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Habeas Narrativum: Kafka's *Trial*, Legal Discourse, and the Right to Review-Ready Reasons

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Abstract

This article proposes *habeas narrativum*: a translation framework that treats literary form as procedural evidence within legal discourse and converts scenes of injury in Kafka's *The Trial* into administrable minima for decisions in informational regimes. In plain terms, HN is a four-question checklist for reviewing opaque decisions: what rule applied, what evidence/items triggered it, what reasons connect rule to item, and what record the affected person can contest. Rather than reading Kafka as allegory or doctrine, the method isolates recurrent formal injuries (non-notice, non-reasons, secret files, and credibility theater) and renders them as four predicates that make authority answerable: (1) prospectively intelligible notice identifying the items at issue, the operative rule text, and the time window; (2) review-ready reasons that are case specific, traceable to the disclosed record, falsifiable by counterevidence, and timely; (3) access and rectification through a contestable record bundle; and (4) a standard of review that prefers evidence over demeanor heuristics and specifies remedies keyed to missing predicates. Read this way, The Trial functions as a forensic archive whose scenes document which minima are absent and, therefore, what a reviewer must be able to demand on the record. To demonstrate portability beyond the literary court, a brief platform-moderation mini-case shows how these predicates reorganize routine review: requiring itemized notices, record-tied reasons, and rectification channels without demanding model transparency, thereby turning literary diagnosis into enforceable review practice in contemporary legal discourse.

Keywords: Law and Literature, Kafka, Legal discourse, Right to Reasons, Narrative jurisprudence

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Introduction

Kafka collapses presumption and procedure in the opening "arrest," which supplies no charge; only the performative "you are our prisoner" (Kafka 2009: 6).[1] No warrant; no grounds. K.'s first moves are compelled improvisations rather than informed defense. Non-notice functions as technique: binding a person while denying the minimally intelligible information needed to answer.

As the case unfolds, authority speaks as closure, not justification. Officials act but do not explain; when K. presses for reasons, the text offers rituals of speech that end conversation. "You're under arrest, that's all" (Kafka 2009: 8) names authority while evading it. Kafka underscores this evacuation by cutting scenes before criteria appear, leaving reader and protagonist in the same epistemic stall.

Space enforces the regime. K. hunts for a forum and finds tenement "courts," stairwells, rented rooms. A functionary concedes the office "merely said what it had been told to say" (Kafka 2009: 182): the file "speaks" without a speaker. If no office owns a reason, the subject cannot meet it with counter-reasons.

Titorelli's tutorial choreographs adjudication as semblance. He lists "real acquittal," "apparent acquittal," and "protraction," then admits the first is mythical and the third endless (Kafka 2009: 122). The taxonomy names pathways that resemble relief but deliver deferral: judgment as credibility theatre, posture over proof.

The priest's parable frames explanation as approach without arrival. Replies, "not yet," "perhaps later," are grammatical and permanently postponing (Kafka 2009: 153). In the cathedral, an architecture of echo and delay, reasons resound but never land where they can be acted upon.

Proximity to power likewise substitutes for reasons. Summoned aid via a foreign client fails because K. is late: the meeting was for ten; "it was striking eleven" when events resume (Kafka 2009: 145). Scheduling and access become hidden layers of law: one can be deprived of reasons by being placed just out of time or just outside the room, form without argument.

Objects mirror this ontology. In the bank, a superior fusses with a desk until "the delicate upper rail broke," dismissing it as "poor-quality wood" (Kafka 2009:

1 All Kafka citations refer to Oxford World's Classics, Mitchell trans.; paratext ('Introduction,' 'Explanatory Notes') cited as OWC

182): shoddy rails, unbreakable procedures. Performative solidity: contingent materials yield obligatory effects once spoken by the apparatus.

Fair process requires not omniscience but reasons that can be met. When K. asks to answer something definite, he receives the shape of process without content. Even the lawyer's counsel, "one must be patient," recasts patience as dwelling inside a case without criteria (Kafka 2009: 98): a virtue instrumentalized to normalize non-reasons.

The execution formalizes the theorem: a decision without explanation cannot be resisted through argument. Two warders offer no warrant and accept no plea. "Like a dog!" K. cries, naming the injury as the refusal of the human mode of address: answerability to reasons (Kafka 2009: 180).

In sum, *The Trial* binds reader to protagonist: statements in place of reasons, access in place of hearing, outcomes in place of judgment. Declarations foreclose inquiry; proximity replaces proof. If due process requires intelligible grounds that can be met with counter-reasons, Kafka shows how institutions can satisfy the appearance of process while defeating its substance, and thereby restores the demand for reasons as a minimal grammar of justice.

Scholarship clusters in three strands: textual-formal, existential/theological, and jurisprudential/bureaucratic. Henry Sussman casts the court as a writing machine whose procedures are textual operations, shifting due process from violation to displacement (Sussman 1977: 41–45, 53–55). Against mythic transcendence, a corrective in *New German Critique* reads opacity as demystification seeking "justice for Josef K." (Conti 2015: 99–102). Jurisprudentially, Douglas Litowitz's "outsider jurisprudence" names expulsion from justificatory reason within enveloping procedure (Litowitz 2002: 103–06). Socio-legal work extends symbol to practice: Moynihan, Gerzina, and Herd invoke "Kafka's bureaucracy" to describe administrative burdens that engineer confusion and foreclose uptake (Moynihan et al. 2022: 22–25).

Paperwork and secrecy are the central media. Ben Kafka's *The Demon of Writing* shows documents constituting and occluding agency as a bureaucratic medium (B. Kafka 2012: 3–9, 98–102). Anthropological accounts likewise trace how files materialize authority while organizing non-notice and non-reasons as ordinary effects (Hull 2012: 251–55). These frames prepare, but do not yet specify, a due-

process lens keyed to reasons and explanations as rights.

Recent debates sharpen that pivot. Under the GDPR, scholars dispute a "right to explanation" for automated decisions; even skeptics concede duties of notification, access, and "meaningful information about the logic involved" (Wachter, Mittelstadt, and Floridi 2017: 76–79; Wachter, Mittelstadt, and Russell 2018: 69). Administrative-law literatures treat reason-giving as a rule-of-law safeguard structuring contestation (Kochan 2018: 3–5; Short 2012: 1750–54). Read back through Kafka, opacity appears as failure of reasons: a procedural injury in the idiom of information rights.

Accordingly, we shift from "law as theme" to informational due process as form. Building on Sussman and Litowitz, we propose habeas narrativum: treating narrative form as evidence of procedural harm. Concretely, we (1) isolate devices that simulate information asymmetry (labyrinthine venues, unreadable files), (2) align them with procedural predicates (notice, reasons, access/rectification, standard of review), and (3) test them against contemporary regimes (FOIA/Glomar, asylum credibility, risk scoring/ADM). In this telling, *The Trial* becomes a diagnostic instrument for informational state power: the secret file converts persons into data-subjects while foreclosing contestation, requiring access, explanation, and rectification to be read together.

Our contributions are twofold. First, K.'s plight becomes a case of constructive impossibility to respond under non-notice and non-reasons, translating Kafka's dramaturgy into today's explanation duties (cf. Wachter et al. 2017; Selbst and Powles 2017: 233–36). Second, we offer a portable form-as-evidence framework: scenes do not merely reflect law; they operationalize due-process violations that can be rendered justiciable in disputes over administrative reason-giving and automated decisions. Thus, high-canon Kafka scholarship becomes an actionable methodology for contesting opaque governance.

This article proposes *habeas narrativum (HN)* as a practical translation-and-review framework for opaque decisions: it turns a decision into a contestable record and a set of review questions rather than a mystery narrative. The framework is organized around four predicates that can be applied as a checklist across legal and socio-technical settings: (1) prospective intelligibility (clear notice of the governing rule/charge, the relevant item(s), and timing), (2) review-ready reasons (case-specific

reasons tethered to disclosed items, not generic labels), (3) contestability (access to the record in a usable form, plus a pathway to correct and reply), and (4) evidence-first independent review (a standard of review that evaluates disclosed grounds rather than demeanor, intuition, or secrecy). The sections that follow define and distinguish these predicates from adjacent approaches, then show how to operationalize HN as a replicable framework with corresponding remedies when a predicate fails. The concluding sections return to the framework's implications for oversight, due process practice, and human-rights-facing accountability.

Framework

The Trial is not merely an allegory of guilt; it is a diagnostic of informational due process in which secret files and withheld reasons create a constructive impossibility to respond. Kafka stages procedures that look like law, such as summonses, hearings, and consultations, while withholding the minimally intelligible grounds a person would need to answer. We call this evidentiary posture habeas narrativum: narrative form as a record of procedural injury. The payoff is twofold: the novel (1) identifies techniques by which institutions simulate accountability while evading scrutiny and (2) yields criteria—notice, reasons, contestability (access to the record in a form that enables correction and reply)—that any informational governance system must meet.

Kafka begins where due process should: notice. At the threshold, guards dismiss K.'s warrant demand with the tautology of pure designation: "We don't answer questions like that… That is the law" (Kafka 2009: 8–9). Authority performs itself while refusing grounds, shifting procedure from a forum of reasons to a choreography of compliance. Contemporary systems replicate the move when they proclaim rules without furnishing reviewable bases.

Objects and settings amplify the harm. In the tenement "court," K. opens a law book and finds "an obscene picture… the pornographic intention… clearly recognizable" (Kafka 2009: 42): a book that looks like law but contains something else: disclosure without explanation. Pasquale names the modern analogue: absent transparency or audit, the "findings" driving decisions are "inevitably fragile," because no one can see what stands behind them (Pasquale 2015: 226). What purports to guide conduct cannot be met with counter-reasons if its operative logic is withheld.

Kafka also forecasts accountability managed through metrics and ritual rather than reasons. With the flogger, punishment follows publicity, not adjudicated grounds: "If… someone makes it public, then punishment must follow" (Kafka 2009: 59). As Heinz Politzer argues, Kafka's juridical world legitimates itself through ceremonial displays and procedural fragments: authority as performance rather than reasoned adjudication (Politzer 1960: 432–33). In this key, the whip-room functions like a dashboard of compliance: performance metrics displace the duty to give reasons, leaving no target for contestation (Kafka 2009: 59).

Titorelli renders the structure programmatic: "real acquittal," "apparent acquittal," "protraction," with only cycles of deferral live in practice (Kafka 2009: 112). Adjudication becomes maintenance. Solove explains why this matters: the Court's power is "not so much a force as… an element of relationships," enabling an unbalanced bureaucracy to disable individuals regardless of stated purposes (Solove 2004: 39–41). Files and bodies move; answerable grounds do not.

Habeas narrativum rests on a simple wager: form is evidence. The novel proves injury by composing corridors, files, and voices that simulate process while foreclosing argument. In the cathedral, K. says "I'm not guilty"; the priest replies, "that's the way guilty people talk" (Kafka 2009: 152): exculpation recoded as guilt. White's justice-as-translation marks the normative failure: legal speech must "expose the ground upon which its own result… can be qualified and criticized," recognizing the other as "a center of meaning" (White 1994: 256, 263–64). Kafka stages the opposite, speech that cannot alter its uptake, and makes the injury legible.

The institutional stakes follow. K.'s rummaging for credentials, "cycling licence… birth certificate," and the guards' refusal to treat them as relevant (Kafka 2009: 8–9) dramatize the dossier's asymmetric power. Solove's "digital dossier" clarifies the persistence of the metaphor: not only surveillance, but records rendered inaccessible and decisions unanswerable (Solove 2004: 36–41). Habeas narrativum isolates the procedural core: without prospective intelligibility (clear notice of the rule, the item(s) at issue, and the time window) and reviewable reasons, "access" becomes a stage property in the theater of legitimacy.

Kafka likewise anticipates governance that confuses disclosure with explanation and participation with performance. Cohen shows how network- and

standard-based regimes cultivate multistakeholder forms that remain accessible to well-resourced actors yet resist meaningful review (Cohen 2019: 229–31). Pasquale describes a political economy that enlists state power to support black-box techniques while recoding oversight as disclosure ritual (Pasquale 2015: 11–12, 208). The Trial models this design: a system can publish rules, log outcomes, and hold hearings yet still deny habeas in the sense due process requires: the right to reasons one can meet with reasons.

A testable standard for informational due process (from habeas narrativum):

• Prospective intelligibility: clear, stable notice of applicable norms.

• Review-ready reasons: grounds specific enough to be challenged.

• Contestability: access to the file in a form enabling correction and reply.

Kafka's scenes show that when institutions substitute performance for reasons, the subject's capacity to respond is constructively nullified. The contemporary analogue is not merely secrecy of code but the orchestration of procedures that look like law while withholding what law owes: an answer.

Related Approaches & Distinctions

This section positions **habeas narrativum (HN)** relative to three neighboring approaches—law-as-literature hermeneutics, the critical legality of files and archives, and XAI explainability—to clarify its contribution. HN treats narrative form as procedural evidence and translates scenes of injury into administrable predicates: prospectively intelligible notice, review-ready reasons, access and rectification tied to a contestable record, and a standard of review that prefers evidence over credibility theater. The deliverable is not an enriched interpretation or a freestanding "explanation artifact," but a checklist a reviewer can use to demand specific elements and order remedies when they are missing.

Hermeneutics. HN shares the ethical attention to address and voice but differs in aim and output. Hermeneutics shows how legal language persuades and legitimates; HN extracts formal injuries and renders them as minimally sufficient conditions a decision must satisfy to be answerable. It specifies what notice must contain and how reasons must tie a rule clause to an identified record item so an addressee can respond and a reviewer can vacate, remand, or rectify.

Files/archives. Critical legality demonstrates how folders, indices, registries, and metadata govern through opacity, including unseen files and architectures that shape outcomes before any hearing. HN retains this device sensitivity and adds remedy-oriented predicates: what must be disclosed, in what form, and when, to make governance contestable. Exposure becomes a demand for a contestable record bundle: identified items, operative rule text, time windows, and a correction path.

XAI. Debates about automated determinations often center on post hoc explanations and tradeoffs with secrecy or security. An explanation artifact alone does not ensure contestability. HN is ex ante, procedural, and record tied: reasons must be case specific, traceable to identified items on a disclosed record, falsifiable by counterevidence, and timely. Codes, dashboards, and generic policy links risk explainability theater when they do not anchor a rule clause to a particular item at a particular time and open a channel for review.

Taken together, these distinctions mark HN's novelty. The unit of analysis is the scene as evidence; the transformation runs device → predicate → review question → remedy; success is measured by contestability, that is, whether the person addressed can answer with counterevidence and whether a reviewer can vacate, remand with disclosure, or order rectification on public, repeatable criteria. Scenes such as shifting stairwells or the painter's studio function as exhibits that document which procedural minima are missing and what must be supplied for a decision to be answerable.

This positioning clarifies generalizability without inflation. Because HN outputs record-indexed predicates—what belongs in a notice, what a reason must connect, what an access bundle must include—it can be implemented without demanding source code or proprietary model details. The framework requires a contestable record, not the mechanism itself, and therefore travels from literary courts to administrative hearings, asylum credibility determinations, and platform enforcement while preserving domain specificity. A mini case later demonstrates this portability by showing how the predicates alter analysis and outcome.

Framing HN against these approaches also anticipates the "old wine in a new bottle" objection. HN is not a rebranding of hermeneutics, an archival restatement, or a model-level contribution to explainability. It is a translation framework that takes literary form as a record of procedural injury and converts that record into

administrable minima for notice, reasons, access and rectification, and standards of review. The sections that follow specify the framework and test it scene by scene before presenting a contemporary application.

Four-step framework.

(i) **Device isolation.** Identify recurring devices that simulate information asymmetry, such as shifting venues, unseen files, ventriloquized officials, and obstructive architectures. In *The Trial*, a staircase is spatially available yet practically unreachable (Kafka 2009: 101), anticipating the loss of "equality of arms" when one cannot know or see what is needed to respond (Hildebrandt 2015: 100–01). A second device is the visible aperture without entry, as at the painter's door, where added light clarifies nothing (Kafka 2009: 102).

(ii) **Category alignment.** Map devices to predicates. Obstructed access aligns with notice and opportunity to respond; the visible-but-unknowable aperture aligns with reasons and the standard of review. Devices that stage access without grounds evidence failures of reason giving. Legal speech, on White's account, should expose the grounds on which its result can be qualified and criticized and recognize the other as a center of meaning (White 1994: 263–64, 256). Scenes that resist uptake document a breach of that ethic.

(iii) **Regime testing.** Ask whether disclosures in practice enable review-ready reasons or merely perform compliance. In administrative oversight, aggregate performance counts can express commitment while shielding operations (Cohen 2019: 250). In data protection, pre-emptive analytics leave those described with no way to defend themselves (Hildebrandt 2015: 101, 154–55). In platform governance, secrecy around algorithms makes fairness guesswork (Pasquale 2015: 8–9); generic guidelines and metrics without operational detail repeat the problem.

(iv) **Injury articulation.** Translate findings into a claim of constructive impossibility to respond. Designs that simulate access while disabling answerability allow bad information to endure and produce decisions without adequate accountability (Pasquale 2015: 216–17; Solove 2004: 177). The remedy is a right to review-ready reasons: grounds specific enough to be understood, answered, and reviewed.

Translation, in White's sense, is the composition of one text in response

to another, judged by fidelity, coherence, and the ethic of address; it exposes the grounds on which its result can be criticized (White 1994: 256, 263–64). Applied to *The Trial*, translation reads stairs, skylights, and absent warrants as evidence of failed address and collapsed predicates. Our response text, habeas narrativum, must likewise expose its grounds and enable criticism. That is the juridical payoff of translation over allegory.

HN reorganizes routine review without demanding source code. In platform enforcement, reasons must be case specific, record tied, falsifiable, and timely; access must include the items at issue, the operative rule text, relevant time windows, and a rectification path. In asylum credibility hearings, HN shifts adjudication from demeanor proxies toward record-based proof: notice identifies inconsistencies; reasons tie findings to statements, dates, or documents; access provides the materials relied upon; review favors corroborable evidence. In FOIA and Glomar contexts, secrecy may persist, but reasons must intelligibly link the statutory exemption to the request, with partial disclosure or indexing where feasible. In automated benefits decisions, HN requires contestable outcomes: identified data items and rule clauses, a clear linkage statement, the relevant time frame, and a rectification channel. Across settings, the constant is answerability anchored to a disclosed record, with mechanisms sufficient for a reviewer to vacate, remand with disclosure, or order correction when a predicate is missing.

Kafka's Protocol I: Non-Notice as Administrative Technique

The Trial opens with a diagnostic breach: "you've been arrested." When K. asks for a warrant, the guard replies, "We don't answer questions like that… That is the law" (Kafka 2009: 8–9). Non-notice is both the point of entry and the structure of what follows. Recent centenary work underscores how Kafka makes procedure eclipse reasons: the opening's refusal of grounds inaugurates a system in which "law" manifests as opaque process rather than reviewable justification (Royle 2025: vii–ix). K.'s first exchange is not an anomaly but the baseline logic the book normalizes.

The first "hearing" arrives by telephone without a time; the caller "forgot to tell me what time," so K. guesses "nine o'clock… even though he had not been given an appointment" (Kafka 2009: 28–29). Procedure becomes choreography without

grounds. Space models the same withholding: courts migrate through tenements and attics. At Titorelli's, K. climbs stairs "enclosed on both sides by walls, with only the occasional tiny window almost right at the top," and learns "there are court offices in almost every attic" (Kafka 2009: 101, 118). A forum everywhere is a forum nowhere.

The Oxford World's Classics apparatus confirms that uncertainty is formal, not incidental: Kafka "gave no clear indication" of chapter order and leans on vague time cues; even the Cathedral scene slips, "it was striking eleven," though the meeting was "at ten" (OWC, "Note on the Text," xxvii; "Explanatory Notes," 190, note to p. 146). Sianne Ngai calls such calibrated indeterminacy a technology of suspended resolution, forms that organize feeling without deliverable criteria (Ngai 2005: 1–6). Indeterminate sequence thus becomes an analogue of non-notice: choreography without coordinates.

Non-notice is not sloppiness; it produces constructive impossibility to respond. "That is the law," the guard intones (Kafka 2009: 8–9). The "forgotten" time (Kafka 2009: 28–29) and migrating venues (Kafka 2009: 118, 101) render orientation impossible. Achille Mbembe describes such governance as "administered uncertainty," where power conserves discretion by staging procedures that cannot be met (Mbembe 2019: 56–62). Jeremy Waldron supplies the counter-ideal: rules must be knowable in advance to be answerable (Waldron 2008: 7–10). Kafka shows the inversion: weight before reason. The constricted stairwell turns approach into ordeal (Kafka 2009: 101), while the first "court" appears along an undifferentiated street of "almost identical houses" (Kafka 2009: 29). Read this way, the juridical world functions as ceremonies that repeat without yielding grounds, rituals that legitimate power while blocking response (Benjamin 1969: 132). The point is device, not décor: shifting rooms, unseen files, and ventriloquized officials simulate process while withholding the materials of reply.

"Non-notice" maps cleanly onto administrative due process, where notice triggers reasons and schedules reply. White's translational ethic states the breach: legal speech must "expose the ground upon which its own result… can be qualified and criticized," recognizing the other "as a center of meaning apart from oneself" (White 1994: 263–64, 256). When officials tell K. that reasons exist but not for him, "we… go into the reasons for the arrest… that is the law," they invert justification's

order (Kafka 2009: 9). The scene's form—dialogue that refuses uptake—records failure of address.

Read through informational governance, Kafka anticipates legitimacy theater: policy pages, reason codes, and dashboards that announce outcomes without grounds. "You'll feel the full weight of it soon enough" (Kafka 2009: 9). Tarleton Gillespie shows how platform enforcement represents itself through public-facing rulebooks and notices while operative judgments remain backstage (Gillespie 2018: 174–82). Rather than demanding the model itself, Wachter, Mittelstadt, and Russell argue for counterfactual explanations that make outcomes contestable at the case level, identifying what would have needed to change (Wachter et al., 2018: 844–50). That is the habeas narrativum posture: reasons tied to record items that could be wrong in principle or in fact.

Pasquale captures the core: "transparency is… an interim step on the road to intelligibility"; without intelligibility, "bad information is as likely to endure as good," and designations become uncontestable (Pasquale 2015: 216–18). The first hearing prefigures the posture: K. must arrive before he can know (Kafka 2009: 28–29). Platforms replay it when users learn rules only after a takedown, weight first, reason later (Kafka 2009: 9). Solove's dossier power names the structure: proceedings "kept secret… from the accused," records inaccessible, individuals "kept on the outside" (Solove 2004: 36–41, 226–27). Reasons exist somewhere, therefore nowhere in reach.

The remedy is a minimal grammar of justice: not generic "more disclosure," but restoration of anticipatory intelligibility as a right. Notice must precede enforcement; reasons must be specific enough to meet with counter-reasons; and coordinates of response—time, place, forum—must be stable. Kafka's opening yields the claim: non-notice violates informational due process because it defeats answerability. "Weight before reason" (Kafka 2009: 9) must be reversed: reason before weight, ground before consequence.

Kafka's Protocol II: Non-Reasons and the Refusal to Explain

If Kafka's opening arrest crystallizes non-notice, the novel's second procedural injury is the refusal to give reasons: decisions that move, punish, and finally kill without submitting grounds to scrutiny. In *The Trial*, "non-reasons" are not gaps to

be charitably filled; they are a technique for foreclosing contestation, adjudication as theater without accountability. The parable "Before the Law," embedded in the Cathedral scene, stages perpetual deferral, while surrounding episodes supply its infrastructure: secret files, whispering officials, and operative yet unreviewable judgments. Read alongside platform governance and black-box administration, Kafka anticipates a world where performances of disclosure and "transparency" mask the withholding of reasons and operations, leaving affected persons unable to test, falsify, or appeal. The upshot is a right to reasons conceived not as performance ("we said something") but as an anti-performative demand: provide review-ready grounds that can be checked against a record, the disciplining function that reason-giving serves in law and that "counteracts" bias and haste (Schauer 1995: 657–58).

The petitioner asks the gatekeeper for access to the Law; the reply is "no admittance for the present," with the promissory "possible later" (Kafka 2009: 216–17). Invitation is coupled to interdiction, a pseudo-openness that endlessly postpones reasons. No criterion is offered that might be met; speech is posture without ground. The guard's final line, "this entrance was intended only for you. I am now going to shut it" (Kafka 2009: 219), retroactively individualizes the barrier without explanation. Judgment is performed at the point where no response is possible.

The framing dialogue makes refusal programmatic. When K. protests unintelligibility, the priest answers: "The court does not want anything from you. It takes you when you come, and it lets you go when you go" (Kafka 2009: 229). By claiming no demands, the court disclaims any duty to justify. Action looks like law while never issuing reviewable grounds, a logic critics read as structurally encoded in the Cathedral exchange, where refusal becomes the institution's operational norm (Kittler 2006: 660–63).

Huld confides that proceedings are secret; petit-jury members feign ignorance of the accused; "even the final verdict and the reasons behind it were unknown to the lower officials" (Kafka 2009: 203). Elsewhere, K. learns officials ferry files to lawyers while "all other accusations were kept secret" (Kafka 2009: 198). Information is partitioned so neither clients nor lower officials can assemble a testable record. Titorelli's routes, "apparent acquittal" or "protraction," leave grounds undecidable and the case "always hanging." The last walk completes the arc: execution without

an articulated offense, death without a ground to refute.

"Transparency is not just an end in itself, but an interim step on the road to intelligibility"; absent operative detail, opacity is reimposed by complexity, scale, and legal secrecy (Pasquale 2015: 7–9, 8). Decision-makers display outputs while withholding grounds—features, training data, heuristics—so affected parties cannot replicate or falsify the rationale: "Who is right? It's anyone's guess, as long as the algorithms involved are kept secret" (Pasquale 2015: 9). Cohen details the political economy: dominant platforms "pursued a strategy of deliberate obfuscation about the data flows that they collect, deflecting questions with vague and general responses and claiming inability to locate requested documents," securing "exclusive control over the data that they collect" (Cohen 2019: 63). The court "lets you go when you go," but never tells you why.

Gatekeeper phrases such as "not for the present" and "possible later" simulate due-process vocabulary (deferral, remand, ripeness) while refusing criteria. Modern cognates, "proprietary," "too complex," and "cannot disclose for security reasons," perform the same move: a façade in place of reviewable standards. As Gunther Teubner shows in a close reading of "Before the Law," the doorkeeper's promise, "It's possible… but not now," makes postponement the structure of legality itself, converting openness into permanent deferment rather than reasons that can be tested (Teubner 2013: 406–07). The audience is activated toward acquiescence; like K., we are given performance whose script excludes grounds.

Reasons are interfaces of contestation: they fix officials to claims that can be checked against a record. Pasquale's "intelligibility" marks that hinge, a precondition for evaluability through falsification, cross-examination, and standards application (Pasquale 2015: 8–9). Cohen shows how vague responses and dashboard metrics stabilize non-reasons as default, while NDAs and trade secrecy seal the grounds (Cohen 2019: 63). The result is the harm Kafka stages: constructive impossibility to respond. One cannot rebut a reason one cannot see; one cannot supply context to a file one cannot access. Solove's "Kafkaesque dangers" name the outcome: "decisions without adequate accountability," dossiers that circulate while individuals "are not informed how their information is used and how decisions are made" (Solove 2004: 177).

Kafka scripts readers to feel the gap between adversarial speech and institutional uptake. The parable invites exegesis—K. charges deceit; the priest offers orthodoxy—but nothing in the court's structure allows better reasons to alter outcomes. That is the point: reasons bind; non-reasons perform closure.

Across credit scoring, content moderation, and risk assessment, institutions deploy outputs without grounds, reinforced by secrecy and obfuscation; oversight replies bury reasons in haystacks of irrelevancies (Pasquale 2015: 7). Intelligibility therefore requires more than disclosure. It requires reasons as evidence: explanations that specify inputs, features, and thresholds sufficient for an affected party or reviewer to reconstruct the path from data to decision. The right to reasons should be anti-performative: not satisfied by press statements, dashboards, or "community guidelines" that simulate accountability, but by reasons with the attributes of evidence, including specificity, traceability to a record, and susceptibility to contradiction.

To end where Kafka ends: the man before the law does not die for lack of patience; he dies because the system withholds reasons until reply is impossible. The lesson is prescriptive: rights that cannot demand reasons worthy of review are rights that can be ceremonially honored and practically denied.

Kafka's Protocol III: Credibility Without Evidence

The Titorelli chapter anatomizes credibility as theater. The painter offers an "acquittal taxonomy" of "real acquittal," "apparent acquittal," and "protraction," but concedes that the second is a revolving door, "the second acquittal is followed by the third arrest," and the third a treadmill that "ke[eps] the trial permanently at the lowest stage" (Kafka 2009: 115). What looks like adjudication is reputational management in judicial drag: safety is earned not by meeting a standard of proof but by maintaining an attitude, "uninterrupted personal contact with the court," "regular intervals," and cultivated goodwill among judges (Kafka 2009: 115). Read with Jensen Suther's account in *Modernism/modernity*, Titorelli's "acquittals" stage the novel's "bad infinity," a substitution of endless procedural motion for judgment that projects guilt indefinitely and turns law into a performance to be curated rather than met (Suther 2022: 55, 62).

OWC framing underlines the staging. Titorelli's landscapes, "'Sunset on the

Heath,'" are "all alike," and the three pictures K. buys are identical; the notes gloss this as suggesting that all three outcomes are equivalent (OWC notes to 116–17). The introduction adds that "apparent acquittal" and "protraction" prevent condemnation while also preventing a genuine acquittal, and that the identical pictures reinforce the equivalence in K.'s mind (Introduction xix–xx). Judges "follow a set of prescribed conventions," authority rendered as style, elsewhere reduced to "a tiny man… on a kitchen chair covered by an old horse-blanket" (Introduction xx). Credibility appears as presentation, not proof.

Kafka stages this from K.'s first step into the painter's "miserable little room," a fog-bound "studio" where "nothing but the snow-covered roof… could be seen" (Kafka 2009: 104). The space functions like a camera obscura for law: light falls, forms appear, no intelligible evidence emerges. On a judge's portrait, "Justice" is casually fused with "the Goddess of Victory," converting due process into ornament (Kafka 2009: 104; OWC note to 104). Symbols can be arranged to resemble standards while practice beneath remains an economy of proximity.

"Credibility theatre" names a politics in which outcomes track status, access, and performance rather than evidence. Protraction is choreography: keep "personal contact," keep the judge "well disposed," enlist known judges, and ensure the case "never progress[es] beyond the first stage" (Kafka 2009: 115). "Proceedings… arranged," the accused questioned, "investigations… carried out," yet "it's all just for show" (Kafka 2009: 115). The "good case" is the one that keeps the theater running.

Contemporary analogues follow. In asylum adjudication, "credibility assessments" often privilege demeanor and narrative smoothness over corroboration, disadvantaging traumatized or marginalized applicants. Titorelli's counsel to cultivate "personal contact" mirrors how representation, language access, and performed deference can substitute for proof (Kafka 2009: 115). In automated risk scoring for credit, pretrial, or moderation, labels such as "high risk," "unsafe," or "inauthentic" resemble judgments while remaining detached from verifiable predicates; interfaces and "reason codes" stage credibility while standards stay sealed.

Solove's contrast between Kafka and Orwell supplies the bridge. The Kafka metaphor names a "state of powerlessness… created by people's lack of any meaningful form of participation" as databases become "the only significant

facts" (Solove 2004: 47). The harm is the conversion of proxies into truth through "increased reliance upon the easily quantifiable," recoding complexity into "neat, tidy categories," with effects such as denial of travel "without a reason or a hearing" (Solove 2004: 50–51, 41). That is Titorelli's world: the "hearing" exists, but "for show" (Kafka 2009: 115).

Seen this way, the two live outcomes stabilize a system that cannot offer reasons. Apparent acquittal produces serial arrest, temporary credit revoked without new proof, "the third arrest… part of the concept of apparent acquittal" (Kafka 2009: 115). Protraction ritualizes minor proceedings, "from time to time… questioned… investigations… carried out," to keep the case "going round and round in the little circle" (Kafka 2009: 115). In both, credibility is measured by the performance of defendanthood, not correspondence to a standard. The OWC verdict is blunt: "in the mundane world, art is not a means of discovering truth but an instrument of power," so Titorelli offers K. technique, not truth (Introduction xx).

The payoff for Protocol III (Contestable Credibility) is concrete. Credibility cannot be tested without the file, that is, the materials and inferences actually at issue, because portraits, landscapes, icons, and dashboards are not evidence. The tenement "studio," with shirt-draped canvas and grafted emblem, teaches that visibility without record is bait and switch (Kafka 2009: 104). A taxonomy of outcomes is not a rule of decision. If "real acquittal" is legendary, legitimate alternatives require criteria that separate release from delay and protection from probation, avoiding Titorelli's circular-arrest logic (Kafka 2009: 115). And a "hearing" that is "for show" cannot legitimate an outcome; determinations must carry review-ready reasons, grounds specific enough to be answered and audited, lest we repeat decisions "without a reason or a hearing" in modern guise (Kafka 2009: 115; Solove 2004: 41).

Insisting on contestable credibility does not demand omniscience; it requires abandoning the alibi of performance, identical paintings, allegorical emblems, and reason codes, and binding outcomes to standards plus records. The Titorelli chapter is not a digression about art; it is a laboratory for diagnosing a law of appearances that has slipped its anchor in proof. Where outcomes turn on proximity and posture, the right to reasons is not ornament; it is the mechanism that converts belief into judgment and theater into law.

The Secret File as Institutional Device

What follows are informational due-process minima that the file apparatus violates. Access must extend beyond outputs to the operative file: "the indictment… not available to the accused" (Kafka 2009: 81–82). U.S. doctrine concedes a narrow non-acknowledgment under *Glomar* only where acknowledgment would itself reveal exempt information, yet courts still require indexed, reviewable rationales (see Philippi v. CIA, 1976: 551, 1001, 1003–04). In platform governance, Kate Klonick shows that "platform constitutions" articulate processes while often withholding reviewable reasons at the user level (Klonick 2018: 1629–1638).

A habeas narrativum remedy is modest. Reasons must be record tied and falsifiable, on timelines that make reply possible. Non-publicity functions as design: deprive the defendant of the record and advocacy becomes guesswork, since "truly pertinent and reasoned submissions could only be drawn up later… as… the grounds… could be guessed at" (Kafka 2009: 82). The file centralizes information, denies symmetry, and authorizes action without answerability. Media-legal theory clarifies the stake: law, Minkkinen argues after Vismann (2008), "comes to being" through cultural techniques such as courthouses, case files, and archives; the file operates power rather than merely reflecting it (Minkkinen 2023: 1601–02).

The same mechanics govern the "digital person." Decisions are dossier driven; individuals "are not informed how… decisions are made," lack "any meaningful form of participation," and experience "helplessness, frustration, and vulnerability… when a large bureaucratic organization has control over a vast dossier" (Solove 2004: 37–41, 47, 50). Pasquale extends this to computation: interlocking technical and legal secrecy makes systems "hard to understand," and "transparency is… an interim step on the road to intelligibility," since complexity can defeat understanding as effectively as secrecy (Pasquale 2015: 8–9). Cohen names the stabilizing dramaturgy: dashboard simplicity that makes it "easy to know at a glance" whether benchmarks were met while hiding the judgments behind them (Cohen 2019: 191–92). The modern file aggregates inputs, withholds operative logic, and speaks through outputs that look like reasons yet evade review.

Kafka builds this logic into form. The Oxford World's Classics "Note on the Text" observes that he "never produced a final version," gave "no clear indication"

of chapter order, and used vague time cues: "The novel begins in spring… court offices… suggest summer; a later chapter begins on a snowy winter morning" (OWC xxvi–xxvii). This unsettled sequence is a structural analogue of file power: a fixed order would permit confrontation, whereas Kafka's penumbra keeps the case a step ahead (OWC xxvii). Inside the diegesis, Huld makes the asymmetry explicit, "the proceedings were not public," the indictment "not available to the accused," and rationalizes it as intention: the law only "tolerates" defence so that "everything… depend[s] on the accused alone" (Kafka 2009: 81–82). Access becomes revocable courtesy; ignorance is engineered. The surrounding architecture—the lawyer's attic with "only a small skylight," even a hole in the floor—turns reading into an obstacle course; knowledge literally hangs out of reach (Kafka 2009: 82). Against Orwell's visible surveillance, Kafka stages "powerlessness… created by lack of… participation" and secret proceedings "kept… from the accused" (Solove 2004: 41, 37–41). The file is everywhere and nowhere, invoked to justify, never produced to be answered.

Pasquale maps the armature: "interlocking technical and legal prohibitions" (trade secrets, contractual enclosure) block understanding; outputs proliferate (scores, reason codes) while grounds remain sealed, "Who is right? It's anyone's guess… as long as the algorithms… are kept secret" (Pasquale 2015: 8–11, 9). Cohen's dashboards supply the optics: benchmarks "at a glance," while the underlying "considerations and judgments… are harder to translate" for lay review (Cohen 2019: 191–92). Kafka mirrors this dramaturgy in time: chronology rests on "vague" cues and seasonal drift; relocating a chapter such as "Thrasher" would change how promptly the court seems to act (OWC xxvii). Sequencing is governance: order filings one way and the court appears responsive; order them another and it appears indifferent. The file, in both senses, edits outcomes.

Two features sharpen the diagnosis. First, standards are withheld along with pages: "reasoned submissions" arise only when charges "become clearer or could be guessed at," converting defence into speculation (Kafka 2009: 82). Second, reader activation lacks uptake: as Robertson notes, Kafka "withhold[s] easy answers" to stimulate engagement (OWC xiii), yet inside the fiction engagement has nowhere to land—no stable file to confront, no forum in which reasons constrain.

The informational due-process minima that the file apparatus violates are straightforward. **Access** must reach the operative file, not only outputs (charges, features, standards): "The indictment… [is] not available to the accused" (Kafka 2009: 81–82). **Intelligible reasons** must be specific enough to be answered; contrary to "progress… never divulged," they must attach claims to testable justification (Solove 2004: 36). **Contestability in time** requires stable sequencing and notice so reply is possible before consequences, rather than retroactive "clarity" after the gate closes (OWC xxvi–xxvii). Where an institution aggregates and withholds while speaking in the file's voice, adjudication collapses into performance. Kafka shows that collapse in scenes (Huld's attic, the skylight) and in the book's bones: order that will not settle, seasons that drift, episodes that arrive before one can know how to meet them. The remedy follows: require what Kafka's court refuses—review-ready reasons bound to an accessible record and a schedule that makes reply possible. Otherwise the file will go on speaking, but never to the person it judges.

Demonstration: Mini-Case: Platform Moderation and the Right to Review-Ready Reasons

Facts. A user's account is suspended for "harmful misinformation." The notice cites a generic rule ("Health Misinformation Policy"), a dashboard code M-12, and links to community guidelines. No specific post is identified. The appeal portal returns: "We reviewed your case and the decision stands." Internally, the platform aggregates signals (automated classifier scores; third-party flags; "repeat-offender" status) in an unseen case file. No itemized evidence or timestamped content is shown to the user. The account remains suspended.

Predicate 1: Notice (prospective intelligibility). Per Protocol I (non-notice), a person cannot answer a charge without minimally intelligible particulars. Here, notice fails because it withholds (a) the specific content items (URLs/IDs/timestamps) that triggered enforcement, (b) the operative rule clause (not just policy family), and (c) the time window relevant to alleged recurrence. *Habeas narrativum* operationalizes the fix: a compliant notice must identify the content at issue, the precise rule text allegedly violated, and the temporal scope of the decision ex ante, so the user can shape a defense before consequences harden.

Predicate 2: Reasons (review-ready, not theater). Per Protocol II (non-reasons), the platform's "M-12" code and "decision stands" formula are explainability theater—speech that ends conversation rather than grounds it. A review-ready reason is: (i) case-specific; (ii) traceable to disclosed record items; (iii) falsifiable (the user can show error); and (iv) timely (available pre- or promptly post-enforcement). *Bad reason (status quo):* "Harmful misinformation per policy; multiple violations." *Good reason (HN-compliant):* "On Aug 12, 14:32 UTC, Post ID#873541 asserted X; this contradicts clause §2(b) requiring [standard]. Evidence relied upon: link capture, classifier score 0.91, prior corrective label on ID#864220 (Aug 1). We weighed countervailing factors (satire/context) and found none stated."

Predicate 3: Access & Rectification (file visibility and repair). Per Protocol IV (secret file), meaningful contestation requires access to the materials that speak: the list of flagged posts, the rule citations applied, relevant classifier features in summary form, and any "repeat-offender" logic. HN does not demand source code; it requires a contestable record. *Remedy:* provide (a) a downloadable case bundle (flagged items + timestamps + rule clauses), (b) an edit/annotation channel for counter-evidence (context, expert sources), and (c) a correction path (label replacement; strike prior false positives) documented in the same file.

Predicate 4: Standard of Review (independent check & criteria). Per Framework and Protocol III (credibility without evidence), review should prioritize record-based proof over demeanor/heuristic proxies. The reviewing officer applies a clear test: (1) Are the items and rule clauses specified? (2) Do the reasons tie items to rules with evidence that could be wrong in principle or fact? (3) Was access sufficient to submit counter-evidence? (4) Is there a rectification path and was it offered? *Ordered remedy:* if (1)–(2) fail → vacate enforcement; if (3) fails → remand with disclosure order; if (4) fails → reopen with rectification window; publish an anonymized reason memo to build precedent.

Anticipated Objections and Replies

A first objection says "Kafka isn't doctrine," as if any legal purchase claimed for literature must be metaphor or mere illustration. Habeas narrativum does not treat *The Trial* as a source of rules; it treats its scenes as evidence of recurring procedural injury

in institutions that bind without enabling an answer. The method is translational, not allegorical: it isolates formal injuries—non-notice, non-reasons, secret files, credibility theater—and renders them as administrable minima a reviewer can demand on the record. The claim is not that Kafka supplies authority; it is that the novel's form documents the experience of being addressed without grounds, and that documentation can be translated into review-ready predicates—what a notice must specify, what a reason must tie to a clause and an identified item, what an access bundle must reveal, and what a standard of review must prefer—without smuggling doctrine in. Literature here is neither ornament nor oracle; it is a forensic archive whose recurrent injuries can be operationalized into tests adjudicators already use: identify the item, cite the clause, show the link, enable contestation, specify the remedy.

A second objection claims "transparency is enough," as if dashboards, policy hyperlinks, or standardized reason codes satisfy due process in informational regimes. Habeas narrativum rejects explainability theater because it does not reliably create the intelligibility and contestability conditions that make a decision answerable. A reason that is not case-specific, traceable to identified record items and operative rule text, falsifiable by counter-evidence, and timely enough to shape defense or repair is not review-ready; it is a performance of reason-giving. The protocol therefore requires reasons with those attributes, plus an access bundle that lets the addressee respond and a rectification path that can correct the record. Transparency as artifact disclosure is insufficient: intelligibility names the minimum information needed to understand the ground of action; contestability names the minimum procedure needed to change it. Where either is missing, the remedy is not a new dashboard but vacatur, remand with disclosure, or ordered rectification keyed to the absent predicate.

These replies keep the scope disciplined. Kafka is neither doctrine nor decoration; his scenes are diagnostic material that, when translated, yield administrable predicates. And transparency is not a virtue in the abstract; it is a virtue only insofar as it enables an answer and permits review. That is the threshold habeas narrativum makes explicit, testable, and portable.

Habeas Narrativum: A Replicable Protocol

Habeas narrativum names a protocol for reading narrative form as procedural

evidence. Where *habeas corpus* secures the body and *habeas data* secures access to one's dossier, habeas narrativum secures the intelligibility conditions under which a person can answer a charge, contest a score, or appeal a moderation. The claim is not that *The Trial* allegorizes administrative law one to one; it is that its forms—non-notice, non-reasons, credibility theatre, the secret file—model the injuries contemporary information regimes produce when they withhold rules, standards, and grounds. Portability follows: if institutions decide through code, metrics, and files, evidentiary traces of injury will often be formal and narratological before they are doctrinal. A right to reply presupposes a right to a world that can be made sense of in advance, a right Kafka shows being structurally denied.

James Boyd White frames legal judgment as an ethical practice of translation that resists propositional and assertive forms, speaking with rather than over the other (White 1994: 271–73). For informational due process, a reason is not mere disclosure; it is second-person speech addressed to someone recognized as a center of meaning who can answer back (White 1994: 272–73). Habeas narrativum operationalizes that ethic: it asks decision makers to render operations into a contestable story—falsifiable, review ready, responsive—rather than bureaucratic performance. This stance aligns with Robert Cover's insistence that no legal institution exists apart from the narratives that locate it and give it meaning (Cover 1995: 95–96). When platforms or agencies decide without telling a story one could answer, they do violence to the nomos by emptying law's speech act of reciprocal address.

Julie Cohen shows how information age governance recasts accountability as a managerial or platform problem: metrics, dashboards, and innovation discourse simulate responsibility while insulating operators from scrutiny (Cohen 2019: 3, 90, 108). In that world, procedural injury is predictable: changing rules, withheld standards, and retroactive justifications that foreclose reply. Habeas narrativum surfaces and names those injuries by treating venue shifts, vague categories, and silent files not as atmosphere but as justiciable facts.

The protocol travels across domains without demanding source code or trade secrets. In platform enforcement, learning the rule only after sanction is non-notice; receiving a generic policy link in place of a case specific ground is non-reasons. Cohen tracks how platforms convert obligations into immunities, producing de jure

and de facto insulation (Cohen 2019: 90–91); habeas narrativum instructs reviewers to demand forward-looking intelligibility and person specific reasons that are testable on appeal. In welfare and benefits algorithms, Pasquale shows how black-box scoring turns administration into performance, imposing penalties without even a semblance of due process while insisting on opacity (Pasquale 2015: 57, 174–75, 186). Here HN maps forms of opacity (hidden weights, moving thresholds) to predicates (notice, reasons, access, standard of review) and translates them into review demands: disclosure sufficient to falsify, not merely to inform. In migration and asylum credibility adjudication, Kafka's staged credibility anticipates proceedings where demeanor and coherence substitute for evidence; Solove's Kafka and Orwell contrast locates the harm in dossiers and unreviewable judgments, with individuals not informed how their information is used and how decisions are made (Solove 2004: 176–77). HN moves credibility from performance to proof: specify the evidentiary basis, disclose the file, and articulate standards with thinkable failure conditions. In criminal-justice risk tools, Pasquale's intelligibility principle—transparency as a necessary intermediate step toward contestability—targets the substitution of dashboards for reasons (Pasquale 2015: 216). HN pushes beyond reveal the model to review the decision by requiring a case level account of how inputs produced the output in terms a defendant can answer.

Solove's account of the digital person shows that harms arise from use and circulation even when facts are accurate, because injury lies in the inability to correct or contest uses (Solove 2004: 36–47). Habeas narrativum adds narrative adequacy to that picture: do the proffered reasons render the person's situation intelligible in a way that invites reply. Hildebrandt warns that opacity and eroded purpose limitation make wrongful uses unlocatable, an injury of manipulability and preemption (Hildebrandt 2015: 73–75). The protocol translates these insights into forward-looking demands: bind purposes ex ante, state standards of review, and make both auditable.

On White's account, translation is jurisprudentially productive because it compels institutions to go on in a language others can test and reply to (White 1994: 271–73). On Cover's account, law's force is legitimate only insofar as it remains situated within narratives others can inhabit and contest (Cover 1995: 95–96). Habeas narrativum yields administrable standards by tying each formal device to a

procedural predicate and each predicate to a review demand. It complements Cohen's institutional analysis—showing how platforms and agencies perform accountability while withholding operations by giving adjudicators and auditors a way to insist on answerable reasons (Cohen 2019: 90, 108).

Condensed as a workflow, habeas narrativum proceeds by isolating information asymmetry devices (shifting venues, generic policy citations, closed models, hidden files), mapping devices to predicates (prospective notice; person specific reasons; time and channel for response; falsifiable standards of review), testing these mappings across regimes (administrative process; data-protection access and rectification; platform governance) (Cohen 2019: 3, 73, 90), and articulating constructive impossibility to respond where non-notice, non-reasons, or opacity foreclose reply (Solove 2004: 176–77). The resulting remedies are concrete: access to the file, rectification channels, purpose binding, and intelligibility sufficient to make the decision falsifiable on appeal.

In short, habeas narrativum operationalizes a right to anticipatory intelligibility and responsive reason giving. It is law as translation, an ethic and a workflow for turning black-box performance into reviewable speech wherever files, metrics, and models govern human fates.

Conclusion: Due Process for Informational States

This article has argued that habeas narrativum treats literary form as procedural evidence and translates scenes of injury into administrable minima for decisions taken in informational regimes. The protocol yields four predicates that make authority answerable. First, notice must be prospectively intelligible: the decision maker identifies the specific items at issue, the operative rule text, and the time window that frames the alleged violation, so the addressed person can shape a defense before consequences harden. Second, reasons must be review-ready: case-specific, traceable to the disclosed record, falsifiable by counter-evidence, and timely enough to matter. Third, access and rectification require a contestable record bundle; the items relied upon, their linkage to rules, and a practical channel for correction or supplementation. Fourth, the standard of review privileges evidence over credibility theater, authorizing vacatur or remand where predicates fail and specifying remedies keyed to the missing

element.

Read this way, *The Trial* functions not as an allegory of guilt but as a forensic archive of what it feels like to be addressed without grounds. Scenes of shifting stairwells, the painter's studio, and the unseen file do analytic work: they document which minima are absent and therefore what a reviewer must be able to demand on the record. The translation is methodological rather than doctrinal: from device to predicate, from predicate to review question, and from question to remedy. That sequence keeps the analysis portable without collapsing differences among domains.

Portability has been demonstrated in the platform-moderation mini-case. The same predicates that diagnose Kafka's court reorganize routine review in a contemporary setting: notices that name items, clauses, and windows; reasons that can be wrong in principle or fact; access bundles that let users contest what the file says; and a review posture that can vacate, remand with disclosure, or order rectification. The protocol does not demand maximal transparency or source code; it demands a contestable outcome anchored in a disclosed record. That constraint both respects proprietary limits and secures the addressee's ability to answer.

The contribution, then, is twofold. Conceptually, habeas narrativum clarifies how form functions as evidence of procedural injury. Practically, it supplies a checklist that adjudicators, regulators, and review boards can apply across administrative law, migration adjudication, and platform governance. Future work can elaborate domain-specific templates and empirically test how the predicates change error rates and remedy pathways. For present purposes, the threshold is clear: without intelligible notice, review-ready reasons, contestable access and rectification, and an evidence-first standard of review, decisions remain performances of authority rather than exercises answerable to the persons they bind.

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References

Benjamin, W. (1969). Franz Kafka: On the tenth anniversary of his death. In H. Arendt (Ed.), *Illuminations* (H. Zohn, Trans., pp. 111–140). Schocken Books.

Cohen, J. E. (2019). *Between truth and power: The legal constructions of informational capitalism*. Oxford University Press.

Conti, C. (2015). Justice for Josef K.: Bringing myth to an end in Kafka's trial. *New German Critique, 42*(1), 99–128. https://doi.org/10.1215/0094033x-2824297

Cover, R. M. (1995). Narrative, violence, and the law: The essays of Robert Cover. In M. Minow, M. Ryan, & A. Sarat (Eds.), *Narrative, violence, and the law: The essays of Robert Cover* (pp. [Insert page numbers if known]). University of Michigan Press.

Gillespie, T. (2018). *Custodians of the internet: Platforms, content moderation, and the hidden decisions that shape social media*. Yale University Press.

Hildebrandt, M. (2015). *Smart technologies and the end(s) of law: Novel entanglements of law and technology*. Edward Elgar.

Hull, M. S. (2012). Documents and bureaucracy. *Annual Review of Anthropology, 41*(1), 251–267. https://doi.org/10.1146/annurev.anthro.012809.104953

Kafka, B. (2012). *The demon of writing: Powers and failures of paperwork*. Zone Books.

Kafka, F. (2009). *The trial* (M. Mitchell, Trans.). Oxford University Press. (Original work published 2009)

Kittler, W. (2006). Burial without resurrection: On Kafka's legend "Before the Law." *MLN, 121*(3), 647–678. https://doi.org/10.1353/mln.2006.0068

Klonick, K. (2018). The new governors: The people, rules, and processes governing online speech. *Harvard Law Review, 131*(6), 1599–1670.

Kochan, D. J. (2018). *Reason-giving, rulemaking, and the rule of law* (SSRN Working Paper). https://doi.org/10.2139/ssrn.3191719

Litowitz, D. E. (2002). Franz Kafka's outsider jurisprudence. *Law & Social Inquiry, 27*(1), 103–137. https://doi.org/10.1111/j.1747-4469.2002.tb01109.x

Mbembe, A. (2019). *Necropolitics* (S. Corcoran, Trans.). Duke University Press.

Minkkinen, P. (2023). Media, cultural techniques, and the law: The other Cornelia Vismann. *German Law Journal, 24*(9), 1597–1611. https://doi.org/10.1017/glj.2023.115

Moynihan, D. P., Gerzina, J., & Herd, P. (2022). Kafka's bureaucracy: Immigration administrative burdens in the Trump era. *Perspectives on Public Management and Governance, 5*(1), 22–35. https://doi.org/10.1093/ppmgov/gvab025

Ngai, S. (2005). *Ugly feelings*. Harvard University Press.

Pasquale, F. (2015). *The black box society: The secret algorithms that control money and information*. Harvard University Press.

Philippi v. CIA, 551 F.2d 1001 (D.C. Cir. 1976).

Politzer, H. (1960). The puzzle of Kafka's prosecuting attorney. *PMLA, 75*(4), 432–438. https://doi.org/10.2307/460606

Royle, N. (2025). Kafka's The Trial, 100 years on. *Oxford Literary Review, 47*(1), vii–x. https://doi.org/10.3366/olr.2025.0448

Schauer, F. (1995). Giving reasons. *Stanford Law Review, 47*(4), 633–660. https://doi.org/10.2307/1229080

Selbst, A. D., & Powles, J. (2017). Meaningful information and the right to explanation. *International Data Privacy Law, 7*(4), 233–242. https://doi.org/10.1093/idpl/ipx022

Short, J. L. (2012). The political turn in American administrative law: Power, rationality, and reasons. *Duke Law Journal, 61*(8), 1811–1881.

Solove, D. J. (2004). *The digital person: Technology and privacy in the information age*. New York University Press.

Sussman, H. (1977). The court as text: Inversion, supplanting, and derangement in Kafka's Der Prozeß. *PMLA, 92*(1), 41–55. https://doi.org/10.2307/461413

Suther, J. (2022). Freedom on trial: Kafka's modernist tragedy. *Modernism/modernity, 29*(1),49–77.https://doi.org/10.1353/mod.2021.0071

Teubner, G. (2013). The law before its law: Franz Kafka on the (im)possibility of law's self-reflection. *German Law Journal, 14*(2), 405–422. https://doi.org/10.1017/S2071832200001851

Vismann, C. (2008). *Files: Law and media technology*. Stanford University Press.

Wachter, S., Mittelstadt, B., & Floridi, L. (2017). Why a right to explanation of automated decision-making does not exist in the GDPR. *International Data Privacy Law, 7*(2), 76–99. https://doi.org/10.1093/idpl/ipx005

Wachter, S., Mittelstadt, B., & Russell, C. (2018). Counterfactual explanations without opening the black box. *Harvard Journal of Law & Technology, 31*(2), 841–887.

Waldron, J. (2008). The concept and the rule of law. *Georgia Law Review, 43*, 1–61.

White, J. B. (1994). *Justice as translation: An essay in cultural and legal criticism*. University of Chicago Press.