

**Western University**

---

**From the Selected Works of Sharon Sliwinski**

---

2016

# Before the Law

Sharon Sliwinski

# Before the Law

Sharon Sliwinski

I wonder what they dream about, these men who are trapped between worlds, unable to go forward and unable to go back. When night comes, do they dream of elsewhere? Does A.A.M.S. dream of his family: his mother, his wife, and his two children whom he last saw some years ago at the Kalma refugee camp in Darfur [Fig. 1]? Does his father, who was murdered by the Janjaweed, figure in his night visions? Or, after so many years of imprisonment, does one only dream of prison? Helplessness can weigh heavily on the soul. Solomon Hagos ruminates about the girl who was raped by the Bedouin smugglers who trafficked a group of his fellow Eritreans across Sinai; not the girl he managed to save from their lust, but the other one—the one who confided to him about what they did to her [Fig. 2]. Zerei Gebresilasi seems to have good reason to worry about the thoughts that come at night in this place which he can neither leave nor make a new home [p. xx, top left]: “There are people who have gone crazy here. In Saharonim prison at least you know that you have to stay in one place and you can’t get out. Here, they give you the option to leave, but they tell you that you must come back.”

“Here” is the Holot detention center—a so-

called “open facility” that, like Saharonim, is located in the harsh, remote region of the Negev desert. Twice a week, African asylum seekers in Israel are summoned to a parking lot in Tel Aviv where they are loaded onto buses and driven inland to this detention center. Holot holds several thousand men, and most of them are from Sudan and Eritrea. These men are refugees who have fled torture, kidnapping, and worse in their countries of origin. All have been detained under Israel’s recently amended Prevention of Infiltration Law, which defines all irregular border-crossers as “infiltrators.” The original 1954 law was designed to prevent the reentry of Palestinian refugees. While the principle target of the emended law seems to have changed, its central character has not.

Holot is run jointly by the Israeli Prison Service and the Interior Ministry. By all accounts, the conditions in the center are terrible: the provisions are woefully inadequate, the rules and regulations—including twice-daily roll calls—are impossibly strict, and any violation can carry severe punishments, including transfer to other prisons.

In September 2014, the High Court of Justice ruled that Holot must be closed within ninety days and that the state must release all the prisoners. The Interior Ministry



**Fig. 1. A.A.M.S.:** “I am 38 years old, married and a father of two children. I was born in Niala, South Darfur. My father was murdered during an attack on our village in 2003. We had to run away and seek refuge in the Kalma refugee camp. My mother, wife, and children still live there until today. I miss them very much and I don’t know what their situation is. I came to Israel to seek protection but I was imprisoned. I have been in prison for almost two years. I don’t want to be in prison anymore.”



**Fig. 2. Solomon Hagos:** “I was a soldier in Eritrea. During my military service I was sentenced to three years in prison without committing a crime. I succeeded to escape from prison after four months. I joined a group of eighty people who escaped from Sudan to Sinai. After we gave the money to the smugglers they told us it’s dangerous to depart for Israel now. We waited another week. There was a girl there who the Bedouin called and told her they wanted to talk to her; when she came back she told me she was raped. Afterwards they wanted to take another girl aside, but I argued with them. After a week, all the eighty people were released but the Bedouin kept me with them in the desert for another eleven days.”



This portrait series was taken outside the Holot detention center for African asylum seekers. Under current Israeli law, their only hope for release is if they agree to be deported back to their home countries from which they fled.

{Top left to right} Zerei Gebresilasi [Eritrea] / Haben [Eritrea] / Yunas [Eritrea] / Abadom Girogis [Eritrea] / Araya Fishazion [Eritrea] / S.Y.A.J. [Niala, Darfur].

largely ignored the ruling until August 2015, whereupon some 1,200 men were finally released. But the release forms arrived with further constraints: the “infiltrators” were given a two-month permit, but forbidden from working or living in Tel Aviv or Eliat—the two cities where the majority of their refugee communities are located. At the end of these two months, they need to return to the Interior Ministry to request renewal of their conditional release visas. The government has not revealed what the punishment would be for violating these constraints. This represents a subtle change of strategy: where the state initially sought to detain and contain these “infiltrators,” now it sets them in perpetual motion, preventing them from ever making a home. These men are hopelessly trapped in the circuitous logic of Israeli law—mercilessly subject to the imperatives of the state and simultaneously barred from access.

To wonder about their dream-life is to speculate about where the boundaries of the law end. How does one’s lived conditions come to permeate one’s subjectivity? Is there a part of interior life that is protected from the perverse reach of the law? What acts of imagination can stage or even perhaps suspend the force of law? And more to the point of this book—how might photography be mobilized to intervene in this form of sovereign violence?

Oren Ziv’s portraits portray each of these men in agonizing solitude, their bodies seemingly suspended in space by a flat grey-white border. This simple framing serves to underscore each of the subject’s precarious legal status: each figure is caught in a liminal state, mounted in a kind of perpetually suspended sentence. They can neither move forward with their lives nor go back. The inhospitable place that holds them is a gateway to nowhere.

Each time I study Ziv’s portraits, trying to glean something from the men’s inscrutable faces, I think of Franz Kafka’s strange, short parable, “Before the Law.” In fact, this is the title I’ve always silently attributed to the series—especially when the photographs are presented in tableau form [opposite]. Kafka probably would never have imagined the protagonist of his story as an Eritrean or Sudanese civilian fleeing his war-torn homeland to come to the gates of Israel, but this is part of the story’s prescience, its surprising malleability. Any one of these

men could easily play the part of Kafka’s “man from the country,” a man who has come to one of the gates of the Law to ask for admittance. In Kafka’s story, the man from the country is met by a huge, Cossack-looking gatekeeper who imposes himself between the man and the open doorway. The gatekeeper does not deny that admittance may be granted at some point: “It is possible,” the gatekeeper intones, “but not now.” This enigmatic response sustains the man’s hope and he decides to stay at the gate to wait. He is trusting, believing that “the Law should be accessible at all times and to everyone.”

The man settles in to wait to be admitted to the Law, spending his days sitting on a stool outside the gateway. He becomes fixated by the radiance that seems to stream out from the doorway that remains tantalizingly open. But the days turn into years. The man frequently queries the gatekeeper who always replies that he cannot be let in ... yet. Bribes do not work, childish pleading does not work, nothing works, and the man begins to curse his luck. Kafka’s parable abruptly ends when the man, who has grown old and stiff, musters just enough energy to ask the gatekeeper why, in all the years he has waited, no one else has ever appeared to ask for admittance at the gates of the Law? The gatekeeper roars into his ear: “No one else could ever be admitted here, since this gate was made only for you. Now I am going to go and shut it!”<sup>1</sup>

As Jacques Derrida has pointed out, Kafka’s haunting parable carries all the merits of a narrative while also offering a potent commentary on the force of sovereignty, which is to say, it puts the protagonists into a literary relation.<sup>2</sup> This might seem like an obvious, or perhaps even trivial point, but its significance becomes clear when juxtaposed to the *fiction-less* quality of the law. The foundation of the law’s force lies precisely in the fact it is *not* a fiction. There is no obvious author of the law; its claim to absolute authority is established through universal, categorical pronouncements. The man from the country states what most of us believe to be true: the law should be accessible to all people at all times. But the tragedy here, if I can put it that way, is that he fails to grasp that it is precisely this universality—this *authorlessness*—that prevents him from accessing the law. The law derives its authority precisely by holding its subjects in place: to be recognized as a subject-of-law is to be perpetually held before the law.

It also bears pointing out that this is also photography's mode of operation. In a disquieting way, all these men—A.A.M.S., Solomon, Zerei, and the rest—have been frozen before the spectator, held in suspended animation by Ziv's camera. This confining mode of representation is precisely what draws the ire of critics: photography—and documentary photography in particular—turns on a myth of objectivity. It operates by exerting a kind of visual tyranny over its subjects—a tyranny that bears an uncomfortable similarity to the way that sovereign states are able to suspend the status of certain subjects, holding individuals interminably before the law.<sup>3</sup>

But this is also photography's great potential: Ziv's effort to render these individuals visible—to make their visage public, to make them *appear* alongside their brief testimonial statements—effectively illuminates the politics of disregard that lies at the heart of the infiltrator law. By willingly entering into a visual and textual relationship with these men, Ziv calls into question the *author-ity* of this law. We might compare his gesture to Kafka's literary act—a gesture that seeks to sniff out the law's attempt to conceal its own origins, a challenge to the authority upon which it rests. Circulating these photographs can be read, moreover, as an attempt to intervene upon the law's efforts to disappear these individuals. But this circulation also issues a potent challenge: the images place the spectator in the position of Kafka's gatekeeper. With our back to the law, we are positioned to face these men "from the country." Our gaze, however sensuous and compassionate, can only serve to defer their entrance, to withhold the men's passage. In this way, Ziv effectively entangles the politics of spectatorship within the prohibitions of the law. He challenges us, like Kafka, to consider our rapport, to question how our modes of looking and thinking silently sustain and comply with the operations of sovereign power.

Like Kafka's parable, the Holot detention center is a world populated entirely by men. Or perhaps it is more accurate to say that Holot is a world bereft of women. This is the paternal logic embedded in the law of hospitality, the way the sovereign state operates like the head of household, the figure who possesses the authority to extend or refuse hospitality to the stranger.<sup>4</sup>

In contrast to the hostile welcome issued by the

Israeli state, the Women in Black seek to tender their own particular model of civility and hospitality [**opposite**]. One could also give the title "Before the Law" to Keren Manor and Shiraz Grinbaum's portraits of these courageous women. In this case, the title would work like a kind of counterpoint, a signal of the way this group offers a rather different melody to the state's martial song of sovereignty.

Every Friday since 1988, these women have stood with their characteristic black signs in the main squares of cities and at highway junctions. The movement began as a response to the human rights abuses perpetuated by Israeli soldiers in the occupied Palestinian territories. Many of their signs call for an end to the occupation. They wear black clothing to signal that they are in a state of mourning for the victims of the conflict. The women's regular appearance represents a kind of vigil, a persistent effort to honor the dead. They share a kinship, in this respect, with the Mothers of the Plaza de Mayo, whose children were disappeared during the Dirty War in Argentina. The enduring public protest also recalls the Black Sash movement in South Africa—the group of white women who tirelessly stood in the streets with signs protesting against the apartheid regime. Each of these groups occupy public space in a regular, weekly ritual, a gesture that seeks to make the state's violence legible, or indeed, grievable, in Judith Butler's terms.<sup>5</sup> This demand-for-justice-cum-public-work-of-mourning seems to have a distinctly gendered dimension. As one of the Women in Black's founders, Edna Glukman [**opposite, top left**] recalls:

In the beginning, the right-wing protesters started to attack us during the vigils. We sewed big black banners and with small white letters we wrote slogans against the occupation, as well as for justice, peace, and women. By the time we began writing the word "women" on our banners, it was already starting to become a women's movement.

These women endure significant abuse—they are spat at, verbally harassed, and sometimes even physically attacked—and they subsequently have become a symbol of persistence and resilience in the country. Their relatively simple gesture of taking to the street should remind us of the remarkable potency of nonviolent resistance: the determination and willingness of individuals to use their



In honor of International Women's Day 2013, Activestills paid tribute to more than a quarter century of anti-occupation activism by the Women in Black group in Israel. Every Friday since 1988, these women have stood in the main squares of cities or at highway junctions with signs calling to end the Israeli occupation.

{Top left to right} Edna Glukman holding a sign in Hebrew that says: "Stop the Occupation" / Stela Tzur holding a sign in Hebrew that says: "An eye for an eye until all of us will be blind" / Dafna Kaminer (sitting) and Tamar Leahn / Aliya Strauss holding a sign in Arabic that says: "Stop the Occupation" / Orly Nathan / Yenina Altman / Varda Sivan / Vered Madar / Edna Zaretski Toledano.

bodies as a medium to render injustice visible. This basic and yet powerful gesture also sustains and nurtures the public sphere, a domain that Hannah Arendt characterized as a *space of appearance*.<sup>6</sup> For Arendt, the public sphere is the central organ of the human condition. She described it as a theater of resonance, a place that sustains the possibility of seeing and being seen, or hearing and being heard. The Women in Black claim this fundamental agency: the power to appropriate and transform public space into an amphitheater of justice.

Whereas Oren Ziv frames his detainees with a flat grey-white border, Manor and Grinbaum shroud the women in blackness, using light to dramatically accentuate their subjects' own strategy of theatrically mobilizing their bodies to illuminate human affairs. In these pictures, the women seem to possess their own light source that is in stark contrast to the dark times in which they live. It

is as if they have harnessed something of that radiance that seems to fixate Kafka's man from the country—the illumination that comes from beyond the gates of the law.

Perhaps most importantly, the photographers remind us that the power of such illumination often comes less from abstract theories and concepts than from women and men who, in their lives and work, are determined to kindle and protect this space of appearance in spite of all. They show us that the *polis*, properly speaking, is not equivalent to the state, but rather lies in that space between people who act and speak together for a common purpose. Taken together, these photographs issue a warning: not everyone has access to this space of appearance. But they also serve as a reminder of our fundamental human agency: each one of us provides the guarantee for the other's presence in the human world, just as our presence, in turn, is guaranteed by the other.

1. Kafka's parable "Vor dem Gesetz" ("Before the Law") was first published in 1915 in the independent Jewish weekly, *Selbstwehr*. I've drawn from the English translation published in *The Metamorphosis, In the Penal Colony, and Other Stories*, trans. Joachim Neugroschel (New York: Simon and Schuster, 1993), 249–51.
2. Jacques Derrida, "Before the Law," in *Acts of Literature*, ed. Derek Attridge (New York: Routledge, 1992), 181–220.
3. Critiques of documentary photography are manifold. I am thinking in particular of Martha Rosler's "In, Around, and Afterthoughts (On Documentary Photography)," in *The Contest of Meaning: Critical Histories of Photography*, ed. Richard Bolton (Cambridge, MA: MIT Press, 1989), 303–42.
4. See, for instance, Jacques Derrida's seminar on the "Foreigner Question" in *Of Hospitality, Anne Dufourmantelle Invites Jacques Derrida to Respond*, trans. Rachel Bowlby (Stanford, CA: Stanford University Press, 2000), 3–74.
5. Judith Butler, *Frames of War: When Is Life Grievable?* (New York: Verso, 2009).
6. Hannah Arendt, *The Human Condition* (Chicago, IL: University of Chicago Press, 1958).

{Opposite page}  
African asylum seekers protest,  
Tel Aviv, 16.12.2008

