

The Sense(s) of Law: Sensationality and Sense-making of Legal Trials

Oscar Man

The fainting of De-Nur, a Holocaust survivor who testified at the Eichmann trial, is probably the most dramatic courtroom moment in recent history. In *The Juridical Unconscious* (2002), literary scholar Shoshana Felman argues that the twentieth century is an era of recorded and televised trials that are no longer exclusively legal events, and have instead penetrated many aspects of public life.¹ Indeed, the dramatic impact of De-Nur's fainting is an effect of it being recorded and televised. The sharp cut to the fainted witness, the surprised faces of the people in the courtroom trying to comprehend the situation, and the security guards' dragging of the unconscious witness are all cinematically captured, enhanced, and dramatized by the camera, enabling the voyeuristic gaze of the audience in front of the television.² While the fainting did not arouse as much public attention and discussions as some more recently mediatized trials, such as the Depp v. Heard case, possibly due to the extremely long duration of the Eichmann trial, it still exposes something crucial about legal trials that usually remains, intentionally or otherwise, concealed. For instance, political theorist Hannah Arendt discusses this event through her first-hand account as a courtroom spectator to reiterate the impossibility of recounting an atrocity individually and retrospectively.³ Felman, on the other hand, highlights the muteness

¹ *The Juridical Unconscious*, 3.

² The footage of the fainting of the witness is archived and accessible through the website of United States Holocaust Memorial Museum.

³ *Eichmann in Jerusalem*, 249–50.

implied in the fainting and illustrates the implications of such a moment of aphasia.⁴

What is not emphasized by Felman about this dramatic moment of fainting, however, is that it is also *sensational*. The word “sensational” here bears two denotations. The first one, according to *Online Cambridge Dictionary*, in itself bears two similar yet opposing senses that can be either approving or disapproving: it means “very good, exciting” or, disapprovingly, refers to the media’s attention-grabbing approach that “intend[s] to be shocking and exciting rather than serious.”⁵ The second denotation derives from the word “sensation,” which means “the ability to feel something physically, especially by touching, or a physical feeling that results from this ability.”⁶ The witness’s fainting reveals, I will argue in this paper, that a legal trial is at once mediatized and sensorial. Both Arendt and Felman have linked the fainting to the witness’s inability to speak or respond. But what neither has elaborated on is that such a linkage discloses the fainting primarily as a bodily, sensorial, and border-crossing event. By border-crossing, I mean that this bodily collapse of the witness breaks and divulges the form and fixity of legal trials. It questions and exposes, through the senses of the body, the highly institutional nature of legal trials, the impossibility of leeway in legal procedure, and, ultimately, the performativity of law.

It is perhaps apparent at this point that I have intentionally conflated and played with the different *senses* of the words “sense” and “sensational.” In addition, by dissecting the word “sensational” and “sense,” I maintain that the five senses of the body are not only sensational, in the sense of emotive feeling, and sensorial, in the sense of our sensorium, but also a sense-making device. Engaging with this conflation, this paper will examine the sensorial and sense-making aspects of legal trials through the case of a 22-year-old persecuted student participant, Foo Hoi-ching, in the 2019 Anti-Extradition Law Amendment Bill (Anti-ELAB) Movement in Hong Kong. Postulating that her appropriation of a legal genre in the courtroom is sensorial both in a literal and allegorical sense, this

⁴ “Theaters of Justice,” 201–38.

⁵ *Online Cambridge Dictionary*, s.v. “sensational.”

⁶ *Online Cambridge Dictionary*, s.v. “sensation.”

paper demonstrates how the sensationality of a trial *transforms* it and exposes the performativity of law. It also asks what is archived and preserved after a trial, as a legal trial always implies the documentation of the legal event in question. However, the sensorial aspect of the trial is typically omitted from the archives. Through the case, I address how the senses are documented in a different archival logic than the law. In addition, this paper looks into the courtroom drawings of artist Pak Sheung Chuen. The drawings, which do not attempt to re-present the reality of the courtroom, demonstrate how the “other” of a legal trial is also an active participant in the legal event. They also showcase how the senses are sensed by the other in legal trials and how, in a legal context, the senses form a sense of commons through artistic practices.

A Plea Without Plea

In 2019, an unexpectedly large political movement emerged in Hong Kong to fight the introduction of a controversial extradition law amendment. As the amendment could potentially impede Hong Kong’s legal independence and facilitate political prosecution, several million residents of the territory participated in demonstrations, protests, and other campaigns to express their discontent. The Anti-ELAB movement lasted for over a year and ended without a clear cut. This outcome resulted from multiple factors, including continuous prosecutions, increased use of violent force by the police, and, arguably, the loss of political energy, which is common in long-term political movements. During the course of the Anti-ELAB demonstrations, over ten thousand people were arrested and prosecuted, and some were subsequently sentenced to prison. The Hong Kong government also seized the chance to introduce a national security law that, because of its highly ambiguous nature, further prevents dissent. Judges of national security cases are appointed directly by the Hong Kong chief executive. Such an act, therefore, sparks further controversy over the issue of judicial independence in Hong Kong. Generally speaking, the introduction of the national security law means that any anti-China or anti-governmental activities bear a high risk of prosecution. For instance, three people were arrested after allegedly

calling for others to cast a blank vote in the latest Legislative Council election in 2021.⁷

Foo Hoi-ching was convicted of rioting in November 2019. Among the many convicted at that time, Foo, a 22-year-old student, was one of the few who received media coverage. This attention came after she turned what was supposed to be a plea into a declaration of her political stance (see fig. 1 below, with my own translation).⁸ Apart from her prophetic prediction that the plea would not work in political cases because her conviction followed a specific political agenda (those who pleaded in the same case did not receive any mitigation), her act of turning a legal genre into something else *speaks* to something important about the essence of legal trials. Before we delve into Foo's appropriation of legal genre, however, let us focus first on the plea letter itself. This testimony is important within the context of this essay because of its tone. It is immediately noticeable that her tone is extremely calm and restrained. Contrary to what one might expect of a political criminal, Foo does not use the letter to make a rousing, galvanizing, or passionate proclamation. It is not an outcry or manifesto that demands actual political changes. Instead, the letter merely expresses the writer's personal views on Hong Kong's political situation and legal system. The final sentence of the letter even suggests that the judge could sentence her as heavily as possible if that judge thinks such a heavy sentence could force her to bend before the unjust law. In this, the letter exudes a sense of exceptional indifference and fearlessness of political imprisonment. One must ask: what does this unusual calmness signify? How do we make sense of her unusual calmness? I maintain that this unusually calm tone is sensorial, both literally and allegorically. As the letter was read aloud in a courtroom and specifically mentions the silenced

⁷ Inmedia Hong Kong, "Three People Arrested."

⁸ There were multiple news reports regarding her act, but many of which could not be found due to the closing down of multiple pro-democracy news outlets. (Some are shut because employees were arrested on suspicion of conspiring to publish seditious material.) For one of the few remaining online reports, see Cheng, "5 Hong Kong ex-students."

voice of the dissident, it can be viewed as essentially a voice or, I contend, a noise in the courtroom.

法官閣下：

在還押期間，感化官向我索取背景報告時，我坦言對於自己的行為並無後悔，亦沒有說話向法官閣下求情，因為我並不認同法例本身，亦不覺得自己有啟發的地方。簡單而言，我不認為這是合理的裁決。

亦可能

在部分人眼中，示威者「犯法就係犯法，就係要負責，如果公眾認為法庭的裁決證明了示威者的行為是錯誤的，是徒勞無功的。但我認為，權威並不代表正確。

首先，香港現時的法律並非由人民共同認可，社會並沒有空間討論現行法律合理與否。其次，暴動條例的定義本來就模糊不清，以便政權靈活解釋和操控。2019年後暴動案件急升，法庭因時而重新詮釋暴動定義，令更多行為被列為「法律不認可的行為」，從而令更多人入罪，令政權得以力壓異見者。因此，極權下的法律只是政權用以規範人民行為的不流血暴力手段，而法庭也不是一個彰顯公義的地方。這裏只會流於表面地關注社會秩序，並不會著眼社會撕裂的根本原因。

當政治案件的刑罰日益加重時，有些被告會選擇認罪或向法官求情，以減輕刑期，但這些或許並不代表他們認同法律具有道德正當性。法官閣下可能會指出，若不滿閣下裁決，又可以申請上訴。然而，本人已不再相信香港的司法制度，再高級的法庭亦不見得會傾聽異見者的聲音。我還是希望藉此機會向法官表達我的不滿。如果法庭聽畢本人以上的言論，認為可以用宣判的形式令本人從後悔或反省自己的行為，本人亦無話可說。

此致

傅慧晴
8/10/2021

Figure 1: The handwritten letter by Foo Hoi-ching, 2021.⁹

⁹ Anonymous source.

Full Translation:

Your Honor,

During custody, the probation officer asked for my background report. I asserted that I feel no remorse for my behavior. I also do not intend to plead to your honor because I do not agree with the law *per se* and I do not think I did something wrong. Simply put, I do not think this is a reasonable verdict.

To a few, protestors are obliged to “take the responsibility of committing a crime”. The general public might also think that the judgment of the trial proves that the protestors’ behavior is wrong and futile. However, I think power does not justify what is right.

To begin with, the current law of Hong Kong is not approved by its people. The society did not have any space to discuss whether the law is just or not. Secondly, the definition of riot is in itself ambiguous to facilitate a convenient interpretation and manipulation by the political power. After 2019 riot cases surged. The court timely re-interpreted the definition of riot to include more acts as “legally unapproved acts” so as to put more people in jail, so that the political power can suppress the dissident. Therefore, law under totalitarianism is a violent tool without bloodshed to let political power regulate its people’s behavior. The court is neither a place where justice is done or upheld. It is a place which pays skin-deep attention to social order and where the fundamental reason why society is split and torn apart is never seriously examined.

As the sentence of political cases aggravated, some defendants chose to plead guilty or plead to the judge in hopes of mitigation. However, it does not mean they agree that the existing law is morally just. Your honor may suggest that I should appeal if I am not pleased with the judgement. However, I no longer hold faith in Hong Kong’s legal system. No matter what higher court, I believe it will not listen to the voice of the dissident.

I only wish to use this chance to express my discontent. If, after hearing my speech on the above, the court reckons a heavy sentence could make me feel remorseful and reflect on myself, I suggest the court do whatever it pleases.

Regards,

Foo Hoi-ching

8/10/2021

The Great Criminal

It is obvious that the calm, factual, and descriptive tone of Foo's letter exudes something *beyond* the courtroom and the law. In other words, it exposes the circumscription of law itself. In "Critique of Violence," German philosopher Walter Benjamin raises key questions regarding violence, law, and justice. Pointing out that violence is inherent to law even though law's end might be justice, Benjamin distinguishes between law-making violence and law-preserving violence. Taking militarism as an example of law-preserving violence, Benjamin highlights how legal violence also implies an involuntary subordination of citizens to law. For instance, the fact that conscription is compulsory and that citizens must fight for the country reveals how the citizens cannot but succumb to a law for the sake of the country. In addition, Benjamin emphasizes that law-making and law-preserving violence are sometimes coterminous or overlapping. In the Hong Kong context, it is clear that police violence and political prosecution are instances of law-preserving violence that the government exercises to maintain its status quo. At the same time, these are also instances of law-making violence in the sense that they establish new laws stipulating what citizens can or cannot do, similar to Benjamin's suggestion that the purpose of capital punishment "is not to punish the infringement of law but to establish new law."¹⁰

Benjamin identifies a type of criminal who attracts and charms the public. This "great criminal," in Benjamin's words, "confronts modern law with a threat: the threat of positing a new law, which, in spite of its impotence where it really matters, even today makes the people shudder as it did in primeval times."¹¹ To apply this concept to Foo's case, the fact that she chose not to follow the legal procedure of the mitigation plea is in itself a confrontation of the legal system. Her refusal to plead and her prophetic accusation that the plea in mitigation is useless since the defendants are politically prosecuted express a threat of positing a new law, a moral law positioned outside the judicial system that directly confronts the legal law. Foo's refusal rebuffs the verdict and judgment of the court

¹⁰ "Critique of Violence," 286.

¹¹ *Id.*, 283-4.

for its ignorance of morality and reveals that the legal law is being abused to prosecute whoever might challenge the status quo of the government. This refusal underscores the legal law and invalidates it as a violent means for legal ends. Elaborating on Benjamin's theorization of the great criminal, philosopher Jacques Derrida argues that this figure "is not someone who has committed this or that crime for which one feels a secret admiration; it is someone who, in defying the law, lays bare the violence of the legal system, the juridical order itself."¹² By appropriating the legal genre (plea in mitigation) and turning it into a factual expression of her political stance, Foo is not just assailing the government and addressing the unjust political prosecution masquerading as justice, but also, most fundamentally, using subdued and dignified language to lay bare the violence of law to the public who granted trust to the legal system. The appropriation of legal genre is an act of bypassing the legal system, resisting to step into an unjust procedure, and telling the public that the current law is unjust and merely performative.

A plea, which means either "an urgent and emotional request" or,¹³ in a legal sense, "an opportunity for you to explain to the judge the circumstances of the offence, so that the judge can arrive at an appropriate sentence,"¹⁴ turns into the exact opposite. Foo alters the function of the legal form and invalidates it by breaking that form. In the sentence pronouncement document of this case, the judge responded to the mitigation factors proposed by the defendants. None of the other four defendants who did plead and show remorse received any mitigation from their pleas apart from the mitigation factor that they had no previous criminal record.¹⁵ However, it is conspicuous that only Foo's non-plea was not mentioned in the document at all, as if the law is unable to respond to Foo's letter since it breaks the form and logic of the judicial system. This failure to respond to Foo's non-plea further highlights the distance between legal law and moral law, with legal law being the institutional means to exercise legal violence. The judge's lack of address to Foo exposes

¹² "Force of Law," 33.

¹³ *Online Cambridge Dictionary*, s.v. "plea."

¹⁴ Singapore Courts, "Prepare Your Mitigation Plea."

¹⁵ Hong Kong Judiciary Legal Reference, "DCCC 361/2020 [2021] HKDC 1309."

the aphasia of the law when it faces an extra-legal logic that it finds incomprehensible and illegible. The law is silent as it is incapable of responding to Foo's logic, which is outside the judicial system, while, on the other hand, the letter is *speaking* about something.

Bring the Noise to the Courtroom

As mentioned above, merely illustrating the implications of the letter's unusual calmness is insufficient, for the letter is not only a collection of written words but an utterance, a speech act, an auditory event that takes place sensorially in a courtroom. In *The Parasite*, theorist Michel Serres deconstructs the French word "parasite" by playing with its multiple senses. Apart from the senses of biological and social parasite, the French word "parasite" also means "static" or "interference."¹⁶ In the sense of classic information theory, noise, for Serres, is not only an extraneous background disturbance in the transmission of messages between a sender and a receiver. It is fundamental and subversive. Serres holds that "as soon as we are two, we are already three or four . . . In order to succeed, the dialogue needs an excluded third."¹⁷ In other words, the "excluded third," or the noise, is always necessary in order to make communication possible. In addition, he writes: "[t]he parasite, nesting on the flow of the relation, is in third position," but the noise eventually becomes an interlocutor within the flow of the relation, obscuring and disrupting this flow.¹⁸

This notion of noise as both parasitic and disruptive makes it possible to further deconstruct Foo's plea letter and its functions in a sensorial and sense-making sense. Firstly, the calmness in her accusation confirms that the letter is not merely a dissident voice against the legal apparatus. The letter escapes the oppressor-oppressed binary since it does not attempt to revolt against or overthrow the oppressor. Instead, precisely because of its unusual calmness and its factual description of the legal system, it functions as noise *within* the apparatus. Here Serres' notion of noise becomes critical to understanding Foo's plea letter. On the surface level, one

¹⁶ Wolfe, "Bring the Noise."

¹⁷ *The Parasite*, 57.

¹⁸ *Id.*, 53-4.

could easily imagine that Foo's legal trial is an information exchange between a sender (the government) and a receiver (Foo), with the message clearly being that dissident political acts are illegal. If, however, we take into consideration the complexity and multivalence of Serres' notion of noise, one realizes that the letter's unusual calmness exposes the real relation of information exchange, where the sender is the government, but the real receiver is the general public. As much as the legal procedure of the letter of plea presents itself as private, personal, and one-on-one, it is ultimately public and didactic. The part of the letter where Foo presciently states that it is futile to plead for a mitigated sentence because the legal system is already unjust exposes the performativity and, thus, the hypocrisy of the entire legal trial. It once again lays bare the fact that the legal procedure is entirely performative because the government relies on the superficial objectivity of the law to communicate political messages to the general public with the discursive and legal intention to intimidate. In other words, the letter is neither an outcry for political awareness nor the receiver of political messages, but, in essence, the noise *within* the apparatus. It is a noise that, in Serres' words, "through its presence and absence, the intermittence of the signal, produces the new system."¹⁹

Courtroom Drawings to Make Sense

While the defendant is undoubtedly involved in the space and senses of the courtroom, others bear witness in the courtroom in different ways. The spectator, for instance, is both an insider and outsider who gazes at and participates in the legal event. Hong Kong artist Pak Sheung Chuen, for instance, fell into a prolonged depression after the abrupt end of the 2014 Umbrella Movement. Intriguingly, his way of dealing with depression was, rather arbitrarily, *legal*. After walking, by chance, past a court of law, Pak became obsessed with listening to legal cases as a courtroom spectator. While his drawings are not directly related to Foo's case, his witnessing of political cases in Hong Kong further reveals how these trials are sensational. Pak has said that the courtroom is like a buffer zone for emotions: the "highly controlled" nature of its space

¹⁹ *Id.*, 52.

ensures an undisturbed environment for him to manage his feelings and stay focused.²⁰ While listening to legal cases, Pak would note down details of the trials. More often, though, Pak's courtroom documentation is a mixture of handwritten words, sketched portraits of trial participants, and extremely abstract symbols that he drew almost automatically and unconsciously and which even require post-drawing interpretations by himself.²¹

According to art historian Lynda Nead, courtroom sketches first appeared as an alternative form of documentation after photography was banned in courtrooms on account of concern at the time that "the newspapers [had] brought the public into the courtroom" and "penetrated its enclosed and rarified space."²² The ban on photography in courtrooms, according to Nead, "effectively removed the mass public from the courtroom and prevented the law being turned into an emotive spectacle."²³ Even with this ban, it is clear that legal trials are not free from emotive, spectacled, and sensational interpretations. Examining the graphic trial reports of the Papon v. France case in 1998, law and media scholar Yasco Horsman points out how the artists interpret, distort, and dramatize the trials subjectively through their representations of people in the courtroom.²⁴ For instance, Papon is portrayed in an uncannily animated manner when he speaks from the witness stand. He appears extremely lively, with exaggerated, theatrical gestures, reflecting the artist's attempt to depict Papon as an old man trying in desperation and futility to defend himself. Highlighting the drawing hands and the sketchbook drawn within the graphic trial reports, Horsman reminds readers that the artist is always present in the trial as a bystander, a witness, and a spectator. It is important to note that in Horsman's analysis not only is the witnessing other made present in the trial and that the reading of the graphic trial reports shown as always interpreted and mediated, but that the legal trial as such is exposed as sensorial and performative. The cross-examination

²⁰ Choi, "Speed Drawing."

²¹ For a more detailed analysis of his drawings, see Pang, "Facing Up."

²² "Freedom from Publicity or Right to Information?," 63-81.

²³ "Courtroom Sketching," 81.

²⁴ Horsman, "Laughter in the Courts of Law."

process, for instance, is always determined by the ways in which witnesses deliver their stories. Gesture, tone, volume, and eye contact are all sensorial details of the legal trial in a courtroom.

I contend that courtroom drawing is, therefore, key to exposing the theatricality and sensationality of legal trials. For instance, Horsman illustrates how fluctuation in style in the graphic trial reports indicates specific moments of disruption that are often represented in conspicuously detailed depictions, bringing to light the affective aspect of the trial.²⁵ In other words, since the courtroom is a “highly controlled” space with “mundane administrative accoutrements” that allows no space for emotions, the spatiality of legal trials is, indeed, enclosed and rarified.²⁶ On the other hand, the often unbearably long hours of legal trials—in which most people feel bored, tired, or stuck—form the suffocating temporality of the courtroom. The spatiality and temporality of the courtroom construct the legal trial as a highly regulated space with little to no room for affective or physical freedom. However, it is precisely this spatially and temporally controlled setting that generates the potential theatricality of legal trials. In other words, spatial and temporal invariability allows the courtroom to function almost as a blank page or empty stage on which courtroom events can be exaggerated and dramatized.

Pak’s drawing is key to exposing the theatricality of such a highly regulated legal space. The fact that Pak takes the courtroom and the experience of listening to cases as a therapeutic practice to treat his depression illustrates how he appropriates the courtroom into an empty space for personal, creative use. His presence in the courtroom obviously obscures the law’s intention to construct the space as enclosed and the law as entirely non-emotive. Because of their highly natural and unconscious nature, Pak’s drawings are non-representational, affective, and sensationality, which reveal the

²⁵ *Id.*, 9.

²⁶ *Id.*, 4.

²⁷ Pak, *Nightmare Wallpaper*, 46–7.



Figure 2: "Blood and Fire."²⁸

theatricality of legal trials. Incorporating written details of the trials, sketched portraits, and abstract symbols, Pak's drawings expose the ultimately affective and sensorial nature of legal trials. While listening to the case of Ng Lai-ying, a female protestor who had been arrested with her face bloodied and was accused of assaulting police officers with her breasts, Pak draws a symbol of blood and fire (see fig. 2).²⁸ Producing this drawing automatically and unconsciously, Pak has to interpret the symbol retrospectively. According to Pak, he first interpreted the symbol as a representation of Ng's hair and bloody face, with an eagle standing on her nose. But when Pak turned the symbol over and re-interpreted it nine months later, he saw it as a representation of a human figure behind a burning fire.²⁹

According to Hong Kong Studies scholar Pang Lai-kwan, Pak's drawings are capable of capturing the transcendental *sense* of "being carried forward, reaching afar, echoing among many people."³⁰ Drawing on insights offered by Elizabeth Grosz and Jean-Luc Nancy, Pang posits sense as something that remains beyond language, an always-multiple "being-toward-the-world."³¹ For Pang, the insistence of Pak's drawings on allowing contradictions and ambiguities to exist truthfully allows them to present a lasting and multiplying *sense* of political struggles. For instance, the blood and fire symbol represents not only the police violence of Ng's arrest but also the reciprocal violence of protestors who committed arson and threw bricks. This interpretation resembles Foo's unusual calmness in her letter, as they both eschew a one-sided political expression, instead insisting on presenting the whole picture and its complexity

²⁸ See Plucinska, "Hong Kong Woman Got Sentenced."

²⁹ Pak, *Nightmare Wallpaper*, 46-7.

³⁰ "Facing Up," 263-5.

³¹ *Ibid.*

in their own ways. In other words, by representing and re-creating the details of the recounted legal events, Pak brings the sense of the past events back to the present through his drawings with the power of sensing, and thus connecting, with others who are also in political despair. Pak's drawings are a brave and honest dialogue with the past, the self, and the senses. They exude the sense of commons through their almost unconscious and automatic strokes driven by Pak's overwhelmingly affective and sensorial experience in the courtroom.

Archiving the Law

Cultural memorist Jie Li proposes the concept of "dossier literature" as opposed to "drawer literature," a term coined by Chinese scholar Chen Sihe, to refer to the forbidden literature of the Mao era that was often kept in a drawer since its content was sensitive and thus might have been used as evidence for political prosecution. Li's book *Utopian Ruins* reviews personal accounts of the Cultural Revolution in unusual forms, such as the blood letter on a prison wall, dossiers, and police files. Li highlights the potential of these forms of personal account to resist homogenous, state-orchestrated, and unfaithful historical narratives, documenting the history that political power attempts to wipe out. A blood letter on a prison wall, for example, was used as evidence of anti-revolutionary crime and justified the execution of the political criminal Lin Zhao. The blood letter was recorded by the police and used in Zhao's prosecution and sentencing to execution. However, the blood letter was also documented and turned into an archive, a historical account of the dissident. Later historians discovered the documents and excavated the story of a brave elite who devoted her life to exposing the failures of the government at the time. In other words, the dossier acts as another form of archive that continues the life of the blood letter on the prison wall, which could be easily erased. This example introduces a dialectical relationship between law as tool and dossier as documentation. This implies that when the government relies on the seemingly just apparatus (that is, the law) to justify its existence and its ruling power over the people, the dossier inevitably becomes the rare and perhaps singular shelter for dissident voices. In other words, the stage (law) on which the government relies to perform

political play *per se* provides a private space for the prosecuted to archive a suppressed dissident history.

In this sense, Foo's unusual calmness in her letter can also be understood in archival terms. Foo's shocking self-awareness is derived from her attempt to turn a plea into a moment of personal witness, an archive, and an account of history that would soon be wiped out by political power. In this attempt, she spends half of the page lucidly explaining why the current legal system is unjust and why she feels no remorse for her alleged crimes. Foo's rational explanations resist the manipulations of ideological propaganda that might attempt to alter the letter's content and represent its composition as an illicit action. Foo's appropriation of law not only archives the event but also documents the suppressed history for future historians to excavate. Inasmuch as political power still relies on law to perform and achieve its agenda, Foo's personal witness lingers and remains *with* the law and forces the law not to close but to remain open. On the other hand, Pak's drawings document trials visually, affectively, and sensorially. His work constitutes what literary scholar Hillary Chute calls "visual witnessing."³² Being both journalism and testimony, this form of visual witness transcribes and archives the trials first-hand. Pak's work is also an artistic form of archive that depicts the trial as an event, presenting trials as performative and theatrical.³³

Conclusion

The above legal instances undoubtedly reveal the sensorial aspect of the courtroom and how its performativity can be exposed through artistic practices. While the Eichmann trial and the Depp v. Heard case both aroused enormous attention for their historical significance and sensoriality, legal cases like Foo's are proceeding daily in Hong Kong. With the increasing number of trials and convictions on a daily basis, the legal process in the courtroom almost becomes mechanical, automatic, and gestural. The sensoriality within the courtroom is often buried under the quantity and repetitiveness of trials. The imminent danger of this burial is not

³² *Disaster Drawn*, 141-2.

³³ Horsman, "Laughter," 3.

only that the public becomes indifferent to the political trials. It is also that such indifference might be abused to further facilitate political prosecutions and render the law as the dispositive and the machine that consumes all political energy and blocks all future possibilities for opposition to sovereign power. Instead of reinvigorating and highlighting the senses in law, contemporary media further blur and displace the sensoriality of legal trials by mediatizing and mediating these trials. Media turn trials into spectacular events rather than exposing the sensationality of legal events, thus further concealing the performativity and violence inherent in law.

By positing a new law and voicing out a noise in the courtroom, Foo is able to expose the performativity and sensoriality of legal trials. Through this exposure, Foo also teases out the underlying fabrics of law, presenting its violence and its political agenda to the public through the senses. On the other hand, as a spectator, Pak is able to transform private, personal affect into a shared, public, and common sense that bears witness to and archives the legal trial. The critical perspective of these two cases exposes and deconstructs law as an objective, unbiased, and emotionless machine in society through the senses. They also reveal the potential of conflating the senses with sense in law to undo the automation of law. I hope that this study, an initial attempt at exposing the “sensationality” of the courtroom, will provide a theoretical framework for future studies to further expose the seemingly immutable apparatus that is called the law.

Bibliography

- Arendt, Hannah. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York: Penguin Books, 1994.
- Benjamin, Walter. “Critique of Violence.” In *Reflections: Essays, Aphorisms, Autobiographical Writings*, edited by Peter Demetz, 236–52. New York: Schocken Books, 1978.
- Cheng, Selina. “5 Hong Kong ex-students sentenced to nearly 5 years’ jail for rioting during 2019 campus clashes.” *Hong Kong Free Press*, October 19, 2021.
- Choi, Sin-yi. “The Speed Drawing of Artist Pak Sheung Chuen in the Courtroom. 藝術家白雙全法院速寫.” *MP Weekly*, September 29, 2017.

- Chute, Hillary. *Disaster Drawn: Visual Witness, Comics, and Documentary Form*. Massachusetts: Harvard University Press, 2016.
- Derrida, Jacques. "Force of Law: The 'Mystical Foundation of Authority.'" In *Deconstruction and the Possibility of Justice*, edited by Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson, 3-67. London/New York: Routledge, 1992.
- Felman, Shoshana. *The Juridical Unconscious: Trials and Traumas in the Twentieth Century*. Cambridge: Harvard University Press, 2002.
- . "Theaters of Justice: Arendt in Jerusalem, the Eichmann Trial, and the Redefinition of Legal Meaning in the Wake of the Holocaust." *Critical Inquiry* 27, no. 2 (2001): 201-38.
- Hong Kong Judiciary Legal Reference. "DCCC 361/2020 [2021] HKDC 1309." October 19, 2021.
https://legalfref.judiciary.hk/doc/judg/pdf/vetted/other/ch/2020/DCCC000361A_2020.pdf.
- Horsman, Yasco. "Laughter in the Courts of Law: On Riss's Graphic Report on the Papon Trial." *Law, Culture and the Humanities* (2023): 1-17.
- Inmedia Hong Kong. "Three People Arrested for Instigating Blank Votes, ICAC Says they had Shared Online Posts." 三人涉呼籲他人投白票被捕-廉署指曾轉載網上貼文. November 9, 2021.
- Li, Jie. *Utopian Ruins: A Memorial Museum of the Mao Era*. Durham: Duke University Press, 2020.
- Nead, Lynda. "Courtroom Sketching: Reflections on History, Law and the Image." In *Law and Popular Culture*, edited by Michael Freeman, 173-82. Oxford: Oxford University Press, 2005.
- Online Cambridge Dictionary. Accessed March 16, 2023.
<https://dictionary.cambridge.org/dictionary/english>.
- Pak, Sheung Chuen. *Nightmare Wallpaper 140928-190701*. Hong Kong: Para Site, 2019.
- Pang, Laikwan. "Facing Up to the Sovereign: Pak Sheung Cheun's Nightmare Wallpaper and Hong Kong's Despair." *Critical Inquiry* 49, no. 2 (January 2023): 251-73.
- Plucinska, Joanna. "A Hong Kong Woman Got Sentenced for Assaulting a Police Officer With Her Breast." *TIME*, July 30, 2015.
- Serres, Michel. *The Parasite*. Minneapolis: University of Minnesota Press, 2008.
- Singapore Courts. "Prepare Your Mitigation Plea." Accessed May 18, 2023.
<https://www.judiciary.gov.sg/criminal/prepare-mitigation-plea>.
- United States Holocaust Memorial Museum. "Eichmann Trial—Sessions 68 and 69—Testimonies of Y. Dinur, Y. Bakon, A. Oppenheimer, A. Beilin." Accessed March 16, 2023.
<https://collections.ushmm.org/search/catalog/irn1001698>.
- Wolfe, Cary. "Bring the Noise." *Media Theory* 5, no. 1 (2021): 273-94.

Oscar Man

List of images

Anonymous source. The handwritten letter by Foo Hoi-ching, 2021.

Pak, Sheung Chuen. "Blood and Fire." In *Nightmare Wallpaper 140928-190701*.

Hong Kong: Para Site, 2019: 46-7.