

**FEATHERED AND UNFEATHERED HOPE: THE LEGAL FICTION
OF LOWELL B. KOMIE**

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An unnamed lawyer in Lowell B. Komie's "Burak" reflects with Isak Dinesan that "birds are really closest to God and unlike people occasionally brush wings with angels." He wonders if he could spot an angel through the flocks of pigeons that wing past the windows of a Schubert concert. Did you know, he asks a friend, that Muhammad rode to heaven and back astride Burak, a winged horse with the face of a man? "Lawyers are not interested in hearing about Burak," responds the friend.

Can a lawyer's horse not be a thing of myth or wonder, a vehicle for flight or deliverance? Are lawyers consigned to be work animals, rooted in this earth and to be harnessed and commanded only by constant wheedling? "The important thing about a lawyer's life," continues the friend, "should be 'freedom.'" Freedom to what? Freedom from what? Freedom to think and champion a client's needs, freedom to seek justice, or freedom from the grey and slush of a winter's gloom and the bundled figures who trudge the commuter's path?

For most of the lawyers and judges that populate Lowell B. Komie's insightful and beautifully constructed short stories, freedom is more about personal escape or self-protection than it is about truth or what we do for our clients. The professional landscape is sadly flat. When did solace or repose become lawyers' most precious objectives? "If you think you can construct a tower to Justice—forget it—you can't," Kafka advises when summoned in "Justine," "There is no such thing as justice." Instead, says Kafka, just build a condo and secure it against poor people. Gandhi, himself a lawyer and one of the great practical philosophers of the 20th century, is also a building consultant in this whimsical story about a lawyers' Hall of Fame. He offers only the mantra, "Never take a postdated check." Has justice become so elusive, our aspirations so shallow? Has our love for the law become self-deceit and self-absorption?

In this collection of stories, Komie offers an elegy for the legal profession, not a critique so much as a sorrowful lament. There's not much in the way of real evil here, and little personal viciousness. But neither does Komie traffic in the banality of contemporary fiction. Instead, what we find in Komie's stories is an intricate system of law, its practice, and the work of judges. That system is weighted down, unable to escape human frailties and bureaucratic routine—corruption, patronage, anger,

racism, elitism, boredom, and immense unfulfilled personal needs that find outlet in aggression, anxiety, adultery, broken relationships, and cynicism. Komie refuses to romanticize the law or lawyering; he does not allow us to hide in its abstractions. Like the Chicago landscape in which the stories are set, his lawyers are grittily concrete—grey and hard, eventually weathered and cracked by age and the constant traffic of human problems they must deal with. Komie's stubborn skepticism, paired with psychological insight, result in stories that are sobering and poignant, and always, always, thoughtful.

Komie's characters are artfully drawn, sampling broadly the personalities, abilities, weaknesses, and sensibilities of the bench and bar, as well as students who have set out to be lawyers. Some, like Judge Arthur Williams in "Ash," are defiantly courageous even at the risk to their career advancement. Most are honest, concerned to perform their profession responsibly. Few, however, seem to find much gratification in what they do as lawyers, except for those who have channeled their anger or neurotic obsessiveness into their work. Few of his characters are able to sustain intimate relationships. The bustle of law offices and courtrooms conceal detachment and loneliness. Komie invokes art—and Chagall several times—but those joyful images seem remote from a lawyers' world that more evokes Edward Hopper, a world in which the light is sucked in by anger and disappointment.

Komie and his characters clearly yearn for something better. In many stories, there is an elusive prospect of sunshine or flight, a fleeting chance that the lawyer may break free from the gravity of need and loss. Angels hover, but are always just out of reach of those seeking deliverance or repose. Balloons and kites are set forth in the urban canyons. "Hope is a thing with feathers," as he quotes Emily Dickinson. But the feathers cannot just be pasted on, because the wax will melt. "You have to remind yourself of joy and how to be ecstatic and alive," says the commuter who stops to find the bluebird and fallen angel in a Chagall mural. Legal practice and everyday judging, however, seem to tether people to the earth, be it the golden parachute ride at the Goddess of Justice tower in "Justine" or the suicide plunge of AIDS victim Derek Haughton in "Who Could Stay the Longest?"

Has it always been like this? As a law professor, I see idealism, sincerity, and intellectual engagement in my students. I see other things in them as well, but there's always idealism. I encourage them, at least in part, to look up from their work as students, to find a law full of truth and potency. Do I set them up for a harsher fall? How could I not have known all along that Madame Butterfly was a man and a spy? Or did I know? If I can harness Burak, should it be to ride to heaven, or just to

fly away? Can Komie's lawyers help us find light for a vision of justice and purpose?

We are warned more than once against pretense. Legal feathers alone will not equip us to find the sun. Nor will the artificial parrot in "The Law Clerk's Parrot." This well intentioned office gift by a partner to a law clerk is a surrogate of the real parrot purchased by the clerk for solace following her breakup with her boyfriend. In a comically exaggerated metaphor, we see again the limitations of law in providing for our more basic human needs. The office parrot repeats whatever assertions or arguments are made to it. It provides a diversion but not the comfort of the real parrot. It reflects, not absorbs. It reduces the original relationship between the clerk and her parrot—her emotional need and the parrot's soothing—to a caricature of egoism.

Deeper self-awareness, however, does not ensure transcendence or deliverance. In "The Cornucopia of Julia K.," Julia, a young partner and litigator with her law firm, finds herself sacrificing holiday presents for her mother and sister's children so she can attend a litigation planning conference where a colleague genuflects before the speakerphone transmitting the voice of a senior trial lawyer. Leaving the conference prematurely, she begins cutting her hair off at her desk, a symbolic form of self-mutilation. She is interrupted by a scheduled interview with a young woman applying for a position as associate with her law firm. Julia says, "Why do you want to become a lawyer, Ms. Bascomb?" Ms. Bascomb responds, "I think I really want to help people." To which Julia replies, "This is a bad place to help people, Ms. Bascomb. We don't help people here." Ms. Bascomb is ushered out, but in parting, Julia offers her the paper cone in which she has been catching her hair. Julia has offered Ms. Bascomb her self-severed innocence as an amulet against legal ambition.

Is there no way out? For me, Komie suggests finding a path by staying home. Immediately following the assertion that hope is a thing with feathers (drawing on Emily Dickinson), we read Woody Allen's response: "Hope is a thing without feathers." I did not understand this at first, and perhaps I still don't. Yet I now take Allen's message to be that hopes that only flutter in the clouds will never be realized. More satisfying may be what we find on the ground, that which never purports to fly.

I find this unfeathered hope in two of Komie's stories: "The Million Dollar Case" and "The Kite Flyer." In "The Million Dollar Case," an elderly immigrant refuses to use the legal system where, for him, doing so, would be dishonorable. He has suffered a work-related fractured skull and almost surely could win a worker's compensation case. Yet, he feels no real injury, and, ironically, the blow to his head has actually cleared up the ringing in his ears. And hence to file a claim would be

“cowardly,” “a non-virtuous act” compromising his dignity. It would be inconsistent with his identity as a strong man able to care for himself. His wife, who perhaps has been more fully acculturated into American society, wants the million dollars she thinks they might recover in litigation. In his pride and sense of self-worth, together with his wife’s ultimate resignation and reconciliation with who her husband is, we see the triumph of integrity, loyalty, and love over a temptation to use the legal system instrumentally toward personal ends. With many clients who seek our help, we lawyers might find such warring emotions and struggles of character, if we simply looked for them.

As indeed, we find both in “The Kite Flyer.” Frederick Marcus has been flying a kite out the window of his Chicago office, like a Tibetan who seeks to communicate with the spirit of god. This, notwithstanding that Marcus needs money. Down to \$300 in his checking account, he turns his attention to the collection of a \$2500 retainer from members of an African-American family who have run into troubles with an aunt’s will. Upon seeing them, Marcus knows he should represent them *pro bono*, something he has not done for forty years. Two of the four clients are sisters and disabled. A third is elderly and appears exhausted. She is the mother of the two disabled sisters. The fourth client is the elderly woman’s granddaughter. The disabled sisters have inherited a three-flat residence where their mother currently lives. The sisters want to evict their mother so that they can sell the residence and pocket \$20,000. Marcus chokes down the temptation to take the matter to probate court, where he could earn the \$2,500 fee. Instead, he takes on the role of family counselor, judge, and problem solver. He proposes that rather than pay \$2,500 in lawyer fees, they should use that money to fix up the residence, evict a non-paying tenant, and leave the mother in her current flat, “to live her life in dignity and peace.” The remaining two flats can be rented to provide the sisters with an income for life. In the end, all four of them thank him for his help.

Admittedly, neither the lawyer in “The Million Dollar Case” nor in “The Kite Flyer” earned a fee. And one might be sobered by Komie’s depictions of lawyers, especially sole practitioners, whose income is often tenuous and limited. Economic survival cannot be taken for granted, and money worries can crush the spirit. Yet, it’s not clear that the malaise afflicting the lawyers in Komie’s stories would be lifted by higher fees or even a steadier cash stream. What afflicts Komie’s lawyers is not essentially a lack of money, but a lack of gratification, the kind of psychological and spiritual satisfaction of the unfeathered kind to be found in the clients and litigants one serves. Komie’s fictional lawyers remind us that the reward for paying more attention to the deeper, broader contexts of our clients’ problems—moral, relational, psychologi-

cal—may make legal practice more interesting and sustainable. The problems offered up to us by clients provide an opportunity for moral education and human development. Lawyers must educate themselves to find wisdom in the lives of their clients, even as they can offer wisdom and show fairness in their dealings with those from whom they must learn. In the rich portraits of lawyers offered by Komie, we may find more potential from within, than from above and beyond the law.