

## The poietic 'as' of world-maintenance

“The very question ‘why?’ calls for a tale . . . Sense is created by finding a way to speak coherently about events.”<sup>1</sup>

The earliest legal tale of the Western tradition appears in the *Iliad* as Hephaestus makes new armor for Achilles. The smith-god decorates the great shield with a cosmography depicting all manner of natural and human things, and at the center he fashioned (ποίησε) scenes from two cities, the City at Peace and the City at War. (So-called in commentary; the terms are not in Homer.) In the City at Peace wedding processions with musicians and the singing and dancing of the young wend through the streets as women stand in their doorways enjoying the festival. Meanwhile downtown a dispute has broken out. The entire record of the case in Book 18 takes only twelve lines in Richmond Lattimore’s translation:

The people were assembled in the market place, where a quarrel [*neikos*] had arisen, and two men were disputing over the blood price [*poine*] for a man who had been killed. One man promised full restitution in a public statement, but the other refused and would accept nothing. Both then made for an arbitrator [*epi histori*], to have a decision [*peirar*]; and people were speaking up on either side, to help both men. But the heralds kept the people in hand, as meanwhile the elders were in session on benches of polished stone in the sacred circle and held in their hands the staves of the heralds who lift their voices. The two men rushed before these, and took turns speaking their cases [*dikadzon*], and between them lay on the ground two talents of gold, to be given to that judge who in this case spoke the straightest opinion [*ithuntata dikē*].

Its precipitating facts go unreported, so just what the dispute was about remains uncertain. The current consensus is that the refuser, as avenging kinsman of the dead man, wants blood for blood, claiming in words we cannot hear that the circumstances warrant that exaction. The promiser on the other hand claims the right to pay the blood-price, *leodgeld*,<sup>2</sup> in satisfaction for the death.<sup>3</sup>

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<sup>1</sup> Walter Burkert, *Creation of the Sacred: Tracks of Biology in Early Religions* (1996) 112.

<sup>2</sup> *wergeld, manwyrth*, etc. of the Anglo-Saxon dooms; e.g.: *If a man slay another, let him make bot with a half leodgeld of 100 shillings.* <http://www.fordham.edu/halsall/source/560-975dooms.asp>

<sup>3</sup> As E. V. Rieu translates: “The defendant claimed the right to pay in full and was announcing his intention to the people; but the other contested his claim and refused all compensation.” Whereas Samuel Butler interprets the dispute as over the fact of payment: “and two men were wrangling about the blood-money for a man who had

With “who had been killed” Lattimore inclines to the variant reading *apoktamenou* over *apophthimenou* (“who had perished”). In the latter word the manner of death is less determinate; it need not have been a killing. This difference is of pivotal significance; the question of manner or agency may be **the** issue, and calling it as commentators do a “homicide trial” prejudices that issue. The whole action may be more in the nature of a coroner’s inquest<sup>4</sup> than a trial for homicide. An example from a modern blood-feuding society shows that possibility:

“In another case that I heard about, which illustrates how ambiguity could lead to the starting of a feud, a boy was hired out by his household to a household in a different tribe. The barn in which he and two sons of that household slept burned down, but only the hired boy was burned to death. The circumstances of his death were ambiguous in the minds of his own clan, since only he had died; but because they were not certain that there had been foul play, instead of taking vengeance they made it known that they might accept money for his dead head. In effect, the clan that had hired him was thus obligated to ‘go to court’ in order to prove that there had been no malice or negligence. Its argument was convincing, and a killing was averted because the death was defined as noninsulting to honor. In this case there was no hostility to begin with, and no verbal dispute had taken place. But without the intervention of the Court of Good Men to resolve the ambiguity, there would have been a revenge killing instead of merely a payment of blood money to cover an accidental death.”<sup>5</sup>

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been killed, the one saying before the people that he had paid damages in full, the other that he had not been paid.” Butler is following Chapman here: “The case in question was a fine imposed on one that slue/ The friend of him that follow’d it and for the fine did sue,/ Which th’other pleaded he had paid. The adverse part denied,/ And openly affirm’d he had no penny satisfied.” So which is it—a suit for debt or for determination of remedy? Discussion of the question by Oliver Taplin, “The Shield of Achilles within the *Iliad*,” 27 *Greece & Rome* 1 (1980); Raymond Westbrook, “The Trial Scene in the *Iliad*,” 94 *Harvard Studies in Classical Philology* 53 (1992); and Gregory Nagy, “The Shield of Achilles: Ends of the *Iliad* and Beginnings of the Polis” (1997):

<http://www.fas.harvard.edu/~chs/HPJ/cybershield2.html>. The simplest solution invokes conservation of the invariant thema refusal/acceptance: Achilles had “refused all compensation” when Agamemnon tried to settle with him. The quarrel scene on the Shield throws his fatal obstinacy back in Achilles’ face, as had Ajax in the Embassy episode of Book 9. The action of the *Iliad* starts with Agamemnon’s refusal to accept ransom (*apoina dechesthai*) for the daughter of Chryses. It ends with Achilles accepting *apoina* from Priam for the body of Hector.

<sup>4</sup> The work of the ‘keeper of the pleas of the crown,’ the office established in 1194 under the reign of Richard I. The coroner’s main job was to view dead bodies *in situ*, summon local inhabitants to account for the death, and record what he saw and heard. See R. F. Hunnisett, *The Medieval Coroner* (1961).

<sup>5</sup> Christopher Boehm, *Blood Revenge: The Enactment and Management of Conflict in Montenegro and Other Tribal Societies* (1984) 102.

In the Homeric case it may well be that **until** an ambiguous death is “defined as noninsulting to honor” the survivor is **compelled** by regard for his own esteem, τιμή, to demand blood; he can’t appear quick to take a payoff.<sup>6</sup>

The two disputants in the agora hasten ἐπὶ ἱστορί, ‘to a *histōr*.’ The etymologists tell us that ἴστωρ – ‘knower,’ ‘expert,’ ‘witness’ – is from Indo-European \**uid-tōr*, an agent-noun from \**ueid-* ‘see, know;’ Greek οἶδα, ἴσμεν.<sup>7</sup> And what the elders serially utter is δίκη – so polysemic a term as to mean ‘custom, right, judgement, justice, lawsuit, trial, punishment’ – a word descended from IE \**deik-* ‘show;’ as in δείκνυμι, ‘I point out.’<sup>8</sup> Rather than “for an arbitrator” the phrase *epi histori* may take the circle of elders collectively as the *histōr*, Old Folks Who’ve Seen Much. The two men approach this resource of experience to get an end to their *neikos*.

That end will be accomplished by the winning *dikē*’s showing how the event, the death, is best understood, how it is to be treated; showing what the disputants and the people should take it **as**; disclosing it **as** a ‘case’ of natural cause, misadventure, suicide, or homicide; with declaration of remedy on the facts ‘as found,’ uncovered.

Heidegger distinguishes two limit-cases (*Grenzfälle*) of ‘as,’ the hermeneutical and the apophantic; respectively:

“that of a direct, unexpressed, unthematic dealing with something, and that of the thematizing determination of a something that is just there. This latter way of uncovering and showing-something-as [*des Entdeckens und Sehenlassens*] by means of a statement is itself a modification of the structure of the ‘as.’”<sup>9</sup>

Between these two limits, he says in *Being and Time*, there are many interim stages: “statements about events in the surrounding world, descriptions of what is at hand, ‘reports on situations,’

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<sup>6</sup> Even though money may be what he really wants. So Maitland cracks that “The sons of a *villanus* who had but two oxen must have been under some temptation to wish that their father would get himself killed by a solvent thegn.” *Domesday Book and Beyond: Three Essays in the Early History of England* (1897/1907) 44. We can even imagine Homer’s demander of blood as deploying a cultural norm (which extended from the Heroic into the Classical Age) in order to buffalo his way to an award beyond the standard *poinë*. Dover cites Thucydides 7.68.1: “Let us consider both that it is entirely acceptable (*nomimos*), in dealing with adversaries, to claim satisfaction of the anger in one’s heart in vengeance upon the aggressor, and also that retaliation upon enemies, which will be possible for us, is proverbially [*tēs gnōmēs*] the greatest of pleasures.” K. J. Dover, *Greek Popular Morality in the Time of Plato and Aristotle* (1974, repr. w/corr. 1994) 182-183. The toxic avenger gives the other side and the *histōr* to understand that the *dikē* must sweeten the deal enough to exceed his anticipated blood-joy.

<sup>7</sup> Robert Beekes w/asst. Lucien van Beek, *Etymological Dictionary of Greek* (2010) Vol. I, 602.

<sup>8</sup> *Id.* Vol. I, 334.

<sup>9</sup> Martin Heidegger, *Logic: The Question of Truth* (tr. Thomas Sheehan 2010) 133.

noting and ascertaining a 'factual situation' [*Aufnahme und Fixierung eines »Tatbestandes«*], describing a state of affairs, telling about what has happened [*Erzählung des Vorgefallenen*]." <sup>10</sup>

To utter *dikē* is to tell about what has happened by characterizing the facts of a state of affairs. The *histōr*'s core business is the analysis of situations.<sup>11</sup> "Somehow," says Garfinkel, "decisions of meaning, facts, method, and causal texture are made."<sup>12</sup> In Heidegger's terms, "Meaning is that wherein the intelligibility of something maintains itself."<sup>13</sup> The task of the *histōr* is to make the death intelligible as \_\_\_ and to show that some or another remedy thus 'makes sense.' If that can be accomplished then the breakdown, the *neikos*, may be repaired and the *polis* maintain its peace a while longer.

Making sense of what has happened is also what Kalchas is called on to do in the first book of the *Iliad*. But Kalchas is not a *histōr*, he's a *mantis*. A *histōr*'s knowledge comes from this world, the knowledge of a *mantis* from "that other world." To recall the issue: A plague has befallen the Greek army – Why? Apollo sends plagues; he must be angry with the Achaeans – Why? Achilles calls on Kalchas, priest of Apollo, to explain the god's anger. Kalchas does so, and prescribes the means for propitiating the god and ending the plague. Burkert writes of this episode:

"We are dealing with a sequence of events which by far transcends Homeric poetry; it even transcends Greek civilization and may practically be called universal. Four characteristic steps mark the process. First comes the experience of evil, disaster, or catastrophe which is threatening and anxiety-arousing; this immediately provokes the question why? Why now? Why to us? This calls for the second step, the intervention of a special mediator who claims superhuman knowledge: a seer, priest, or interpreter of dreams. Third is the diagnosis. The cause of evil must be defined and localized, normally through establishing guilt, identifying what wrong was committed and by whom, and whether recently or long ago. To know the cause is to find the way to salvation. Fourth are the appropriate acts of atonement, measures both ritual and practical to escape from evil and to find salvation. These usually include religious ceremonies but do not exclude rational proceedings. Therefore, give back the daughter – and also sing the *paian*."

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<sup>10</sup> Martin Heidegger, *Being and Time* (tr. Joan Stambaugh 1996) 148.

<sup>11</sup> "The core business of the regular historian is the establishment of facts, one at a time: that of a lawyer is the analysis of situations, and therefore the consideration of many facts at the same time." S. F. C. Milsom, *A Natural History of the Common Law* (2003) xxi.

<sup>12</sup> Harold Garfinkel, *Studies in Ethnomethodology* (1967) 78.

<sup>13</sup> *Being and Time* 142.

Burkert describes parallel examples from the First Book of Samuel and from Hittite records and infers “This pattern seems to be fully established in the Bronze Age.”<sup>14</sup> Except for the difference in the source of the mediator’s knowledge this is the same sequence and process as depicted in the litigation scene – breakdown, intervention, diagnosis, and remedy (*neikos, histōr, dikē, peirar* – ‘end,’ ‘limit’). The phenomenon scales.

The phenomenon scales up to the level which Blackburn captions “what is going on in Heidegger”:

“To understand what is going on in Heidegger, you need to know a story. Perhaps it is the story, the primal story. It tells of a primordial golden age, when man was united with himself, with his fellow man, and with nature (home, hearth, earth, fatherland, paradise, shelter, innocence, wholeness, integration). Then there was a fall, when primitive innocence and unity were destroyed and replaced by something worse (separation, dissonance, fracture, strife, estrangement, alienation, inauthenticity, anxiety, distress, death, despair, nothing). To cure this condition, a road or journey is needed (pilgrimage, stations, way or *Weg, Bildung*, action, will, destiny). The way will need a leader, and the leader is the philosopher of Plato's myth, who first ascends from the shadows of the cave to the sunshine above (seer, prophet, poet, hero). There is a crisis, and then a recovery of primordial unity itself (encounter, epiphany, authenticity, transcendence, apocalypse, consummation, marriage, jubilation). This may end the story, back at its beginning, or the path may spiral on upwards, its travelers fortified by the necessary sufferings of the journey. In the story, the world and life itself need interpretation because they are the unfolding of a historical script, the writing of the world-spirit (tidings, message, hermeneutics). And the whole drama is figured not just in the life of an individual, but in universal history, or at least in the history of the race. The story is a history of Prometheus, or Hyperion, or the Prodigal, or the Pilgrim, or the Artist. It is also a history of the evolution of Man, or of Dasein, or of the Geister.”<sup>15</sup>

This characterization may apply in full only to what Vallega-Neu designates as Heidegger’s “poietic writings;”<sup>16</sup> what one might call his mantisizing. In any case the scale-factor is evident in Blackburn’s account of this “perhaps the primal story.” The primal story – this *Erlösung*-syntagm getting itself iterated from Gnosticism and Christianity through Marxism, Nazism, Neo-liberalism and beyond – thereby shows itself to be the megalomylthical version of the schema of everyday coping: breakdown, intervention, diagnosis, and (prescribed, attempted) remedy. Dwelling as we do in the realm of entropy and *Irre* – “You’re born, you’re gonna have trouble,

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<sup>14</sup> *Creation of the Sacred* 103, 105.

<sup>15</sup> Simon Blackburn, “Enquivering,” *The New Republic*, October 30, 2000, pp. 43-48.

<sup>16</sup> Daniela Vallega-Neu, *Heidegger’s Poietic Writings: From Contributions to Philosophy to The Event* (2018).

and you're gonna die"<sup>17</sup> – our everyday solicitude, *Fürsorge*, is the basic phenomenon of the effort to hold the ground of meaning; even if, as Heidegger says, "that meaning itself is an abyss of meaninglessness;"<sup>18</sup> as in the aforementioned tall tale.

The question of present interest is, in Garfinkel's words, "How, in the course of the inquiry during which such decisions [about what has happened, about 'what is going on here'] must be made, does this occur?" How is meaningfulness maintained?

"The *recognizedly* rational properties of their common sense inquiries—their recognizedly consistent, or methodic, or uniform, or planful, etc. character—are *somehow* attainments of members' concerted activities. For Suicide Prevention Center staff, for coders, for jurors the rational properties of their practical inquiries *somehow* consist in the concerted work of making evident from fragments, from proverbs, from passing remarks, from rumors, from partial descriptions, from 'codified' but essentially vague catalogues of experience and the like how a person died in society, or by what criteria patients were selected for psychiatric treatment, or which among the alternative verdicts was correct. *Somehow* is the problematic crux of the matter."<sup>19</sup>

The shop floor where "we patch and tinker more than we renew"<sup>20</sup> is *Mitda-sein*. "For example," Heidegger writes, "'welfare work' [»*Fürsorge*«] as a factual social institution, is based on the constitution of being of Da-sein as being-with [*als Mitsein*]. Its factual urgency is motivated by the fact that Da-sein initially, and for the most part, lives in the deficient modes of concern [*Fürsorge*]." These deficient modes – passing one another by, not mattering to one another, indifference, nonchalance, complacency, 'the floating life' – show the "inconspicuousness and obviousness which belongs to the innerworldly *Mitda-sein* of others." When need or problem or breakdown irrupts into *Mitsein*, then 'welfare work' has two extreme possibilities in positive mode: concern can jump in (*einspringen*) for the other or vault ahead (*vorausspringen*) for him. And just as a gradient ranges between the two limit-cases of 'as,' so also

"Between the two extremes of positive concern—the one which does someone's job for him and dominates him [*der einspringend-beherrschenden*], and the one which is in advance of him and frees him [*der vorspringend-befreienden*]—everyday being-with-one-another [*alltägliche Miteinandersein*] maintains itself

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<sup>17</sup> William Riley Burnett; <https://www.theguardian.com/books/2000/jun/23/crimebooks.film> .

<sup>18</sup> *Being and Time* 142; *und sei er selbst der Abgrund der Sinnlosigkeit*.

<sup>19</sup> *Studies in Ethnomethodology* 78, 10 (his italics).

<sup>20</sup> William James, *Pragmatism, a New Name for Some Old Ways of Thinking* (1907) Lect. V.

[hält sich] and shows many mixed forms whose descriptions and classifications lie outside of the limits of this investigation.”<sup>21</sup>

One such form is pronouncing *dikē* to settle a dispute over a death. Again: How is that *dikē*, ‘telling about what has happened,’ made? Garfinkel’s remarks above point to the archaic way continuing unbroken to the present; what we may call the ‘poietic’ way. Taking ‘poietic’ here not strictly in Vallega-Neu’s usage<sup>22</sup> but drawing more on the etymology of ποιέω: “Usually derived from a stem \**k<sup>w</sup>ei-u-*, akin to Skt. *cinóti* ‘to pile, arrange, erect’, Av. *cinuuaiti* ‘to select’ < \**k<sup>w</sup>i-n(e)u-ti-* . . . but the exact derivation is unclear.”<sup>23</sup> One makes or produces or fashions or crafts by compiling, selecting, and arranging; by the method of bits and pieces, “using the remains and debris of events, in French ‘des bribes et des morceaux’, or odds and ends in English.”<sup>24</sup> The *histōr* takes remains and debris, odds and ends, as raw material; as τέκμαρ: ‘sign, emblem’ also ‘symptom,’ ‘proof;’ IE \**k<sup>w</sup>ek-* ‘see, appear.’<sup>25</sup> “Associative functioning,” as Husserl names it: “To turn mere coexistence into mutual pertinence, or, more precisely, to build cases of the former into intentional unities of things which seem mutually pertinent, is the constant result of associative functioning [*die kontinuierliche Leistung der assoziativen Funktion*].”<sup>26</sup> And “every consciousness in which the non-identical is intended unitarily (every consciousness of a plurality, a relational complex [*Relationsbewußstein*], or the like) is ultimately a *synthesis* in this sense, constituting its peculiar cogitatum (the plurality, the relational complex, or whatever it is) synthetically, or, as is also said here, syntactically [*synthetisch, oder . . . syntaktisch konstituierend*].”<sup>27</sup>

The poietic way (my italics below) shows up in Justice Cardozo’s apparently “weak and inconclusive” summary description of the judicial process, the ethnomethod of fabricating *dikē* in a modern legal system:

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<sup>21</sup> *Being and Time* 114-115. Indeed these forms of being-with-one-another in a world, Heidegger says, “can develop the various possibilities of community as well as of society.” Martin Heidegger, *History of the Concept of Time: Prolegomena* (tr. Theodore Kisiel 1985) 240.

<sup>22</sup> “I call them Heidegger’s ‘poietic’ writings, with reference to the Greek word ‘ποίησις,’ which means, ‘to bring forth.’” *Heidegger’s Poietic Writings* ix.

<sup>23</sup> *Etymological Dictionary of Greek* Vol. II, 1216.

<sup>24</sup> Claude Lévi-Strauss, “The Science of the Concrete” in *The Savage Mind* (1962) 21-22; the method common to myth-making and *bricolage*. “Mythical thought for its part is imprisoned in the events and experiences which it never tires of ordering and re-ordering in its search to find them a meaning. But it also acts as a liberator by its protest against the idea that anything can be meaningless with which science at first resigned itself to a compromise.” *Id.* 22.

<sup>25</sup> *Etymological Dictionary of Greek* Vol. II, 1459.

<sup>26</sup> Edmund Husserl, *Logical Investigations, Volume I* (tr. J. N. Findlay 1970) First Investigation, §4; p. 187.

<sup>27</sup> Edmund Husserl, *Cartesian Meditations: An Introduction to Phenomenology* (tr. Dorion Cairns 1960) Second Meditation, §18; p. 42 (Husserl’s emphasis).

“We are tending more and more toward an appreciation of the truth that, after all, there are few rules; there are chiefly standards and degrees. It is a question of degree whether I have been negligent. It is a question of degree whether in the use of my own land I have created a nuisance which may be abated by my neighbor. It is a question of degree whether the law which takes my property and limits my conduct impairs my liberty unduly. So also the duty of a judge becomes itself a question of degree, and he is a useful judge or a poor one as he estimates the measure accurately or loosely. *He must balance all his ingredients, his philosophy, his logic, his analogies, his history, his customs, his sense of right, and all the rest, and adding a little here and taking out a little there, must determine, as wisely as he can, which weight shall tip the scales.*”<sup>28</sup>

“If this seems a weak and inconclusive summary,” Cardozo says, “I am not sure that the fault is mine. I know he is a wise pharmacist who from a recipe so general can compound a fitting remedy.” Compound how? How determine?

Garfinkel gives a modern example of poietic *dikē* in operation at UCLA’s Suicide Prevention Center; to which group, as a kind of *histōr*, the Los Angeles County Coroner-Medical Examiner’s Office referred cases for disambiguation. SPC inquiries, he writes,

“begin with a death that the coroner finds equivocal as to *mode* of death. That death they [SPC staff] use as a precedent with which various ways of living in society that could have terminated with that death are searched out and read ‘in the remains’; in the scraps of this and that like the body and its trappings, medicine bottles, notes, bits and pieces of clothing, and other memorabilia—stuff that can be photographed, collected, and packaged. Other ‘remains’ are collected too: rumors, passing remarks, and stories—materials in the ‘repertoires’ of whosoever might be consulted via the common work of conversations. These *whatsoever* bits and pieces that a story or a rule or a proverb might make intelligible are used to formulate a recognizably coherent, standard, typical, cogent, uniform, planful, *i.e.*, a professionally defensible, and, thereby, for members, a *recognizably* rational account of how the society worked to produce those remains.”<sup>29</sup>

“[B]its and pieces that a story or a rule or a proverb [or a rumor or remark] might make intelligible are used to formulate” an account of what happened, *Erzählung des Vorgefallenen*. As Lévi-Strauss notes of *bricolage*, “Both the scientist and ‘bricoleur’ might therefore be said to be constantly on the look out for ‘messages’. Those which the ‘bricoleur’ collects are, however, ones which have to some extent been transmitted in advance—like the commercial codes which are

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<sup>28</sup> Benjamin Cardozo, *The Nature of the Judicial Process* (1921) 161-162. *i.e.*, the judge must draw on her ‘throwness,’ *Geworfenheit*.

<sup>29</sup> *Studies in Ethnomethodology* 17. The totality of ‘remains’ = *Anzeichen + Ausdruck (Rede)*.

summaries of the past experience of the trade [sc. story, rule, proverb] and so allow any new situation [whatsoever bits and pieces] to be met economically [formulated into a recognizably rational account], provided that it belongs to the same class as the earlier one.”<sup>30</sup> Garfinkel and Lévi-Strauss contemplate a paradigm-by-syntagm result. The bits and pieces as elements of substitution sets (paradigms) are fitted into an armature, a candidate syntagm (arrangement; story, rule, proverb).<sup>31</sup>

Poietic *dikē* employs – as do ethnomethod (so Garfinkel says explicitly) and *bricolage* – what Mannheim called “the documentary method of interpretation;” the search for “documentary meaning,” “for an identical, homologous pattern underlying a vast variety of totally different realizations of meaning.” Documentary meaning is metonymical; it “can be ascertained without considering the work in its entirety; in fact, any fragmentary aspect of a work such as a characteristic treatment of line, spatial structure, or colour composition can convey documentary meaning: no need to take only concrete, proper parts of the work into consideration. . . . documentary meaning may be inherent in detachable partial aspects.”<sup>32</sup> So Garfinkel writes that

“The work of historicizing past events, either for a particular person or for a collectivity, consists of the application of the documentary method to the task of selecting and ordering past occurrences. . . . The documentary method consists essentially of the retrospective-prospective reading of a present outcome so as to maintain the identity of the object [e.g. as yet another ‘case’ of suicide, homicide, accident; or as ‘work’ of a particular artist and not another] through temporal and circumstantial alterations. . . . Whole orders of actions and personnel are treated by the [interpreting] actor under the critically important aspect of ‘the sameness of the scene,’ *i.e.* its comparability to situations known in the past, despite the variability of behavioral appearances and the continual alterations of props and scenery.”<sup>33</sup>

The documentary method is recognizably a version of Ginzburg’s “conjectural paradigm.” Ginzburg argues for “the silent emergence of an epistemological model (a paradigm,<sup>34</sup> if you prefer) towards the end of the nineteenth century . . . a presumptive paradigm . . . that was based specifically on semiotics.” In this model “infinitesimal traces permit the comprehension of a

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<sup>30</sup> “The Science of the Concrete” 20.

<sup>31</sup> For syntagm and paradigm as the two axes of language see Roland Barthes, *Elements of Semiology* (tr. Annette Lavers and Colin Smith 1968) 58 and following.

<sup>32</sup> Karl Mannheim, “On the interpretation of ‘Weltanschauung’” in *Essays on the Sociology of Knowledge* (ed. Paul Kecskemeti 1952) 57, 56-57.

<sup>33</sup> Harold Garfinkel, “Some Sociological Concepts and Methods for Psychiatrists,” *6 Psychiatric Research Reports* 181, 194-195 (1956).

<sup>34</sup> In Thomas S. Kuhn’s sense.

deeper, otherwise unattainable reality: traces – more precisely, symptoms (in the case of Freud), clues (in the case of Sherlock Holmes), pictorial marks (in the case of Morelli).”<sup>35</sup>

One of Ginzburg’s key documents pointing to the existence of such a model is Freud’s discussion of Morelli’s art criticism. In *The Moses of Michelangelo* Freud describes Morelli’s way of detecting a work’s true author as “insisting that attention should be diverted from the general impression and main features of a picture” and instead laying stress “on the significance of minor details, of things like the drawing of the finger-nails, of the lobe of an ear, of aureoles and such unconsidered trifles [*unbeachteter Dinge*] which the copyist neglects to imitate and yet which every artist executes in his own characteristic way.” This method of detection is closely related to the technique of psychoanalysis for it, too, Freud writes, “is accustomed to divine [*zu erraten*, ‘guess’] secret and concealed things from unconsidered or unnoticed details, from the rubbish heap, as it were, of our observations.”<sup>36</sup>

Ginzburg conjectures that the roots of the conjectural paradigm are in hunting,<sup>37</sup> but he does not take up the object of all Freud’s hunting, his invisible prey the unconscious; which Freud tracked by its utterances in the broad sense of that term – as Lacan says ‘It dreams, it jokes, it fails’ – to use Heidegger’s word by the *Rede* of the unconscious, its ‘talk.’

Heidegger affirmed to Boss that the dream world “is likewise a being-in-the-world;” the dream is a *Da-sein*: “each dream is a being-in-the-world.”<sup>38</sup> The *Rede* of its *Da* is the dream’s ‘manifest

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<sup>35</sup> Carlo Ginzburg, “Clues: Roots of an Evidential Paradigm,” in Ginzburg, *Clues, Myths, and the Historical Method* (tr. John and Anne C. Tedeschi 1989) 96, 102, 101; also published as “Clues: Morelli, Freud, and Sherlock Holmes,” in *The Sign of Three: Dupin, Holmes, Peirce* (ed. Umberto Eco and Thomas A. Sebeok 1983) 81-118.

<sup>36</sup> In the translation quoted *Id.* 99. *Auch diese ist gewöhnt, aus gering geschätzten oder nicht beachteten Zügen, aus dem Abhubdem »refuse«—der Beobachtung, Geheimes und Verborgenes zu erraten.*

<sup>37</sup> “Man has been a hunter for thousands of years. In the course of countless chases he learned to reconstruct the shapes and movements of his invisible prey from tracks on the ground, broken branches, excrement, tufts of hair, entangled feathers, stagnating odors. He learned to sniff out, record, interpret, and classify such infinitesimal traces as trails of spittle.” *Id.* 102. The hunter now finds himself sitting at a table, reading: “I will never forget that night. It was the first time I had ever gone through files. The official met me at the front door and led me to a room with a conference table in the middle, and, on the table, high stacks of file folders. And somehow, in a strange way, sitting there going through them, I felt at home. As I went through the memos and the letters and the minutes of meetings, I could see a pattern emerging, revealing the real reason that the agency wanted the field to become a civilian airport: executives of corporations with offices on Long Island, who seemed to be quite friendly with the F.A.A. officials, wanted to be able to fly in and out of Long Island on their company planes without the inconvenience of having to drive to Idlewild or LaGuardia. I kept looking for a piece of paper on which someone came right out and said that, but I didn’t find one; everything I could find talked around that point. But between all the pieces of paper I found sentences and paragraphs that, taken together, made the point clear.” Robert A. Caro, “The Secrets of Lyndon Johnson’s Archives,” *The New Yorker* January 21, 2019.

<https://www.newyorker.com/magazine/2019/01/28/the-secrets-of-lyndon-johnsons-archives>

<sup>38</sup> Martin Heidegger, *Zollikon Seminars—Protocols—Conversations—Letters* (ed. Medard Boss, tr. Franz Mayr and Richard Askay 2001) 229, 230.

content;’ which Freud describes variously as a kind of picture-puzzle, a rebus (*ein Bilderrätsel* (*Rebus*)), swarming with composite formations (*Mischbildungen*),<sup>39</sup> a patchwork (*zusammengestückelt*), structured like breccia.<sup>40</sup> The dream-work – a thought-factory, *Gedankenfabrik* – dredges up remains and debris from the reservoir of the dreamer’s memory as well as from the residue of events and thoughts of the dream-day, *die Tagesreste*; which detritus it displaces, substitutes, condenses, and combines; breaking connections, rearranging the fragments and thereby assembling a dream from bits and pieces of substitution sets; and at last “with snippets and scraps” the secondary revision “patches the gaps in the dream’s structure.”<sup>41</sup>

What is the syntagm of the dream? For Freud the dream fulfills a wish; every dream “really does have a secret meaning which turns out to be a wish-fulfilment.”<sup>42</sup> Upon completing the interpretation of the founding dream of psychoanalysis, his dream of ‘Irma’s injection,’ Freud propounds his thesis:

“In the course of the work [of interpretation] the ‘meaning’ of the dream also became clear to me. I noticed an intention which was realized by the dream and which must have been the motive for dreaming. The dream fulfilled a number of wishes which had been aroused in me by the events of the previous evening (Otto’s news, writing down the clinical history). For the outcome [*Ergebnis*] of the dream is that I am not to blame [*ich nicht schuld bin*] for the pain Irma continues to suffer, and that Otto is to blame for it [*daß Otto daran schuld ist*]. Otto annoyed me by his comments on Irma’s incomplete recovery, and the dream takes revenge on him for me [*rächt mich an ihm*] as it turns the criticism back onto him. The dream exonerates me of responsibility [*von der Verantwortung mich frei*] for Irma’s condition in tracing it back to other factors (a whole series of reasons). The dream represents a certain state of affairs [*stellt einen gewissen Sachverhalt*] as being as I would wish it to be: *its content is thus a wish-fulfilment, its motive a wish. . . . After the work of interpretation has been completed the dream reveals itself as a wish-fulfilment.*”<sup>43</sup>

We find ourselves back at the litigation scene on the Shield of Achilles. Freud’s unconscious as *histōr* has uttered its *dikē*, the dream representing a certain state of affairs as Freud desires it to be, in order to settle by the *peirar* of exoneration the *neikos* disturbing Freud’s peace, the guilt and self-doubt which Otto’s comments had aroused.<sup>44</sup> The syntagm of

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<sup>39</sup> *Es wimmelt natürlich in den Träumen von solchen Mischgebliden.*

<sup>40</sup> Sigmund Freud, *The Interpretation of Dreams* (tr. Joyce Crick 1999) 211, 247, 232, 267.

<sup>41</sup> *Id.* 319. *mit ihren Fetzen und Flickern stopft sie die Lücken im Aufbau des Traums.*

<sup>42</sup> *Id.* 114.

<sup>43</sup> *Id.* 94-95, 97 (Freud’s emphasis).

<sup>44</sup> Of course the unconscious is no more a neutral magistrate than was the medieval coroner, whose duty was to look after the King’s interest in harvesting deodands and amercements.

*neikos*→*histōr*→*dikē*→*peirar* allows the understanding of dream-function to widen from strictly wish-fulfillment to a general-purpose *Bedeutungenfabrik* for repairing daily breakdowns; breakdowns as trivial as an interrupted action or a broken train of thought, or someone's offhand but ambiguous or startling remark, or a memory of loss. To repurpose Nietzsche's imagery, the dream manifests the plastic power (*plastische Kraft*) "distinctively to grow out of itself, transforming and assimilating everything past and alien, to heal wounds, replace what is lost and reshape broken forms out of itself;"<sup>45</sup> as it were, to metabolize noise into the lifeblood of meaning (*und gleichsam zu Blut umschaffen*).

In the dream's freewheeling way of uncovering and showing-something-as (*des Entdeckens und Sehenlassens*) we have reached the limit-case of that modification of the as-structure which we are calling the poietic – the gathering of this, that, whatever as *tekmar*, *Zeichen*, for fitting into a syntagm and thereby making a tale of sense.

"The 'as' is the structure of understanding," Heidegger claims; "the structure that belongs to understanding as such," "the fundamental hermeneutical structure of the being of that being which we call existence [Dasein] (human life)."<sup>46</sup> And he insists that the as-structure is unique to human being:

"bound up with world is this enigmatic 'as', beings *as* such, or formulated in a formal way: 'something *as* something', a possibility which is quite fundamentally closed to the animal [*was dem Tier von Grund aus Verschlossen ist*]."<sup>47</sup>

But stay a moment longer to consider the phenomenon of the captive chimpanzee's 'nest-sketching.' Köhler comments "it cannot be said that this looks very intelligent" and that it reminds him of 'fixed ideas' in human beings. Köhler describes the phenomenon this way:

"Chimpanzees make nests from early infancy onwards. . . . Nests are often built during the day for fun [*spielerisch*], or at least are sketched out [*wenigstens angedeutet*]; a great many different materials, such as straw, grass, branches, rags, ropes, even wires are collected and used, not when a nest is needed, but the shapes are suggested when the material is available [*sondern lösen eher bestimmte Formgebungen aus, wenn sie da sind*]. . . . If the material under

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<sup>45</sup> *On the Advantage and Disadvantage of History for Life* (tr. Peter Preuss 1980) 10. *aus sich heraus eigenartig zu wachsen, Vergangenes und Fremdes umzubilden und einzuverleiben, Wunden auszuheilen, Verlorenes zu ersetzen, zerbrochene Formen aus sich nachzuformen.*

<sup>46</sup> *Logic: The Question of Truth* 126, 127. *die Struktur von Verständnis überhaupt . . . die zum Verstehen als solchem gehört . . . die hermeneutische Grundstruktur des Seins des Seienden, das wir Dasein nennen (menschliches Leben).*

<sup>47</sup> Martin Heidegger, *The Fundamental Concepts of Metaphysics: World, Finitude, Solitude* (tr. William McNeill and Nicholas Walker 1995) 274.

consideration is anything like stalks or twigs [*handelt es sich um Material von Rankenform*] and if there is little of it, then we are confronted with the strange phenomenon [*die merkwürdige Erscheinung*] that, whatever the circumstances, the first thing is never to make even a scanty support for the body to squat on, but to create a ring [*ein Ring*] around the animal; this is always done first, and if there is not enough material, then the ring is the only thing made. The chimpanzee then sits contentedly [*zufrieden*] in his meager circle [*in seinem mageren Kreis*], without touching it at all, and, if one did not know that this was a rudimentary nest, one might think that the animal was forming a geometric pattern for its own sake [*das Tier bilde spielerisch die geometrische Form um ihretwillen*]."<sup>48</sup>

There's nothing to show that chimpanzees in the wild ever run out of materials for nest-making. In her monograph recounting twenty-five years of observation Goodall refers to nest-making exactly twice: first with a photograph of a chimpanzee asleep in its lush 'day-nest'; second in this brief passage: "Unlike most primate species, chimpanzees follow no regular route in their daily search for food. Nor do they return to well-used sleeping sites each night; they construct their nests close to where they have had their last meal of the day."<sup>49</sup> Although she cites Köhler some thirty times nowhere does she mention the phenomenon of nest-sketching.

All Köhler's chimpanzees had suffered the disaster of capture from the wild and the consequent impoverished life in cages and fenced compounds. A captive chimpanzee has sense enough to see on any occasion that there is not enough material in its environs to complete a nest. Why then even begin? Why make only a circle on the ground and sit inside it; an apparently 'unnatural act'?

If their keepers set up a tree with foliage in the animals' playground, "after a few moments the nest-making begins by bending in the branches, and pressing them down with the weight of the body . . . as necessarily as a chemical reaction." For this phenomenon of functional nest-making Köhler says "we may speak of the manifestation of a special and elaborated 'instinct'."<sup>50</sup>

Non-functional nest-sketching is then a 'derived activity' in Tinbergen's phrase,<sup>51</sup> yet not a case of ritualization in the strict sense – instinctive behavior which has lost its original function and is repurposed for use in communication – because it does not prompt a response in any other

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<sup>48</sup> Wolfgang Köhler, *The Mentality of Apes* (tr. from 2<sup>nd</sup> ed. Ella Winter 1925) 90-91.

<sup>49</sup> Jane Goodall, *The Chimpanzees of Gombe: Patterns of Behavior* (1986) 2 (photo), 208.

<sup>50</sup> *The Mentality of Apes* 91.

<sup>51</sup> N. Tinbergen, "'Derived' Activities; Their Causation, Biological Significance, Origin, and Emancipation During Evolution," *27 Quarterly Review of Biology* 1 (1952).

organism.<sup>52</sup> Instead it seems to be a case of what Erikson calls “symbolic actuality.”<sup>53</sup> In other words a sort of wish-fulfilment.

Köhler notes the behavior of the same nest-sketchers “is quite different when they are clearly solving a problem [*bei der klaren Lösung einer Aufgabe*]”<sup>54</sup> – i.e., a problem structured for them by Köhler. But to captive chimpanzees their very situation *is* the problem, *the* disaster – the kind of catastrophe which prompts human beings to ask why? Why now? Why to us? For relief from this distress, the chronic anxiety of the imprisoned animal, there is no *histōr*, no *mantis* but instinct. And rather like “if psychoanalysis cures your stammer it cures it” so, too, if nest-sketching shoos away your blues, makes you feel *heimlich* again for a while, “that is an achievement.”<sup>55</sup> So in the present wild analysis nest-sketching plays the part of *dikē* and dreaming and their kind – sense-making, and achieves a momentary *peirar* in repose, *Zufriedenheit*. “We have to aim at an edifice in relation to the supplies given to us that is at the same time suited to our needs.”<sup>56</sup>

And insofar as every understanding has its mood and every mood its understanding is not the chimpanzee’s taking its *Ringkomposition* as the suggestion of a nest, together with its *Zufriedenheit* in doing so, a *Da*-like phenomenon?

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<sup>52</sup> On ritualization see the special issue “A Discussion on Ritualization of Behaviour in Animals and Man,” 251 *Phil. Trans. Royal Society B* No. 772 (1966); <https://www.jstor.org/stable/i318188>.

<sup>53</sup> E. H. Erikson, “Concluding Remarks,” *Id.* 524.

<sup>54</sup> *The Mentality of Apes* 90.

<sup>55</sup> “Of course, if psycho-analysis cures your stammer, it cures it, and that is an achievement. One thinks of certain results of psycho-analysis as a discovery Freud made, as apart from something persuaded to you by a psycho-analyst, and I wish to say this is not the case.” Ludwig Wittgenstein, *Lectures and Conversations on Aesthetics, Psychology and Religious Belief* (ed. Cyril Barrett n.d.) 27.

<sup>56</sup> Immanuel Kant, *Critique of Pure Reason* (tr. ed. Paul Guyer and Allen W. Wood 1998) introductory remarks to The Transcendental Doctrine of Method 627.