

From the Colonial to the Contemporary

*Images, Iconography, Memories,
and Performances of Law in India's High Courts*

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The Visual Field of Law

I. Introduction

In this chapter, I review a wide-ranging set of literature to examine how law symbolises itself with particular visual stereotypes that manifest into judicial iconography and legal semiotics of court spaces. When judicial spaces are analysed through the renewed lens of signs, motifs, symbols and architecture, we arrive at an understanding of how a visual field of law is created. Within this visual field of law there are several aspects that are looked at to draw conclusions about the ambivalent relationship between law and the image. In this chapter I begin by detailing how approaches towards iconography and semiotics may be meaningfully used to understand law's visual field. This chapter also draws from theories on the relationship between law and the image, and literature on judicial iconography, especially the changing iconography of the image of justice.

I look at the courtroom, a contested space with its rituals and ceremonies, internally and externally. The internal perspective focuses on the performative aspect of law as is seen in Sally Engle Merry's ethnography of a family court in Hawaii, where she argues that courts are performative spaces and court hearings are critical sites for the 'creation and imposition of cultural meaning'.¹ The courtroom is thus the space where the law interacts with what it considers to be outside of itself. The relationship between the inside and outside of law is one of awe, obedience and majesty towards the law. The court turns into a theatre with judicial actors playing their role, and the drama relays into this visual field of law. This idea has been at the forefront in the work of Peter Goodrich,² Piyel Haldar³

¹ SE Merry, 'Courts as Performances: Domestic Violence Hearings in a Hawaii Family Court' in M Lazarus-Black and SF Hirsch (eds), *Contested States: Law, Hegemony and Resistance* (New York, Routledge 1994) 36; also see S Basu, 'Judges of Normality: Mediating Marriage in the Family Courts of Kolkata, India' (2012) 37 *Signs* 469; P Baxi, *Public Secrets of Law: Rape Trials in India*. (New Delhi, Oxford University Press, 2014); D Berti, 'Hostile Witnesses, Judicial Interactions and Out-of-court Narratives in a North Indian District Court' (2010) 44 *Contributions to Indian Sociology* 235; B Bogoch, 'Courtroom Discourse and the Gendered Construction of Professional Identity' 1999 24 *Law & Social Inquiry* 329; E Mertz, 'Legal Language: Pragmatics, Poetics and Social Power' (1994) 23 *Annual Review of Anthropology* 435.

² P Goodrich, 'Modalities of Annunciation: An Introduction to Courtroom Speech' in R Kevelson (ed), *Law and Semiotics* (New York, Plenum Press, 1988) vol 2, 143–65.

³ P Haldar, 'The Function of the Ornament in Quintilian, Alberti, and Court Architecture' in C Douzinas and L Nead (eds), *Law and the Image: The Authority of Art and the Aesthetics of Law*, (Chicago, University of Chicago Press, 1999) ch 5.

and Linda Mulcahy⁴ when they study particular courts, the way they are structured, and the specific architectural characteristics that speak of subordination and control. The different sites in a court space provide various motifs and signs within their unique surroundings and assist in understanding the various ways in which ocular control manifests into the daily court procedures and practices.

In the next section, I look at the whole court itself – the exterior of the court building and how it establishes itself into the judicial iconography of the court. All courts have an iconographical symbolism that plays out and there are certain features and characteristics that are observed across these courts. Similar features exist in the Calcutta, Bombay and Madras High Courts, which I bring to the forefront through the course of this book. Finally, I zoom into the dominant depiction of the allegory of justice, which symbolises the ocular aspect of law by reviewing the statute of Justice. The changing iconography of justice is perched on the exterior of the court building (sometimes literally), as well as inhabiting the deep interiors of the court.

II. Iconography and Semiotics

Iconography, as Panofsky explains, covers the large domain of ‘images, stories and allegories.’⁵ It is the manifestation of subject matter in these images, stories and allegories that lead to certain themes and ideas with which one views a particular object or image. Reading an image through an iconographic lens therefore allows a viewer to not only observe the form of the image but also step away from that viewpoint and understand the meaning that the image attempts to purport. This creates a distinction between these two notions within the same image and therefore any one image cannot be looked at from a singular perspective; it is necessary to look at it as a whole, after observing and understanding all the information related to the image in context to the surroundings that it exists in. There is thus, ‘the visible event and its intelligible significance’⁶ and both together determine the iconography of the image. The artistic motif of an image is the primary sphere of approaching the subject at hand whereas stories and allegories form the secondary content of the subject matter.⁷

Symbols often come about from representation of abstract notions like faith, wisdom and justice.⁸ Along with these symbols, the different motifs that abound within these images are important. An assumption to Panofsky’s definition of

⁴ L Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law* (New York, Routledge, 2011).

⁵ E Panofsky, ‘Iconography and Iconology: An Introduction to the Study of Renaissance Art’ in E Panofsky, *Meaning in the Visual Arts* (Phoenix, The University of Chicago Press, 1982) ch 1, 29.

⁶ *ibid* 28.

⁷ Panofsky, ‘Iconography and Iconology’ (1982).

⁸ *ibid*.

iconography is that there has been the right identification of motifs present without which the meaning and interpretation of a work of art would completely change.⁹ A particular motif alerts a person to an understanding that would substantially change if the motif were removed. If this concept were looked at through the popular understanding of the statue of Justice as she is depicted today (ie with the blindfold and the scales), then a figure of a woman with the blindfold mistaken for a scarf would change the nature of the image completely. Therefore, 'a correct iconographical analysis presupposes a correct identification of the motifs'.¹⁰

Over the years, popular iconographical images have changed their form of representation. Panofsky details this through the changing scenes of the Nativity and the Virgin Mary over the fourteenth and fifteenth centuries;¹¹ and Martin Jay explains it with the changing image of justice from the fifteenth century onwards.¹² As Panofsky details, these changing themes are indicative of the influence of a particular time on the art and images surrounding it.¹³ This characteristic of iconography makes it a source of information of the period in which a particular image has evolved and becomes a description of the art form, its purpose, the style and the motifs attached to it. It is not restricted only to outward manifestations but also encapsulates the political, religious and social influence of the time period on the objects and stories. In this context, the definition of iconography by Panofsky is relevant:

Iconography is, therefore, a description and classification of images much as ethnography is a description and classification of human races: it is a limited and, as it were, ancillary study which informs us as to when and where specific themes were visualized by which specific motifs.¹⁴

This definition emphasises that iconography mainly focuses on describing things, and this descriptive nature makes it the basis for all further interpretations.¹⁵ Since the surroundings influence it, an iconographical classification helps in establishing timelines, historical facts and authenticity of occurring events. Further, the analysis of an image presupposes that certain basic understandings already exist. Panofsky explains this idea with the example of a jovial face and an angry face.¹⁶ One assumes that every person can tell the difference between these two expressions, indicating that this is dependent on the personal knowledge of an individual. There might be an instance when personal knowledge is insufficient and at that point one consults an expert, but this is also through the ambit of

⁹ *ibid.*

¹⁰ *ibid.* 30.

¹¹ Panofsky (n 5).

¹² M Jay, 'Must Justice Be Blind: The Challenge of Images to the Law' in M Jay, *Refractions of Violence* (New York, Routledge, 2003) 87–102.

¹³ Panofsky (n 5).

¹⁴ *ibid.* 31.

¹⁵ Panofsky (n 5).

¹⁶ *ibid.*

personal experience itself, which guides as to what kind of expert to approach. As important and sufficient as the personal and practical experience is to the use of iconography, Panofsky points out that it still, 'does not guarantee its correctness'.¹⁷ Therefore, though it appears as if an image is described based on the motifs understood from practical experience, they are actually interpretations of objects and events in the course of various historical situations.

Panofsky explains this with an analogy to a painting of the Last Supper.¹⁸ To someone without a historical understanding of the Gospels, this image would look like, 'an excited dinner party'.¹⁹ One would necessarily need to familiarise themselves with some Biblical stories to understand the representational themes of an image of the Last Supper. Therefore, though certain practical presumptions do exist, they still do not guarantee the correct iconographical analysis. Significant to this argument is the fact that not only is a literary analysis of an existing image sufficient; the personal experience always still remains indispensable. This is because in several cases there are conflicting writings about the understanding of a certain image. Therefore, the question would be as to which text to follow to reach the correct iconographical analysis of the image. In such an instance the personal experience and knowledge is relevant as the interpreter can read the text in the context of the historical setting and other objects and events that surround the image at that given point of time. Thus, the process of iconography remains inherently relevant.

Along with these actual and practical tools for an iconographical analysis, Panofsky also lists the abstract notion of 'intuition' being indispensable to completing this analysis and a final source of interpretation.²⁰ He states that, 'the more subjective and irrational this source of interpretation ..., the more necessary the application of those correctives and controls which proved indispensable' to the process of an analysis by definition of iconography.²¹

As the writer Donald Preziosi summarises, 'Panofsky's 'iconographical analysis' became a method for correlating visual imagery with other (principally textual) cultural information that would be pertinent to the proper reading of traditional imagery'.²² This framework as laid out by Panofsky was useful in analysing images in most contexts. Over the course of time, iconography was treated as a generic term for, 'the study of visual subject matter' and it was assumed that all images had, 'a certain amount of hidden or 'symbolic' matter' which could be understood if read in context to the existing and known knowledge of that work.²³

¹⁷ *ibid* 33.

¹⁸ Panofsky (n 5).

¹⁹ *ibid* 35.

²⁰ *ibid* 38.

²¹ *ibid*.

²² D Preziosi. 'Mechanisms of Meaning: Introduction' in D Preziosi (ed), *The Art of Art History: A Critical Anthology* (New York, Oxford University Press 2009) ch 5, 218.

²³ *ibid*.

This understanding of iconography is important when looking at stories, objects and allegories. As Panofsky writes, the surroundings influence the possible iconographical interpretations.²⁴ When Panofsky details and explains how iconographical interpretations occur, in terms of the influence of certain surroundings, there is a presupposition of a certain amount of personal knowledge that also assists in understanding the nature of symbols and signs in a given setting.²⁵ Therefore, it is relevant to apply the important concept of semiotics. Roberta Kevelson adopts the definition of semiotics as that which is, 'the science of signs, including the transmission of messages of all kinds by means of intermediate sign-systems' and adapts it to the semiotics of law to explain it as, 'a scientific investigation of signs peculiar to law: its theory, its practice, its complex codes and manner of representation'.²⁶

Based on this understanding of semiotics, the different attributes of justice are analysed in various ways. The scales of justice, which are considered as a representation of justice by the West, are looked at as a, 'closed universe, a model in which constancy, absoluteness, stability and predictable order were analogous hallmarks of human character, i.e., of firm principle'.²⁷ Therefore, a 'universal' image of justice has an altered meaning when contextualised by different theorists. For Kevelson, the scales indicate the development of two concepts, in a parallel manner excluding the reality that each aspect of the environment behaves in a manner that is representative of itself.²⁸ Therefore, she says, that if one looks at this traditional image of justice in a modern format, what appears is that these different aspects, though opposing each other, 'move in concert but not in balance'.²⁹ This dynamic interpretation of justice then opens up the closed image of the firm scales of justice and appears as 'dancers in freestyle' instead.³⁰ Therefore, semiotics allows for one to interpret the icons of justice in a manner that might not have been purported at the time of their inception or have not been analysed in a legal semiotic form before now. Theo Van Leeuwen³¹ further elucidates the idea of visual semiotics through the work of Roland Barthes on the subject. According to Barthes the concept of semiotics is understood in two layers: the layer of denotation and the layer of connotation.³² Denotation refers to, 'what, or who, is being depicted here' and connotation refers to, 'what ideas and values are expressed through what is represented'.³³ What is important to note in any understanding of semiotics is that

²⁴ Panofsky (n 5).

²⁵ *ibid.*

²⁶ R Kevelson, 'Icons of Justice/Spirits of Law' (1994) VII *International Journal for the Semiotics of Law* 227, 227.

²⁷ *ibid.* 228.

²⁸ Kevelson, 'Icons' (1994).

²⁹ *ibid.* 234.

³⁰ *ibid.* 235.

³¹ TV Leeuwen, 'Semiotics and Iconography' in TV Leeuwen and C Jewitt (eds), *Handbook of Visual Analysis* (London, SAGE Publications Ltd, 2004) 92–219.

³² *ibid.*

³³ *ibid.* 5.

there is a presumed knowledge of certain anthropological aspects without which any signs or symbols would not have the same meaning. Further, as Leeuwen notes, these semiotic visions have to be seen in context along with some amount of 'visual stereotype'.³⁴ The idea of connotation expands this understanding by adding another layer of meaning to the existing semiotic interpretation of a visual representation. Therefore, a second meaning is added to the denotation, which is the layer of connotation.

Leeuwen recognises Panofsky's concept of representational meaning in terms of his idea of denotation linking it to the idea of the basic understanding of a particular visual image being generated from parts of our practical experience and ideas that are already previously known to us.³⁵ Leeuwen uses two terms to expand the meaning of iconography in terms of semiotics – 'iconographical symbolism' and 'iconological symbolism'.³⁶ In the former description, the symbolism refers to the object and the additional ideas attached to it. In the latter use of symbolism, the reference is to the ideological meaning of the given visual depiction. Therefore, Leeuwen uses the term 'denotation' to refer to the representational meaning of visual semiotics and iconography and the term 'connotation' for the symbolic meaning of the same.³⁷

The concept of looking at law and semiotics together by merging traditional views of law along with perspectives of rhetoric, social sciences, philosophy and jurisprudence expanded during the Round Tables on Law and Semiotics.³⁸ Kevelson explains that semiotics is, 'a distinctive method of investigation in and of itself' and is not a branch of any other existing discipline.³⁹ In particular, these Round Tables were convened to bring together those new and unexplored avenues of looking at the law that had not been detailed earlier. Disciplines like pure law, natural law and philosophy of the law already existed. The aim of a semiotics of law was to bring various methods under one fold, but not to make it the basis of a 'single theory'.⁴⁰ Therefore, legal semiotics evolved into an idea that, 'accumulates and evolves its meaning in the very process of self-examination' leading to a form of semiotic inquiry of things.⁴¹ This system of inquiry and the requirement to define the semiotics of law became an ever-evolving process, concluded at the First Round Table in 1987.⁴² However, what was agreed to at the First Round Table was that, 'the law at present is not self-evaluative: a semiotic perspective will introduce

³⁴ *ibid* 7.

³⁵ Leeuwen, 'Semiotics' (2004).

³⁶ *ibid* 13.

³⁷ Leeuwen (n 31).

³⁸ R Kevelson, 'Introduction to the First Round Table on Law and Semiotics' in R Kevelson (ed), *Law and Semiotics* (New York, Plenum Press, 1987) vol 1, 124.

³⁹ *ibid* 8.

⁴⁰ *ibid* 2.

⁴¹ *ibid* 3.

⁴² Kevelson, 'First Round Table' (1987).

self-correction into the teaching, practice and appraisal of the law which is itself regarded as an instrument for implementing changing social values.⁴³

In the field of legal semiotics it is most important to understand that the approach is multi-disciplinary and is therefore able to encompass the fields of anthropology, economics, political science, sociology, amongst others, and adapt them to develop ideas on the meaning of signs, symbols and motifs in the field of legal iconography.⁴⁴ Each discipline brings to the forefront a different angle and thus adds to the overall development and confluence of law and the study of semiotics.

The primary questions that both iconography and semiotics ask are about what an image represents and what the hidden and unseen meaning of that very image is.⁴⁵ These questions are pertinent to the study of the visual culture and the judicial iconography of courts in India. Therefore, this book raises the relevant questions in order to answer the unseen meaning in the judicial images of courts and look at the semiotic perspective through the representational and symbolic meaning of the things represented in the images created and how they relate to the access and restrictions to approaching court.

An iconological analysis of a particular image looks at the symbols and style of the image and provides an interpretation of the question of 'why' behind that particular image.⁴⁶ Quoting Nederveen Pieterse, Leeuwen agrees that there are sociological and political implications for certain representations found in images.⁴⁷

The examination of semiotics from a socio-legal point of view involves the description of images and what one says and does with these images, leading to specific interpretations of the said images.⁴⁸ In terms of the resources and rules from where these interpretations are gathered, most people are found to conform to the existing groups and 'sub-cultures' that already exist.⁴⁹ However, as Jewitt and Oyama indicate, there are instances when society needs to adapt to the changing times and in accordance, there is a modification of the representations of images.⁵⁰ Jewitt and Oyama provide a very basic and simple example to illustrate this occurrence.⁵¹ Taking the case of the concept of a 'bird's eye view' they explain how it provides for a range of viewing angles – horizontal and vertical. In addition, it allows for an image to be viewed, 'from above or below (or at eye-level), and

⁴³ *ibid* 24.

⁴⁴ R Kevelson, 'Introduction to the Second Round Table on Law and Semiotics: Pragmatic Method and Some Consequences' in R Kevelson (ed), *Law and Semiotics* (New York, Plenum Press, 1988) vol 2, 1–12.

⁴⁵ Leeuwen (n 31).

⁴⁶ *ibid*.

⁴⁷ *ibid*.

⁴⁸ C Jewitt and O Rumiko, 'Visual Meaning: A Social Semiotic Approach' in T Van Leeuwen and C Jewitt (eds) *The Handbook of Visual Analysis* (London, SAGE Publications Ltd, 2004) 134–57.

⁴⁹ *ibid* 135.

⁵⁰ Jewitt and Oyama, 'Visual Meaning' (2004).

⁵¹ *ibid*.

from the front, the side or the back.⁵² The various viewpoints thus created have a different meaning depending on which angle the person has adopted for observing. The 'symbolic relations' that are created can offer the idea that, 'If you look up at something, that something has some kind of symbolic power over you. At the eye-level there is a relation of symbolic equality.'⁵³ Jewitt and Oyama continue to interpret the various angles and their symbolic meaning by way of extension.⁵⁴ They note that viewing an image from the side often leaves the viewer on the sidelines as opposed to a frontal view, which allows for maximum participation. In this context, it is important to keep in mind that every image has its own symbolic extension and carries with it a unique iconographical context.

From this experiment, Jewitt and Oyama interestingly note that, 'symbolic relations are not real relations, and it is precisely this which makes point of view a semiotic resource.'⁵⁵ The interpretation of images is thus clearly also influenced by the existing ideas and notions that a person brings forth at the time of viewing. It is a study of these interpretations that expand the concept of semiotics and iconography and allow for them to be read together, and in this context, with a legal angle. As Panofsky⁵⁶ notes, images became 'windows on the world' thus allowing for a multitude of image-related viewpoints to come to the forefront of debates.⁵⁷ The relevance of social semiotics and its relationship with the visual image in particular, is critical for all forms of research in this field of analysis. Social semiotics assists in raising the important questions that need to be asked to further the subject of 'visual social semiotics'.⁵⁸ While studying the effects of visual social semiotics, it was clear that an image offered further interpretations, which were often not visible at a first sighting, leading to the interplay of ideas from pre-existing social theories and debates. Therefore, relevant, 'theories and histories' must be made a part of the understanding of the visual semiotics of an image.⁵⁹

Interestingly, as has been found by Jewitt and Oyama in their studies, the presence of semiotic resources aids in adding additional tools and resources to the study of semiotics thereby expanding the scope of representation and interpretation of images.⁶⁰ The most important representational meaning that has emerged from the study of visual semiotics is the use of 'syntax'.⁶¹ In the case of images and architecture which are, 'space-based semiotic modes', it is a matter of, 'spatial relationships, of "where things are" in the semiotic space and of whether or not they are connected through lines, or through visual "rhymes" of colour, shape and so on'.⁶²

⁵² *ibid* 135.

⁵³ *ibid*.

⁵⁴ Jewitt and Oyama (n 48).

⁵⁵ *ibid* 135.

⁵⁶ Panofsky (n 5).

⁵⁷ Jewitt and Oyama (n 48) 136.

⁵⁸ *ibid*.

⁵⁹ *ibid* 138.

⁶⁰ Jewitt and Oyama (n 48).

⁶¹ *ibid* 141.

⁶² *ibid*.

This factor is specifically relevant to the use of semiotics in terms of art and architecture. There is also an interactive meaning to an image which allows it to create specific relationships between the viewer and the viewed.

The notable contribution of Panofsky to the concepts of iconography and iconology have been recognised in an article by Christine Hasenmueller.⁶³ Hasenmueller writes that Panofsky's work provides an 'authoritative definition of concepts and methods'.⁶⁴ Panofsky also made a distinction between the interpretative forms and meanings of images.⁶⁵ Hasenmueller writes about the definition of an image in a dual context, stating that, 'it constituted the point of intersection between reference in art to nature and reference to literature'.⁶⁶

Iconographic interpretation is not the first step in looking at an image. Hasenmueller, leading from Panofsky's work, interprets the three steps for the analysis of an image ranging from a 'pre-iconographic' to an 'iconographic, and iconological interpretation'.⁶⁷ The pre-iconographic understanding was of the purest form and an iconographic recognition presupposed an already existing notion and idea of cultures, themes and the existing literature.⁶⁸ The iconographical interpretation was of the intellectual variety. The third part, one of iconology, was explained as that which brought together various aspects connected to the image and linked them to read as one concept, altogether. In this part, there were particular 'underlying principles' that formed a 'synthesis' of the notions leading to an iconological analysis.⁶⁹ The first two ideas of pre-iconographic and iconographic interpretations are more 'descriptive' in their outreach, whereas iconology becomes a 'matter of synthesis'.⁷⁰

Hasenmueller puts Panofsky's definition of iconography, images, signs and motifs in context with the following additional pointers: 'Interpretation of *images* is concerned with conscious shaping of references to "themes and concepts" – further defined as "stories and allegories." *Iconography* is, then, the analysis of systematic associations of motif and literary content'.⁷¹

The idea of the association of content with the iconographical understanding is imperative for the analysis to develop in a given manner. Presupposed notions and contexts are also important in order that the viewing audience is brought to look at the image from the same starting point. While iconography focused on being extremely clear and effective, iconology focused on interpretations that went

⁶³ C Hasenmueller, 'Panofsky, Iconography, and Semiotics' (1978) 36 *The Journal of Aesthetics and Art Criticism* 289.

⁶⁴ *ibid* 289.

⁶⁵ Panofsky (n 5).

⁶⁶ Hasenmueller, 'Panofsky' (1978) 290.

⁶⁷ *ibid*.

⁶⁸ Hasenmueller (n 63).

⁶⁹ *ibid* 291.

⁷⁰ *ibid*.

⁷¹ *ibid*.

beyond the existing fluent and coherent notions of analysing the given subjects. Therefore, iconography is largely descriptive in nature while iconology is more of an investigative form.⁷² Through all this iconographical imaging, there is a crucial basis of the recognition of the idea that there is a, 'degree of culturally shared knowledge' that definitely assists in leading to the conclusions that occur at the end of a discussion.⁷³ This cultural linkage and binding aspect forms the basis of certain presuppositions that are necessary when using iconography to explain a particular motif, sign or symbol. In the case of judicial iconography, a statue of Justitia, in any form, would lead to the basic presupposition and linkage to law, legal institutes and/or courts of justice. When one starts a discussion on the image of Justitia thus seen, it is presumed that the audience has made the linkage to law and/or legal institutes.

III. Relationship between Law and the Image

Goodrich argues that the 'visual metaphor' is important in the scheme of justice wherein justice is something that must be visible which captures the 'symbolic presence of law as a façade'.⁷⁴ To illustrate this point, I cite *R v Sussex Justices, Ex Parte McCarthy*, which held that, '[it] is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done'.⁷⁵ To date, this concept has become a political axiom of sorts when one discusses the proceedings of a legal trial.⁷⁶ With this judgment, based on principles of natural justice, the Chief Justice Lord Hewart thus established a long-standing principle of the visual appeal of justice and its importance and relevance on what must be 'seen'. Goodrich is categorical when he states that, '[the] requirement of visibility or display imposes strict theatrical requirements' which emphasises that what always appears to be is what is considered as the manifestation of law.⁷⁷ This very notion – that justice must be seen to be done – forms the premise and basis on which I have developed the arguments for a visual culture of courts in India.

The important attributes of justice that must be seen to be done include the study of the architecture of courts and courtrooms, portraits on the walls of the courtrooms, statues in and around the court, carvings adorning court walls, the dress worn by the participants of the court process, the language used to refer to

⁷² Hasenmueller (n 63).

⁷³ *ibid* 293.

⁷⁴ P Goodrich, 'Languages of Law: From Logics of Memory to Nomadic Masks' in P Goodrich (ed), *Modalities of Legal Annunciation: A Linguistics of Courtroom Speech* (London, Weidenfeld and Nicolson, 1990) ch 6, 188.

⁷⁵ (1924) 1 KB 256.

⁷⁶ Goodrich, 'Modalities of Annunciation' (1998).

⁷⁷ *ibid* 143.

the court and the props used in the process of justice (ie the mace, black gown and white band). The common thread among these attributes are the images of justice they create for the law within the space of a court structure. Reading the literature on iconographical and iconological symbolism allows the courts to be understood in terms of the influence that the surroundings have on them along with interpreting the various signs and symbols linked to the specific historic situation of the three High Courts. The visual imagery thus available linked with the cultural information obtainable makes space for the transmission of a new meaning and interpretation through the readings on a semiotics of law. Acknowledging the presence of a 'visual stereotype', as Leeuwen refers to it, reveals the various hidden and unseen meanings within a legal framework that have existed but not been explored yet.⁷⁸

Looking at the law specifically in terms of its iconography, iconology and semiotics has developed over the years and been expanded over the course of time. Early Round Tables on law and semiotics produced work that pointed in this very direction. In the 1988 Round Table, Goodrich recognises and denotes categorically that,

Discursive restrictions upon forms of address, time and tone of speech, narrative content and forms of reference combine to create a powerfully oriented genre of legal paraphrase in which *symbolic recognition of the authority of the court* is the overriding message conveyed or, more properly, announced by the law.⁷⁹

Here, the idea of the 'symbolic recognition' of the authority of the court is important. This symbolism is recognised in semiotics and applied to the field of legal semiotics. The symbols that generate the authority may range from the architecture of the court to the dress and language used in the court process. This symbolism purported by the court forms the basis of the relationship that the court has with images of the law. Every court narrates visual stories through these symbols of justice and yet the judiciary and court actors share an ambivalent relationship towards imaging the law.

Reading the work of Robert Cover relates this ambivalent relationship to the jurispathic tendencies of law wherein law often destroys competing alternate meanings as a direct imposition of violence that stems from the inherent dominating predisposition of the law.⁸⁰ In this sense, law exercises a similar monopoly over violence that it legitimises in the form of several rules and regulations that control the way the court is imaged. What is established is that law is not a simple text but one that generates a form of violence, whether symbolic or actual, and these acts are in furtherance of law attempting to maintain this particular legitimacy. The need to protect and maintain the meaning of the signs and motifs that the court

⁷⁸ Leeuwen (n 31).

⁷⁹ Goodrich (n 2) 143, emphasis added.

⁸⁰ R Cover, 'Nomos and Narrative' in M Minow, M Ryan and A Sarat (eds), *Narrative, Violence, and the Law: The Essays of Robert Cover* (Ann Arbor: The University of Michigan Press, 1995) ch 3.

chooses to purport is evident in the study of the judicial iconography of various legal institutions.

Goodrich writes about this symbolism of the law and need for attaining a mandated legitimacy when he details the case of the Haida Indians in a property dispute matter from 1985.⁸¹ Through this case he highlights aspects of dress and language in particular and their relationship with law and the image. Specifically, the Haida Indians chose to represent themselves in court and as a petitioner-in-person they came dressed in their own cultural dress – the attire they wore to depict status and property ownership. Further, they spoke in their own language, even using poetry and song on one occasion to convey their arguments. Though recognising the forum of the court as the space to hear their arguments, the judge was unable to rule in their favour.⁸² Here Goodrich notes that even though the judge agreed with the position and condition of the Haida Indians he was bound by the court to follow the letter of the law, which did not give him the scope, according to the judge, to make such a policy decision.⁸³ In light of this judgment, Goodrich writes, that when a commoner speaks for themselves, ‘they are unlikely to be heard. It is rather to their benefit to join the community of legal language and to place their civility and fate in the hands of the legal profession.’⁸⁴ This covers only one aspect of the debate on the relationship between law and symbolism. The image of the law purported through language and dress is addressed in detail through my ethnographic study in the following chapters.

While attempting to discuss the course of a proceeding in a courtroom space, it, ‘does well to begin by examining th[e] visibility, the physical structure and architecture of a peculiar auditory space’ because these aspects further the notion that even though justice might be seen to be done, it is only seen as such by outsiders to the process and not necessarily those persons whom the process of the court affects the most.⁸⁵ This argument follows through to the conclusion between the relation of these ocular processes to the actual access that persons have to the court.

In terms of architecture of court buildings itself, there are certain specific aspects that are seen across court structures. Courts are usually built above the ground level, to create an imposing effect over the people that walk the streets along it. Windows in court buildings are generally tall and narrow, and in most cases, inaccessible.⁸⁶ Although the entrance to a court will be inviting, in all likelihood entry will be limited to the members of the judiciary who are at the top of the legal hierarchy. With the elevated entrance, as mentioned earlier, the access only

⁸¹ Goodrich (n 2).

⁸² Goodrich (n 2); Goodrich explains that the case became one presented in a wrong forum and therefore the judge granted an injunction against the Haida Indians’ claims. The arguments on the Haida Indians’ title to and relationship with the islands was irrelevant as the case was about a valid logging licence.

⁸³ Goodrich (n 2).

⁸⁴ *ibid* 146.

⁸⁵ *ibid* 148.

⁸⁶ Goodrich (n 2).

becomes more restrictive and imposing. Goodrich summarises, in one sentence, the feeling of a person thus walking to the court, that, ‘the threshold to the court building will be marked and physical access to the seats of justice will involve both a visual and conceptual ascension from the quotidian street to the ritualized space.’⁸⁷ These common aspects are noticed across most court buildings in varying forms and features based on the architecture style and the time period of construction.

If we consider law’s relation to the image or to art, we may concur with Costas Douzinas and Lynda Nead by observing that there is indeed a link between law and art, even though there is generally considered to be a disconnect between the two concepts.⁸⁸ The general perception of art and law, as the authors note, is that ‘the law of art is the opposite of the rule of law’ and therefore the law is unable to analyse art unless that form of art is a matter of tradition, culture and accepted convention.⁸⁹ Only in these forms does the law legitimise any form of art. Douzinas and Nead draw several parallels between art and law, stating on the one hand that art is perceived in terms of, ‘imagination, creativity, and playfulness’ whereas law, on the other hand, is looked at as a form of, ‘control, discipline, and sobriety.’⁹⁰ This permanent conflict of perception is emphasised repeatedly by the courts of law wherein they share an ambivalent relationship not only with external images but also with those images that are intrinsically linked to their own selves – the very images that the court purports. Reading Cover’s argument on the inherent tension between the ‘jurispathic’ and the ‘jurisgenerative’ tendency of the law, and extending it to the visual, it can be argued that the law regulates and ‘kills’ certain images that it thinks compete and/or challenge its legitimacy and power, along with producing particular images in order to constitute the meaning of law and justice.⁹¹

Amidst these conflicts, the law as a field has developed into itself and thus considers itself as a whole without the need for association with related fields that do not fit in law’s image of itself. Therefore, fields like art and literature, which are largely abstract and mouldable, create an equivocal relationship when linked specifically to a legal image. Images therefore find themselves to be hidden and sometimes even banished while the courts still attempt to maintain the sacrality of their majestic and dignified image through a stylised judicial iconography. In reality, law has always dealt with images – the very images from which it gains legitimacy and maintains the dignity of the court and the images with which it is inherently conflicted. Douzinas and Nead argue that law foundationally has an ‘aesthetic policy’ which manifests differently – it may appear in the form of ‘policing images and licensing pleasures’, and yet law is the site where images

⁸⁷ *ibid* 149.

⁸⁸ C Douzinas and L Nead, ‘Introduction’ in C Douzinas and L Nead (eds), *Law and the Image: The Authority of Art and the Aesthetics of Law* (Chicago, The University of Chicago Press, 1999) 1–15.

⁸⁹ *ibid* 1.

⁹⁰ *ibid* 3.

⁹¹ Cover, ‘Nomos’ (1995) 139, 155.

proliferate.⁹² Therefore, this policing of the existing images, internal or external, is evidence of the existing relationship between law and the image, however ambivalent this relationship might be.

Douzinias and Nead argue that the fear of images or the iconophobia inhabits the law alongside the production of iconoclastic images.⁹³ They argue that there is a paradoxical relationship between law and the image where the ocular is both revered and feared.⁹⁴ The law, then, has always had a 'visual policy' wherein it controls the image in order to maintain its superiority and hierarchy along with an ambivalent attitude that permits it to manifest itself in different forms through wigs, gowns, portraits and other objects that exemplify the theatre of the court while regulating an 'excess' of images.⁹⁵ Haldar introduces the argument of how law continues to be 'structurally dependent upon aesthetic principles and remains grounded in the rhetoric of the image'.⁹⁶ Arguing in the context of the Supreme Court of the State of Israel, he contends that the relationship of rhetoric and the law has been observed over the years in the different architectural styles of court buildings.⁹⁷ Haldar also acknowledges that there is an existing ambivalent relationship between law and aesthetics because law as justice requires to be seen to be done, the law always needs to stand out from amongst other institutions around it.⁹⁸ One of the modes it uses is the aesthetics of ornate architecture. It is through this that the law, 'takes hold of the subject's mind'⁹⁹ and while architectural styles might still attempt to 'democratize the law' the atmosphere of subordination and alienation continues to pervade the court structure and architecture.¹⁰⁰

Therefore, the law frames different visual policies based on how it can control its own space from within and organise it in a manner that is appropriate for its own legitimacy. Along with the idea of a visual policy of law, Nead uses the concept of a 'visual language' that exists and is also used to make 'justice visible' by creating a dialogue between legal spaces and official texts.¹⁰¹ This manifests itself in a multitude of ways and leads to the development of the idea of iconophobia that is opposed to the power exerted by an image, leading to varied interfaces between the aesthetic nature of law and the mode by which the image is made subject to the force of law.¹⁰² Due to the ability of the image to give 'visible form to invisible

⁹² Douzinias and Nead, 'Introduction' (1999) 5.

⁹³ Douzinias and Nead (n 88).

⁹⁴ *ibid.*

⁹⁵ *ibid.* 9.

⁹⁶ Haldar, 'Function of the Ornament' (1993) 117.

⁹⁷ Haldar (n 3).

⁹⁸ *ibid.*

⁹⁹ *ibid.* 136.

¹⁰⁰ *ibid.* 130.

¹⁰¹ L Nead, 'Freedom from Publicity or Right to Information? Visual Cultures of the Courtroom' in KÅ Modéer and M Sunnqvist (eds), *Legal Stagings: The Visualization, Medialization and Ritualization of Law in Language, Literature, Media, Art and Architecture* (Copenhagen, Museum Tusulanum Press, 2012) ch 5, 59.

¹⁰² Douzinias and Nead (n 88).

powers', Douzinas¹⁰³ introduces the concept of 'legal iconology' and argues for the opening up of this field of study to interpret the aesthetic dimension of the law.¹⁰⁴

Douzinas and Nead write about the existence of controversies when it comes to the law adapting to the visual.¹⁰⁵ This is also elaborated upon with examples in the work of Judith Resnik and Dennis Curtis when they document the several objections that were raised to visual depictions of the law by the actors of the court themselves, in many instances by the judges.¹⁰⁶ Their work in this field is evidence of the deeply controversial relationship that law shares with its own images and the level of ambiguity that exists in a visual representation of courts. Douzinas and Nead trace the establishment of common law through these 'iconophobic' ideas and draw a parallel with how the churches once banned particular icons, and how the courts of law followed suit by banning certain legal imagery and visual representations of justice.¹⁰⁷ Not only is the law singularly interested in prohibiting certain images, it is also deeply invested in policing those images. Therefore, the law has managed to entangle itself in a way that it, 'loves and fears images, it both prohibits them and organizes its own operation in a spectacular and visual manner'.¹⁰⁸

The primary method that the law uses to police these images and thus maintain a form of control over how the law itself, and the audience of the law, visualise the legal auditoria, is through, 'icons of authority and sovereignty'. This then becomes, as mentioned earlier, in the words of Douzinas and Nead, the 'visual policy' of the law.¹⁰⁹ These icons of authority are the attributes of justice that are used for the daily ceremony of the court and include, but are not restricted to, items like the lawyer's black gown, the wig worn by judges, and the mace, that are all a part of the court proceedings.

In a later work Douzinas continues to maintain that law has made a special effort to create rules with respect to visibility.¹¹⁰ He attributes this control over visibility to the fact that the law understands 'the importance of the governance of images for the maintenance of the social bond' and therefore the law 'helps organise a regime of permitted images and forbidden idols which amounts to a complex legal administration of aesthetics and a related aesthetic organisation of law'.¹¹¹ This concept of governing and controlling the images purported is an aspect that has existed with the law over the years and continues to be seen in courts today.

¹⁰³ C Douzinas, 'Prosopon and Antiprosopon: Prolegomena for a Legal Iconology' in C Douzinas and L Nead (eds), *Law and the Image: The Authority of Art and the Aesthetics of Law* (Chicago, The University of Chicago Press, 1999) 36–69.

¹⁰⁴ Douzinas and Nead (n 88) 12.

¹⁰⁵ Douzinas and Nead (n 88).

¹⁰⁶ J Resnik and D Curtis, *Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms* (New Haven, Yale University Press, 2011).

¹⁰⁷ Douzinas and Nead (n 88) 8.

¹⁰⁸ *ibid.*

¹⁰⁹ *ibid.* 9.

¹¹⁰ C Douzinas, 'The Legality of the Image' (2000) 63 *The Modern Law Review* 813.

¹¹¹ *ibid.* 813.

Douzinan traces the conflict between religion and the image, in the case of both Christianity and Judaism.¹¹² He traces this discussing how the creation of idols was severely critiqued and campaigned against. With the coming of the Reformation, Douzinan says that these ideas related to iconophobia became the basis of common law.¹¹³ 'As the icons were excluded from churches, figures and imagery were banned from the law', making the fear of images a legal reality.¹¹⁴ Through this process Douzinan notes that the law categorically remembered that policing the images was always necessary.¹¹⁵ Therefore, over time there have been either no images or very restricted imagery available that denote what law means or elaborate on its visual policy. This tendency made the law 'unrepresentable' as there were no images available, discussed or debated creating a representation of law to come only through artefacts like the gown, robes, wig, mace, gavel, amongst other attributes.¹¹⁶ Douzinan concludes that this creates a kind of paradoxical situation where the law is a 'combination of blindness and insight' as it purports certain restrained images and has made itself unrepresentable in general. In the end, a visual policy of law, or any existing visual policy, attempts to control not only what you see but how you see.¹¹⁷ In the same vein, Haldar also argues that law's image, specially its legal architecture, brings out the paradox of law, situating it as sacred and secluded while inviting legal subjects albeit into its regulated space.¹¹⁸

IV. Images of Justice of the Court and in the Courtroom

The visual field of law is manifested in terms of the image that exists both of a court and inside the court and a courtroom. Every court has its own visual narrative which is specific to the relationship shared between law and the image. Existing literature explores the plethora of images of justice across time and space, while reiterating the well-established and known principle that justice should be seen to be done.¹¹⁹ In order for a particular appearance of justice to take place, it is important to note that the judicial space is not neutral; it has a particular meaning

¹¹² Douzinan, 'Legality' (2000).

¹¹³ *ibid.*

¹¹⁴ *ibid* 814.

¹¹⁵ Douzinan (n 110).

¹¹⁶ *ibid* 825.

¹¹⁷ *ibid.*

¹¹⁸ P Haldar, 'In and Out of Court: On Topographies of Law and the Architecture of Court Buildings (A Study of the Supreme Court of the State of Israel)' (1994) VII *International Journal for the Semiotics of Law* 185.

¹¹⁹ See P Goodrich, 'The Foolosophy of Justice and the Enigma of Law' (2012) 24 *Yale Journal of Law and the Humanities* 141; Haldar (n 3); Jay, 'Must Justice Be Blind' (2003); Mulcahy, *Legal Architecture* (2011); Resnik and Curtis, *Representing Justice* (2011); KF Taylor, 'Geometries of Power: Royal, Revolutionary, and Postrevolutionary French Courtrooms' (2013) 72 *Journal of the Society of Architectural Historians* 434.

and contributes to the entire idea of the majesty of the law that is perpetrated on a daily basis and the way in which justice is accessed by ‘outsiders’.¹²⁰ Due to this there is an equivocal relationship between law and the image. In several instances it has been observed that the courts banish particular images that they believe lower the dignity of the court, and this interpretation of the image is often carried out by the judiciary. While on one hand there is the fact that judges do banish these images, on the other hand, they still uphold the principle that justice must be seen to be done. Therefore, more often than not this is a vexed relationship. In other words, the visual culture that inhabits courts, makes it evident that the courts of law are not neutral spaces and that often they maintain a particular image of justice through which access to courts is restricted. While we have insightful literature on the visual culture of courts in the West, this form of documentation is lacking for courts in India.

Mulcahy elaborates on the concept of images of justice when she states that the courtroom space can be looked at as a relationship with our own ideals of justice.¹²¹ She argues that the judicial space is not ‘neutral’ and, ‘understanding the factors which determine the internal design of the courtroom are crucial to a broader and more nuanced understanding of state-sanctioned adjudication’.¹²² In her description of the courtroom space, jury boxes, witness boxes, barricades and additional space provided to different court actors all contribute to the legitimacy that court proceedings derive. This legitimacy is not restricted only to the actual process of a trial but is influenced by all these very allocations of place in a courtroom. It is then relevant to question if there is any direct relationship between the space provided in a witness box or the distance placed between a judge and an arguing lawyer.

While focusing on judicial iconography as it exists across the world, reading Mulcahy in particular, the emphasis is on the ‘spatial dynamics’ that influences the confidence the public has in the court system.¹²³ Mulcahy debates that the way a courtroom is designed influences the kind of judgment delivered.¹²⁴ Therefore, a judgment delivered in a particular court space would differ from one that does not have the key ingredients of a visual nature that specifically uphold the majesty and dignity of the court. In pursuance of this, Mulcahy argues that, ‘the shape of a courtroom, the configuration of walls and barriers, the height of partitions within it, the positioning of tables, and even the choice of materials are crucial to a broader and more nuanced understanding of judgecraft’.¹²⁵ Therefore, she contrasts it with the traditional idea that the courtroom space is neutral. The courtroom

¹²⁰ Mulcahy (n 4).

¹²¹ *ibid.*

¹²² *ibid.* 1.

¹²³ L. Mulcahy, ‘Architects of Justice: The Politics of Courtroom Design’ (2007) 16 *Social and Legal Studies* 383, 384.

¹²⁴ Mulcahy, ‘Architects of Justice’ (2007).

¹²⁵ Mulcahy (n 123) 384.

space is a contested space and several factors influence the production of justice in its precincts. The judicial iconography can be considered as one such attribute of justice. I do not argue that the courtroom design directly influences the contents of a trial or a particular order and/or judgment received. However, the presence of a particular visual adaptation of the court space certainly influences the relationship between the process of and access to adjudication. Katherine Fischer-Taylor is categorical when she states that in legal systems performance is all that matters and therefore the courtroom is like a stage where space, vision and acoustics are all critical to the relationship formed with the given space, thus making these aspects an important part of the judicial iconography of courts.¹²⁶

In the construction of a courtroom, an elevated platform is a symbol of hierarchy, a partition between court actors signals inequality and a form of undefined segregation, and a symbol of the state behind the judges signifies the authority of the state and/or government through which the judge acts.¹²⁷ Therefore, though courts are public structures, it is often felt that a court space is most restrictive to this very public. It is these aspects of judicial symbolism that form the tenuous relationship between law and the image it chooses to purport. All these aspects individually create specific signs and motifs that perpetuate a visual stereotype making iconophobia the norm of judicial spaces.¹²⁸ Though in theory it attempts to be the most approachable forum for public grievances, in reality it ends up being more restrictive than most private spaces.

An example of this is the Supreme Court of Israel. Haldar writes in detail about the topography of this court, completed in 1993.¹²⁹ He symbolises the various architectural features along with the material used to build the court to draw a link to the ornate nature of the law. Haldar documents the particular architectural design of the court and notes that there are several other aspects, outside of the law, that influence a trial.¹³⁰ As Haldar has observed, the entire court is a replica of the city of Jerusalem, where it is located.¹³¹ The stone used for the grand stairway of the court, the street lamps placed along the corridors and the presence of an imitation of the Great Western Wall within the court building are all ideas that have been taken from the streets of Jerusalem. This allows a person entering to forget that they have crossed the threshold into another structure, believing instead that they have never left the outside and are indeed just on another street within the same city space. Once inside the court, Haldar talks of a 'second entrance'¹³² that symbolises panoptical control, as suggested by Jeremy Bentham.¹³³ The library of

¹²⁶ Taylor, 'Geometries of Power' (2013).

¹²⁷ Mulcahy (n 123).

¹²⁸ Douzinas and Nead (n 88).

¹²⁹ Haldar, 'In and Out of Court' (1994).

¹³⁰ *ibid.*

¹³¹ *ibid.*

¹³² *ibid.* 197.

¹³³ J Bentham, 'The Panopticon Writings' in M Bozovic (ed), *The Panopticon Writings*. (London, Verso, 1995).

the court – with its books, reports and statutes – is below a conical-shaped circular tower. For Haldar this is a motif of the panoptical tower of justice.¹³⁴ Therefore, while the books are visibly on display, they are still guarded and unattainable to the person who enters the court. This creates a paradox of vision, a ‘blindness and insight’ at the same time, which allows the court to maintain its legitimacy and control over its space.¹³⁵

The structure of every aspect of a court building is thus analysed in terms of its meaning for everyday justice for the common people. Therefore, though the court is inviting in the sense that it assists a person entering to transit through with ease, once inside, the idea of being both accommodative and transparent somehow vanishes amidst the need to be panoptical and authoritative through its ‘legitimate’ power. As Haldar rightly observes and concludes, ‘all courts exist in their architectural representations’.¹³⁶ The construction of a court is therefore a struggle between what it appears to be and what it actually chooses to make its own image: although courts are open spaces, they are not necessarily ‘open’ in a complete sense.

From the way court buildings are built, with their tall and imposing structures, it is an accepted notion that the court intends to create an aura of fear and obedience to the proceedings that occur within its walls. As Mulcahy suggests, ‘courts are supposed to be daunting places in which participants are encouraged to reflect on the gravity of law and legal proceedings’ and therefore the building structure furthers this idea.¹³⁷ Writing about how entrenched this idea of designing the court is, Mulcahy refers to the *Court Standards and Design Guide* (‘the Guide’) published by the erstwhile Department of Constitutional Affairs in the United Kingdom in 2004.¹³⁸ The way the Guide was written clearly indicates that there is a specific design that the inside of a court must adhere to, with limited creativity permitted in this respect. Mulcahy rightly points out when she writes, ‘As regards the interior of the courtroom there remains minimal artistic discretion. The approach suggested here is one in which the courtroom is seen as a frozen site of nostalgia’.¹³⁹

That courtroom design is a ‘frozen’ concept is seen across court designs in varied contexts. It is interesting to note that the idea of what a courtroom should be designed as is often decided by actors of the court itself, making this a problematic relationship between what the court perceives is the appropriate image for itself and whether that image denotes the appropriate relationship that law should have with its own visual representation. With these frozen ideas taking precedence in courtroom design, the court space thus turns into a judicial arena of no debate or discussion on law’s image and instead into one that has fixed ideologies and

¹³⁴ Haldar (n 118).

¹³⁵ Douzinas (n 110).

¹³⁶ Haldar (n 118) 200.

¹³⁷ Mulcahy (n 123) 387.

¹³⁸ Mulcahy (n 123).

¹³⁹ *ibid* 390.

concepts, creating a visual identity that leaves little room to be challenged. Even without a manual like the Guide, courts across the world have been implementing certain basic criteria in court buildings that are seen as specific legitimising tools, giving the court the majesty and dignity it seeks on a daily basis. These extend from and are not limited to, the architecture of the building, the kind of portraits and artwork on display, along with the courtroom dress for every actor and the language used in court. It also includes rules that ban photography and video-recording of courts, which directly controls the very imaging of court spaces. In controlling the ocular, often the courts control and restrict access to justice creating 'outsiders' of those who are within the sacral space. Examples of this display of judicial iconography are discussed later in this chapter (also see chapter six).

Certain aspects of the design philosophy mentioned in the Guide are important to note. The Guide prescribes designs for publicly funded courthouses, which further questions the authority that legitimises the images of justice that are purported from such an exercise.¹⁴⁰ Since the courthouses are publicly funded, they are subject to an idea of the image of justice that the Government and/or funding authority deems appropriate. In most cases this comprises of the judiciary as a regulatory authority deciding on their own visual notion of justice that should become the norm along with creating a system of signs, symbols and motifs that give a message to a person entering the court about their status as an outsider to the ritualistic procedures of the court. Coming from a hierarchical order, this form of visual control further perpetuates ideas of maintaining this very hierarchy as it is believed that this formation creates the necessary fear leading to reverence of the court. Without this backing, the court would not be able to derive the same majestic status that is preserved through this form of judicial iconography.

The Supreme Court of Sri Lanka deals with a similar question of funding related modification of a court building design. The court is a large building and is surrounded by the Law Ministry and the office of the Advocate General. What is interesting is its architectural style. The style used is a form of Chinese architecture, that is, a conical top that slopes downwards. The reason for this architectural influence is because the Chinese Government funded the building of the Supreme Court of Sri Lanka complex.¹⁴¹ This changed the very definition of the iconic image of the apex court of justice of the country. Judicial iconography in this context tells the story of a court that is influenced by political and economic considerations and not by local ones. This highlights how design can be impacted based on funding.

Mulcahy further studies the details within a courtroom space and their relationship with the overall appearance of justice in the court.¹⁴² The most important aspect of this is how the members of public who attend court perceive the space.

¹⁴⁰ Mulcahy (n 123).

¹⁴¹ N DeVotta, 'China's Influence in Sri Lanka: Negotiating Development, Authoritarianism, and Regional Transformation' in E Goh (ed) *Rising China's Influence in Developing Asia* (New York, Oxford University Press, 2016) ch 6.

¹⁴² Mulcahy (n 123).

Mulcahy traces the history of old courts in the United Kingdom to recent courts in the country and how they were built in favour of judges and lawyers, categorically keeping the public out.¹⁴³ She also writes about the changing nature of the role of each of these players and how, as their importance grew, their space increased in courts, creating less and less space for the public. There was often a 'tendency to see both litigants and the public as irritants in the trial' and therefore courts were built to be seen as large and inviting, but in practice were often exclusive and condescending.¹⁴⁴ Mulcahy documents that this trend has not changed with modern courts and space for seating the public and/or litigants is still of the most constrained nature.¹⁴⁵ In a similar vein, some lawyers in the Calcutta High Court believed that to ease the space problem in the High Court, litigants and the general public should be denied entry into the court (see later in this chapter).

Another aspect seen across courts is the relation of height with hierarchy and authority. Height elevates the judiciary to a point where they can survey the court process and all the people in that specific court space. The idea of the panopticon plays out clearly here, where surveillance can be controlled through an aerial hierarchical view.¹⁴⁶ The courts might use the panoptical view in a different way but the purpose of shadowing and observing the required space remains the same. The hierarchy and panoptical setting allows the judge to visually control the court and thereby all the persons' parts of the court process. In this format, the law is able to maintain a control over its own image of supremacy amongst the public. While the judges – the top of the hierarchy – are provided with a panoptical surveillance, the viewing positions of the public are starkly different. Mulcahy notes that while there is often a clear view of the judge, which is probably assisted by their elevated position, there is a limited view of the proceedings of the court.¹⁴⁷ In a regular courtroom structure, the public's 'field of vision [is] restricted', creating a situation wherein 'justice is now limited to observation of the adjudicator' and not of other alternate processes like lawyer's arguments and evidence presented.¹⁴⁸ This selective visibility, in more ways than one, defines the tenuous relationship that the law shares with its own image and forms the basis of the visual culture of a court. The idea of limiting the ocular relates to Jewitt and Oyama's example through semiotics of how various viewpoints are created and restricted based on the observing point offered to a person.¹⁴⁹ They narrate the concept of a 'bird's eye view' to explain how one image can have totally different meanings and motifs when viewed from different angles – from above, below, horizontally or vertically (see earlier in this chapter). Persons who enter court are subject to similar restrictive viewing points

¹⁴³ *ibid.*

¹⁴⁴ *ibid* 393.

¹⁴⁵ Mulcahy (n 123).

¹⁴⁶ M Foucault, *Discipline and Punish: The Birth of the Prison*. (New York, Vintage Books, 1975).

¹⁴⁷ Mulcahy (n 123).

¹⁴⁸ *ibid* 396.

¹⁴⁹ Jewitt and Oyama (n 48).

creating different symbolic relations based on which direction one is made to look towards – looking up, towards a judge, indicating the presence of a symbolic power that the judge has over the person. If one is viewed at eye-level it would be considered a relationship of equality; however, courts are known for their hierarchical didactic organisation that narrates power and domination from the top to the bottom.

This differentiation within a courtroom space is not limited to being present inside the courtroom only, but extends to spaces outside the courtroom, around the court building and within the court structure itself. These observations focus on the power dynamics within a court based on the physical aspect of a court structure rather than a technical, legal argument. This is important to understand as it is able to control not only who can hear in a court, but also what specifically can be heard in that court which has the effect of changing the relationship that the person shares with the judiciary and the legal system, and in particular the way they can access justice.¹⁵⁰

Resnik and Curtis¹⁵¹ argue that ‘the traditional iconography of courthouses is incongruent with the current practices of the institutions that inhabit them’.¹⁵² However, the design of the courtroom, along with its attributes, is an important aspect of the judicial process. Resnik and Curtis trace the evolution of the justice delivery system and how the necessity to build courts also lead to the questions of how these courts should be imaged.¹⁵³ The statue of the Lady of Justice became a symbol of this debate and proved to be contentious in many cases. In a similar context, Jay traces the changing image of Justitia and the evolving relationship this has with the notion of justice itself (see later in this chapter).¹⁵⁴ In their study of old and new courthouses, Resnik and Curtis find that courthouses are built as, ‘architecturally important structures that are, in some respects, distant from the needs for adjudication and the daily activities of judges’.¹⁵⁵ Therefore, while glass might be used to indicate transparency in a modern courthouse,¹⁵⁶ issues like access to justice and free legal aid are problems that are not dealt with. This makes the ‘transparency’ restricted only to a glass façade and does not extend to the actual process of adjudication in most cases. Haldar notes how the specific ornamental legal architecture, ‘provides the background against which justice is seen to be done’ and therefore the classification of various images in terms of specific themes and motifs provides the base through which law takes a hold over the mind of its subjects.¹⁵⁷

¹⁵⁰ Mulcahy (n 123).

¹⁵¹ Resnik and Curtis (n 106).

¹⁵² WH Simon, ‘Courthouse Iconography and Chayesian Judicial Practice’ (2012) 24 *Yale Journal of Law and the Humanities* 419, 419.

¹⁵³ Resnik and Curtis (n 106).

¹⁵⁴ Jay (n 12).

¹⁵⁵ Resnik and Curtis (n 106) xv.

¹⁵⁶ Some examples where glass has been used for transparency are the Federal Constitutional Court of Germany and the Constitutional Court of South Africa.

¹⁵⁷ Haldar (n 3) 135; Panofsky (n 5).

Acknowledging the importance of the architectural structure of courthouses, it is important to point out, from existing literature, that earliest courthouses were not placed in large buildings.¹⁵⁸ Court adjudication sessions were historically conducted in open spaces, as was the case in the Athenian democracy, which was a symbol of the public nature of law and a practice followed in India also through the panchayat system.¹⁵⁹ This open space itself often created the required space and sight that the law conceived its image as.¹⁶⁰ Over time when courts became more formalised they entered shared spaces before they became individual buildings of their own. Historically, court proceedings were held in already existing institutions like palaces, forts, churches and the like.¹⁶¹ The Calcutta High Court, the Bombay High Court and the Madras High Court also functioned from shared spaces and buildings that were already in existence till their present buildings were constructed in the late 1800s.¹⁶² It was only from the late eighteenth-century onwards that specific buildings were constructed for courts. Kolsky writes how colonialism operated on the basic premise of a superior civilisation controlling an inferior one.¹⁶³ Mukherjee notes that the source of justice in British India was the monarch, thereby perpetuating the order of control and domination from above.¹⁶⁴ A primary form of expanding the imperial interests was by occupying more territory and building grand structures on these colonised spaces.¹⁶⁵ The architectural structures thus created played the role of imposing colonial notions of law through a panoptical surveying viewpoint of the colonisers over the colonised.¹⁶⁶ The architectural styles of the Calcutta High Court, the Bombay High Court and the Madras High Court are of a grand and imposing format that was the norm for nineteenth-century colonial architecture. This trend of building specific courthouses for the display of judicial work has continued, and is seen in modern courthouses today, with the added adaptation of technological advancements and modern-day facilities. Motifs and symbols that point towards a judicial iconography of courts become evident through this aesthetic policy of the law.

One development that has occurred over the years has been that the spatial segregation and division within the court has changed. From an earlier equal space division, courts today are becoming more and more exclusive and the idea of them being 'open' to the public is a heavily debated issue. Over the years, the lawyers

¹⁵⁸ see Mulcahy (n 4), Resnik and Curtis (n 106).

¹⁵⁹ See BS Cohn, *Colonialism and its Forms of Knowledge: The British in India*. (Princeton, Princeton University Press, 1996); M Mukherjee, *India in the Shadows of Empire: A Legal and Political History (1774–1950)* (London, Oxford University Press, 2009); S Schmittner, 'A Sketch of the Development of the Legal Profession in India' (1968–1969) 3 *Law & Society Review* 337.

¹⁶⁰ Mulcahy (n 4).

¹⁶¹ *ibid.*

¹⁶² See the history of the buildings of the Calcutta High Court, the Bombay High Court and the Madras High Court in ch 3, ch 4 and ch 5 respectively.

¹⁶³ E Kolsky, *Colonial Justice in British India* (Cambridge, Cambridge University Press, 2010).

¹⁶⁴ Mukherjee, *India in the Shadows of Empire* (2009).

¹⁶⁵ Cohn, *Colonialism and its Forms of Knowledge* (1996).

¹⁶⁶ *ibid.*

have assumed more importance and thereby their space in the court has increased, pushing the litigant further away from the adjudication process.¹⁶⁷ While the litigant has become distant, the public at large has become almost negligible. In most courts, the maximum space is accorded to the judiciary, followed by the lawyers, the litigants and if any space remains, then the general public.

During my fieldwork in the three High Courts I often asked judges and lawyers whether they thought the courtroom had sufficient space for everyone involved. While several respondents felt space was sufficient and only a problem depending on the popularity of a case being heard, I noticed that courtrooms were heavily crowded in morning sessions and often finding a space to sit was a challenge. The crowds in courtrooms varied based on the time of the day and the courtroom concerned, but in most instances the lack of space was evident, and the division of space was apparent. One judge in the Madras High Court noted that the horse-shoe arrangement of the lawyers' desks in the courtroom occupied excess space and was something which, if discarded, could assist in creating more space for litigants and/or the general public. A few lawyers in the Calcutta High Court felt that litigants should not be permitted in the High Court as in most cases they are not required to interact with the judges, and this would then ease the load of the court. While this was a minority view expressed, there was still an idea that there was not a requirement for additional or categorical space for litigants in the High Courts. Even though the Chief Justice's courtrooms would be the largest courtrooms in use in the respective High Courts, they would also have a lack of space due to the demand in those courtrooms. However, a large, divided space for the judges was a constant across all three High Courts. The spatial segregation is therefore one aspect of how the court controls its image and thereby maintains its legitimacy.

Allison Tait¹⁶⁸ points out that that the work by Resnik and Curtis¹⁶⁹ has changed the way one looks at a courthouse. The idea of representing justice has led to a 'creative discussion about the relationship between art, architecture, and the work of courts'.¹⁷⁰ The different objects placed inside and outside a court are no longer observed as ordinary objects of daily use, but they have all picked up a meaning within the realm of iconography and the law. A court building is no longer a building by itself, but a manifestation of the various icons of justice that abound its structure. Therefore, what Resnik and Curtis have brought to the study of legal anthropology is that

they teach us to train our critical eye to [view representations of justice].¹⁷¹ As a result, we do, in fact, see things when we look at a courthouse or a justice image that we may not have seen prior to their timely intervention.¹⁷²

¹⁶⁷ Mulcahy (n 4).

¹⁶⁸ AA Tait, 'What We Didn't See Before' (2012) 24 *Yale Journal of Law and the Humanities* 3.

¹⁶⁹ Resnik and Curtis (n 106).

¹⁷⁰ Tait, 'What We Didn't See Before' (2012) 14.

¹⁷¹ Resnik and Curtis (n 106).

¹⁷² Tait (n 168) 15.

As is evident from existing literature, law has been analysed in terms of language, dress and ceremony, but little literature is available on how visual images of the law have a bearing and influence on the interpretation of various legal actions and behaviours, along with how the court is approached and accessed.¹⁷³ The imagery played out in a courtroom does not perform in isolation but is viewed in conjunction with these different attributes of the court that are a part of its daily ceremony and ritual. Further, the culturally shared knowledge that Hasenmueller writes about provides the necessary systematic associations to interpret the hidden and unseen ocular projections of the law and its image. Investigating the signs that are peculiar to the practice of law provides for an iconographical description and classification of the visual culture present in courts.¹⁷⁴ Therefore, visual semiotics plays a pivotal role in the life of the law and represents justice through a relatively unexplored field of visual culture.

V. Judicial Iconography of Courts

Expanding the framework of looking at the court only as a performative space is where the field of legal anthropology makes way for a judicial iconography of the court to be conducted. The idea of studying the visual in a court space has recently developed and has not yet been explored in India. The germinal work in this field by Douzinas and Nead,¹⁷⁵ Goodrich,¹⁷⁶ Haldar,¹⁷⁷ Mulcahy,¹⁷⁸ Resnik and Curtis,¹⁷⁹ among others, informs of the concept of judicial iconography that I follow in this book. Importantly, the context they study allows for a comparison with Indian courts.

The study of the judicial iconography of courts is conducted by looking at the various attributes of justice that range from the architecture of court buildings and courtrooms to the dress worn by the court actors, along with the particular legal language used in courts coupled with legal paraphernalia, portraits, paintings and carvings that abound the court walls. In this section on the judicial iconography of courts, I look at the architecture and structure of courts as an important aspect of the study of the visual culture of courts. Courts across the world have been recognised to have certain common characteristics that assist in distinguishing them in order to create their own particular image. The images thus created form the basis of the deeply equivocal relationship that is shared between law and its own image. This tenuous relationship reveals how law conserves its sacrality through the

¹⁷³ A Wagner, and W Pencak, *Images in Law* (Burlington, Ashgate Publishing Company, 2006).

¹⁷⁴ Hasenmueller (n 63).

¹⁷⁵ Douzinas and Nead (n 88).

¹⁷⁶ Goodrich (n 74).

¹⁷⁷ Haldar (n 118).

¹⁷⁸ Mulcahy (n 4).

¹⁷⁹ Resnik and Curtis (n 106).

image it allows of itself while it also needs the publicity to monumentalise the law. Further, the particular structures and visual narratives that are formed provide the law with a majesty and dignity that it uses to legitimise itself. This visual narrative is raised through the platform of the study of the judicial iconography of courts.

Reading legal discourse in relation to the architecture of courts is essential. In observing the judicial iconography of courts, it is noticeable that there are certain common characteristics that are often seen in courtrooms that provide for this discussion. Typically, in most courts, the windows are mostly barricaded and are higher and narrower than regular windows. The structure of court buildings is designed such that they are often blind to the outside world encapsulating a different reality within its interiors. The entrance to courts is usually imposing and out of reach of the public and judges have a separate entrance.¹⁸⁰ In the High Courts of Calcutta, Bombay and Madras, the judges had separate entrances: in the Calcutta High Court, the entrance was to the west side, through Gate A, which was strictly reserved only for judges; in Bombay and Madras the entrance was on the opposite side to that of the lawyers, litigants and/or general public entrance. The front of a court building is almost never noticeable and only accessible by judges. For instance, the judges of the three chartered High Courts that I observe enter through their specified hallways to which no one else has access. The courts are somewhat wrapped in a fold of secrecy even when located in the middle of a city. Goodrich argues that judicial hierarchy is also articulated through the 'geometrical organisation' progressing upwards.¹⁸¹ Further, Goodrich notices how the entrance of a court is usually elevated from the street contributing to its inherent imposing nature which involves both a 'visual and conceptual ascension from the quotidian street to the ritualised space'.¹⁸² The Supreme Court of India is a prime example of a court significantly elevated from the street, as can be seen in its structure and design. The elevated exterior of a court creates a particular distance of the court from the everyday people creating for itself a space where it can legitimise its own authority. Goodrich builds upon this observation through features related to the surface of the court buildings and the material used, including colours, modulations and insignia ranging from gargoyles to various heraldic crests.¹⁸³ These features contribute to the visual policy of the court and provide the viewer with different symbols and motifs to analyse and understand the iconographic story that the images of the law narrate.

The image of a court has different meanings for different people. For litigants it might be viewed as a space of triumph and contentment, or something completely contrary – a space of anguish and confusion.¹⁸⁴ Observers approach a court with

¹⁸⁰ See also Mulcahy (n 4).

¹⁸¹ Goodrich (n 74) 190.

¹⁸² Goodrich (n 74) 189.

¹⁸³ Goodrich (n 74).

¹⁸⁴ See Basu, *Judges of Normality* (2012).

varied interests and look through the judicial processes to understand what it means to encounter justice. For lawyers it might just be looked at as their workplace or a forum where legislation is articulated. Courts are also represented as the embodiment of justice. Therefore, the image of the court creates images of justice which hold different meanings and experiences for every individual who walks through the court corridors. For a litigant, the meaning of justice is impressed equally through the architecture, ceremony, ritual, dress and language that exists within the walls of a court and not just the outcome of the case as it unfolds over time. Hence a story can be narrated about a court through the iconography in its exterior and interior façade that creates a particular image of justice. In addition, the space creates its own signs and motifs leading to a semiotic perspective of the ocular aspects of the courts of law. Keeping these concepts in mind while documenting the visual culture of courts assists in the analysing the various semiotic associations and cultural linkages that the court brings to the forefront through the exhibition of its images which can sometimes be both fascinating and daunting visuals.

Goodrich argues that the ‘visual metaphor’ is important in the scheme of justice wherein justice is something that must be visible which captures the ‘symbolic presence of law as a façade’.¹⁸⁵ The court building and the interiors of a courtroom are spaces that are infused with symbolism, iconography and legal semiotics that have often been linked to judicial discourse. Goodrich describes actions that can and should be done within a particular institutional setting to explain this argument, such as political speeches, sermons, lectures and, most importantly, judgments.¹⁸⁶ However, this idea is not only restricted to the deliverance of a judgment. It extends further to delimiting the context and the conditions of the way a particular judgment is received and appropriated in that very courtroom. The same argument would apply to a sermon delivered in a church, for example. As Goodrich argues, this is not only an analytical space, but the existing physical architecture has a significant part to play in contributing to the ‘symbolic effect of carefully regulated genres of speech’.¹⁸⁷ This implies that the form and structure of a particular building adds meaning to its purpose and further enhances and contributes to the activity taking place within its walls. This physical structure, according to Goodrich, controls and administers its subjects.¹⁸⁸ Parallels can be drawn between a court and this kind of a structure; the style in which a judgment is delivered and the language used in this context echoes a form of regulated speech that works to maintain the symbolism attached to the process of judicial discourse and further administers its subjects – which in this instance are the litigants present in the court.

¹⁸⁵ Goodrich (n 74) 188.

¹⁸⁶ Goodrich (n 74).

¹⁸⁷ *ibid* 189.

¹⁸⁸ Goodrich (n 74).

Leaving aside the exterior façade of a court, walking into a court can often provoke confusion and anxiety. A court is a space where routine business is ongoing, but for a person entering for the first time it can be an intimidating and confusing experience. Within a courtroom there are different designated areas for different persons. The judge sits on an elevated bench away from the easy reach of the general public. The place for the petitioner or plaintiff and the respondent or defendant is marked out in advance and their viewing and listening positions vary.¹⁸⁹ Space for the litigants is always at the far end, at the back and never near the lawyers or closer to the judges. The general public has a last bench space in some courts and, in most, the space is considered the same as that of the litigants. The press is given limited space, depending on the size of the court and the issues on which the matters are being heard. In some courts, there is no space for the press at all. I discussed the issue of restricted and limited space along with the division of existing space when I interviewed individuals in the field. In all the three colonial High Courts, the lack of space was an issue and there was a clear hierarchical division in the manner and amount of space accorded to judges, lawyers, litigants and the general public.¹⁹⁰

As Goodrich argues, this entire structure of the court is a 'didactic one' where preference is accorded to the visibility of justice over its audibility.¹⁹¹ This didactic nature expresses itself in the form of judicial hierarchy. The idea of hierarchy does not limit itself to the person but also extends to the structure of the court, where the 'geometrical organisation' progresses upwards, a feature Goodrich talks about in his writings.¹⁹² In the Supreme Court of Israel all the judges' chambers are placed at the top of the building.¹⁹³ This overall style and presentation of the courtroom forms part of the judicial attempt to convey the majesty of law. It is interesting to see how court architecture uses different means to legitimise and monumentalise law. While in most cases it is noted how the law asserts its authority through imposing itself on those subjected to the force of law, yet courtroom space is organised in such a manner that the judiciary controls and maintains the hierarchy within itself.

We must remind ourselves that literature on colonial history documents the nature of colonial rule and the role that imposing buildings and structures played in implying the domination of the imperial over its colony.¹⁹⁴ Remembering the

¹⁸⁹ Goodrich (n 74); Mulcahy (n 4).

¹⁹⁰ Details about the courtroom layout and space restrictions are discussed in ch 3, ch 4 and ch 5 – the Calcutta High Court, the Bombay High Court and the Madras High Court respectively.

¹⁹¹ Goodrich (n 74) 191.

¹⁹² Goodrich (n 74) 190.

¹⁹³ The Public Affairs Department, 'Tour of Supreme Court', The State of Israel: The Judicial Authority, available at <http://elyon1.court.gov.il/eng/siyur/index.html> (accessed 24 April 2016).

¹⁹⁴ See Cohn (n 159); NB Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, The Belknap Press of Harvard University Press, 2008); Kolsky, *Colonial Justice* (2010); Mukherjee (n 159); Schmitthener, 'Legal Profession in India' (1968–1969); R Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi, Oxford University Press, 2000).

presence of the colonial is therefore imperative when analysing and documenting the visual culture of the British created and structured High Courts of Calcutta, Bombay and Madras from a pre-independence to a post-independence India. The act of maintaining a particular hierarchical order in court, for example, is a symbol of a particular image of justice that the judiciary preserves within its own secretive circles. In the Calcutta High Court and the Madras High Court, courtroom number 1 was specifically reserved for the Chief Justice of the High Court. During field interviews when I asked people why courtroom 1 was so-reserved, the automatic response was that the Chief Justice of the court is the most senior judge, the 'number one judge of the court' and therefore courtroom number 1 was the appropriate court to be used. In the case of the Bombay High Court, the largest courtroom is courtroom number 46, and not courtroom number 1. It is said that this courtroom, being the largest, used to be the court for the Chief Justice. However, currently, the Chief Justice's courtroom is courtroom number 56 because it has the largest judge's chamber attached to it (see chapter four).

The common thread running between these allocations of courtrooms are ideas of superiority and domination, of being number one, and being the largest in all forms. This practice of subordination is an inherent colonial tradition of these three High Courts. The manner in which colonial law is propagated and continued shows that independence did not mark a break from the colonial past and several practices, especially in law, 'continued to evolve in shadows of the empire'.¹⁹⁵ This entire powerful notion of dominating justice and the impact of judicial iconography within its historical setting and with its cultural linkage then leads to constituting the anxious relationship between seeing and hearing justice where justice must appear to be done, making for a unique visual policy of the law.¹⁹⁶

While new court buildings are built theoretically to make the court more public-friendly, there is always the debate and fear that such characteristics would reduce the legitimacy of the court. Interestingly, when one sees a court building that is not massive and awe-inspiring or self-imposing, the immediate reaction would be that this does not look like a 'court' building. This perception of what a court 'looks' like has developed over the centuries and, as Mulcahy traces, it is mostly courts of the nineteenth century that displayed these identities and created a norm.¹⁹⁷ Constructions in the nineteenth century in India were largely colonial edifices built by the British to contain their despotic rule.¹⁹⁸ Through large, imposing buildings, the colonial notion of superiority over inferiors was established. With the continuation of the Indian courts of law functioning from the same structures, the preservation of the empire has continued into the post-colonial. Therefore, colonial law

¹⁹⁵ Mukherjee (n 159) xiv.

¹⁹⁶ Douzinas and Nead (n 88); P Goodrich 'Megalography' (2008) 8 *Symbolism* 83; Haldar (n 118).

¹⁹⁷ Mulcahy (n 4).

¹⁹⁸ See Cohn (n 159); Kolsky (n 163); Mukherjee (n 159); Singha, *A Despotism of Law* (2000).

propagated in colonial structures, played a specific role in the visual histories of the three High Courts under study in this book. This has led to a particular visual stereotype that associates large, palatial structures with the embodiment of law, order and legitimising powers – an idea that exists for courts across the world.

In the construction of court buildings, the symbolism that abounds is caused by different factors that can be linked to the cultural background of the court or the historical situation surrounding it. In some instances, multi-cultural aspects and socio-political considerations are also identified within court buildings. Take, for example, the Federal Constitutional Court of Germany. Built in the 1960s, this building is known for its glass façade, which forms a defining part of its iconography. The entire outer structure of the building is made of glass, allowing for the court to be observed from both inside and outside. The idea of a court being within ‘walls’ is modified into transparent walls in this context.¹⁹⁹ The use of glass in this court was a conscious effort on the part of the state to create something that signified democracy and the rule of law through transparent methods.²⁰⁰ This transparency symbolises a break from an authoritarian figure of law to one that is a reflection of a new socio-political movement. In the German context, this became an iconographic symbol of a break away from the relationship with the Third Reich and the association of atrocities with the Nazi rule. It was a clear semiotic motif that the court disassociates itself from that particular socio-political movement and has and will always stand for ideas of transparency and openness to all.²⁰¹ Therefore, the use of glass can be classified as one form that the court uses to legitimise its visual authority – the court propagates the images of its transparency through glass. As Resnik and Curtis write, the use of glass to propagate ideas of openness and transparency, and of being populist, has been introduced in several courts and has been used by architects in several locations.²⁰² This frequent use of glass to signify an openness towards the public was not conceived solely by considerations of iconography. It was also possible to implement in practice due to technological advancements over time wherein glass became a material that could be used in construction – an option that had not been viable in earlier times.²⁰³ Due to construction-related advancements in engineering and building, glass became an affordable material allowing for it to be used and appropriated in symbolically significant ways. The presence of glass in a court structure has now been documented in terms of the transparency quotient that it contextualises the given court in. This has not prevented the debate between, ‘literal and phenomenal transparency’ as discussed by Resnik and Curtis while documenting the use of glass façades in building courts.²⁰⁴

¹⁹⁹ Mulcahy (n 4).

²⁰⁰ Mulcahy (n 123); Resnik and Curtis (n 106).

²⁰¹ Mulcahy (n 123).

²⁰² Resnik and Curtis (n 106).

²⁰³ *ibid.*

²⁰⁴ *ibid* 341.

Looking at the Constitutional Court of South Africa in this context is pertinent. This court is important for all the judicial iconography that it displays. The court has created a well-guided tour to visit the court, alongside an informative visitor's brochure. The description of the Constitutional Court is largely from the copy of the brochure that I have from the year 2014. The court acknowledges in all forms that it was established to oppose the apartheid regime that was repressive and authoritarian and move towards a society based on 'dignity, equality and freedom'.²⁰⁵ In order to build an edifice that portrayed their constitution as the law of the land, an international competition was held, accepting designs for a new court building. The design that was selected was one created by a group of South Africans. It was modelled on the idea of 'justice under a tree' as this related to the earlier notions of how courts were formed below trees and justice was dispensed in an open, transparent manner.²⁰⁶ The site was categorically selected as the Old Fort Prison area (where Nelson Mandela had been kept captive) as it symbolised the conquest of hope over a tainted past. Along with these ideas, the court has also been built structurally and with material that propagates ideas of transparency and open access to all. Therefore, on a first look at the court, it challenges preconceptions about how a court building should look.

The walkway to the court is through the Great African Steps, made from reclaimed bricks from one of the trial block prisons. The pathway thus serves a dual purpose – one that leads to the Constitutional Court for equal justice and the other as a way ahead from past oppressions. The important words 'Dignity, Equality and Freedom' are etched on the walls at the entrance of the court in all 11 official languages of South Africa.²⁰⁷ Using all 11 languages sends the message that the court is open to all communities and people that make up the Republic of South Africa.²⁰⁸ The text is written in different fonts so as to mark a departure from the use of Roman symbols for lettering on official buildings. Therefore, in more ways than one, this court works towards breaking away from past atrocities but not without keeping enough reminders so that present injustices are prevented. Past the text of equality, one walks through large wooden doors that narrate the story of the Bill of Rights as designated in the constitution. The carvings create the perfect entry to the Constitutional Court of South Africa.

The entrance foyer of the court appears to be less like a court in the traditional sense and is more open and welcoming than most court structures. There is the extensive use of glass in the entry foyer area to filter in concepts of transparency in the court and its methods. This further highlights the idea of justice being open and

²⁰⁵ Constitutional Court of South Africa, 'Visitor's Brochure' (Johannesburg, Constitutional Court of South Africa, 2014).

²⁰⁶ *ibid.*

²⁰⁷ *ibid.*

²⁰⁸ Resnik and Curtis (n 106); The Bombay High Court building reflects this through some of its pillars which have carvings of faces of men with different headwear that represent all the communities that inhabited the city of Bombay. The carvings thus symbolised that the court was open to all the people of Bombay city (see ch 4).

participatory like under the trees of justice. Additionally, the airy foyer area resembles an extension of the public places of the city and is therefore more welcoming as it rejects to an extent the notion of a strict court order. In building this court, the intention of the architects was thus clear. They wanted to create 'a physical representation of the constitutional values'.²⁰⁹ The importance of judicial iconography in the course of judicial discourse becomes important in the case of this court that is fighting the horrors of an apartheid regime that existed up until 1994.

In the development of this entire court structure, it is important to note that as each area of the court was developed by the architects, it was presented to the judges for their comments. This can be linked to the strong reactions from the judiciary in Resnik and Curtis's documentation of art commissioned for courthouses in the United States of America (see later in this chapter).²¹⁰ Irrespective of the reactions of the judiciary, it is pertinent to realise how significant the opinion of the judiciary is when constructing a court. The legitimacy that a court derives is not limited to the statute, but is kept alive by the judiciary and therefore, in reality, the legitimacy and authority that the common man views the court with is actually a reflection of how the judiciary wills the court to be depicted. In South Africa the judges agreed to the transparent and welcoming features that made the court space open for all whereas in New Jersey in the United States of America images of the Lady of Justice were linked to communism and race and therefore veiled from the public eye for ever (see later in this chapter). This depiction of justice is the very basis of judicial iconography that creates a particular image of justice that a 'legitimate authority' has mandated.

Another court that has been written about in terms of its judicial iconography and the relationship that the court shares in controlling its interior from its exterior is the Supreme Court of Israel. Haldar has written extensively on the different motifs and symbols that abound this court space and how different signs create a specific iconophobia according to the law with a legitimacy that controls the mind of the subject entering the court (see earlier in this chapter).²¹¹ In the Indian context, the building of the High Court of Punjab and Haryana and that of the Supreme Court of India are pertinent to this discussion.²¹²

The High Court of Punjab and Haryana situated in Chandigarh is noted for its monumentality. Eminent architect Charles Correa's commentary on the structure designed by the French architect Le Corbusier narrates the iconographical symbolism attached to this daunting structure.²¹³ The building, completed in 1955, has a main entrance that Correa describes as 'one of the greatest *tour [sic]*

²⁰⁹ Resnik and Curtis (n 106) 350.

²¹⁰ Resnik and Curtis (n 106) and see also Mulcahy (n 4).

²¹¹ Haldar (n 118).

²¹² For a detailed discussion on the judicial iconography of the Supreme Court of Israel, the High Court of Punjab and Haryana, the Supreme Court of India and other courts across the world, see my earlier work in R Khorakiwala, 'Judicial Iconography in India' (2014) 1 *Asian Journal of Legal Education* 89.

²¹³ C Correa, 'Architectural Expression', Seminar on Architecture, Lalit Kala Academy (1959).

de force ever pulled off in architecture.²¹⁴ The overarching and superimposing entrance talks of ‘superhuman justice’ and ‘justice without mercy’ that are somehow above and beyond the prejudices of the individual persons involved.²¹⁵ The commanding nature of this architectural structure is questioned by Correa. He asks, ‘is this justice? Is this a picture of justice? Should justice be beyond the individual, superhuman, monumental, beyond mercy?’²¹⁶ Judicial iconography then creates an image of justice that is so powerful that it overtakes the individual and moves to the superhuman through the enormity and domination of the structure that emanates law and justice.

The Supreme Court of India, constructed in 1958, was completed just after the High Court of Punjab and Haryana. As per the Indian legal system, the Supreme Court of India is the apex court and the final seat of justice to which an appeal can lie. The Supreme Court has symbolism and iconography at its very core. The building has been built to represent the scales of justice – the central beam being the court of the chief justice with its high ceiling rotunda and the two side wings representing the scales of justice.²¹⁷ Therefore, the roots of the building are embedded in balancing the scales of justice, and providing the court with its most striking feature of domination and control. Another compelling feature of the Supreme Court building is its circular dimension that is right at the centre of the court and is the first projected visual image of the building. The rotunda of the Supreme Court of India in many ways represents ‘a defence against formlessness and chaos’ that abounds the diverse people that it represents through mechanisms of judicial review, judicial activism and upholding of various constitutional rights.²¹⁸ This reading of the circular is in continuation of how Haldar refers to the formation as a symbol of absolute closure when he talks about the circle in the Supreme Court of Israel.²¹⁹ The Supreme Court of India thus has its own visual narrative which it projects through various motifs and abstract notions that are semiotically assessed to evaluate the ocular message of domination and authority that the court gives to those walking towards and entering its premises.

Moving from the idea of a judicial iconography of courts, the next section discusses the iconography associated with the image of the statue of Justice that inhabits different court spaces.

VI. Judicial Iconography and the Statue of Justice

There are several attributes of justice that create the judicial iconography that is seen in courts. The most striking and relatable of these attributes is the image of

²¹⁴ *ibid* 48.

²¹⁵ *ibid*.

²¹⁶ *ibid*.

²¹⁷ ‘Supreme Court of India Museum: History’ Supreme Court of India, available at www.sci.gov.in/pdf/Museum/m2.pdf (accessed 25 March 2019).

²¹⁸ Haldar (n 118) 199.

²¹⁹ Haldar (n 118).

the statue of Justice. Although the idea and concept of a 'Lady of Justice' originates from Roman doctrines, it is the single most commonly used symbol that depicts justice in its varied forms and is relatable to people who access the courts. From courthouses to popular culture, television and film, the statue of Justice has adopted several forms and figures. Interestingly, this image of justice often adapts to the local and modifies itself based on artistic impressions and rules laid down by the judiciary.

A. The Image of Justitia

Primary to understanding the relationship of law with the specific image of the statue of Justice is the germinal work by Jay.²²⁰ Jay traces the image of Justitia in the West, which changes its visual form from the fifteenth century onwards.²²¹ He argues that the images of Justitia that were earlier open-eyed and are now blindfolded are linked to the changing notions of justice itself. Jay documents how the goddess Justitia, in her earliest Roman incarnations, was 'clear-sight[ed]' and how 'suddenly' at the end of the fifteenth century a blindfold was placed over her eyes creating one of 'the most enigmatic of the attributes of justice.'²²² Earlier interpretations of a blindfolded justice were linked to the idea that the 'fool' was covering the eyes of justice as the very idea of justice had lost its meaning: in her blindfolded form, Justitia was unable to analyse things clearly or look at what was to be balanced on her scales.²²³ This form of satirical construction of justice lost its relevance by the 1530s and the blindfolded image was then seen as 'a positive emblem of impartiality and equality before the law.'²²⁴ This shift in the image of justice now meant that law and acts of justice were to exist only through language in the course of discussions and persuasions rather than through images that might overpower the minds of the people involved.²²⁵ Douzinas and Nead describe this as the law generating a particular iconophobia wherein images are constantly being policed and create a particular visual policy that controls not only what you see, but also how you see it.²²⁶ Therefore, law's aesthetic policy is always geared towards a legal iconology that creates a systematic association to read the hidden meanings of various signs and motifs peculiar to the law.²²⁷

Even today there is no unanimity on whether Justitia should be blindfolded or open-eyed. It is only a matter of interpretation as it can be viewed as impartiality

²²⁰ Jay (n 12).

²²¹ *ibid.*

²²² *ibid* 87.

²²³ Jay (n 12) 87.

²²⁴ Jay (n 12) 88.

²²⁵ Jay (n 12).

²²⁶ Douzinas and Nead (n 88); see also Douzinas (n 110).

²²⁷ Kevelson (n 38).

and equality or injustice and ignorance. Here, the presumed knowledge, presupposed notions and cultural linkage in interpreting the semiotics of law plays a pivotal role.²²⁸ The question remains as to how such images influence judicial discourse in the spaces where they are allegories of justice. The description and classification of images that point towards specific motifs and symbols therefore becomes the basis of looking at the judicial iconography of court spaces. As Jay concludes, visual revelations of the truth were now less relevant to the entire decision-making process.²²⁹

There is another argument in favour of Justitia being blindfolded. It says that with her covered eyes, Justitia is compelled to walk into the future with caution in her steps as opposed to rushing into a judgment impulsively. Justice as it exists today must accept that it is not necessarily complete and there are several laws that are imperfect. Therefore, the judgments they deliver often fall short of what might be considered an 'absolute judgment'.²³⁰ This analysis by Jay leads to the conclusion that the idea of Justitia does not necessarily need to be a debate between her being open-eyed or blindfolded. Instead, whether blindfolded or not, this particular image of justice should be seen as one that is sensitive to individual particularity and viewed in light of the relationship it fosters between people who need to access justice. As Jay says, Justitia would be best depicted with two faces – one where her eyes are wide open and the second with her eyes covered by a veil.²³¹ Only such an image would be able to combat the inherent conflicts emanating from the different notions of perceived justice.

B. Contested Statues, Paintings and Murals: Race, Gender and Religion

The debate on images of justice, however, has not been restricted to the blindfold placed on the eyes of Justitia. Abstract images of justice have also had to pass the test of questioning judicial iconography in what Resnik and Curtis call 'democratic courtrooms'.²³² They have traced the changing image of justice through artwork commissioned by the Government of the United States of America at the time of the Great Depression of the 1930s. During this period, government officials commissioned artwork for courthouses and post offices across the US on the premise that such work would promote unity and a nationalist feeling amongst the people at the time of the economic downturn. Further, it was meant to generate and infuse into the economy the required revenue through the creation of

²²⁸ Hasenmueller (n 63); Leeuwen (n 31); Panofsky (n 5).

²²⁹ Jay (n 12).

²³⁰ *ibid* 99.

²³¹ Jay (n 12).

²³² Resnik and Curtis (n 106) 106.

employment opportunities.²³³ Some of the images thus created led to far-reaching consequences and debates linked to the politics of identity and rights. The controversies surrounding these images brought out the different conflicts in the created images of justice where what the law perceived itself as was very different from what it was perceived as from an external viewpoint.

The artwork in question was sometimes abstract art, in some instances had realist images and, in all cases, was understood by those who judged this art within a completely different framework than that of the artists. The form and kind of protests that were associated with the different artists' work ranged from issues of race to women's rights and slavery.²³⁴ Some controversies were so intense that they led to the created images of justice being covered and separated to be kept out of reach from the general public – restrictions that persist even today. The examples cited by Resnik and Curtis are evidence of the importance of the images of justice in law and they raise the question as to the influence that a particular image has on the visual representation of law linked to what the judiciary believes legitimises its actions.²³⁵ In most cases of protest, it was the judiciary that had a problem with particular depictions of the images of justice as created by the different artists. When the judiciary reacts thus to controlling its image it evidences the importance accorded to the symbolism and the ocular in terms of the law, its iconophobia and jurispatic tendencies.²³⁶

The symbolism that infuses the courtroom space thus is important as it affects how the judiciary perceives itself. A telling example of this is the statue created by the sculptor Romuald Kraus meant for the federal courthouse in Newark, New Jersey. Kraus's depiction of justice was based on the gesture and expression of the statue, which conveyed its meaning without the conventional attributes of the sword, scales and blindfolds.²³⁷ However, this model of justice was showered with a host of criticisms ranging from referring to the statue as a 'woman with biceps' or 'a wrestler'.²³⁸ The maximum critique for this artists' work came from a resident federal district court judge who connected this image to one that asserted 'communism' without any true spirit of justice.²³⁹ Resnik and Curtis argue that it is evident on viewing the statue that there is no 'hint of communism' and the artist has strongly refuted this.²⁴⁰ The end result has been that the courthouse in Newark now has its own 'blindfolded justice' that appeals to a particular visual representation of justice and the original creation by Kraus has been moved to another part inside the courthouse.²⁴¹ This move also came late in 2008 for an image that was created in 1935. Until its change in location in 2008, the statue was 'banished

²³³ Resnik and Curtis (n 106).

²³⁴ *ibid.*

²³⁵ *ibid.*

²³⁶ Cover (n 80); Douzinas and Nead (n 88).

²³⁷ Resnik and Curtis (n 106).

²³⁸ Resnik and Curtis (n 106) 109.

²³⁹ *ibid.*

²⁴⁰ Resnik and Curtis (n 106) 110.

²⁴¹ *ibid.*

to obscurity,²⁴² much to the surprise of its creator.²⁴² It is important to note that a judge raised the vague critique linking the image to one of communism. Not only does this question the perception of judicial iconography but also indicates the low tolerance for alternate forms of expression through different political ideologies. Allegorical images of justice are therefore a form of representation through which one can attempt to understand the idea of justice from those who deliver the very promises of justice.

In the US, race is another measure through which the perception of the judiciary is ever evolving. Whether or not justice can be coloured became grounds for intense contestation. The commissioned images for the states of South Carolina and Mississippi brought this discussion to the forefront. In South Carolina, it was the work of the artist Stefan Hirsch that was unacceptable to the town of Aiken, where it was to be placed. The primary reason for protests was that the lady in the mural appeared to have 'negroid traits' as argued by one of the judges.²⁴³ This led to the mural being hidden behind a cloth. The solution was that the artist should lighten the colour of the skin thereby making it look less 'negroid'. The mural, however, still remains behind curtains.

A similar reaction followed in Mississippi. Here, the image, installed in 1938, was initially not opposed. However, by the 1960s the mural had been covered with drapes due to protests directed to the work of the artist Simka Simkhovitch.²⁴⁴ For the artist, this represented the typical life of the people of Mississippi during his time. However, protesters viewed this as a permanent depiction of biases related to race, gender and segregation, thereby suggesting to us that a visual history of the law narrates a powerful story about racial politics of American law. The reaction of different judges and protesters across the US to these images even after clarification from the artists speaks of a pattern of the perception and image of justice overall. Further, justice appears to be something different for the judiciary in contrast to the view of the artist who recognises the anxious relationship between law and justice, where art captures the promise of law to be just.

In terms of statues representing justice, the sculpture and statue of the Prophet Mohammed in two courts in the US led to several debates. The sculpture relates to the artwork in a frieze in the Supreme Court of the United States (SCOTUS) in Washington, DC; the second is a statue that is placed on top of the New York State Supreme Court, Appellate Division in New York City. Both these courts had placed visual representations of Prophet Mohammed in their spaces as a depiction of him being a law-giver. In both cases the sculpture/statue sat within a host of other law-givers. In the SCOTUS the frieze on the northern wall has nine law-givers, including Prophet Mohammed, depicted standing next to each other.²⁴⁵

²⁴² *ibid.*

²⁴³ Resnik and Curtis (n 106) 112.

²⁴⁴ Resnik and Curtis (n 106).

²⁴⁵ As seen in the court-related exhibitions inside the Supreme Court of the United States building in Washington, DC, USA. Altogether, between the northern and southern friezes, there are sculptures of 18 law-givers.

In the New York State Supreme Court there are currently nine law-givers' statues placed on the roof of the court building.²⁴⁶ Both these artworks have faced protests.

The sculpture in the SCOTUS was opposed in the 1990s by the Council on American–Islamic Relations. Their main reasons for opposition were that Islam prohibited the pictorial representations of the Prophet and in general was against idol worship. Additionally, they were against the depiction of the Prophet as it was – with the *Quran* in one hand and a sword in the other hand – as it reinforced ideas of Muslims being conquerors.²⁴⁷ The image of Prophet Mohammed in the SCOTUS is of a man in a long robe, with a sword in one hand, the *Quran* in the other and wearing the *keffiyeh*²⁴⁸ headdress. The SCOTUS rejected the claims on several grounds, some being that there were laws against altering the architectural features of the court building and that there were several swords in the frieze and not only in the hand of the Prophet.

An article written by Taha Jaber al-Alwani to clarify the legal stance about the propriety of the portrayal of an image of the Prophet states that there are no written rules against the use of images in Islam and it was more of a precedent that was followed over time.²⁴⁹ He clarifies that there are different schools of thought on this. He states that it should be appreciated that the Prophet was recognised as a law-giver and that since the western world used imagery one should accept their form. However, he pointed out that in several Islamic texts there are vivid descriptions of what the Prophet looked like and therefore the sculptor should have read these texts and then created an image which would have been more realistic instead of creating an image that is based on a personal or popular notion of people from the Middle East region from where the Prophet originated.

In the case of the New York State Supreme Court, the request for removal of the statue of the Prophet Mohammed was accepted and is therefore no longer present on the roof of the court.²⁵⁰ The statue, placed there in 1902, depicted a man wearing a robe and a turban, with a flowing beard and holding a book and a scimitar.²⁵¹ In the early 1950s when there was some renovation work taking place attention focused on the statues, of which Mohammad was one. At that time there were protests against the creation of an image of the Prophet. The representatives of Egypt, Indonesia and Pakistan requested the statue be removed

²⁴⁶ As mentioned in the Attendant's Guide to Appellate Division 1 (AD1), provided when visiting the New York State Supreme Court, Appellate Division in New York City, USA. Including the statue of Prophet Mohammed, there are 10 statues altogether.

²⁴⁷ Resnik and Curtis (n 106).

²⁴⁸ A headdress worn by Arab men, consisting of a square of fabric fastened by a band around the crown of the head.

²⁴⁹ TJ al-Alwani, "Fatwa" concerning the United States Supreme Courtroom Frieze' (2000–2001) 15 *Journal of Law and Religion* 1.

²⁵⁰ The other nine statues are of Confucius, Moses, Zoroaster, King Alfred the Great, Lycurgus, Solon, Saint Louis IX, Manu and Justinian.

²⁵¹ Resnik and Curtis (n 106).

on behalf of their countries.²⁵² The statue was thus removed for renovations and never restored to its original position; today it does not stand on the roof of the court building.²⁵³

These two statues were selected to represent the idea of justice within court spaces as they depicted code-givers of law. However, for another group of people the same depiction did not represent justice but instead violated their beliefs, laws and modalities, and ways of life. The two courts in this instance reacted differently. One court chose to maintain its visual representation on the grounds of evoking law as architecture and conservation; the other court decided to alter its judicial iconography by accepting the argument against iconoclastic representations of the Prophet. These debates indicate that decisions about how to represent law and justice are negotiated both internally and externally, thereby making and re-making law's image. While the sculptures/statues in this case are not representations of the statue of Justice discussed above, they still present an alternative judicial iconography to ideas of law and justice manifesting in different ways. This depicts how the image of justice can be envisioned in multiple ways and what constitutes the statue of Justice is based on a viewer's understanding of the signs and motifs that are displayed and linked with a certain amount of presumed knowledge and cultural shared information in a legally plural and global context.

C. Representing Justitia in Different Times and Places

These images and their histories sketch a critical perspective on judicial structures that escapes a purely doctrinal view on law. Understanding the histories, circulation and consumption of images of justice therefore becomes imperative and opens up new avenues for academic work on courtroom ethnography. The prevalent image of justice is that of Justitia, a female figure, blindfolded (and, earlier, open-eyed) along with certain specific attributes which range from scales balancing justice, a book or even a sword. Jay maps the transition of Justitia from being open-eyed to gathering the blindfold across her eyes; and different courts in India and across the world have localised this particular image of justice to interpret what justice symbolises for a particular court and its people.²⁵⁴ There are several questions on this particular image of justice and especially on the blindfold. Goodrich asks, 'what is the proper interpretation of the blindfold, which we find not only on Justice (*Justitia*) but also on juristic representations of Cupid, Fate (*Fortuna*), bridegrooms, and the condemned?'²⁵⁵ Goodrich concludes that

²⁵² As mentioned in the Attendant's Guide to Appellate Division 1 (AD1), provided when visiting the New York State Supreme Court, Appellate Division in New York City, USA.

²⁵³ Resnik and Curtis (n 106).

²⁵⁴ Jay (n 12).

²⁵⁵ Goodrich (n 119) 141.

this image of Justitia that has evolved over time, is a legal symbol whose 'referent' has been forgotten.²⁵⁶

Jay observes three variations of Justitia over time: a blindfolded Justitia; an open-eyed Justitia; and, most unique of all, Justitia depicting both these symbols of justice.²⁵⁷ This last image of Justitia is with her face half blindfolded and half open-eyed, making it a somewhat ideal image that encompasses both the notions of justice as developed over the years. The Supreme Court of India has a mural of the Lady of Justice, completely open-eyed, holding the scales of justice and a book (see Image 2.1). What makes her unique is that she is dressed in traditional Indian attire, making her completely localised to her surroundings. Importantly, a general perception of the Lady of Justice in India is that of a statue blindfolded and holding scales in her hand. This is generally seen²⁵⁸ in Indian cinema,²⁵⁹ theatre and print media²⁶⁰ and an oft-understood image of justice which is in stark contrast to the image purported by the apex court of the country. Goodrich looks at a completely contradictory image of Justitia when he describes Justitia through an image of her standing open-eyed, but the jurists around her are all blindfolded.²⁶¹ This is a symbol that is an image of justice, but one that does not fit into the norm of the existing ideas of justice. However, it does not make it any less an image of justice as an iconographical understanding would explain.²⁶² When looking at an image from the lens of judicial iconography it allows for interpretations linked to historical situations and based on personal experiences thereby studying the visual subject matter of the ocular and creating new and unseen meanings for the same visual.²⁶³

²⁵⁶ *ibid.*

²⁵⁷ Jay (n 12).

²⁵⁸ This book does not attempt to draw parallels between the adaptations of the statue of the Lady of Justice and its interpretation in popular culture, daily media and cinema – that is out of the scope of this book. However, for purposes of perspective, it is interesting to see the image of the statue of the Lady of Justice that exists in regular Indian media and cinema.

²⁵⁹ In October 2015, a Bollywood film was released named *Talvar*. The word *talvar* itself means weapon and the film has used it in the context of the weapon in the hands of the statue of the Lady of Justice – the sword. Posters and promotions of the film had the image of a statue of the Lady of Justice blindfolded, with a sword in one hand and the scales of justice being balanced in the other – similar to the print media understanding of the image of justice (see Image 2.2). The film has a particular dialogue referring to this '*talvar*', that is, the sword. The dialogue discusses the statue of the Lady of Justice saying that one has seen the statue and seen the sword in the hands of the statue. One of the characters states that, in the past 60 years (referring to the past 60 years of India's independence), this very *talvar* in the hands of justice has caught rust. While this statement attempts to be an impactful resonating dialogue, it is pertinent to note that post-independence India has not given the statue of the Lady of Justice a sword and therefore the idea that the sword has rusted forms a different visual culture of the courts of India. While popular culture uses these attributes of justice to propagate specific theories of the justice system, it would be interesting to note how interpretations, humour and satire would change when the alternative interpretation of the statue of the Lady of Justice by the courts in India is brought to the limelight.

²⁶⁰ The Indian daily newspaper, *The Times of India*, often in its comic strips has imagined the statue of Justice to be a lady, blindfolded, with a sword in one hand and the scales of justice in the other (see Image 2.3). To see the Lady of Justice thus is interesting because it is in stark contrast to the statue in the Supreme Court of India.

²⁶¹ P Goodrich, *Legal Emblems and the Art of Law: Obiter Depicta as the Vision of Governance* (New York: Cambridge University Press, 2014).

²⁶² Panofsky (n 5).

²⁶³ *ibid.*

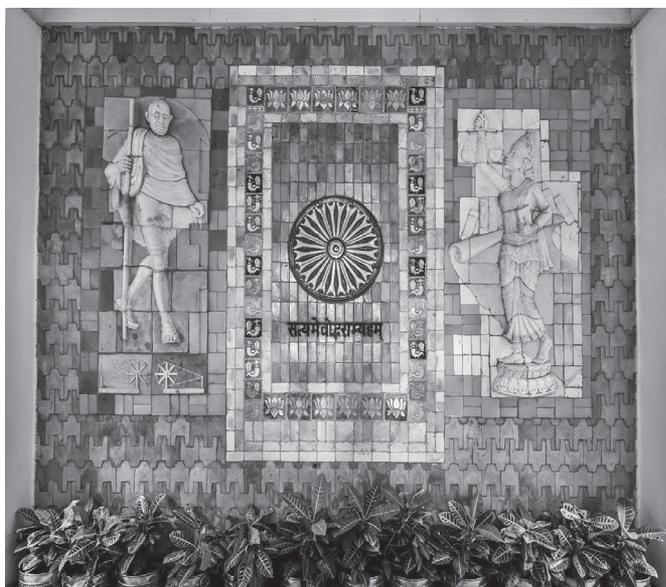


Image 2.1 Mural of the Statue of Justice, Supreme Court of India

Source: Public Relations Officer, Supreme Court of India, <https://sci.gov.in/>.

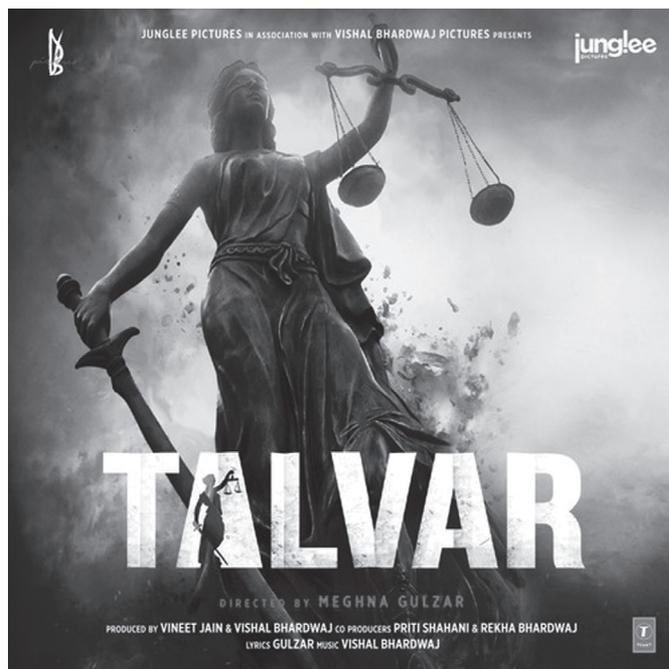


Image 2.2 Poster of the Bollywood film *Talvar*

Source: Vishal Bhardwaj Pictures Pvt Ltd.

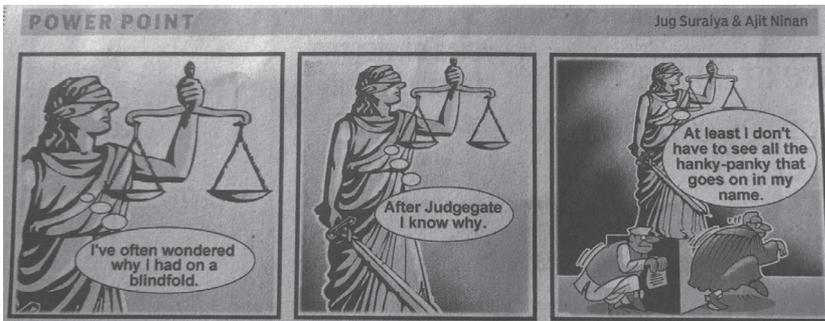


Image 2.3 Comic strip, *Times of India*, Mumbai

Source: Jug Suraiya.

What Goodrich understands from his research is that in most cases in the legal field, some observations, actions and objects are accepted as they are shrouded under the aura of legal supremacy.²⁶⁴ He notes, 'As has long been suggested by non-lawyers, the signs of law, its foreign languages, its prolixity, its convoluted, and increasingly its images, are in significant measure not supposed to be understood but rather to be observed, revered, and obeyed';²⁶⁵ much like the iconophobia that the law wishes to create.²⁶⁶ These particular images are created to impress and convey the majesty of the law rather than have any particular meaning for law and legislation. It is these hierarchical images that the judiciary and the court often draw their revered legitimacy from. The imposing images of justice in its different facets create an overall image of the law that then becomes an iconographical symbol and an image of justice when observed by visitors to a judicial space. The legal iconology and its underlying principles thus lead to a synthesis of interpretations of varied notions and ideas linked to the symbols and motifs on display.²⁶⁷

The ideas and images of a blindfolded justice versus an open-eyed justice are linked to the judicial proposition that justice has to not only be done; it has to also be seen to be done. According to Goodrich, 'if Justice can neither see nor be seen, then access is denied'.²⁶⁸ Therefore, the image of law that is created by the courts is important as it is this image that plays a role in the way justice is viewed and revered and attaches a particular semiotics of signs and motifs that are peculiar to the law.²⁶⁹ Goodrich is not in favour of a blindfolded justice as according to him, 'Justice masked is justice unknown'.²⁷⁰ The need to take the image seriously is clearly spelled out by Goodrich as he states that, 'Images must be taken seriously precisely because they are the source of justice and the origin of the invention of

²⁶⁴ Goodrich (n 119).

²⁶⁵ *ibid* 144.

²⁶⁶ Douzinas and Nead (n 88).

²⁶⁷ Hasenmueller (n 63).

²⁶⁸ Goodrich (n 119) 155.

²⁶⁹ Kevelson (n 38).

²⁷⁰ Goodrich (n 119) 156.

law.²⁷¹ The policing of images and the creation of a particular aesthetic policy of the law allows for the court to thus not only control what you see but how you see it also.²⁷² As Resnik and Curtis²⁷³ demonstrate, ‘Justice has historically served as an easily accessible allegorical figure, giving shape and form to abstract notions of fairness and judicial deliberation, even if Justice’s various attributes and appearances have been contested.’²⁷⁴ This ocular aspect of justice proffers different images of the law that are evidence of the adaptation of law to its surroundings and the situation that it was created in. These images of justice play a critical part in marking out the role of the court and its effect on the way outsiders relate to the court, revere it, treat it with dignity and accord it the majesty it demands.²⁷⁵ The iconophobia thus generated propagates one kind of visual policy for the law through which it defines and images itself.²⁷⁶

Different authors have traced the images of Justitia in her various forms to set out certain similarities in her appearance and resemblance and the pattern behind the creation of various characteristics of these images of justice. JG Manning illustrates the similarities between the Egyptian deity of justice and its origin being traced back to the Roman Empire.²⁷⁷ The link between justice and existing political virtues is made clear by Ruth Weisberg, who writes that justice was defined less by the company she kept and more by the attributes she held.²⁷⁸ Of these attributes, the sword and the scales have managed to survive over time. Several authors identify the blindfold as the most controversial of all attributes of justice.²⁷⁹ Other issues that have affected justice are those that range from racism and minority issues to sexual connotations. David Rosand writes about the ‘color of justice’²⁸⁰ and Bennett Capers talks about the relationship between minorities that are neglected and the subsequent administration of justice meted out to them.²⁸¹ Goodrich details the ‘sexual commodification’²⁸² of justice through Banksy’s image of justice, ‘in a thong, with thigh high boots and a garter in which a dollar has been slipped.’²⁸³ Certain abstract images also have the potential to raise

²⁷¹ *ibid* 178.

²⁷² Douzinas (n 110).

²⁷³ Resnik and Curtis (n 106).

²⁷⁴ Tait (n 168) 4.

²⁷⁵ Tait (n 168).

²⁷⁶ Douzinas and Nead (n 88).

²⁷⁷ JG Manning, ‘The Representation of Justice in Ancient Egypt’ (2012) 24 *Yale Journal of Law and the Humanities* 111.

²⁷⁸ R Weisberg, ‘The Art of Memory and the Allegorical Personification of Justice’ (2012) 24 *Yale Journal of Law and the Humanities* 259.

²⁷⁹ See B Capers, ‘Blind Justice’ (2012) 24 *Yale Journal of Law and the Humanities* 179; Goodrich (n 119); Resnik and Curtis (n 106).

²⁸⁰ D Rosand, ‘The Color of Justice and Other Observations: A Response’ (2012) 24 *Yale Journal of Law and the Humanities* 305, 305.

²⁸¹ Capers, ‘Blind Justice’ (2012).

²⁸² Tait (n 168) 6.

²⁸³ Goodrich (n 119) 178.

the most blatant questions on race, gender and their relationship with justice albeit as an ‘interpretive puzzle[s]’.²⁸⁴

However, not all readers of iconography look at law and images as having a direct relationship with each other. Some writers believe that over time the link between the local and the representation of the law and the change in judicial proceedings along with the changing nature of the actors of the court have all led to an underscoring of justice as an allegorical representation of a purported image of law.²⁸⁵ Though Rosand²⁸⁶ is sceptical about whether such an abstract notion of justice can stand the test of modern experiences, Weisberg is positive that, ‘persistence of the figure of Justice as an emblem for the rites of judgment reveals a small portion of what could be a much richer visual inheritance’.²⁸⁷ In all these interpretations of justice and the image, Steven Fraade remembers to always ask, ‘what does the ocular occlude?’²⁸⁸ These varying interpretations and understandings of the image of law as set out by different authors is well summarised by Tait when she concludes that, ‘part of the complexity in seeing Justice is being attentive to what is unseen in the picture, and offer new ideas about how to represent Justice visually beyond the iconic allegorical female form that is our historical inheritance’.²⁸⁹

For a completely local interpretation and adaptation of the statue of Justice, the Tribunal Militaire, that is, the Military Tribunal of Lebanon provides a striking example. Visitors were not permitted inside this court and the exterior was barricaded and cordoned off by strict security personnel. Photographing the building of the court from outside was also prohibited. At the entrance of this court was a statue of Justice that symbolised everything that this court stood for – a complete image of justice that was localised and specific to this particular court as an institution. The statue of Justice was male, unlike most cases of the representation of a “goddess of justice” or a “Lady of Justice”. The statue stood tall and depicted a military person. This was evident as the statue was dressed in military attire, wearing a military hat and holding in one hand the scales of justice and in the other hand a book. This statue of Justice was open-eyed and standing straight in attention as a complete symbol of the military justice that the court promised for its people. In addition, this could also be a representation of the civil war and constant conflict that is a part of the everyday life of the people of Lebanon. A war-torn nation had its very own interpretation of justice through this statue. Therefore, as Panofsky explains, the historical setting within which an iconographical

²⁸⁴ Tait (n 168) 8; see also B Soucek ‘Not Representing Justice: Ellsworth Kelly’s Abstraction in the Boston Courthouse’ (2012) 24 *Yale Journal of Law and the Humanities* 287.

²⁸⁵ J Leubsdorf, ‘Justice Unrepresented’ (2012) 24 *Yale Journal of Law and the Humanities* 247; see also Simon, ‘Courthouse Iconography’ (2012).

²⁸⁶ Rosand (n 280).

²⁸⁷ Weisberg (n 278) 266.

²⁸⁸ SD Fraade, ‘Violence and Ancient Public Spheres: A Response’ (2012) 24 *Yale Journal of Law and the Humanities* 137, 138.

²⁸⁹ Tait (n 168) 9.

classification is interpreted is very important.²⁹⁰ This reading of the statue of Justice also links to Mulcahy's²⁹¹ argument on how publicly funded courthouses are designed in a government prescribed manner and DeVotta's²⁹² analysis of the Chinese influence on the architectural styles of the Supreme Court of Sri Lanka. The kind of influence on the perception of justice is starkly apparent in the colonial High Courts of Calcutta, Bombay and Madras, where justice and its image has been interpreted under colonial understandings of law and legal equality.

The Supreme Court of India provides an apt illustration for an Indian adaptation and conceptualisation of the statue of Justice (see Image 2.1). While the High Courts of Calcutta, Bombay and Madras are colonial in their construction and practice, the Supreme Court of India was completed in 1958, ie post-independence. It was constructed by an Indian architect under the Indian Central Public Works Department (CPWD). The style of construction is labelled as Indo-British as per the website of the Supreme Court of India and the depiction of justice in this court is distanced from the western interpretations of the statue of Justice, which is still seen in the Calcutta High Court and the Bombay High Court (see chapter three and chapter four respectively). In many ways, the statue of Justice in the Supreme Court of India attempts to define its relationship with the visual culture of the court based on its own historical situation and settings, along with its unique cultural linkage. The version of the Lady of Justice in the Supreme Court of India in this context is very interesting. This statue of Justice is made as a mural on the wall and is in the area of the court that is accessible only to judges and requires permission to be accessed. As I did not have permission to enter that section, the Director of the Supreme Court Judge's Library was very helpful by providing me with an image. The mural has Mahatma Gandhi on the left, the chakra²⁹³ in the centre and the Lady of Justice on the right. This Lady of Justice is a nationalised conception of justice. She is open-eyed and dressed in classical Indian dance attire. She is holding the scales of justice high up in one hand and her posture faces upwards, looking at the scales. In the other hand she is holding a book. She is standing on top of a lotus flower, which is the national flower of India. This statue of the Lady of Justice is a prime example of an interpretation of justice that suits the location of where justice is being performed. It is very similar in concept to the statue of Justice outside the Military Tribunal of Lebanon.

Another of my experiences of judicial iconography and the Lady of Justice has been truly localised. As a student in law school I was once assigned the responsibility of purchasing a 'new' Lady of Justice statue that had to be placed on the stage during an inaugural lecture as the existing statue had broken. I successfully found a local Mumbaikar (someone from the city of Mumbai, India) to sculpt me

²⁹⁰ Panofsky (n 5).

²⁹¹ Mulcahy (n 123).

²⁹² DeVotta (n 141).

²⁹³ The circular wheel with 24 spokes that is also at the centre of the Indian national flag.

a new Lady of Justice, explaining to him what the law school required. The end result of the sculpture was unique (see Image 2.4). The modelled Lady of Justice resembled a Maharashtrian woman holding the scales of justice – the sculptor regularly sculpts statues of Lord Ganesha, a very important deity for the people of Maharashtra. Therefore, at some level, just as the local seeps into the national, the way religion infiltrates the secular, the image of justice has a meaning only when a person can localise and imbibe it into their own culture.



Image 2.4 Localisation of the Statue of Justice by a *Mumbaikar*

Source: Rahela Khorakiwala.

Other interesting images of the statue of the Lady of Justice can be seen across the world. A unique statue is seen in the Supreme Court of Argentina (see Image 2.5). The statue of Justice is neither blindfolded nor blind, so she can see the truth, a feature that has been attributed to the originality of the sculptor Rogelio Yrurtia. The statue is also wearing a helmet which has the scales of justice on both sides, indicating that the helmet has been placed on her head for protecting justice. Her hands stick out straight in order to protect, maintain balance and forgive; and her fingers touch, symbolising that the people are all one and together.²⁹⁴ Moving north from Argentina, a statue of the Lady of Justice at The Federal Supreme Court of Brazil in Brasilia is featured seated, with a blindfold and a sword laid down across her lap, held by both hands. There are no scales of justice. This statue is used to distinguish the court building from the other government buildings within the same complex.²⁹⁵ Viewing these images assists in contextualising the dialogue on the judicial iconography that permeates courts and judicial institutions. Several statues of justice when designed detail the reasoning of their creation. On a perusal

²⁹⁴ This is the interpretation of the statue of Justice as provided during the walking tour of the Supreme Court of Argentina conducted by Micaela Lopez Prieto on Friday, 9 September 2016.

²⁹⁵ Resnik and Curtis (n 106).

of such facts, it is possible to trace the idea of the image of justice that is developed in the minds of artists and court personnel. It narrates an individual story of the visual culture of courts and how they decide to represent law and justice through images and an understanding of the semiotics peculiar to the law.



Image 2.5 Statue of Justice, Supreme Court of Argentina

Source: Rahela Khorakiwala.

Pertinent to this discussion is the statue of Lady Justice created for the Kansas Judicial Center, Topeka in the United States of America. The initial design that the artist Bernard Frazier wanted to create was that of a nude statue of Justice. However, this faced opposition and the idea was vetoed. Pursuant to this, the statue now kneels on a pedestal, wearing a full cloak and holding a bird in one hand. This bird is believed to be special – one that has an eyesight that is the sharpest of all. The placement of the bird in the hands of justice is specifically meant to depict a justice, ‘with clear vision and swift action’; words that are categorically stated in

the visitor's brochure of the judicial centre.²⁹⁶ The sword and scales is replaced by a new attribute – a bird with eyesight that represents the vision of justice. The use of a 'new' attribute talks to the presumption of a prior knowledge that is accepted when looking for the representational and symbolic meaning through visual semiotics and judicial iconography.²⁹⁷ The symbolism that infuses the judicial space is thus unlimited and forms the basis of the visual culture of the court.

Resnik and Curtis additionally write about another statue in North America – one from the Law Courts Building Complex in Vancouver, Canada.²⁹⁸ For this statue, the artist Jack Harman replaced the sword in the hands of Lady Justice with a scroll as he was opposed to the idea of capital punishment. Here the individual artists' relationship with the legal system influenced the depiction of justice created. The semiotic perspective in this case is reflective of the pre-existing social theories and debates on the issue of capital punishment, indicating the importance of understanding the meaning of iconographical symbols in the context of these existing notions and ideas.²⁹⁹ Since the court's website itself mentions the purpose of replacing the scroll with the sword and the fact that the statue is on display, it can be presumed that this adaptation to the depiction of the legal system was an acceptable image of law for the court and its audience.

In the Daniel Patrick Moynihan United States Courthouse located in New York City, USA,³⁰⁰ the statue of the Lady of Justice is presented in its own unique way. The 1996 12-foot-high bronze statue was made by the artist Raymond Kaskey. A note on the wall behind the statue informs that this statue, 'fills the main rotunda space with awe-inspiring power and elegance'. This description for the statue is apt. The statue of the Lady of Justice stands on one leg in a flying-like position. She holds the scales of justice in a modified way – one scale in each hand separately. There is a blindfold across her eyes and her clothes give the effect of the wind rippling through them, helping the flight motion. The note placed here also explains the introduction of the blindfold to represent impartiality from the start of the sixteenth century. Kaskey's modelling of this statue intends to show 'The figure's body, rising majestically from its pedestal, form[ing] the visual and symbolic balance for the scales'. Standing on one foot, this statue of Justice manages to effectively balance the principles of equality of justice with fairness and impartiality. The statue and its placement works towards changing the experience of those who walk into the court. It therefore narrates its own judicial iconography and provides for yet another interpretation and understanding of the different visual cultures that courts present.

²⁹⁶ Resnik and Curtis (n 106) 88.

²⁹⁷ Leeuwen (n 31).

²⁹⁸ Resnik and Curtis (n 106).

²⁹⁹ Jewitt and Oyama (n 48).

³⁰⁰ This court building is for the United States District Court for the Southern District of New York (SDNY), that is, it is a federal government court building and not a part of the New York state judicial system.

Through the literature on the evolving imagery of the statue of Justice, it is possible to visualise the carvings and statues and add that to the available literature on images of justice and the symbolism that infuses these spaces. The abstract notions then come alive through various symbols and motifs that further elaborate on the iconography of the law. Viewing and documenting these images within an aesthetic policy and visual symbolism creates a unique visual culture of courts, through which I then look at the images of justice in the colonial High Courts of India. The statue of the Lady of Justice as has been depicted in the West and elsewhere is not the same as the images available in the three High Courts of Calcutta, Bombay and Madras. The judicial iconography here has a different story to narrate, linked to its own cultural history, often making it, as mentioned above, a local adaptation of the image of justice. I explore these ideas in the following three chapters that individually focus on each High Court.

VII. Conclusion

Covering a vast array of courts, from Brazil, Israel and Lebanon to Mexico, South Africa, Sri Lanka and the US among others, observing different positions in the judicial hierarchy, this chapter looks at judicial iconography through its varying motifs and symbols, along with the different aspects and conditions that it thrives in. Every court manages to narrate a story of judicial imagery that keeps it within the perceived understanding of iconography of courts, but also marks it out as being distinct to its own dignity and majesty. The visual field of law thus created is expanded to enfold within it the various courts of law that have been in existence and are being created in new forms on a regular basis.

Looking at newer courts in the context of older courts creates a new memory of the courts of law and explains how they can be interpreted from their past into the future. What is interesting to note is how the symbolism and iconography that is an inherent part of both old and new court structures carries forward and manifests itself in different ways across varying time periods. The rules of iconography and symbolism do not change; they only appear in different ways in different courts. Therefore, judicial iconography becomes the study of the way courts of law treat the image and alter it to fit within their own perceived ideas and notions of what the law means.

Whether there is a need for the law to make these adjustments to its image is a question that finds its answer in the ritualistic court proceedings and didactic design of court structures, both physically and through unwritten rules and codes of conduct. The architectural structure creates a particular iconography that compels the majesty and dignity of the court. The other forms of visual control – through dress, language and a ban on photography, amongst others, along with maintaining the legitimacy of the court and perpetuating its chosen self-image, restrict physical access to courts (see chapter six and chapter seven). While the

court uses certain iconographical symbols to maintain its hierarchy along with generating a feeling of awe and respect, this book questions whether it requires both the architectural symbolism along with daily ceremony and rituals to maintain its legitimacy and dignity. If the architectural symbolism generates the required and accepted visual image for the court, it would be possible to alter the ceremony and ritual of court proceedings in order to create improved access to courts.

Documenting the image of the most relatable icon of justice – the statue of Lady Justice – assists in understanding the role that motifs and symbols play in the daily functioning of a court. Further, it highlights the importance of iconographical symbolism that the court uses and through which it exerts an authority over every person who enters the court. This is visible not only through the depiction of a statue of Justice but also in the overall structure of court buildings, both in the interior and exterior, as has been observed through the course of this chapter. The various details that abound court walls become the new normal through which the court is observed and understood. Therefore, the court manages to create an iconophobia that is manifest through different semiotic associations of statues, buildings, carvings, courtroom placement and furniture design and dimensions. Thus, when the court is looked at as a whole, the ocular symbolism manifests itself to portray the ambivalent relationship of acceptance and yet control that the court exercises over its own visual imagery.