Violence and Ancient Public Spheres: A Response

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It is my pleasure to offer brief comments on the three papers on ancient public spheres, dealing respectively with Babylonian (Kathryn Slanski),[1] Egyptian (J.G. Manning),[2] and Athenian (Adriaan Lanni)[3] displays of law and justice. Whether my knowing next to nothing about all three subjects handicaps me for better or worse I leave to others to determine.

First, an anecdote: Shortly after September 11, 2001, I was with Judith Resnik, who, in response to the great proliferation of American flags on display on buildings, vehicles, and jacket lapels, commented that it would be better for us to "show our courts." Although I could not quite visualize what physically she had in mind (representations of justice appended to our car radio antennae?), I clearly understood her sentiment—that it was the exercise of justice through our courts that would be a more fitting and effective and even patriotic response to the threats represented by 9/11 than the display of our flag. With the publication of her and Dennis Curtis's monumental volume, *Representing Justice*,[4] and with the papers presented at the conference on the same theme, I understand better what "showing our courts" means, in the dual senses of *showing* and *showing off*: opening our courts, and by extension our legal system as a whole, to greater public view and participation among our citizenry; and displaying them in patriotic pride to our foreign adversaries as the most powerful weapons in our democratic arsenal.

The three papers upon which I have been asked to comment themselves achieve these dual senses of "showing" and "showing off": they show us how laws and courts were represented in public display in antiquity, facilitating (or idealizing) thereby public participation, education, and

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1. Kathryn E. Slanski, *The Law of Hammurabi and Its Audience*, 24 YALE J.L. & HUMAN. 97 (2012).

2. J.G. Manning, *The Representation of Justice in Ancient Egypt*, 24 YALE J.L. & HUMAN. 111 (2012).

3. Adriaan Lanni, *Publicity and the Courts of Classical Athens*, 24 YALE J.L. & HUMAN. 119 (2012).

4. JUDITH RESNIK & DENNIS CURTIS, REPRESENTING JUSTICE: INVENTION, CONTROVERSY, AND RIGHTS IN CITY-STATES AND DEMOCRATIC COURTROOMS (2011).

empowerment; their representations of ancient displays of law and justice seek for their subjects *our* collective admiration. It is upon both types of "showing" that I wish briefly to reflect.

I, like our three authors, have my head buried in antiquity most of the time. As I like to say, it is bad enough that I have no choice but to live in present times; why would I choose to study them as well? So I work in ancient Jewish law, especially of the Dead Sea Scrolls and early rabbinic literature, both of which, of course, have deep roots in the ancient Near East by way of the Hebrew Bible, but also in contemporary Roman models of jurisprudence by way of Greek interlocutors. Like most scholars, I would like, in partial compensation for and justification of the long hours I spend doting on ancient texts and artifacts, for my investment to render my ancient subjects visible to admiring modern eyes. However, this desire inevitably risks concealing my subjects' other, darker sides.

Without meaning to rain on our parade of jurisprudential representations, I want to ask, in the spirit of Robert Cover, if the law is inextricably paired with violence, does its public display reveal or conceal its more tyrannical aspects?[5] When does the iconization of justice serve the purposes of state propaganda (e.g., the *Law Stele* of Hammurabi)? When does public trial become a dignified form of "mob justice"? When does the work of a court, conducted under the gaze of the public, produce a justice of greater (self-)reflection, rather than a justice that performatively reflects the hegemonic mores of a particular slice (male citizens) of its society (Athenian democracy)? Since the word "spectator" (with a positive valence) runs through these papers, we might inquire of the double-sidedness of its object: "The stars made a fine spectacle tonight"; "They tell me I made a spectacle of myself at the party last night." When does the presence of spectators render a trial a spectacle, in the sense of gladiatorial entertainment (the ancient theatrical equivalent of "reality television")? In reworking J.G. Manning's final sentence, is the "hierarchical idea of 'connective justice'" ever truly transformed into the "horizontal idea of 'justice for all,'" or only masked by it?[6] In short, we must ask of all figurations of law and justice, what does the ocular occlude?

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5. *See generally* Robert M. Cover, *Violence and the Word*, 95 YALE L.J. 1601 (1986).
6. Manning, *supra* note 2, at 118.

Envisioning and Signifying Justice