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# Kafka's imprint on Law and the Arts, 100 Years since *The Trial*

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## Kafka between *The Castle* and *The Trial*:

### Kafka's Democratic Call for Open, Transparent and Legitimised Institutions and Societies

Antonios E. Platsas

The paper advocates the idea that Kafka has had a magnificent imprint not only on modern law and the arts but also on society and the way the modern world expects the democratic legitimisation of institutions. It does so by first focusing on a major work produced by Kafka, *The Castle*. Kafka has effectively offered us in *The Castle* his perception of a more democratic world that should not be trampled underfoot by technocrats, pundits and administrators. In his image of the world in *The Castle*, Kafka is relentless: not only does he offer us an allegory of a faceless and remote bureaucracy that acts in irrational, inexplicable and mysterious ways, but he also calls the citizens, the recipients of this bureaucracy's diktats and commands, villagers, clearly pinpointing to a highly dysfunctional and unequal relationship between unchecked technocrats and bureaucrats and a lost and weak *demos* at the mercy of the former. Thus, on the occasion of the 100<sup>th</sup> anniversary of *The Trial*, the paper offers a re-assessment of another seminal work produced by Kafka, *The Castle*, attempting to draw certain parallels with *The Trial*, both of these works effectively describing perfect legal and political dystopias, wherein individuals become oppressed and suffer from the incomprehensible acts of legal systems and administrations. In a similar way to *The Trial*, the Kafkaesque world found in *The Castle* is often one of surreal and obscure meanings, settings and realities. It is in *The Castle*, and by extension in *The Trial*, however, that one appreciates the great democratic spirit that Kafka was. In his allegory of the people in the castle (the bureaucrats) and the people living out of the castle, the villagers (the citizens), one realises Kafka's dualist thinking: the wish for civil services and administrations to be democratically legitimised and exist for serving the citizen, and the warning as to how administrations can turn into faceless, remote and broken institutions and bureaucracies that promote procedure and system by disregarding and neglecting substance, man and society. In the Kafkaesque perception of the world, the paper posits, it is institutions and legal systems that serve society and the citizen. Thus, the paper explores the very humanist and anthropocentric essence of Kafka's thesis, a thesis that clearly favours, albeit by implication, democratic, transparent, open and legitimised institutions and societies. Ultimately, much of what a good administration in the modern democratic world can be is one that ought to be configured in a way that operates *a contrario* to Kafka's *Castle*, while modern legal systems ought to be configured in ways that oppose the ways of the legal system which one observes in *The Trial*. The paper proceeds with assessing the character of these two seminal works and the great democratic essence of Kafka's personality. It concludes with its main findings, emphasising the need for the re-appreciation of Kafka's work in the face of a world that expects openness, transparency and the democratic legitimisation of institutions as conditions precedent for the societies of the future.

Keywords: Kafka, *The Castle*, *The Trial*, democracy, technocracy, institutions, law, administration, modernity, bureaucracy, democratic legitimisation, openness, transparency.