

Chapter 11

The Paradoxes of Lady Justice's Blindfold



Valérie Hayaert

Abstract Of all the issues involved in the representation of Lady Justice, that of her blindfold is undoubtedly the most disputed one. Sightlessness is problematic: is it a sign of disability, or a token of impartiality? One way of contributing to this issue is to show how the blindfold itself is polysemic. Its nature is ambivalent: Justitia must see, she is *oculatissima*. According to the Renaissance thinker Cælius Rhodiginus, the eye is the symbol of justice, *iustitiæ servator* (Lady Justice's servant) and Chrysippus (279-206 BC), quoted by Aulus Gellius, emphasised the glance of her eyes. At the end of the fifteenth century, Lady Justice's blindfold was used as a negative attribute. The earliest known representation of a blindfolded Lady Justice is a satirical woodcut for Sebastian Brant's *Das Narrenschiff* (*The Ship of Fools*, 1494), in which the author criticised the abuse of trials and the foolishness of court quarellings. However, Lady Justice's blindfold is not necessarily meant as a negative attribute. The act of blindfolding Justitia is a paradoxical gesture, and as such it deserves a detailed analysis. The paradoxical nature of the blindfold is very productive: Is it a sign of blindness? A necessary avoidance of lucidity? A momentaneous disregard of the evidence put before the eyes? A mark of ecstasy? A shameful stigma? A trick? A game? A mark of derision? The list of questions shows the many ways of reading this sign, dependent on its viewers, contexts, and intentions.

This article/book benefitted from a fellowship at the Paris Institute for Advanced Studies (France), with the financial support of the French State, programme "Investissements d'avenir" managed by the Agence Nationale de la Recherche (ANR-11-LABX-0027-01 Labex RFIEA+).

V. Hayaert (✉)

Käte Hamburger Kolleg "Recht als Kultur", Internationales Kolleg für
Geisteswissenschaftliche Forschung / Center for Advanced Study in the Humanities "Law as
Culture", Bonn, Germany
e-mail: Valerie.Hayaert@eui.eu

11.1 Introduction

Of all the issues involved in the representation of Lady Justice, that of her blindfold is undoubtedly the most disputed one (Von Moeller 1905; Zdekauer 1909; Perelman 1966; Rawls 1971; Kissel 1984; Jacob 1994; Ferreira da Cunha 1996; Robert 1993 and 1998; Schild 1995; Sbriccoli 2005; Resnik and Curtis 2011; Goodrich 2014; Huygebaert et al. 2016). Since its invention in the second half of the fifteenth century, Lady Justice's most controversial attribute has generated a constantly growing body of glosses and interpretations, taken up as a topic today by a scholarly debate of considerable size.

Sightlessness is problematic: is it a sign of disability or a symbol of impartiality? One way of contributing to this issue is to show how the blindfold itself is polysemic: as a word as well as a representation, it remains ambivalent.

An investigation into several interpretations of Lady Justice's attributes, made by lawyers, orators and legal Humanists, shows that, as a *res*, the object has different uses, meanings and functions. The noun itself, *velum*, *-i* (a veil, a curtain, but also the stage curtain of a theatre) is less frequently used than the verbs associated to the process of blindfolding: *oculis velatis*, *oculis tectis*, *oculis obductis*. If the gesture of blindfolding Justice cannot be reduced to a stable meaning, the process of veiling her body is not fixed either; her composite body is at the heart of various blindfolding processes. Justitia can exist without head, or without ears, her head can be covered by bandages, impairing her sight but also modifying her perception of the world around her. Moreover, there is a large variety of possible translations in Latin of the Renaissance French vernacular '*bandeau*' and, as we will observe, the idea of the blindfolding process is conveyed, by texts and images alike, in a great variety of ways.

The focus of this contribution is multi-layered: first, it intends to offer new modes of defining the power of the visual allegory of justice. Far from seeing the allegory as nothing more than a vehicle for abstract and transcendent meaning, underpinning stable conventions designed to articulate fully-formed ideas, this chapter makes use of a phenomenological approach to the uses and functions of an incarnate form within the legal sphere. Lady Justice is a sensual and spiritual body. In methodological terms, allegory is open to an analysis that tries to find a balance between a semiotic trend, articulated in the Early Modern Era by iconological coding, and a more phenomenological point of view (Baskins and Rosenthal 2007), focussed on cognition and frames of perception, pertaining to all individuals as part of a *civitas*. The examples analysed here aim at revealing the essentially dynamic function of a civic allegory: its invention and composition, derived from iconological treatises and emblematic sources, its role in the dissemination of meaning and the ways in which the image is perceived by different audiences. More generally, my aim is to investigate to which extent this device fulfilled didactic, persuasive, mnemonic, evidential or deontological functions.