

Reviews

The Mystery of Justice

D. W. BUFFA

THE DEFENSE: A LEGAL THRILLER

HENRY HOLT 1997

W. B. Allen

“EVERYTHING WAS IN black and white.” These six words form the final words in D. W. Buffa’s three hundred and nine page discursive allegory about justice, in which nothing prior to the end is at all “in black and white.” At a critical moment, the meta-hero (the character whose spirit most informs or guides the hero himself) observes that there was nothing “morally wrong” with the two murders committed by the novel’s arch victim (the victim who first internalizes her injury and then whose being is cannibalized from within as she becomes her victimhood).

Of course, a novel about the legal system and the criminal justice process may be counted upon to illuminate the darker recesses of human character and the shadows of human lives. Depravity creates the opportunity for dwelling upon human strengths as much as upon human weaknesses. Thus it occurs in *The Defense* that the meta-hero, Leopold

Rifkin, becomes at once the dramatic center and the mind behind the drama of the novel. A judge of intellect and integrity unrivalled, Rifkin held command over the souls of the brightest defense attorney and the noblest district attorney in the modest Oregon town in which the story is set. His position in this trio was that of Solomon.

This Solomon, however, had a stronger taste for philosophic speculation than strict religious discipline, learning from Spinoza no less than Maimonides, quoting Proverbs as readily as Nietzsche, but teaching Plato as the turning. Rifkin read a little Greek – or maybe even a lot. But he seemed to know things that reached back beyond study. When Joseph Antonelli (the defense attorney who never lost) recalled Rifkin’s advice about approaching a jury, “always assume there is someone there who knows more than [you] do,” he imagined at first that it meant little more than

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“lighten up.” Antonelli’s understanding deepened when he later realized that Rifkin “was saying that you should assume someone knows more than you do, so that, instead of talking down, you talk up to them. That is what he does.” Judge Rifkin’s secret was that he seemed to know so much partly because he always spoke to others as if they must know so much more.

This vignette is borrowed from real life but is central to this fiction, and at length reveals why the novel is a discursive allegory about justice and why its final words are the most important words, in contrast to the first word of Plato’s *Republic*, “Down.”

The author, Buffa, took a Ph.D. in political philosophy at the University of Chicago. There he studied, doubtlessly, with Leo Strauss, who so often repeated the apothegm that “the best teachers approach every class as if there is someone there who knows more than they do.” Nor is this belief the sole echo of Strauss’s philosophical concerns, for most of Rifkin’s riff is a Straussian talk about justice-in-itself in contrast with the justice we practice. Rifkin like Strauss dwells over-long on the *realpolitik* of Plato’s *Laws*, as well as on the metaphysics of the *Republic*.

While this nocturnal trio of judge, defense attorney, and prosecutor worked its reasoning toward “everything was in black and white,” Judge Rifkin guided his pupils by conscripting them (without their knowledge) into sorting out his own unfortunate happenstance. The long-widowed Judge indulged a fancy about rehabilitating a known drug addict and prostitute only to experience the descent into an eros that neither improved the subject nor ennobled her savior. He became liable to blackmail that led him to no wrongdoing on his part but to a series of trials (rapes and murders), none of which turned out “right” save for the last, his own, in which he was freed by perjury.

Joseph Antonelli is at the center of this legal

progress through moral grays. He conducts the score and his life – not Judge Rifkin’s – is the center of attention. And that life comes ineluctably to center on an absence of eros that parallels an absence of learning. When in the end he seeks to learn (following Judge Rifkin’s suicide), he follows in translations Thomas Jefferson’s reading list for the young student; he will never learn enough of other languages now. Antonelli freed the victim’s rapist stepfather, at the request of the Judge – his father figure. Thereafter, every move is fated (each fateful event occurring on April 17, memorializing the day Antonelli freed a guilty man by “just doing his job”).

While Antonelli’s struggle with the question of justice grows – does it matter whether his clients are guilty or not? – Judge Rifkin leads him through a philosophical journey that concludes, “I am almost persuaded that the real purpose of human life is simply to develop your mind to the point where you not only understand that reason is the only thing that matters, but that it becomes the one thing in which you believe completely.” In principle, that belief would mean that we could accept the requirements of the law – such as no one taking the law into his own hands – as mere “conveniences.” So, too, would it be merely convenient if some guilty persons escaped while the innocent were protected. And yes, also, it would be convenient if but rarely an innocent person were lost to assure the continued relevance of uniform rules. Antonelli read *Billy Budd* again and again.

But Antonelli could rely neither on convenience nor uniform rules; when confronted with the injustice of losing his Socrates to the procedures of law, he suborned perjury to free him. He placed justice above the law. Or, did he? Rifkin followed the verdict with a suicide, and a note in which he said, “I am responsible for all of this.” “All of this” includes, to be sure, the abused victim’s unrecognized return not only as Antonelli’s lover (she was only a

child when he freed her step-father) but also as the true murderess of her abusive father and mother and the potential murderess of Antonelli himself (as well as of the Judge, whom she had framed for her mother's death). But that is merely the drama, the mystery of the novel.

The discursive allegory focuses on the dilemma of the incorrigible. The Athenian Stranger in Plato's *Laws* provided that folk who could not be cured upon an initial infraction should simply be executed thereafter. There is a connection between this prudent

rule and the concern to know who can really learn, after all. That is, if wisdom, nay, even the pursuit of wisdom, is only viable for a few, how then can it be reasonable to demand any particular regard for the rights of the many, for justice being done to them, in any sense other than due retribution for the several errors they are all too inclined to make? The answer, of course, is that regard for their rights is precisely the opposite of regard for justice, just as the choice of a regime of rights is precisely a refusal to entertain the broad conclusion, that "reason is the only thing that matters." 