It is, at the same time, the object of its own representation.

4 GEOPOLITICS OF THE IMAGE

A painting like this by Klimt is performed within a framework. And like every painting or photograph, framing is a political attitude. An attitude of selection between what will remain inside and what will remain outside of the framework (Simioni, 2018, p. 2). In choosing the elements that will be part of the composition of the image, the artist is, at the same time, choosing those that will be excluded from it. What defines an image, therefore, is not only the relation between the elements expressly drawn or recorded in the frame of the image, but also the relation between these elements and all others that have been deprecated, silenced, excluded.

In sketching the first draft of *Jurisprudenz* (Figure 2), in 1898, Klimt, as a good part of the Renaissance tradition, chose to use the figure of the Greek goddess of justice, Themis, subjugating, with her sword, evil and crime. In the draft of 1898, justice was represented with dynamism, strength and authority.



Figure 2 – Gustav Klimt, *Jurisprudenz Draft* (1898b).
Courtesy of the Archiv Leopold Museum, Vienna, Austria.

The *Jurisprudenz* draft dealt with the viscous and grave atmosphere of the other two works of the series, Philosophy and Medicine. In this sketch, the environment is a fanned and illuminated sky, with Themis illuminated and triumphant over the darkness of evil, at the bottom of the frame. The sword erected in perpendicular position denotes movement, dynamism and grace. The dress fluttering in the wind suggests vitality and strength. No doubt this would be a good representation of the virtue of liberal law by the bourgeois legal community of the time.

However, the definitive *Jurisprudenz* (Figure 1) radically broke with this style. The new version profoundly changes its view of law. In the initial version, the environment is illuminated; in the ultimate one, the environment is a stifling and somber scenario. An underground or marine

environment. In the draft, the central image is Themis triumphant. Ultimately, the central image is an old man, naked, humiliated and subdued by a monstrous octopus. The final version is a subversive painting of law, a caricature of law: the noblest and most respected expression of bourgeois liberal culture, presented as violence and humiliation (Schorske 1981, p. 230). A proposal to understand the law from the point of view of its victims, and not from the idealized point of view of the political and legal elites. The central figure is no longer justice, but a victim of the law.

Klimt does not paint a utopia of the law, but a *dystopia* or perhaps a heterotopia. Utopias portray how the world could be. Klimt portrays the law as it is in reality, with its violence and subjugation. Klimt's work is deconstruction. It is a radical critique of law in the form of image. While *Philosophie* and *Medizin* were thought of in an ethereal sphere with smooth lines and fluid outlines, *Jurisprudenz* was made in reverse: strong, definite lines, clear, clarified figures isolated from each other.

As in Kafka's *The Trial*, Klimt does not limit himself to speaking of law only as a system of knowledge. He paints the effects of law upon human bodies. He shows law as a biopolitical mechanism that inscribes its regime of power over the human body. The sovereign power invading physical existence: biopolitics (Foucault, 1976, p. 179 and 2012, p. 404), bare life (Agamben, 1995, p. 11 and 2014, p. 43), symbolic concentration camps within which humans do not have *bios*, nor *zoe*, but they are located in a zone of indistinction between them. A life suspended between *polis* and *oikos*, *civitas* and *domus*, between inclusion and exclusion. Human bodies situated in fields of absolute undifferentiation, in which the individual loses his identity, his singularity, becoming only a number, a statistic. Zones of detachment, in which qualified political life becomes bare life.

Was the octopus the symbol of sovereign power? The power outside the law and at the same time within the law (the power of exception) that produces that zone of indifference between political life and animal life? Would we be faced with a symbolic representation of the power to segregate the qualified life and the sacrificial life, the life that deserves to be cared for, and the one that can be discarded? Who is that monstrous dust? Leviathan, Cetus, Charybdis, Scylla, Kraken? The police, the judiciary, the bio-political

mechanisms of control of bodies and populations, the devices of sovereign power?

It is interesting to note also that in the Sketch of the ultimate *Jurisprudenz* (1903) (Figure 3), the octopus was thought of as a monster that literally ties and holds the hands of the naked man. However, in the definitive version (Figure 1), the hands of the humiliated man are not bound. The man holds them back voluntarily, as if he were ashamed or guilty of his fears and desires.

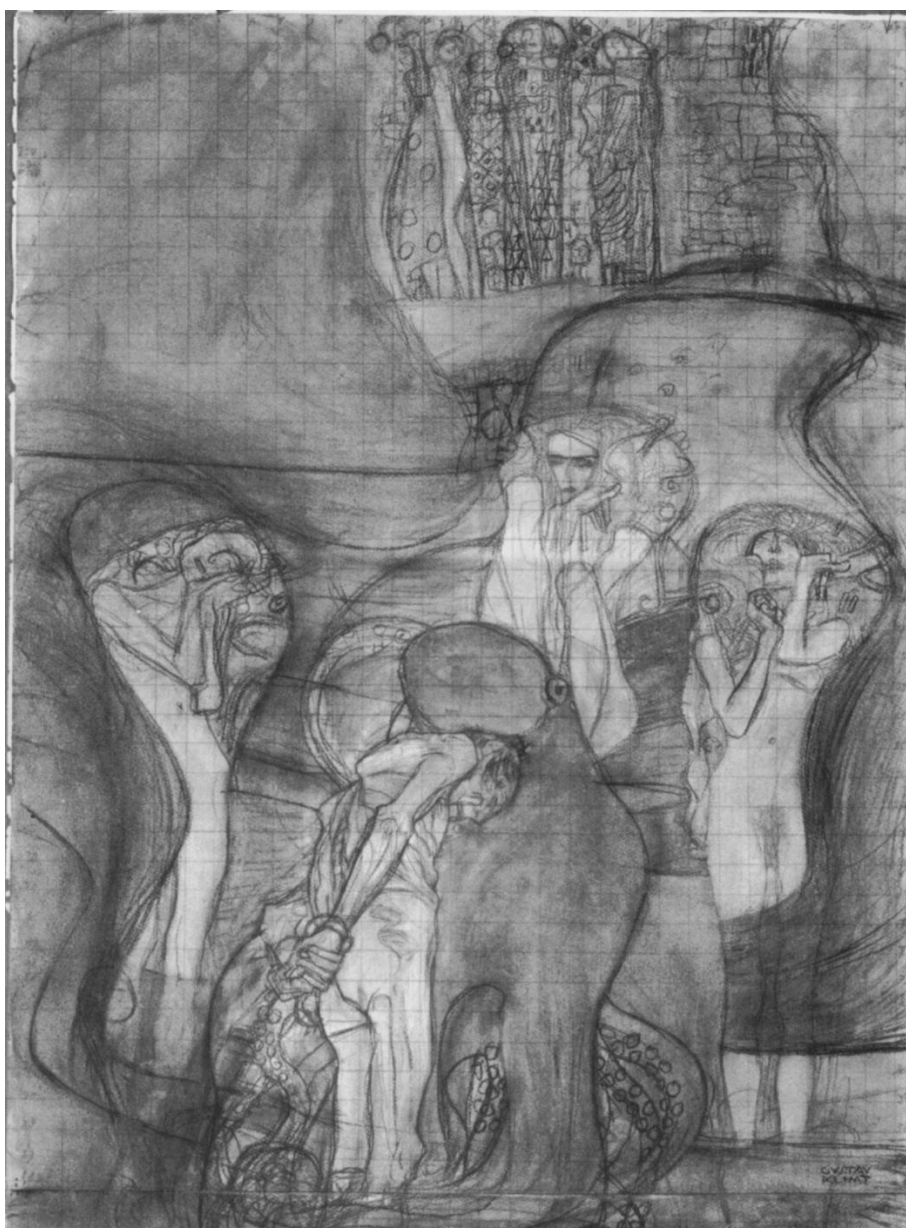


Figure 3 – Gustav Klimt, Drawing sketch for *Jurisprudenz* (1903).
Courtesy of Ronald S. Lauder and Serge Sabarsky Collections, New York, USA

Another interesting detail in the geopolitics of the image was Klimt's decision to cover the octopus' skin with hundreds of eyes. In the sketch (Figure 3), there are no records of the eyes inscribed on the body of the octopus, although the details of the suckers, carefully drawn from the perspective of the tentacles, are already present. In the definitive work, Klimt paints an octopus covered with eyes: as a panoptic being (Foucault, 1975, p. 197), a being who sees everything, observes and controls everything. It was quite common symbol at the time, since the Renaissance, to symbolize the watchful eye of sovereign power. Compare to the portrait of Queen Elizabeth I of about 1600 or 1602 entitled *Rainbow Portrait of Queen Elizabeth I* and attributed to Isaac Oliver (1602): the queen's outfit has hundreds of printed eyes and ears designating the power to see and listen to all that her subjects do or do not do. It is a way of symbolizing sovereign vigilance. The difference between the monstrous octopus and the Queen Elizabeth is only of figuration: both are personifications of the sovereign eyesight.

In the background of the image there is another important political decision. While in the sketch (Figure 2) the justice goddess is in the foreground, implacable, impassive, and colossal in subduing the darkness beneath her feet, the ultimate *Jurisprudenz* puts justice in the background, behind and above the central figures, between *Nuda Veritas* and *Lex*.

In reorganizing the position and relationship between justice and other legal references, Klimt portrays a law that is no longer limited to a version of Natural Law, which identifies law, justice and sovereignty, as if they were the same thing, neither is it limited to a positivist understanding of law, which identifies the law to the written law, as if law and norms were the same or as one were form and the other, its substance or matter. Klimt surprises the legal community at the time by portraying a law that relates to truth, justice and norm, but does not identify with them in the same unique singularity. With this geopolitical decision in the cartography of *Jurisprudenz*, Klimt criticizes both natural and legalistic positivism in the nineteenth century (Simioni, 2014, p. 43). *Justitia* and *Lex* are not the same person, they are not the same thing. They are together, side by side, and beside the truth as well.

Nuda Veritas, however, presents two surprising differences when compared to the Renaissance tradition: she is without the mirror that characterizes her and presents herself semi-naked, not wholly naked, as it happens in the history of the artistic representations of the goddess. The “mirror of truth” is not with the Truth of *Jurisprudenz*. And the nakedness or transparency of truth, in *Jurisprudenz*, is also only a partial truth, not a real truth. Perhaps Klimt was suggesting the difference between real and formal truth that exists in the court case. A comparison with one of his earlier works, entitled *Nuda Veritas* (1899), illustrates Klimt’s deliberate decision to portray another kind of truth. Not that of Schiller’s sentence, inscribed in the *Nuda Veritas* headline, that naked truth is important even when it does not please everyone, but another kind of truth: a truth of legitimacy. Truth tolerated. The truth that pleases.

Another surprising representation is in the figure of the goddess *Justitia*. She has a sword, but she does not have the scales. The word of the Law, the beauty of Truth and the majesty of Justice stand by, just watching. They legitimize the violence and brutality of the octopus’ tentacles. Klimt offers the symbolism of the pompous legality and the virtues of law, which, however, do nothing to control the violence and arbitrariness of the sovereign power, which they legitimize (Manderson, 2015, p. 539). They are virtues in half. They are not whole. The truth of law is not the naked truth, and it has no mirror. Justice has the sword, but she does not have the scales of proportionality. The law, fully clothed, exhibits the book whose reference is but one of the three virtues. A foreshadowing by Carl Schmitt and Hans Kelsen, but against both: law is not just normative language, nor is it just legitimized sovereign violence. The three goddesses represent three dimensions of the operability of law.

The goddesses are distant, impassive and indifferent to the humiliated man. On the level of the distant goddesses, the metaphysics of law. In the area of the man, the reality of law. Truth, Justice and Law enlightened, contrasting with the darkness of the rest of the scene. As if truth, justice, and law could illuminate the darkness in which the monster-dominated man lives (Minkinen, 1999, p. 184). But they are distant and seem not to be involved in the suffering of the naked man. A critique of the

formalism of law. The insensitivity and indifference of legal devices to the tragedy of the true man.

However, we have not yet spoken of the three central feminine figures of *Jurisprudenz*, nor of the relations they establish with the other elements of the image. Who are they? Why do their hair blend with wires and serpents? And why does the position of their hands seem to remind the position of the hands of someone who is sleeping or waking from a Freudian dream? And why, instead of looking at the man humbled by the sea monster, do they seem to look at us, who are outside the frame of the image?

5 AESCHYLUS AND THE JUDGMENT OF ORESTES

An important key to *Jurisprudenz's* reading, not free from contradiction, is the work of Aeschylus (1988), which chronicles the judgment of Orestes, son of Agamemnon, the king of Mycenae who became a hero in commanding the armies in the attack of the Achaeans against Troy. The story of Aeschylus tells of a prophecy by the god Apollo to Orestes, who was to avenge the death of his father, Agamemnon. However, Agamemnon was murdered by his wife, Orestes's mother. And to avenge his father's death, Orestes had to murder his own mother.

In Greek mythology, guilt and suffering for the death of relatives or guests is symbolized by the Erinyes – or Furies, in Roman mythology –, ancient goddesses who act as accusers of Orestes's crimes. The Erinyes are goddesses of revenge and can be read, as suggested by Manderson (2015, p. 525), as symbols of the old concept of justice, which is that of *Lex Talionis*: an eye for an eye, a tooth for a tooth. In this reading, the Erinyes symbolize that old concept of retributive justice, based on punishment and the atonement of guilt for sacrifice.

There are readings that see in the Erinyes/Furies as expressions of anger, anger, hatred, and therefore they could be symbols of irrational, instinctive, wild feelings. This reading – which is not wrong, but does not take full advantage of Klimt's significance for the Theory of Law – allows us to establish interesting relations, such as Schorske's (1981, p. 235), which observed two worlds in the painting: the world of the three goddesses of truth, righteousness and law, on the upper part of the picture; and that of

the three Furies of instinct, on the bottom of the picture. In this perspective, the work could symbolize the triumph of reason and civilization over barbarism and instinct (Schorske, 1981, p. 235). In the same vein, Rodrigues (2012, p. 440) proposes to read the painting as a game of forces between rationality and barbarism, between law and hatred.

In *Oresteia*, Aeschylus (1988) makes justice triumph over instincts, over barbarism. But in Klimt's *Jurisprudenz*, there is a subversion of the opera: it is the instincts that seem to triumph over justice (Schorske, 1981, p. 235). The submission of the public *ethos* to the private *pathos* (Schorske, 1981, p. 235).

These are interesting and plausible readings, but they put the question under the genuinely European epistemic problem of the twentieth century, that of rationality: the duality between reason and emotion, justice and barbarism, civility and instinct. The question of rationality seems to take up the old path of the Hobbesian foundation of the Modern State, according to which we submit to the violence of sovereign power to avoid the painful death of savagery. In Brazilian lands, however, we are always much more on the side of savagery than on the one of civilization, of the craftily constructed image of an exotic and instinctive cordiality than of the normalized, ascetic, noble and austere rationality.

We do not want to presuppose rationality as a starting point for the classification and organization of the symbols that define the relations between the elements of our world. Rationality is just another concept, among others, for the creation of stereotypes from which the rest can be judged as irrational, instinctive, barbaric or savage. We want to read Klimt's work from an indifferent point of view to any pretension of rationality. A reading of the paradoxes of self-observation (Luhmann, 2005, p. 105) and the creative use of these paradoxes (Rocha, 1997, p. 17). A cannibal reading of *Jurisprudenz*.

Oresteia plays with a paradox. Orestes killed his mother to avenge his father's death. The Erinyes, however, are activated precisely because of their mother's revenge. It is the desire for revenge that the Erinyes operate on the life of Orestes. But the same revenge that the Erinyes seek to take over the life of Orestes is the one that Orestes took in honor to the murder of his father.

The reason of the mother's revenge that justifies the action of the Erinyes over Orestes is the same one that justifies the revenge of Orestes regarding the murder of his mother. There is a paradox in this relationship. What's more, the reason Orestes's mother murdered Agamemnon was because he sacrificed the life of his own daughter in an offering to the gods, that is, the murder of Agamemnon was also for revenge. Revenge to punish revenge is still the tautological reproduction of an ever-new revenge relationship.

Therefore, in the perspective of the Erinyes, the revenge that underlies their actions is the same one that justifies the conduct of Orestes. And the paradox also reappears on the side of Orestes: to justify his matricidal conduct, Orestes claims revenge for the death of his father, which is precisely the cause for the criminal prosecution of the Erinyes, the Furies. The Erinyes are only right if they admit the reason for Orestes's revenge. And Orestes is only right if he admits the reason of the Erinyes. In the end, to be condemned, Orestes must be acquitted and, to be acquitted, he must be convicted.

In order to get out of this paradox, Orestes employs two argumentative strategies: on the one hand, with the help of his lawyer Apollo, he uses the authority of Zeus on the prophecy that led him to avenge his father's death; on the other hand, he resorts to mathematics and observes that his mother, in assassinating Agamemnon, practiced not only one but two crimes – she killed not only her husband but also Orestes's father. The Erinyes, on the other hand, also make use of two argumentative transcendentalities: on the one hand, the reference to their destiny, traced by the Moirai – or Fates, in Roman mythology –, who are the goddesses of destiny and whom the novice gods must obey; and on the other hand, to threats and pragmatist observations of the consequences – if Orestes is acquitted, crimes of blood and hospitality will increase, and life in the city will become a disgrace.

Faced with a deadlock, the goddess Athena comes and asks the Erinyes permission to judge the matter. They recognize the virtues of Athena's wisdom, justice, and prudence, and agree to transfer to her the authority of Orestes's trial. But Athena, noticing the difficulty of the trial, claims she cannot judge Orestes's conduct by herself. Then she creates the

Areopagus and chooses righteous men to carry out the judgment by voting. A judgment that is not made by the gods, but by humans. And in the context of Aeschylus' tragedy, the Areopagus is set up to be the court with jurisdiction to decide the crimes to come.

The god Apollo acts as Orestes's lawyer; and the goddesses Erinyes, as an accusation. Athena commands the trial, and after the debates, the human judges hold the vote. In the end, there is a tie between the votes of condemnation and acquittal, and Athena decides *in dubio pro reu*, and absolves Orestes from his paradoxical crime. The Erinyes, furious, promise to cast the woe upon the city. But the goddess Athena convinces them that her office, with the Areopagus and the human judges, has become even more important. This is because, from then on, the Erinyes, goddesses of revenge, become the Eumenides, goddesses of goodness. They give up part of their vindictive craft and become guardians of creation, productivity and fertility of the land: the archetype of the Rule of Law. The passage from the power of revenge to the power of care. The transformation of the sovereign power of weapons into the sovereign power of life. The substitution of thanatopolitics for biopolitics. The displacement of the solution of conflicts, from the sphere of the act, to the sphere of language (Karam, 2016, p. 92).

Undoubtedly, *Jurisprudenz* dialogues with the *Oresteia* of Aeschylus (Schorske, 1981, Minkinen, 1990, Rodriguez, 2012, Manderson, 2015, Zajadlo, 2016). The influence of the Greek tragedy on nineteenth-century German culture is evident in many fields of knowledge. From Richard Wagner to Sigmund Freud, figures from Greek mythology and pagan antiquity are often called upon to make sense of new concepts and relationships. Klimt also reproduces this influence. There are several works of his that thematize figures of the Greek mythology. Mermaids, monsters, goddesses and, in particular, *Pallas Athene* (1898a), who is a central figure in the *Oresteia*.

The *Oresteia* narrates the transition from a primitive culture of justice as revenge to a new culture of justice as *phronesis* – or as *prudentia*, in the Roman tradition –, that is developed from the foundation of Areopagus, which symbolizes the creation of independent courts of justice composed of citizens, and the archetype of what we now call the Rule of Law. But *Jurisprudenz* is not limited to providing an illustration or scene of *Oresteia*.

There is also a deep psychoanalytic dimension in the organization of its elements and characters.

6 THE TRUE MAN BETWEEN *EROS* AND *THANATES*

Minkinen (1999), like so many others, saw in the central figure of the naked man the individual representation of a collective subject. The naked man is you, I, us. The man finds himself in a marine scene, with the three Erinyes/Furies wrapped in a swift, brutal stream of a cold, dark river or ocean. An old man and a monster, who could be associated with Hobbes's Judeo-Christian Leviathan. But the Leviathan is a dragon or sea serpent or even a whale³. Klimt drew an octopus. It must be Kraken, the giant octopus of Norse mythology. With its tentacles to symbolize the agents of the state, the *polyp/polizei*, as the weapons of the law (Manderson, 2015, p. 520). For Klimt, both the police and the judiciary are a Kraken, a giant and monstrous octopus whose tentacles are the weapons of the law.

At the bottom of the scene there are nine human heads scattered behind the goddesses, in the upper plane of the image. Who are they? What do they stand for? What relationship do they establish with the other characters? While a humiliated man is having his life sucked by the tentacles of the state, does a bunch of harpies delight in watching the misfortune of others? Is this some kind of iconographic slang?

Circles and stains form the cloak of the law. Truth and justice are connected. The Kraken has a single eye, which is steered toward something far away. But its tentacles are covered with several other eyes, a panopticon. A sovereign watchful power. The relation between light and darkness happens within the image, summoning a symbolic aesthetic that resembles the description of a Freudian dream.

The octopus does not look exactly like Kraken. It is a creature with confused shapes, floating in a two-dimensional contradictory space. The characters in the foreground are dynamic, seem to be in motion,

³ In the Bible, references to Leviathan as a serpent are found in the book of Isaiah 27.1. A detailed description of the Leviathan as a monstrous sea dragon can be read in Job 41.1-39. As for Psalms 74.14, the Leviathan is presented as a multi-headed monster.

something seems to be happening there in the central scene, while, deep down, the three goddesses and the nine human heads resemble statues, totemic monuments. Manderson (2015, p. 531) noted that there are two separate worlds in Klimt's work. And the place where these two worlds meet is the place of dreams. The place where *Eros* and *Thanatos* live together.

Like the medieval representations of the biblical scene of the Last Judgment, which separated the world of angels and the world of men in two planes, *Jurisprudenz* also thematizes a segregation, a distancing between fears and desires. Freud (1991, p. 139) notes that our dreams are our unconscious desires. But as some of these desires may provoke repulsion, they appear in disguised, disfigured forms and relationships. Equally subjected to a certain police activity, dreams are also repressed and segregated. A question of governability of the self. Desire and censorship coexist in dreams. Manderson (2015, p. 532) points to the hypothesis that Klimt disguised the latent content of his criticism through codes and visual metaphors, especially to avoid government censorship. But what is the desire of the dream portrayed in Klimt's *Jurisprudenz*?

Manderson's reading (2015) suggests a desire for recognition. The desire to be seen by the law as we really are. The imprisoned man is old and tired. It is nothing of what we in law call the average man, reasonable man, much less a virtuous citizen or a *bonus pater familiae* that the legal system idealizes or supposes to exist, from this stereotyped model of subject, to judge the real men, with their fears and desires, virtues and flaws. By contrasting the naked man with noble, static and distant figures, Klimt speaks of ignorance or the inability of the Law to recognize the tragedy of human life. The old man, naked, wants a response of the Law that it cannot give to him, an understanding he does not have, and an intimacy that it cannot establish (Manderson, 2015, p. 533).

As in Freud, man is unable to move. Before the eyes of others, the desire for recognition and the shame of nakedness (looking down, turned back) are inscribed in the body of the naked man. Minkinen (1999, p.

187) observed that all eyes are supposedly turned to the naked man⁴. But, in fact, no gaze is directed at the man. They are all indifferent to him.

Minkkinen (1999, p. 184) also understood the three women as the Erinyes, but saw the foreground as the myth of Plato's cave: a play between the sun's lights and the darkness of the cave, between divine and eternal ideas shining under the light of the sun and the trivial objects of the darkness of the cave (Minkkinen, 1999, p. 185). Thus, Klimt would be representing not only the law, but the relation between the philosophy and practice of law. A paradoxical relation between truth and desire: "a juridical foresight, an anticipation of truth and of justice that are forever delayed" (Minkkinen, 1999, p. 187). However, Klimt paints a Law in which nobody talks, hands do not touch anything and the eyes do not see.

All, except perhaps the naked man, have their eyes open. But nobody looks at anyone. The old man, central character, is paradoxically the only one with eyes turned away, turned back, his head tilted down, suggesting shame. The hands, which in Klimt's other works have special meanings, also have interesting layers of meaning in *Jurisprudenz*: they do not establish contact. On the contrary, the relations between the hands are broken, isolated. There is a total absence of contact, as if the main actors of the Law were isolated, autarkic and indifferent instances to each other. All the hands of the painting speak of a collapse of the relations between the characters. There are no institutional dialogues, nor dialogues with men.

Klimt speaks of law in the form of a dream that expresses the desire for recognition, communication, dialogue and sensitivity to the fears and desires that involve the complexity of the human condition. But this desire is frustrated, lost, denied. Man is powerless before the legal system. He seeks a form of freedom that cannot be consummated. He wants to be looked at as a man in all the truth of his nakedness, but the legal system

⁴ In the words of Minkkinen (1999, p. 187): "But in the end, all eyes are on him: the goddesses', the furies', ours. We all watch him with desire trying desperately to unravel some mysterious truth that his deplorable figure embodies, just as Socrates's disciples follow in awe how their master peacefully awaits his own death."

sees it only as a body. He pleads for the recognition of his unique subjectivity, but he only receives indifference and objectification from the Law. The man asks for the recognition of his *corpus verum*, but he only receives *habeas corpus*.

7 LAW AND SOVEREIGN VIOLENCE: WHERE IS ATHENA?

The goddess Athena is one of the main characters of the Orestes trial. Other artistic representations of the Oresteia of Aeschylus, such as Orestes at Delphi of Python (Figure 4), from the year 330 BC, place Athena, Orestes, Apollo, and the accusing Erinyes in the foreground of the image.



Figure 4 – Python, *Orestes at Delphi* (330 BC).
Courtesy of the British Museum, London.

Manderson (2015) proposes a startling re-reading of Klimt's *Jurisprudenz*. While the orthodox interpretations of the work suggest an opposition between reason and passions, Manderson sees a scene from

Orestes's play, presented in Vienna in the winter of 1900. The naked man is Orestes, surrounded by positivist, legalistic Furies, repeating the same old convictions because the law is the law. In the background, Apollo's avatars (covered with gold). It's the play's scene on stage. Except we're not the theater audience. The audience of the theater are the heads behind the three goddesses, whose bodies disappear into the darkness. Klimt places the observer – us – in a position behind the stage, facing the audience. In Klimt's painting, we are Athena.

All eyes are on us, for we are Athena at the moment of the decision, at a time when law abandons the old *Lex Talionis* concept of the Erinyes/Furies, that is, the concept of pure, mechanistic and positivist repetition of the law, in order to become a creative, constructive and democratic practice. Athena's ability to break with the past, establishing the exception, inaugurates the new legal order. The original form of the law is repetition. Athena inaugurates, by way of exception, the form of democratic creation.

The Areopagus institutionalizes dialogue and democratic participation in legal decisions. A participatory and transformative process that involves, from then on, not only gods, but mainly the community. Klimt also reveals the role of rhetoric or persuasion (*peitho*) in the legal discourse of legitimation. In the work of Aeschylus, Apollo and the Erinyes connect *diké* with *niké*, justice with victory. Athena rejects this association. It is not about winning or losing, but about doing the right thing. Hence, the question is not simply the law, but the justification. The problem of the indeterminacy of the language of law, which is a central question in Hans Kelsen, seems to be the curse of the law to this day. The correct application of the law would then be its cure. But in conclusion, Aeschylus demonstrates that, in fact, the correct application of the law is its curse, and indeterminacy is its cure (Manderson, 2015, p. 540). Because it is precisely the indeterminacy of the law that allows the creation of argumentative spaces for democratic knowledge.

The democratic legal culture assumed several discursive forms in the twentieth century: human rights, legal pluralism, citizenship, minorities,

feminism, racism, decoloniality. The right to recognition has become an important political key to thinking about affirmative action and inclusion policies in both liberal and social legal cultures. But as Agamben (1995, p. 22) reminds us, recognition policies have two faces: the price of legal recognition is biopolitical submission. Precisely in order to implement policies for the recognition of groups or minorities, biopolitical segregation of other groups becomes necessary and therefore justifiable.

The state and law, which in critical perspectives were understood as bourgeois ideological apparatuses, as superstructures of domination and reproduction of power, came to be understood as important social instances of recognition of rights. However, paradoxically, by assuming sovereign power as the guardian of recognition, there has also been justification for brutal policies of segregation between those who deserve recognition and those who, on their behalf, can be discarded or sacrificed.

More than a century before Agamben, Foucault, or the thinkers of Frankfurt in 1851, Proudhon (2003, p. 143) also realized that to be governed is to be controlled, observed, spied, indoctrinated. It is to be valued according to the structure of value inscribed in the political regime of each epoch. If we possess and reproduce the social values corresponding to the political regime that governs us, we will be well. If we do not have it, we will be censured, ridiculed, disgraced: “You are free to accept or refuse. If you refuse, you become a part of a society of savages. Excluded from communion with the human race, you become an object of suspicion. Nothing protects you” (Proudhon, 2003, p. 143).

Habeas corpus. The naked man asks for the freedom of his body. But the desire for freedom hides the perverse side of the duty of submission. *Habeas corpus* is typically the instrument for the liberation, not of a citizen, person, idea, thought or name, but of a body (Agamben, 1995, p. 136). Hyperbole of a statistic. Klimt’s painting demonstrates the paradox of a body calling for recognition from the sovereign power, which, however, only recognizes him as a body. The body, therefore, is both the expression of the desire for recognition and the vehicle of our submission. The sovereignty over the naked life and the naked life under the

sovereignty. *Habeas corpus* vs. *corpus verum*. The visceral and the sidereal. This is our paradoxical relation to the Law.

8 LAW, DEMOCRACY AND PUBLIC SPHERE

However, with Schmitt (1985, p. 5), sovereign is the one who decides about the exception. The Erinyes decided to grant to Athena the judgment which, in turn, established the Areopagus. The origin of the Law is the exception. Exception to the revenge paradox to avenge revenge. Exception to the regime of the Erinyes, presented by Aeschylus in the form of a destination traced by Moirai/Fates, to follow the persecutory office of crimes of blood and hospitality. Exception to the regime of power of the Greek gods who, through the creation of the Areopagus, transfer the power of judgment to the citizens.

In Greek culture the citizens gathered in the *polis*, which was the political dimension of coexistence. Different from the sphere of the *oikós*, which constituted the dimension of private life, of home. The Romans also differentiated the *civitas* from the *domus* in a similar sense to the Greek *polis* and *oikós*. But between the public and the private, a new and unprecedented space of communication was instituted in the history of the Western world. Habermas (1991) called this new space, which is neither public, nor private, of “public sphere”. It is a space of communication, discussion and exchange of ideas, unprecedented in the history of law and politics, in which the formation of the opinion and the will of the groups participating in it takes place. A typical bourgeois coexistence, whose structure does not correspond to the public – *polis*, *civitas* –, nor to the private – *oikós*, *domus*. Although political philosophy of the nineteenth century has reproduced and criticized the opposition between state and civil society as if they were the only instances of sociability since the beginning of mercantilism in the fourteenth century, there are records of the beginning of this powerful and autonomous social structure, both in relation to the state and civil society (Habermas, 1991, p. 57).

As we look at Klimt's painting, we share our observation with the nine human heads of the *Oresteia* audience of Aeschylus. We are in the public sphere, in the space where the formation of opinion and will takes place. At the time, the public sphere consisted of literary clubs, hunting and fishing

clubs, astronomy clubs, universities, churches, brotherhoods, and the press. Today, the public sphere has dissolved into a diversity of spheres of communication ranging from the mass media – televisions, radio, newspapers, magazines – to social networking sites.

The *Jurisprudenz* portrays the Law in the scope of a public sphere, that is the opera *Oresteia*, of Aeschylus. It draws the Law no longer from the point of view of the state or civil society, but from the ambivalent and paradoxical point of view of a bourgeois public sphere. In it we see the Law sacrificing and humiliating an old, naked man before the indifferent and distant glances of truth, justice and law. At the same time, we see the naked man, ashamed, with his back to us, pleading for recognition of his truth to the Law. Like a *homo sacer* from the genealogy of Agamben (1995), that man is the bare life: a life situated in the zone of indistinction between *bios* and *zoe*, between politically qualified life and disqualified animal life.

The central question we want to put to discussion is that the monstrous octopus resembles no specific mythological figure. It has a bit of everything. A *numen mixtum*, as happened with the Belgian figurations of the goddesses Themis and Athena in a single image (Huygebaert; Vandenbogaerde, 2014, p. 244). The octopus, floating in that obscure two-dimensional space, symbolizes not only the sovereign power as synonymous with the State and its police, judicial and repressive apparatus in general. The octopus also symbolizes, beyond the state, the regime of truth that defines it. Therein lies the true sovereign power of exception: the definition of the regime of truth according to which our views of the world are judged as right or wrong, progressive or conservative, transforming or resisting, virtuous or corrupt, emancipatory or oppressive.

In Klimt, the legal system is nothing more than a decorative device of the violence of this sovereign power. Static totems, sumptuous mythologems, pompous speeches that are limited to being present in the biopolitical theater. An instrument of legitimation of one – and not another – regime of truth, which is always also a regime of power. The ambivalence of sovereign power needs the Law to legitimize itself. Paradoxically legitimate violence. This was the foundation of the Modern State, whether in the brutal image of Hobbes's Judeo-Christian Leviathan, Rousseau's general bourgeois will, or Locke's liberal private property. The octopus is

not exactly the state. It is the regime of truth of each epoch that commands the devices, devices, “tentacles” of the State. It is the system that uses law, the state and politics to impose the triumph of its own, not another, world view.

However, we, in the role of Athena, can change that. In the work of Aeschylus, the wisdom of the goddess Athena transformed the vengeful office of the Erinyes into a new *télos*, a new and virtuous divine task. Athena did this even against a determination of the three Moirai, who are the ancient goddesses that trace the fate of men and gods. Klimt also signals this by including threads that pass through the body of the three women around Orestes. The threads are also symboling of the Moirai, the goddesses who weave destiny, the ancient mythological figures who define the fortunes of men and gods.

Three levels of observation, three layers of meaning, three layers of meaning deeply buried in the geology of an artistic composition: sovereign violence, law and the public sphere.

In Klimt's painting we find:

- a) A naked old man in a situation of suffering and humiliation, crossed by the contingency of his destiny, which he does not totally control, is faced with the law, with justice and with truth. But instead, man has to deal with his own moral conscience and the temptations/tentacles that surround him. As in a Freudian dream, suffering does not come from outside, it does not come from external instances in relation to the man, such as the law or the State. It comes from awareness. The moral police that exist in us and that is built by social structures that are historical.
- b) Truth, justice and law, although present, assist this with detachment and indifference. Formalism and legal rites do not allow the recognition of the human condition of the true man, his fears and desires, virtues and flaws.
- c) In the end, it is up to us, co-participants in Klimt's work in the public sphere, the responsibility and wisdom of the democratic recognition of bare life.

Athena is missing in the painting because only we can be Athena. Truth, justice and law are there, at the top of the painting, like statues, perhaps representing Apollo (Manderson, 2015, p. 538). The three accusing Erinyes – with ambiguous elements that also symbolize the three Moirai – are there, ready to persecute and condemn the true man. The character of the goddess Athena, however, is up to us. It is up to us, as a public sphere, the wisdom to transform the repetition of revenge into the creativity of justice, to transform the Erinyes into Eumenes, *niké* into *diké*, tautology in *poiesis*.

9 FINAL CONSIDERATIONS

Klimt paints a genuinely incomplete Law. A legal system that needs, like Athena, our participation. It is not a simple opposition between the State and civil society, nor is it an opposition between reason and passions, civilization or barbarism, the Rule of Law or the state of a wild nature. *Jurisprudenz* puts us in the position of co-responsible for the law. It narrates a Law whose popular participation is a condition of legitimacy and wisdom. We can cast an indifferent glance at Klimt's work, just as his characters do in relation to the true man. But the painting invites us to be Athena. It invites us to assume, in the public sphere, her leading role in the founding exception of an ever-renewed form of Law.

It is not only a critique of absolutism and of sovereign power, nor of the formalism and indifference of legal positivism. Klimt's work differs from both Schmitt and Kelsen. It is us, Athena, who are responsible for the creative development of legal practices. The naked life of the true man is simultaneously the expression of the sovereign violence of legality, human vulnerability and social responsibility. Klimt presents a visual narrative that allows us to understand, as in a geopolitical cartography, the rupture of the *cogito* self by the *desire* self (Freud), the exception/sovereign violence of Law (Schmitt, Benjamin, Agamben) and the creative construction of Law by democratic participation in new forms of the public sphere (Habermas).

Two days after the German surrender, in May 1945, the Soviet troops took control of the Castle of Immendorf. The fire erupted, but it

was controlled. A few days later, another fire broke out in the basement of the castle, which was home to more than 70 works by Klimt and other artists. There are no records of how the fire started. Two fires in such a short space of time are no coincidence. Fatality or irony of fate, Klimt's *Jurisprudenz* represents itself in the figure of the true man. A work at once sacred and sacrificial, like a *homo sacer*, inscribed in history, by the truth regime of the time, as an object inappropriate to the ceiling of the Noble Hall of the University of Vienna and condemned to the basement of a castle.

Declined by the Austrians, abandoned by the Nazis, left to the Soviets, the loss of *Jurisprudenz* by art also symbolizes the loss, by the Law, of the true man. The neglect of the work of man that does not fit into the acceptable side of the regime of truth that commands the processes of production of sense in each epoch. What happened to *Jurisprudenz* also happens to the old, naked man. *Jurisprudenz* is also Orestes, the man subjugated by sovereign power, waiting for recognition of a social order indifferent to him and that could be saved only by our verdict – mine, his, ours – that we are attempting to accomplish at this very moment.

Rejected by the regime of sovereign truth (the painting did not meet the expectations of the Viennese bourgeois enlightenment), abandoned by the indifference of the legal system (University commissions decided not to expose the work), today we can, after a century and from other references of meaning, do justice to its value. A work that, like a humiliated old nude, was a victim of the neglect of a regime of sovereign power / truth.

The fire at Immendorf, like the long red hair of the Erinyes of revenge, was the force of repression against its critique of repression, of censorship against its criticism to censorship, and of indifference against its critique to indifference. The *Jurisprudenz* is an object that portrays its own political condition. A painting that represents itself and us as part of its representation. A work of art like that by Klimt does not only show the Law, but also accomplishes it and involves us in doing so. The history of Klimt's *Jurisprudenz* made the painting not only a symbolic representation of modern law, but also a portrait of itself as a *naked work*,

equally subjected to the monstrous tentacles of a regime of sovereign truth which, like the octopus, condemned it to the darkness of a basement in *Immendorf* – and the fire of the Erinyes.

REFERENCES

AGAMBEN, Giorgio. *Homo sacer: il potere sovrano e la nuda vita*. Torino: Einaudi, 1995.

AGAMBEN, Giorgio. *L'uso dei corpi: homo sacer, IV, 2*. Vicenza: Neri Pozza Editore, 2014.

DIDI-HUBERMANN, Georges. *A imagem sobrevivente: história da arte e tempo dos fantasmas segundo Aby Warburg*. Tradução de Vera Ribeiro. Rio de Janeiro: Contraponto, 2013a.

DIDI-HUBERMANN, Georges. *Atlas ou a gaia ciência inquieta: o olho da história; 3*. Tradução de Renata Correia Botelho e Rui Pires Cabral. Lisboa: KKYM; EAUM, 2013b.

ÉSQUILO. *A trilogia de Orestes*. Tradução de David Jardim Júnior. São Paulo: Ediouro, 1988.

FOUCAULT, Michel. *Histoire de la sexualité I: la volonté de savoir*. Paris: Gallimard, 1976.

FOUCAULT, Michel. *Il faut défendre la société: cours au Collège de France (1975-1976)*. Paris: Gallimard; Seuil, 2012.

FOUCAULT, Michel. *Surveiller et punir: naissance de la prison*. Paris: Gallimard, 1975.

FREUD, Sigmund. La interpretación de los sueños (primera parte). *Obras completas*. Vol. 4. Tradução de José L. Etcheverry. Buenos Aires: Amorrortu Editores, 1991. p. 17-346

HABERMAS, Jürgen. *The Structural Transformation of the Public Sphere: an Inquiry into a Category of Bourgeois Society*. Tradução de Thomas Burger. Cambridge: MIT Press, 1991.

HUYGEBART Stefan; VANDENBOGAERDE Sebastiaan. Êtes-vous Justice, Minerve ou Thémis? Een tijdschriftlogo als numen mixtum en symptoom van de versmelting van kunst en recht in het Belgische fin de siècle. *PRO MEMORIE*, Verloren, v. 16, n. 2, p. 244–258, 2014.

KARAM, Henriete. A *Oresteia* e a origem do tribunal do júri. *Revista Jurídica*, Curitiba, v. 4, n. 45, p. 77-94, 2016. Available at: <http://revista.unicuritiba.edu.br/index.php/RevJur/article/view/1764/1156>. Access: 17 Oct. 2018.

KLIMT, Gustav. *Pallas Athene*. Óleo sobre tela. Viena: Historisches Museum der Stadt Wien, 1898a.

KLIMT, Gustav. *Rascunho de Jurisprudenz*. Viena: Archiv Leopold Museum, 1898b.

KLIMT, Gustav. *Nuda Veritas*. Óleo sobre tela. Viena: Österreichisches Theatermuseum, 1899.

KLIMT, Gustav. *Esboço de desenho para Jurisprudenz*. New York: Ronald S. Lauder e Serge Sabarsky Collections, 1903.

KLIMT, Gustav. *Jurisprudenz*. Óleo sobre tela. Viena: Archiv Leopold Museum, 1907.

LUHMANN, Niklas. *El arte de la sociedad*. Tradução de Javier Torres Nafarrate. México: Herder Editorial; Universidad Iberoamericana, 2005.

MATSCH, Franz. *Der Sieg des Lichtes über des Dunkeln*. Óleo sobre tela. Viena, 1897.

MANDERSON, Desmond. Klimt's Jurisprudence – Sovereign Violence and the Rule of Law. *Oxford Journal of Legal Studies*, v. 35, n. 3, p. 515-542, 2015.

MINKKINEN, Panu. *Thinking Without Desire: A First Philosophy of Law*. Oxford and Portland: Hart Publishing, 1999.

NÉRET, Gilles. *Gustav Klimt: 1862-1918*. Köln: Taschen, 2005.

OLIVER, Isaac. *Rainbow Portrait of Queen Elizabeth I*. Óleo sobre tela. Hatfield, Hertfordshire: Marquess of Salisbury Collection, 1602.

PROUDHON, Pierre-Joseph. *General idea of revolution in the Nineteenth Century*. Tradução de John Beverly Robinson. Mineola: Dover Publications, 2003.

PYTHON. *Orestes at Delphi*. Pintura em vaso de cerâmica. Londres: British Museum, 330 a.C.

RODRIGUEZ, José Rodrigo. Direito, figura do ódio. *Revista Brasileira de Estudos Políticos*, n. 105, p. 435-451, jul./dez. 2012.

ROCHA, Leonel Severo (org.). *Paradoxos da auto-observação: recursos da teoria jurídica contemporânea*. Curitiba: JM, 1997.

SCHMITT, Carl. *Political Theology: four chapters on the concept of sovereignty*. Tradução de George Schwab. Cambridge and London: MIT Press, 1985.

SCHORSKE, Carl E. *Vienna fin de siècle: politica e cultura*. Milano: Bompiani, 1981.

SCHORSKE, Carl E. *Thinking with History: Explorations in the Passage to Modernism*. Princeton: Princeton University Press, 1998.

SIMIONI, Rafael Lazzarotto. *Curso de hermenêutica jurídica contemporânea: do positivismo clássico ao pós-positivismo jurídico*. Curitiba: Juruá, 2014.

SIMIONI, Rafael Lazzarotto. A fotografia contemporânea em uma perspectiva descolonizadora. *Err01: Revista de Fotografia*, v. 1, jan./jul. 2018. Available at: <http://www.err01.com.br/index.php/2018/03/15/editorial-a-fotografia-contemporanea-em-uma-perspectiva-descolonizadora>. Access: 17 Oct. 2018.

WARBURG, Aby. *A renovação da Antiguidade pagã: contribuições científico-culturais para a história do Renascimento europeu*. Tradução de Markus Hediger. Rio de Janeiro: Contraponto, 2013.

ZAJADLO, Jerzy. A graphic image of the legal system: law, aesthetics, the aesthetics of law? *Polish Law Review*, v. 2, n. 1, p. 39-57, 2016.

Original language: Portuguese

Received: 29 Oct. 2018

Accepted: 28 Mar. 2019