

BOOK REVIEW

Justice for All?

*Rebecca K. Lee**

JUDITH RESNIK & DENNIS CURTIS, REPRESENTING JUSTICE: INVENTION, CONTROVERSY, AND RIGHTS IN CITY-STATES AND DEMOCRATIC COURTROOMS (Yale University Press, 2011).

INTRODUCTION	218
I. JUSTICE'S BLINDFOLD	218
A. <i>Origins of the Blindfold</i>	219
B. <i>The Blindfold in Modern Times</i>	221
II. JUSTICE'S SWORD AND SCALES	224
III. JUSTICE'S GENDER	224
IV. JUSTICE'S RACE	227
CONCLUSION.....	228

In Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms by Judith Resnik and Dennis Curtis, art takes center stage as Resnik and Curtis focus on the visual renderings of the law, rather than on the words that make up the law, to analyze the pursuit and practice of justice over time. This Book Review examines in particular the iconic depiction of Justice and the controversial meanings her image has elicited, largely prompted by the presence or absence of her blindfold as well as by her physical form. Although Justice's role is to resolve disputes under the law, the message that her visual presentation conveys about the task of judging and who participates in it has generated much disagreement. In light of the larger questions raised about the goals of justice, this Book

* Associate Professor of Law, Thomas Jefferson School of Law. B.A., University of Chicago; M.P.P., Harvard University, John F. Kennedy School of Government; J.D., Georgetown University Law Center. I thank the Vanderbilt Law Review En Banc editors, especially Valisa Berber-Thayer and Matthew Chiarizio, for their very helpful comments.

Review demonstrates that Justice as typically portrayed may not signify Justice for all.

INTRODUCTION

To understand the law and the pursuit of justice, we usually look to words rather than images for meaning and explanation. Yet legal concepts are also conveyed in visual ways with far-reaching effect that tell a story of their own, as legal scholars Judith Resnik and Dennis Curtis demonstrate in their recent book, *Representing Justice: Invention, Controversy, and Rights in City-States and Democratic Courtrooms*. In this remarkably comprehensive work, Resnik and Curtis take us through a detailed art history tour of juridical concepts as they emerged and evolved over time. Filled with images of drawings, paintings, statues, sculptures, and photographs, the volume vividly captures legal history in visual form, spanning from the Medieval period in Europe to modern times around the globe, with a focus on Western and U.S. displays of law and justice.

That legal meanings can be examined through visual demonstrations may not seem surprising, given that symbolism is ever present in the law. Perhaps there is no symbol as enduring as that of Justice, familiarly depicted as a woman commonly outfitted with scales, a sword, and a blindfold.¹ The significance of Justice as a legal icon is reflected in her long history as an artistic subject and medium for public commentary. Indeed, Resnik and Curtis devote several chapters of their text to the varying and unvarying ways in which Justice has been portrayed, exploring the layered meanings that her image evokes. Although Justice's role is to adjudicate disagreements under the law, ironically her visual embodiment has been the source of much dispute, giving rise to larger questions about the goal of justice and who participates in dispensing it.

I. JUSTICE'S BLINDFOLD

As Resnik and Curtis point out, the most debated point of contention involves Justice's blindfold and what its presence or absence says about the proper role of judges. As the overseer of the adjudication process, the symbol of Justice in the role of judge takes on practical meaning concerning how cases are, or should be, decided. In particular, whether her vision should be clear or obscured becomes

1. JUDITH RESNIK & DENNIS CURTIS, REPRESENTING JUSTICE: INVENTION, CONTROVERSY, AND RIGHTS IN CITY-STATES AND DEMOCRATIC COURTROOMS 91 (2011).

central to the issue of her impartiality during the decisionmaking process. The role of sight and its relationship to Justice has changed over the years, as the message conveyed by the appearance of open eyes took on more than one meaning.

A. Origins of the Blindfold

The image of Justice dates back to the 1500s, during the Medieval European period, when having the ability to see was linked to things good and pure.² Light symbolized truth and clarity; it was a sign of holiness and something that was thought to emanate from God's all-seeing and all-knowing eye.³ Interrupting all access to light, for instance by casting someone into a dark space, was imposed as a form of penalty for wrongdoing during this era, and similarly the state of being blind indicated a state of mental darkness—that is, unintelligence or incompetence.⁴ Art and writing from the Medieval period and into the Renaissance era were heavily influenced by Biblical references from the Old and New Testaments, which mostly viewed shrouded or blinded eyes as a serious impediment to holy access and blessing.⁵ Pictorial portrayals of Justice from this time were thus typically clear-eyed.⁶

As justice began to be administered in increasingly populated areas, however, problems surfaced regarding the truthfulness or accuracy of information presented to and relied upon by judges, as well as the judges' own integrity and their possible openness to accepting bribes.⁷ The depiction of Justice was revised in light of these concerns, with her eyes now covered to indicate her honesty and purposeful avoidance of any favoritism that sight might invite.⁸ Still in keeping with the divine concept of sight, the introduction of a bandage over Justice's eyes may have marked the simple recognition of the difference between justice administered by human beings and justice handed down by God, with the former needing protection in the form of a blindfold and the latter remaining uncorrupted by clear

2. *Id.* at 95.

3. *See id.* at 64–65 (discussing that in ancient texts, light “represent[ed] truth” while “blindness exemplified ignorance or abandonment . . . and impaired judgment”).

4. *Id.* at 95.

5. *Id.* at 64–65.

6. *Id.* at 95–96 (discussing several depictions of Justice from works of art from that period).

7. *Id.* at 96.

8. *Id.*

vision.⁹ The image of Justice with a blindfold hence gained traction in the sixteenth century, and was well established by the eighteenth century, to show that judges would rely on their inner knowledge based on reason and accordingly shun outside sources of information that could negatively affect the decisionmaking process; for this reason, an artist who nonetheless chose to portray Justice with eyes unmasked during this era had to provide a reason for the missing blindfold.¹⁰

Justice's vision also may have been obscured during this period to signify that without sight, she was compelled to listen to the ruling monarch's recommendations when rendering decisions, indicating the authority that the monarch had over the judge at the time.¹¹ Judicial power was controlled by, and deferential to, the state's ruling power, and this understanding was not initially challenged.¹² As the concept of a government requiring separate spheres developed, however, the eye bandage then came to connote the independence of the judiciary from executive and legislative power by keeping the state and the state's influence out of the judge's vision, thus creating distance between the judge and the other governing branches.¹³

The relationship between sight and judicial knowledge attracted the interest of more than artists only; philosophers during the seventeenth century¹⁴ and into the twentieth century also pondered this question, including John Rawls in his work, *A Theory of Justice*.¹⁵ He contended that judicial deliberation must take place underneath a "veil of ignorance" in order to give no advantage or disadvantage to anyone due to natural or social conditions.¹⁶ The purpose of Rawls's veil can be analogized to the purpose of Justice's blindfold in that both seek to shield from view certain knowledge—for instance, a party's class or social standing—that does not and should not have any place in making judgments.¹⁷

9. *Id.* at 70 (pointing out Erwin Panofsky's argument that "blindfolds were not generally valorized in the Renaissance, and the 'motif [of the blindfold] is limited to representations of Worldly Justice, whereas Divine Justice has . . . piercing and awe-inspiring eyes'").

10. *Id.* at 96.

11. *Id.*

12. *Id.*

13. *Id.* at 96–97.

14. *Id.* at 97–98 (referring to the ideas of John Locke, William Molyneux, and Diderot).

15. *Id.*

16. JOHN RAWLS, *A THEORY OF JUSTICE* 11 (rev. ed. 1999).

17. RESNIK & CURTIS, *supra* note 1, at 98.

B. The Blindfold in Modern Times

The portrait of Justice blindfolded remains familiar in more modern times, invoking for many the ideal of judicial fairness and objectivity in deciding cases.¹⁸ But for others, as Resnik and Curtis explain, the blindfold suggests exactly the opposite, producing tension in how Justice should be visually presented.¹⁹ The use of the blindfold, on the one hand, may be seen as noble if one believes that sight can impair the adjudicator's ability to evenhandedly make decisions. According to this perspective, with the blindfold affixed, the judge does not see the parties and thus cannot be swayed by anything other than the applicable legal rule.²⁰ In other words, by not looking at the specific individuals involved in a case, the judge will be able to maintain her focus on the legal rule and maintain objectivity in arriving at a decision.²¹ She will carry out her duties by "judging the case rather than the parties."²²

This justification for covered eyes calls to mind the initial reason Justice was given a blindfold in the sixteenth century: to indicate that a judge ought to solely rely on inner knowledge in order to deliver fair and impartial judgment.²³ But the adjudicator's presumed "inner" knowledge seems to contradict the need for a blindfold at all. If true inner knowledge exists—knowledge that is complete and relevant to be able to render objective judgment—it would follow that such knowledge would prevail over any conflicting or immaterial piece of outside knowledge, so as to remove the worry that the judge could be unduly influenced by keeping an open-eyed posture. Instead, the notion that Justice's judgment would be altered if she were at all to see undermines the strength of such "inner" knowledge as the sole basis for reaching just decisions.²⁴ Believing that mere sight would threaten the triumph of inner reason arguably

18. *See id.* at 91 (positing that much of the initial variety in Justice's portrayal has evaporated in modern times, and referring to the continuing view that Justice's blindfold is necessary if we "assum[e] that sight can corrupt judgment").

19. *Id.*

20. *See id.* (discussing the perspective that "sight can corrupt judgment").

21. JOHN T. NOONAN, JR., *PERSONS AND MASKS OF THE LAW: CARDOZO, HOLMES, JEFFERSON, AND WYTHE AS MAKERS OF THE MASKS* 15 (2002 ed.) (explaining the role of rules in the legal paradigm).

22. Richard Posner, *The Role of the Judge in the Twenty-First Century*, 86 B.U. L. REV. 1049, 1057 (2006) (referring to this as Aristotle's concept of corrective justice).

23. *See* RESNIK & CURTIS, *supra* note 1, at 96 (stating that "[t]he depiction of a Justice whose vision was obscured came to represent something sought after . . . [including] inner wisdom").

24. *See id.* at 96 (noting the questions that arose regarding "the quality of [a judge's] knowledge and the caliber of those who made judgments").

weakens the very idea of possessing internal knowledge, which presumes a firmly rooted kind of reason, impervious to, and unaffected by, external information. That is, if a judge actually possesses true inner wisdom, then the judge would not need any outside aid, including an eye covering, to determine the right result.²⁵ The expectation would be that the judge, even with sight restored, would continue to view disputes from her mental eye rather than her physical eye.

On the other hand, if a judge lacks certain knowledge from within that could serve as a reliable guide in deciding disputes, or if this knowledge is incomplete or insufficient, then a judge could not depend only on what she already knows.²⁶ Rather, she would need the assistance of all of her faculties, including sight, to gather and process the available external information and to make a better-considered decision. There also remains the possibility that a judge's inner knowledge may be tainted and hence in need of correction using other channels of information, such as clear vision, to allow her to test what she thinks against what she is able to see.²⁷ For example, judges are not immune to their own biases that can predispose them to find one type of claimant generally more credible than another, rendering it important that they have access to additional information that could counter any existing predilections.²⁸ Since a judge with real inner wisdom would not be led astray simply through the activity of seeing, the application of the bandage can be understood as trying to limit, rather than focus, Justice's knowledge concerning a given case. In short, the bandage problematically prevents Justice from seeing and knowing all there is to see and all there is to know when issuing judgment.

Moreover, because only Justice's vision is restricted while that of others around her is not, it seems strange for others to be able to

25. This would only be the case if the judge were in fact still viewed, as in Medieval times, as carrying out "God's Justice," such that there is "little need to mark the problem of sorting good from bad information because judges—doing God's Justice on earth—were to know all that they could through whatever means possible." See *id.* at 95.

26. See Sophie H. Pirie, *John T. Noonan as Judge: What Can Empathic Judging Mean for Women?*, 12 J.L. & RELIGION 541, 549 (1995–96) (noting that to apply the law, Ninth Circuit Judge John T. Noonan understood the need to see the litigants as "particular and individual persons" who were not "faceless and contextless").

27. See Catherine Gage O'Grady, *Empathy and Perspective in Judging: The Honorable William C. Canby, Jr.*, 33 ARIZ. ST. L. J. 4, 26–27 (2001) (pointing out that judges may hold unconscious biases and that to lessen the influence of such biases, judges must take in the human context of the parties).

28. See RESNIK & CURTIS, *supra* note 1, at 132–33 (describing judges' own stereotypes and biases regarding gender and race, and the creation of task forces studying bias in the courts).

see what she cannot, given her role as the decisionmaker. A judge's decisions are meant to apply in a world that sees, a world that acquires its own knowledge based on what is in plain sight, and this visual access to information may cause the public to challenge whether there is judicial impartiality in a given case.²⁹ Although not everything in the public eye will or should matter to the outcome of a case, the judge ought to be aware of all possibly relevant information in order to make that determination. To a public concerned by certain things it sees, a blindfolded judge who stays ignorant of visibly available information would offer little comfort that justice will prevail.³⁰ The integrity of the judicial role and duty would suffer as well, along with the public's view of a judge's decisionmaking ability, if judges were not given the responsibility of determining what is important and relevant after looking at all of the evidence.³¹ Granted, in some instances, a blindfold will still not create enough distance for the judge who already knows too much due to a personal connection to the parties or a personal stake in the case, indicating the need for judicial recusal in those cases and demonstrating that a judge's neutrality is less than perfect.³²

In addition, some have argued that the law itself lacks fairness and contributes to unequal treatment due to racial and class discrimination in the judicial process, and therefore to the extent that blindfolded Justice is intended to represent fairness and equality

29. See *id.* at 128 (referring to things such as a judge's "participation on boards, friendships with lawyers or litigants, etc.")

30. See *id.* at 130 (stating that "the gesture of covered eyes, claimed to buffer the decisionmaker from seeing (and perhaps therefore from fully knowing) what has occurred, does not obscure from other viewers the very activities that have invoked unease").

31. The book's discussion on this topic addresses Justice's blindness as a willful or an optional loss of sight; in other words, Justice, without the bandage, presumably has the ability to see. See RESNIK & CURTIS, *supra* note 1, at 65 ("Blindness is not the equivalent of the willful act of being blindfolded."); see *id.* at 98 ("Both Rawls's veil and Justice's blindfold depend on the assumption that the wearer can, in fact, see but is committed to bounded knowledge."). Yet it is important to note that Justice also may remain blind even with eyes uncovered, given that a number of judges (and other members of the legal profession) are disabled in terms of their vision but, with technological and other assistance, are able to fully engage in their duties. Visual knowledge, then, while helpful in properly evaluating the evidence presented, is understood as not the only way in which one can receive and process information. See Adam Schwartzbaum, *The Niqab in the Courtroom: Protecting Free Exercise of Religion in a Post-Smith World*, 159 U. PA. L. REV. 1533, 1568 (2011) (stating that for blind judges and blind jurors, factors other than a witness' demeanor can be relied on to evaluate the witness' testimony).

32. See Caprice L. Roberts, *The Fox Guarding the Henhouse?: Recusal and the Procedural Void in the Court of Last Resort*, 57 RUTGERS L. REV. 107, 131 (2004) (discussing the concept of judicial recusal, noting that in some cases "[t]he figure representing justice is blindfolded so that the scales are held even, but justice is not blind to reality").

under the law, this symbolism is directly misleading.³³ Yet owing to the various ways in which the ambiguous meaning of the blindfold can be deployed, the covering over the eyes could exactly connote this sense of perverted justice—a justice system that has blindly proceeded in the wrong direction, or one that wants to shield from its own view the unjust penalties it nevertheless orders when deciding cases.³⁴

II. JUSTICE'S SWORD AND SCALES

Unlike Justice's blindfold, the other items that typically accompany her image—her scales and sword—have attracted little debate.³⁵ Justice's sword indicates the violence inflicted by the state in her name, but this understanding does not appear to be that controversial.³⁶ Justice's balanced scales indicate her evenhanded judgment,³⁷ seemingly negating the need for a blindfold if she could use her scales to carefully weigh all of the material facts, both seen and unseen, in order to reach a balanced and fair result. The judge's role is precisely to consider all available information to determine what is relevant and important to know. In addition to considering the facts, the judge must also weigh the competing rules that may govern a case in light of the facts and decide which rules to apply.³⁸ At the same time, determining whether certain evidence is material and which rules govern depends not simply on the judge's impaired or unimpaired sight, but also on the larger culture in which the law is enforced.³⁹

III. JUSTICE'S GENDER

It should not go unnoticed that Justice takes tangible shape in female rather than male form. Based on her origins in Medieval Europe, Justice was seen as one of the four "Cardinal Virtues" (along with Prudence, Fortitude, and Temperance), all of which assumed the female figure, derived from the image of the Egyptian (Ma'at), Greek

33. RESNIK & CURTIS, *supra* note 1, at 103.

34. *Id.* at 64.

35. *Id.* at 89.

36. *Id.*

37. *Id.*

38. See Posner, *supra* note 22, at 1057 (commenting that "judges have and can (often must) implement preferences between rules").

39. See Eloise A. Buker, *Lady' Justice: Power and Image in Feminist Jurisprudence*, 15 VT. L. REV. 69, 84 (1990) (positing that evidence includes the "culture and attendant legal practices which that culture sustains").

(Themis), and Roman (Justitia) goddesses.⁴⁰ Justice's gendered representation has not sparked much debate,⁴¹ perhaps due to a general acceptance of her historical derivation or to a common oversight, but it is odd nonetheless given the attention paid to whether Justice is sighted or not.

The common picture of Justice with her eyes shrouded, however, cannot be understood entirely separately from her female personification—Justice as a woman has been made not to see. Did the need for the blindfold emerge because Justice is depicted as a woman?⁴² It is unclear whether she dons the blindfold voluntarily or whether it has been placed on her, but it seems unlikely that Justice as a man would have had his eyes concealed, that he would have been deprived of using his sense of sight.⁴³ For example, St. Michael, an archangel and predecessor of Justice tasked with judging souls on Judgment Day, is always portrayed without any impediment to his sight.⁴⁴ Taking away Justice's ability to see may be yet another example of how “the female gaze” has been treated differently than the prioritized gaze of men.⁴⁵ Further, Justice is prevented not only from seeing the disputants and their characteristics, but also from seeing her own image. Under this view, Lady Justice apparently needs to be restrained and guided via the blindfold due to the stereotypical view of women as being prone to emotionality and the fear that any sort of emotional engagement will distract them from maintaining a

40. RESNIK & CURTIS, *supra* note 1, at 8–9; I. Bennett Capers, *On Justitia, Race, Gender, and Blindness*, 12 MICH. J. RACE & LAW 203, 207–08 (2006).

41. See Capers, *supra* note 40, at 227 (remarking that Justitia's gender has prompted little examination). *But see* Buker, *supra* note 39, at 83–86 (critiquing the image of justice as a blind female figure).

42. See Capers, *supra* note 40, at 227 n.116 (commenting on the link between Justice's gender and her blindfold, with the blindfold serving to obstruct female observation and female attention to particularity and context, in contrast to the generalized male gaze).

43. See *id.* at 208–09 (discussing various precursors to the depiction of Justice, including the Greek goddess Themis, the Egyptian goddess Ma'at, and the archangel St. Michael); Carolyn Strange, *The Unwritten Law of Executive Justice: Pardoning Patricide in Reconstruction-Era New York*, 28 LAW & HIST. REV. 891, 916–17 (2010) (asserting a contrast between feminine Justice who is blindfolded and masculine justice that is open-eyed).

44. Capers, *supra* note 40, at 208–09.

45. See Laura Mulvey, *Visual Pleasure and Narrative Cinema*, in ART AFTER MODERNISM: RETHINKING REPRESENTATION 361, 366 (Brian Wallis ed., 1988) (discussing the dominance of the “male gaze” in cinema as attention is paid on pleasing the male viewer, particularly when viewing women); Rebecca Tushnet, *Scary Monsters: Hybrids, Mashups, and Other Illegitimate Children*, 86 NOTRE DAME L. REV. 2133, 2153 (2011) (“[T]o see is to be able to judge. Consider that the common Western image of blindfolded, impartial Justice is specifically about blinding a female gaze so that it cannot make particularized judgments; male images of justice are not so treated.”).

focus on reason.⁴⁶ Men's ability to remain rational and logical when administering justice, however, has not been questioned.⁴⁷ Hence, if Justice's eyes " 'are bound to show that the judge, in evaluating a given case, is not tempted away from using reason,' " ⁴⁸ it is uncertain whether a male Justice would have received the same blindfold treatment. If Justice had been shown as male, the assumption may have been that reason, and reason alone, would prevail in the decisionmaking process.

Furthermore, Justice's embodiment as a woman stands uneasily next to the long history of the law's exclusion of women from serving as judges in the United States and elsewhere.⁴⁹ Even the term "Lady Justice" may contribute to a figurehead view of women in the judicial system as elevated but passive or ineffectual human beings.⁵⁰ In fact, despite Justice's female presentation, the U.S. Supreme Court decreed that women could not practice law in *Bradwell v. Illinois*, an 1872 case which included the statement that "God designed the sexes to occupy different spheres of action and that it belonged to men to make, apply, and execute the laws" ⁵¹

Admittedly, Lady Justice, whose origins date back to the ancient Egyptian, Greek, and Roman goddesses, appeared initially to have been more of a mythical portrayal of a concept rather than a depiction of an actual woman.⁵² As one of various Virtues, all historically shown as female, Justice and her gender may simply be a

46. See Rebecca D. Gill et al., *Are Judicial Performance Evaluations Fair to Women and Minorities?: A Cautionary Tale from Clark County, Nevada*, 45 LAW & SOC'Y REV. 731, 754 (2011) (referring to "stereotypes about women, namely that women are too emotional and nonconfrontational to be competent judges"); Justine E. Tinkler, *Resisting the Enforcement of Sexual Harassment Law*, 37 LAW & SOC. INQUIRY 1, 4 (2012) (referring to "gender stereotypes about women's emotionality (and irrationality)").

47. See Leslie M. Kerns, *A Feminist Perspective: Why Women Should Give the Reasonable Woman Standard Another Chance*, 10 COLUM. J. GENDER & L. 195, 211 (2001) (discussing the "reasonable man" standard as an example illustrating how reason was seen as a male trait).

48. RESNIK & CURTIS, *supra* note 1, at 70 (quoting a 1644 Dutch edition of Cesare Ripa's work describing an illustration of Justice).

49. See Judith Resnik, *Reconstructing Equality: Of Justice, Justitia, and the Gender of Jurisdiction*, 14 YALE J.L. & FEMINISM 393, 396-97 (2002) [hereinafter Resnik, *Reconstructing Equality*] (noting this irony).

50. Buker, *supra* note 39, at 85 ("Can women participate in serving Lady Justice? Or does this symbol serve only as the token image of woman in the context of a tale of male knights serving the 'lady' of the castle, who must remain helpless, inactive, pedestalled, and ethereal in order to make the story work?").

51. 83 U.S. 130, 132 (1872) (denying a female citizen the privilege to practice law under the Fourteenth Amendment of the U.S. Constitution).

52. See RESNIK & CURTIS, *supra* note 1, at 9 (discussing the historical depictions of the Virtues, including Justice, and discussing "how and why words, activities, or abstractions came to be gendered").

product of tradition, which linked the female form to pure and aspirational attributes.⁵³ The female image of Justice dominated over time, without major incident or objection, precisely because she served as an abstract symbol, lacking similarity to the men who occupied the judicial system.⁵⁴ The mythical nature of Justice's form, however, began to fall away once women gained access to the courts.⁵⁵ From that point on, Justice bore a resemblance to some participants in the judicial system. Justice's presentation, with respect to her gender and other characteristics, then came to the fore, producing questions about what her image suggested about the role of women in the judicial process and whom she truly represents and protects.⁵⁶

IV. JUSTICE'S RACE

Justice continued to be depicted as female in the twentieth century, but as more groups in American society gained legal rights, additional aspects of her portrayal acquired new meaning.⁵⁷ With greater public consciousness on issues of race, there emerged disagreement as to the specifics of her female likeness regarding "skin color, kind of hair, and shape of features" that would send a public message of both inclusion and exclusion.⁵⁸ Justice's long representation as not just a woman but as a *white* woman cemented a public expectation of the whiteness of her image, also calling into question whether Justice would be impartial when resolving disputes involving nonwhite litigants.⁵⁹ For instance, a 1937 painted mural of

53. *See id.* at 8–9 (noting that the female form was used for various Virtues—including the four Cardinal Virtues of Justice, Prudence, Fortitude, and Temperance—while the male form was used for certain Vices).

54. *Id.* at 107. It should be noted, though, that Justice has been shown accompanied by male figures and with other female figures when she is not shown alone. *See, e.g., id.* at 78, 80, 117–18 (discussing *Allegoria della Giustizia Oppressa*, in which Justice is surrounded by various male figures; noting that in the depiction of Justice in *Venetia/Iustitia*, Justice is "supported by the two lions of [Venice's] patron, St. Mark"; describing the portrayal of Justice on the roof of a New York state courthouse in midtown Manhattan in which Justice is placed upon a pedestal with two male figures, "Power" and "Study," at her feet).

55. *Id.* at 107.

56. *See Bradwell*, 83 U.S. at 132 (stating "that when the legislature gave to this court the power of granting licenses to practice law, it was with not the slightest expectation that this privilege would be extended to women"); Resnik, *Reconstructing Equality*, *supra* note 49 (discussing the disconnect between the portrayal of Justice as a woman and the failure of justice systems around the world to even afford women the protection of their personal safety).

57. RESNIK & CURTIS, *supra* note 1, at 106–08.

58. *Id.* at 107–08.

59. *See Capers*, *supra* note 40, at 224–31 (describing the complicated link between Justice's white, female image and America's history of slavery and continuing discrimination against blacks in the judicial system).

Justice that was to be featured in a federal courthouse and post office in Aiken, South Carolina prompted strong criticism by the local media because they alleged that this Justice resembled a “barefooted mulatto woman wearing bright-hued clothing.”⁶⁰ Although the mural was ultimately placed in the South Carolina courthouse and remains there today, it has stayed hidden behind curtains and is revealed only to those who request to see it.⁶¹ A federally commissioned statue of a non-white Justice is on open display, however, at the entrance of the federal courthouse in St. Croix in the Virgin Islands.⁶² Entitled “Lady of Justice” and open-eyed, this statue resembles a dark-skinned St. Croix resident in modern clothing holding only scales and is intended to concretely represent those who live in this U.S. territory, the vast majority of whom are black descendants of slaves from Africa.⁶³ These examples reflect both the controversy over, and recognition of, Justice’s evolving form in the last century, with new variation in her image to represent the racial diversity of people for whom she stands. As previously disenfranchised groups gained rights to the courts, Justice gained a new look to mirror this modern reality, marking her transition from serving as an abstract to a more accessible and impartial symbol of justice.⁶⁴

CONCLUSION

It seems likely that the various portraits of Justice, eyes covered or uncovered, as a white or non-white female, reflect to some degree the particular views of the artists who created them, or the views of society that existed at the time. Each illustration would naturally have been informed by earlier images of Justice, and in turn would help shape the depictions that followed. At the same time, certain artists may have aimed to move beyond existing notions of Justice, to inspire or emphasize new judicial standards through their

60. RESNIK & CURTIS, *supra* note 1, at 110–13 (referring to a mural by artist Stefan Hirsch commissioned in 1937 by the federal government during the New Deal era as part of the government’s Works Project Administration program).

61. *Id.* at 113 (quoting a local newspaper, which explained that the mural remained draped during court sessions because of the mural’s “flamboyant” backdrop and Justice’s bright clothing). Members of the local community in the 1980s raised funds to move the mural and display it at the Aiken County Judicial Center, but the mural’s fragility prevented its relocation. *Id.*

62. *Id.* at 121.

63. *Id.*

64. *See id.* at 106–07 (referring to various depictions of Justice during the twentieth century that deviated from her typically white (and presumably Christian) female form).

work.⁶⁵ Any alterations to Justice's appearance may be attributable to the individual artist's attempt at social commentary,⁶⁶ and an artist's aim in conveying a pictorial message may be further informed by how the message is actually received.⁶⁷ Viewers may see in a picture not only what is shown, but also what they want to see, thereby supplementing or substituting their views for that of the artist.

Nonetheless, there remains striking overall consistency in how Justice has been portrayed around the world in terms of her accessories and form. This similarity over many centuries confirms her lasting symbolic force and the shared meaning she evokes in places where justice is practiced and strived for. Although Justice and her aspirations for the rule of law and impartiality under the law remain in important ways constant and universal, they also have evolved in terms of their full meaning and how they have been presented. Justice's image should continue to be revisited and revised so that Justice as one may come to better represent Justice for all.

65. *See id.* at 89 ("Imagery—then and now—seeks to generate commitments to developing norms rather than to express only those that are secure.").

66. *See id.* at 88–89 (describing a modern sculpture of Justice, blindfolded and holding scales in one hand and a scroll in the other, and explaining that the sculptor substituted Justice's sword with a scroll because he was against capital punishment).

67. *See id.* at 71–72 (referring to a 1539 drawing by Pieter Bruegel of a busy scene called "Justice" and the scene's ambiguity, which created a lack of consensus about the artist's intent, but noting that the drawing's violent scenes, in any event, reflected the views of society on law and order at the time).