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Legal Evidence in the Age of Techno-Societies and Visual Jurisprudence  
REMARKS  
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## The Visualization of Text and the Textualization of Image: Factual Narratives in and as Legal Discourse

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These remarks bring a sort of “glad tidings” (Acts 13:32). On the eve of the mechanization of the story of humanity; at just the moment before humanity cedes its own stories, individually and collectively, to virtual incarnations of itself that can use its input to “think” for itself (as the manifestation of principles drawn from endless iterations of the objects from which principles are drawn); on this eve of the re-creation of humanity in its own image encased not in carbon but in silicon. . . On this eve.

On this eve, one can be witness to *a marvelously revealing occurrence*. It is marvelous in the ancient sense of a something miraculous, something that causes astonishment, but at the same time something that is dialectical in its marvelous state. That is a “wonder” or “surprise” that is experienced both externally, its objectification and connection to those who witness it, and by that witnessing the marvel is simultaneously experienced in its second incarnation as the internalization of the miraculous, that is, the marvelous is experienced in its ancient sense, that is to be filled with that wonder. One thinks here quite famously of the marvelous revealing occurrence of the Star of Bethlehem, but also in American constitutional law of a High School coach kneeling in prayer in the middle of a football field after a game, or in international juridical performative spaces of a bombed hospital in Gaza, or of a business relationship with a Myanmar telecom or shipping port. Each of these are occurrences, but so are the images that freeze those occurrences in time and that can be recalled, described, painted, and thus transmitted, become the marvel itself. The *occurrence reveals* in its imagery, but its imagery is *intensified* in text and image, and thus intensified reveals the miraculous, and becomes the symbol of both the *judgment* of the marvel and the *acceptable and necessary* truth that compels action with and around it.

And *thus the marvel revealed* as such—as a quite specific something seen, transformed, and used to transform those who observe, individually and collectively. The revelation, then, is both a thing in itself—the occurrence that presents itself—and the operation of the essential semiotic dialectics of the triadic constitution of reality. That constitution of reality loops as a function of a thing/ action observed from the outside that then fills the inside with its signification, and because both occur in the singular and in the plural simultaneously, the act and signification affect concurrently the person and the community of people—the community of believers. That community is also grounded both in the marvelous and in the *solidarity* of belief around the marvel—a community of interests with an interest in a shared reality. It is in this sense that an occurrence reveals a marvel and in the revealing reveals as well its sinews—the connective tissues of the believers in community.

What is this occurrence of a marvel revealed? In the singular and the plural, those who feel (and well may be) empowered to influence such things have been engaged in frantic and quite ostentatious rationalization of the human self, that self within a curated complex of social relations, and the signification of these self-selves into an object ready for the conscious receipt and internalization of now quite strategic understanding, one through which they may be guided in the appropriate way for rationalizing not just the past but also making inevitable particular pathways into the future. And the image, and its textual reconstitution (as an indictment or an interpretation, or a justification of action)—or the imaginary representation of text (the Star of Bethlehem), always excludes others. And that, perhaps, is the greatest of the miraculous occurrences and the way in which it becomes and must operate as a closed looping system. The occurrence exists outside of time in the imagining of the occurrence, enhanced by its visual representation and directed by the words from out of which some sort of truth is extracted that guides the internalization of image as a mechanism of solidarity—the coach kneeling, the bombed out hospital, the star, or the connection to a telecommunications network or port. Yet each of these crowd out other texto-imaginaries—the compulsion of students to join the coach kneeling on the field by parents or others, the chronicling of the building of a munitions and command and control center beneath the hospital precisely to ensure that it be bombed and innocent (an assumption) lives lost, the other objects/persons to which the star may also point, and the protection of workers by and users by the operator partners.

The marvelously revealing occurrence is the manufacture of the marvelous occurrence and the performance of its revealing. The marvelous is such because it is believed to be such, and it is believed to be such through the invocation of an apparatus of belief that guides its witnesses and the audience for these witnesses, into states of cognition that then beg for or can be used to guide action. These trajectories, as such, become more interesting when narrative rationalizations serve as the basis for judgment; for judgment with the force of law. In that context visual and textual facticity build and are built on visualizations of text and the textualization of image that starts from an essentialist rationalization and ends as a reductionist pathway to deduction as lifeworld dialectics.

Let us again go back to the marvelous occurrences. The Star of Bethlehem is not just a celestial orb but in its imagery the guide of humanity to its savior. The High School coach kneeling in prayer in the middle of a football field after a game is not just a person engaging in a solitary act, but the communal manifestation of the intensity of relationship between state and religious power over the exercise of religion one in which the imagery of the kneeling person played a pivotal role in the narratives of constitutional power. The bombed hospital in Gaza serves as an imaginary of hatred by those hated elsewhere, and a conformation of breaches of global solidarity, and at the same time the way that images can shift the gaze from those who cause to those who react as imaginaries of shifting responsibility and of the architecture of war and resistance—the misbehaving (collective) Jew who ought to be content with their lot in global life against the innocent Palestinian both haunted by the absence in the imaginaries of the forces that made their collision inevitable, that orchestrated the image. And lastly the shipping port in Myanmar invokes the corruption of solidarity where it is aligned with other imagery—the imagery of suffering innocents brought low by the savagery of their own political overseers.

At this point one might want to suppress a yawn and recall that Biblical cliché that opens Ecclesiastes: “The thing that hath been, it is that which shall be; and that which is done is that which shall be done: and there is no new thing under the sun.” (Ecc. 1:9). That is, essentially both the point and beside the point. There is indeed nothing new in the sense that countless generations of people, in perhaps even more countless combinations of social collectives have, in some form or another sought some variation of the mechanisms that produce the sort of essentialist reductionism that permits both cognition and control. Nonetheless, one might do better to read on for the greater wisdom of that tract. First, the often overlooked obvious—the fundamental passivity of the dialectical exercise in marvelous occurrences: “8 He that diggeth a pit shall fall into it; and whoso breaketh an hedge, a serpent shall bite him. 9 Whoso removeth stones shall be hurt therewith; and he that cleaveth wood shall be endangered thereby. (Ecc. 10:8-9). And then the reversal of polarity—from passive to active insertion into and as the vanities of cognitive ordering from generation to generation: “9 And moreover, because the preacher was wise, he still taught the people knowledge; yea, he gave good heed, and sought out, and set in order many proverbs. 10 The preacher sought to find out acceptable words: and that which was written was upright, even words of truth.” (Ecc. 12:9-10). The key here is the connection, at the heart of the semiotic framework, between what is communally *acceptable* (as an external object that is internalized, the marvel), in in ancient sense from the Latin *acceptabilis*—as something that is both worthy of acceptance and accepted willingly ([Etymology Online](#)). This, perhaps, is what the authors of Justinian’s Institutes had in mind when they explained that “Justice is the set and constant purpose which gives to every man his due” (Inst. Bk I, tit. 1). Justice is a self-referential notion, one that is and builds on itself as itself—a humanized manifestation of God: in Exodus: “And God said unto Moses, I AM THAT I AM: and he said, Thus shalt thou say unto the children of Israel, I AM hath sent me unto you.” And jurisprudence? Well that is “the knowledge of things divine and human, the science of the just and the unjust.” (Inst. Bk I, tit. 1(1)). It is the knowledge of the internalized self, now externalized as the aggregated social self that divines itself in images of its own meaning. That knowledge is the essence of the encoding in imagery, its substance and presumptions curating both image and the text that authenticates the judgment already built into the choice that the image represents.

This study, to which these remarks relate, consider that Preacher-type. To understand the Preacher-type is not merely an exercise in the sort of ground level stratagems and manipulations that are the ordinary stuff of the indoctrination of the individual and the management of the ordinary presumptions of the “natural” among collectives of indoctrinated individuals. Humanity has long refined those arts, and is now encoding them onto silicon based intelligences, No; no. . . . The Preacher is not the image, or the image maker. The Preacher is that which form to the image, and from form, the Preacher is that which then gives form meaning, and meaning consequence, and consequence power. This is not the instrument of that process—the law, the judge, the lawyer, the photographer or image capturer; but rather it references the materialization of the actual context in which each serves a (some conscious) role to produce the aggregation that one can understand as “Preacher.” Why is the focus on the Preacher important? It is important precisely because the Preacher function relates to the conscious selection construction and expression of truth from knowledge of those things worth knowing and knowing a certain way. The Preacher is cognition’s meta-thronos (μετα τρονοσ) , that which serves the cognitive

throne. That service then permeates all human social relations—the Preacher type serves as a useful incarnation of the marvelous occurrence revealed through the artifices within which human populations are managed and humans come to perceive themselves. That construction is then transposed in and through the performative spaces of law and courts,

It is in this sense that the Preacher is more than a signified object incarnating a thing and an operating system, along with the apparatus enlisted in its service, though it owes much to all of that. That form of the Preacher type is both pedestrian (in its sense of being prosaic, that is common and dull) and the stuff of the techniques and stratagems of political-cultural advantage. Far more interesting, from the perspective of power-objectification, is the signification of the *Preacher type* as a conscious cognitive instrument, and on the Preacher-type's power to find *acceptable* words—not true words, not helpful words, not neutral words—but acceptable words. And then to use those words to produce the sought for consequences of acceptance—a judgment that what is written is upright, “and even truth”—and then the management of actions that might flow from such a *marvelously revealing occurrence* that is now both truth (in its facticity as such) and its phenomenological consequences in the action that must inevitably follow, both of which, together, forming the enclosures of cognitive realities within which the human is observed, judged, and some are punished. It is not the thing itself, but the Preacher—selecting the image, textualizing it and its signification, and drawing from it an “acceptable” and “upright” truth, that from a semiotic perspective becomes a fascinating approach to the constitution of global mass management—to the construction and tending of the corrals (in the sense both the enclosure and the act of driving animals into it) in which humanity is meant to usefully (acceptably) occupy. The Preacher is an incarnation, then, of auto-seduction in the fulfillment of collective desire authenticated by the success of its encoding in the individual—filling each with a replicable quantum of wonder.

It is in this way that one might consider the visualization of text and the textualization of image in three juristic contexts. The first is perhaps the most approachable. It centers on the imagery and its textual realization around key principles of the American constitution's Religion Clauses. In that legal field, and at critical moments in the shifting of a jurisprudence that has never been particularly stable, the imagery of textual reductions of facts—of storytelling that are word pictures and sometimes images captured from the critical moments that the shape or guide the jurisprudence. The second focuses on the texto-visualization of the (counter) narratives central to the factualization of the genocide allegations put forward by South Africa (and others) against the Jews, the relevant part of the community of which is denatured as Israelis. In that context image-text and text-image is built on a memory that presupposes the inevitability and signification of text and image as props toward the conclusion with which the structures are elaborated. The third considers the way in which textual visualization is used by the Ethics Council of the Norwegian Pension Fund Global to develop a jurisprudence for the investment activities of the Norges Pension Fund Global. The focus is on the construction of the facticity of facilitation through textual visualization. In the background is the revolution in the relationship of text and image one in which the human element for the pathways between them becomes more remote through image textualization through multi-model large language models (Pi et al., 2024).

Is it possible to weave these together? Is it possible to suggest a broader semiotics within the phenomenology (action oriented) of meaning both as observed and received, that is both as an external occurrence which causes an occurrence within, that connects individuals with others when that “within occurrence” is externalized again as catechism or sutra, which then permits other action that intensifies the solidarity of the community. There is something in that last part of the power of communal sacrifice—of everyone getting their hands bloodied. An assassin is an instrument of narcissism in the sense that the act is singular; the act may produce a solidarity intensifying response (as an communal act in its own right), but that act is itself not one of performative solidarity. On the other hand, the performance of communal sacrifice, whether it be the state sacrifices of imperial China and its rituals, or the act of perhaps as many as sixty leading citizens of Rome assassinating Ceasar each plunged the knife into the body of the incarnation of what they understood to be a threat to the Republic. This has become so well entrenched in Western culture that it becomes the stuff of movies—Murder on the Orient Express, one in which every passenger (except the detective and this companion) held the knife that killed, but that the detective, Hercule Poirot, in the most singular act of communal solidarity, chose to elaborate an image that avoided consequences to the assassins and thus solidified a more ancient law.

Together, these suggest the glimmerings of texto-visualization as a key element of collective cognition, a collective cognition given form and effect through its judicialization and its manifestation through an application of the specialized sub-language textual and visual, of the juridical. To that end it might be worth thinking about what one means by texto-visualization. One can start with the simplest definition. This involves three distinct productions, traditionally all of which are centered on the human person (collective). The first is the production of an image, that is of the capturing in some form or another, of a moment in time of a thing, event, or action, that exists outside of the body or the consciousness of the recorder. The second is the production of text connected to that image—either descriptive (and in the virtual space through image description datasets), or explanatory. Both signify the image, and both draw on the cognitive baselines form which translating the visual into text draws, but the former is passive and the later active in the sense of signifying to purpose of the description itself. The third is the interpretation of the image (and perhaps of the description of the image) through text (or another image). Together these produce the triadic relations of semiotic cognition, and one that affirms the cognitive structures within which it is possible to identify an image (that is to know that the image is more important, or significant than others), to signify that prominence through description or as description, and then to interpret it by placing it more consciously within corrals of images that go to a particular object of observation (the legality of prayer mid-field, the truth of genocide and the assignment of causation (either those who set it up or those who acted in response) etc.

Technology has (re)produced textual visualization and image textualization in a quite distinct way, one transposing human sensibilities into the cognitive framework of the coded language of silicon based intelligence. This takes a variety of forms, two of which are worth mentioning here. The first is in the production of large language model data sets form which it is possible to produce an image. The other is the textualization of images, either as data sets or as the double reduction of a thing or action as an image then reduced to text, which, in a third phase can be digitized and reproduced from data sets in its original or altered forms. From these truths, acceptable truths, can be extracted, an extraction that

loops back on its construction as the expression of acceptability. To create truth one satisfies the thirst for knowledge of the acceptable—which is now the moveable feast that is the knowledge of good and evil with humanity at its core.

Let's take the most accessible actions as a model. Here it is worth considering the quite transparent deployment of image-text to constitute the knowledge necessary for the creation of jurisprudential parables (their standards and tests) from which combined the truth may be ascertained and applied. We can start with the simplest image—that of a child taking a public bus to get to school. Now broaden that image to that of the child taking public transport to attend Sts. Cosmos and Damian Elementary School, a Catholic School for grades 1 through 6. Now add the State to the mix—in the form of a township program to pay for the public transport of children to school by reimbursing parents their bus fare. And finally and the challenge—the U.S. Constitution's prohibition against the making of law establishing religion. The transposition of the image into the imaginaries of the prohibition against Establishment plays a critical role in both the articulation of the "acceptable truths" of the prohibition, and again about the application of those truths to the picture painted. Or reversed, it suggests the power of the image of the child on the bus to order the constriction and application of the borders of the constitutional prohibition by coloring in the landscape within which the truth can be received. On the one side is the image of the child on the bus foregrounded by the Church school attendance at which the State has the costs of transporting children taking the bus. Here is the imaginaries of the public funding of a Church in one of its core responsibilities—the inculcation of dogma and tradition among the young for the continuation of the faith. That picture is spiced by an exegesis of the historical imaginaries of heresy, schism, and substantial bloodletting, some of which produced the impetus for the migration to North America. And form that a reading in of constitutional text as embodying those imaginaries into its prohibitions. Now change the image's gaze from the Church to which the child travels to the bus on which the child rides. An ordinary bus for which an ordinary fare is charged becomes the center of the image; does it matter where the child goes? Ought the State to treat children differently depending on the religious character of the educational institutional attended? Can that extend to discriminating between riding the bus to school or to the movies where the child sneaks to rather than attending class? Now the image changes the character of the background image—from one of religious war to one of the role of the state as a service provider that ought to be undertaken without prejudice (assuming enough of a similarity among the variations to be covered by the state action. The picture evokes both history, reaction, and the principles around which the image moves from the visual to a legal conclusion. That is *Everson v. Bd. of Educ.*, 330 U.S. 1, 8 (1947).

This is replicated over and over in the jurisprudence—the coach kneeling midfield to pray (*Kennedy v. Bremerton Sch. Dis.*, 597 U.S. 507 (2022)); the obligation of public schools to permit an after school club for children to have "a fun time of singing songs, hearing a Bible lesson and memorizing scripture" (*Good News Club versus Milford Central School*, 533 U.S. 98 (2001)); one could go on. The image captures truth, but the truth of the image is in its power to signify, to crop the picture in ways that mold its significs and interpretation. Was the act of the coach midfield a picture of a solitary and voluntary expression of personal faith, or did the picture show the large gathering around the coach

suggesting this was a community act of solidarity; was the Good News Club a social space for kids to laugh, sing and read, or an organized course in religious instruction? In the choice lies the jurisprudence; and in the jurisprudence lies the instruction for the images necessary for its protection or challenge.

The imagery-textual tropes of the South African charges of genocide in Gaza follow this model, one grounded in a quite specific framing of the image from out of which the presumptions of more ancient visual and textual tropes may be deployed. But changing the framing of that image, from the bombing to the building of the warren of underground military operations and imagining the intimacy of facilitation and complicity though the intertwining of civilian and hostage holding networks can change the perspective and the potency of legal claims from those who bomb to those who build.

While the jurisprudence of the American Religion Clauses is fairly bloodless (except for those crushed beneath its logic emerging from the imageries of its cognitive cage, the context of actual warfare brings more immediacy, more passion, and the noxious intermixing of old discursive ghosts that haunt the spaces of imagery in ways that shape not just the image but the cognitive premises within which they are invited to be read. In the case of the facilitation of a political regime that has been accused of gross human rights obligations (and which is disliked in a more general sense by many developed States), the transposition is from text to the imagined imageries of adverse impact. That is the case exemplified by a growing number of decisions made by the Norwegian Ethics Council and the Norges Bak respecting the investment universe of its Pension Fund Global.

Critically now, presuppositions of corporate untrustworthiness appear to serve as an unspoken parameter guiding the scope and application of the analytical project of quasi state organs like the Norwegian Pension Fund Global. Trustworthiness has become, indeed, an important principle that has been a key element in the constitution of Chinese "Social credit" systems. But in liberal democracies, it is meant to reflect, in jurisprudential analytics and interpretation, an ideological belief in the character, motives and behavioral compulsions of economic enterprises—at least when measures against the desires and lusts of states and non-governmental organs. All of this is fair—except to the extent that it is done in secret, or without any sort of exposed engagement with public constituencies—constituencies that might prefer to debate the presumptions that organs like the Ethics Council adopt as a matter of their own internal self-actualization.

None of this matters except where, as here, these presumptions play a critical role in the evolution and application of concepts of *facilitation as an extension of the legal/normative principle of complicity*. It is in this interplay that the Ethics Council might find itself succumbing its own last temptation—the idea that an ideal state can exist in which pain and suffering can be effortlessly transposed onto the Luciferian enterprise in its relentless amorality in search of profit or advantage. That temptation is much on display in the decisions circulated in 2023 by the Norges Bank and its staff. To undertake that enterprise, both Ethics Council and Norges Bank must textualize the imagery not merely of untrustworthiness (of the enterprise) but also of the adverse consequences it produces for the

innocent, adverse consequences that ought to trigger legal effects, here undertaken in the private law of financial markets.

The Norges Bank rejected that Council on Ethics recommendation of exclusion of *Sumitomo Corp* in favor of observation. The decision was based on an assessment of an unacceptable risk that the company is contributing to serious violation of the rights of individuals in situations of war and conflict. That risk originated in Sumitomo's joint venture with Myanmar Posts and Telecommunications (MPT), a state owned enterprise. Sumitomo provided expertise and advice relating to sales and marketing and the expansion of MPT's network. But MPT had been ordered to install and activate spyware and surveillance software. That relationship produced a textual image of *facilitation*. Although Sumitomo played no direct role in the surveillance, its presumed knowledge of the installation and use of the surveillance software put Sumitomo in a position to intervene. The critical defense against facilitation by reason of connection are tangible results. ([Sumitomo Ethics Council Recommendation](#), p. 12). The focus is not in the effort but in the result. Compare Delek where the Council dismissed remedial efforts as worthless. "In the Council's view, if viable discoveries are made in the area, the damage would already have been done, in the sense that the chances of reaching a negotiated solution to the area's future would be further diminished. ([Delek Group Council Recommendation](#) , p. 11). The object is prevention it is not remedy; and connection is facilitation.

Lastly, KDDI, a Japanese company providing telecommunications, presented a similar fact pattern to that of Sumitomo and with the same result—a Norges Bank determination to place the company under observation. The analysis was the same, with the addition of a discussion of exit strategies as an option. Exit was the only viable strategy in the absence of tangible results. The effort to stay in Myanmar to ensure access to telecom for the civilian population as part of KDDI's discussion of its human rights risk balancing is also given short shrift (*Ibid.*, 10).

And there it is. In context these appear to be small matters and the objects of highly technical application of highly specific modes of resolving disputes or applying regulatory measures and their standards/values. And yet beneath these small iterations of a constant drumming of technical functionality lie deeper structures of discipline, and these deeper structures of discipline invoke the expressive power of image made manifest in text. It is the image that moves one—and it is the performance of that imagery in text that drives not just an invocation of regulatory discursive decisional tropes, but also orders the system in which the application of such tropes becomes inevitable. One can see in the American cases how image-text and text-image is built on a memory that presupposes the inevitability and signification of text and image as props toward the conclusion with which the structures are elaborated. And in the Norwegian Pension Fund actions the construction of the facticity of facilitation through textual visualization enhances this imagining of conceptual presumptions that make the image meaningful, and without which the image is irrelevant. Here one exposes the basis for rationalizing the world around us by reference to the human as temporal linearity, from out of the past the inevitable and particular pathways (another line) into the future. The Preacher type is indeed in the world, of the world, and the processes through which the world is made manifest. Logos, as Ecclesiastes



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might have it, is reduced to vanity. But perhaps a necessary one; for vanity expresses the justice to which the Institutes remind us, is our (collective) due expressed in the visualized textualization of what is acceptable to us as just and unjust.

Thank you.