

A Literary Study of Desires, Fantasies, and Identifications in a Corporate Law Firm: Kermit Roosevelt's *In the Shadow of the Law*

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Abstract. *This article examines Kermit Roosevelt's novel In the Shadow of the Law from a psychoanalytic perspective. The story and its characters, plus a number of well-known books and movies, are used as a vehicle to display the author's analysis and identification of stereotypes of unconscious desires and fantasies to be found in the microcosm of corporate law. The law itself takes on the function of objet petit a, the Lacanian term for the object-cause of desire. In this context, the author also addresses questions of morality and ideology and identifies both phenomena, just as the law, as psychic reactions to desire. Despite the "subversive" character of psychoanalysis regarding the commonly assumed logic of the legal mind, the author shows a strong belief in the positive and necessary function of the law in the unconscious of civilized societies, which goes beyond its pragmatic goal of conflict solution.*

Keywords: *Kermit Roosevelt, Jacques Lacan, Sigmund Freud, psychoanalysis, law, literature, object, desire, ideology, corruption*

Essentially, *In the Shadow of the Law*¹ is a book about desires and—to be more precise—how these desires twist and turn when they hit the law. The law is inseparable from its institutions. The courts, the prosecution, the law school and, above all, the law firm, all of which displayed with the author's insider-eyes, trigger, form, and sometimes foil the ambitious goals of those judges and prosecutors, attorneys, and clients—reckless helmsmen of multi-sized corporations and their victims—who interact within the ramifications of contradicting

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desires. And they are all standing in the shadow of the law, which appears to be—contrary to the still surprisingly widespread perception—more like a game of chess than a passage to justice. Black may well and legitimately win the battle of the legal minds. All it takes is the stronger player behind the board and nothing about it remains left to chance. There is truly nothing like a hazard in this shady game of the law, but different from the ancient combat on 64 squares, victory or defeat is not solely decided by a shrewd strategy of pure reason or mathematically calculated providence, but also by the intensity or force of desire that works at the bottom of the law.

Nobody knows better how to gather these forces than Morgan Siler, a powerful Washington, D.C. firm that defends the interests of Hubble Chemical Corporation, a client that is clearly more concerned about wealth maximization than a health-and-safety scheme that might have protected some of its workers from painful death in a yellow cloud. On a surface level, Roosevelt takes up similar moral stances to John Grisham in *The Firm*, Tom Wolfe in *Bonfire of the Vanities*, or the 1999 movie *A Civil Action* from director Steven Zaillian, who also plays on the common image of chemical corporations as evil operating systems with the singular mission to generate profits at any price, ignoring the coughing children who will have to play on contaminated soil. In the battle of Morality versus Money, the law is basically allied with the latter. But damn it, there is always such a big temptation to be good, so we do not have to wait for long until a legal super-hero, perfectly staged by guys like John Travolta, turns from Saul to Paul, puts on a wig, sacrifices his fees, reputation, and maybe almost his marriage to defend the poor and the poisoned. Naturally, he finally pulls through, against all odds. There is always free cheddar in the mousetrap. Whether these small victories of justice come from the maybe hidden but essentially good nature of the law or the hero's strong will and manipulative powers, however, is left to speculation, or maybe rather imagination. Travolta would easily find his part *In the Shadow of the Law*. No gripping story can entirely avoid the classic antinomy of the good and the bad guys, and Roosevelt avoids stepping into the trap of dissolving suspense into over-intellectualising contemplations of an all-too-complex world that does not allow for taking sides anymore.

The predominant image that America has of her lawyers is clearly reflected in the well-known joke about a Russian, a Cuban, an American, and a lawyer sitting on a train: The Russian takes a few sips from his vodka bottle, then throws it out of the window: "We have *the best vodka in the world* and we have

so much of it that there is really no point in bothering to save it up!" The Cuban acts similarly after a couple of drags from his Cohiba. Finally, the American throws the lawyer out of the window: "We have *the best lawyers in the world*. . .!" Even the best lawyers in the known universe are not the kind of people you could possibly make friends with: They are narcissistic and pragmatic, they are selling out justice, they over-charge you when you need a friend and—worst of all—still cannot save you from paying taxes after you have painfully transferred a big deal of your taxable assets to them anyway. Beyond the lawyer lies an institution that produces those creatures just like the unfortunate Dr. Frankenstein, but—and there seems to be the most significant difference to the creator of the murderous monster in Mary Shelley's sentimental thriller—without regret in any shape or form. The downside of today's business is handled by giant law firms like Morgan Siler, an organization that employs lawyers who are trained to invoke legal demons that make an honest court of law speak with the tongue of the serpent. "When you get out of here," the civil procedure professor says, "you will be capable of inflicting immense harm on people. You will be sharp and uncompromising; your minds will have been forged into lethal weapons. You will be lawyers. Use that power wisely."² Has the law become a victim of the "legacy of realism," is there really such a thing as a "right answer," or are these ideas only a "symptom of naïveté or unworldliness"? Roosevelt makes us wonder.

Who are those people who build such firms, who take them over when the old man has to step aside, and who are their employees, those Ivy League prodigies, driven by the fantasy of turning the big wheels within the sound-proof world of corporate law? *In the Shadow of the Law* gives well-informed answers by portraying a representative bunch of characters that you will meet in almost any corporate department. Let us first have a short look at the founder of the firm, Archie Morgan, an archetypal old-school lawyer and advocate of values, who started out in the 1940s with very limited funds but with a great deal of idealism that concerned not only the way he saw his mission in a society that needed a positive image of the law as something that can put things right like the divine power in David when he fought Goliath, but also a certain "gentility" that represented his world and the way he reigned his firm. Archie Morgan stands for an era that is fading out and replaced by the world of Peter Morgan, his son, who seems to have little use for the old values his old man tried to teach and live. Maybe Archie is paying the bill for two mistakes he had made: "He hadn't seen that the corruption of businessmen could

spread to the bar, and he hadn't seen that the corruption of the bar could spread to the firm."³ But what then is actually the whole point in the legal enterprise in the absence of the purpose that can be found in Archie's ethics? A Magic Circle firm offers certainly more than access to mainly meaningless luxury goods by selling legal knowledge. Peter finds little satisfaction in stepping into his dark hardwood king-size bed, covered with sheets of 1,020-thread-count Egyptian cotton. Not even success, which apparently needs expensive commodities as symbolic manifestations to overcome its ephemeral, unphysical nature, seems to be the object of desire:

Success had never satisfied him, nor was it what he sought. The joy was in striving, the sense of progress, of victory just around the corner. Success itself was empty; what Peter wanted was to be always succeeding. . . . To fail is terrible, but it allows the possibility of future triumphs. To succeed, to have nothing unachieved . . . that was death.

Roosevelt's subtle distinction between *success* and *to be succeeding*⁴ leads us to a crucial point in Lacanian psychoanalysis, the distinction between the "object-cause" and the actual "object of desire." While the latter is forever lost, out of reach, the object-cause—*objet petit a*—is omnipresent and keeps pushing us forward on an endless journey. Why is there no such thing as truly fulfilled desire? Haven't we all enjoyed success, like a professional promotion, academic honors, maybe even married the girl of our dreams, or in the corporate world, the deal that we worked on through many nights, high on caffeine or worse, that did finally fly? Peter Morgan still has it all, probably more than most of us will ever achieve within our world that only seems to revolve around these symbolic manifestations of inherently ungraspable success. His own name is a shiny brand that stands for high-end legal advice and a similarly high degree of trust in the circles of the mighty few who rule the economy. So trustworthy is his name in fact, that Hubble Chemical—as we painfully learn on the first pages—has instructed its mid-level managers, in case of emergency, to call Morgan Siler first, and then the ambulance, Disaster Response or any other of the more obvious rescue squads for severe accidents in chemical plants. So what, for Christ's sake, is this insatiable Peter Morgan looking for, when already considered as the saviour by the ones who count, anyway? Lacan's uncomfortable answer would probably be that the original object of desire is the state of wholeness that we enjoyed in the pre-oedipal phase, an

unconscious image of the time before the apple was bitten and we were cut from the maternal unity by the intervention of the father and thus started to express our *manque à être* (lack in being) by speaking with words and languages that were not made for us. Since there is no way back, since the Cherubim with the burning sword has closed the gates for eternity, we are doomed to search endlessly for this unity, where we relished an abundance of meaning, the only time in life free of doubts, where everything seemed to make sense. The reason why success in itself is empty, in the Lacanian world at least, is that it describes the moment where we realize—after some more or less extensive enjoyment of course—that we have failed to attain the object of desire and were (again) fooled by the arbitrary and deluding shapes of *objet petit a*. Just like Peter Morgan, we are tempted to believe that the only way to conceal this terrible experience is to use fantasy, precisely the fantasy that we still know where we are going, at least as long as we *are succeeding*, whereas *to succeed* ultimately confronts us with the deadlock where we look into the abyss of death. This is maybe the reason why economically successful people (e.g., the notorious corporate raiders) often appear to be so greedy, as Gordon Gekko (Michael Douglas) famously articulates in Oliver Stone's 1987 release *Wall Street*:

The point is, ladies and gentlemen, that: Greed, for lack of a better word, is good. Greed is right; greed works. Greed clarifies, cuts through, and captures the essence of the evolutionary spirit. Greed, in all of its forms, greed for life, for money, for love, knowledge—has marked the upward surge of mankind and greed, you mark my words—will save not only Teldar Paper but that other malfunctioning corporation called the USA.

While critical spectators, mainly sitting on the left-hand side of the field, still believe, rightfully or not, that the only goal of the game is to accumulate more and more villas, yachts, or maybe fields of influence, we must not forget that these people are more desperate than others to escape the painful laughter coming from that vicious joker called *objet petit a*, in which we can hear the terrible "*you have made it!*"⁵

Let us assume for a moment that on the level of the unconscious of its lawyers, the primary function of corporate law firms is to offer the possibility of a very specific mode of identification with the law that provides for a certain kind of enjoyment beyond the use of commodities. Having just stumbled out

of the Freud year, we are now familiar with the strange story about the father in the primordial horde who, before history was written, possessed not only all the females in the Clan but also the power to punish, abandon, even castrate the unfortunate sons who dared to make a claim against the unrestrained exercise of his enjoyment. Unwilling to accept his arbitrary domination for good, and rivalry for the females, pushed the younger males to kill and eat the tyrant. Sadly enough, the ancient gods decided not to reward the crime: An undeniable feeling of guilt for what they had done made the sons create the Totem, a symbolic reminder of the dead father and his Law. The Incest Taboo and the prohibition of murder (because killing would remind them of the regretted act) as the first law of human society were born out of love and remorse for the murdered father.⁶ At this point, we are able to apply another Lacanian analysis to the uncanny feeling that shimmers through when we think about the law and its executors, the feeling that makes the works of authors like Grisham, Kafka, or Roosevelt successful and truthful when they portray the law as something different from, maybe even contrary to, ethics, humanity, and justice: If the law is to be understood as the prohibition of enjoyment, it is based, at its origin, on an enjoyment that is obscene, perverse, and unregulated—that of the primal father.

The prehistoric struggle between the contradicting desires of the father and his sons seems to be restaged relentlessly throughout the progress of human society's (legal) history. While this process remains stable at its core, the facades are continuously changing. Today, in the age of globalization, of global markets and global enterprises, desire has found a new playground in the corridors of multinational corporations. Let us further assume that these organizations play the part of the primal father within the Freudian metaphor. Rumour has it anyway that they act mainly unimpressed by claims for righteous business conduct, which means that neither the environment, nor their employees, not even their shareholders, are safe from harm. However, taking recent legal and political developments into account, e.g., the introduction of the Sarbanes-Oxley Act and the rigorous enforcement of anti-bribery and books and records provisions by the Securities and Exchange Commission in the U.S. and abroad, the corporate world seems to face another dawn of the age of the sons. But the father is not as defenceless as he may have been in the ancient Clan. Now he can hire a law firm, which serves as a powerful—although not necessarily successful—weapon against all revengeful actions brought forward by the oppressed sons. In any case, the lawyer takes on the

steering wheel when greed has slain reason and the client is about to face confrontation with a severe impasse, which could maybe terminate his corporate future, as many of us noticed with a strange feeling of satisfaction when we saw Enron, WorldCom, and quite a few others of that kind go down lately, amongst them Hubble Chemical from *In the Shadow of the Law*. While we try to justify this slightly embarrassing *schadenfreude* with the long awaited victory of justice over corporate greed, our (strictly Freudian) analyst might inform us that—on the level of the unconscious, of course—we simply enjoy the fantasy of a successful attack against the primal father, which we believe would clear the way for us to replace the *fucking* villain. He might as well warn us that all such action will inevitably fail and we would only end up feeling guilty under the totemic law of prohibited enjoyment anyway.

Another core element of Lacanian psychoanalysis is the understanding that, contrary to the surface logic of *Totem and Taboo*, the bad primal father in the Freudian metaphor does not disappear but is actually still present and provides as much for a mode of identification as the beloved but dead father. Consequently, the two different fathers are both at work in the unconscious of law and leave the subject with the choice to identify with either of them. Identification is a process in the unconscious, which operates on a fantasy level. Fantasy, as the primary space of enjoyment, has thus two basic structures that correlate with the two opposed images of the father. On the one side, there is the good but dead father, represented by the Totem, who stands in for what we believe to be the law in a universal or metaphysical sense. The unconscious image of the dead father is the reason why metaphysicians throughout the history of philosophy as well as the common man or woman believe that the law in itself (“natural law”) is good, regardless of its positive derivations. On the other side stands the primal father, representing everything that the law in its common understanding tries to evict from society.

Roosevelt’s book makes it quite clear that these fantasy identifications are not something that is predetermined right from the beginning, like the *archaic heritage*, the Freudian term for genetically transmitted determinations in the unconscious, which already includes the raw shapes of the images of the two fathers. When corporate lawyers leave law school, they may already feel the desire of participating in the enjoyment of the primal father, but many of them take a rather innocent position that gives them a true feeling of relief or well-being when they get the chance to work on a *pro bono* project, like the young first-year rookie Mark Clayton, whose mission is to save a poor devil, falsely

accused of violent murder, from death-row. When Mark disappears into the mist with his attractive colleague Katja on the last page of the book, we get a clear image of the myriad shapes that fantasy is able to build with its symbolic and imaginary bricks:

A new world to build, Mark thought. Maybe more than one; maybe multitudes, for the firm, for him, for everyone who took the chance.

The particular and individual structures of fantasy constantly transform when the subject has entered the symbolic order that provides means to create fantasies. Fantasy is a shape that gives way to or fulfills desire in the realm of the symbolic and the imaginary, two terms from the Lacanian triad of subjective experience. Psychoanalysis's deadliest stroke against metaphysical concepts of morality is its definition of desire as something inescapable, singular and one-dimensional, at its core exactly similar in every earthly subject and independent of all subsequent categories of moral or immoral behaviour.

As we have seen, Lacan describes desire as enticed by a certain memory trace of the lost prenatal unity in the cocoon and the cut which comes from the fatherly "no!" against the oedipal unity that the infant enjoys with its mother and has to reseek desperately until the end; Freud talks about Eros and Thanatos, pleasure-principle and death-drive or the will to multiply, to continuously create greater units and to destroy them again. So how do we explain that people apparently behave so differently if, after all, we all want the same thing? The modern answer lies probably in the fact that modern life, which means nothing else than the modern way of regulating desire, is highly institutionalized. Desire-regulating institutions have a myriad of shapes and faces; they have multiplied in the modern world like the choices you face when you try to buy the right cheese in a French supermarket. Inevitably, you will pick the wrong one in either case, and it will leave you unsatisfied.

A corporate law firm is a very particular institution and well worth contemplating in the analysis of modern regulations of desire. What exactly is the law from the perspective of Morgan Siler? Clearly more than a code that regulates interpersonal or corporate relations. Does being part of a commercial law firm usually mean to serve the primal father and to identify with his law, which is nothing else than the law of unleashed desire, as a matter of fact, a corrupted anti-law? Generally speaking, anyone can freely choose between the two fathers and identify with his particular law. Is the corporate lawyer a miserable exception, doomed to choose the primal father as a basic mode of identification?

Such an assumption seems inevitable when we see the corporate lawyer simply as a swordsman of more or less corrupted companies, which try to make profits as independent from the public welfare as possible. A closer look might reveal that the corporate lawyer indulges in a fantasy not only of unrestrained true power but in something that even lies beyond. In the mind of the corporate lawyer, the law takes on the metaphysical dimension of a divine tool that makes its master the switchman of desire as manifested in the entities of the business world; to be the one who can make this pursuit of desire either prevail or let go to die, a truly divine feeling that sometimes becomes an addiction to lawyers, some of them to be found in Roosevelt's novel. Badly tempered critics might as well say that corporate law is misused here as a tool to support the anti-law of the obscene primal father, combined with a heavily narcissistic supplement. Maybe this is the reason why the lawyer is accompanying the Cohiba and the vodka bottle on their way out of that train window. But let us be more careful with moral judgments. The unconscious fantasy space—just as psychoanalysis in general—is *not* the field of morality. And even if it were, there would still be no room for such judgments since every single one of us does employ the fantasy of the primal father once in a while, just as we all live under the rule of the Totem, the symbolic prohibition of enjoyment.

The basic problem with the law seems to be that morality can never fully occupy its spaces, that there will always remain some blanks, which are left to an enjoyment that cannot be expressed within the limits of the identification with the good father, and that is—truly—not the corporate lawyers' fault. The reason seems to lie within the inherent structure of the law that comes from its function as a scheme to provide social communities with an agency of enjoyment, which cannot work without the law's obscene downside. The law is therefore never free of a certain degree of inconsistencies, which we face when we try to organize our enjoyment in between the two fathers. Choosing one father necessarily means to betray the other. In other words, we can hardly be faithful to our own desire, which is psychoanalysis's fundamental ethical claim. The modern answer to this problem is the post-enlightenment invention of ideologies, which did not succeed in resolving the problem but nevertheless created a tool to cover up the impossibility of a consistent choice.⁷ Despite the collapse of Soviet communism, the modern age of globalisation is not liberated from ideology. We can only recognize a certain decay of ideologies insofar as they have become less obvious and pluralized due to their lack

of a substantial grounding within our philosophical heritage. However, the reputation of lawyers has severely suffered since then. In systems with a stable ideological fundament, the lawyer is unlikely to be regarded as a parasite who is bending “the law” to its outer limits to make it fit into his or her solipsistic enterprise. Only the crack in the ideological edifice reveals the insurmountable antinomy within the law, so that we could paraphrase Oscar Wilde in saying that in the absence of a consistent ideology, the modern age’s dislike of lawyers is the rage of Caliban, seeing his own face in a glass.⁸

In the Shadow of the Law is a book that opens up the question of the nature of the law, the question of desire and morality. It does not attempt to give final answers, but is clearly aware of the law’s inherent ambiguity; it tries to give hope to those who still have faith in the law, and, after all, succeeds with this aim. Psychoanalysis, however, provides means to explain why we will never be satisfied by the positive outcome of the law, and one possible answer is that the law is based on and skewed within the impossible choice between the two human drives that we find in Freud’s father metaphor. Being a lawyer himself, Kermit Roosevelt also tries to rehabilitate lawyers from common prejudice and, being a lawyer myself, I think he has got a point there.

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1. Kermit Roosevelt, *In the Shadow of the Law* (New York: Farrar, Straus, and Giroux, 2005).
2. *Id.* at 108.
3. *Id.* at 172.
4. *Id.* at 220.
5. The common misunderstanding of the operation of *objet petit a* is clearly reflected in the dialogue between Bud Fox (Charlie Sheen) and Gordon Gekko in Central Park, near the end of *Wall Street*: Bud blames Gordon for his apparently insatiable greed to reap profits because he does not understand that the ultimate goal of success is equivalent to the dark abyss, of which each of the expensive paintings that Gordon puts on his walls is a reminder.
6. Sigmund Freud, “Totem and Taboo: Some Points Of Agreement Between The Mental Lives Of Savages And Neurotics,” in *The Standard Edition of the Complete Works of Sigmund Freud, Vol. XIII* (London: The Hogarth Press, 1955).
7. The French Revolution marks the ideological starting point, clearly reflecting the phenomenon: The initial alliance with the totemic father, represented in humanist ambitions for equal rights, etc., was quickly shadowed by a tribute to the primal father, manifested in the mass murder under the guillotine.
8. Oscar Wilde, *The Picture of Dorian Gray* (New York: Oxford University Press, 1998), xxiii.

culture, often focusing on textuality, narrative, film, and the construction of gender. *Framed: Women in Law and Film* (Duke University Press, 2006) develops a feminist theory of law-and-film (see http://sitemaker.umich.edu/orit_kamir). She can be contacted at oritkami@umich.edu.

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