ajar ARENA JOURNAL OF ARCHITECTURAL RESEARCH

Scott, L. Court: The Place of Law and the Space of the City. *ARENA Journal of Architectural Research*. 2016; 1(1): 5. DOI: http://dx.doi.org/10.5334/ajar.24

HUMANITIES ESSAY

Court: The Place of Law and the Space of the City

Luke Scott

The Court is an archetype central to the notion of the polis, and indeed to the city as a political construction. Its emergence as a type, as distinct from other forms of civic architecture, can be observed in the later 19th century, the fundamental spatial principles of which remain relatively unchanged in modern courtrooms today. Rather than regarding it as a type unto itself, however, this essay will critically posit the Court as the crucible of all socio-cultural built archetypes. By examining in turn the Heliaia in ancient Athens, the Basilica Nova in the Roman Forum, Mies van der Rohe's Chicago Federal Court, David Chipperfield's City of Justice in Barcelona, and the 'Old Bailey' in London, it will read the Court variously as parliament, church, theatre, library, and heterotopia. Each of these aspects will be dealt with in this essay, as part of its attempt to merge historical with typological critique.

Keywords: Type; Genre; Law; Court; Politics of Space

Introduction

'*More city than city, beyond the city; but paradoxically, not the city.*'
David Evans, on the Inns of Court. [1]

The Court is an archetype central to the notion of the *polis*, and indeed to the city as a political construction. Its emergence as a *type*, as distinct from other forms of civic architecture, can be observed in the later 19th century, the fundamental spatial principles of which remain relatively unchanged in modern courtrooms today. Rather than regarding it as a *type* unto itself, however, this essay will critically posit the Court as the crucible of all socio-cultural built archetypes. Its conceptualisation of place, and the inherent spatial analogies therein implied, identify the Court as the aggregate of the other definitive venues for civic practices: political, artistic, historical, and religious.

In this sense, one can read the Court as *theatre*, a stage on which *ideal* representations of the *real* are enacted; as *parliament,* a venue for the dichotomy of oppositional debate, observed by its public; as *library,* a body of precedents and the accumulation of social histories; and as *church,* the moral arbiter to a society of *subjects*, on whom it relies in their observance of its power relations. Critically, however, the Court has within its jurisdiction the unique civic capacity for extracting individuals from society, and in doing so it instrumentalises the means by which we identify what society is. Each of these aspects will be dealt with in this essay, as part of its attempt to merge historical with typological critique.

The analysis that follows can be positioned among a number of texts on the subject that collectively fed into the research. The architect and theorist, Julienne Hanson, has written about Law Courts from a space syntax perspective in *The Architecture of Justice* [2]; Charles Goodsell describes, in broader terms, representations of power and their implications for social practice in *The Social Meaning of Civic Space* [3]; and a fascinating book of essays edited by a legal professor, Jonathan Simon, entitled *Architecture and Justice: Judicial Meanings in the Public Realm* [4], similarly considers numerous institutions of 'justice' in spatial terms. These texts, however, mainly only discuss the space and place of Law in regard to contemporary examples, and as such they fall back onto the generic conventions through which courtrooms are now typified, as opposed to examining why this *type* arose in the first place. It is this very perception of the *typal* Court that I will analyse

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further, and in doing so will consult a number of supportive texts, the most pertinent of which are Michel Foucault's *Des Espace Autres* [5] and *Discipline and Punish* [6], David Evans' *Theatre of Deferral* [1], and Piyel Haldar's *In and Out of Court* [7]. These more critical readings approach the subject through social theories and philosophies about what constitutes the Law. Hence this essay is a marriage of the two angles, looking to find associations between social conditions and the architectural analysis of the Court.

In pursuing an understanding of why the Court as an archetype came to be distilled, it seems essential to study a number of its manifestations, geographically disparate, which have emerged over the past 2,000 years. The chosen case studies broadly represent venues of criminal Law, although the legal distinction between 'criminal' and 'civil' has always been subject to somewhat ambiguous definitions, plus a great many subsets can be identified within and beyond these terms. Regardless, the practice of 'Law' is recognised in this essay as a particular form of civic programme, or covenant, with underlying conditions and modes of ritual concurrent among its many branches. Crucially, although the case-study buildings can of course be located chronologically within the lineage of legal architecture in the western world, in representing spatial conditions definitive of the Court as a *type,* not purely as exemplars of their respective periods or countries, they indicate models for what this archetype *is* beyond narrow contextualisation.

It is in this final point that the essay also aspires to address a broader question within architectural discourse, that of the notion of *type* and the general classification of buildings. In a recent issue of *The Journal of Architecture,* Sam Jacoby collated various discussions about the subject in furtherance of a *typal* theory that had arguably been initiated by Julien-David Le Roy's *The Ruins of the Most Beautiful Monuments of Greece* in 1758 [8]. Here one can trace the influence of Montesquieu's *The Spirit of the Laws*, of 1748, in which the separation of powers between social classes was also to be rendered 'visible' within the city by self-proclaiming building types such as Courts [9]. Using a number of illustrative plates of related buildings, Le Roy compressed 'different historical developments into one comparative matrix, regardless of chronology . . . [in order to] . . . synthesise a metaphysical general and a formal specific' [8]. With the advent of this new strand of architectural theory, Le Roy's plates proposed an investigative tool that would soon become inextricable from the whole question – i.e. the *diagram* as an analytical method – and which Jacoby describes as 'a diagrammatic reduction that emphasises the interactions between type and diagram, abstraction and translation, and idea and model.' [8] Writers as diverse as Quatremere de Quincy in the mid-19th century or Nikolaus Pevsner a century later continued to ruminate upon and develop the concept of building *types* that were each underpinned by their own particular diagrammatic relationship. This mode of analytical language within modern architecture is hence central to this essay in its reading of a *typal* definition of what constitutes a Court, with the aim being to merge this analysis with historical readings of the building case studies. While the main essay text will be used to flesh out the underpinning ideas behind the subject, further details about the examples under scrutiny are provided through a set of diagrammatic investigations that should be read in parallel.

I

The Gallery
The Court and the Parliament

The relationship of the public body to the practice of Law has followed a marked and definitive shift through history, only emerging as the model we recognise today over the course of the 19th and 20th centuries, as a ritual now largely withdrawn from the public gaze. As such, it became a subject important in the discussions of social theorists working across this period – Émile Durkheim in earlier years, Michel Foucault later on – and can be traced as a social phenomenon that developed out of the varied spatial and architectural manifestations of places of Law over millennia. Perhaps most significantly in this regard, in terms of his equation of the public nature of *punitive* legal practice with the will of a state or sovereign authority to exercise power over its subjects, Foucault declared the act of punishment as making 'the body of the condemned man the place where the vengeance of the sovereign was applied, the anchoring point for a manifestation of power' [6]. To understand the reconfiguration of the place of Law from the sensationalism of this brutal civic practice under the *spectacle of the scaffold* [6], to its withdrawal from the public territory of the city, the very origins of our legal archetypes in ancient Greece offer an essential case study.

The Court of Law is believed to have its origins in the pre-Socratic teachings of the Greek philosopher Protagoras. Founded in theories of Relativism – in the belief that a given event is subject to a conflict of two opposing perceptions – the dichotomy between the *defence* and the *prosecution* emerged. The recognition of this philosophical precept coincided with the establishment of a system of civic practice that today we

would attribute to the Court as an institution of Law, and the construction of the first specific *places* of Law in Athens under the administration of Solon from around 600BC [10].

These *archetypes* of legal architecture, located within the Agora as the crucible of Athenian democracy – composed of landowning adult males, and amounting to around 30,000–50,000 citizens out of an urban population of 250,000 or so – came to define the relationship between the place of Law and the space of the city. This relationship was marked by a series of specific spatial conditions with profound implications for the modes of occupation by the *civitas*, presenting itself to be addressed at two scales: that of the Agora as a collection of civic venues, and that of the configuration of a particular building traditionally referred to as the *Heliaia,* in certain respects its most senior Court.

Composed as the Agora was of an agglomerate of civic buildings, many of them distinctive in spatial typology and configured for assemblies of varied formations, the nature of occupation within the Agora could perhaps be defined as much by the space *between* the buildings as by the specific conditions of the *interiors*; in essence, by the territory of the public body. Bound up with other key components of the political structure of Athenian society, the system of Law was embedded deep within its social structures. It implicated the citizens in a way that served to define dominant legal practices until recent history, by embodying the Law as a *punitive* function openly enacted before the collective public, in whose interests it performed. This being the prevalent image of the Courts of the time, it must however be noted that the relationship of the Athenian public to the place of Law was more complicated and nuanced than this easy perception would imply, as could also be read in the conditions of its architecture.

Although the Heliaia is conventionally identified as the *Supreme* Court, it is known that legal trials were accommodated in a series of venues throughout the Agora – importantly, within the Stoa Poikile and the Odeion – depending on the size of the *jury* deemed proportionate to the severity of the case (attendance figures ranged between 200 to 2,500 people) [11]. On any day, all three of the above-mentioned buildings – as well as others less significant within the Agora – would have been inhabited by coinciding legal trials. Accounts of specific trials reveal not a series of isolated or autonomous events performed in parallel, but a network of sessions between which advocates, juries and the wider public would mediate over the course of the day [11]. As such, legal practice became a sort of collective choreography in which all were engaged and inculcated by virtue of their occupation of the spaces between the simultaneous legal rituals.

A broad categorisation of two spatial types can be identified as being definitive of the architecture of Athenian Law. The first, and more conventional condition by contemporary standards, was the designation of a space for the specific rituals of the trial. The Heliaia, Stoa Poikile, and Odeion each delineated clear – though, crucially, in many respects *permeable* – territories in which these rituals were performed in accordance with a form of social covenant. It can be argued that the proceedings within these venues was not strictly determined by the built fabric (being largely generic in effect), but the links between the *interior* rituals to the open spaces between the buildings was defined by a particular attitude to the notion of the threshold and of enclosure. In radical counterpoint to the scrupulous circulation patterns and segregation in modern courtrooms, ancient Athenian advocates and jurors could be openly identified among the swathes of bystanders as they passed between the Courts through the Agora [11]. Inevitably subjecting members of the Court session to bribery and other attempts to corrupt the trial, the open conditions of the Agora could be conceived as an extension of the place of Law, and the dissolution of its *interiority*. As a territory for the public body, the city *beyond* the Courts became a secondary integral participant in the practice of the Law. Contrary to notions of the Law as acting autonomously on unerring principle, verdicts were steered as much by onlookers as by those who could officially submit their tokens within the Heliaia, Stoa Poikile, and Odeion as part of the authority of the state.

The ambiguity of this relationship of citizens to the Court revealed itself further at the scale of the individual building, both spatiality and tectonically. Though apparently *porous* as spaces, expressed through colonnades and courtyards generally open to the surrounding Agora, the Courts typically imposed ideas of enclosure through a secondary order of thresholds, namely a sequence of timber fences and gates temporarily erected to govern the occupation of space by the public [11]. An architecture of contradiction – bold in its democratic gestures of receptivity and permeability in terms of accommodating vast crowds, while dictating exclusive territories at another level at the command of those in authority – the venues of Law were both products of, and instigators for, a civic and spatial condition akin to that of a *Parliament*. Proceedings would unfold, simply, according to the fundamental sequencing of Relativist thought: they would open with a brief statement from the prosecution, followed by the riposte by the defence (of equal duration), for a panel of jurors to cast their verdicts in favour of either party by the 'anonymous' placement of tokens into two

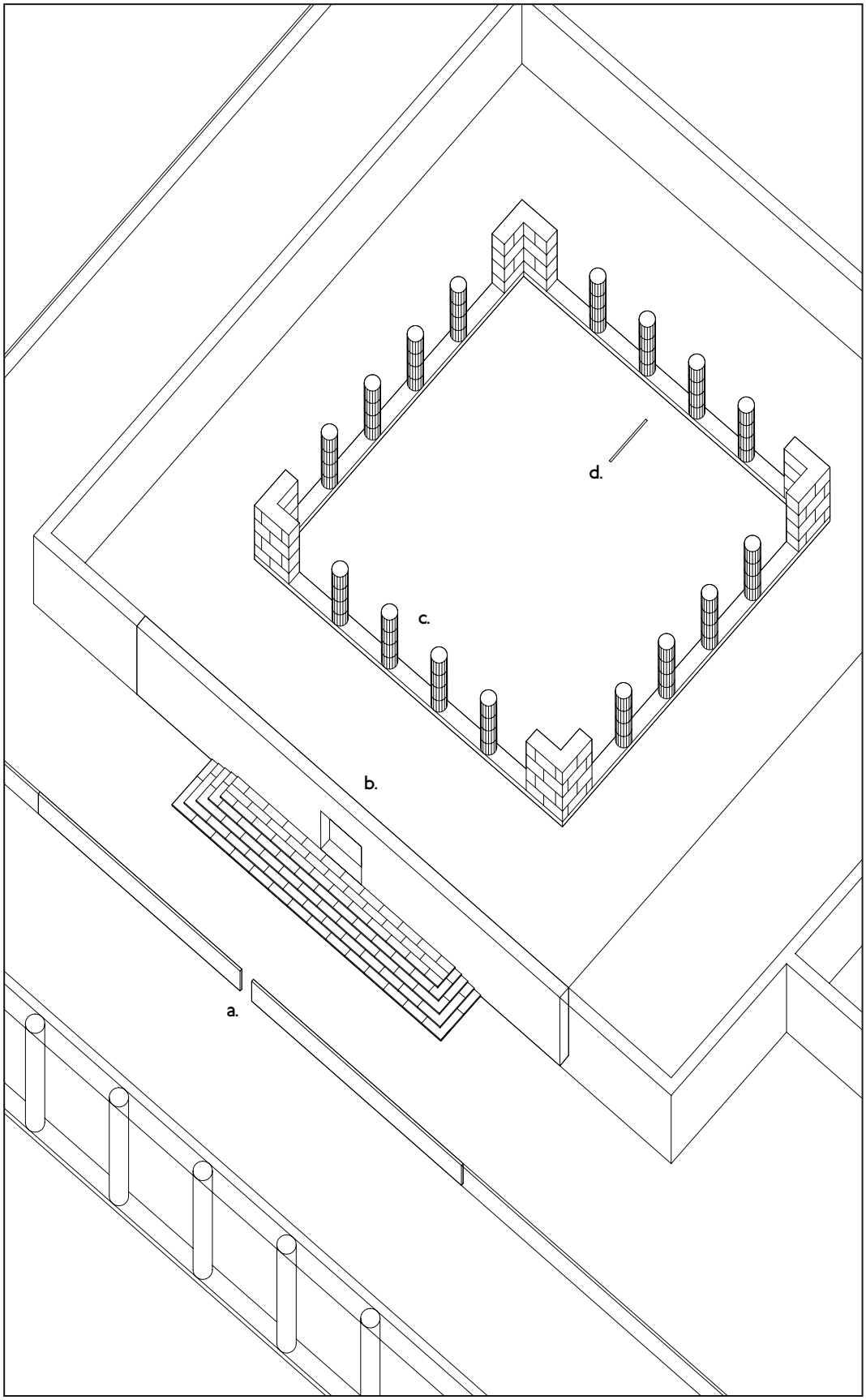

Figure 1: Deconstructing the Heliaia in ancient Athens. Temporary and mobile gates of woven timber (a) formed a perimeter surrounding the Heliaia, within which the solid walls of the square peristyle (b) then enclosed the place of the trial. Inside, an open colonnade (c) rose to an opening in the soffit, beneath which the defence and prosecution were divided and identified (d).

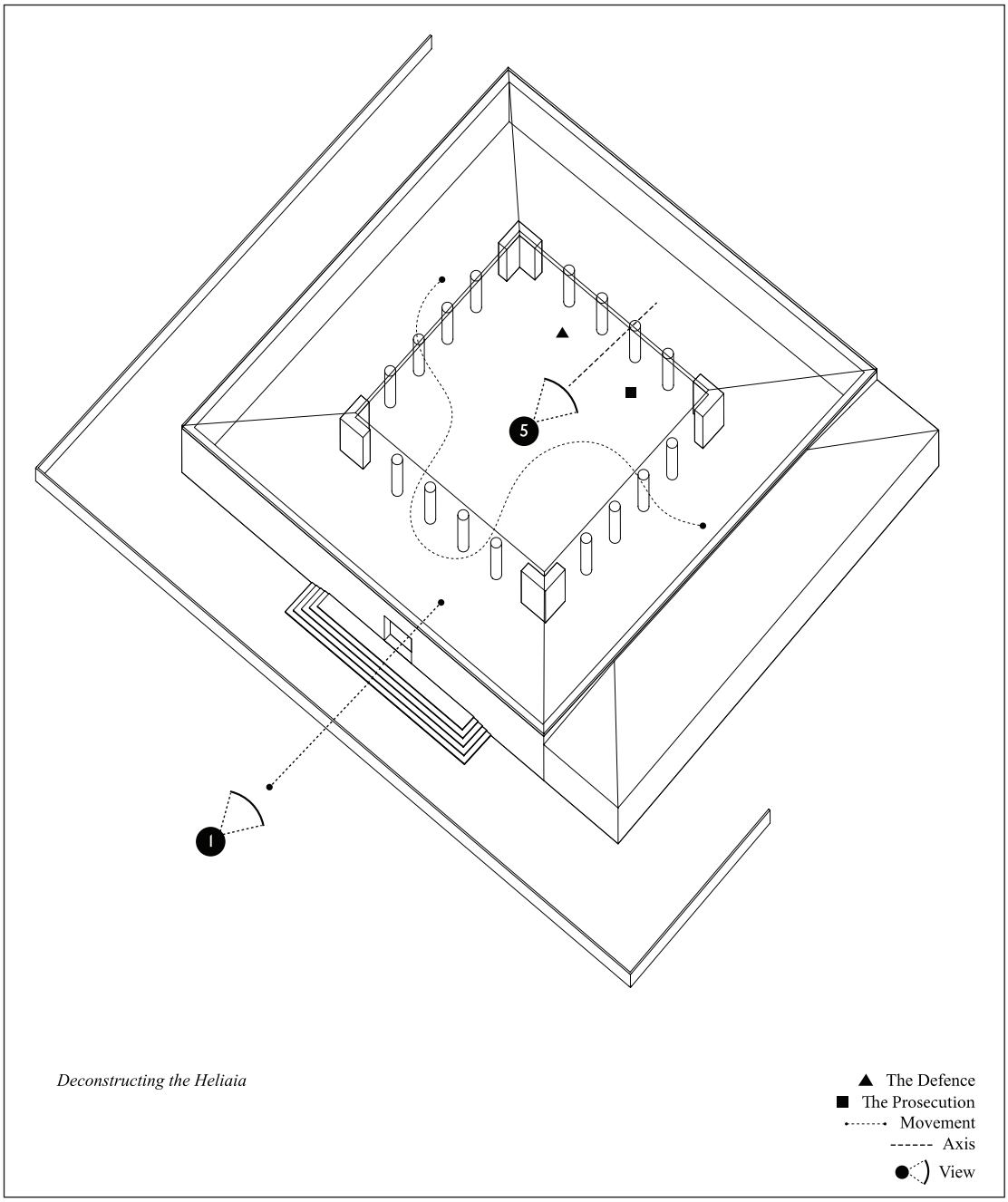

Figure 2: Analytical diagram of movement patterns and sight lines within the Heliaia.

vessels. In practice, however, surviving accounts observe that the *porosity* of the space meant that bystanders held physically beyond the limits of the Court were clearly audible, in some instances also visible, and free to interject. As a result, the appeals made by both parties during the trial often directly addressed the public, although the latter could never submit their votes formally, throwing into question the seemingly privileged role of the formal judiciary [11].

As mentioned, this formation of civic and legal archetypes in ancient Greece informed a set of social practices that remained prevalent for the centuries to follow in their belief that for the very premise of the Law as a social 'contract' to serve as an effective structure, it must be enacted unreservedly under the public gaze. It is clear, however, that the spatial relations of the Agora also imbued the *spectacle* of the legal ritual with a hierarchical complexity that was to re-emerge in the insularity of modern Courts two millennia later. Indeed, the space of ancient Athenian Law is believed to have become consolidated sometime around the 1st century BC to resemble a complex of internalised buildings more akin to those of contemporary legal architecture [11], to which I will return in subsequent chapters. Turbulent and ambiguous as the public

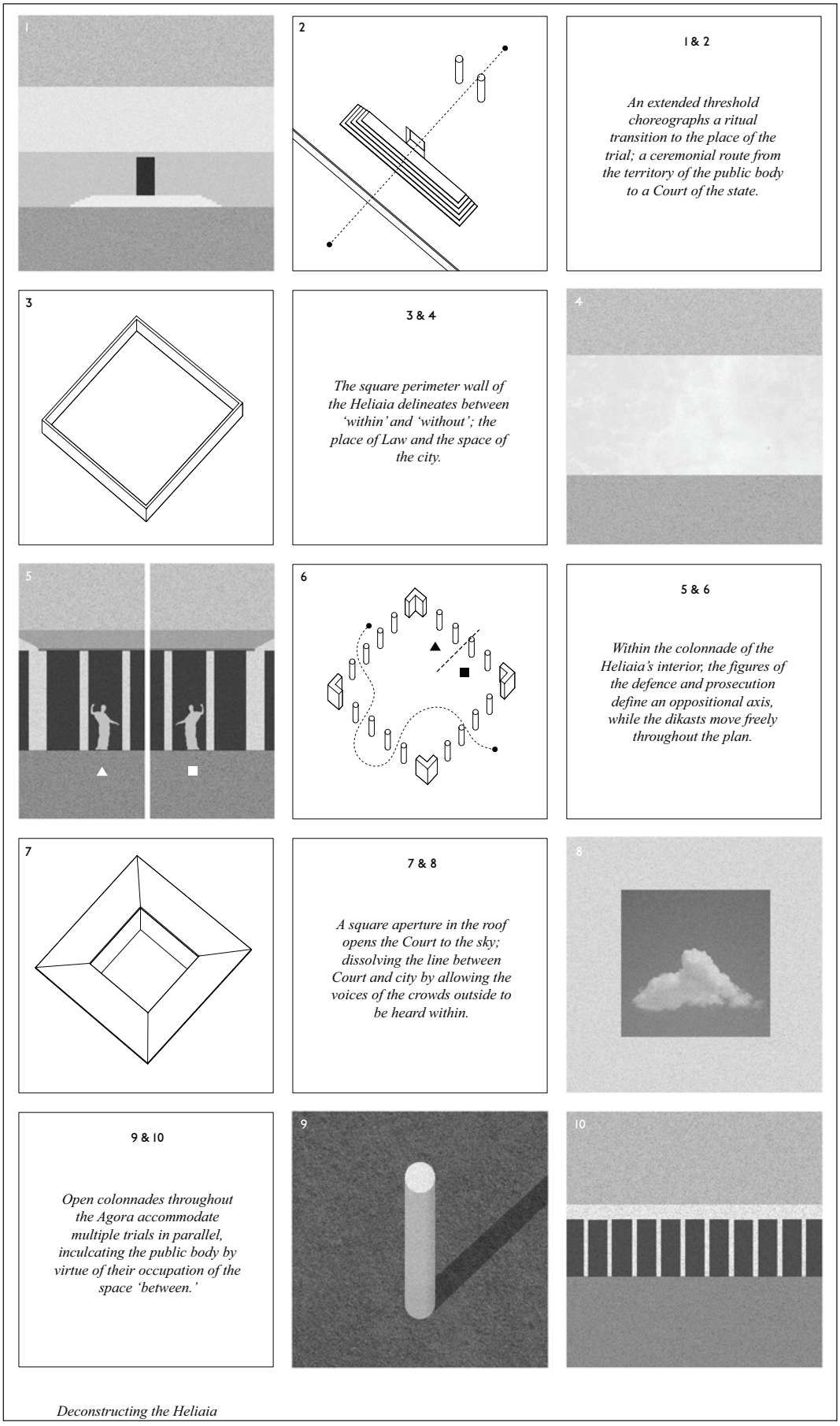

Figure 3: Elements and symbols of the Helliaia.

history of legal practice has been, the fundamental spatial motif of the Court as being a bi-cameral *Parliament* remains definitive of the archetypal courtroom, with the *defence* and the *prosecution* – staged in opposition – enacting the trial before a public viewing gallery (**Fig. 1, Fig. 6** and **Fig. 7**).

II

The Bench
The Court and the Church

The Court, as a venue of the Law, delineates between the *sacred* and the *profane* [3] through rituals that mark the distinction between the *objects* and *subjects* under its jurisdiction. The parallels between the practice of the Law and the rituals of theology can be seen to imbue the place of Law with a *quasi-religious* authority, and the Court and the Church – positioned as the moral arbiters for a society of subjects – share interconnected social histories. Although the Court increasingly emerges as a secular state or sovereign institution, it can still be seen to occupy comparable conceptual territory, in that the Law as a construct relies upon the recognition of hierarchical power relations between the judiciary and their constituents, just like their religious counterparts of clergy and congregation. Likewise, shared spatial associations, still acutely evident in contemporary Court architecture, can be traced back to seminal exemplars in the basilicas of ancient Rome, in a historical condition in which these two civic programmes inhabited a shared typology.

Situated in the north-east of the Roman Forum, the Basilica Nova (also referred to as the Basilica of Maxentius and Constantine) can be seen as pivotal in the evolution of the place of Law and its relationship to other civic archetypes. Albeit a date of some speculation, this basilica is estimated to have been built around 307 AD under the rule of Maxentius, in whose time its function was most likely akin to that of a number of similarly sized basilicas – that is, an institution for the dual accommodation of business and legal practice [12]. Vast crowds could assemble beneath its vaulted soffits, along an extensive central nave flanked by deep bays, and before the monumental apse at the head of the plan. The basilica as a typology at this time defined the political landscape of ancient Rome, being arranged to frame the open colonnades of the Forum, and at such a grand scale as to be read as an extension of the space of the city both spatially and programmatically. In 312 AD, following Constantine's defeat of Maxentius, and succession as Emperor of Rome, basilicas were subject to fundamental semantic and programmatic appropriation by being redrawn as places of Christian worship [13]. Although it is often postulated that this adoption of the basilica form by Christianity was due to the dearth of pagan associations or symbolism in terms of built fabric, it can be argued that the evolution of the new typology was born out of more intrinsic, axiological reasons, namely the mutual recognition of power relationships between the political practice of Law and the religious practice of Worship.

If the fundamental dichotomy of the Law as a philosophical construct stems from the identification of *defence* and *prosecution*, then second axial relationship exists at the *bar*. The latter offers the physical – and by implication, *symbolic* – distinction between the objects and subjects of the Law. While it is axiomatic that the defence and prosecution are understood to inhabit a plateau of equal and objective standing, the relation of these two parties to the judges, before whom they are heard, is marked by an essential and explicit shift in status. Evident even in the legal practices of antiquity, the figure of the podium – or the *bench* – at the head of the Court created a demand within space of submission to the authority and superiority of the adjudicator of the Law. The prevalence of this spatial expression of power relationships, so clear in the Law Court, is hence also the spatial condition by which the *type* is most closely associated with the Church. It seems a valid and valuable inference that the appropriation of the basilicas in ancient Rome as places of Christian worship was because of their mutual equation of *height* with *authority*, a spatial 'cue' that many suggest is fundamental to human perception. The political scientist, J.A. Laponce, identifies this as a near ubiquitous spatial condition across cultures – owing, as he argues, to the command of our brain and sensory organs over the subordinate operation of our feet [3]. A sociologist, Barry Schwartz, argues that the recognition of the superiority of height is embedded in our collective experience of looking up to our (taller) parents as children [3]. Both hypotheses not only identify height with authority, but also height with the figure of a moral arbiter. The implication that these universal properties of the human psyche have found their manifestation historically in the spatial codes of architecture can therefore serve to bind the archetypes of the Law Court and the Church with a shared generative premise. Their spatial codes are analogous not so much by causality – an archetypal model reused – but by the parallels of the underlying hierarchies in their

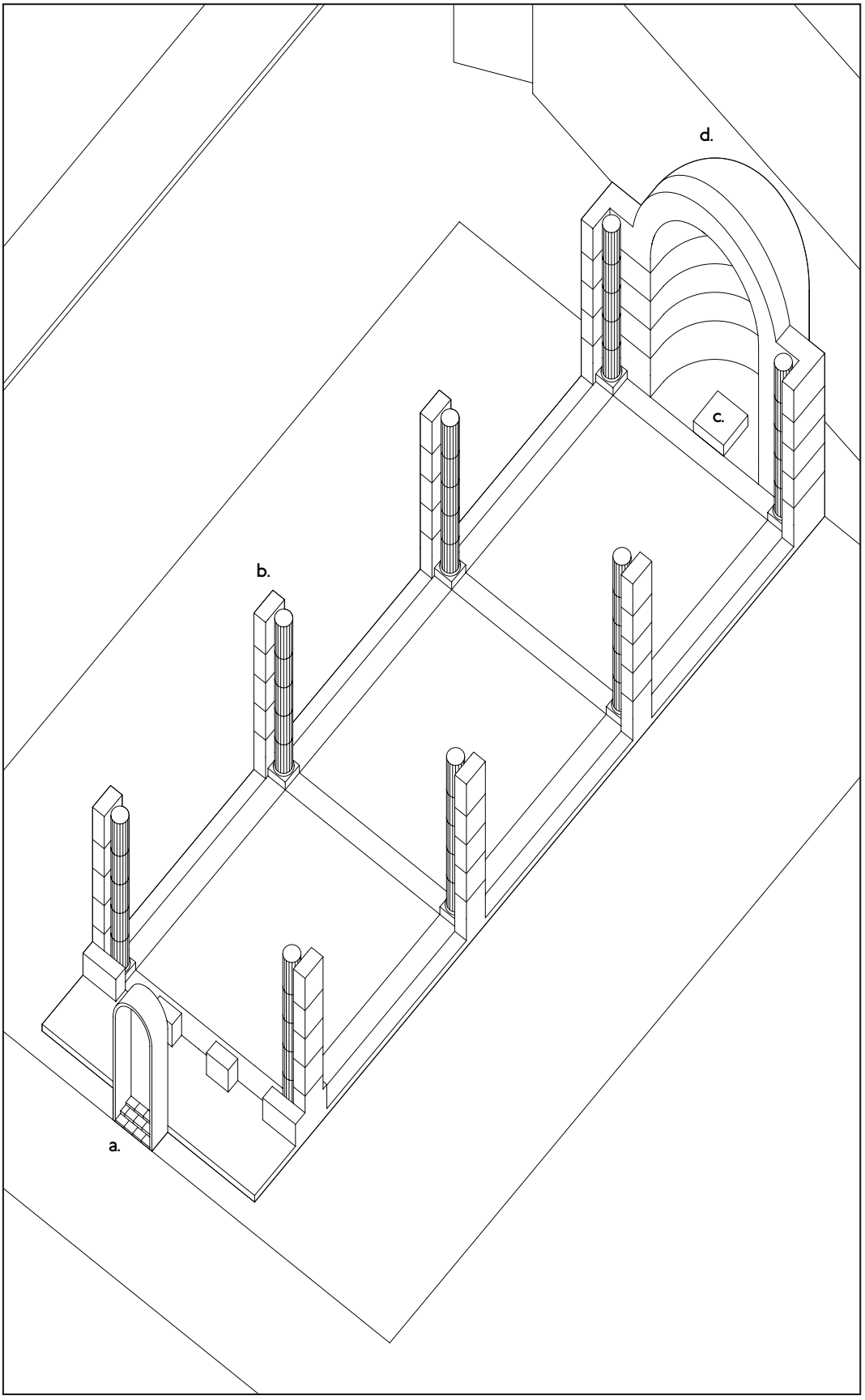

Figure 4: Deconstructing the Basilica Nova in the Roman Forum. A modest entrance (a), relative to the scale of the basilica, was positioned at one end of the buildings longitudinal axis. A grand and expansive nave was defined by a series of monumental columns, leading to the other end of the axis, at which the raised apse (c) marked the seat of authority beneath a vast domed soffit (d).

civic programmes. So it is that the plan of the Law Court – as existing in ancient Roman basilicas – defined axially before a raised apse, and the seat of the judiciary, came to be associated with spatial codes in the places of Christianity.

These analogous organisational principles, so explicit in the exemplars of ancient Rome, did however prove to be problematic for subsequent evolution in the perception of Law, when it switched from a quasi-religious construct to an autonomous and secular civic practice, because of the increasing incongruity of the notions of *authorship*. The autocratic rule of Rome by its emperor, whether Maxentius or Constantine, framed the Law at the behest of a single figure. Although its juries and magistrates are known to have been active agents in legal trials, they were subject to a hierarchy that fell beneath an individual of ultimate seniority. The emperor was to the practice of Law like the figure of God was to the practice of Christianity, as an agent of singular authorship. It is hence that the spatial manifestation of this hierarchy lent itself

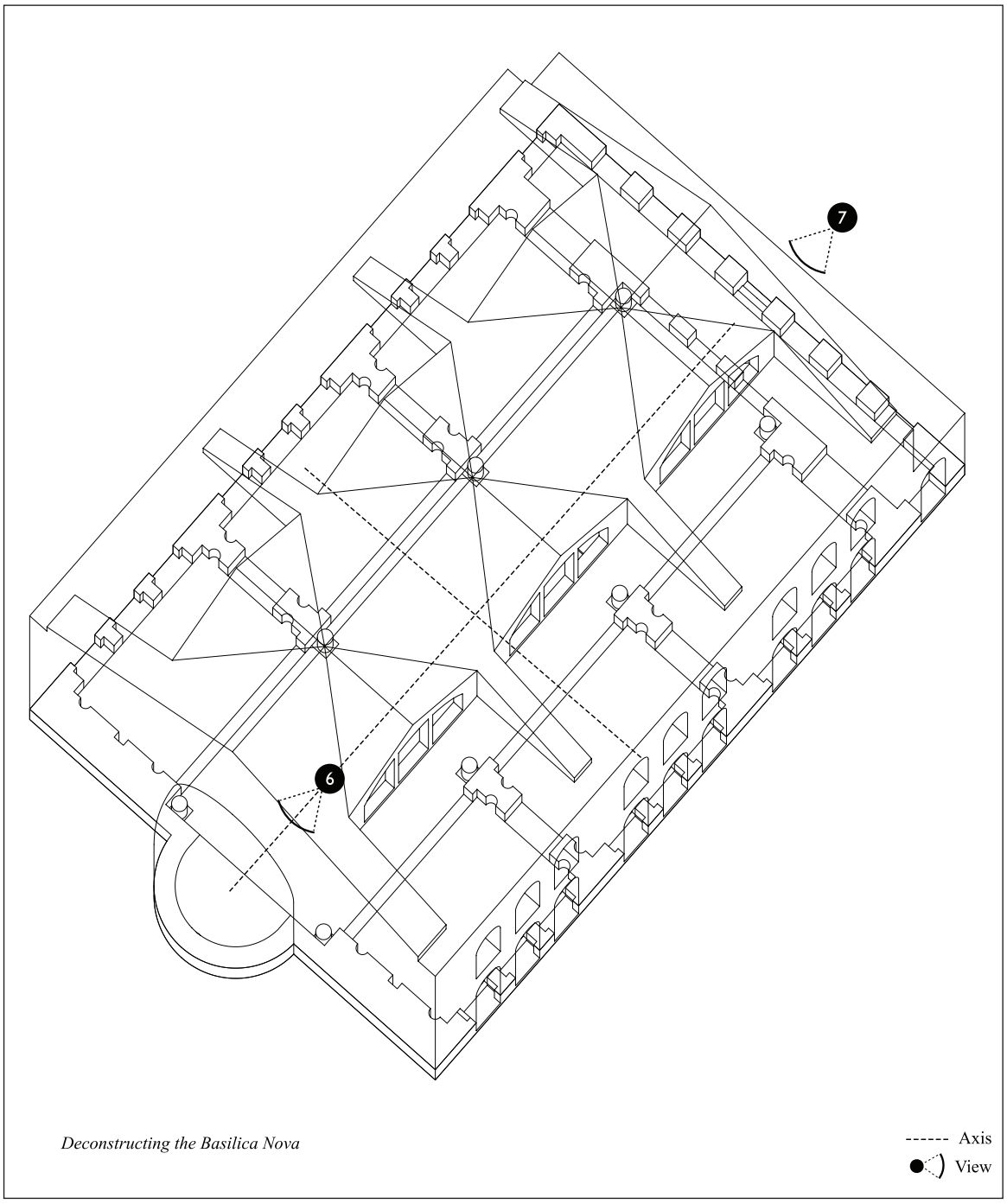

Figure 5: Analytical diagram of sight lines within the Basilica Nova.

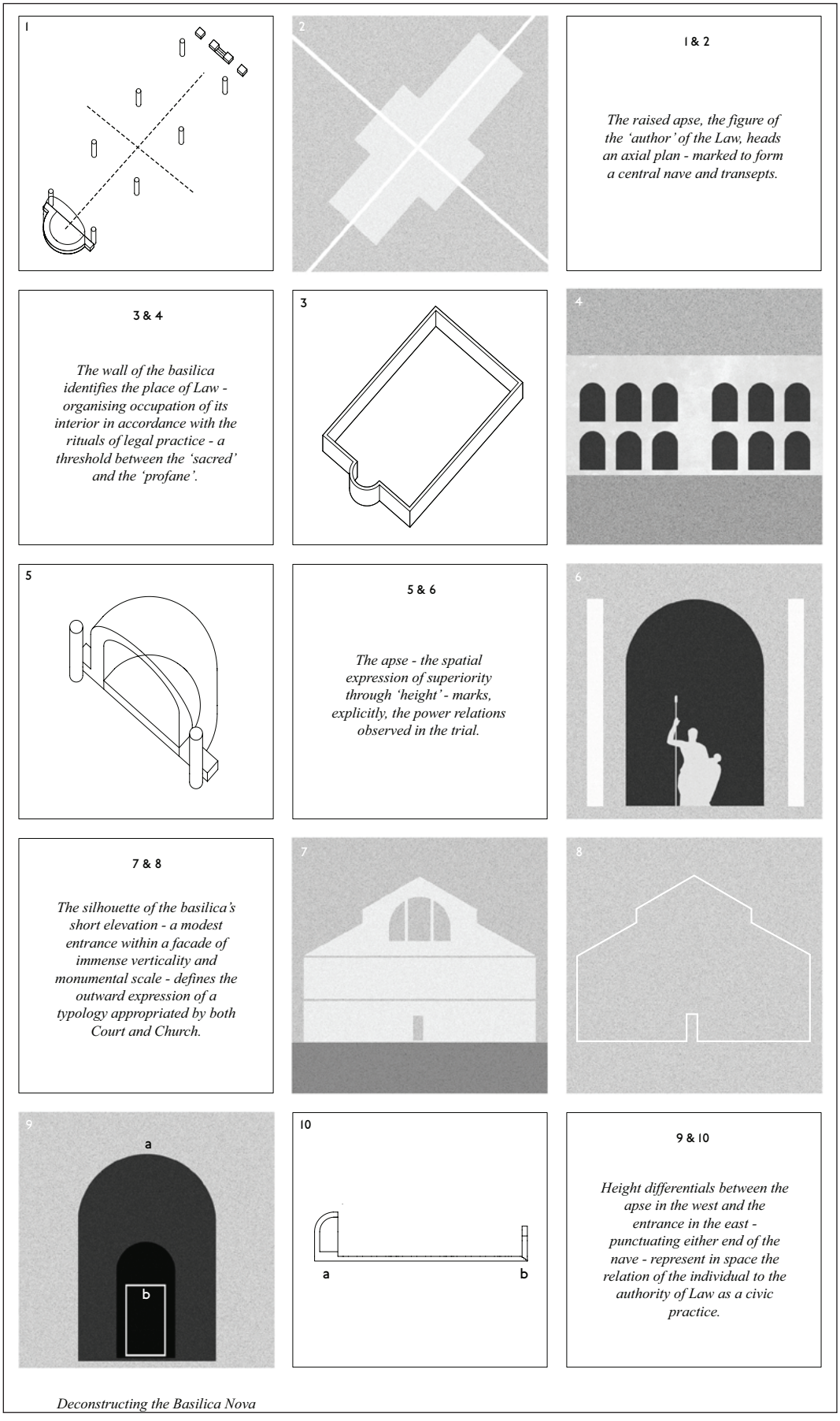

Figure 6: Elements and symbols of the Basilica Nova.

so receptively to use by both of these building programmes. Even though it gradually became distinctive over the course of history, the modern Court *type* in all western countries, in many ways, maintains quasi-religious tenets in its configuration of the object-subject spatial relationships. As Peter Goodrich points out in his book, *Languages of Law*:

> '*All points look up to and are directed towards the bench, upon which, after the ushers have demanded silence and respect, it is the Law that sits down in the place of merely human demands. Consider too the forms of dress, the apparel of justice, the order of its coming and going and the restriction upon the forms in which it can be addressed, the various metonymies as well as the sacral appellations: the court, the bench, your honour, your worship, your lordship.*' [14]

Bound up as it is by the deep roots of its own tradition, the place of Law in modern western society is thus subject to an awkward disjunction between the religious basis of its spatial codes and its declared secular practices, and so it is that in the new Courts of recent decades a subtle organisational deviation of profound implication is emergent. In *The Architecture of Justice,* Julienne Hanson notes the transition towards a spatial condition in which 'pronounced changes in floor level are no longer used to indicate the relative statuses of the social actors' [2], so there is less of a direct architectural expression of objectivity and the need to represent this in space. But while the other height differentials in courtrooms might have been eliminated, the marked delineation at the *bar* between the position of the judge and the *judged* still persists as a critical conceptual device by creating 'the distances that will allow the judge to speak in the mask of the Other, to speak innocently as a mouth of the law' [14]. It is at this deviation in the ideology of Law and Christianity that the spatial conditions of their respective architectures emerge as distinct from one another. The raised apse of the Church – drawing the eyes of its congregation up in the direction of its author in the *sky* – is final, in that it starts and ends with God. The multiplicity of authors that have been involved in establishing the Law, or indeed its democratic subscription to the notion of representing the *absence* of an author, leads inevitably to the need to express this condition through space. It is hence that the contemporary place of Law – the courtroom – prefers to reject the directionality and grandeur of its basilica and church predecessors in favour of a more multi-directional 'box' form. This has led to a Court space that points not towards the judges, nor even *beyond* or *behind* the judges, but instead implies an equal expansion in all directions that in turn seeks to suggest that the occupants of the courtroom are impartial and objective subjects of the Law (**Fig. 2, Fig. 8** and **Fig. 9**).

III

The Threshold
The Court and the Theatre

The Court, as described by legal academic Piyel Haldar, can be conceived as a frame within which everything assumes *representational* significance [7]. In doing so, it marks a clear threshold between the *ideal* realm of the interior and the *real* space of society outside. Indeed, it is this condition alone that essentially defines what a Court is as a spatial territory, and it is in this aspect of its identification that the archetype of the Law Court may be interpreted as analogous to yet another civic typology: namely, the Theatre. The Courtroom and the Stage each make distinctions between *representation* and the *real* conditions to which they refer, and both draw out – by means of a complete physical enclosure punctured by strategic portals – a place in which society as a *subject* may be isolated, analysed and criticised, under the mutual recognition that this re-enactment is deemed to represent what exists *outside* in the social realm. It thus creates a parallel space in which society can be safely dissected. This faculty of the Court as a representational form of architecture persists through its historical evolution as a typology, having been similarly conceptualised in the Heliaia as in more contemporary examples, but perhaps never more explicitly so than in one particular case study. Completed in 1974, some five years after his death, Ludwig Mies van der Rohe's Chicago Federal Center remains a key precedent for the modern Court. As a complex of three Miesian buildings – of which the Everett McKinley Dirksen United States Courthouse is the easternmost – it formed a radical departure from the architectural expression of its typological predecessors because of the clarity of its abstraction of the typology's identifying features and spatial principles.

Notions of autonomy within architecture, usually associated with a claim about the internal and inherent logic of the discipline, almost invariably lead to discussions of Mies' work in the way that he exemplified certain Modernist tropes: the neutral structural grid, the replicable unit, and the creation of an idealised

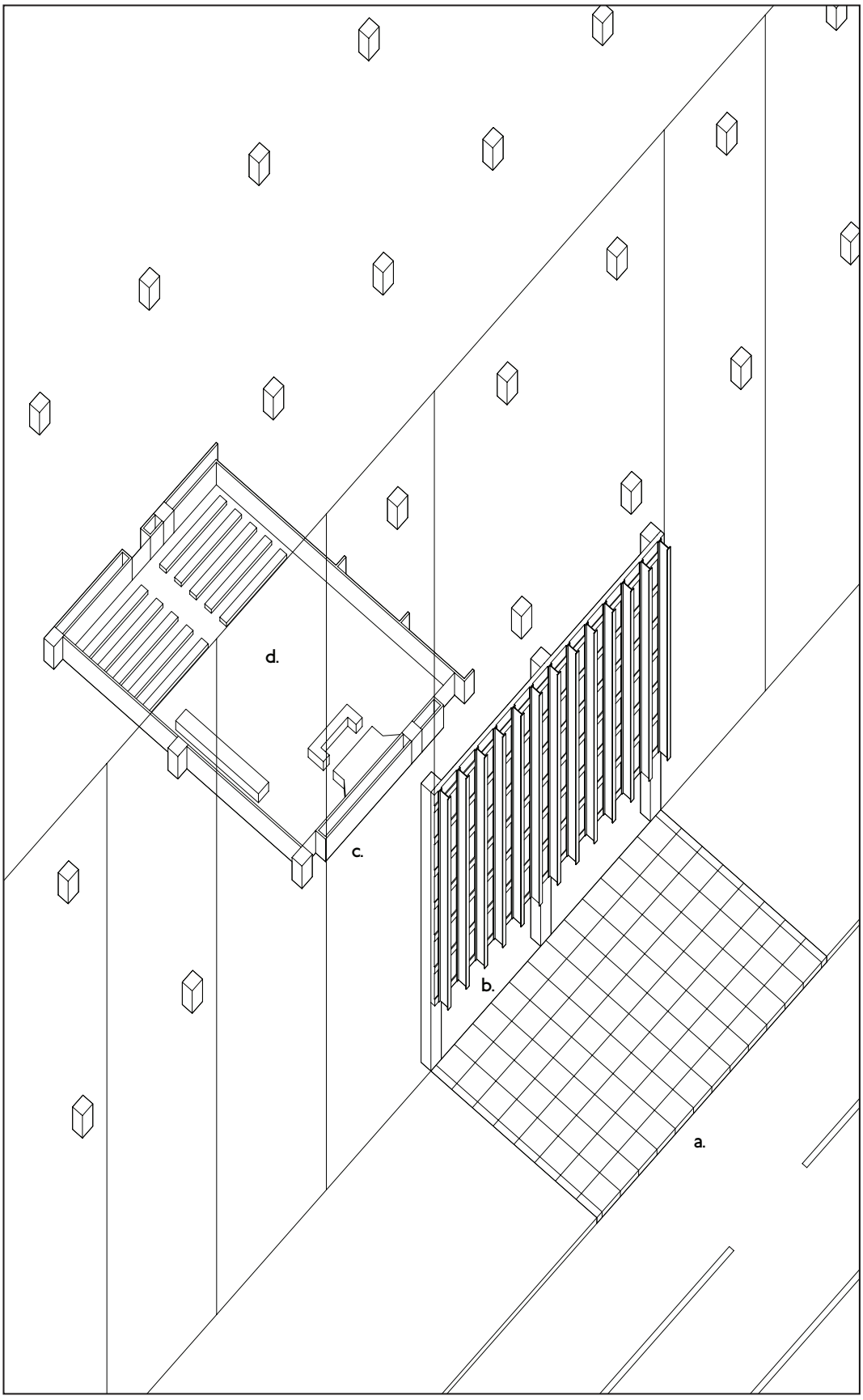

Figure 7: Deconstructing the Everett McKinley Dirksen US Courthouse in Chicago, by Ludwig Mies van der Rohe. The first order of threshold – the grid of the plinth (a) – marks the site of the court, wrapped within a reflective skin of steel and glass (b). Within, the third order of threshold, solid and homogenous timber cladding (c) encases the courtroom (d).

plinth to designate space that is distinct from the ground plane and street network of the city around. Due to this, a consideration of Mies' architecture is pertinent to questions of *type* in relation to civic programmes of near-ubiquitous definition such as the Law Court. In the Court that Mies designed in central Chicago, therefore, we can read not simply a seminal example of the typology, but also the instance in which those attributes by which the archetype is now defined were heightened and rendered in such direct expression as to distil the fundamental condition for the place of Law, which is the Court as a threshold condition that spatially separates the *real* world outside from the *ideal* world within. In the Federal Center, this threshold is established by three perceptible boundaries, these forming three orders through which the concerns of the courtroom are removed from those of the immediate context and the world beyond.

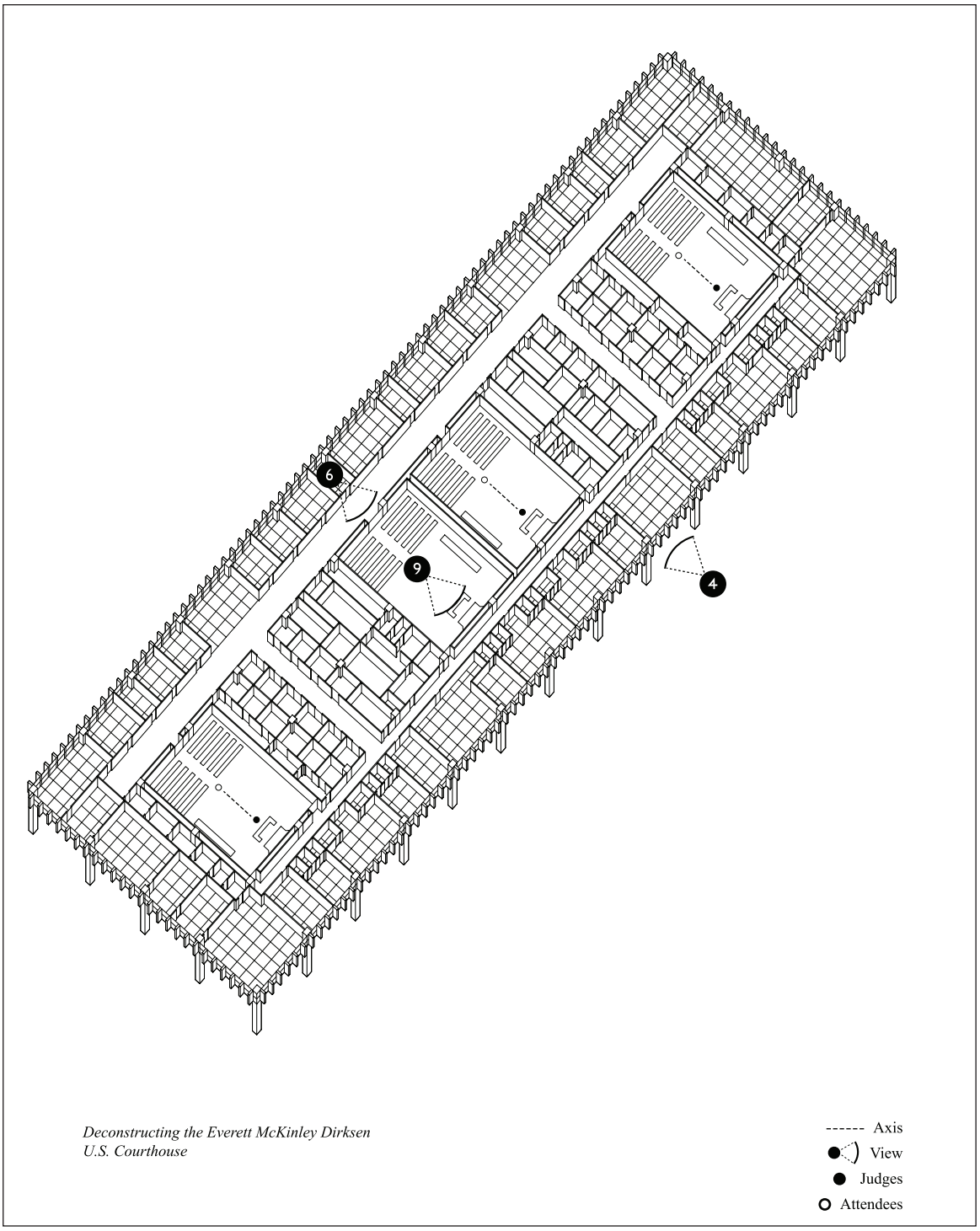

Figure 8: Analytical diagram of sight lines within the Chicago courthouse.

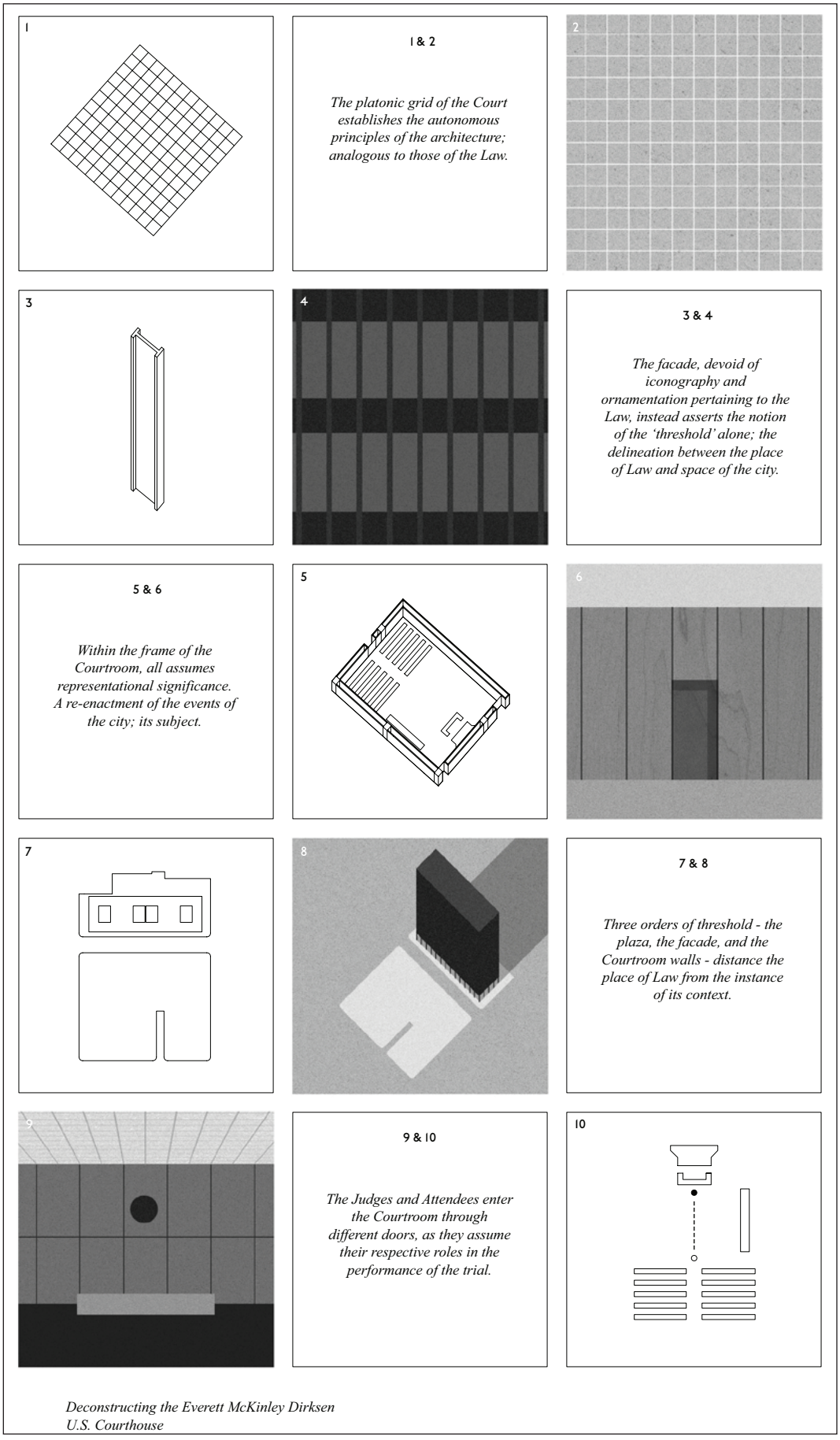

Figure 9: Elements and symbols of the Chicago courthouse.

The first boundary is registered by a shift in the material of the ground surface, differentiating the street as a city space form the plaza on which the Federal Center stands as a place where particular programmes are observed. In establishing the basic unit of the universal grid to which the building then has to adhere – and distinct from the dimensions of the neighbouring plots – Mies' paving literally sets in stone a gesture that demonstrates the independence of the Court from its setting. Upon entering the plaza, one is then faced by a second order: a sleek skin of steel and glass that reflects the city outside while enveloping the lobby within. By implying a sense of objectivity and infinite repetition, his façade expresses 'nothing but the skin itself' [15]. In this respect, and in contrast to the archetypal façade of the Court as a civic *type*, the Federal Center rejects overt legal iconography in favour of simply expressing the threshold alone. Once inside, the third and final boundary is marked by its most explicit manifestation: 21 courtrooms distributed evenly between the building's service cores, each wrapped solidly in timber cladding to enclose the rituals of the trial. As Piyel Haldar notes of courtrooms generally:

> '*What proceeds, what "unfolds", within these rooms is the dialogue of a trial. A dialogue which we might call "evidence"; the presentation of exhibits and arguments, the examination and cross-examination of witnesses, opinions and expert testimonies, all of which have been detached, taken from a world that supposedly or "probably" exists outside of the courthouse and which coincide in order to form the intrigues of the trial.*' [7]

What therefore distinguishes the activities of the courtroom from those outside, perhaps more than any other, is the relationship of the *real* to its *representation*, a dialogue integral to the practice of the Law and its spatial formation. The purpose of the trial as a social practice, of examining external events and dissecting them through its own intrinsic methods, grants the courtroom the unique authority to reflect upon the conditions of the *city* as if removed from it – a condition described by Haldar as 'the organisation of what might have happened *without*, in the chaotic swarm of a world of everyday events' [7]. The trial, and its identification of the courtroom as a space of representation, brings into the discussion Foucault's concept of *heterotopia*, and particularly the third principle described in *Des Espace Autres:*

> '*The heterotopia is capable of juxtaposing in a single real place several spaces, several sites that are in themselves incompatible. Thus it is that the theatre brings onto the rectangle of the stage, one after the other, a whole series of places that are foreign to one another.*' [5]

From this principle, it becomes apparent that the Court and the Theatre, seemingly disparate civic programmes with entirely unrelated social and cultural functions, are linked by their analogous conceptualisations of space. In each typology, occupants project into the 'box' of that space a re-creation of that which is assumed or suggested to happen, or have happened, outside its limits. So it is that the opacity of the modern courtroom's enclosure serves not merely to ensure confidentiality but equally to occlude the outside from within, as in the Theatre. This occlusion of context is a necessary spatial attribute to enable the abstraction of the trial to unfold in its pursuit of *the whole truth and nothing but the truth*.

It is perhaps in this respect too that Mies' version of the Court presents itself as an absolute distillation of legal principles. The implied Platonic orders of its elements, the strict delineations of its grid in every paver, panel, structural element and sub-structural component, and its abstinence from iconography and ornamentation, appear to embody and subsequently represent the Law as a language of *ideals*. The autonomous logic of Mies' building, separated from the contingencies of site and occupation, has its parallels in the autonomous structure of Law urged by Montesquieu and others.

However, there is also a paradox in that this marked assertion of the particularities of the place of the trial, as distinct from context, creates in itself a problematic conceptualisation of Law and the space in which it happens. The physicality of the enclosure of the Courtroom, which so starkly designates the territory for the rituals of legal practice, also inevitably infers that one can consider oneself to be either *within* or *without* the Law. Goodrich articulates this spatial fallacy as follows:

> '*It would be extremely inaccurate to suppose that by virtue of being outside – outside the library, outside the courtroom, free from the cell – that one had escaped either the institution or the law.*' [14]

Analogies with the rituals of the Theatre – which continue even to the methods by which the 'actors' in the trial assume their respective roles (the judge's wig affording him or her a degree of anonymity that will be

shed on leaving the 'stage' of the Court) – reveal a profound disjuncture. While the narratives of a theatrical play may be left at the stage door, the command of the Law is limited only by the state's jurisdictional borders, and thus the participants of the trial are implicated as much by the concerns out on the streets as within its walls. In this sense, the Law is omnipresent, and its rituals are but the instance of its ultimate and authoritative expression in space. The Platonic ordering of Mies' grid ceases to appear beyond the plot on which the Federal Center rises, but the Law extends out into the city that Mies seemingly rejects. So it is that the modern Court, with the ever-increasing pervasion of the Law into every strata of society, encounters an internal contradiction in its pursuit of architecture form if it relies on the enclosed 'box' of the Theatre. Instead it seems today to be searching towards a model that can more explicitly, and critically, embody the Law's omnipresence and multiplicity in spatial terms. (**Fig. 3, Fig. 10** and **Fig. 11**)

IV

The Case Records
The Court and the Library

If the expression of the Law within space – the basis for its architectural manifestation – is most immediately and profoundly embodied by the interior scenes of the courtroom, there hence exists a far greater *volume* beneath or beyond this, and which is best represented by the vast halls of written legal texts to which all else inflects. The Court, after all, is built upon precedent, in the form of a Library of literature to which individual cases refer, and in turn are referred to. These case records create in effect an aggregate of social histories. The Court and the Law can be said to accumulate, whereby present cases and the specific terms of the events they observe contribute to a collective record. The Court, in this facet of its civic programme, becomes a Library. Hence the courtroom and the trials that inhabit it can be conceived of as *present* Law, drawing reference from *past* Law in order to inscribe *future* Law. David Evans, a legal theorist, describes this condition as a 'theatre of deferral' [1], with the recognition that this conceptualisation of the place of Law challenges the notion of the Courtroom as existing with a specific finite moment in which the Law is enacted. Perhaps, instead, it is as a Library, on which legal verdicts are predicated, that the Court truly consists. The Library, in its negation of a centre and its tendency towards expansion, maybe more than any other is the spatial model most prevalent in contemporary court architecture. In 2009, David Chipperfield architects completed the construction of a pivotal example of this new breed of legal architecture – the City of Justice in Barcelona – a complex of ten buildings that collectively form a sort of *legal campus,* marking a definitive shift in the evolution of the Court.

Hailed on its completion as a 'city within a city' [16], the project is indicative not only of a re-evaluation of the architectural tectonics of the Court, but of a more fundamental revision of the relationship between the place of Law and urban space in general. Whereas the origins of the archetype in antiquity formed definitive anchor points within the city's fabric – as centrepieces of civic life – the dialogue between courtrooms and the city is now entering a new trajectory. Situated both geographically and symbolically between the municipalities of Barcelona and l'Hospitalet de Llobregat to its south-west, the City of Justice was conceived to merge the previously distributed legal departments of both urban centre, by accommodating the entirety of their jurisdiction 'from dog licences to criminal prosecutions' [16]. In so doing, the project creates paradoxical notions of territory. As an institution, it serves the two municipalities on whose borders it is situated, but every element of its construction, scale, expression and orientation implies the declaration of a new city: a city *outside*. Arranged within, and adjoined by, an expansive open concourse, Chipperfield's blocks appear to inhabit a *tabula rasa*. The inference is that the dialogue is not with the immediacy or physicality of the context, but with something else. The ubiquity of the façade treatment – using a common, neutral manner of detailing – would seem to confirm the assertion that the City of Justice, while it happens to be here on a suitably available plot, it really belongs to a realm beyond its locality, the transcendental body of the Law. Evans observes:

> '*The Law is fully formed and hidden, waiting for the act of judgment to reveal it . . . an ongoing form of ritual revelation. According to early practitioners, the Law was present at the Creation, but in being transcendent, it cannot be fully constituted in the world.*' [1]

The Law expands, perhaps infinitely, and the structure of its practice recognises, as essential, the notion of precedent, with the Court serving as the scene of its ritual revelation [1]. In many courtrooms we may see the case records. These shelves of legal texts provide the transcripts of past cases, containing the exchanges

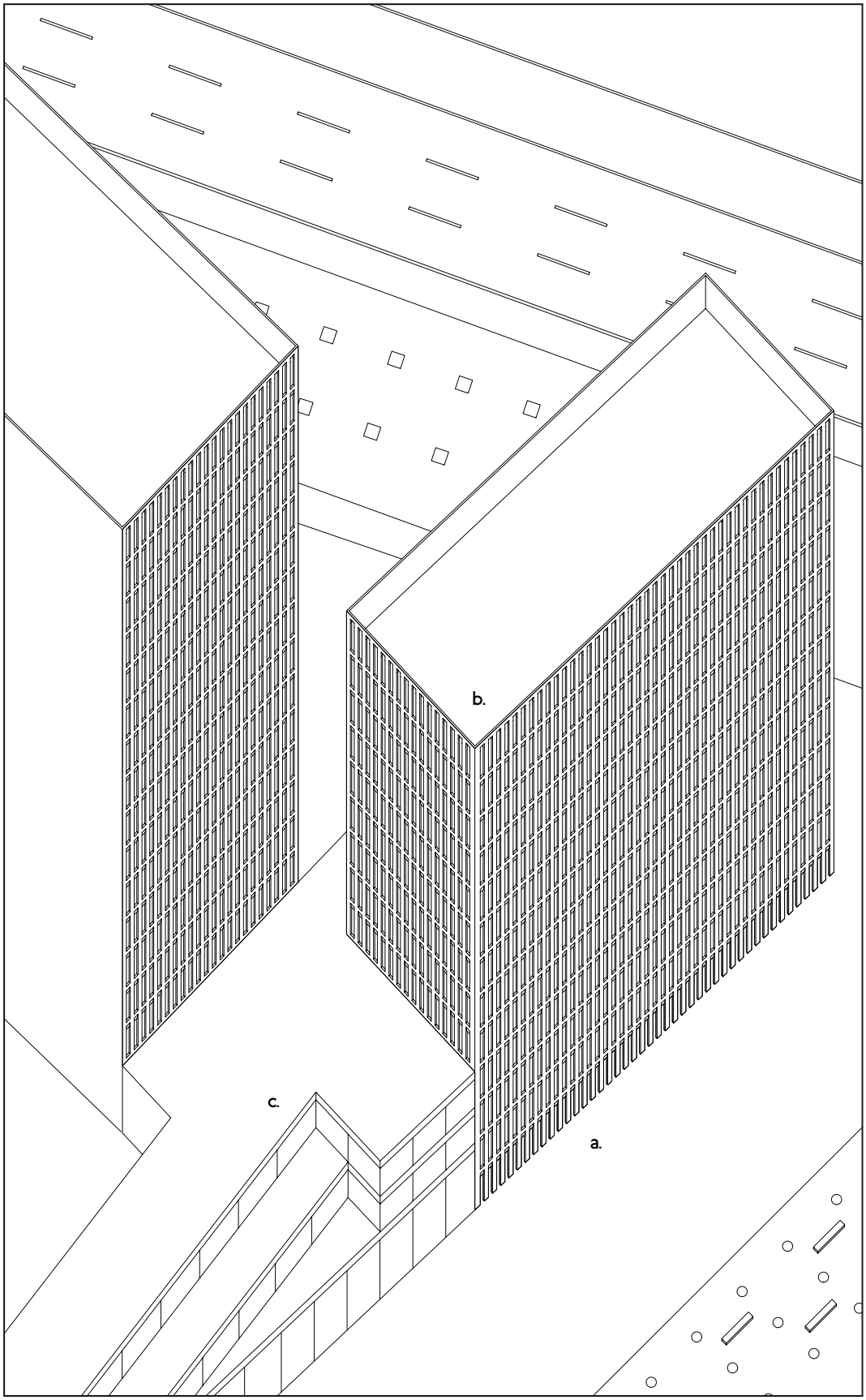

Figure 10: Deconstructing the City of Justice in Barcelona, by David Chipperfield Architects. Constructed upon a sprawling tabula rasa (a), the towers of the City of Justice share ubiquitous expression, a façade that defies recognition of directionality or any explicit dialogue with context (b). Connected in the lowest floors by an enclosed vestibule (c), the buildings can be traversed internally.

of the trial to which they refer, and the verdict thereby reached. Beyond the advocates and judges through whom the Law is translated, these books are the reference of ultimate authority, from which our collective social history re-emerges to inform judicial practice in specific instances of the present. In turn, however, this condition then presents a problem for the spatialisation of the Court on both a practical and representational level. The built volume of the courtroom is required somehow to be able to adapt to the vast and expanding library upon which it is built, and, therefore, address the questions of representation of an emerging spatial model. It is at this point that we can observe another deviation from the prior analogy between the Church and the spatialisation of legal practices. As articulated by Evans when discussing the Inns of Court in London:

> '*Unlike the cathedral or other such religious precinct which promises an encounter with its Invisible referent (God), however, the Inns provide only an endless spiral of an approach that can never, finally, arrive. The Law is to be continuously revealed.*' [1]

This emphasis on precedent subverts conventional connotations of the figure of the judge as the arbiter of the Court, as the point of reference, in favour of a model of deferral. In this way, the Court becomes a space without *direction*, with no axial relations and no notion of having a *centre*. So it is that in the fragmentary arrangement of Chipperfield's City of Justice, each block twists as if to defy recognition of a singular point of inflection or face. Its pieces are decentralised, floating as if they might conceivably repeat endlessly beyond the site, and with the homogeneity of their elevations refusing to acknowledge such prosaic features as an 'entrance' or 'exit', or 'front' or 'back'.

This very condition may, however, also be seen to engender a perception of the Law as being impenetrable, and the City of Justice's gesture of deferral is perhaps symptomatic of a broader dilemma regarding representation. Beneath the rituals such as due process, judges' gowns and witness statements, the Law exists within deep structures of knowledge so matted with history that they defy the clarity of architectural expression. In his analysis of Foucault's theories of Law and Power, Gerald Turkel writes:

> '*Knowledge plays an increasingly important role in making judgements about crime and the criminal: knowledge of the offence, knowledge of the offender, knowledge of the law: these three conditions make it possible to ground a judgement in truth . . . the interpenetration of legal and non-legal knowledge has generated an incredibly complex, incoherent, and confusing array of concepts.*' [17]

The complexity and reach of Law – and its increasingly convoluted legal process, coupled with the modern subscription to the idea of Law as a wholly democratic and impartial act – therefore causes problems for formerly held conditions about the building *type*, such as in the power relations between judge and judged, the drama of the trial, assertions of state or sovereign authority. These formal aspects of the Court are now being absorbed within an expanding bureaucratic body, and as a result, the expression of legal architecture becomes ever more confused and withdrawn. Although marked out from its immediate neighbours, Chipperfield's design is symptomatic of an evolving scenario that is now rendering the places of Law – the *arche* of the city as a political construct – as being indistinguishable from the general financial components of the urban formations in advance neo-liberal societies in the west, and thus housed in similar architectural form. The notion of differentiation of building types, going back to Montesquieu and Le Roy, which attempted to impose clarity on the ancient archetype, is now in reverse. (**Fig. 4, Fig. 12** and **Fig. 13**)

V

The Docks
The Court and the Other

Each of the spatial analogies that were drawn in previous chapters between the Court and other civic archetypes – Parliament, Church, Theatre, and Library – have helped to understand the complexities in a definition of this building *type,* and of its relationship to the space of the city. The Court's conceptualisation of space, its delineations of public and private territory, its pseudo-sacral air, its capacity for abstract expression, all suggest the *type* as a conglomeration of other types through shared connotations and social programmes. The Court also possesses, however, within its *jurisdiction*, the unique civic purpose for defining society through its *other*. Central to the role of the courtroom is its programme for extracting individuals from the public body, and placing them, if guilty, in a space that is physically and symbolically outside of the

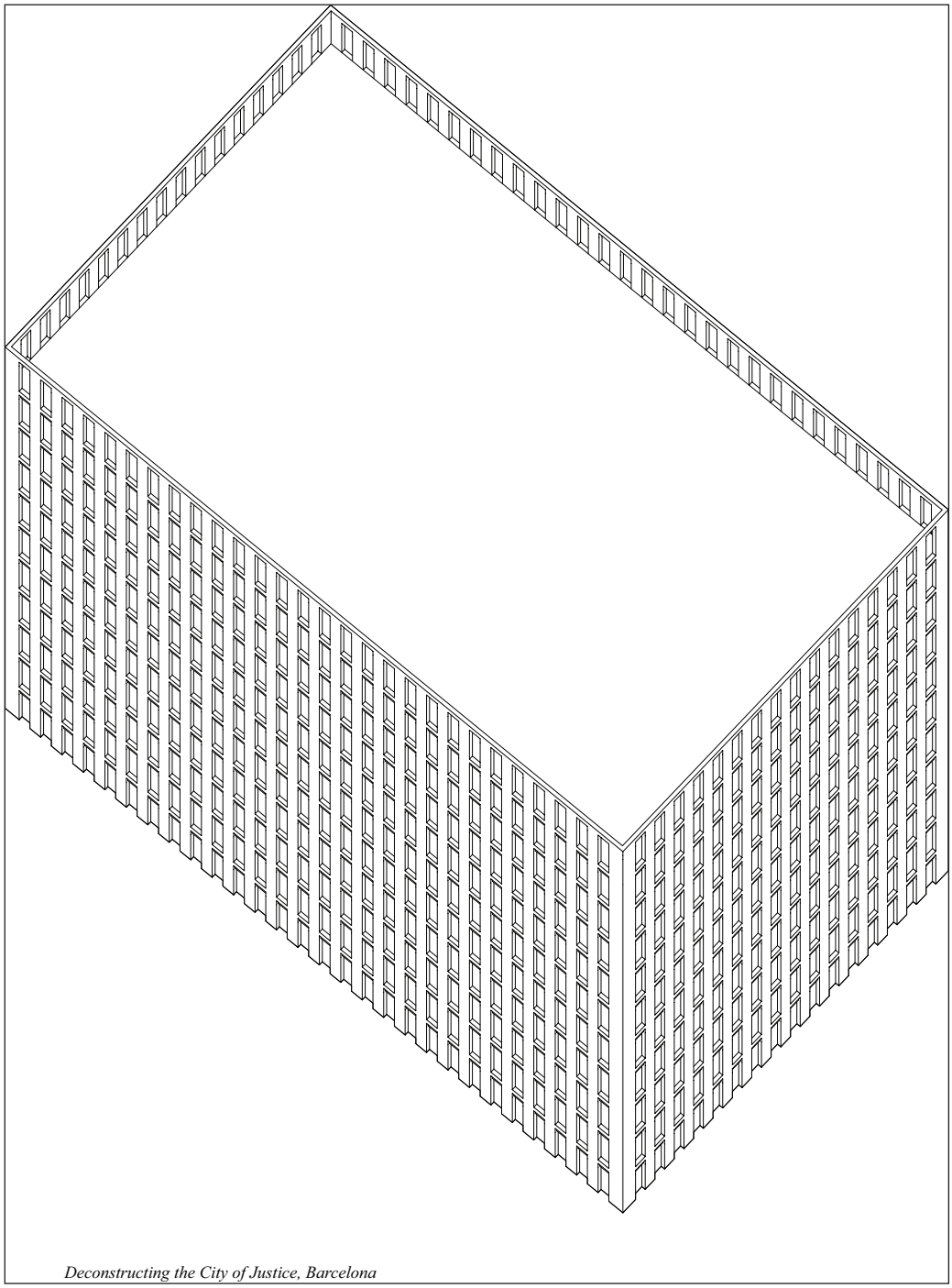

Figure 11: Screen wall of the City of Justice.

social realm. It is in this latter act that the *type* is defined by perhaps its most profound identification of two kinds of space: *society* and *not-society*. The Central Criminal Court in London, colloquially referred to as the 'Old Bailey', is synonymous with British legal history and the most significant of its criminal trials. So much so, that its name now refers not merely to the institution or its building, but to the broader *semantic* space of legal discourse. If the extracted individual is the one who is most truly subject to the Law – held between society and its *other* – it is surely then the Docks that represent the most acutely loaded moment within the place of Law.

The last public execution in London, back in 1868, marked a momentous shift in the punitive nature of British legal practice towards a deeper, more fundamental revision of the spatialisation of the Court. Of the theorists to write about the phenomenon of legal practice, it is perhaps Foucault who most explicitly articulated the social – and by virtue, spatial – implications of this evolution in punishment. It signified a

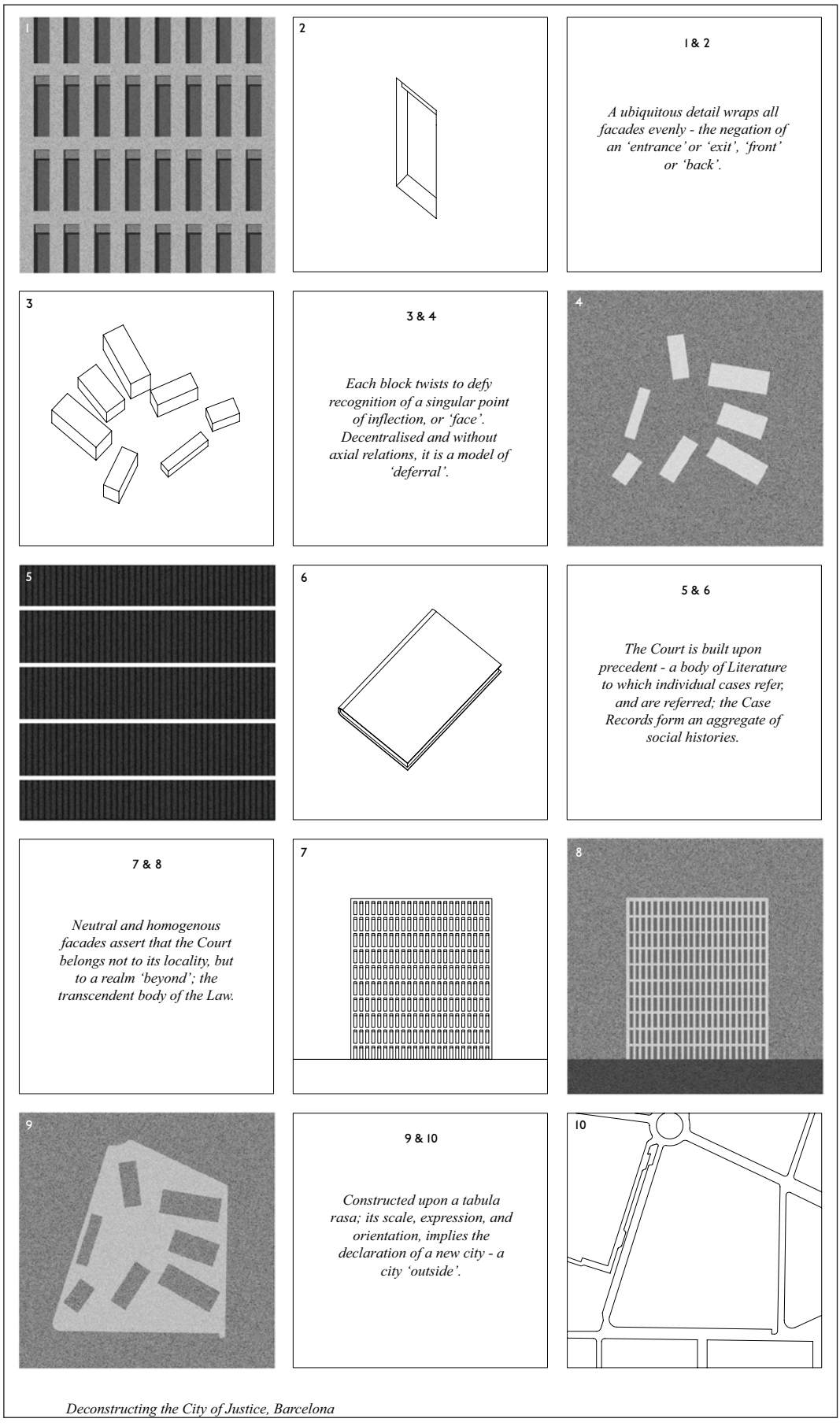

Figure 12: Elements and symbols of the City of Justice.

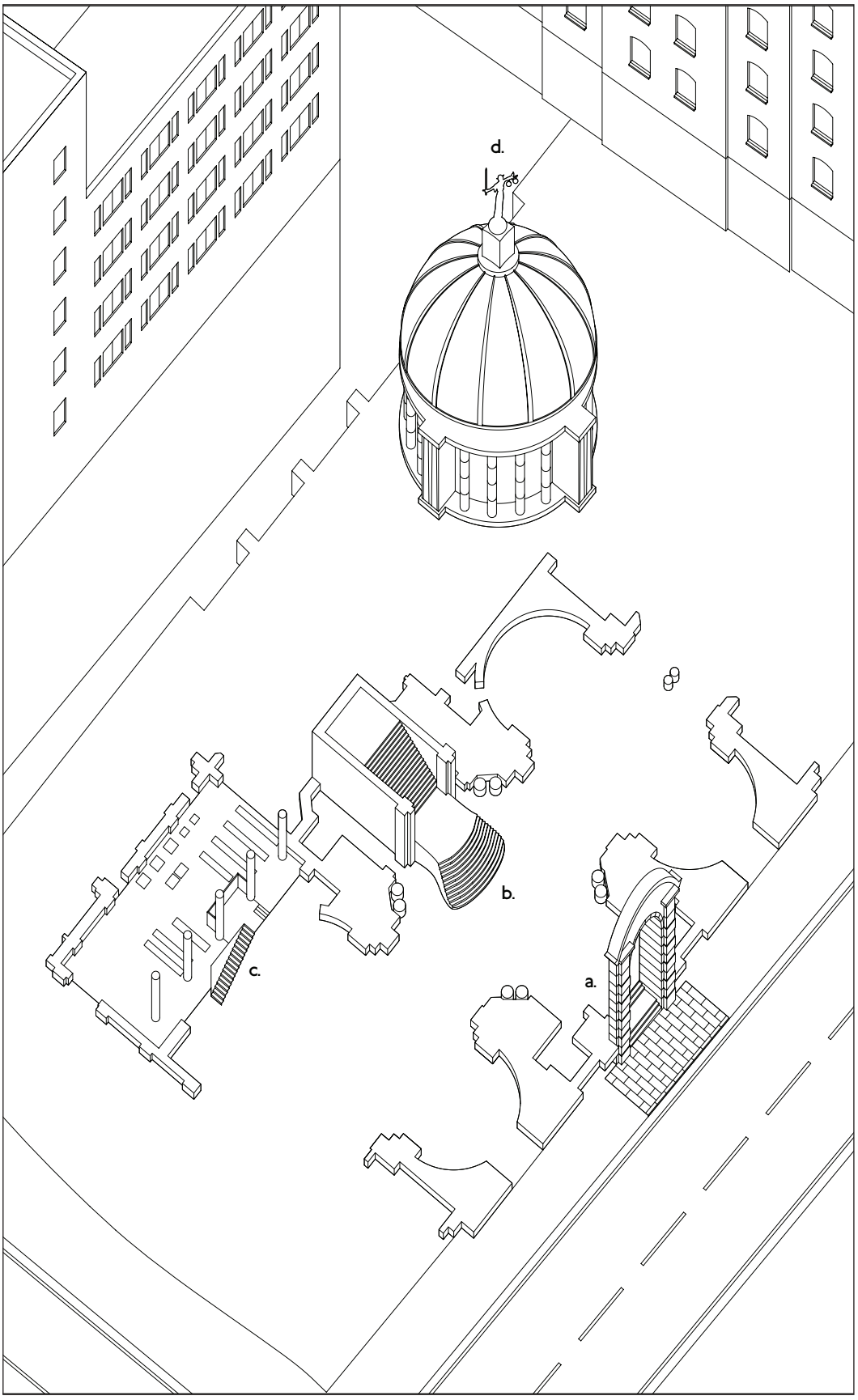

Figure 13: Deconstructing the Central Criminal Court in London, known as the 'Old Bailey'. An entrance on the west façade (a), original to Mountford's design, leads to the 'grand staircase' (b). Within the courtroom, the steps of the Docks (c) mediate between the court and the holding cells of the basement. Raised over the 'Old Bailey', on a prominent dome, the figure of Lady Justice projects herself towards the city (d).

transition from what he termed the *spectacle of the scaffold* [6], to the emergence of the Prison as a typology, and the withdrawal of the accused from the public realm. The public nature of executions could be argued to have been their very purpose. As not just a means of punishment of the convicted individual, through the brutal removal of that individual from society, Foucault pointed out that the performance of the execution under the public gaze was primarily to declare how citizens should act:

> '*It also made the body of the condemned man the place where the vengeance of the sovereign was applied, the anchoring point for a manifestation of power, an opportunity of affirming the dissymmetry of forces.*' [6]

In essence, this violent form of punishment established a conceptual-spatial model of two degrees: one either existed *within* the 'proper' bounds of society, or else within the Court as a sort of temporary holding space prior to punishment. If found guilty, the execution of the accused removed them from this model entirely – there was no *other*, besides death. It is in this respect that the elimination in Britain, as in other western countries, of the threat of public execution (there continued to be executions in private), signalled a profound re-structuring of the spatial model to now include three degrees of existence: in society, or in Court, or in society's *other*, the space of incarceration. Here it is pertinent to note that the abolition of public executions was not, as might be expected, due to changing attitudes to violent punishment by the state. Rather, the public spaces of execution in Britain had become increasingly prone to appropriation by protesters who sympathised with the accused, in defiance of sovereign authority [17]. The withdrawal of punishment from the public sphere, therefore, served to cement the state's authority and simultaneously reinforce the 'otherness' of the spaces of incarceration – the latter no longer held a tie to the space of society, except through the finite portal of the Court. Foucault explained this condition within the theory of *heterotopia:*

> '*In the so-called primitive societies, there is a certain form of heterotopia that I would call crisis heterotopias, i.e., there are privileged or sacred or forbidden places, reserved for individuals who are, in relation to society and to the human environment in which they live, in a state of crisis. But these heterotopias of crisis are disappearing today and are being replaced, I believe, by what we might call heterotopias of deviation: those in which individuals whose behaviour is deviant in relation to the required mean or norm are placed.*'

So it was, that through the demise of public executions, a judicial 'heterotopia of deviation' was established, and the Prison emerged as a *type* now inextricable from the Court. The recognition of these two poles – the space of society and its *other* – positions the courtroom, and more specifically the moments of its trial, as a space of heightened criticality. Linking them to ethnographer Arnold Van Gennep's theory of *rites of passage*, Julienne Hanson posits the trial as a particularly poignant social ritual:

> '*The law is the mechanism by which a society either recovers the individual for collectivity, or places him or her in an alternative social category. What we call a trial can therefore be interpreted as a rite of passage whose purpose is to take the suspect individual, previously joined to the social body, and to separate him or her in custodial space.*'

At the Central Criminal Court, or 'Old Bailey', and often already within custody at the time of the trial, the accused is transported from an autonomous prison, by police van, to temporary holding cells in the basement. Although now physically dislocated from their usual prison of residence, the accused remain at this stage within the third degree of the conceptual-spatial model: society's *other*. On the day of the trial, they are then escorted through a tightly controlled and segregated internal circulation system directly to the docks at the side of the particular courtroom. There the accused are placed upon a raised podium from which they are to observe and be observed through the proceedings of the second degree of the model, the Court, thus standing within the portal between society and extraction from that society. If found not guilty, and acquitted of their charges, they are led with supervision back into the public realm for release. If these three degrees exist notionally within the broader territory of Britain, and its numerous 'heterotopias of deviation', all can be seen as compressed within the Court, the only point from which all three may be traversed on the conditions of the trial as a social covenant. As the space in which the judgement will be made on behalf of the accused, the courtroom, as a microcosm, establishes the necessary conditions for a 'heterotopia of deviation': segregation, observation, and extraction.

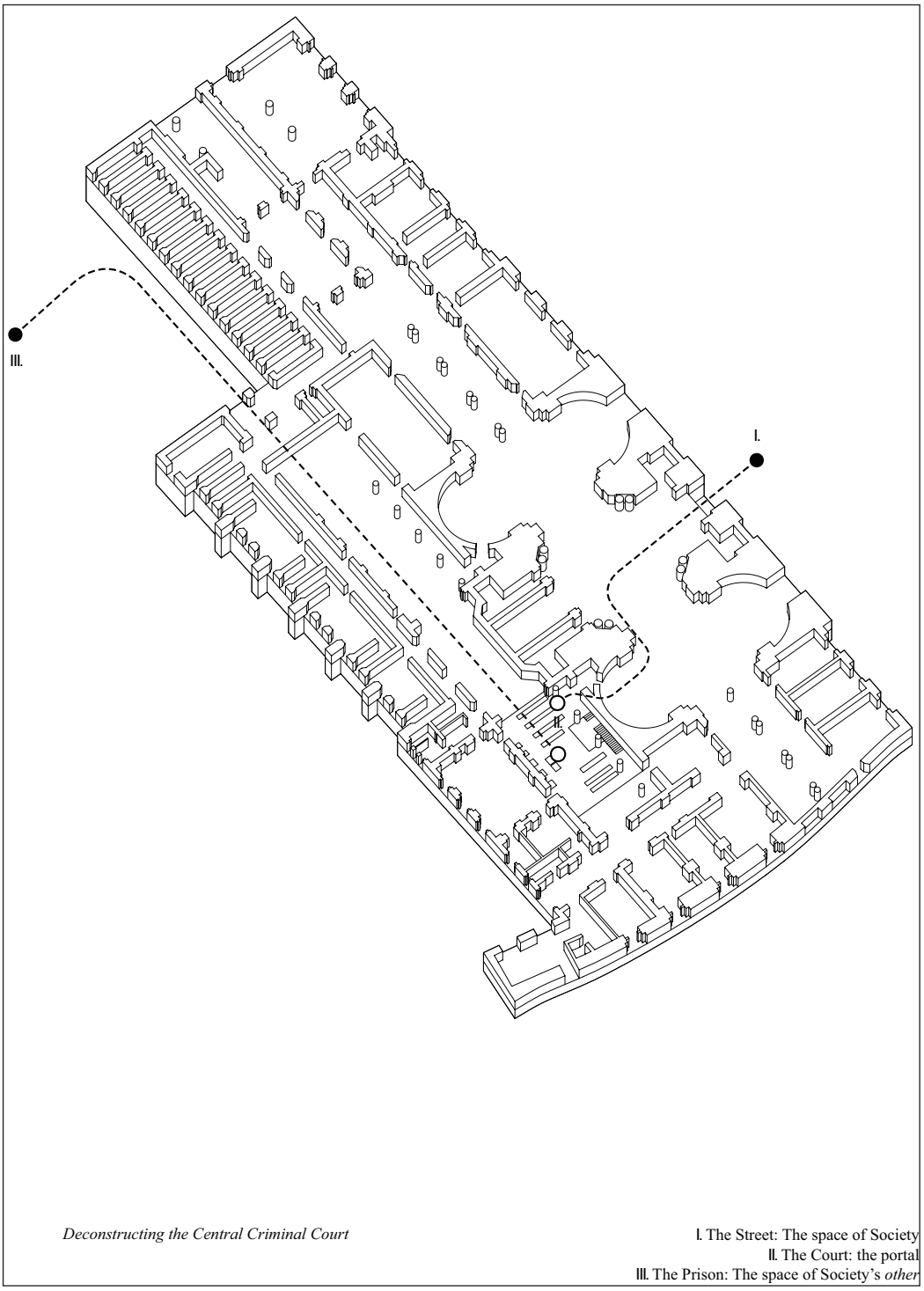

Figure 14: Analytical diagram of movement patterns within the 'Old Bailey'.

Hanson defines segregation as one of the epithets of the Court's spatial syntax, [2] and the 'Old Bailey' is quite typical in this regard. Distinct patterns of circulation ensure minimal contact between the various agents in the trial – accused, defence, prosecution, jury and judges – until they all meet within the courtroom, and only then under highly controlled conditions. Besides implicit concerns of security, it seems reasonable to extrapolate that this segregation is more fundamental for the separate identification of these agents, and the distinct roles they will play in the contract of the trial. Beyond the specific instance of the trial in which they are participating, they are representative of the very premise of Law as a civic programme. The defence and prosecution teams are *within* society, the jury and judges must be asked to withdraw temporarily from society in order to reflect impartially upon it, and the accused is most definitively

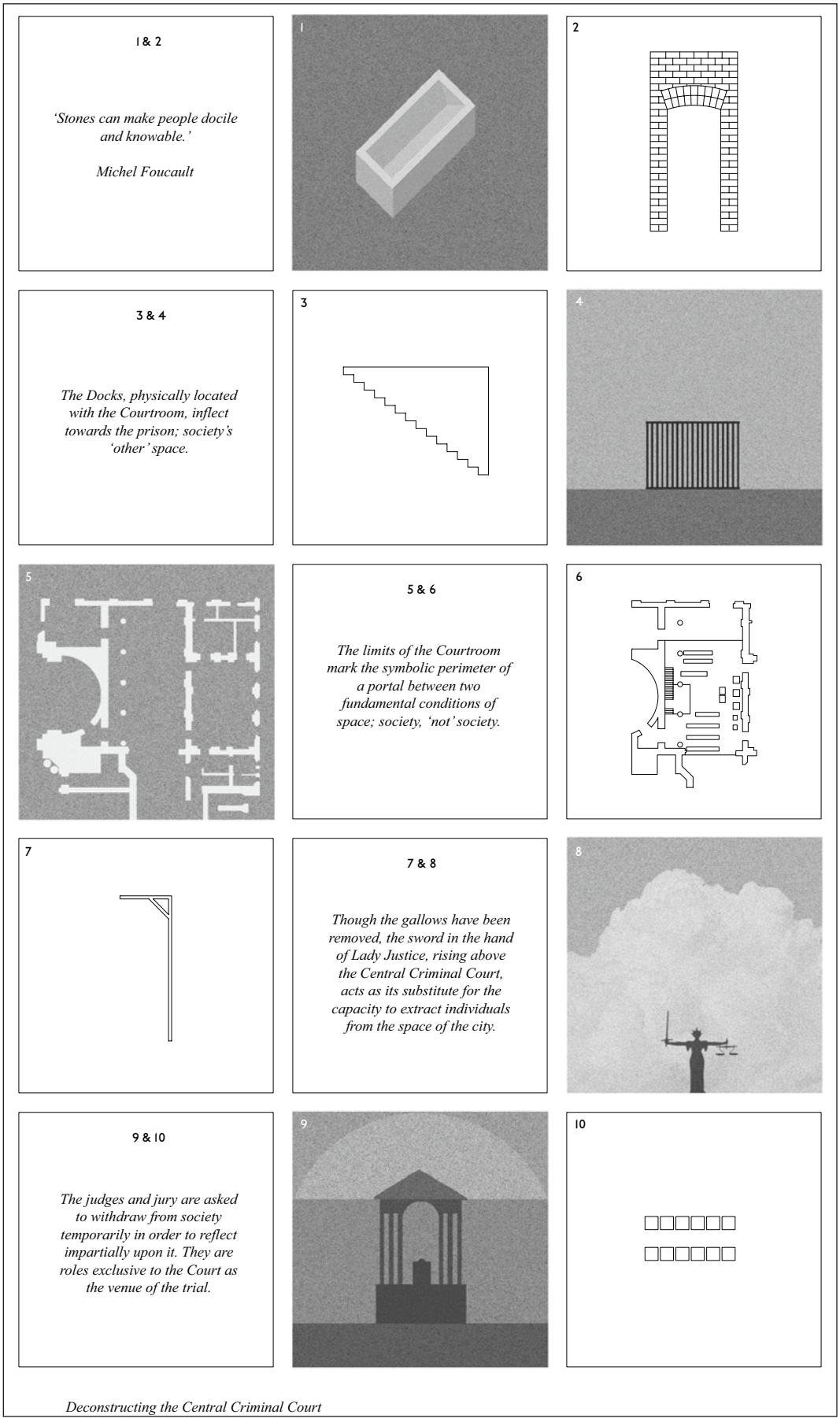

Figure 15: Elements and symbols of the 'Old Bailey'.

outside society for the duration of their custody. Segregation of these agents is, therefore, integral to the clarity of this symbolic construct. Intrinsic to separation is the capacity for observation, as a condition that Turkel defines as 'characteristic of all disciplinary institutions' [17]. Thus the Docks are spatially isolated, the accused is clearly identifiable and often mute, thus 'opening up the details of her or his conduct to scrutiny' [17]. The Docks in this regard an extension of the Prison towards which they inflect. They comprise a displaced fragment of that 'heterotopia of deviation' within the limits of the courtroom, and the observation of the accused is thus a moment that refers to the definitive condition of the Prison. Foucault emphasises the role of the physical fabric of the Court and Prison in creating this spatial condition: 'Stones can make people docile and knowable'. [6]

Beyond these spatial analogies between the Docks and the Prison, the materiality and tectonics of the Docks as an item of furniture provide even stronger assertions to this connection. Traditionally composed of vertical iron/steel bars – and more recently of thick layers of clear glass or acrylic – the Docks express explicitly that they belong to the architectural language of society's *other* space. But perhaps more than this, what the spatial conditions of the Court attain are those of the Prison as an immaculately regimented scenario. In this regard, all space is clearly portioned and assigned, and the roles of its occupants unchallengeably categorized, in pursuit of a condition described by the sixth principle of Foucault's *heterotopia*:

> '*. . . to create a space that is other, another real space, as perfect, as meticulous, as well arranged as ours is messy, ill constructed, and jumbled.*' [5]

It is perhaps in this final point that the identifying condition of the Court as a building *type* resides. In its extraction of individuals from society, in its definition of the Laws from which they have deviated, and its creation of the conditions of the Prison as the *other* space, the Court defines what is thereby left by elimination: the space of society itself, and all that is proper to it. A criminal conviction clearly has immediate and acute implications for the accused, but its greater social purpose is to embed itself in the collective memory of the space from which they have been removed, that of the city around (**Fig. 5, Fig. 14** and **Fig. 15**).

Conclusion

The place of Law, approached as it has been in this essay through significant exemplars drawn from its extensive history, has always been revealed through spatial analogies with other definitive civic *types* in different eras. Each instance of its formalisation within architecture has been driven by an emphasis of one or more such analogies, which have in turn informed a collective social perception about the Law that is, paradoxically, both deeply identifiable and inherently contradictory. We are familiar with its iconography and apparatus (the robes, wigs, sword and scales, the grandeur of porticos and lofty elevations), and with the tropes of its cultural representations (courtroom sketches, dramatization in film and television productions, the hurried vignettes and flash photography of the press on the pavement). Yet beneath the rhetoric and apparent immediacy of these motifs is an architectural form more nuanced and more fundamentally influential as an agent in our perception of the Law, and which is conveyed by complex conceptualisations in space.

Law in Ancient Athens therefore inculcated the public body, being practiced as it was as much in the urban territory between courts as it was with any sense of interiority, and in doing so it established a political condition akin to a bi-cameral Parliament. In the Roman Forum, certainly in the later stages of that empire, the Court became enmeshed with emerging religious doctrines and associated hierarchies, which instilled in the *type* a centrality of power relations – in other words, a shared axiological premise between Court and Church that was demonstrated through their mutual appropriation of space. Nearly two millennia later, however, the Court designed by Mies van der Rohe in Chicago represented a modern condition that was a marked departure from antiquity: now there was an emphasis on the insularity of the courtroom, and its absolute withdrawal from context. The Court had become instead a space of abstraction, marked by its designation of an isolated territory for the rituals of the trial – and with an aspiration towards autonomy that was analogous to the venue of the Theatre. Chipperfield's City of Justice then emerged as emblematic of an ever-expanding body of legal texts and a bureaucratic sub-division of the Law, resulting in a dismissal of axial relations, directionality, and explicit hierarchy – and thereby disengaging from the city as a social territory by founding of a tabula rasa on *neutral* ground. Meanwhile, in the 'Old Bailey' in London, one is able to read the ultimate social programme of the Court enacted within the Docks. Here we witness the definition of society by elimination, the extraction of those deemed worthy of exclusion, and the inscription of the terms of their exclusion on the collective memory of the public body.

In analysing the place of Law, this essay has sought to disassemble and thereby abstract the genealogical features of the Court as a building *type*, by scrutinising some architectural instances of its materialisation. The complexity, variety and incompatibility of these features within the *type* speaks of a concern prevalent in architectural theory, that of classification. In his review of Philip Steadman's *Building Types and Built Forms* [18], Pavlos Philippou highlights a common etymological misuse of the terms *type* and *genre*. The two terms are frequently used interchangeably, leading to a fundamental confusion in the classification of buildings. The common function or programme that exists among a collection of buildings, best defined as the *genre*, would broadly group Law Courts – pan-historically and pan-culturally – as all belonging to one mode of classification. In this sense, it can be argued that the case studies in this essay could be grouped together, and that although it is arguable that the Heliaia and the 'Old Bailey' defy a shared classification as a result of evolution in the conceptions of Law, it does seems reasonable to assume that the fundamental conditions of legal practice have persisted significantly enough between the time periods of these two buildings to suggest that there is a consistency in terms of their *genre*.

But what this essay reveals is something deeper, and more interesting. If we accept that the buildings analysed can be grouped in this manner, then the essay also attempts to explore a mode of classification that bares a much deeper investigation, which is that of building *type*. As a concept it is both more complex and more profound. The differences between each of the case studies in terms of their configuration of space suggests that they are not actually of one single *type,* but rather of a series of fundamental *types* that have an indeterminate and interwoven relationship with one another. The spatial analogies drawn between the Court in each case study and another institutional *genre* – Parliament, Church, Theatre, and Library – is something that challenges the conventional terms of typological classification. Could it be that Mies' Federal Court and, for instance, Shakespeare's Globe Theatre, are more closely related *typologically* than each of them is to other examples of their respective *genres*? Far from being a potentially superficial concern about terminology, or an attempt to devise arbitrary groupings of buildings, the question of classification approached in this essay suggests a need for further exploration into the role that built spaces play in the practice and meaning of different social programmes. Perhaps these diverse places of Law – like their counterparts in other forms of political, religious, artistic or cultural practice – ultimately defy distinction, because all are subsumed 'in the chaotic swarm of a world of everyday events' [7] that is constituted by the space of the city. And in this regard, maybe the best way to understand the social and cultural composition of cities is through the careful examination of our deeper building *types*, such as represented in this essay by the Court.

Competing Interests

The author has no competing interests to declare.

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How to cite this article: Scott, L. Court: The Place of Law and the Space of the City. *ARENA Journal of Architectural Research*. 2016; 1(1): 5. DOI: http://dx.doi.org/10.5334/ajar.24

Published: 20 December 2016

]u[*ARENA Journal of Architectural Research* is a peer-reviewed open access journal published by Ubiquity Press.

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