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Webster's Law Cases: Legal and Cultural Aspects in the Jacobean Dramatist's Major Plays

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Sommario:

Corpus e metodologia critica.

La tesi dottorale si focalizza su tre delle opere del drammaturgo inglese John Webster: le tragedie *The White Devil* (1612) e *The Duchess of Malfi* (1614) e la tragicommedia *The Devil's Law-Case* (1623). Vengono tuttavia fatti frequenti riferimenti anche a una quarta opera, la commedia *A Cure For A Cuckold* (1661) scritta a quattro mani con William Rowley. Nella sostanza, si privilegiano le *Italian plays* perché contigue secondo tre parametri distinti: il *setting*, il genere e la ricezione.

La tesi segue l'approccio critico di "Diritto e Letteratura" il cui principale obiettivo è quello di indagare il rapporto tra due discipline solo apparentemente dissociate. La profonda vocazione multidisciplinare dei testi in analisi fa sì che si privilegino e si amplino determinati e determinanti aspetti storici e giuridico-politici dello scenario rinascimentale inglese, gestante evoluzioni e rigenerazioni culturali di somma importanza. Ancora in fase di espansione, il movimento "Diritto e Letteratura" si è sviluppato a partire dagli anni Settanta e ha portato a notevoli rinnovamenti metodologici e concettuali in ambito nazionale e internazionale indagando i termini di scambio e di ibridazione delle discipline che coinvolge. Tuttavia, la dicotomia "Law and Literature" risulta ad oggi limitativa, poiché non solo la legge, ma l'intero spettro delle scienze umane è chiamato ad agire in questa prospettiva (prime, fra tutte, la storia, la politica locale e internazionale e la filosofia). Il nuovo approccio "Law and the Humanities" (adottato a sostegno della stesura della presente tesi) amplia l'ottica della stessa teoria della legge che trova un adattamento e una convalida nelle sue

corresponsioni letterarie muovendo dal sunto imprescindibile che l'argomentazione legale è, di per sé, narratologica.

Uno dei principali intenti argomentativi della tesi è quello di chiarire che il decostruzionismo e le sue applicazioni nel contesto dell'approccio "Law and the Humanities" non vogliono avere un impatto sulla legge a livello dottrinale, ma, piuttosto, proporsi come strumenti di analisi e di comprensione del sapere legale a scopo integrativo e promulgativo. L'ecletticismo di questo approccio si giustifica in base al fatto che, valutando lo stato dell'arte, non è più possibile (né tantomeno adeguato) esaminare il rapporto che intercorre tra letteratura e legge senza avere familiarità con le nozioni di "legge *nella* letteratura," "legge *della* letteratura" e "legge *come* letteratura." Le argomentazioni sostenute nel corso della tesi osservano rigorosamente tali principi.

Nel caso specifico, nell'universo websteriano il tema della legge è fondamentale poiché questa è il sintomo del fallimento della prima modernità. La giustizia è irraggiungibile e inattuabile e di conseguenza viene negata. È un mondo di disillusione quello dipinto dall'autore, un mondo dove la legge è l'asse attorno al quale ruotano pressoché tutte le vicende umane. I suoi personaggi sono tutt'altro che eroi tragici, ma personalità passive e turbate che percorrono una sola strada, ovvero quella per il proprio tornaconto a discapito di altri. In un contorto e oscuro avvicinarsi di ingiustizie, il teatro di Webster distilla l'essenza di una scrittura promettente e questa scrittura ha ispirato uno studio dedicato e interdisciplinare.

L'argomentazione, ricca di prospettive e sfaccettature, ricorre infatti all'uso di testi di matrice storica, filosofica e giuridica. Non meno importanti sono gli statuti, gli annali e le cronache che ricostruiscono la storia legislativa dell'Inghilterra e, nei casi specifici delle opere, del suo contesto "ospite," ovvero quello dei Ducati e dei Regni, degli Stati e delle Repubbliche del nostro Rinascimento. Ad esempio, in *The White Devil* Webster riadatta alle scene i trascorsi legali di Vittoria Accoramboni, nobildonna di discendenza marchigiana nata nella Gubbio ancora di Urbino nella seconda metà del Cinquecento la cui vicenda riempì le cronache dell'epoca. Il suo caso interessò al contempo il Vaticano e la Repubblica di Venezia. Il processo a Beatrice Cenci, una bennata donna romana che assassinò il padre e fu per questo condannata alla decapitazione dallo Stato Pontificio nel 1599, fu una vicenda altrettanto nota fra i contemporanei. Una traccia postuma la diede

lo scrittore francese Stendhal, che nelle *Cronache Italiane* (1855) ripercorse molte di queste vicende di sangue ponendosi a favorevole testimonianza del dialogo positivo tra legge e letteratura. La tesi, quindi, prende in considerazione lo specifico caso storico e lo pone a confronto con la trasfigurazione teatrale operata da Webster, portando ad un'analisi rilevante della concezione e dell'applicazione della legge nel contesto sociale del periodo Rinascimentale.

La legge e le sue distorsioni sono trattate e valutate nel corso della tesi da prospettive multiple, a seconda dell'entità dei casi o della gravità dei crimini messi in scena dall'autore. Accanto alla Common Law e a tutti i casi che ad essa pertengono (es. marital law, property law ecc.), le 'twin plays' *The Duchess of Malfi* e *The White Devil* si fondano sul diritto penale e sul diritto canonico. Gli eventi inquietanti e le dinamiche raccapriccianti che abitano (o meglio, infestano) il palcoscenico, nascondono spesso retroscena di congiure, manovre e torsioni della legge (dalle semplici manipolazioni testamentali, alle paternità taciute, a quelle contese). Quella di Webster è, fondamentalmente, una legge per cui si spergiura e per cui si persegue sempre l'illecito. Violare la legge è la prima legge di un personaggio. Ad avvicinare i casi di diritto coniugale e di proprietà vi sono quelli di adulterio e di omicidio (visualizzato e perpetrato in tutti i suoi gradi dall'uxoricidio, all'infanticidio, al fratricidio). Un ulteriore aspetto che si direbbe fondante è quello della messa in scena delle udienze, che applicano in modo affascinante l'espedito della meta-teatralità.

La tesi riflette, inoltre, lo stretto rapporto che intercorre tra la cultura legale e il dramma come intrattenimento, che si contestualizza a partire dal dato che molti teatri sorgessero nei pressi delle *Inns of Court*, o che spesso le rappresentazioni festive avvenissero proprio nelle grandi *balls* di Inner e Middle Temple, Lincoln's e Gray's. Risulta che i giovani giuristi, aspiranti o affermati, fossero entusiasti *theatre-goers*, quindi frequentatori assidui delle *performances* e, talvolta, essi stessi attori improvvisati. Ciò sintetizza come la legge fosse incorporata nella cultura teatrale e come questa realtà si riversasse, inevitabilmente, sulla vita sociale e pubblica. A questo scopo è stata inserita una sezione dedicata alla riforma dei tribunali nel Sedicesimo secolo. Le molteplici diatribe legali di cui il popolo elisabettiano si rese protagonista e il tumulto politico di quegli anni portarono a ricostituire l'amministrazione della giustizia che, in epoca

enriciana, risultava ancora molto legata a paradigmi tradizionali (leggasi conservativi e medioevali), ma che da quella elisabettiana in poi sarebbe stata regimentata diversamente accostandosi al modello di Common Law nella sua concezione più moderna ed equitativa. Gli anni che Webster visse sono gli stessi che testimoniarono il fenomeno di professionalizzazione degli avvocati. A questo proposito, la tesi presenta in via preliminare un'analisi della satira legale. Ciò ha permesso di indagare a fondo quali fossero gli intenti dell'autore (anche se prevalentemente in veste di tragediografo) nonché di coloro che lo precedettero (John Marston e John Dekker in particolare). Se, da un lato, la satira intrattiene con un umorismo piuttosto colorito, dall'altra il teatro ne recupera gli intenti e prosegue la crociata della castigazione dei professionisti della legge.

L'autore:

La modesta risposta critica a John Webster è forse un riflesso della scarsità di dati biografici e del carattere poco prolifico dell'autore. Ciononostante, egli è universalmente riconosciuto come uno dei più grandi drammaturghi ad aver calcato la scena giacomiana, tanto da rientrare, a tutti gli effetti, nel canone letterario inglese. L'esecrabile scarsità di informazioni rende ancora più ardua l'impresa di ricostruire o congetturare il *cursus* formativo dell'autore. Vi è, tuttavia, il dettaglio affatto trascurabile di una sua apparente iscrizione a una *Inn of Court* londinese, la *Royal Society of Middle Temple*. Tale casualità, se confermata, giustificerebbe la forte componente etica e giuridica nelle opere dell'autore, il quale risulta innegabilmente ossessionato dai cavilli legali, oltre che animato da un'energia psichica ed esistenziale che oscilla pericolosamente tra *eros* e *thanatos*. Come magnificamente verseggiato da T.S. Eliot in *Whispers of Immortality* (1919), Webster "was much possessed by death and saw the skull beneath the skin;" egli aveva comprensione delle atrocità perpetrabili dal genere umano e fece scaturire dal suo immaginario alcuni fra gli scenari più oscuri sino ad allora concepiti. Egli sviscerò tematiche già consolidate e assai ricorrenti nella *revenge tragedy* di stampo kyddiano, ma la sua virtù risiede nell'essere riuscito a superarne il modello. Il presente studio intende far emergere che, al di là dei numerosi debiti linguistici e argomentativi in cui l'autore incorse, il suo teatro fu

comunque in grado di emanciparsi prescindendo delle influenze nonché di costituire una singolarità nella sua interazione col mondo della legge.

Abstract:

The doctoral thesis focuses on John Webster's 'Italian plays': the tragedies *The White Devil* (1612) and *The Duchess of Malfi* (1614) and the tragicomedy *The Devil's Law-Case* (1623). Some references are also made to the comedy *A Cure For A Cuckold* (1661) which, unlike the others, is set in England and is the result of a collaboration between Webster and William Rowley. The works are analysed from a multidisciplinary perspective, which aims at demonstrating how the legal culture influenced the literary production of the early modern period. In this sense, Webster's plays are highly representative of the nexus between law and drama. Some scholars claim that the author, about whom virtually nothing is known, probably received legal training himself, and this might explain why legal discourse is so prominent in his production. The law is the axis around which the characters' lives revolve. Its controversies, its disturbances and its internal tensions are thus critically examined in relation to their dramatic re-reading. The legal cases Webster exploits are rooted both into civil and criminal justice, and range from questions of inheritance to adultery, sedition and murder. Outshined by Shakespeare and other contemporaries, Webster's reputation as a Jacobean playwright started to captivate critics in the nineteenth century. Through a careful analysis of legal contents, language and literary influences, the thesis ultimately attempts to draw attention to a subject which is worth exploring and still open to critical discussion.

“To those who report I was a long time in finishing this tragedy, I confess I do not write with a goose-quill, winged with two feathers; and if they will needs make it my fault, I must answer them with that of Euripides to Alcestides, a tragic writer: Alcestides objecting that Euripides had only in three days composed three verses, whereas himself had written three hundred, ‘Thou tell’st truth,’ quoth he, ‘but here’s the difference: thine shall only be read for three days, whereas mine shall continue three ages.’”

John Webster, *The White Devil*

Note to the Reader

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Introduction:

This doctoral thesis is the outcome of an interdisciplinary study of the major works by the English dramatist John Webster: *The White Devil* (c. 1612), *The Duchess of Malfi* (1614) and *The Devil's Law-Case* (1623). Some references are also made to the comedy *A Cure For A Cuckold* (1624-5), co-written with William Rowley.

The thesis is born out of the need to produce a specific and critical analysis of the plays, which are steeped in legal thought and tradition and which are deserving of critical attention. Even though scholars concur in acknowledging Webster's position and role in the English literary canon, the critical literature on the author is still affected by three factors:

- the general neglect his works suffered in the seventeenth and eighteenth centuries;
- his tendency to produce collaborative works and the loss of some of these plays;¹
- the scarce knowledge we have of his life.

The son of a wealthy coachmaker, Webster was probably a student of the law at Middle Temple, one of the Inns of Court. His plays reveal his knowledge and enthusiasm for the law, which is the undisputable protagonist of his stories and the core of his playwrighting (just consider that only in the tragedies the word 'law' occurs 13 times, 'lawyer' 28. If we add the 1624 comedy the numbers grow to 43 for 'law' and 38 for 'lawyer'). The legal cases that the author presents – rooted both into civil and criminal law – include the fundamental themes and issues which were dear to Webster as to other contemporaries:

¹ *Guise*, *Keep the Widow Waking* and *Caesar's Fall*. Among his surviving works we recall *Appius and Virginia* (1654), *Christmas Comes but once A Year* (1602, with Thomas Dekker), *Westward Ho* (c. 1604, with Thomas Dekker), *Northward Ho* (1607, with Thomas Dekker), *Sir Thomas Wyatt* (1602, with Thomas Dekker), *Anything for a Quiet Life* (1612, with Thomas Middleton), *The Fair Maid of the Inn* (1647, uncertain, with Fletcher, Massinger and Ford) a contribution to Thomas Overbury's *Characters* (1614), his introduction to John Marston's *The Malcontent* (1603) and the pageant *Monuments of Honour* (1624).

the coercive power of religious and secular courts, the oppressive character of the Catholic church, the circumscriptive organisation of the legal sphere (inaccessible to women), the moral corruption and the unethical behaviour of the legal practitioners and – above all – the centrality of the law in the life and the culture of the period.

Although *The White Devil* experienced a cold reception on its debut at the Red Bull Theatre, *The Duchess of Malfi* was welcomed with praise from audiences and contemporary authors and is still regarded by many as Webster's greatest artistic achievement. Both tragedies are loosely based on real events, which occurred in Italy between the mid-fifteenth and the late sixteenth centuries. Some critics lament the lack of consistency and intensity in *The Devil's Law-Case*, a tragicomedy and Webster's last solo work. However, the play is surely worthy of interest for the prominence of legal matters in the plot and for its effort to present a different characterisation of lawmen.² Unlike the mentioned plays, *A Cure For A Cuckold* is set in London, so it deals with "All the law betwixt Blackwell and Tothill Street."³ Despite being a witty and vivid comedy with satirical hints, the play has received scant attention from critics and awaits reappraisal.

In the nineteenth century Charles Lamb (1775-1834) inaugurated Webster's revival and "resuscitated Webster's reputation, lapsed into a torpor over the previous century."⁴ In his anthology *Specimens of English Dramatic Poets* (1808) Lamb would express his admiration for the Jacobean dramatist, for the dreadful vengeance, the *pathos*, the despair and the horror and for all the things "only a Webster can do."⁵ Algernon Charles Swinburne (1837-1909) and John Addington Symonds (1840-1893) were also enthusiast

² Crispiano and Ariosto, a judge and a lawyer, are described as fair and severe practitioners (an exceptional rarity in Webster's plays).

³ John Webster, *A Cure For A Cuckold* (III, ii, 24).

⁴ Cf. Charles Forker, Charles R. Forker, *Skull Beneath the Skin: the Achievement of John Webster*, Southern Illinois University Press, Carbondale and Edwardsville, 1986, p. 469.

⁵ Charles Lamb, *Specimens of English Dramatic Poets Who Lived About the Time of Shakespeare*, Henry G. Bohn, York Street, London, 1854, p. 42.

supporters of the dramatist. Swinburne, in particular, claimed Webster was a great English tragedian, second only to Shakespeare. William Archer (1856-1924), on the other hand, criticised the “formlessness of Webster’s plays”⁶ and argued that “Webster was not, in the special sense of the word, a great dramatist, but was really a great poet who wrote haphazard dramatic or melodramatic romances for an eagerly receptive but semi-barbarous public.”⁷ Despite the reprintings, the stage adaptations and the critical respectability which started to arise in the Victorian age, “the journals of the day reacted to the new production with a skepticism about Webster’s worthiness that has persisted [...] well into our own era.”⁸ Today “dissertations are written, symposia are held, editions are plentiful,”⁹ but the subject is still open to further interdisciplinary reflections. The intense work done by contemporary critics has been vital to the construction of this thesis, which repurposes and re-elaborates important points that have been raised until recently by the above-stated scholars.

The aim of this thesis is in fact to contribute to expanding the current perspective on the author’s work by privileging legal discourse. The methodology embraces the critical approach “Law and the Humanities,” which cuts across different and multiple disciplines such as literature, history, philosophy and, as in the current case, jurisprudence. The plays are interpreted and analysed in conjunction with (contemporary and non-contemporary) legal and philosophical texts. The use of statutes and historical treatises and commentaries by Bracton, Coke, Smith, Blackstone *etc.* is fundamental, because these constitute a degree of comparison between the real and effective legal practices and jurisdictions and Webster’s adaptations and/or interpretations of such practices. Although the plays are mostly set in Renaissance Italy, we must resort to the common law to get a clear vision of how English dramatists (Shakespeare and Webster

⁶ Robert Ornstein, *The Moral Vision of Jacobean Tragedy*, University of Wisconsin Press, Madison, 1960, p. 128.

⁷ Don D. Moore, *John Webster, The Critical Heritage*, London, Routledge, 1981, p. 43.

⁸ Charles Forker, Charles R. Forker, *Skull Beneath the Skin: the Achievement of John Webster*, cit., p. 477.

⁹ Don D. Moore, Introduction to *John Webster: The Critical Heritage*, cit. p. 1.

in particular) referred to foreign systems to address ‘domestic’ issues in the political and legal administration to avoid censorship.

Particular attention is paid to the intertextual references Webster makes to his own plays and to those of his contemporaries. Equally important are the sources of the tragedies, which provide a further level of comparison and which have turned out to be extremely useful in the process of examination of the legal elements.

The thesis consists of three main parts:

- The first chapter introduces the critical approach “Law and Literature” and its extension “Law and the Humanities” and provides fundamental historical and theoretical notions. It addresses the impact the reformation of England’s juridical and administrative body had on the legal culture in the Elizabethan age. The chapter also analyses the socio-cultural nexus between drama and the Inns of Court, hence it reflects on the importance of the role of legal institutions in a cultural sense. Law students and professionals were, in fact, avid playgoers; sometimes they would write for the theatre, other times they would watch the spectacles which were often set inside the inns’ halls. Finally, this chapter takes the phenomenon of legal professionalism as compared to the satirical portrayal of the attorneys (suspected of encouraging litigation to profit from it) into examination. The concept of ‘unethical lawyering’ is presented in relation to drama and to verse satire (with specific references to John Marston, John Davies and John Donne). It appears that the poets’ characterisation of sixteenth-century common lawyers is not so different from Webster’s, whose comedy has marked tendencies toward farce and satire;
- The second chapter gives some biographical information about the author (still uncertain and scattered today) and analyses some cultural aspects such as the author’s contested misogyny, his aesthetic conventions, the godlessness of his theatre, the critical representation of authorities *etc.* It also contextualises the concept of justice highlighting its topical importance. The characters are presented in relation to their ethical conduct, their typicality (e.g. the malcontent, the voluptuous widow, the revenger, the fool *etc.*) and, most importantly, their problematic interactions with the legal world;

- The third chapter is the most experimental one; it deconstructs the legal cases in their specificity and re-values and re-contextualises them in relation to the legal traditions of the *common law* and continental law. In particular, it refers to marital law, family law, property law and equitable matters. It finally deals with criminal law with a focus on the aspect of theatricalization of crime and court proceedings, which exemplify the status of women in the early modern period (whose involvement in legal affairs was seen with great suspicion).

The thesis avails itself of many recent and contemporary contributions of scholars and critics of Webster such as Dawn Archer, Kate Aughterson, Roberta Barker, Ranajit Basut, David Bergeron, Ralph Berry, Carol Blessing, Lee Bliss, Daniela Carpi, David Coleman, Annaliese Connelly, Jonathan Culpeper, Perry Curtis, Christy Desmet, Frances E. Dolan, Alison Findlay, Kathryn R. Finin-Farber, Charles Forker, Paula Frazer, Dena Goldberg, Ina Habermann, Bilal Tawfiq Hamamra, Adam Hansen, Andrea Henderson, Brett D. Hirsh, Lisa Hopkins, Theodora Jankowski, Lisa Klotz, Naomi Liebler, Christina Luckyj, Stephen Marche, Susan H. McLeod, Don D. Moore, Subha Mukherji, Peter Murray, Jaqueline Pearson, Samuel Schuman, Elli Abraham Shellist, Sarah Jayne Steen, Mike Thelwall, Leslie Thomson, Aspasia Velissariou, Melissa Walter and Natascha Wanninger.

I. *Law & Literature: an introduction.*

“[...] οἱ μὲν γὰρ νόμοι διὰ τὴν συντομίαν οὐ διδάσκουσιν ἀλλ’ ἐπιτάττουσιν ἃ δεῖ ποιεῖν, οἱ δὲ ποιητὰ μιμούμενοι τὸν ἀνθρώπινον βίον, τὰ κάλλιστα τῶν ἔργων ἐκλεξάμενοι, μετὰ λόγου καὶ ἀποδείξεως τοὺς ἀνθρώπους συμπεῖθουσιν;”¹⁰

The *Law and Literature* movement is no longer a novelty in academia, but a thriving, institutionalised field. Still growing, it has received most of the scholarly attention in the Anglo-Saxon world. Since the 1970s it has been leading to methodological and conceptual renewals in terms of exchange and hybridisation of its formal subjects; many amongst jurists, scholars and philosophers of the law have contributed to the accomplishment of its achievements and hundreds of publications have appeared as a result of years of interdisciplinary research. Notwithstanding, the dichotomy itself is perhaps starting to be limitative, for not only literature, but the whole spectrum of the Humanities is called into action, including history, local and international politics and philosophy. The approach broadens the scope of the same practice of the law, which finds validation in its literary equivalents. The basic principle is that legal reasoning is narrative *per se*: it makes up different and plausible scenarios, supposes eventualities and regulates factuality in abridged directions (rules). In fact, all instances of legislation derive from the idea that, like in narration, “typicality is backward-looking, atypicality is present-regarding, and modelling is future-oriented.”¹¹ The categorisation, however,

¹⁰ “The laws, because of their brevity, do not teach but merely order what one should do; the poets, on the other hand, by representing human life and selecting the noblest deeds persuade men by using both reason and clear examples.” Lycurgus, *Against Leocrates* (102). Cf. Andreas Markantonatos, Eleni Volonaki (eds.), *Poet and Orator: A Symbiotic Relationship in Democratic Athens*, de Gruyter, Berlin, 2019, p. 294.

¹¹ Maksymilian Del Mar, “Exemplarity and Narrativity in the Common Law Tradition” in *Law and Literature*, 25:3 (2013), 390-427, 390.

must not limit the law or deprive it of its ontology, autonomy and hermeticism, mostly because generally “law tends to reject transplants from other bodies of thought.”¹²

Judge Richard Posner, the American leader of the *Law and Economics* movement, has called critical attention on the overstatements of some members of the *Law and Literature* movement claiming the power to “expose the roots of fascism [...] of such classics as *Hamlet* and *Billy Budd*, humanise law, reveal the deepest flaws of capitalism, socialism, or Christianity, solve the age-old problem of objectivity in law and bring on the universal reign of text scepticism.”¹³ Besides, it must be made clear that deconstructionism and its applications do not mean to impact the law on a doctrinal level; they rather present themselves as a key to a deeper understanding of the legal knowledge with the purpose of establishing a fruitful dialogue between different cultures and disciplines. The eclecticism of this approach speaks volumes, since we can no longer examine the interrelation of law and literature without being conversant with the notions of *law ‘in’ literature*, *law ‘of’ literature* and *law ‘as’ literature*.¹⁴

What has now become a universal field of study started (and still operates) as a system in which participants (scholars, researchers, literary critics, philosophers, practitioners *etc.*) share different visions and insights. Interdisciplinarity and incorporative culture in general are at the basis of this type of scholarly engagement; they implement knowledge and strategies in order to lead to a broader and a deeper understanding of both the literary tradition and the legal framework. The famous work by James Boyd White *The Legal Imagination* (1973) is regarded by many as the first real attempt to formalise the theoretical extremes of the movement and to establish it as common practice. According to White,

To consider how the legal language system works as a technical language is [...] to open up several lines of inquiry. But we should perhaps recognise that we can talk

¹² Peter Brooks, “Narrativity of the Law” in *Law and Literature*, 14:1 (2002), 1-10, 2.

¹³ Richard A. Posner, *Law and Literature: a misunderstood relation*, Harvard University Press, Cambridge (MA) and London, 1988, p. 356.

¹⁴ Cf. María José Falcón y Tella, *Law and Literature*, Brill, Leiden, The Netherlands, 2016.

about the legal language system in a more comprehensive way, to include not only peculiar and technical phrases, but habits of thought and conditions of mind, for it is language that demonstrates the condition of the imagination.¹⁵

White's intuition has opened further discussions about close reading and textual interpretation and analysis by taking real, significant literary examples and digging into them. The approach, which is still adopted by those who are active in the field, brings to complex results; if, on the one hand, the literary and cultural substratum emerges as an inseparable body which gives structure to the legal text, the latter acquires importance on multiple levels of meaning. White's contribution represents the watershed between a germinal intuition and the real and functional connection of disciplines and methodologies which, throughout the years, has brought to the canonisation of a whole, fertile cultural approach. Jeanne Gaakeer argues that

what made *The Legal Imagination* so highly innovative in 1973 was that it connected law to what for long, because of the dominant view on law as science, had been looked upon as a literary quality only, the imagination. To White, legal practice is characterised by a constant having to come to terms with the combined representations of events in narrative form and the systematic exposition of law as a language of concepts.¹⁶

To make the point, from an exclusively literary point of view, if the legal language helps scholars analyse and comprehend literary texts by providing tools which are typical of jurisprudence, the literary approach provides the lawyers with a new perspective on the normative text and a new way of considering it. But it is not just that. The approach, in fact, questions and re-examines the social aspect of the law by giving its representatives a new insight into their role and position and by focusing the attention on their human

¹⁵ James Boyd White, *The Legal Imagination* (Abridged Edition), The University of Chicago Press, Chicago and London, 1985, p. 6.

¹⁶ Jeanne Gaakeer, "Law and Literature Redux? Some Remarks on the Importance of *The Legal Imagination*" in Julien Extabe, Gary Watt (eds.), *Living in a Law Transformed: Encounters with the works of James Boyd White*, University of Michigan Publishing, MI, 2014. Available at: <http://dx.doi.org/10.3998/maize.12982987.0001.001>

For a deeper insight see: A. M. P. Gaakeer, Jeanne Gaakeer, James Boyd White, *Hope Springs Eternal: An Introduction to the work of James Boyd White*, Amsterdam University Press, Amsterdam, 1998.

responsibility. Through literature the lawman gains awareness about his professional mission and is eventually offered practical examples and ‘pearls of wisdom’ (in this regard I will quote the head of an article written by R.L. which appeared on *The Economist* on the 8th January 2018 and which reads: “Why lawyers love Shakespeare: jurists cannot resist the temptation to dignify their opinions with the bard’s wisdom”).¹⁷

One of the primary concerns of *Law and Literature* (which – at times – becomes a dangerous territory because it inevitably brings about several disputes and controversies) is, *ipso facto*, the use of literature “to establish truths about the inhumanity of law.”¹⁸ Once again, as White himself has pointed out several times, the inclusion of literature into the study of the law does not indicate the necessity to assert its superiority, but to make a substantial contribution in terms of interpretation and application of ordinances.

In short, literature extracts notions such as *humanitas*, *benignitas* and *aequitas* from reality to replant them into the rigid body of law (*rigor iuris*).¹⁹ Literature and the Humanities reform the general abstraction of the law as irremediably austere and inflexible by matching a new cultural model, more practical, more democratic, more accessible, and surely more popular i.e. attentive to the needs of a community. As the case cited above demonstrates, the impact of literary persuasion on the vivid and real activity of the law is remarkable. Contextual examples of judges citing literary works have become the centre of attention of some observers of this phenomenon, which, despite being quite rare, continues to survive because

judges routinely cite to lots of sources, including works of history, social science, and economics, so the fact that literature is not “law” does not mean it is per se verboten. Also, legal opinions are often highly rhetorical and storytelling in nature,

¹⁷ <https://www.economist.com/prospero/2016/01/08/why-lawyers-love-shakespeare> Last access: September 2021.

¹⁸ James Boyd White, *Justice as Translation: an essay in cultural and legal criticism*, University of Chicago Press, Chicago and London, 1990, pp. 16-7.

¹⁹ The terms I am borrowing typically refer to the tradition of ecclesiastical law.

so one might expect judges to draw directly and explicitly from humanity's vast literary repository.²⁰

Therefore, the same practitioners make an arbitrary and responsible use of literary texts to enrich their speeches, to captivate and connect emotionally with the audience or simply to make the heart of their statements clearer. In the hands of the writer, the law sometimes plays a functional role, since “unlike so many other approaches to legal theory, [the ambition of *Law and Literature*] is very much an educative one.”²¹ This is particularly relevant in the context of this dissertation, since Elizabethan and Jacobean drama built a bridge between the people and political institutions and educated non-lawyers to recognise the importance of the law in their current age, to accept its omnipresence in each and every aspect of contemporary society and to acquire some sort of sensitivity to specific themes. In this light, Shakespeare is potentially the most suitable and eloquent example of the inclusion and usage of legal concepts. *Hamlet*, for instance,

has been used as a vehicle for studying the law of homicide, *Henry V* for the study of international law in medieval and early modern Europe, and a whole range of plays, including comedies and histories, for an exploration of the controversy which surrounded the Oath of Allegiance and the role of ecclesiastical courts in the effecting of the Elizabethan Settlement.²²

Still today, learning about the nature and the asperities of the legal language means becoming aware of its ambiguities and being able to, at least, untangle the knots of its complexities. The post-modern metaphor of the indeterminacy of the text as a net that “has neither a centre nor an outside”²³ explains how language is often open to multiple

²⁰ M. Todd Henderson, “Citing Fiction” in *The Green Bag: an Entertaining Journal of Law*, 11:2 (Winter 2008), 171-185, 171.

²¹ Ian Ward, *Law and Literature: Possibilities and Perspectives*, Cambridge University Press, Cambridge, 1995, p. 34.

²² *Ibidem.*, p. 59.

²³ Umberto Eco, *Semiotics and the Philosophy of Language*, Indiana University Press, Bloomington & Indianapolis, 1984, p. 81.

interpretations, and the legal language is not immune from such internal disquiet. The *textus* (in the etymological sense) is a fascinating and intricate system of structural ties, a complex assortment of infinite possibilities inside of which the reader might get lost. The system of the law is just as tricky. As Jonathan Swift wrote in a 1707 essay, “laws are like cobwebs which may catch small flies but let wasps and hornets break through.”²⁴ John Webster the dramatist had already used the same image when introducing Ferdinand through the words of Delio: “The law to him / Is like a foul black cobweb to a spider: / He makes it his dwelling, and a prison / To entangle those shall feed him” (*DM*, I, i, 168-171). As students, observers and researchers of *Law and Literature* we are constantly moving between and inside these systems and extricating meaning from tangled webs.

²⁴ Jonathan Swift, *A Trritical Essay Upon The Faculties Of The Mind* (1707) Available at: https://ota.bodleian.ox.ac.uk/repository/xmlui/bitstream/handle/20.500.12024/2678/swift4_2_2.xml?sequence=4&isAllowed=y Last access: September 2021.

I.I. *Legal advocacy as narrative advocacy.*

Narration is the primary, constitutional factor of the law, and since our goal is to dig deep into the birth and the evolution of legal frameworks, we should start from their scriptural sources. “Wherever one finds law in the Bible, one is in the presence of narrative as well”²⁵ and this can be applied to any other extant religious texts. In his *Elements of the Common Lawes of England* (1630) Francis Bacon stated that “the Law of England is not taken out of Amadis de Gaul, nor the book of the Palmerin, but out of the Scripture, out of the laws of the Romans and Grecians.”²⁶ Assnat Bartor describes the numerous legal episodes in the Pentateuch as embedded in the narrative and strengthens the centrality of the principle of *imitatio dei* in this specific context.²⁷ The emulation of God’s deeds is at the basis of every human law-making process: it is the main purpose of legislation. Human justice is rooted into divine justice: all postlapsarian discourses revolve around the education of a mankind who strives to keep away from sin and – by extension – unlawfulness. The seventh book of the Hebrew bible is the one of the *Judges*, namely the governors of the twelve tribes of Canaan. In the scripture, the *halakbah* (lit., ‘God’s way to walk’) was a collection of rabbinic laws. The shift to the New Testament does not change the substance, for Christ is prosecuted first by the *Sanhedrin* and then by the Roman law. Many episodes from the Gospels deal with minor legal issues as well; finally, all eschatological and revelatory theories put humankind on trial in the last judgment. In literary and religious contexts, God’s law has often been depicted as unjust and tyrannical. John Milton, for instance, denounced the brutality of the divine sentence in legalistic terms:

²⁵ Harry P. Nasuti, “Identity, Identification, and Imitation: The Narrative Hermeneutics of Biblical Law” in *Journal of Law and Religion*, 4:1 (1986), 9-23, 9.

²⁶ John Marshall Gest, *The Lawyer in Literature*, The Lawbook Exchange, Ltd., 1999, 200.

²⁷ Cf. Assnat Bartor, *Reading Law as Narrative: A Study in the Casuistic Laws of the Pentateuch*, Brill, Leiden, 2010.

Will He draw out,
For anger's sake, finite to infinite
In punish Man, to satisfy his *rigor*
Satisfi'd never; that were to extend
His Sentence beyond dust and Nature's Law,
By which all Causes else according still
To the reception of their matter, act.²⁸

Infinite other verses praise the act and its significance, for Adam and Eve "Incurr'd, what could they less, the penalty, / And manifold in sin, diserv'd to fall" (*PL*, X, 15-6). Nevertheless, God's *rigor* will never be fully satisfied; sin and decay slither in His garden and justice remains unattainable. Some of the disputes over the objectivity and the determinacy both of God and man's law are just doomed to be left unresolved. The critical approach of *Law & Literature* helps us detach both from the severity of the law and the artificiality of literature, reflect on their mutual exchange and contamination and explore the notions they bring about in all their complexity.

The theoretical discussions which have arisen until the present day focus almost exclusively on prose fiction. John Henry Wigmore (1863-1943), an American expert in the law, is acknowledged to be one of the first to pioneer a new canon by suggesting narrative fiction and literary criticism should be part of a lawyer's education. He first gave a definition of 'legal novel' and then proceeded to list four distinctive kinds:

- A) Novels in which some trial scene is described;
- B) Novels in which the typical traits of a lawyer or judge are portrayed;
- C) Novels in which the methods of law in the detection, pursuit and punishment of crime are delineated;
- D) Novels in which some point of law affecting the life or the conduct of the personages enters into the plot.²⁹

²⁸ John Milton, *Paradise Lost* (1667), X, vv. 801-7; Cf. also Jason P. Rosenblatt, *Torah and Law in Paradise Lost*, Princeton University Press, Princeton (NJ), 1994.

²⁹ John H. Wigmore, "A list of legal novels" in *Illinois Law Review* 2 *ILL.L.R.* (1907-1908), North-western University Law Publishing Association, Chicago, 574-593, 574.

Needless to say, over the last two centuries the same concept of ‘legal novel’ developed by Wigmore has evolved to suit modern standards (think of legal thrillers, cybercrime and, generally, of the dissemination of legal knowledge through mass *media* and the influence of cinema and popular culture). Just like narrative, the law has become a cultural product, achieving higher levels of popularity and opening its borders to a larger public. Again, Posner has analysed this cultural phenomenon, asserting that “today’s popular culture is permeated by law”³⁰ and that “it is wearisome to have to root through mountains of popular novels and films and sitcoms for the occasional truffle.”³¹ His concerns regard those formal and aesthetic limitations literary or visual products may present, and which might affect the law in terms of quality of representation.

Nevertheless, if we are to observe the impact of literature on the law, we should also look at it in relation to politics, history, philosophy and so on. On the one hand, literature ‘dignifies’ the law by putting thousands of years of artistic tradition and intellectual achievements at its service; on the other, law offers logical proceedings as well as comparative and interpretive strategies. The concept of law as *mimesis* is the result of a derivate experience which should broaden the perspective of literary scholars and legal professionals at once. James Boyd White could not have come up with a more suitable title when, in 1973, he first published *The Legal Imagination* (a milestone in the field and a concise anthology of legal writing). To him, in fact, “the law is an art, a way of making something new out of existing materials – an art of speaking and writing.”³² The American critic goes on to present the figure of the lawyer first as a writer, and then as a stage performer. The lawyer is a ‘master of words’ and his rhetorical skills are a key prerequisite of his profession. Creativity is intrinsic to the law. The lawgiver is an artist too: he creates a storyline, and he makes sure this one is told in the most effective and delightful way.

³⁰ Richard Posner, *Law and Literature: Third Edition*, Harvard University Press, Cambridge MA, London, 2009, p. 52.

³¹ *Ibidem*.

³² James Boyd White, *The Legal Imagination*, The University of Chicago Press, Chicago, 1973, xiv.

In the *Encomium of Helen* Gorgias asserts that the queen of Sparta should be cleared of blame for the most understandable reasons. She is – he argues – the victim of linguistic abuse, of the persuasive potentiality of the *lógos*, of the allure of Paris’s eloquence. Helen of Troy waged no war: only words have this power. Being a sophist, so ‘someone who argues unrightfully’ in a pejorative connotation of the term, Gorgias’s attempt to free the woman from her faults has often been misinterpreted. His *Encomium* is not a mere appeal to pity, but a legal defence in all respects. Once again, the pleasing aesthetics of the written word interweave with the potentiality and the ambition of argumentation, and the nature of this exchange is worthy of scholarly attention. Law cannot be treated in complete isolation but should be the object of interdisciplinary and intercultural analysis. As for the literary dignity of the legal text, it cannot be argued that the legal language is unrelated to musicality and refinement; it does have poetic potentials. Despite the fact that *Law & Literature* focuses mostly on the novel and on drama, poetry yields significant insights into its developments and processes as well, and this is the reason why part of the present thesis is dedicated to verse satire. As Shelley wrote, “Poets are the unacknowledged legislators of the world”³³ because they do have a deeper comprehension of the universe and a higher intuition.

Sir William Blackstone, the famous author of the *Commentaries on the Laws of England* (1765) received himself a literary education. Oxford is the place where he devoted himself to the reading of poetry, until in 1741 he was granted the admission to the prestigious Middle Temple to study law. Around that time Blackstone published a short poem, *The Lawyer’s Farewell To His Muse*,³⁴ where he reluctantly gives up on poetry, his ‘nymph,’ the sweet companion of his tender age, to turn to “the wrangling courts and stubborn Law.”³⁵ No more Shakespeare, nor Addison, nor Milton; the poet is now surrounded by juries in coifs and furs, while Justice fixes her seat “fenc’d by bulwarks of

³³ Percy Bysshe Shelley, *A Defence of Poetry* (1840).

³⁴ For further details, see David Kader, Michael Stanford (eds.), *Poetry of the Law: From Chaucer to the Present*, University of Iowa Press, Iowa City, 2010.

³⁵ https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/lwysb2&id=27&men_tab=srchresults
Last access: May 2021.

the Law.”³⁶ Despite his apparent initial disinclination to pursue a legal career, Blackstone became an authority in the field (he was a barrister, then a judge, Vinerian Professor of English Law, a Justice at the Court of the King’s Bench and he played an active political role as a tory). Besides, unlike Blackstone’s poem would evoke, the legal world is not a mortuary for composition. Chaucer’s ‘sergeant of the lawe,’ educated and enlightened, could write a contract so explicit “ther koude no wight pynche at his writing.”³⁷ A proper eloquence and an attention for details are indispensable to the poet as much as they are to the jurist. The tone, the vocabulary, the intent and the meaning are a writer’s concern; similarly, the attorney writes a defence, reviews it, rewords it and rehearses it. The jury’s reception of the defence follows somehow the same rules of the reader-response theory, and this is because advocacy is practically a reader-oriented job. As a matter of fact, the lawyer’s work is constantly subject to critical judgment.

On 30 June 1860, the Oxford University museum of natural history hosted the famous “Huxley-Wilberforce” debate. Thomas Henry Huxley – who went down in history as Darwin’s ‘bulldog’ – was a biologist and a propagator of the theory of evolution by natural selection. In a heated exchange with the then Oxford bishop Samuel Wilberforce, Huxley described man as capable of obscuring scientific questions “by an *aimless rhetoric*, and distract the attention of [his] hearers from the real point at issue by *eloquent digressions* and skilled appeals to religious prejudice.”³⁸ The tendency of rhetoric to obscure and falsify the truth is often a subject of critical debate, regardless of the domain to which it relates; especially in the legal culture, rhetoric draws harsh criticism from those who look at it as a “failed science” or an “ignoble art of

³⁶ *Ibidem*.

³⁷ Geoffrey Chaucer, Jill Mann (ed.), *The Canterbury Tales*, Penguin, London, 2005, p. 15, General Prologue (v. 327).

³⁸ At a meeting of the British Association in Oxford, 30 June 1860. <https://www.oxfordreference.com/view/10.1093/acref/9780191826719.001.0001/q-oro-ed4-00005726> Last access: May 2021.

persuasion.”³⁹ Legal advocacy adopts the same strategies of literary narration (prefatory remarks, digressions, descriptions, flashbacks, exemplifications *etc.*) and must keep an internal cohesion and a logical structure. Lawyering and acting have much in common. Just like actors, lawyers are required to express themselves with fluency, modulate their voice and be trained in diction and intonation.

To be effective, forensic oratory must be practiced and the speaker must somehow be able to anticipate the arguments of the opposing part. The lawyer operates surgically on the text with “his quiddities [...], his quilllets, his cases, his tenures and his tricks.”⁴⁰ When Mark Antony mourns Caesar in the Shakespearean play, he emotionally involves the crowd by employing a persuasive advocacy and by praising the fallen dictator, while the speech Brutus gives, aseptic and extremely logical, produces a completely different effect.⁴¹ He stresses one particular aspect, which is Caesar’s unrestrainable ambition. The mob is so flighty there is no even point in understanding who is in the right. There is no right side, but there is a winning side and Antony speaks for it.

James Boyd White calls law “a branch of rhetoric”⁴² not to state it is a derivative art, but, more properly, to stress on the bond of continuity and proximity between these two fields, for “rhetoric is continuous with law, and like it, [it] has justice as its ultimate subject.”⁴³ Rhetoric is a constituent part of the judicial doctrine. A precious source, it helps us retrace and revalue legal habits and constructions also from a historical perspective. In the art of discourse *Èthos* (lit. “character”) is one of the three modes of persuasion together with *Pàthos* and *Lógos*. Aristotle distinguished the so called ‘ethical’

³⁹ James Boyd White, “Law as Rhetoric, Rhetoric as Law: the Arts of Cultural and Communal Life”, in *The University of Chicago Law Review*, 52:3 (Summer 1985), 684-702, 684.

⁴⁰ William Shakespeare, *Hamlet* (II, I, 108-9).

⁴¹ For a deeper insight see: Daniela Carpi, “Sacralization/de-sacralization of Caesar’s body in Shakespeare’s *Julius Caesar*” in *Polèmos*, 9:2 (2015), 281-294.

⁴² James Boyd White, “Law as Rhetoric, Rhetoric as Law: the Arts of Cultural and Communal Life” cit. p. 684.

⁴³ *Ibidem*.

virtues (courage, temperance, liberality, magnanimity *etc.*) from the ‘dianoetic’ virtues (art, wisdom, knowledge, science). While the former are individual features, the others can be considered collective. Politics and the administration of justice are, therefore, the result of a social expression in which every action being taken is targeted at the achievement of a supreme good.

Besides, rhetoric sometimes dodges the idea of justice as relating to multitudes; on the contrary, it speaks for the isolated and it favours the individual. Law persists in promoting pre-existing positive values, and the administration of the public good naturally entails these values; nevertheless, equity and integrity are often justice’s premises, but quite rarely its major objectives. Over time, this paradox has pushed many writers to denounce the flaws of the legal systems, thus delineating the vision of a law that preaches fairness but fails at practicing it. Justice is an important subject of reflection because it contradicts itself and is easily exposed to social criticism.

I.II. *Legal culture and drama.*

The sixteenth century witnessed an unprecedented rise of legal actions, hence a proliferation of legal plays; the four Inns of Court⁴⁴ hosted representations, masques and other forms of entertainment.⁴⁵ Middle Temple, for example, provided indoor venues for the production of the plays.⁴⁶ Two of Shakespeare's comedies were performed in the inns (*The Comedy of Errors* in 1594 and *Twelfth Night* in 1602).⁴⁷ The fact that many playhouses rose in the proximity of the inns is symptomatic of how the law rapidly incorporated its culture into the theatre industry and how much this affected social life. The legal space and the performative space were set up similarly: just like the upstage, the bench was a dialectical space which also indicated the source of authority, while the downstage and the galleries were where public debates took place.

Attorneys made a habit of attending performances, thus becoming a privileged portion of the same society that found itself mirrored and – sometimes – pilloried on the Elizabethan stage, a society where “the terms of the law were current coin.”⁴⁸ Far from being just regular frequenters of the theatre, “the members of the Inns of Court figured amongst the constant patrons of the drama.”⁴⁹ Not only did Templars have a tendency

⁴⁴ The Inner Temple, the Middle Temple, the Lincoln's Inn and the Gray's Inn.

⁴⁵ “Though ostensibly for the training of lawyers, [the inns] early on became centres of intellectual and literary activity [and] of theatrical performance, particularly during Christmas festivities and at Carnival.” Robert Henke, *A Cultural History of Theatre in the Early Modern Age*, Bloomsbury, London and New York, 2019, p. 84.

⁴⁶ www.elizabethan-era.org.uk Last access: May 2021.

⁴⁷ John Hamilton Baker, “Law and Legal Institutions” in John F. Andrews ed. *William Shakespeare, His Word, His World, His Influence*, Vol. I, Charles Scribner's Sons, New York, 1985, 41-54, 49.

⁴⁸ Brian Jay Corrigan, *Playhouse Law in Shakespeare's World*, Fairleigh Dickinson University Press, Madison – Teaneck, 2004, p. 198.

⁴⁹ *Ibidem*.

for play-going: they praised dramatic arts and participated actively in cultural initiatives. Moreover, their being disputatious subjects made them the perfect public. Indeed, “the literary culture of the Inns was the result of location and institutional culture, [for] the societies brought together generally educated men in a lively urban environment.”⁵⁰

The consolidation of the juridical system across the sixteenth century caused an outstanding increase in the number of legal practitioners as well. The economy of a state goes hand-in-hand with the historical events that shape its political and social conditions. In England, the Henrician policy was still affecting society on a legal and economic level. The dissolution of the monasteries initiated by Cardinal Wolsey and accomplished by Cromwell between 1534 and 1541 boosted cases of land transfers and caused an escalation of litigation.⁵¹ Nonetheless, the phenomenon occurred also in higher spheres, hence *coram rege*:

counts of docket roll entries have yielded statistics on the number of cases in the King’s Bench and Common Pleas for the years 1560, 1580, 1606 and 1640 [...] By 1580 King’s Bench litigation had increased by four times to just over 4000 suits a year. The 9300 cases in the Common Pleas at the same date represent an equally reliable increase.⁵²

The Elizabethans were, indeed, a litigious people and the fact that early modern satire targeted law and jurisdictions is not surprising. Before the 1580s lawyers were still perceived as ‘alienated’ intellectuals, and their number was “relatively static as a consequence of the seven years of study usually required to become a barrister.”⁵³ Economic growth led to the centralisation of numerous trade associations in the city of London and expanded the activity of the livery companies which had emerged in the course of the late Middle Ages. As for lawyers, the Inns evolved and worked to meet the

⁵⁰ Jessica Winston, “Legal satire and the legal profession in the 1950s: John Davies’ *Epigrammes* and Professional Decorum” in Lorna Hutson (ed.), *The Oxford Handbook of Law and Literature, 1500-1700*, Oxford University Press, Oxford, 2017, p. 122.

⁵¹ Cf. Jessica Winston, cit.

⁵² Christopher Brooks, *Lawyers, Litigation & English Society since 1450*, Bloomsbury, London, 1998, p. 11.

⁵³ Cf. Jessica Winston, cit. 124.

country's legal needs, for just "in the period before the Civil War, although individual barristers must always have been unemployed or underemployed, the supply of lawyers never surpassed demand."⁵⁴ Consequently, the institutionalization and the regulation of the legal profession occurred because of collective necessities and structural variations in the economy. A second determinant which accelerated the process of professionalism was a major transformation in the legal culture and in domestic policy in general. A modernised and more efficient legal apparatus developed in contraposition to older values and systems to face issues relating to a rise in crime and litigation rates.

As the institutions started to centralise legal training, licensed legal practitioners began to prosper. Before the sixteenth century, in fact, "most English people, if they had any contact with the law at all, would have encountered local attorneys and local courts that followed the customs of their shire or even of their manor."⁵⁵ Wilfrid Prest observes that in the second half of the century the overwhelming inrush of law students⁵⁶ led the government to extend and rebuild the inns to accommodate as many new members as possible.⁵⁷ The alumni would be trained in the art of philosophical disquisition and would be asked to simulate trials to test their argumentative and rhetorical abilities. These 'theatrical' exercises consisted in "the formulation and debate of a hypothetical case or set of circumstances involving one or more controversial questions of law"⁵⁸ and in "justify[ing] interpretations of the law by citing the maxims, precedents and principles which were the authorities of [this] craft."⁵⁹ Most importantly,

⁵⁴ Jessica Winston, cit., p. 124.

⁵⁵ Edward Gieskes, *Representing the Professions: Administration, Law, and Theatre in Early Modern England*, University of Delaware Press, Newark, 2006, p. 138.

⁵⁶ "The rate of annual admissions to the inns quadrupled between 1500 and 1600." Wilfrid Prest, *The Inns of Court under Elizabeth I and the Early Stuarts, 1590-1640*, Rowman and Littlefield, Totowa (NJ), 1972, p. 7.

⁵⁷ Cf. Wilfrid Prest, *The Inns of Court under Elizabeth I and the Early Stuarts, 1590-1640*, Rowman and Littlefield, Totowa (NJ), 1972, p. 18.

⁵⁸ *Ibidem.*, p. 116.

⁵⁹ *Ibidem.*

they were taught to be more fluent and to memorise and recite pleadings, and they were trained to cultivate their intellectual interests by studying the classics. Indeed, “literary activity (poetry, translation, drama) was an acceptable way to display the élite cultural capital of classical learning and knowledge, and in this way they helped individual members, whether they aimed to be lawyers or not, to raise their status and reputation.”⁶⁰ In the words of the ‘Queenes Poet’:⁶¹

Hee is very open handed till his fee hath clutcht it, and then he’s open mouth’d,
and will be sure to speak more that toth’ purpose, whilest his silly Client reiouycth
as much in the very tone of his tongue, and the substance of his talke, being both
equal to his capacity.⁶²

In his characterisation of ‘A yong innes a Court Gentleman,’ Lenton writes that the young students of the law were more into the study of “poetry instead of Perkins”⁶³ and that they had a certain preference for “Shakespeare’s plaies instead of my Lord Coke.”⁶⁴ On 28 February 1588, in Greenwich, the queen attended a performance of Thomas Hughes’s *The Misfortunes of Arthur*, which had been partly written and produced by “Maister Christopher Yelverton, Maister Frauncis Bacon, Maister John Lancaster, Maister Penroodocke and others,”⁶⁵ namely by the young barristers of Grey’s Inn. Many

⁶⁰ Jessica Winston, *Lanyers at Play: Literature, Law and Politics at the Early Modern Inns of Court, 1558-1581*, Oxford University Press, Oxford, 2016, p. 12.

⁶¹ Sir Aston Cokayne of Hertfordshire calls Francis Lenton (c.1600 - 1638) the “Queenes Poet and a man of name” (*Small Poems*, Epigram no. 54, 1658); Lenton was an Inn of Court man and studied at Lincoln’s Inn.

⁶² Francis Lenton, *Characterismi: or Lentons leasures expressed in essays and characters, neuer before written* (1631), <https://quod.lib.umich.edu/e/eebo/A05320.0001.001/1:7?rgn=div1;view=fulltext> Last access: May 2021.

⁶³ *Ibidem*.

⁶⁴ *Ibidem*.

⁶⁵ <https://www.bartleby.com/215/0413.html> Last access: May 2021.

early modern playwrights, including Webster, were members of the Inns themselves⁶⁶ (John Ford, John Marston and John Davies of the Middle Temple, Francis Beaumont of the Inner, Thomas Lodge and John Donne of Lincoln's Inn and George Gascoigne and Edward Guilpin of Gray's).

By the mid-sixteenth century, the interaction between the Inns of Court and the culture of drama was vital, meaning that the flourishing business of companies was already significantly influenced by the legal society and vice versa. After all,

theatres were not only new and fashionable haunts in themselves, but places where different social classes came together. Courtiers and gentlemen went to the theatre alongside professionals and apprentices, and the young men of the Inns of Court [...] might equally well be progressing towards court office or city employment. What made possible the mixing of ranks in theatre audiences was the commoditisation of theatre [...] anyone could buy entrance to a performance.⁶⁷

John Manningham's⁶⁸ record of the earliest public representation of Shakespeare's *Twelfth Night*⁶⁹ is vital for understanding the importance of the influence of legal culture over literature and drama. It proves how much the attorneys enjoyed watching the performances and how "in the sixteenth and seventeenth centuries, literature served as

⁶⁶ Jessica Winston asserts that "during the period from 1558 and 1642, over one hundred major and minor writers were members of an Inn [...] or an affiliated Inn of Chancery." Jessica Winston, *Lanyers at Play: Literature, Law and Politics at the Early Modern Inns of Court, 1558-1581*, cit., p. 2.

⁶⁷ Janette Dillon, *Theatre, Court and City: 1595-1610: Drama and Social Space in London*, Cambridge University Press, Cambridge, 2000, p. 38.

⁶⁸ (1575-1622). Barrister at the Temple and diarist.

⁶⁹ "At our feast wee had a play called *Twelue Night, or What You Will*, much like *The Commedy of Errores* or *Menaechmi* in Plautus, but most like and neere to that in Italian called *Inganni*. A good practise in it to make the Steward beleeeve his Lady widdowe was in love with him, by counterfeyting a letter as from his Lady in generall termes, telling him what shee liked best in him, and prescribing his gesture in smiling, his appaiaile, *etc.*, and then, when he came to practise, making him beleeeue they tooke him to be mad." John Manningham, John Bruce Esq. (ed). *Diary of John Manningham of the Middle Temple, and of Bradbourne, Kent, Barrister-at-Law, 1602-1603*, J.B. Nichols and Sons, Westminster, London, 1868, p. 18.

an extracurricular activity, an escape from the rigours of legal study.”⁷⁰ *Twelfth Night* certainly “caters to an educated taste for obscure legal jokes as well as political and religious satire, and the young men no doubt would have found the bawdy punning, intrigue, and deliciously-tangled romance equally appealing.”⁷¹ Many distinguished representatives of the legal society attended the performance, including “Chief Justice Sir John Popham, Chief Baron Periam, Mr. Justice Fenner of the Common Pleas, Mr. Baron Savile of the Court of Exchequer.”⁷²

As Dunbar Barton points out, the law was also an essential part of Shakespeare’s personal environment, for he “bred in a litigious town with a Court of Record, a Court Leet, a Bench of Justices, six local attorneys, and an Assize Town in easy reach.”⁷³ All the speculations concerning the Bard’s education⁷⁴ (did he receive legal training or not?) do not change the fact that being a dramatist was tantamount to write wittingly about the law, especially in Elizabethan England. Besides, “Shakespeare’s legal allusions were less numerous and far less technical than those of Ben Jonson and other dramatists of that time.”⁷⁵ Only *The Devil’s Law-Case* by John Webster (an author about whom virtually nothing is known) counts more legal expressions and technicalities that could be found in any other Shakespearean play. Legal allusions in drama and the fascination with the law in general were quite common, and many plays declared their legal content and character in the titles; this is the case of John Ford’s *The Laws of Candy*, William Rowley’s

⁷⁰ Jessica Winston, *Lanyers at Play: Literature, Law and Politics at the Early Modern Inns of Court, 1558-1581*, cit., p. 3.

⁷¹ William Shakespeare, David Swain (ed.), *Twelfth Night*, Broadview Press, Peterborough, 2011, p. 131.

⁷² John Bruce Williamson, *The History of the Temple, London, From the Institution of the Order of the Knights of the Temple to the Close of the Stuart Period*, J. Murray, London, 1924, p. 239.

⁷³ Dunbar Plunket Barton, *Shakespeare and the Law*, The Lawbook Exchange, Union (NJ), 1999, p. 9.

⁷⁴ The (purely speculative) theory that Shakespeare was an attorney’s clerk at some point in his life has been supported by some.

⁷⁵ Dunbar Plunket Barton, *Shakespeare and the Law*, cit., p. 10.

A Fair Quarrel, Philip Massinger's *The Little French Lawyer* and *The Old Law*, John Webster's *The Devil's Law-Case*.

Nearly a century ago, Harry Ransom regretted that to that day “few ha[d] considered the influence of law upon the Elizabethan dramatists as a group, and none ha[d] attempted a systematic study of the legal elements in the plays of the period.”⁷⁶ To the present day, the state of the art has fortunately changed and many studies have been devoted to specific legal cases and practices (e.g. wills and testaments, contracts, property, and the system of marriage settlement in Renaissance Europe). Studies highlight that some of the legal actions taken were collusive, while others were “genuinely contentious, as in numerous disputes over debt, inheritance, property, or commerce.”⁷⁷ Playwrights were utterly fascinated by law and sedition, which, in some cases, as we shall see with John Webster, became central to the plots.

We often discuss the theatre's impact on jurisprudence, but seldom reflect on the important changes the law implemented in the acting world. For example, in 1572 the ‘Vagrancy Act’ was passed; the law established that a ‘masterless man’⁷⁸ could be convicted for being a rogue, a vagabond, or a sturdy beggar and be, for this, “whipped, and have a hot compass iron of about an inch bored through the gristle of the right ear.”⁷⁹ The measure affected those itinerant actors and entertainers who until then were free to travel around the country without a licence. Suddenly, “even the companies that were protected by a livery, when travelling abroad, had to apply for permission to play to the Mayor and/or to one or two Justices of Peace, and, when permission was not

⁷⁶ Harry Ransom, “Some legal elements in Elizabethan plays” in *Studies in English*, 16 (1936) 53-76, 53.

⁷⁷ B.J. Sokol, Mary Sokol, *Shakespeare, Law and Marriage*, Cambridge University Press, Cambridge, 2003, p. 3.

⁷⁸ Cf. A. L. Beier, *Masterless Men: The Vagrancy Problem in England (1560-1640)*, Methuen, London, 1985 and A. L. Beier, *The Problem of the Poor in Tudor and Early Stuart England*, Methuen, London, 2004.

⁷⁹ Michael Dobson, Stanley Wells (eds.), *The Oxford Companion to Shakespeare*, Oxford University Press, Oxford, 2001, p. 257.

granted, also those companies were subjected to the restrictions of the law.”⁸⁰ This is just an example of some of the “decisive acts taken by the central government toward the London theatre during the reign of Elizabeth I.”⁸¹ The exclusion of women from the stage and the prohibition to take on female parts is another important aspect.

As we shall see, just like in theatre, “the place allowed to women within legal settings was carefully circumscribed by rules and by the opinions of observers.”⁸² Women could be litigants and participate in trials, but they were not allowed to exercise the legal profession and thus be called to the bar; by extension, “they could not be judges or jurors.”⁸³ In *The Anatomie of Absurditie* (1589) Thomas Nashe would feed the controversy over women speaking in public,⁸⁴ and the same line of argument would be pursued by Webster in his tragedy *The White Devil*.

In the sixteenth century, many accounts of judicial trials circulated in the form of pamphlets, but they mostly dealt with cases of witchcraft. The first transcription of a legal document of the sort dates to 1566, before the practice stopped in 1597 to re-emerge as a literary genre in the 1610s.⁸⁵ From the 1590s on, pamphleteering “became more literary, with increasing amounts of narrative and a greater focus on the

⁸⁰ Paola Pugliatti, “The Hidden Face of Elizabethan-Jacobean Theatre” in *Revue Internationale de Philosophie*, 64:252 (2010), 177-198, 188.

⁸¹ Scott McMillin, “The Queen’s Men and the London Theatre of 1538” in C. E. McGee (ed.), *The Elizabethan Theatre X*, Port Credit, Ontario, 1988, p. 9.

⁸² Tim Stretton, *Women Waging Law in Elizabethan England*, Cambridge University Press, Cambridge, 1998, p. 67.

⁸³ *Ibidem*.

⁸⁴ “Did not Calphernia's impudency (who was so importunate and unreasonable in pleading her own cause) give occasion of a law to be made, that never woman after should openly plead her own cause in courts of judgement?” <http://www.oxford-shakespeare.com/> Last access: May 2021.

⁸⁵ Cf. <https://www.bl.uk/collection-items/witchcraft-pamphlet-a-rehearsal-both-strange-and-true-1579> Last access: May 2021.

suffering of the victim.”⁸⁶ Despite being based on official transcripts, these documents were rarely reliable sources. This was, of course, the result of a lack of transparency and objectivity, but we must consider that at that time pamphlets served more as warnings than as public records, and altering the truth meant conveying a more intimidating message to contemporary women.

In ancient times, the Athenian courts of law “owe[d their] peculiar shape to the adversarial nature of [the] legal procedure: two litigants before a judge or judges, each party tell[ing] the events [...] in either one or two speeches.”⁸⁷ Conversely, trials in sixteenth and seventeenth century England were “jurisdictionally varied, mediated by counsel except in criminal cases, and consequently less starkly agonistic.”⁸⁸ In discussing the concept of ‘theatre as court,’ Subha Mukherji recalls that in the address to the reader of *The Faithful Shepherdess* (1610) Francis Beaumont spoke of the Blackfriars as a court “where a thousand men in judgement sit.”⁸⁹ Dramatists such as Shakespeare, Marlowe, Kyd and Jonson often opened up the action to the judgment of the audience.⁹⁰ Webster, however, was particularly susceptible to criticism. In the prefatory epistle to the 1612 quarto of *The White Devil*, the author recalled the debut of the play which had taken place a year before at the Red Bull, an ‘open and black theatre.’ Webster complained in a

⁸⁶ *Ibidem*.

⁸⁷ Kathly Eden, *Poetic and Legal Fiction in the Aristotelian Tradition*, Princeton University Press, Princeton, 1986, pp. 13-14.

⁸⁸ Subha Mukherji, *Law and Representation in Early Modern Drama*, Cambridge University Press, Cambridge, 2006, p. 1.

⁸⁹ “Why should the man, whose wit ne’er had a stain, / Upon the public stage present his vein, / And make a thousand men in judgement sit, / To call in question his undoubted wit, / Scarce two of which can understand the laws / Which they should judge by, nor the parties’ cause, / Among the rout there is not one that hath / In his own censure an explicit faith.” John Fletcher, Francis Beaumont, *The Faithful Shepherdess* (1610), Commendatory verses (vv. 13-20); Cf. Subha Mukherji, *Law and Representation in Early Modern Drama*, cit.

⁹⁰ The chorus in *Henry V* by Shakespeare recites: “Admit me Chorus to this history / Who prologue-like your humble patience pray, / Gently to hear kindly to judge, our play.”

rather harsh tone about the incapacity of the audience to understand his tragedy, for they resembled “those ignorant asses [whose] use is not to inquire for good books, but new books.”⁹¹ In his view, the play lacked a “full and understanding auditory,”⁹² which, in publishing his tragedy, brought him to denounce such an ‘incapable multitude’ whose judgment would degrade even “the most sententious tragedy that ever was written, observing all the critical laws as height of style, and gravity of person.”⁹³

By 1612, the date of appearance of *The White Devil*, legal drama was already established. The King’s Men had presented *Othello* at the Globe and performed *King Lear* before James I at Whitehall Palace, Richmond.⁹⁴ The audiences of the playhouses knew that the legal scenes were, in a sense, ‘interactive,’ and usually talked back to the actors while they were performing. As the German actor Norbert Kentrup points out, the character of Shylock is still either booed or cheered by the members of the audience who “hiss at him and cheer when he is defeated in the trial scene.”⁹⁵ In the Elizabethan age every member of society – regardless of the rank and the social position – was invited to the ‘theatre of the law.’ While middle-class citizens became litigants, the lawyers and the officers of the law became patrons of drama.

In 1616 Ben Jonson published his comedy *Every Man Out Of His Humour* and dedicated it “to the noblest nurseries of Humanity and Liberty in the Kingdom: the inns of court.”⁹⁶ In speaking his kindest words to the benchers, Jonson showed his appreciation for their achievements in their studies, though professing his ignorance of

⁹¹ *The White Devil*, “To the Reader” Cf. John Webster, René Weis (ed.), *The Duchess of Malji and Other Plays*, Oxford University Press, Oxford, 1996 (reissued 2009), p. 3. All further references to Webster’s plays are taken from this edition.

⁹² *Ibidem*.

⁹³ *Ibidem*.

⁹⁴ Respectively on 30 April 1610 and on 26 December 1606.

⁹⁵ Stephen Purcell, *Shakespeare in the Theatre: Mark Rylance at the Globe*, Bloomsbury, London, 2017, p. 47.

⁹⁶ Ben Jonson, Helen Ostovich (ed.), *Every Man Out Of His Humour*, Manchester University Press, Manchester, 2001, p. 383.

the law (“I understand you, gentlemen, not your houses.”) He then offered the senior members of the inns his play all written down by a printer “by a double charge,”⁹⁷ with the hope that it may “make some benchers, *tincted with humanity*, read and not repent him.” Finally, he signed as “your true honourer, Ben Jonson.” The playwright’s praise for the benchers, seen as qualified patrons of the humanities, speaks volumes about the bond of union between law and drama. As I have argued before, some of the plays which were acted out in the inns were written, produced and performed by real “companies of lawyers.” This, again, makes us rethink both the significance of the presence of practitioners in the culture of drama, and the connection players and theatre poets had with the legal world, a world which in those years was rapidly changing.

⁹⁷ Meaning ‘with great responsibility.’

I.III. The Legal Renaissance of Sixteenth-Century England.

The spirit of reformation and modernity of the sixteenth century also touched the legal and constitutional framework of the state. Political turmoil in Europe marked a shift in domestic policy, as well as in diplomatic and international relations. This was the era of religious agitation, demographic growth, conquest, exploration, cultural flourishing and political cohesion. A substantial change in the way the world was perceived was coming, along with significant transitions and developments of legal thought.

In the years preceding the Elizabethan reign, the law was still attached to its conservative roots and to traditional and medieval logics. The Star Chamber⁹⁸ wielded its power in civil and criminal cases and soon became a synonym of political intolerance, coercion, tyranny, and oppression. Located in Westminster, the court held sessions twice a week, generally on Wednesdays and Fridays. Its judges (the chief justices of the King's Bench and the Common Pleas) "were busily engaged on the other days of the week in other parts of the work of government."⁹⁹ For this reason, the sittings were occasionally extended to some judges of advice from other courts to discuss arduous points of law. The history of the Star Chamber is important because it followed the history of the monarchy from the Plantagenets to the early Stuarts. Henry VII ordered its separation from the royal council to make it an independent judicial body.¹⁰⁰ Henry VIII used it to tighten the laws against dissent, while

⁹⁸ Or 'Starred Chamber.' In his *Commentaries on the Laws of England* (Book IV, Chapter XIX) William Blackstone explains that before the banishment of the Jews under Edward I, their contracts and obligations were denominated 'stara' or 'starrs', a distortion of the original Hebrew 'shètar', 'covenant.'. <https://lonang.com/library/reference/blackstone-commentaries-law-england/bla-419/> Last access: May 2021.

⁹⁹ Edward P. Cheyney, "The Court of Star Chamber" in *The American Historical Review*, 18:4 (Jul.1913), 725-750, 728.

¹⁰⁰ From its origins, the Chamber had followed the principle *Rex habet curiam suam in concilio suo* (the king has his court in his parliament). Cf. A. F. Pollard, "Council, Star Chamber and Privy Council under the Tudors" in *E.H.R.*, (1922), 337-360, 340.

Cardinal Wolsey radically changed [its] legislative functions [along with] the Council [...] and the Court Attendant. [...] Justice remained the proper business of the Star Chamber, legal administration was channelled to the Privy Council, and the Council Attendant's judicial function was directed to the White Hall Court, later the Court of Requests.¹⁰¹

Under Elizabeth I the chamber was involved in the cases regarding censorship and suppression of the press; the *Star Chamber Decree* of 1588 established that all persons “vsinge or professinge the arte, trade, or misterye of pryntinge or selling of bookes”¹⁰² should comply with the new law passed by the queen. In fact, during her reign, “the court’s jurisdiction was extended [...] to include both civil and criminal cases where offences against the state were alleged or state officers were involved.”¹⁰³ The friction between Charles I and the Parliament, which led to a rapid eradication of prerogative justice and absolutist tendencies in the kingdom, finally limited the coercive power of the chamber, which had grown stronger during the reign of James I and which was eventually abolished in 1641 following the enforcement of the principle of *habeas corpus*.

“With the reign of Elizabeth we settle into roughly the agenda of reform that will persist throughout the seventeenth century,”¹⁰⁴ as a result of the governmental efforts to renovate old institutions after years of political agitation. The period, in fact, “was marked by stabilisation and definition of function that penetrated into every organ of the state, and even into the most inchoate and formless of them all, the Court.”¹⁰⁵ The greatest revolution in jurisdiction was the centralisation of the administration of minor and local common law courts (which greatly expanded under the Tudors). The crown

¹⁰¹ <https://discovery.nationalarchives.gov.uk/details/r/C249> Last access: May 2021.

¹⁰² Lyman Ray Patterson, *Copyright in Historical Perspective*, Vanderbilt University Press, Nashville, 1968, p. 117.

¹⁰³ Daniel Vande Zande, “Coercive Power and the Demise of the Star Chamber” in *The American Journal of Legal History*, 50:3 (July 2010), 326-349, 331.

¹⁰⁴ Virginia Lee Strain, *Legal Reform in English Renaissance Literature*, Edinburgh University Press, Edinburgh, 2018, p. 2.

¹⁰⁵ A. P. Newton, “Tudor Reforms in the Royal Household” in R. W. Seton-Watson, *Tudor Studies presented to Albert Frederick Pollard*, Longman, London, 1924, p. 231.

maintained its influence over the King's Bench, which continued to operate in the form of *curia regis*. If "the work-load of the King's Bench before Tudor times was slender,"¹⁰⁶ now it slightly increased, while The Common Pleas continued to cover suits for property and debt. Due to its tardiness, this last organ handed over some of its activities to other courts of equity (the court of Chancery and the court of Requests), which "tended to be more flexible in procedure and were conducted in English"¹⁰⁷ instead of medieval French.¹⁰⁸ Somehow, the Common Pleas was still reluctant to drastic change:

The Common Pleas, complacent about its paramount position in the judicial system, and proud of the medieval heritage preserved [...] by its attorneys and sergeants, represented the conservative standpoint. The King's Bench, newly enriched by the extension of its business through the use of the *latitat*,¹⁰⁹ and now vying with its sister court to become a second court of common pleas, was inevitably cast in a progressive role.¹¹⁰

The Exchequer of Pleas heard financial cases and administered state accounting, but it also had jurisdiction over matters of equity; by Elizabeth's time "the judicial business of the Exchequer amounted to about 200 cases per year as compared with about 2500 in the court of King's Bench and 10000 in Common Pleas."¹¹¹ Thanks to the political influence of the Lord Treasurer (who presided over it), the court became more powerful;

¹⁰⁶ John Hamilton Baker, *An Introduction to English Legal History*, Oxford University Press, Oxford, 2019, p. 45.

¹⁰⁷ John Wagner, *Historical Dictionary of the Elizabethan World*, Routledge, New York, 1999, p. 70.

¹⁰⁸ The popularisation of legal culture happened also in linguistic terms, marking a crucial step in the renewal of the judicial system.

¹⁰⁹ Lat. 'He lies hid.' The name of a writ calling a defendant to answer to a personal action in the King's Bench. It derives its name from a supposition that the defendant lurks and lies hid, and cannot be found in the country of Middlesex (in which the said court is held) to be taken there, but is gone into some other country, and therefore requiring the sheriff to apprehend him in such other country. *Fitzh. Nat. Brev.* 78.

¹¹⁰ Allen D. Boyer, *Sir Edward Coke and the Elizabethan Age*, Stanford University Press, Stanford, 2003, p. 127.

¹¹¹ Delloyd J. Guth, John W. McKenna (eds.), *Tudor Rules and Revolution*, Cambridge University Press, Cambridge, 1982, p. 149.

between 1547 and 1612 the men who held this office (Edward Seymour, William Paulet, William Cecil, Thomas Sackville, and Robert Cecil) were among the most prominent English political figures.¹¹²

One of the main functions of the court of Chancery¹¹³ (also known as the court of ‘common sense’) was to prevent injustice. It pursued the principles of equity, flexibility, and conscience,¹¹⁴ making decisions out of moral sense (*secundum arbitri boni viri*). In the years of Elizabeth’s reign, the Chancery’s “relations with the courts of common law were interdependent and good,”¹¹⁵ which, given the importance of its role and dimensions, is symptomatic of the government’s efforts to maintain internal stability. Under the Tudors, the lack of public acrimony in the courts allowed the central authority to create a cohesive and strategic *forum* of ancillary bodies of equity, all responding to the same requirements: “they followed precedent, had fixed rules of litigation, were reasonably free from executive interference, and were all established in Westminster.”¹¹⁶ Through the rejection of unequitable and medieval forms of justice, the legal reforms enacted in Tudor England implemented important changes in the conception of divine sovereignty and in the definition of the kingly office; the king was still “the life and the light of the Commonwealth,”¹¹⁷ he was “the representative of the state, his prerogative was the source of the executive authority in the state, and he had large judicial powers; but he

¹¹² *Ibidem*.

¹¹³ A derivation from ‘Cancellaria,’ Latin for a ‘latticed’ or ‘railed screen;’ the name was imported from the continent, probably in the 1060s. Cf. John Hamilton Baker, *An Introduction to English Legal History*, cit., p. 107.

¹¹⁴ Cf. Dennis R. Klinck, *Conscience, Equity and the Court of Chancery in Early Modern England*, Ashgate, Farnham, 2010.

¹¹⁵ William J. Jones, “Conflict or Collaboration? Chancery Attitudes in the Reign of Elizabeth I” in *The American Journal of Legal History*, 5:1 (Jan. 1961), 12-54, 12.

¹¹⁶ *Ibidem*.

¹¹⁷ Edward Coke, Charles Butler, Francis Hargrave (eds.), *The Third Part of the Institutes of the laws of England concerning High Treason and other Pleas of the Crown and Criminal Causes*, (1644) The Lawbook Exchange, LTD, Clark (NJ), 2002, p. 204.

was not the sole source of authority.”¹¹⁸ In his *Commentaries* William Blackstone quotes the verses John of Salisbury dedicated to the figure of the Lord Chancellor in the introduction to his *Policraticus* (1159). For the philosopher, the Chancellor is ‘Qui leges regni cancellat iniquas, et mandata pii principis aequa facit’ (the one who cancels the inequitable laws of the kingdom and executes the just mandates of a righteous prince).¹¹⁹

The fact that “up to one quarter of all litigants in the Chancery were women”¹²⁰ is extremely important. Half of these women litigants sued conjointly to their husbands in cases regarding estate, land tenure and mortgage, but generally they were denied the right to file lawsuits. Nonetheless, the number of female litigants in the Chancery increased enormously in the Elizabethan era to meet new social necessities and attitudes. Women were enthusiast participants both in real and stage litigations:

Undesirable attributes of spectatorship such as morbid curiosity, the courting of attention by flamboyant dress and a tendency to heighten the theatrical elements of the trial by excessive responses to evidence, were frequently associated with women [...] The inability of women to contain their impulses was a common concern [and] the English trial, with its emphasis on orality and adversarial proceedings was seen as particularly difficult to manage.¹²¹

As we shall see, one of Webster’s greatest concerns was “the irresistible impulse of the feminine towards disorder and irrationality.”¹²² Besides, the same lawmen who in courts accused women of witchcraft and adultery were often associated to debauchery and

¹¹⁸ W. S. Holdsworth, “The Prerogative in the Sixteenth Century” in *Columbia Law Review*, 21:6 (Jun. 1921), 554-571, 555.

¹¹⁹ William Blackstone, *Commentaries on the Laws of England*, Vol. III, The Clarendon Press, Oxford, 1770, p. 50.

¹²⁰ Amy Louise Erickson, *Women and Property in Early Modern England*, Routledge, London & New York, 1993, p. 31.

¹²¹ Linda Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law*, Routledge, New York, 2011, p. 94.

¹²² Cf. Linda Mulcahy, cit., See also by Katherine Fischer Taylor, *In the Theatre of Criminal Justice: the Palais de Justice in Second Empire Paris*, Princeton University Press, Princeton, 1993.

depravity and became the target of legal satire. Women on trial in Elizabethan and Jacobean drama are fierce advocates of their own selves, constantly opposing systems of injustice and corruption. They often show their hatred for the abusive policy of the courts, and in so doing they denounce impartiality and unfair proceedings. In the famous Websterian tragedy, Vittoria's attention to language represents a resistance to "the language of the dominant in order to fight against the way that language can confer identity on the subordinate."¹²³

As legal literature testifies, in the sixteenth century the law was still speaking *legalese* and was still opaque. Despite that, these years were marked by a positive proliferation of statutes, case reports and commentaries. In this context, the work of Edmund Plowden, Edward Coke and Thomas Smith was seminal for generations of lawmen and still today it helps us codify and examine current legislations. If, on the one hand, the dissemination of legal knowledge contributed to dissolve obscurantism by putting lawbooks to public use, on the other "the controversy over law printing implicated a larger change in English legal culture."¹²⁴ The 'commoning' of the common law, as Richard Ross calls it, was the result of great evolutions in political and legal ideology as well as a means to strengthen the perception of a national inheritance.

To recap, the centralisation of justice was the primary measure the government took to reform the English legal system. The historian Geoffrey Elton reflected on the fact that "Henry VII ascended the throne of a mediievally governed kingdom, while Elizabeth handed to her successor a country administered on modern lines,"¹²⁵ hence a country with a more efficient administrative machine. As a matter of fact, "the administrative reforms that mark the Tudor period as the turning-point of English history left almost

¹²³ Jem Bloomfield, "The Critical Backstory" in Paul Frazer, Adam Hansen (eds), *The White Devil: A Critical Reader*, Bloomsbury, London, 2016, p. 33.

¹²⁴ Richard J. Ross, "The Commoning of the Common Law: the Renaissance debate over printing English Law, 1520-1640" in *University of Pennsylvania Review*, 146:2 (Jan. 1998), 323-461, 327.

¹²⁵ Geoffrey Rudolph Elton, *The Tudor Revolution in Government: administrative changes in the reign of Henry VIII*, Cambridge University Press, Cambridge, 1969, p. 3.

every department of the state radically different from what it had been when the period opened.¹²⁶

¹²⁶ A. P. Newton, "Tudor Reforms in the Royal Household", cit. p. 231.

I.IV. *'The first thing we do, let's kill all the lawyers.'*¹²⁷ early modern legal satire.

Between 1845 and 1848 the French caricaturist and printmaker Honoré Daumier contributed to the volumes of the *Charivari* by publishing a series of captioned lithographs entitled *Les Gens de Justice*. Every plate presented typical situations involving lawyers, magistrates, judicial officers and poor fellows in rags being incarcerated or examined in court. Daumier's *gens* were depicted as greedy, arrogant and spiteful vultures of the law, sometimes sleeping, snoring, with handfuls of money falling out of their pockets. In Daumier's representations the lawmen's grotesque, caricatured faces were indicative of moral corruption and professional ineptitude. The profound crisis of the legal establishment was thus exposed, while the artist became a defender of the have-nots.

Notwithstanding, legal humour is not a modern invention. Four centuries before Daumier "Rabelais's satire of the justice system [would] not only underline the judges' and lawyers' greed, but also debase them through scatological images associated with lower body functions, especially defecation."¹²⁸ Lawmen were usually seen as Pantagruelian characters whose souls and bodies were equally corrupted; they were "easy doctors [and] loose-living men"¹²⁹ who appeared to have a great appetite for food and sex. In *The Revenger's Tragedy* by Thomas Middleton (1606) the association of lawmen and corporality is suggested several times; see Lussurioso: "Then 'twill not taste so bitter and unpleasant / Upon the judges' palate' (I, ii, 27-8); Duchess: "Death too soon steals out of a lawyer's lip" (68). The law itself is redefined as the female gender, it is as a merciless goddess, or a Medusa: "Trust not an axe / Or sword too far: the law is a wise serpent /

¹²⁷ William Shakespeare, *Henry VI, Part II* (1591), IV, ii, 75.

¹²⁸ Vincent Robert-Nicoud, *The World Upside Down in 16th Century French Literature and Visual Culture*, Brill, Leiden, 2018, p. 143.

¹²⁹ Thomas Middleton, *The Revenger's Tragedy* (1606), I, ii, 96.

And quickly can beguile thee of thy life; The law is grown more subtle than a woman should be” (I, ii, 49-51; 72).

Lording Barry’s *Ram Alley, or Merry Tricks* (1611) is set between some disreputable London streets and the houses of the law like Temple and Serjeant’s Inn, in Fleet Street. In the comedy, the attorneys have a habit of roaming the streets and visiting prostitutes (Cf. Throat: “[...] Are you mad? Come you to seek a virgin in Ram-alley / So near an Inn-of-Court, and amongst cooks, / Alemen and laundresses. Why, are you fools?” (III, i, 50-4). As Jessica Winston points out, the association of lawyers and prostitutes is declared in the play when “one young man complains of ‘two suckers’ (parasites) who have taken all of his money: a lawyer and a whore.”¹³⁰

Of course, satire developed through other genres and forms of entertainment, not necessarily meant to be performed on the stage. In 1599 the names of John Marston and Thomas Nashe appeared in the “Bishops’ ban,” a censorship decree issued by the archbishop of Canterbury and the bishop of London.¹³¹ Christopher Marlowe and George Gascoigne were included too in a list of individual authors with charges of publishing sexually explicit content.¹³² As for Nashe, the ban established that “all [his] books and Dr. Harvey’s books be taken whatsoever they may be found, and that none of the said books be ever printed [t]hereafter.”¹³³ Gabriel Harvey was a “Doctor of Laws, an erudite scholar, and distinguished as a poet”¹³⁴ whose rivalry with Nashe is well known. They both engaged in a long-running literary controversy after the publication of

¹³⁰ Jessica Winston, “Legal satire and the legal profession in the 1550s: John Davies’ *Epigrammes* and Professional Decorum”, cit., p. 129.

¹³¹ John Whitgift (1530-1604) and Richard Bancroft (1544-1610).

¹³² Cf. Gabriel Rieger, *Sex and Satiric Tragedy in Early Modern England: Penetrating Wit*, Farnham, Ashgate, 2009.

¹³³ Gabriel Harvey, *The Trimming of Thomas Nashe, Gentleman, by High-Tituled Patron Don Richardo De Medico Campo, Barber Chirurgion to Trinitie Colledge in Cambridge*, Printed for Philip Scarlet, London, 1597, p. 4.

¹³⁴ *Ibidem*.

Robert Greene's pamphlet *A Quippe for an Upstart Courtier* (1592)¹³⁵ which ridiculed the astrologer Richard Harvey, brother of the said Gabriel, and to which the latter responded with a fierce attack. Nashe was rather mordant; Harvey was a pedant, "but pedantry was part of the erudition of [the] age."¹³⁶ Anyway, the ban did not punish both parties for being involved in a personal quarrel, but for being troublesome writers of satires. Pope would say that satire is a 'sacred weapon' which allows man to be "safe from the Bar, the Pulpit and the Throne,"¹³⁷ namely from law, religion, and politics. Until proven otherwise, institutions have always resisted the threatening force of satire, which antagonises authorities and ridicules their prestige.

Joseph Hall, a legal professional,¹³⁸ devoted to the rapacious attorneys "a whole satire [making] use of the old saying that the client is the sheep, and the lawyer is the shearer."¹³⁹ John Donne, who, in his turn, "ch[e]w and sturdily digest / Th'immense, vast volumes of our common law"¹⁴⁰ gave a quite depressing image of the category in his *Satyres II* and *V*.

Satyre II (c. 1594) is "one of the earliest attempts of an English poet to articulate an inchoate conception of literary property."¹⁴¹ In it, Donne laments the lack of copyright

¹³⁵ Non extant.

¹³⁶ Gabriel Harvey, *The Trimming of Thomas Nashe, Gentleman*, cit.,

¹³⁷ Alexander Pope, *Prologue to the Satires*, 1735, (II, 210).

¹³⁸ Hall was a lawyer himself. His *Virgidemiarum* (1597) is a collection of 'toothless' and 'biting' satires. In *Sat. V*. the farmer 'Lolio' sells his 'half-red cherries or green garden-pease or the first artichokes of the year' to '[maintain his sonne] at Inns of Court or of the Chancery [...] to learne law [...] while he 'never red his tenure's second line.' Cf. Joseph Hall, Josiah Prat (ed.), *The works of the Right Reverend Father in God Joseph Hall, D.D.* Vol. X, C. Whittingham, London, 1808, p. 334.

¹³⁹ Cf. Joseph Hall, *Satire II*; Tom Fleming Kinloch, *The Life and Works of Joseph Hall, 1574-1656*, Staples Press, London and New York, 1952, p. 181.

¹⁴⁰ Donne's verse letter to Mr. Beaupré Bell (I) 7-8; Cf. John Donne, Robin Hugh Robbins (ed.), *The Complete Poems of John Donne*, Longman, Harlow, 2010, p. 46.

¹⁴¹ Trevor Cook, "The meate was mine: Donne's *Satire II* and the Prehistory of Proprietary Authorship" in *Studies in Philology*, 109:1 (Winter 2012), 103-131, 104.

laws denouncing with a Juvenalian temper those “who beggarly [...] chew / Others’ wits’ fruits.”¹⁴² Well-versed in the legal knowledge, Donne’s aim was to “overcome the absence of a legal definition of literary property”¹⁴³ figuratively represented through the conceit of the poet’s ‘meat,’ which the usurper “doth [...] outspew / As his own things,” though “the meat was mine, the excrement’s his own.”¹⁴⁴ The satire (a verse letter addressed to an anonymous ‘Sir’) also hurls abuse at those “men which chuse / Law practice for mere gain” and that are “worse than imbrothel’d strumpets prostitute.”¹⁴⁵

In the second part of the poem Donne rails against an insolent character – a poet-turned-lawyer named Cocus – who had previously appeared in the anonymous *Zepheria* (1595). Cocus makes “absurd use of legal terminology to woo a lady [and] began to practice the law only for gain, using every dirty trick [to obtain] the excellently best or most extreme form of evil.”¹⁴⁶ In *Satire II* property is both intellectual and physical. Donne’s *meate* is a reverberation of the *pound of flesh* which, contended, eventually causes the confiscation of Shylock’s property in the Shakespearean play. In his turn, Donne turns on Cocus and the other lawyers who, like him, are great purchasers of land.

Donne argues that verbal manipulation occurs in poetry as in law.¹⁴⁷ In drafting a notarial act, Cocus omits the names of the heirs to a fortune. As a poet, he has a

¹⁴² John Donne, *Satire II* (25-6); Available at: <http://www.online-literature.com/donne/417/> Last access: May 2021.

¹⁴³ *Ibidem.*, p. 105.

¹⁴⁴ John Donne, *Satire II* (27-30).

Satire uses “any kind of bodily discharge: urine, belch, vomit or excretion. The Roman satirists had already deployed this imagery.” Patrick Cheney, Philip Hardie (eds.), *The Oxford History of Classical Reception in English Literature, Vol. II*, Oxford University Press, Oxford, 2015, p. 360.

¹⁴⁵ John Donne, *Satire II* (64-6).

¹⁴⁶ Janel Mueller (ed.), *John Donne*, Oxford University Press, Oxford, 2015, p. 337.

¹⁴⁷ In one of his song, Robert Llyod also denounced the lawyers’ misuse of rhetoric (“Of lawyers, who with face of brass, / For learned rhetoricians pass”). Robert Llyod, *Though Winter its desolate train*; Cf.

tendency to plagiarise; as a lawyer, he abuses his office. His poetry is bad, and his practice is unethical. Gregory Kneidel argues that

Donne's legal satire is so extensive that it borders on philosophical abstraction: it is a writerly expose of a crisis in law in the most comprehensive sense; its villain Coscus is a sort of 'Uncreating Word,' a veritable embodiment of 'the protean nature of words.'¹⁴⁸

Donne's portrayal of lawyers continues in *Satire V* (1597-98). The institutions are called into question in the opening verses of the poem, in which the author addresses Sir Thomas Egerton, Lord Keeper under Elizabeth I and author of *Memorialles for Inducature* (c. 1611).¹⁴⁹ Egerton is like a beacon illuminating the way to a fairer justice in a world where suitors are the food officers defecate: "these self reasons do / Prove the world a man, in which officers / Are devouring stomach, and suitors / Th' excrements which they void."¹⁵⁰ The satirical aim of the verses justifies obscenity. Donne depicts the law officers just like the Romans depicted Heracles. To them, the demigod was not only an invincible hero, but also a man of excess with physical urges, which is the reason why many statuettes and pictures depicting him in the act of urinating started to appear in the gardens and villas.¹⁵¹

The lawyers "adulterate law," (26) and suitors prepare the way to their own ruin. Exasperated by their lack of integrity, Donne invokes the queen, the "greatest and fairest

Alexander Chalmers, Samuel Johnson (eds.), *The Works of the English Poets, from Chaucer to Cowper* (Vol. XV), Printed by C. Whittingham, London, 1810, p. 114.

¹⁴⁸ Gregory Kneidel, "Coscus, Queen Elizabeth, and Law in John Donne's *Satire II*" in *Renaissance Quarterly*, 61: 1 (2018), 92-121. doi:10.1353/ren.2008.0085

¹⁴⁹ In the work, Egerton discussed "the mischievous growth of litigation in society, the increased costs of the courts, the excessive fees of serjeants and attorneys, and the proliferation of dishonest and inexpert men in the law profession." A. Knafla, *Law and Politics in Jacobean England: The Tracts of Lord Chancellor Ellesmere*, Cambridge University Press, Cambridge, 1977, p. 108.

¹⁵⁰ John Donne, *Satire V*, (16-9). Available at: <https://www.bartleby.com/357/179.html> Last access: May 2021.

¹⁵¹ See, for example, the many versions of the *Hercules mingens* or Rubens's panel *The Drunken Hercules* (c. 1612).

Empresse” (28) and recalls “th’ iron age that was when justice was sold” (37), while in his present day, the “age of rusty iron,” (35) “injustice is sold dearer” (38), meaning that court fees are higher and justice is not served.

Money slips through the suitor’s fingers and fills the pockets of the avid attorney who is once more associated to land and land accumulation. Should the suitor complain about the robbery, he will be “forced to make golden bridges” (54), meaning that he will continue to pay without ever obtaining justice. Donne depicts “officer and suitor working in tandem to produce systemic injustice. Through methods that ultimately backfire, the legal representative exploits authority and technicalities, while the litigant exploits legal process in the ruthless pursuit of their own interests.”¹⁵²

In the verses that follow, the poet compares celestial courts to the courts of law. “Judges are gods” (57), he says, and if in heaven’s courts man paid “fees as here, daily bread would be / Scarce to kings” (62-3). Nevertheless, the lawyers’ bad practice does not undermine the value of justice: “Oh! Ne’er may / Fair Law’s white reverend name be strumpeted” (18-9). Donne absolves the law and accuses its representatives instead. They are like raptors that use their claws to carry their preys:

She is all fair, but yet hat foul long nails
With which she scratcheth suitors; in bodies
Of men, so in law, nails are extremities.
So officers stretch to more than law can do. (74-7)

Donne’s denunciation perfectly expresses the sentiment of the age, for “early modern poetry and drama [...] portray[ed] legal men as dull, graceless, greedy, unlettered spendthrifts, duplicitous practitioners who use their esoteric legal learning for their own

¹⁵² Virginia Lee Strain, *Legal Reform in English Renaissance Literature*, Edinburgh University Press, Edinburgh, 2018, p. 102.

gain, rather than for the good of their clients.”¹⁵³ *In cauda venenum*. In the closing verses of *Satyre V* Donne compares the lawyers to the unfortunate dog of Aesop that, seeing its reflection in the water, almost drowns to get what it thinks he sees: a juicier and bigger bone.¹⁵⁴ The moral is simple: it is foolish to be greedy. According to Virginia Strain, *Satyre V* reveals

the position of the insider satirist who has developed a relationship to in-betweenness [...] The insider satirist is a legal secretary, a legal-political intermediary, a part of the network of extra eyes and ears that is supposed to close the gap between subject and justice, or subject and sovereign, or client and patron.¹⁵⁵

John Marston had been, like Donne and many other fellow dramatists and poets, a former student of law, which gave him the opportunity to examine the legal *milieu* from the inside. Paul Raffield asserts that the writer was “hardly a disinterested observer and critic of the legal profession, and his own self-interest is likely to have prevented him from an unrestrained polemic directed at the institution in whose heart he resided.”¹⁵⁶ Marston was never called to the bar, with deep regret of his father who left him his lawbooks in the hope that he “would [profit] by them in the study of the law, but man proposeth and God disposeth...”¹⁵⁷ *Histriomastix, or the Player Whipt* (acted in 1599 and printed in 1610), a six-act play written for his peers from Middle Temple, was one of the comedies Marston unsheathed in the *poetomachia* against Ben Jonson. Scholars generally concur that “Marston provoked Jonson’s revenge in this play by representing him on the stage as the poet-playwright-philosopher Chrisogonus, thereby triggering the Poets’

¹⁵³ Wilfrid Prest, *The Rise of the Barristers: A Social History of the English Bar (1590-1640)*, Clarendon Press, Oxford, 1986, p. 289. Cf. Jessica Winston, “Legal satire and the legal profession in the 1950s: John Davies’ *Epigrammes* and Professional Decorum”, cit., p. 125.

¹⁵⁴ Cf. Aesop’s *Fables, The Dog and its Reflection* (CLXXXV).

¹⁵⁵ Virginia Lee Strain, *Legal Reform in English Renaissance Literature*, cit., p. 124.

¹⁵⁶ Paul Raffield, *The Art of Law in Shakespeare*, Hart, Portland, 2017, p. 25.

¹⁵⁷ P.J. Finkelppearl, *John Marston of the Middle Temple: An Elizabethan Dramatist in His Social Setting*, Harvard University Press, Cambridge (MA), 1969, p. 84. Cf. Paul Raffield, cit. p. 25.

War.”¹⁵⁸ In the first act two lawyers, Fourcher and Voucher, are portrayed as a couple of merry playgoers and theatre enthusiasts who have time for frivolities and indulge in light conversation:

LYON: Maister Fourcher, how fares your body sir? come you from your booke?

FOUR: Troth Master Lyon-rash, this Peace gives Lawyers leave to play. [...]

LION: Gentlemen, how shall wee spend this afternoone?

FOUR: Fayth, lets goe see a Play.

VEL. See a Play, a proper pastime indeed: to heare a deale of prating to so little purpose.

VOUR: Why this going to a play is now all in the fashion.

LYON: Why then lets goe where wee may heare sweet musick and delicate songs, for the Harmonie of musick is so Heavenlike that I love it with my life. (I, i, 163-177)¹⁵⁹

In 1633 William Prynne, a puritan barrister at Lincoln’s Inn, denounced the anathema of stage performances in a thick volume also entitled *Histriomastix*.¹⁶⁰ His intent was to show that playwrighting and playgoing were immoral and unlawful and condemned both practices as anti-religious:

That popular stage-playes are sinfull, heathenish, lewde, ungodly spectacles, and most pernicious corruptions; condemned in all ages, as intolerable mischiefes to churches, to republickes, to the manners, mindes, and soules of men. And that the profession of play-poets, of stage-players; together with the penning, acting, and frequenting of stage-playes, are unlawfull, infamous and misbeseming Christians.¹⁶¹

Prynne also spoke out against the presence of women on the stage, who had eventually put an end to cross-dressing. Unfortunately for him, what he conceived as a legalistic

¹⁵⁸ James P. Bednarz, “Writing and Revenge: John Marston’s *Histromatrix*” in *Comparative Drama*, 36:1,2 (Spring Summer 2002), 21-51, 22.

¹⁵⁹ <https://archive.org/details/histriomastixorp00mars/page/n13/mode/2upbn182> Last access: May 2021.

¹⁶⁰ Possibly after Marston’s work. Curiously enough, the subtitle of Prynne’s *Histriomastix* is “The Player’s Scourge, or Actor’s Tragedy,” which might (or might not) be a reference to another satire by Marston, *The Scourge of Villainie* (1598).

¹⁶¹ <https://quod.lib.umich.edu/e/eebo/A10187.0001.001?view=toe> Last access: May 2021.

and moralistic work was seen as a direct attack against king Charles I and his consort Henrietta Maria, both famous for being extremely passionate about the theatre.¹⁶² Prynne was tried in the Star Chamber with the charge of being a schismatic libeller, expelled from Lincoln's Inn and finally condemned to endure ear cropping.¹⁶³

Of course, Caroline censorship was uncompromising, but Elizabethan censorship was no less. Marston's unlicensed volume *The Scourge of Villanie* (1598), which followed *The Metamorphosis of Pygmalion's Image* of the same year, is perhaps his most trenchant work. The poet apostrophises himself as a 'barking satirist'¹⁶⁴ vexed by censors who castigate him and condemn his verses. The Proteans, his enemies, are tricksters who "deceive themselves through ignorance of their own motives"¹⁶⁵ and who deceive others by "abusing, beguiling and deluding."¹⁶⁶ Clearly, Marston's targets failed to dishearten his provocative spirit, at least until Whitgift and Bancroft issued the ban the following year. In *The Scourge* Marston *alias* Monsieur Kinsayder (lit. 'the one who neuters dogs') writes that he will "prostitute [his] Muse / For all the swarmes of Idiots to abuse."¹⁶⁷ He uses a

¹⁶² "Not only was [Charles] present *in utero* during his mother's infamous performance in The Masque of Blackness; [he] also began entertaining on his own as a toddler, back when he was titled Duke of York and Albany and was second in line to the throne." <http://www.wondersandmarvels.com/2009/08/charles-i-and-the-act-of-dying.html> Last access: May 2021.

¹⁶³ For a deeper insight see: Mark Kishlansky, "The sedition of William Prynne" in *The Historical Journal*, 56:3 (September 2013), 603-627.

¹⁶⁴ "Thus having rail'd against my selfe a while, / Ile snarle at those, which doe the world beguile / With masked shows. Ye changing *Proteans* list, / And tremble at a barking Satyrst" (43-6). Cf. John Marston, *The Scourge of Viallainy* in Gordon Braden (ed.), *Sixteenth-Century Poetry: An Annotated Antology*, Blackwell, Oxford, 2005, p. 558.

¹⁶⁵ Steven R. Shelburne, "Principled Satire: Decorum in John Marston's *The Metamorphosis of Pigmalion Image* and *Certain Satyres*" in *Studies in Philology*, 86:2 (Spring, 1989), 198-218, 201.

¹⁶⁶ *Ibidem*.

¹⁶⁷ "In Lectores prorsus indignos." John Marston, *The Scourge of Viallainy* in Gordon Braden (ed.), *Sixteenth-Century Poetry: An Annotated Antology*, cit. p. 558.

querulous tone with the “displaced intellectuals of the Elizabethan and Jacobean era”¹⁶⁸ and exposes “the monstrous condition of the cultured, chattering classes.”¹⁶⁹ Raffield’s observation that Marston would not easily attack the legal professionals is proved by the fact that the poet does not lampoon the lawyers in the *Scourge*. Curiously enough though, in the second play of the *Parnassus* series written by an unknown author (*Parnassus the Return, or the Scourge of Simony*, c. 1606) Marston himself is critiqued by a wit named Judicio, who calls him a ‘pissing dog:’

INGENIOSO: Why then, clap a lock on their feet, and turn them to commons.

John Marston.

JUDICIO: What, *Monsieur Kinsayder*, lifting up your legge, and pissing

Against the world? Put up, man, put up for shame.

Methinks, he is a ruffian in his style,

Withouten bands, or garter’s ornament:

He quaffs a cup of Frenchmen’s helicon;

Then roister doister, in his oily terms,

Cuts, thrusts, and foins, at whomever he meets,

And strews about Ram-Alley meditations.¹⁷⁰

Judicio’s description of Marston sounds like a typical description of a sixteenth-century attorney: he is a ruffian who uses ‘oily terms,’ to communicate and, most importantly, he quibbles over legal matters.¹⁷¹ Clearly, Judicio is not simply referring to Marston the poet, but to the poet who, just like many other contemporaries, was trained at the Inns.

“The acute John Davies” (as Judicio calls him in the cited play), was a member of the Middle Temple and general attorney for Ireland. His name was included in the ban after the publication of the collection *Epigrammes and Elegies* (1599), which prefaced

¹⁶⁸ Ansgar Allen, *Cynicism*, The MIT Press, Cambridge (MA), 2020, p. 124.

¹⁶⁹ *Ibidem*.

¹⁷⁰ Unknown, *The Return From Parnassus, or the Scourge of Simony* (II, i, 266-74) in William Carew Hazlitt, *A Selected Collection of English Plays*, London, Reeves and Turner, 1874, pp. 116-7.

¹⁷¹ Ram Alley “ran southwards from Fleet Street, opposite Fetter Lane. Its end point was a footway between two legal institutions: the Inner Temple and Serjeants Inn.” Source: <https://mapoflondon.uvic.ca/RAMAl1.htm> Last access: May 2021.

Marlowe's (proscribed) translations of Ovid's elegies. In *Epig. XLVI* the poet introduces Publius, a student of the common law who enjoys bear-baiting spectacles and "oft leaves his books, / And for his recreation, / To Paris Garden doth himself withdraw."¹⁷² A certain Crassus (*Epig. XXXVII*) is a lawyer who "tells his lies so rife, / Of bridges, Townes, and things that have no life." However, his lies are "not pernicious lies / But pleasant fictions, hurtfull unto none." Philo (*Epig. XXXVIII*) is "a lawyer and a fortune-teller" who "doth practice Phisicke [...] and hath at Temple Bar his standing chose, / and [...] sings an ale-house story" to prostitutes and serjeants of the law.

Davies's satire is not particularly aggressive; he rather constructs the image of the "gentleman lawyer"¹⁷³ by composing his verses in an "antithetical form of the apology."¹⁷⁴ He aims at building an edifying image of the barristers by shaping "a model of lawyerly *decorum*."¹⁷⁵ In the anthology *A Poetical Rhapsody* (1602) Davies introduces twelve gentlemen among courtiers and professional figures, including a lawyer:

IV: The Lawyer

The Law my calling is; my robe, my tongue, my pen,
Wealth and opinion gain, and make me Judge of men.
The known dishonest cause, I never did defend,
Nor spun out suites in length, but wisht and sought an end:
Nor counsel did bewray, nor of both parties take,

¹⁷² <https://quod.lib.umich.edu/e/ebo/A19921.0001.001?view=toc> Last access: May 2021. Further references to Davies's *Epigrammes* are taken from the same source.

¹⁷³ Cf. Jessica Winston, "Legal satire and the legal profession in the 1950s: John Davies' *Epigrammes* and Professional Decorum" in Lorna Hutson (ed.), *The Oxford Handbook of Law and Literature, 1500-1700*, Oxford University Press, Oxford, 2017, pp. 121-141.

¹⁷⁴ Paul Raffield, *The Art of Law in Shakespeare*, cit., p. 45.

¹⁷⁵ Jessica Winston, "Legal satire and the legal profession in the 1950s: John Davies' *Epigrammes* and Professional Decorum" cit., p. 135.

Nor ever took I fee for which I never spake.¹⁷⁶

The difference is striking; we are out of the brothels and the inns, and beyond the stereotyped and degrading description of lawyers as venal and immoral crooks. ‘Our English Martiall’¹⁷⁷ avoids participating into the creation of an anti-lawyer stereotype and distances himself from the general hostility toward the profession. He does present “satirical portraits of lawyers, Inns-of-Court men, and their social milieu,”¹⁷⁸ yet his is “also a compelling case because, unlike his contemporaries, he [writes] in a more proactive way, going beyond negative exempla to construct [...] a positive *ethos* for legal men.”¹⁷⁹

The lawyers’ abuse of language is the central theme in George Ruggle’s *Ignoramus* (1615), a controversial comedy which provoked “a veritable riot of satirical responses from angry Inns of Court men and jealous Oxonians.”¹⁸⁰ The play survived until the Restoration thanks to several reprintings, including a 1678 version re-entitled *The English Lawyer: A Comedy*.¹⁸¹ The plot revolves around a common lawyer who woos a bride “with his spouting of legal terms.”¹⁸² Harshly criticised by London attorneys,¹⁸³ *Ignoramus*

¹⁷⁶ John Davies, Alexander B. Grosart (ed.), *The Complete Poems of Sir John Davies*, Vol. II, Outlook Verlag, Amsterdam, 2020, p. 29.

¹⁷⁷ This is how Everard Gulpin speaks of Marston (Cf. *Skialetheia, or a Shadowe of Truth* (1589), *Epig.* XX “To Candidus”).

¹⁷⁸ Jessica Winston, “Legal satire and the legal profession in the 1950s: John Davies’ *Epigrammes* and Professional Decorum” cit., p. 122.

¹⁷⁹ *Ibidem*.

¹⁸⁰ George Ruggle, Edward F.G. Tucker (ed.), *Ignoramus*, Hildesheim, New York, 1987, p. 2.

¹⁸¹ *Ignoramus* is a re-adaptation of *La Trappolaria* (1596) by Gianbattista Della Porta, influenced, in its turn, by the Plautine comedy.

¹⁸² Jan Bloemendal, Howard Norland (eds.), *Neo-Latin Drama in Early Modern Europe*, BRILL, Leiden and Boston, 2013, p. 513.

“comically exploit[ed] the differences between university-trained civilians (practitioners of the civil law) and common lawyers,”¹⁸⁴ which explains why it was immediately received as “an attack against the common-law profession as a whole.”¹⁸⁵

At the turning of the century, as the number of legal practitioners increased, many writers committed themselves to denouncing unfair actions and legal abuse. One of them was John Webster.

¹⁸³ Including Edward Coke, whose name “remained associated with the figure of Ignoramus during the early Stuart period.” Juan A. Prieto-Pablos, “Ignoramus and The Woman Turned Bully and Restoration Satire on the Common Lawyer” in *Studies in English Literature 1500-1900*, 48:3 (Summer 2008), 523-546, 527.

¹⁸⁴ *Ibidem*.

¹⁸⁵ *Ibidem*.

II. *John Webster, Merchant Taylor... of Middle Temple?*

The episcopal ban of 1599 was a watershed in the history of poetic satire; draconian restrictions on satirical epigrams forced writers to resort to the stage, thus redirecting their literary ambitions and giving way to a controversy which passed down as the ‘War of the Theatres.’ While Jonson addressed a petty counterblast to his rivals Marston and Dekker, John Webster collaborated with them. Webster is one of the most controversial and ambiguous figures on the late-Elizabethan scene. Very little is known about his life and the scholarly attention which has been paid to him is rather scarce.

Many will recall that famous Oscar awarded film *Shakespeare in Love* (1998). Directed by John Madden, it tells the romanticised story of a young Shakespeare who competes against Kit Marlowe, battles a writer’s block, and falls for a well-born maiden. London gallants, groundlings – even the queen herself – enter the playhouses to enjoy his plays as many personages revolving around the theatre business appear.¹⁸⁶ Webster, his near contemporary, is fictionalised. He appears to be a hideous and noxious adolescent with a sneaky behaviour who snoops around every corner and receives money from instigators. He reminds, upon reflection, of the henchman Bosola, the character sprung from ‘his’ writing. Both the actor’s rendition and the way he moves inside and outside the theatre are very interesting. First of all, he is a beaten and miserable child who performs a terrible audition with his stuttering to get a part in a fictional play by Shakespeare but ends up being kicked out gracelessly by the author himself instead (what may seem to many an explosive claim of the Bard’s superiority as a writer). Webster is completely antagonised, playing the part of the one who exposes a woman on the stage (Shakespeare’s object of desire) and causing the Rose theatre to close by order of the Master of the Revels. Again, he is an element of disruption, regardless of the director’s real intent. He has a questionable fascination with blood and mutilation (“They cut my

¹⁸⁶ Including Philip Henslowe, Ned Alleyn, Richard Burbage, and Edmund Tilney.

head off in 'Titus Andronicus!')¹⁸⁷ — he boasts — and claims that glorification of violence is the only writing.¹⁸⁸ Webster's portrayal in *Shakespeare in Love* is an original idea, but somewhat misleading; even though much of his life is still a mystery today, the playwright surely was not as poverty-stricken as the film script puts it, with his shabby clothes and the squeaking rats he holds and feeds like pets. Of course, his reputation precedes him, and we understand the intent to glamorise his penchant for dread and horror. In a post-modern analysis of his playwrighting, Webster the 'ghoul' has been defined by many as the 'Quentin Tarantino of Jacobean drama,' a statement I do share and endorse in appreciation of the dramatist's extraordinary vanguardism. This is, indeed, the truest essence of Webster's 'abominable' art, and T.S. Eliot's vision of him, expressed in the opening lines of *Whispers of Immortality*, makes the point:

Webster was much possessed by death
And saw the skull beneath the skin;
And breastless creatures under ground
Leaned backward with a lipless grin.
Daffodil bulbs instead of balls
Stared from the sockets of the eyes!
He knew that thought cling round dead limbs
Tightening its lusts and luxuries.¹⁸⁹ (1-8)

Eliot succeeded in the hard task of conceptualising and revisiting Webster's imaginary, and he probably looked up at him while envisioning the arid and boundless desolation of the *Waste Land*. It is a sterile womb, a dwelling for the unliving, a burial ground for dried out bodies or fiends devoid of the consistency of the flesh, apathetic skeletons bent

¹⁸⁷ Probably an allusion to Mutius, a minor character, one of Titus's sons who is eventually killed by his own father.

¹⁸⁸ See, again, *The Revenger's Tragedy*: "When the bad bleed, then is the tragedy good" (III, v, 202).

¹⁸⁹ T.S. Eliot, *Whispers of Immortality* (1919).

under the soil. Francis Bacon's triptychs are the visual response these lines would elicit from a contemporary reader, presenting juiceless and misshapen subjects that lack form and substance. His are 'Websterian' subjects (and by this, I mean dramatic, erotic, fragile, disturbing, and wretched figures).¹⁹⁰ Bacon and Webster have certainly something in common; they are, indeed, violators of decency and their art is a profanation of the highest moral values. Webster provoked clerics and laymen, he crafted an unaware and maybe unintentional manifesto of modernity, underestimating the impact his works were likely to have in the future. His writing is the result of impurity and anarchy, from the construction of the narrative to the numerous elements of poignancy which characterise his storytelling.

Charles Forker justifies the dramatist's morbid obsession with death with the not-very-placid youth he lived as the son of a wealthy coach-maker. John Webster Sr., a member of the Merchant's Taylor, would craft "trappings for funerals, plays and pageants" and trade with "the men who provided hearses for coffins and vehicles to transport the players' baggage and to serve as platforms for outdoor performances."¹⁹¹ Young Webster might have made a habit of hearing funeral tolls and experiencing macabre encounters; nevertheless, this would also reconstruct how he first made contact with theatre people. Besides, any attempt at recreating Webster's life events would be conjectural, idle speculations triggered by an inquiring mind or a need to bridge the huge gap of biographical uncertainty. Forker's relatively recent monograph *Skull Beneath the Skin: the Achievement of John Webster* constitutes a major contribution and perhaps the most accurate report on the dramatist's life, which is mainly based on the research conducted by Mary Edmond. Edmond's discoveries have brought to light some interesting data about Webster's parentage and whereabouts. Her research has been carried out on the manuscript records and archives of St. Bartholomew's Hospital and the Merchant Taylor's Company. The information that follows is taken directly from her 1976 article

¹⁹⁰ See Bacon's pictorial series *The Screaming Popes* and his horrific interpretation of Velázquez's portrait of Innocent X (1953).

¹⁹¹ Cf. Charles R. Forker, *Skull Beneath the Skin: the Achievement of John Webster*, Southern Illinois University Press, Carbondale and Edwardsville, 1986, p. 4.

*In Search of John Webster.*¹⁹² Apparently, the dramatist's father and brother, John and Edward Webster, were leading figures in the London parish of St. Sepulchre, John being originally from Smithfield and a councilman of the said parish and Edward a constable of the city ward. Both were engaged in the transport business, producing, hiring, and selling carts and coaches for solemn events. So far as we know, the family's house and the coach-making establishment were probably located in Cow Lane. Edmond credits Dr. Leslie Hotson for recording a Star Chamber suit from 1620 in which Edward Webster figured as a defendant. Presumably, the dramatist was the first child to John Sr. and was named after his father as was the custom. Despite his date of birth has never been confirmed, Edmond conjectures he 'could have been born by 1573 and thus he could have been the player John Webster who was touring in Germany in 1596.' She also writes he is thought to have died between 1632 and 1634 but the circumstances of his death are unknown. By 1589 his father's business was so large he had many young apprentices coming to him from other central and southern counties. The detail I find most revealing is that there was an actual connection between the Websters and the central Criminal Court because they probably provided transport for 'condemned men [who] were taken in Tyburn carts from Newgate Gaol – just across the street from St. Sepulchre's.' Another suit is allegedly reported by Leslie Hotson, this time involving John Webster Sr. and 'Thomas Dekker of London' - the playwright's friend and colleague – 'relating to a debt of £40.' The evidence of the playwright's marriage instead lies in the will of a neighbour, Thomas Andrewe, who in 1614 'left £5 to John Webster the younger [...] and to Sara Webster his wife other five puondes.' Forker argues that the couple "probably married on 18th March 1605/06, shortly after [Webster] had finished *Northward Ho* (with Dekker);"¹⁹³ they had at least two daughters, Elizabeth and Sara and a son, John, and probably spent the rest of their lives in Nag's Head Alley (the place they were residing in in 1606, according to their firstborn's baptismal record.¹⁹⁴

¹⁹² Mary Edmond, "In Search of John Webster" in *Times Literary Supplement* (1976), 1621-22.

¹⁹³ Charles R. Forker, *Skull Beneath the Skin: the Achievement of John Webster*, cit., p. 7.

¹⁹⁴ Cf. Forker, cit., p. 14.

Edmond recalls how F.L. Lucas lamented that “less was known of [Webster] than of Greek dramatists two thousand years before.”¹⁹⁵ There are several reasons behind the lack of biographical facts. First, the Great Fire which devastated the city of London in 1666 and the consequent disappearance of baptismal records in St. Sepulchre’s parish (or St. Giles, where John the coachmaker married Elizabeth Coates, the playwright’s mother). A certain John “Wobster” (the actor mentioned by Edmond) was recorded as he joined Robert Browne’s troupe of actors that travelled to Cassel, Germany, in the early Sixties of the Sixteenth century. Besides, given the absence of some solid evidence, we can only be persuaded that this is how the young dramatist approached the world of stage-playing. Some evidence of his connection to actors and theatre poets is included in the record of transactions and loans; Edward Alleyn (the Admiral’s man) and his brother John “acknowledged a debt of fifteen shillings to ‘John Webster, cytyzen and merchauntayler of London’ on 25 July, 1591.”¹⁹⁶

Philip Henslowe’s diary is a treasure trove of information. The famous *impresario* wrote down some loans he granted to Webster, whose name follows Thomas Dekker, Thomas Haywood and Wentworth Smith’s in the record of the plays *Lady Jane* and *Christmas Comes But Once A Year*.¹⁹⁷ The partnership with other writers problematises, in a way, the identification of the dramatist who emancipates himself through his original writing (and in particular through the composition of *The White Devil*, his first solo play), but whose work as a co-writer is still hard to define. For instance, the text of *The Famous History Of Sir Thomas Wyatt* (1607) “is actually a corrupt memorial reconstruction, from

¹⁹⁵ Cf. Edmond and F. L. Lucas, *The Duchess of Malji* (Revised edition), London, 1958, p. 9.

¹⁹⁶ *Ibidem.*, p. 6.

¹⁹⁷ Records of 15 October 1602 and 27 October 1602. Cf. Philip Henslowe, R.A. Foakes (ed.), *Henslowe’s Diary*, University of Cambridge Press, Cambridge, 2002, pp. 218-9.

which the respective parts of Dekker, Webster, or any other dramatists cannot be distinguished with any certainty.”¹⁹⁸

Webster’s marriage to Sara Peniall, the daughter of a member of the Saddler’s Company, was probably an investment in the family business and a lid on the embarrassment for the bride’s seven-month pregnancy. Forker assumes that the Duchess’s hidden pregnancy in the gory play might reflect Webster’s real-life experience, and this thesis is worth considering particularly in view of our lack of biographical knowledge. Nonetheless, Webster’s social redemption would derive from his status and achievements within the livery company he was probably part of. Webster “invented” and “wrote”¹⁹⁹ the civic pageantry *Monuments of Honour* for the year 1624. In the spirit of the blazon and the triumph, the work was dedicated to His Majesty’s lieutenant John Gore, now freshly elected Mayor of London. The style and the content of the work are surely unsettling, as they are hardly ascribable to ‘the obscure’ John Webster we are used to; it all opens with a mythical dialogue between Thetis and Oceanus, written in the manner of what the author calls a ‘sea triumph.’ The female Titan thinks she hears the music of Venice and Saint Mark coming from afar, but is soon contradicted by her husband: it is not the ceremony of the marriage of the Sea which is taking place, but a celebration of the Thames and seven worthy English navigators (namely Drake, Hawkins, Furbisher, Gilbert, Candish, Carlile and Davies). Webster, now a ‘servant’ to the company, is endowed with a poetic vein which shows itself right away to praise “famous schollers and poets of this our kingdome,”²⁰⁰ from Gower, to Lidgate, Chaucer, More and Sydney. Webster’s commentary on the pageantry and his celebration of the city of London possibly reach higher standards when he commemorates Henry

¹⁹⁸ Fredson Bowers (ed.), *The Dramatic Works of Thomas Dekker*, Vol. I, Cambridge University Press, Cambridge, 1953, p. 399. Cf. Irving Ribner, *The English History Play in the Age of Shakespeare*, Routledge, London, 1965, p. 216.

¹⁹⁹ The reference is to the original title of the piece which was “invented and written by John Webster, Merchant-Taylor” and which celebrated the honour of the city and the glory of the kingdom.

²⁰⁰ John Webster, *Monuments of Honour* (1624). Full text available at: <https://quod.lib.umich.edu/e/eebo/A14871.0001.001?rgn=main;view=fulltext> Last access: May 2021.

Frederick, something he had already done on the prince's untimely death, which had occurred twelve years earlier.

The funeral elegy *A Monumental Column* (1613) disguises the truest essence and inspiration of 'our' Webster's poetry. Of course, the event had many artists and writers composing memorials, *tombeaux* and funeral songs, but there is an extra element in the one produced by him. The kingly body is imagined as laying down in the earth and observed through the physical processes affecting it. The pulse stops, the blood runs cold and the vision of dead limbs invades what at a first reading might look like a loving remembrance of the royal departed. In keeping with tradition, Henry is preserved 'to fashion death-beds' like all the other princes who "have their corpse embalm'd to keep them sweet."²⁰¹ The poem escalates to a description of hard materials (marble, gold, oriental gems) and then the frailest ones (clay, snow and wax, an iconic image of caducity). Harshness and softness, heat and cold, relief and pain are all vibrant sensations the playwright could evoke with a single verse. Is the elegy not a reverberation of the wax figures in *The Duchess of Malfi*? Does the Stuart's body not recall the severed limbs which horrify the audience in act four? Webster uses this same word, *horror*, to describe an imaginary battlefield by re-evoking the military accomplishments of Edward of Woodstock, the 'Black Prince,' on the French territory. He tells he "hath often made horror look lovely, when i' the fields there lay arms and legs so distracted, one would say that the dead bodies had no bodies left."²⁰² Once again, decay, decomposition and the act of breaking up the human body seem to be recurring elements in the author's imaginary.

The *danse macabre* which spread throughout Europe in the Middle Ages and influenced Elizabethan playwrights is surely a starting point, yet it does not fully explain *how* and *why* the dramatist was so much 'possessed by death.' Not only death, actually, but the whole spectrum of human fragility like madness, sin, co-dependency, obsession, greed, perversion and – above all – love and sensuality. "Webster" – indeed – "knows all

²⁰¹ John Webster, Thomas Heywood, Cyril Tourneur, *A Monumental Column* (1613). Full text available at: <https://extra.shu.ac.uk/emls/iemls/resour/mirrors/rbearold/webster2.html> Last access: May 2021.

²⁰² John Webster, Thomas Heywood, Cyril Tourneur, *A Monumental Column*, cit.

the ways of approaching death,”²⁰³ coming by ruin, or chance, or design. And he certainly masters the verbal, the visual and the musical effects of his anti-bienséant theatre, which surely presented (or, better, imposed) itself on the audience as something they quite seldom experienced before.

Although Webster owes much of his reputation to his terrorising aesthetic visions and to the turbulence of his creative process – he was, by his own admission, a slow and indolent writer with high self-esteem and a general concern for good receptions – the considerable number of legal references in his plays and the remarkable accuracy of their adaptations are the real object of the present dissertation. The chronologies of Webster, some more detailed and extended than others, share a critical point which still might (or might not) surprise readers and academics, but which – if confirmed – might as well shed some light on the controversy surrounding his alleged legal training. The 1598 records of Middle Temple list, in fact, a “Mr. John Webster, late of New Inn, gent, son and heir-apparent of John Webster of London, gent.”²⁰⁴ Even though the evidence gives no absolute certainty that the said John Webster and the famous dramatist were in fact the same person, many scholars seem to consider the coincidence an actuality. Not only does the period coincide with the playwright’s young years, but his father’s homonymy and the modest elevation of his social status are themselves compelling elements. According to reports, “a John Webster entered the Merchant’s Taylors’ School in 1588 (?) and a John Webster gained admission to the Middle Temple from new Inn in 1598. Both admissions fit details of the playwright’s life [and we have proof that] he was made a freeman patrimony in the Merchant’s Taylor Company in 1615.”²⁰⁵ Not to mention that all the plays show his familiarity and aversion to the legal world. Whilst Charles

²⁰³ Rupert Brooke, *John Webster and the Elizabethan Drama*, John Lane Company, New York, 1916, p. 113.

²⁰⁴

<https://www.ebooksread.com/authors-eng/england-middle-temple-london/middle-temple-records-goo/page-38-middle-temple-records-goo.shtml> Last access: May 2021.

²⁰⁵ John Pitcher, Susan P. Cerasano (eds.), *Medieval and Renaissance Drama in England*, Vol. VIII, Associated University Presses, Cranbury (NJ), 1996, p. 165.

Forker describes this circumstance as “a very tempting possibility”²⁰⁶ and admits that “the law school record might seem irresistible,”²⁰⁷ he also points out that “there were other John Websters in London [and that] satire on litigiousness and legal corruption had become a popular convention in the drama of the period.”²⁰⁸

Nothing better than jurisprudence included and developed principles such as utility and liberality (even though, most of the time, those principles serve theory rather than practice). As a matter of fact, Shakespeare himself

was at home with his Middle Temple audience, as they with him, and this implies a degree of familiarity [and] an ongoing social relationship. [...] There was an immensely strong tradition of literary involvement at the Middle Temple. Dramatists who were Middle Temple men included John Webster, John Marston, and John Ford (Francis Beaumont was an Inner Temple). No one disputes that [by] 1602 the Middle Temple was at the heart of the London literary scene.²⁰⁹

In this respect, I would find more appropriate to wonder why the dramatist eventually dropped out and to what extent his (I assume) delusional experience in the field affected his playwrighting. Since no evidence that Webster had been previously admitted to the New Inn²¹⁰ exists, it is not hard to corroborate the hypothesis Forker (and F.L. Lucas before him)²¹¹ second-guessed. We can certainly assume that, if it were true that Webster

²⁰⁶ Charles R. Forker, *Skull Beneath the Skin: The Achievement of John Webster*, Southern Illinois University Press, Carbondale and Edwardsville, 1986, cit., p. 31.

²⁰⁷ *Ibidem*.

²⁰⁸ *Ibidem*.

²⁰⁹ Ralph Berry, *Shakespeare's Settings and a Sense of Place*, University of Wales Press, Cardiff, 2016, p. 25.

²¹⁰ The New Inn was an Inn of Chancery.

²¹¹ Frank Laurence Lucas (1894-1867), Webster's editor, was the author of the first collection of Webster's works which appeared in four volumes in 1927 (*The Complete Works of John Webster*). He was also the one who discovered the entry in the document from Middle Temple.

was admitted to a law school around the years Sixties, he could by no means be that young actor who in those same years followed Robert Browne's company to Germany.²¹²

The author's closeness to John Marston, John Ford and Thomas Overbury might be sufficient to explain his interest in the legal disputes. The latter, in particular, is known for having sought to oppose Robert Carr's wedding to Frances Howard (who was just getting out of a failed marriage) and for being poisoned in the tower of London in curious circumstances obviously related to the events. Later on, the said Howard, Countess of Somerset and her accomplices were tried for murder; despite her confession, no action was taken against her due to her political influence, while her allies were not spared execution. The whole case had been handed over to the King's court. The sex scandal was so popular at that time that it possibly influenced Webster in the shaping of Vittoria Corombona's character and vicissitudes. Howard became a cultural phenomenon and just like Vittoria she was held up like a seductive and dangerous woman.²¹³ Jacobean England was at the apex of court and popular scandals, but Italy was no less. Let us not forget the cases of Beatrice Cenci, who was tried and beheaded for parricide in 1599 and Giulia Tofana, the famous avenger of the 'weak sex' and inventor of the *Aqua Tofana*, a lethal concoction she used to sell to her customers to get rid of their husbands. Having murdered her husband in her turn, Tofana was deeply sympathetic to those women who were struggling in an abusive relationship. She managed to run her activity for many years until she was arrested and prosecuted by the Church forces. Within a few decades, women's involvement in trials would increasingly become associated with witchcraft and homicide, a reality Webster discloses with great skill in the third act of *The White Devil*. Another figure "whose famous trials became the stuff of legend, providing material for Webster's law scenes"²¹⁴ was Mary Stuart, Queen of Scots. Brett D. Hirsh argues that

²¹² Cf. Charles R. Forker, *Skull Beneath the Skin: The Achievement of John Webster*, cit., p. 5.

²¹³ For a deeper insight see: Stevie Simkin, "Frances Howard (1590-1632)" in S. Simkin, *Cultural Constructions of the Femme Fatale*, Palgrave Macmillan, London, 2014.

²¹⁴ Brett D. Hirsh, "The White Devil: The State of the Art" in Paul Frazer, Adam Hansen (eds.), *The White Devil, A Critical Reader*, Bloomsbury, London, 2016, p. 97.

Mary's first husband, François II of France, died in 1560 and her second marriage to Henry Stuart, Lord Darnley, came to an abrupt end in 1567 when Darnley was murdered. Although the identities of those responsible remain hotly contested, Mary's involvement in the conspiracy was strongly suspected at the time, fuelled by rumours that she was involved in an illicit affair with James Hepburn, 4th Earl of Bothwell, who she married in equally questionable circumstances later that year.²¹⁵

Hirsh goes on observing how Vittoria and Mary Stuart remarried very quickly and how both of them were accused of murdering their first husbands.²¹⁶ This is just an example of how legal issues and controversies affected both the literary production and the reception of the period.

Webster's knowledge of classical Latin amplifies and complicates the uncertainties about his schooling (the prefatory lines and the notes to the reader show his cynical and pompous attitude towards contemporary audience and reveal his more than satisfactory education). The quotations from Horace and Martial in the note to *The White Devil* and the abundance of Latin aphorisms within the *corpus* suggest that Webster was trying to enhance his image as a writer and to stand out from the average readers whose educational background did not allow them to master written Latin. For example, by referring to Martial and his epigrams, the poet rails against his unqualified audience.²¹⁷ Webster's personality emerges from the page. He seems

wholly of the Jonson-Chapman school of classicists, in agreement with the more cultivated critics. He is superb in his scorn of his own audience [and] his arrogance was partly due, no doubt, to pique at the failure of the play and partly to the literary fashion. But it had something natural to him. Even in these plays he so scornfully

²¹⁵ *Ibidem*.

²¹⁶ Carol Blessing shares this view and acknowledges the similarities between Vittoria and the Queen of Scots. Cf. Carol Blessing, "The Trials of Mary Stuart: Anxious Circulations in John Webster's Drama" in Andrew J. Majeske, Emily Detmer-Goebel (eds.), *Justice, Women and Power in English Renaissance Drama*, Farleigh Dickinson University Press, Madison & Teaneck, 2009, pp. 80-97.

²¹⁷ "In Martial's days [books] were put to commercial use. For instance [...] he says that it is essential for [works] to obtain the approval of Apollinaris and details the dreadful fate which awaits them [...] should they fail to do so." Keith Elliott, *The Collected Biblical Writings of T.C. Skeat*, Brill, Leiden, 2004, p. 96.

wrote for the 'incapable multitude' of those times there is a sort of classicism. His temperament was far too romantic for it.²¹⁸

Whether he was a Templarian or not, Webster was never called to the bar. Regardless, the impact the law had on his writing was outstanding. From Machiavelli on, the tendency to rationalise law and to reduce it to a functional and authoritative body was at the centre of legal philosophy, which culminated in England thanks to the insight of Thomas Hobbes. Whichever social, philosophical, or political direction Webster took in his lifetime, he would contrast and refuse any attempts at rationalising law. As Dena Goldberg suggests, in *The White Devil*

the focus of the attack is the orthodox view of human nature and the rationalisation of law it generated. In *The White Devil* there is no trace of the idealistic notion that humanity, by virtue or natural reason, can comprehend the basic laws of good and evil. The only kind of reason Webster recognises as real is the reason of Machiavelli's fox. [As a result,] Webster is equally unconvinced by the doctrine of humanity's innate sociability.²¹⁹

²¹⁸ Rupert Brooke, *John Webster and the Elizabethan Drama*, John Lane Company, New York, 1916, pp. 87-8.

²¹⁹ Dena Goldberg, *Between Worlds: A Study of the Plays by John Webster*, Wilfrid Laurier University Press, Waterloo, Ontario, 1987, p. 72.

III.I. *The Websterian play and its legal connotation.*

The opening scenes of Webster's tragedies are quite similar in the way they are extremely rapid and unexpected. The author does not channel prior events to the construction of an antecedent but starts writing *in medias res* by avoiding any preambles. He was surely looking for a certain effect of amazement; the reader, as well as the audience, must soon feel and process a sense of inescapability, by which not only are the characters doomed to suffer a mocking destiny, but they also lack discipline, they cannot come to their senses to lose it all to their instincts and emotions.

Thus, *The White Devil* opens with a harsh 'sentence,' in a double entendre, as count Lodovico enters the stage lamenting his destiny: "Banish'd!"²²⁰ – he utters, blaming the court for sending him off to Padua.²²¹ *The Duchess of Malfi* exploits the same idea, but in reverse. Antonio is welcomed back by Delio to Malfi after a long stay at the French court. We soon get a sense of displacement and eradication, which will reach its climax with his escape and which will force the scene to re-settle itself several times between Malfi, Ancona and Milan, in such a way to subvert all the Aristotelian unities. Webster puts the audience right in the midst of a storm and haunts them with a rhapsodic sequence of events which gives no grounds for tranquillity and delight. And these are the precise words Bosola speaks to the cardinal, "I do haunt you still;" (*DM*, I, i, 30) he will, until the very end, until everything crumbles.

As a matter of fact, the Websterian stage has no solid foundations. It is a continuous cataclysm, an infernal circle where nobody gets redemption, not even the innocent. But what was innocence to Elizabethans? They surely wallowed in the mud of hypocrisy, injustice, and falsity, and were driven by a subtle spirit of ambition, dishonesty, falsehood, and moral ineptitude. Webster depicts a world where

²²⁰ *The White Devil* (I, i, 1); see also *Appius and Virginia* APP: "I must be one of the *Decemviri* / or banisht Rome. Banish [...]" (I, i, 37-8).

²²¹ The courtroom is always present, inside and outside the scene, haunting the life and the events of almost all the characters.

characters indulge in sexual pleasure and seek dishonest preferment and administer justice without equity [...] The lust of Brachiano, the passion of the Duchess of Malfi, the ambition of Vittoria and Flamineo, the wrath of Duke Ferdinand and others – are frequently associated with the devil, whose presence is very conspicuous.²²²

The White Devil, in particular, stresses “the continual linking of the characters of the play with devils and witches and of the entire society of Hell.”²²³ The devil manifests itself also through language and food, developing the medieval idea of gluttony as an expression of *libido*. Hedonism in Webster is equally pertaining to the sphere of sexuality, pushing characters to literally ‘devour’ each other or give vent to their excitement.²²⁴ We can see this association when Julia enters the Cardinal’s lodging to find him busy with Bosola, whom she loves in secret:

JULIA: Sir, will you come in to supper?

CARD: I am busy. Leave me.

JULIA [*aside*]: What an excellent shape hath that fellow! (*DM*, V, ii, 117-9).

The exact same dynamic exists in *The Devil’s Law-Case*, where Leonora, a merry widow, pursues her daughter’s suitor and fancies dining with him:

LEON: Will you stay supper?

CONT: I cannot, worthy lady.

LEON: I would not have you come hither, sir, to sell,

But to settle your estate. I hope you understand

²²² K. Habibmohamed Ansari, *John Webster: Image Patterns & Canon*, Sterling Publishers, Delhi, 1969, pp. 190-1.

²²³ Ranajit Basu, *Webster’s plays: Functions of imagery in Elizabethan and Jacobean tragedy*, Firma KLM Ltd, Kolkata, 1998, xiv.

²²⁴ See *The Duchess of Malfi*: “I have seen children oft eat sweetmeats thus, / As fearful to devour them too soon.” (I, i, 456-7); see also *Appius and Virginia*: “I have seen children oft eat sweetmeats thus, / As fearful to devour them” (I, i, 130-1).

Wherefore I make this proffer. (*DLC*, I, ii, 181-185)

It is, also, the case of the Duchess who – pregnant with her first child – eats apricots as her cheeks flush (and “How greedily she eats them!”) (*DM*, II, i, 140) Other times, food is also an element of abuse (see Flamineo to Zanche: I’ll stop your throat / With winter plums.” *WD*, V, vi, 64). Webster constantly pervades our minds with nefarious thoughts of death; but he equally succeeds in exploring and enhancing the supreme expression of vitality and a tangible authentication of the *da sein* (namely profane and sensual love). His is the rhetoric of love and death and of love in death. The Websterian tragedy is closest to Seneca’s not for the presence of paranormal and out-worldly phenomena (a rare element in Webster, indeed)²²⁵ but for the performance of the tragic in its deepest meaning, namely the presence of a generational curse which implies the idea that sons must atone for the sins of their ancestors.²²⁶ The Duchess is a modern and lusty Medea whose sons pay for the misconduct and the deeds of their mother with their own lives.

Maternity is never, for sure, a tender and natural moment, but an abomination, something which is often treated with abhorrence, seldom experienced with serenity, and never carried out under favourable conditions. In *The Devil’s Law Case* “Leonora is divested of maternal impulse and transformed into a fury. She is *Venus Genetrix* gone haywire, a living demonstration that the simple animal virtues are not available to human beings.”²²⁷ The Duchess hides her pregnancy by wearing larger clothes, Jolenta totally fakes it while Angiolella, the ‘beauteous’ nun, can barely disguise herself and wraps her womb up in her religious attire. Not to forget Cariola, the Duchess’s lady-in-waiting and

²²⁵ “Stoicism [had] become almost as much Elizabethan as Senecan; and the same applies to the bloodshed and vices, ghosts and skulls of Webster and Tourneur. In them the Revenge-play has culminated; after them it fades.” F. L. Lucas, *Seneca and Elizabethan Tragedy* (1922), Cambridge University Press, Cambridge, 2019, p. 129.

²²⁶ See Leonora: “If thou dost marry Contarino, / All the misfortune that did ever dwell / In a parent’s curse light on thee!” (*DLC*, I, i, 92-4).

²²⁷ Dena Goldberg, *Between Worlds: A Study of the Plays of John Webster*, Wilfrid Laurier University Press, Waterloo, Ontario, 1987, p. 148.

most trusted confidante who delivers her children and carries them everywhere. In act four she is strangled with her mistress. Unlike the fierce Duchess, Cariola faces death totally unprepared and, with implacable fear, bites and scratches her executioners until she dies crying “I am quick with child;” (IV, ii, 248) she thus comes clean on her pregnancy by implying, of course, she is to be spared. Webster introduces subtly a puzzling legal question, which is the one of death *in utero*. Besides, being the maidservant a secondary character that draws little attention, the question, like many others, has been left unresolved. Sara Butler cites the case of a Protestant woman during the reign of Queen Mary I as reported by Blackstone in his *Commentaries*:

Blackstone reminds us that both the “law of nature” and Roman (read, “civilised”) legal tradition dictate exempting a pregnant woman from such a “bloody proceeding.”²²⁸ If she pled her belly and was found by a jury of matrons to be quick with child [...], the court must grant her a reprieve until the birth. Spurred on by Mary’s “cruelty” and “barbarity,” royal justices disregarded the normal procedure and ordered the woman’s sentence carried out.²²⁹

Mary herself would be diagnosed with uterine tumour at the time of her death. Anyway, we must consider that, as researchers of Webster, we are often called to act and reason outside the law. The Duchess and Cariola’s executions are carried out on the basis of purely private interests, which makes the law completely irrelevant unless it is called to purpose:

FER: By what authority didst thou execute

This bloody sentence?

BOS: By yours.

FER: Mine! Was I her judge? Did any ceremonial form of law

Doom her to not being? Did a complete jury

²²⁸ The heretic woman was sentenced to burn alive.

²²⁹ Sara M. Butler, “Pleading the Belly: A Sparing Plea? Pregnant convicts and the courts in medieval England” in S. Butler, K. J. Kesselring (eds.), *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain*, Brill, Leiden, 2018, p. 131.

Deliver her conviction up i'the court?
Where shalt thou find this judgment registered,
Unless in hell? (*DM*, IV, ii, 292-8)

Ferdinand's ability to make pretences and abdicate responsibilities makes him a well accomplished villain. Besides, he is not the only one to counterfeit and adulterate the truth; it appears to me that Cariola's claim to be pregnant is nothing but a lie, a line she delivers to escape her destiny. Also, there is no clue who the father might be aside from Delio, who represents her male counterpart in social terms, but this supposition collides with the maid's firm decision not to marry in act three.²³⁰ Her excuses "demonstrate that she understands the societal expectations for a maidservant. She appears to hope that there may be safety in feigning this conformity, since putting herself under patriarchal control eliminates her as any sort of a threat."²³¹ Bosola's attempt at making the Duchess nauseous suggests, at a greater extent, the idea of pulling the seed out of her womb. Her being capable of childbearing is her greatest damnation, along with her propensity for self-affirmation and rebellion.²³²

As a result, filial relationships for Webster are often compromised and unstable (Cornelia: "See, the curse of children! / In life they keep us frequently in tears; / And in the cold grave leave us in pale fears." *WD* (I, ii, 279-282) Blood ties and family matters agitate the characters primarily on an emotional level, but they somehow *always* end up having legal and public implications, thus asserting the supremacy of money and interest over the domestic sphere. Leonora's decision to disinherit her son Romelio in *The Devil's Law-Case* is a relatable circumstance. A social climber, he has a practical and materialistic view of life which surpasses the love he has for his mother and sister. The same dynamics are retracable in *The White Devil*, where Flamineo encourages the romance

²³⁰ ANT: "Wilt thou marry, Cariola?" CAR: "Never, my lord." *DM* (III, II, 23-4).

²³¹ Sarah Boyle, *Cariola in context: an exploration of the female servant in The Duchess of Malfi* (Master Thesis), Dalhousie University, Halifax, Nova Scotia, 2019, p. 14. Available at: <http://hdl.handle.net/10222/76383>

²³² Of course, the eradication of the fruit (which implies an act of mutiny) has biblical reverberations.

between Vittoria and Brachiano (whom he regards and woes as his superior), and compromises the stability of two households mostly for personal profit. As the law of retaliation strikes back, he ends up being trapped in his own game. Blood spillage and kin-slaying are central issues in the dramas. The Duke's insurrection to repudiate his wife has no considerable effects in terms of empathy and amazement; on the contrary, the killing of Marcello at the hand of his brother Flamineo and the rift with their mother is way more relevant. The plot raises a question: "Can blood so soon be washed out?" (V, iv, 79) It sure can, materially, but revolt and recklessness poison it irremediably.

Peter Murray reflects on the significance of blood in *Appius and Virginia* by giving the example of Appius and Clodius that "should let their own blood flow to purge their lust, believed by Elizabethans to be lodged in the veins."²³³ The shame of Virginia, caused by the yearning desire the *decemvir* has for her, is paid with her killing, which is perpetrated by her father in a courtroom. Webster and Heywood's inspiration were, perhaps, *Titus Andronicus* (1595) and *Measure for Measure* (1604), both believed to have been completed long before *Appius* appeared on the stage. Of course, Webster would not neglect such important themes as sexual entanglements and the curse of honour. He placed much more emphasis on this in *The Duchess of Malfi*, from which I will quote what I personally believe is the most iconic passage of the entire play, beautifully filled with heat and passion:

CAR: Shall our blood,
The royal blood of Aragon and Castile,
Be thus attainted?
FER: Apply desperate physic-
We must not now use balsamum, but fire,
The smarting-popping glass, for that's the mean
To purge infected blood, such blood as hers.
There is a kind of pity in mine eye,

²³³ Peter B. Murray, *A Study of John Webster*, Mouton, The Hague, 1969, p. 250.

I'll give it to my handkercher (*DM*, II, v, 21-8)

The Duchess's twin intends to cleanse her blood with cupping just like he treats his rage with herbs.²³⁴

Rhubarb, O for rhubarb

To purge this choler! Here's the cursed day

To prompt my memory, and here't shall stick

Till of her bleeding heart I make a sponge

To wipe it out. (*DM*, II, v, 12-5)

A strong and extreme physicality is perhaps what characterises Webster's writing the most. The way the Duchess dies, the intensity of her torture and the moments of passion she shares with her lover make her bodily presence an element of disruption and suspension in the theatrical fiction and a point of convergence between the private space and the public vision. The Duchess *corpus non habet*. Her body belongs to everybody, from Antonio, to her brother, to Bosola and her torturers. It belongs to her progeny, it belongs to the Vatican, it belongs to her dukedom, it belongs to death. It belongs to the stage onto which she flops with the strings hanging around her neck. The law lacks a powerful and leading authority, and the more institutions come into action, the more individuals break away from it. The same lawmen secede from the courts, as is the case of judge Crispiano in *The Devil's Law-Case*. Indeed, the Duchess is a law unto herself: she disregards conventions and only bows before what is truly sacred to her, namely love and self-determination. As she lies dead, Ferdinand wishes to see her face one last time in the dim light. He uncovers his sister's body just like Antony does with Caesar or Icilius with Virginia (*Icilius Numitoriusque exsangue corpus sublatum ostentant populo*).²³⁵ The

²³⁴ Webster alludes quite seldom to medical solutions and therapies. See, for instance, Cariola: "In my opinion / She were better progress to the baths / At Lucca, or go visit the Spa / In Germany." (*DM*, III, ii, 315-7).

²³⁵ Titus Livius, *Ab Urbe Condita*, III, 48.

corpses are relics; they retain a piece of tangible evidence of justice failure. Sometimes Webster speaks of the law in scientific terms and this is an aspect of his apparent knowledge and usage of medical language. Corporality, thus, invades even the most decorous environments of society. From a metaphysical perspective, the law can be considered as *nomos*, i.e. something unstable which is susceptible to change and variability. Lodovico calls out Democritus's name in the opening of *The White Devil*: ("O Democritus, thy gods / That govern the whole world! / Courtly reward / And punishment. Fortune's right a whore." (I, i, 3-5) For the dramatist, justice is a matter of fortuity; it simply happens by chance and a principle of causality governs the life of us all. It is a system which lacks its barycentre and the least exact of all sciences. The law of nature and cosmic order vanquish the law of men, seditious, ungovernable, and constantly undermining authority. The macrocosm projects its light beam onto this cursed land of Malfi. In act two, scene one, Antonio disregards with superstition his prophetic nose bleeding just a few moments he drops a piece of paper containing his first child's natal chart. As Bosola reads, the alignment and transition of planets signify a short but eventful life, a cosmic predetermination one cannot shirk. There is, in fact, "in the design of the tragedy [...] a continuous uncertainty as to whether fate or chance rules the world."²³⁶

The blurred line between fortune and justice allows the possibility of private and public disturbance and hinders any kinds of positive resolutions to it. Even the comedy, where peace and justice would normally be restored in the epilogue, fails at applying its conventions. In *The Devil's Law-Case*, in fact, the judge's misogyny hits Leonora, Angiolella and Jolenta with an unjust sentence, according to which they "for their vows breach unto the monastery, / Shall build a monastery." (V, vi, 84-5) These women, unqualified in the craft, are called to construct their own place of confinement. Vittoria is relegated in a house of convertites (what she cleverly defines a 'mitigating title,') while the unfortunate Duchess is imprisoned in her own estate (originally the Ziro tower in Malfi, which Webster chooses to set differently). Gender rules do not escape the practice

²³⁶ Lawrence J. Trudeau, *Drama Criticism: Criticism of the Most Significant and Widely Studied Dramatic Works from All the World's Literatures*, Volume II, Gale, Michigan, 1992, p. 433.

of confusion and subversion; quite the contrary, interrelations of gender in Webster always produce social reversals between brothers and sisters, husbands and wives, mothers and sons and, in the case of Vittoria Corombona, prosecutor and accused. Webster witnesses the crisis of class hierarchy and reveals the consequences of the abuse of patriarchal assumptions. Vittoria, euphemistically addressed by many as the “Venetian courtesan,” can only aspire to achieve social climbing and redemption by leveraging her romantic involvement with Brachiano. The sexist male attitude of her entourage gets her inevitably stuck in the loop of ambition and manipulation, forcing her to renounce her status, achievements, and connections.

When it comes to the author’s misogyny, my estimation is that the claims are never fully exhaustive. Many have recognised and contested the biased attitude which pervades the plays, but which is nothing more than a common manifestation of the spirit of the age. Flamineo’s demeaning statements on women in *The White Devil* validate the argument: “Women are more willingly and more gloriously chaste when they are at least restrained of their liberty” (I, ii, 86-7); “Women are like cursed dogs: civility keeps them tied all daytime, but they are let loose at midnight; then they do most good, or most mischief” (I, ii, 187-8); “Women are caught as you take tortoises, She must be turn’d on her back” (IV, ii, 148-9); “Women are like to burs; where their affection throws them, there they’ll stick” (V, i, 90-1).

The recurrence of “the imagery linking female sexuality, restraint, and animalistic behaviour”²³⁷ throughout the play is massive. See, once more, Flamineo: “I do love her just like a man holds a wolf by the ears;” “Love a lady for painting or gay apparel? [...] Aesop had a foolish dog that let go the flesh to catch the shadow.” *WD* (V, i, 148-150; 165-8) The play does not constitute a unique case. This symbolism is also traceable in *The Duchess* (see, for instance, Monticelso and his concubine: “When thou wast with thy husband, thou wast watched / Like a tame elephant”; see, also, Ferdinand: “Screech-owl; pithee peace;” (III, ii, 89) “Methinks I see her laughing / Excellent hyena!”) *DM* (II, iv,

²³⁷ David Coleman, *John Webster, Renaissance Dramatist*, Edinburgh University Press, Edinburgh, 2010, p. 38.

30-31; II, v, 38-39) The Duchess of Malfi counterposes a positive imagery;²³⁸ throughout the play, in fact, she “uses images in which she compares herself to birds. These images underline her concern with the natural world.”²³⁹ Not only: she also “laments the fact that in nature birds are free to choose their own mates and announce their choices to the world, while she, who would live naturally, is unable to do so.”²⁴⁰

Amidst a plenitude of examples, I would still consider Flamineo a first-rate chauvinist for the very simple reason that his misogyny is deeply rooted and can be traced back to infancy. The character, in fact, lacks basic human decency and will not refrain from turning spiritedly against his own mother:

FLAM: And shall I,
 Having a path so open, and so free
 To my preferment, still retain your milk
 In my forehead? No, this face of mine
 I'll arm, and fortify with lusty wine,
 'Gainst shame and blushing.
 CORN: O that I ne'er had borne thee! (*WD* I, ii, 320-326)

Flamineo's disdainful view of womanhood adapts to the larger English Renaissance collective sentiment, which, regardless, is an integral part of the work of other Jacobean, including Shakespeare, Jonson, and Chapman. What is truly embraceable is that Webster's misogyny is one of the harshest in terms of expression; he goes as far as comparing “women with leprosy and gangrene using grotesque images of decay [as to warn] against the pleasures afforded by female flesh, comparing the kiss of a beautiful

²³⁸ Ferdinand's allusion to the bird's impossibility to take wings is harshly negative: “Didst thou ever see a lark in a cage?” (IV, ii, 123)

²³⁹ William E. Mahaney, *Deception in John Webster's Plays: An Analytical Study*, Institut für Englische Sprache und Literatur Universität Salzburg, Salzburg, 1973, p. 187.

²⁴⁰ *Ibidem*, p. 174.

woman to a “dead man’s skull” and a woman’s body to a “poisoned garden” and a “burial plot.”²⁴¹

Taking careful note of the plentiful evidence of the author’s anti-feminism, I will now briefly consider those aspects which might redeem him or simply explain his choice to execute such a questionable rhetoric of revulsion, which I find to be equally zealous in Shakespeare. King Lear’s repulsive oratory against women serves this purpose well because he gives graphic and insulting descriptions of female anatomy by attributing all the negativity to what he calls the “sulphurous pit.”²⁴² Webster, instead, defames women by avoiding sexual references. For instance, in *The White Devil* Brachiano simply turns away from his “loathed duchess” (II, ii, 4) when she tries to embrace him: “O your breath! Out upon sweet meats and continued physic! / The plague is in them.” (II, i, 163-4)²⁴³ The fact that Isabella will die of poisoning²⁴⁴ by kissing her spouse’s portrait is funny and dramatic at the same time; not only is her death performed in a dumb show (which alone sets the tragic event in a comic dimension), but the same mimicry seems to suggest that she gets iced by the stench of her own “venom.”²⁴⁵ Curiously enough, Brachiano uses the same metaphor when speaking with Francisco: “Uncivil sir, there’s hemlock in thy breath / And that black slander;” “Spit thy poison.” (*WD*, II, i, 58-9; 68) The anecdote reminds us of the short and unhappy marriage between Henry VIII and Anne of Clèves; it is well known that the king showed the German lady a certain

²⁴¹ David G. Dilmore, *Misogyny: the Male Malady*, University of Pennsylvania Press, Philadelphia, 2001, p. 117.

²⁴² William Shakespeare, *King Lear* (IV, vi, 123).

²⁴³ See *The Devil’s Law-Case* for a comparison: Contarino [to Leonora]: “It could never have got / A sweeter air to fly in than your breath” (I, i, 124).

²⁴⁴ The episode is covertly anticipated in Isabella’s dialogue with Francisco, where the lady tries to moderate her brother’s fury toward Brachiano. She ingenuously hopes her arms “Shall charm his poison, force it to obeying / And keep him chaste from an infected straying” (*WD*, II, i, 15-6).

²⁴⁵ There are many accounts on Isabella de Medici Orsini’s death, all very colourful and unreliable. In *Les Médicis* (1845) Alexandre Dumas insinuated that the lady had an incestuous relationship with her father Cosimo.

reluctance and in an oft-quoted conversation with Thomas Cromwell (the real planner of the union), he bemoaned she was “nothing fair and [had] very evil smells around her” – which forced him to “[leave] her as good a maid as [he] found her.”²⁴⁶

Not only are women the expected victims of the strictness of the law,²⁴⁷ but they are also constantly deprived of their natural feminine qualities and forcibly subjected to a rhetoric of humiliation. Indeed, the same lack of female solidarity between characters is rather indicative of the overall cultural climate of the plays. But, again, the matter cannot be generalised. In *The White Devil* Marcello and Cornelia resent Zanche’s attentions for Flamineo and beat her without mercy.²⁴⁸ For her part, Zanche is (initially) as devoted to Vittoria as Cariola is to the Duchess and both die beside their mistresses as obsequious accomplices.²⁴⁹

Webster’s misogyny merely serves fictionality; it is certainly functional to the plot and some narrative choices he makes definitely refute the simplistic view of him as a chauvinist. The segment where Annabel disarms (read “emasculates”) Rochfield in *A Cure for a Cuckold* is quite ambiguous. The damsel promptly draws the thief’s sword in the woods with a “masculine vigour” immediately after he promises her not to “violate [her] chastity” and “hinder [her] desired Hymen.” *CFC* (II, ii, 14; 20; 56) Of course, the exaggeration itself is dictated by the basic rules of the comedy, where paradoxes exceed the boundaries of social convention and physicality replaces verbal interaction. But the author’s choice to confer female characters such admirable qualities as assertiveness, perseverance, wisdom, and strength suffices to reconsider his role and position on gender repression. Just like Shakespeare, Webster occasionally surpasses the old stereotype that has women associated with emotionality and men with logicity. The

²⁴⁶ Sarah-Beth Watkins, *Anne of Cleves: Henry VIII’s Unwanted Wife*, Chronos Books, Alresford, 2017, p. 57.

²⁴⁷ Vittoria is very explicit in this sense: “but withal / So entangled in a cursed accusation / That my defence of force, like Perseus, / Must personate masculine virtue.” (III, ii, 134-6).

²⁴⁸ “COR: Is this your perch, you haggard? Fly to th’stews; MAR: You’re a strumpet. An impudent one.” *WD* (V, i, 178; 183).

²⁴⁹ Only because Zanche’s plan to rob Vittoria and elope with Francisco/Mulinassar fails.

Duke of Calabria and the Duchess of Malfi are identical twins, but they are also clashing opposites: they diverge in their nature and disposition and have contrasting personalities (he is, in all respects, her *nemesis*). Ferdinand is a nervous wreck that has mental meltdowns, whereas his sister keeps herself balanced and handles her fragility with steadiness and fortitude. Full of pride and spirit, Vittoria Corombona refuses to cry, even under the threat of death: “I will not weep. / No, I do scorn to call up one poor tear / To fawn on your injustice” (*WD* III, ii, 284-6); “I will not in my death shed one base tear” (V, vi, 224).²⁵⁰

As a matter of fact, male characterisation generally engenders corrupt and immoral subjects in Webster’s plays; the author populates the stage with any sort of raving, conniving, degenerate, and self-serving men giving just a little space for a few righteous fellows (Delio and Antonio Bologna, Francisco, Contarino, Bonvile...) As for Daniel de Bosola, we may argue he is an atypical villain. First a malcontent and then a penitent revenger,²⁵¹ many have described the Duke’s enforcer as a tender and remorseful murderer who has a change of heart. His own name is a misspelling of the Italian noun *bussola* (lit. compass)²⁵² as to represent his constant search for moral direction and spiritual regeneration. Once the deed is done and his task is completed, he pities the Duchess and utters mournful words. If that were not enough, in *The White Devil* the English ambassadors seems sympathetic to Vittoria and somehow in disagreement with the policies of the Church: “FR. AMB: She hath lived ill. ENG. AMB: True; but the cardinal’s too bitter; She hath a great spirit” (III, ii, 109-110; 139). To make the point, misogyny is a sad reality which pertains to early modern drama – as to many other literary eras and genres – and of which Webster is one of the main representatives, but everything must be placed in context.

²⁵⁰ On the other one hand Isabella, Vittoria’s perfect double, cries herself to sleep. See Giovanni: “I have known her wake a hundred nights, / When all the pillow, where she laid her head, / Was brine-wet with her tears.” *WD* (III, ii, 328-30).

²⁵¹ Antonio’s speech in the first act turns out to be prophetic: “This foul melancholy / Will poison all his goodness.” (I, i, 71-2).

²⁵² Not coincidentally, the sailor character of *A Cure for a Cuckold* is named “Compass.”

However, some observations can be made on the verse, which seems to endorse male parts allowing them to directly address the audience while heroines remain basically limited to dialogues. Lisa Hopkins observes that in *The Duchess of Malffi* “there are some obvious, clearly identifiable patterns present – the female speaker is repeatedly interrupted by the men and is never in fact allowed to finish what she wants to say.”²⁵³ In Act one, Scene one, when she confronts her brothers “the male speakers dominate the conversation, with Ferdinand speaking thirty-three lines, the Cardinal nine and the Duchess five.”²⁵⁴ In the exchange between Flamineo and Cornelia quoted above, the latter serves as a minor counterpart: her words “act as dramatic prompts or as short despairing moralised commentaries on Flamineo’s speech. She functions as a marker through whom the audience judge Flamineo, meanwhile giving Flamineo full rein to delineate and demonstrate his personality.”²⁵⁵ In relation to functionality of characters take the example of “Bosola’s two speeches about women in act two. The ‘old lady’ to whom these are addressed [...] has no considerable relation to the plot and her two appearances simply and frankly serve as cues for Bosola.”²⁵⁶ In general, male characters are expected to soliloquise and take over the stage²⁵⁷ while females are confined to lead supporting roles (with the exemplary exception of Vittoria, who – despite being always paired on the stage and never appearing alone – dominates the trial scene in *The White Devil*, as we shall see). Women are also usually humble and of lower birth, while most men are distinguished persons and religious or civil officials. Webster’s case is exemplary of the difficulty to react to male writers or criticise male-authored plays from a contemporary and feminist perspective. “From the earliest stages of Webster’s critical

²⁵³ Lisa Hopkins, “The Part with Ne’er a Bone in’t: Webster’s women and the politics of speech” in *Journal of Gender Studies*, 4:2 (1995), 181-187, 183.

²⁵⁴ *Ibidem*.

²⁵⁵ Kate Aughterson, *Webster: The Tragedies*, Palgrave Macmillan, New York, 2001, p. 154.

²⁵⁶ T. B. Tomlison, *A Study of Elizabethan and Jacobean Tragedy*, Cambridge University Press, Cambridge, 1964, p. 137.

²⁵⁷ The merchant Romelio gives a thirty-four lines speech in *The Devil’s Law-Case* (II, iii, 95-129).

afterlife” – in fact – “it was generally recognised that his two major plays were atypical in placing a woman at the centre of the play, and in having the central female character also the title character;”²⁵⁸ what is even more interesting is that “Webster chose to pursue this strategy not once, but twice.”²⁵⁹

While maintaining a less radical position with regards to the author’s misogyny, I disagree with this last consideration. It is, in fact, true that generally title characters acquire a certain centrality, but the issue requires deeper reflections. Undoubtedly, “Duchess” is more a qualification than a subject which is, most importantly, adjectivized by the place of origin (this is, after all, a “tragedy of state” and one of a kind). It appears from the title that the woman is only perceived in terms of community, hence as a member of the Italian feudal aristocracy (which certainly sounded more attractive to Elizabethans, who saw Italy as an embellished place where the most heinous crimes could be committed and where the law would be less vigilant). The same applies for *The Jew of Malta* (1590) and *The Merchant of Venice* (1605) but with a big difference: while these two are expressly identified as Barabas “the Jewish merchant of Malta” and Antonio “the Christian merchant of Venice,” the Duchess has no name. Everything is designed to pulverise her identity and expunge her sense of belonging; she acts and moves in anonymity, she hides her feelings of love toward Antonio and hate toward her brothers, she hides her marriage, her fear, her pregnancy, herself and her family. She is thrown in a dark hole physically and metaphorically and thus condemned to obscurity and oblivion.²⁶⁰ She knows she has been reduced to a mere representative of her rank: “Am not I thy Duchess? [...] I am Duchess of Malfi still” *DM* (IV, ii, 127; 134); by compromising with reality, she accepts that her purpose in life is to be what she is by birth and station, suppressing her longing for individuality.

²⁵⁸ David Coleman, *John Webster, Renaissance Dramatist*, cit., p. 73.

²⁵⁹ *Ibidem*.

²⁶⁰ Webster does not interpret *Damnatio memoriae* in its religious meaning; he keeps the original legal connotation of the locution instead, which is mainly referred to the exclusion of a subject from a group and the consequential cancellation of their agency in society. No trace or record are left of the Duchess and her beloved ones.

As scholars observe, “there is still relatively little criticism of Webster’s tragicomedies,” when these are actually “far from showing a sharp decline from the achievements of the tragedies.”²⁶¹ This explains why *The Devil’s Law-Case (or When Women Go to Law, the Devil is Full of Business)* is often erroneously referenced with its main title, while the subtitle remains almost unaddressed. Leonora has mischievous attitudes and deceives the court by making false statements. Although Webster gives enough clues to induce an attentive reader to realise that the true devil in the courtroom is Romelio, the obvious preconceptions against the women who are called to the stand feed the frequent discussions about the play’s cohesion, sense, and wholeness.²⁶² The subtitle implies that “Leonora is as much a ‘white devil’ in her way as the lover-murderess of the first tragedy,”²⁶³ sticking to a form of prejudice which was common at the time.²⁶⁴ We must, in fact, consider that the tragicomedy highlights the fact that

the sense of ‘scandal’ attaching to women litigants – or simply women appearing in court – in much of early modern drama may appear to be a fictional stereotype. Women in plays often bring dubious suits, get up to strange tricks that throw legal procedures into chaos, and engage in shady sexual dealings.²⁶⁵

If women cannot appear in court, they can always dodge the law. In Heywood’s *A Woman Killed With Kindness* (1607) Susan convinces her brother to escape so he won’t be

²⁶¹ Jaqueline Pearson, *Tragedy and Tragicomedy in the Plays of John Webster*, Manchester University Press, Manchester, 1980, pp. 2-3.

²⁶² This is Webster’s least performed and most undocumented play. Many critics lament its limitations in terms of consistency and structure.

²⁶³ Charles R. Forker, *Skull Beneath the Skin: the Achievement of John Webster*, Southern Illinois University Press, Carbondale and Edwardsville, 1986, cit., p. 374.

²⁶⁴ See Contarino: “For women’s resolutions in such deeds, / Like bees, light oft on flowers, and oft on weeds” (*DLC*, I, ii, 198-9).

²⁶⁵ Subha Mukherji, *Law and Representation in Early Modern Drama*, Cambridge University Press, Cambridge, 2006, p. 206.

arrested for murder. Likewise, the Duchess of Malfi makes it possible for Antonio to flee with their firstborn in the name of the law.²⁶⁶ She falsely accuses him of fraud before Bosola because she has considerable knowledge of her late husband's rights. She also knows how to deceive the courtly entourage by leveraging on the importance of social convenience, or whatever it takes to fit in a community with a skewed sense of integrity. She serves the court a *magnanima menzogna* "cause it must shield our honours" *DM* (III, ii, 182), mindful of the fact that the law is no less corrupt and falsified.

As for *The White Devil*, the title has been at the heart of a cultural debate for years. Middleton re-echoed it in *The Widow* (1652): "FID. The miller's a *white devil*; he wears his theft / Like innocence in badges most apparently / Upon his nose, sometimes between his lips; / The tailor modestly between his legs."²⁶⁷ These few lines seem to clarify its significance, which basically designates someone who hides an unacceptable behaviour behind their looks and manners. Of course, the most voiced opinion is that Vittoria might be the devil in question, a view which appears to be reinforced by some elements of the text (see, for instance, Flamineo: "Thou hast a devil in thee." *WD*, V, vi, 18) Vittoria herself calls out demons and evil spirits in times of despair:

VITT: "O the cursed devil
Which doth present us with all other sins
Thrice candied o'er [...]
Makes us forsake that which was made for man,
The world, to sink to that was made for devils,
Eternal darkness." (V, vi, 58-60; 63)

The choice of the colour sums up different suggestions. Plainly and simply, it is the emblem of purity and femininity, a mystification of concealed traits that are generally associated both with women and with the supreme fiend (namely lust, fear, domination,

²⁶⁶ "Antonio, the master of our household, / Hath dealt so falsely with me, in's accounts" (*DM*, III, ii, 167-8).

²⁶⁷ Thomas Middleton, *The Widow* (IV, ii, 41-4).

physical pleasure *etc*). Similarly, “Monticelso speaks of Vittoria’s “black lust” (3.1.7) while the lawyer calls her a woman “Who such a black concatenation of mischief hath effected” (3.2.29-30), and although Francisco demurs — “I do not think she hath a soul so black / To act a deed so bloody” (3.2.183-84) — the audience knows that he is wrong.”²⁶⁸ But if we agree that Vittoria is the ‘white’ devil, we must necessarily address the cultural allusions to Zanche’s ethnicity by assuming she is the ‘black’ devil of the story (the character is clearly identified as ‘the Moore’ in the text and she is the one who pairs Francisco when, in act five, he comes disguised as the Moorish visitor Mulinassar; the expedient is repeated in the last scene of *The Devil’s Law-Case* when Jolenta disguises herself as a Moorish nun).²⁶⁹ The 1612 quarto reads: “The White Diuel, or The Tragedy of Paulo Giordano Ursini, Duke of Brachiano, with the Life and Death of Vittoria Corombona the famous Venetian Curtizan.”²⁷⁰ While the title soon draws the attention on the male protagonist, Vittoria’s name is contained in a subheading that seems to be intentionally left at the end. Its biographical content implies the nature of the sources of the play which generally range from popular accounts to contemporary chronicles. The manuscripts (including the posthumous) usually reported the bloody events highlighting the tragic nature of the situation with the despicable aim of grabbing popular attention. This proved to be an encumbrance for the Italian historian Domenico Gnoli

²⁶⁸ Annaliese Connelly, Lisa Hopkins, “A Darker Shade of Pale: Webster’s Winter Whiteness” in *e-Rea, Revue Électronique d’Études sur le Monde Anglophone*, 12:2, 2015 Available at: <https://doi.org/10.4000/erea.4483>

²⁶⁹ The cultural contemporary discourse in Webster is not as organic and noteworthy as it is in Shakespeare or Marlowe, but it is an additional aspect which is still occurring, and which confirms his position as an all-round playwright. It can be argued that his depiction of Zanche as “a silent object” partly contributes to the expression of the idea of the “potential domestication of black people [...] and social control.” Cf. Paul Frazer, Adam Hansen (eds.), *The White Devil, A Critical Reader*, Bloomsbury, London, 2016, p. 89.

²⁷⁰ Webster, John. *The White Diuel, Or, The Tragedy of Paulo Giordano Vrsini, Duke of Brachiano with the Life and Death of Vittoria Corombona the Famous Venetian Curtizan. Acted by the Queenes Maiesties Seruants. Written by Iohn Webster*. England: Printed by Nicholas Okes for Thomas Archer, and Are to Be Sold at His Shop in Popes Head Pallace, Neere the Royall Exchange, 1612. Source: The British Library.

(1838-1915), who for a short period of time published his works under the pseudonym “Paolo Orsini.”²⁷¹ In an effort to give a fairer review of the events, Gnoli addressed “quelli che mi riprenderanno d’aver scelto materia così sanguinosa quando già esce di moda l’offrir delitti a spettacolo,”²⁷² meaning “those who would blame him for choosing to tell such a horrifying story when, in fact, it is fashionable to sensationalise murder.”²⁷³ Stendhal acquired for a substantial amount of money the manuscripts addressing the facts with the sole purpose of reporting things truthfully and thoroughly. Given the number of people involved, the story seems to be “formally the most polyphonic of the *Historiettes*, and it is perhaps to preserve the polyphony that in March 1833 Stendhal resolved to translate the story rather than write a novel presenting Vittoria as a foregrounded passionate heroine.”²⁷⁴

Vittoria Accoramboni never stopped holding court even in death; many, inspired by her adventurous life, published their own version of the story both in poetry and in prose (see, for instance, Giovanni Battista Brendola’s *Sonetto et canzone, fatti nella morte dell’illustrissima signora Vittoria Corambona* (1586) and the anonymous *Morte della signora Corambona e del signor Lodovico Orsino seguite di dicembre 1585*.²⁷⁵ Apparently, the killing of the young lady was what really mattered, in the total indifference toward the legal complications. Unfortunately, however, those complications were the precise motives for her assassination, which took place in 1585 at Palazzo Cavalli in Padua, where she had moved after the death of Paolo Giordano (who, contrary to what Webster staged,

²⁷¹ Probably a tribute to the house of Bracciano.

²⁷² Domenico Gnoli, *Vittoria Accoramboni: storia del secolo XVI corredata di note e documenti*, Le Monnier, Firenze, 1890, p. 1.

²⁷³ My translation.

²⁷⁴ Francesco Manzini, *Stendhal’s parallel lives*, Peter Lang, Bern, 2004, p. 228.

²⁷⁵ The texts are available as parts of the collections of The British Library (London) and the Biblioteca Moreniana (Florence). For details: http://primocat.bl.uk/F?func=direct&local_base=ITEMV&doc_number=000464440&con_lng=eng; http://manus.iccu.sbn.it//opac_SchedaScheda.php?ID=88754&lang=en Last access: May 2021.

died of natural causes). Having inherited from him a princely sum and some movable property, she had earned the hatred of many people, including the one of Lodovico Orsini, cousin of Paolo and now protector of Isabella's son.

Webster's identification of Vittoria Accoramboni as the "Venetian courtesan" might be surprising, considering that the historical character originally came from Gubbio, near Perugia; as biographers state, she only sailed to Venice in the aftermath of the annulment of her second marriage to Bracciano. I believe part of his reasoning for taking this decision was the characterisation, conventional and stereotyped, of the common courtesan of the Italian Renaissance, that is inextricably linked to the world of prostitution. The lagoon city has a centennial tradition of masquerades, but unlike Shakespeare or Jonson, Webster resists the clichéd representations of the comedy of humours and does not resort to the frivolous fetish of fashion and apparel. His characters only dress up to observe and act without being recognised. As for Vittoria, he translates this into stage terms by stressing her ability to switch masks depending on who she is interacting with. Consider also that the play is written in full Jacobean garb and that it mirrors contemporary and near-contemporary works such as Marston's *The Dutch Courtesan* (1604), Massinger's *The Parliament Of Love* (1624) and Ford's *'Tis Pity She's A Whore* (1629).

Legally, the explanation lies in the fact that Padua, the place she was based at at the time of her death, was under the Venetian jurisdiction.²⁷⁶ It is as if the author's intent were to offer a more renowned background, a place where the law was intrinsic to every aspect of its history and social development. Webster depicts the Accorambonis as

²⁷⁶ Webster's story is loosely based on true events. He adjusted the historical sources by implementing a variety of changes. Not only did he replace Gubbio with Venice as Vittoria's hometown, but he scrambled up the order of events and changed some names in order to address authorities safely. In particular, he turned Cardinal Montalto, formerly Alessandro Peretti and the future Sixtus V, into Cardinal Monticelso, Virginio Orsini into Giovanni, and the cardinal's nephew Francesco Peretti into Camillo. Moreover, he confused Flaminio with Marcello (being the latter extremely in favour of his sister's extra-conjugal affair), while Flaminio was the one to be assassinated with her by order of Lodovico Orsini. As for this latter, the author chose to transfigure utterly his role and personality, turning him into the passionate lover and avenger of Brachiano's Duchess.

impoverished aristocrats,²⁷⁷ thus modelling a female heroine who seems more suitable for going to law. In reality, the family possessed a modest number of estates, as well as the ambition to grow more powerful.

Getting back to the title, it is not clear at this point what the author really meant in the first place; from a juridical perspective, the attribute *white* hints at Vittoria's innocence with respect to the facts ascertained during the trial, in opposition to the cardinal's purplish robe which she refuses to bow to (O poor charity! Thou art seldom found in scarlet! *WD*, III, ii, 72) She practically "takes advantage of the Cardinal's robes to comment on his obvious vehemence and to emphasize the disparity between the Christian ethic and his practice of it."²⁷⁸ Monticelso's election as Pope Paul IV is the epitome of abuse of power and clerical corruption, a theme the author approaches with great attention. The cardinal of *The Duchess* is "a melancholy churchman"²⁷⁹ (I, i, 150), a Machiavellian and mischievous character that defiles the principles of Christianity in every possible way. The absolute profanity of the affair he carries with Castruccio's wife desacralizes him and demolishes the sanctity of the institutions he represents. Middleton's lord cardinal in *Women Beware Women* (1657) reformed the anticlerical model given by our poet into an utterly revised and redeemed version; in fact, he preaches fairness and morality and condemns his brother's doings until he dies as a martyr. However, there is no such a thing as holiness or sainthood in Webster, something which almost challenges us to think he was an atheist himself (after all, *The Duchess* and Tourneur's *The Atheist's Tragedy* were only three years apart). Although Ralph Berries does not deny, neither confirm this possibility, he observes how

²⁷⁷ See Cornelia: "What? Because we are poor, / Shall we be vicious?" *WD* (I, i, 305-6); see also Francisco: "Her husband is lord of a poor fortune, / Yet she wears cloth of tissue" *WD* (II, i, 52-3).

²⁷⁸ Carl Vopel, *John Webster. Research on his life and plays* (Dissertation), Printed by A. Guthe, München, 1887, p. 25.

²⁷⁹ Indeed, the Cardinal's melancholy is a characteristic trait. Consider Julia's words: "Are you so far in love with sorrow, / You cannot part of it? Or think you / I cannot love your grace when you are sad, / As well as merry?" *DM* (V, ii, 231-4).

the two tragedies, [especially *The Duchess of Malfi*,] can only be read as explorations of a universe that is without God. The Duchess can die in the expressed hope of heaven. For all the other major characters, the only certainty is the self, and beyond that the unfathomable void. [...] The positive values are human, not religious. No extra-subjective reality is seriously advanced.²⁸⁰

As Contarino says: “We should think / The soul was never put into the body” (*DLC*, I, i, 56-7). Seeing how Webster deconsecrates the spirit of religion is tantamount to assert that he stood out from the circle of contemporary authors by conceiving an idea of the theatre which was essentially modern and emancipated from medieval influence. Webster creates a kind of narrative which is so liberal it disconnects from tradition. There is no blending of *moralities* and the Elizabethan drama, nor even stylistic zealotry; just a visceral portrayal of a compound reality which is hopelessly rotten and sick.

I consider Webster an anti-humanist in true definition, and by this I do not mean to allude to his (uncertain) education. He was a humanist in a philosophical stance because he considered man as full of self-knowledge and the true centre of the microcosm; but at the same time, this man was the incarnation of dissatisfaction, a “man” in his most earthly and base dimension. Marlowe gives the seven deadly sins a full scene in *Doctor Faustus* (1590), leaving them to entertain the audience like in the most noble examples of morality plays. Marlowe persisted in expressing “a religious system which is at best fluid and a religious attitude which is in spirit eclectic.”²⁸¹ For his part, Webster presents the sequence of the madmen entering the Duchess’s privy lodging (Act four, Scene two), and he eventually gives them music to dance to. Their function is similar to the sins’; this eight-men-show serves as a warning and as a form of catharsis (not spiritual, not otherworldly, but merely existential). The Duchess endures an expiatory penance which is willed by earth and not by heaven, meaning she is forced to settle accounts with the godless law of men. I also wish to highlight that the second madman to be presented is a lawyer who claims that “the law will eat to the bone” (*DM*, IV, ii, 94) while bickering with a mad priest, a “snuffling knave.” (100) Webster inspects the legal world and its

²⁸⁰ Ralph Berry, *The Art of John Webster*, Routledge, New York, 2016, p. 128.

²⁸¹ Russell Goldfarb, Clare Goldfarb, “The seven deadly sins in *Doctor Faustus*” in *CLA Journal*, 13:4 (June 1970), 350-363, 350.

interrelation with other spheres and gives us a warning: whether we like it or not, we are never out of it.

It becomes interesting at this point to see how these religious figures deal with legality, or manage their legal affairs. The basic assumption is that they lead people astray into unethical and illicit activities (see Bosola: “I fell into the galleys in your service.” *DM* I, i, 34). The Calabrian cardinal leads his life and handles his everyday business in the headquarters in Rome; like a master puppeteer, he controls his interests from a distance, he never exposes his ways or gets his hands dirty. He avails himself of “flattering panders” and, just like his brother, “He speaks with others’ tongues, and hears men’s suits / With others’ ears” (I, i, 49; 164-5). He never acts impudently and cannot abide Bosola, so he fades upstage whenever he is around:

[*Enter Bosola.*]

CARD: He comes: I’ll leave you.

[*Exit Cardinal.*] *DM* (I, i, 22)

The same pattern is repeated in *The White Devil*. Cardinal Monticelso possesses a black book wherein he signs “the names of all offenders / Luring about the city” (IV, i, 31-2). It soon becomes clear that his purpose is not really to be informed about the conditions of social order in Rome, but to register “the names of many devils” (IV, i, 36) and keep track of their movements just to take advantage of whichever services they can give him.²⁸² As in the case above, he cannot stand Lodovico²⁸³ and his presence repulses him (see Act Four, Scene Three). Cardinals hold altered forms of temporal and spiritual power; they take an active part in administering justice and can always relate on

²⁸² Monticelso omits the names of some churchmen who are filed under “criminals” (And some divinies you might find folded there / But that I slip them o’er for conscience’ sake” *WD* (IV, i, 58-9).

²⁸³ The Count’s reputation as a bandit and a pirate surely precedes him. He is described as a criminal in the opening of the first act, when he is banished from Rome after a long history of thuggery. See Antonelli: “Come, my lord, / You are justly doomed: look but a little back / Into your former life; you have in three years / Ruined the noblest earldom” (I, i, 12-4).

authoritative figures (Monticelso and Francisco seem to be very close and maintain a certain level of confidentiality). They comply with the practice and procedures of the Catholic Church, but they have the detached attitude of common judges; moreover, their conscience is certainly more political than spiritual (see Flamineo: “Religion! O how it is commedled with policy” III, iii, 34). Their position encompasses the religious office but always remains in compliance with laic systems and practices. According to the Vatican law, Vittoria does not really have a point in lamenting the inappropriateness of letting an ecclesiastic supervise her trial or in questioning his *modus procedendi*. Quite the contrary, Monticelso has full authority on such matters and leverages the power he would normally have if he were the pope (he will naturally hold this specific role by the end of the play).

I believe Vittoria’s insinuation is due to two main factors, the first being merely practical: Webster skips a passage and does not include the episode of Vittoria and Brachiano’s first ceremony’s annulment, which was imposed by the *Serenissima* owing to the intervention of Pope Gregory XIII (who opposed the union). The author blends Capitoline procedures with those of the Republic of Venice, which is the reason why the court summons Vittoria not for sedition (namely for getting married without papal consent), but for murder. He readapts Vittoria’s sentence to be confined in a penitentiary from the actual sentence of house arrest she violated to elope with Orsini. This infringement caused her to be escorted to Castel Sant’Angelo until she was freed upon the intervention of Cardinal Borromeo. Venice took action once again after Vittoria and Flaminio’s assassination and eventually arrested Lodovico and his supporters and ordered that they be executed by hanging at Castelvechio (Verona). The second factor reflects the common sentiment of the age, which was highly influenced by the cultural and liturgical revolution of the Counter-Reformation. The role of the Elizabethan theatre was essential for outlining an idealistic enfranchisement of the kingdom from papal Europe; it was certainly the most accomplished expression of the English break up with continental tradition. By filling Vittoria’s mouth with words of repudiation toward canonical authority, Webster elaborates his own vision of a relativist, decentralised and secularised justice.

The Church's *longa manus* gave rise to instances of conflict and dissent on the part of the reformed, thus fuelling the already existing confusion about the ecclesiastics' actual role in society. The lovers' act of excommunication epitomises this sick sense of attachment to material goods and the narrow boundaries between property law and Church law:

MONT: We cannot better please the divine power
Than to sequester from the holy church
These cursed persons. Make it therefore known
We do denounce excommunication
Against them both. All that are theirs in Rome
We likewise banish. *WD* (IV, iii, 66-71)

Lorenzo de Monticelso is finally elected pope in the fourth act, reaching the heights of supremacy; as he comes in his *regalia* as Paul IV right after the conclave, he immediately exercises his most exclusive powers, namely banishment, suspension, limitation, and restriction. He soon comes to like his role of censor and pushes himself even further when he shoos Lodovico. Notice how everything happens through a quick concatenation of circumstances: we are in the same act, in the same scene and in the same sequence, as to denote the pope's fury and haste to assert his authority and to purge his closest circle into his now enlarged community. Monticelso has a comprehension of the law that is more Machiavellian than Hobbesian, more targeted than practical, more deleterious than beneficial. As soon as he ascends Peter's throne, he distances himself from his attendants and from those who have conspired with him. He understands the necessity to enforce the law, but he only ends up giving an illusory vision of it and providing inadequate moral lessons.²⁸⁴ Summing up:

²⁸⁴ See how he reprimands Lodovico: "I know you're cunning;" "I know you that thou art fashioned for all ill" (IV, iii, 88; 102).

in both plays the evil cardinals dominate an evil Roman Catholic Church to banish and to imprison and destroy the heroine. And in both plays this abuse of power by churchmen is part of a larger pattern showing the perversion of religion in the kingdom of Satan. The pattern of perverted rituals in *The White Devil* finds a counterpart in the later play's repeated suggestion that the nearer to the Church one gets, the farther he is from God.²⁸⁵

That is not all; cardinals insinuate their ways into the private and domestic life of the community through sacraments. Brachiano reveals that Monticelso is Vittoria's confessor: "Will you urge that, my good Cardinal, / As part of her confession at next shrift" (II, i, 55-6), while Flamineo intimates Cornelia to "go, go, / Complain unto my great lord Cardinal; / Yet maybe he will justify the act" (I, ii, 331-3).

Historically, these reflections and the focus on personalities relating to the Vatican are tangled in a network of political connections; the literary attention for them grew so strong it culminated with the Caroline stage play *The Cardinal*, written by James Shirley in the second half of the Seventeenth century. Even though Webster does not shape a character inspired to Carlo Borromeo (1522-1597), a central figure of the Catholic reformation, it is important to understand the reasons behind this choice. In his reconstruction Domenico Gnoli clearly intimated that Borromeo's political influence was crucial in securing Vittoria's release; the pope, in fact, agreed to his request if she returned to the paternal home without trying to secretly tie the knot ever again.²⁸⁶ The couple was "married for the second time on October 10 [1583], this time at Bracciano, still rather secretly but otherwise with due regard to all ecclesiastical ceremony."²⁸⁷

²⁸⁵ Peter B. Murray, *A Study of John Webster*, Mouton, The Hague, 1969, p. 119.

²⁸⁶ "Era di novembre, e ancora si consultava che si dovesse far di Vittoria. Narrano che il santo cardinale Carlo Borromeo parlasse al papa dicendo: s'ella è rea si castighi, se no sia tornata libera. Tocco il papa alla logica dell'argomento e all'autorità dell'uomo, a Vittoria concesse uscir di prigione, ma al patto che promettesse non unirsi in matrimonio all'Orsini e tenersi lontana da lui, e che fra tre giorni uscita di Roma si ritirasse a Gubbio, né di là si muovesse senza licenza del papa. Vittoria per cavarsi di prigione, assenti." Domenico Gnoli, *Vittoria Accoramboni*, Le Monnier, Firenze, 1870, p. 131.

²⁸⁷ Gunnar Boklund, *The Sources of the White Devil*, Haskell House, New York, 1966, p. 17.

Webster's Vittoria does not comply with orders, not even to be let out; she accepts to become an outlaw instead and follows her lover. In a Gorgian vision, one could embrace the hypothesis that Brachiano is the real perpetrator (βάρβαρος) and Vittoria a silent victim (βιασθεῖσα) who suffers the will and the abuse of patriarchal society.²⁸⁸ None of this is permitted by the episcopal establishment. Nor does she do what she does because she is enamoured by the sight of him or persuaded by his eloquence (unlike the unfortunate Desdemona). To be fair, love is such an inconsistent and ephemeral element in Webster, whose stage is certainly not the home of romance. As Flamineo says: "Lovers' oaths are like mariners' prayers, uttered in / extremity; but when the tempest is o'er, and that the vessel leaves / tumbling, they fall from protesting to drinking" *WD* (V, i, 169-171). This kind of love is not the unstoppable force Shakespeare has accustomed us to. It is always functional to the pursuit of something else. The Duchess's emotionality is genuine and charitable, but she dies in the name of liberty, not love. Vittoria and Brachiano are consumed by a burning passion, which soon turns into grudge (see Vittoria: "What have I gained by thee but infamy? [...] Fare you well, sir; let me hear no more of you" IV, ii, 105; 117). Brachiano himself appears to be particularly cynical about love; he fights his battle because his greatest ambition is to challenge conventions, taunt religious bigotry and assert his authority as a powerful aristocrat in conjunction with his lover. To him, love is an incentive to overthrow the establishment and serve the cause of mutiny:

BRA: I'll seat you above law and scandal,
 Give to your thoughts the invention of delight
 And the fruition; nor shall government
 Divide me from you longer than a care

²⁸⁸ "εἰ δὲ βία ἤρπασθη καὶ ἀνόμως ἐβιάσθη καὶ ἀδίκως ὑβρίσθη, δῆλον ὅτι ὁ μὲν ἄρπασσας ὡς ὑβρίσας ἠδίκησεν, ἡ δὲ ἀρπασθεῖσα ὡς ὑβρισθεῖσα ἐδυστύχησεν." ("But if she was seized by force and unlawfully violated and unjustly assaulted, clearly the man who seized or assaulted did wrong, and the woman who was seized or was assaulted suffered misfortune.") Gorgias, D. M. MacDowell (ed.), *Encomium of Helen*, Bristol Classical Press, Bristol, 1982, p. 23.

To keep you great. (*WD*, I, ii, 252-6)

Of course, the first line shows Brachiano's hatred for the legal system, which is the underlying principle of the entire play. He then advises Isabella not to be deceived by her feelings for him ("Let not thy love make thee an unbeliever" I, ii, 200)²⁸⁹ while giving an idea of love as something evil and deeply profane, nothing more than a trick to doom the most pious of believers to a sinful life. Flamineo only revels in the joys of carnal love with his "precious gipsy" (V, i, 155). Zanche herself complains that his love for her "rather cools that heats" (156), despite his vain promise to marry her. He manipulates her to satisfy his sexual desires by using the only means whereby he can get what he wishes: false hope and protection from Cornelia and Marcello. The Duke-Cardinal, instead, can afford to buy Julia's service and devotion. She is beguiled by the sound of money, which is why Delio offers her a sum as a form of "personal allowance." Despite all of that, as the story progresses, she only sets her sights on Bosola, seduced by his virility and cruelty. Any other cases confirm the absence of pure and selfless fondness in the plays; loveless marriages, love triangles,²⁹⁰ toxic relationships and misunderstandings follow one another never leaving room for serious commitment: it is all a game of lust which begets revenge and destruction.

Isabella is closest to the ideal of unconditional love; like a modern Griselda, she accepts any conditions and adversities to keep her husband's affection, even taking the blame for their divorce and passing off her jealousy as the triggering factor of their split. She also reminds of Desiderata, the woman Charlemagne divorced in order to form new alliances with the Germans and who let herself die on hearing of his remarriage. Isabella's devotion to her husband has no place whatsoever in society, not even in the aspired quietness of domestic life. Indeed,

²⁸⁹ Notice how later Isabella reformulates Brachiano's words while talking to her brother Francisco: "Let not my former dotage / Make thee an unbeliever" (*WD*, II, i, 259-60).

²⁹⁰ Castruccio-Julia-Cardinal-Bosola, Leonora-Contarino-Jolenta, Lessingham-Claire-Bonville, Compass-Urse-Franckford.

in the world of *The White Devil* moral goodness and the traditional virtues are made to seem either queer and unnatural or, as with Isabella, almost ridiculous. Consequently, Cornelia and Isabella do not bear their virtues confidently or easily, but self-consciously and a bit awkwardly. They seem always to be conscious of the fact that they are the deviants, and they must be the apologetic ones.²⁹¹

Webster subverts the rules of conventionality, thus bringing on stage weird and aberrant personalities and dynamics. What would normally be considered as ordinary, or acceptable, or likely, is overturned and established as a new frame of reference. Generally, deliberate deception underlies the plots, and tangled webs of lies are woven by a bunch of egotistical characters, all driven by their obsessions.²⁹² “We are” – Flamineo says – “engaged to mischief and must on” (*WD*, I, i, 338). Madness and irrational behaviour in general are other extremely important elements through which the characters manifest their deviances, thus setting a specific scenario in which order does not exist (and after all, how can the law operate in a place like this? How does it safeguard those subjects who are *non compos sui*? How can we define and justify the presence of an absence?) Pretty much all the characters give sporadic signs of mental derangement (see the Duchess: “nothing but noise and folly / Can keep me in the right wits, whereas reason / And silence make me stark mad.” *DM* IV, ii, 5-7), and most of them lose their minds and temper for different reasons. Cornelia embodies the traditional woman of Mediterranean origin who grieves her son’s death and wanders the street in rags talking nonsense. What makes her different from the Duchess is the lack of reflection and composure, but still the same causes inspire them to in-action. None of the characters experience Hamletian madness, because none of them have existential queries they cannot resolve; nor are they guided by profound questions of empirical sort, that monumental *Que sais-je?* which sums up Montaigne’s philosophical thought. Flamineo and Romelio are corrupt by money, Vittoria and Leonora by senses, the Cardinals strive for power, while Ferdinand is consumed by possessiveness and an

²⁹¹ Melvin Seiden, *The Revenge Motive in Websterian Tragedy*, Institut für Englische Sprache und Literatur Universität Salzburg, Salzburg, 1973, 89-90.

²⁹² For a deeper insight see William H. Mahaney, *Deception in John Webster’s Plays: An Analytical Study*, Institut für Englische Sprache und Literatur Universität Salzburg, Salzburg, 1973.

excessive need for control. The sense of guilt eats him up and pushes him into a state of imbecility. Schizophrenia manifests through his incapability to discern between reality and his projection, between what he is and what he pretends to be, to the point where he steps on his own shadow annoyed by its persistence in following him (“Let it not haunt me” *DM*, V, ii, 36). Out of his “princely wits” (55) he beats the doctor who comes to see him and tries to undress as to divest himself of his humanity, or at least to rip to shreds what is left of it. He acknowledges he is a “beast for sacrifice” (78), a piece of meat in a “Barber-Chirurgeons’ Hall” (77).²⁹³ But “Unnatural deeds do breed unnatural troubles.”²⁹⁴ Now affected by lycanthropy, Ferdinand undergoes a transformation social-wise, legal-wise, but not spiritual-wise. I exclude the latter aspect for, as foretold, spirituality is not consciously and externally experienced as the origin of all meaning.²⁹⁵ Juridically, Ferdinand’s folly undermines his legal entity, it compromises his status of juridical person. Before the law, the duke is just a “sick prince” (100) an inept who has given up his wealthy condition, a subject who becomes divorced from society because of his love for solitariness (for “eagles commonly fly alone” 30). As Svend Larsen points out:

the monstrous is neither a warning nor a haunting punishment, but an invitation to reflect upon the curse of human solitude, not only as a species or as a sinful being, but as a circumstantial factor, caused and created by society [...] Monstrosity has moved not only inside humans themselves, but into their social interaction as a mechanism of social exclusion.²⁹⁶

²⁹³ There is a conspicuous presence of references to flesh and skin. Ferdinand dares the court men to draw their swords and cut through his flesh to find that it is hairy on the inside. See also the Doctor: “I have brought your grace a salamander skin, to keep you from sun-burning;” (V, ii, 61) “Let me have some forty urinals with rose-water: he and I’ll go pelt one another with them.” (70-1) See, again, Ferdinand: “I will stamp him into a cullis, flay off his skin.” (76)

²⁹⁴ William Shakespeare, *Macbeth* (V, i, 65).

²⁹⁵ After all, Ferdinand only repents for what he has done to his sister, the reflection of his obsession, and not to her family.

²⁹⁶ Svend Erik Larsen, “Monsters and Human Solitude” in Daniela Carpi (ed). *Monsters and Monstrosity: from the Canon to the Anti-Canon. Literary and Juridical Subversions*, de Gruyter, Berlin, 2019, p. 42.

“A consideration of madness raises awkward questions about human responsibility,”²⁹⁷ especially for jurisprudence. Madness challenges the law in its ontological limits and becomes the reason of Ferdinand’s interdiction. It soon becomes clear that the Cardinal’s intention – apart from avoiding any suspicions on his involvement in the torture and execution of the Duchess – is to make Ferdinand unworthy of his privilege and substances in the eyes of others: “He hath grown worse and worse, and I much fear / He cannot live” (96-7). It is essential to know that the English law protected the mentally disabled, and many medieval legal commentaries testify to it. In fact,

authorities of both the crown and boroughs justified their control and regulation of mentally disabled persons and their properties as protecting these persons from physical and financial harm, as keeping them from harming others, as fulfilling their neglected responsibilities to society, and as assisting them by providing care.²⁹⁸

It is, however, true that “as Bracton, the author of *De legibus et consuetudinibus Angliae* states, (...) the mentally incapacitated could not be held liable for their actions.”²⁹⁹ By becoming weak in his mind and body, Ferdinand lowers himself to the level of his sister; he equates with her, thus becoming an extension of her and annihilating his legal capacity and leeway. Not only is he deprived of his legal rights; his deficiency compromises his position in society and thus causes his public disgrace. It is no coincidence that in *The Devil’s Law-Case* Jolenta – having heard her brother has negotiated her marriage to a knight of Malta she would rather reject – exclaims: “Contract? You must do this without my knowledge. Give me some poison to make me mad, / And happily, not knowing what I speak, / I may then consent to’t” (*DLC*, I, i, 82-5). Once disowned, the *furiosus* cannot assert his basic rights or stipulate conditions. During the Renaissance in Spain, “insane people and idiots were seen as lacking the necessary mental faculties to understand their actions, and thus had no legal rights or

²⁹⁷ Clifford Leech, *John Webster, A critical study*, Haskell House Publishers, New York, 1970, p. 84.

²⁹⁸ Wendy J. Turner, *Madness in Medieval Law and Custom*, Brill, Boston, 2010, p. 20.

²⁹⁹ *Ibidem*.

responsibilities. In theory, they enjoyed immunity from the usually savage penalties imposed on criminals and heretics.”³⁰⁰ The Spanish term *inocentes* accentuates this shade of meaning and suggests the exclusion of the weak from the legal sphere, as well as the palliation or suspension of their duties and the abrogation of their fundamental rights. In mid thirteenth-century England “the crown’s legal incompetency jurisdiction differentiated between intellectual disability (termed *natural fools* and, later, *idiots*) and mental illness (termed *non compos mentis* and, later, *lunacy*).”³⁰¹ According to the statute of *Prerogativa Regis*, idiots *a nativitate, scil factuus naturalis* (not mentally disabled by accident or infirmity) would lose possessions of their lands, which “shall be seized into the King’s Hands, and thereby the Inheritance shall be re-vested in the idiot,”³⁰² meaning the royal office would appoint an executant “*Quod post-mortem eorum reddat eam rectis Haeredibus*.”³⁰³ In his *Institutes of the Laws of England* (1628), Edward Coke questions the legality (what we would call *correctness* nowadays) of some terms such as “*amens, demens, furiosus, lunaticus, fatuus, stultus etc.*”³⁰⁴ and claims *Non compos mentis* “is the sure term.”³⁰⁵ According to the common law, Ferdinand would belong to the second category of *non comptos mentis*, namely “he that by sickness, grief, or other accident wholly loseth his memory and understanding.”³⁰⁶

³⁰⁰ Elena Carrera, “Madness and Melancholy in Sixteenth and Seventeenth-Century Spain: New Evidence, New Approaches” in *Bulletin of Spanish Studies*, 87:8, 2010, 1-15, 14.

³⁰¹ Gary L. Albrecht, Katherine D. Seelman, Michael Bury (eds.), *Handbook of Disability Studies*, Sage Publications, Thousand Oakes (CA), 2001, p. 19.

³⁰² John Brydall, *Non Compos Mentis: or, the Law relating to Natural Fools, Mad Folks, and Lunatick Persons*, printed by the assigns of Richard and Edward Atkins, London, 1700, p. 39.

³⁰³ *Ibidem*.

³⁰⁴ Edward Coke, *Institutes of the Laws of England: Or a Commentary Upon Littleton* (1628), Printed for J. & W. T. Clarke, London, 1832, p. 236.

³⁰⁵ *Ibidem*.

³⁰⁶ The several sorts of *non compos mentis* are explained as such: “1. Idiot, which from his nativity by a perpetual infirmity is *n.* (...) 3. A lunatic that hath sometime his understanding, and sometime not,

Ferdinand's "obsession with the wolf as a symbol poetically establishes his final capitulation to his real nature."³⁰⁷ From its point of view, the "werewolf" unconsciously waives its liberty and rights because it has no memory of its valuables and assets, it does not fathom the consequences to its actions, and it does not objectively perceive itself as a *legal persona*. The same concept of *persona* "is essential to law: 'persona' expresses, even if imperfectly, what the law defines as human. Human life is much more than its corporeity (*soma*): the law defends human life (*bios*) not only as a manifestation of the body, but as a manifestation of the person's *I*."³⁰⁸ Indeed, wolves are frequently mentioned in the plays;³⁰⁹ they also appear to be intricately tied to legal history and folklore, beginning with the Latin locution *Caput lupinum*, which in the jargon of the common law was used

aliquando gwadet lucidis intervallis, and therefore he is called *n.* 4. He that by his own vitious act for a time depriveth himself of his memory and understanding, as he that is drunken." John Shapland Stock, John S. Littell (eds.), *A Practical Treatise on the Law of Non Compotes Mentis, or Persons of Unsound Mind*, Halsted and Voorhies, New York, 1839, p. 2.

³⁰⁷ Carl Vopel, *John Webster. Research on his life and plays*, 1887, p. 30.

³⁰⁸ Daniela Carpi, "A Biojuridical Reading of Dracula" in *Pólemos*, 6:2 (2012), 169-182, 179.

³⁰⁹ See:

The Duchess of Malfi: FER: "The howling of a wolf is music to thee" (III, ii, 88); MAD [singing]: "O, let us bowl some heavy note, / Some deadly dogged howl;" (IV, ii, 62-3) FERD: "The death / Of young wolves is never to be pitied;" "The wolf shall find grave, and scrape it up." (IV, ii, 250; 301).

The White Devil: LODO: "Your wolf no longer seems to be a wolf / That when she's hungry;" (I, i, 9-10) FLAM: "I do love her just like a man holds a wolf by the ears;" (V, i, 148) VITT: "The wolf may prey the better;" (III, ii, 180) FRAN: "O God! / Better than tribute of wolves paid in England; / 'Twill hang their skins o'th' hedge." (IV, I, 68-9).

The Devil's Law-Case: LEON: "I'll no more tender him / Than had a wolf stol'n to my teat I'th' night, / And robbed me of my milk." III, iii, 224-6).

Appius and Virginia: SOLD: "Romulus / Was fed by a she-wolf, but now our wolves / Instead of feeding us devour our flesh." (II, ii, 29-30).

to indicate “an outlawed felon [that] might be knocked on the head, like a wolf.”³¹⁰ The expression highlights the subject’s inhumanity because “having renounced all law, [the c.] was to be dealt with as in a state of nature.”³¹¹ In the legal doctrine, starting from the Middle Ages,

the image of the wolf was frequently associated with the violence of outlaws and their withdrawal from the community. Many early medieval societies banished dangerous criminals and taboo-breakers from the social and legal world as outlaws. Such criminals were seen as having adopted an inhuman identity: wolf-like beings, ranging far outside the human world, hunted and hiding in the wilderness.³¹²

The expulsion of the outlaw from the community is a key concept here. Ferdinand is seen sneaking into a churchyard – so, just outside the urbanised area, where the living dwell – “with a leg of a man / Upon his shoulder” (*DM V*, ii, 16-7). His mania for dead limbs and putrefaction emerges earlier in the fourth act, when he first gives the Duchess a dead man’s hand “to bring her to despair” (*IV*, i, 118) and then constrains her to the repulsive vision of the wax impressions of Antonio and his children which “she takes (...) for true substantial bodies” (114-5). These replicas are “a form of induced horror, (...) a merely *simulacrum* of death and violence.”³¹³ In the dim-light of the indoor theatre, these wax effigies would seem like a votive group (the Platonic influence is unquestionable); it is also likely that “the King’s Men may well have deployed wax figures and a wax hand to stage the horrors of Act IV. There are,” moreover, “other plays in the repertory that may have also required a ‘dummy’ – which could also have been fashioned from wax – [such as] *The Lady’s Tragedy*, 1611 [and] *The Duke of Milan*,

³¹⁰ Henry Campbell Black, *A Dictionary of Law containing definitions of the terms and phrases of American and English Jurisprudence, ancient and modern*, West Publishing Company, 1891, p. 172.

³¹¹ John Jane Smith Wharton, *The law of lexicon; or dictionary of Jurisprudence*, Stevens and Sons, London, 1867, p. 160.

³¹² Michael E. Moore, “Wolves, Outlaws, and Enemy Combatants” in Eileen A. Joy, Mary K. Ramsey, M. Seaman, K. Bell (eds). *Cultural Studies of the Modern Middle Ages*, Palgrave MacMillan, New York, 2007, pp. 218-9.

³¹³ Ralph Berry, *The Art of John Webster*, Routledge, New York, 2016, p. 21.

1626.”³¹⁴ As I have previously argued, John Webster Sr., the London ‘coachmaker,’ would hire out wagons to carry the dead to burial, and this might have been the real inspiration for the scene. Hermione’s statue in *The Winter’s Tale* (which dates to the time of drafting of *The Duchess of Malfi*) is another line of investigation,³¹⁵ with the exquisite detail of the name of the artisan. In fact, “just as Shakespeare points out that the statue has been newly performed by the rare Italian master Julio Romano, (...) so Webster here credits the ‘curious master’ Vincentio Lauriola with the construction of these wax figures. Unlike Romano, Lauriola’s identity remains a mystery and elusive to all researchers.”³¹⁶

Getting back to the topic of animalistic and primordial symbolism, it is useful to consider that

according to the laws of Edward the Confessor, [if someone] “is found and can be held alive, he shall be surrendered to the king, or his head [shall be sent to him] if he defends himself. For from the day of his outlawry he bears a wolf’s head, which is called *wluesheued* by the English.”³¹⁷ (“*Lupinum enim capud gerit a die utlagationis sue, quod ab Anglis wluesheued nominatur.*”)³¹⁸

Webster’s renewed and recurrent imagery of beasts and haunting surely indebts him to Machiavelli, whose *Principe* ought to “knowingly adopt the beast [and thus] be a fox to

³¹⁴

<https://shakespearesglobblog.tumblr.com/post/74828055002/wax-works-in-the-duchess-of-malfi/amp>
Last access: May 2021.

³¹⁵ Not to mention the life-seized funeral effigies exhibited in Westminster Abbey and the funeral observance of Henry of Wales (to whom Webster dedicated *A Monumental Column*, 1613). The lost Prince’s “face and hands were probably made of wax, and the whole thing was regarded as so life-like that its first arrival at the Abbey elicited a huge outbreak of weeping among the mourners.”
<https://www.npg.org.uk/blog/rediscovering-henrys-body> Last access: May 2021.

³¹⁶ David M. Bergeron, “The wax figures in *The Duchess of Malfi*” in *Studies in English Literature 1500-1900*, 18:2 (1978), 331-9, 333.

³¹⁷ Michael E. Moore, “Wolves, Outlaws, and Enemy Combatants”, cit., p. 219.

³¹⁸ Bruce R. O’Brien, *God’s Peace and King’s Peace: The Laws of Edward the Confessor*, University of Pennsylvania Press, Philadelphia, 1999, p. 164.

discover the snares, and a lion to terrify the wolves.”³¹⁹ Ferdinand’s bestiality destroys his ability to think and recognise himself as *sapiens*; he ceases to be a man the moment he commits terrible crimes and loses his legal identity,³²⁰ hence out of religious sensibility. Consequently, he wages a battle within himself and against society and acquires new freedom. “His madness” – in fact – “gives him liberty to die with the ambition to bypass judgment.”³²¹

Nomen omen. Contilupo is the unscrupulous lawyer of *The Devil’s Law-Case*. We listen to him plead Leonora’s cause with such a “poor, malicious eloquence” (*DLC*, IV, ii, 145) while advocating at the same time his own rights to receive his fees.³²² Judge Ariosto, “who represents the moral sanity from which [Contilupo has] so obviously diverged,”³²³ scolds him for executing such a verbose and pretentious opening statement and prompts him to jump to his conclusions more than once. While he states the facts with his circumlocution recalling the story of Leonora’s premature delivery, Sanitonella, a lawyer’s clerk, tells him to “remember the lamb-skin,” (209) thus reiterating the metaphor *wolf-lamb* which seems to prevail both in the religious and legal culture. A further hint is given by Francisco de Medici in *The White Devil*. In act four, scene one, he mentions the Anglo-Saxon law introduced by King Edgard the Peaceful to exterminate

³¹⁹ “Sendo dunque necessitato uno principe sapere bene usare la bestia [...] bisogna adunque essere golpe a conoscere ‘e lecci, e liono a sbigottire ‘e lupi.” Niccolò Machiavelli, *The Prince* [Chapter XVIII], available at: <https://www.gutenberg.org/files/1232/1232-h/1232-h.htm> Last access: May 2021.

³²⁰ “You must know there are two ways of contesting, the one by the law, the other by force; the first method is proper to men, the second to beasts” (“Dovete adunque sapere come sono dua generazione di combattere: l’uno con le leggi, l’altro con la forza: quel primo è proprio dell’uomo, quel secondo delle bestie.”) *Ibidem*.

³²¹ Jonathan Culpeper, Dawn Archer, Alison Findlay, Mike Thelwall, “John Webster, the dark and violent playwright?” in *A Quarterly Journal of Short Articles, Notes and Reviews*, 31:3 (2018), 201-210, 208.

³²² Apparently, Ariosto is his opposite. He gives “counsel / In honest cause gratis; never in his life / Took fee” (*DLC*, II, i, 99-101).

³²³ Charles R. Forker, *Skull Beneath the Skin: The Achievement of John Webster*, Southern Illinois University Press, Carbondale and Edwardsville, 1986, p. 402.

wolf colonies by levying an annual tribute of three hundred wolf skins. While examining Vittoria and Brachiano's case, he speaks of hanging "their skins o'th' hedge" (*WD*, IV, 69) following the model of the king of the English.³²⁴ Like a feral beast, the law haunts the characters and makes its way into every aspect of society; some deal with it, others manipulate it, others would rather shy away. When Leonora enters the courtroom wearing a face veil, Crispiano orders to take it off because "it seems she is ashamed / To look her cause i'th' face" (*DLV*, IV, ii, 47-8).

Webster's plays offer a critique of human dignity and its disturbances and show that, oftentimes, people who cannot exert control over their bodies are more likely to disrespect the law. For Webster, the body is a mere shell, as delicate and as precarious as a sheet of paper (see Bosola: "What's this flesh? (...) our bodies are weaker than those paper prisons boys use to keep flies in" *DM*, IV, ii, 120-1). Leonora brings the actions to the court in the name of her love for Contarino; her attraction to her son-in-law – a comical revival of the classical *Phaedra* – is sick and ruinous. The plays present some relationships which evoke analogous cases; Jolenta's faked pregnancy recalls *Measure for Measure* (1603), where Juliet is pregnant with Claudius's child out of wedlock. Giovanni's lust for his sister Annabella in the Fordian play *'Tis Pity She's A Whore* (1629), instead, echoes the ambiguous relationship between the Aragonian twins in *The Duchess of Malfi*, though the theme of sibling incest is also substantial in *The Fair Maid Of The Inn* by Fletcher (1647). Ferdinand's motivation for the killing of her sister seems to transcend the simple question of heredity, albeit the unconvincing confession he gives to Bosola in act four. In fact, although he admits he initially hoped to gain her wealth, he also adds that "That was the main cause" (IV, ii, 278), thus leaving the audience to draw their conclusions by themselves. Arbaces and Malefort's sexual deviance in *A King And No King* (1619) and *The Unnatural Combat* (1639) would be even more explicit and disturbing,

³²⁴ Cf. Edmund Spenser's *The Shephearders Calender*, Ecl. IX 'September' (1579): "Fye on thee, Diggon, and all thy foule leasing! / Well is knowne that sith the Saxon king, / Never was wolfe seene, many nor some, / Nor in all Kent, nor in Christendome: / But the fewer woloves (the soth to sayne), / The more bene the foxes that here remaine." Available at: <https://www.bartleby.com/153/14.html> Last access: May 2021.

but critics are unanimous in considering Ferdinand's morbid jealousy³²⁵ as a sign of incest (despite, for some, the matter proves controversial). F.L. Lucas, for instance, dissented from the general opinion and described the theme of incest in *The Duchess of Malfi* as a "merely suggestion, and an inessential one" by adding that

the analysis Ferdinand gives of his own motives in Act IV, though muddled, is clearly intended to be accepted as true. An Elizabethan audience was simple and would certainly have swallowed it [...] Webster [did not mean] us to haunt for more motives in Ferdinand's heart that he has set in Ferdinand's mouth.³²⁶

Forker argues that the question of incest is unclear but surely inevitable; he also points out that when Ferdinand deposes Bosola to keep an eye on his sister since he "would not have her marry again" (I, i, 247), he deliberately mystifies him by telling him not to investigate further ("Do not you ask the reason, but be satisfied / I way I would not" 49-50).³²⁷ While admitting that there is no clear evidence of sexual impulse – and that Ferdinand does not reveal hidden truths about himself – the character remains insanely preoccupied with his sister's 'contamination,' to the point where he induces her to inflict self-punishment with a dagger. Ferdinand cannot contain his urge to dominate his twin; he tries to control her in the same (unsuccessful) way he tries to control his own shadow, which, from a psychoanalytical point of view, results in a "form of narcissistic self-projection" as well as in a repression by guilt "of his own erotic urges."³²⁸ Besides, Webster is no stranger to depictions or reflections on sexuality and perversion; in *The Devil's Law-Case* the author mentions the 'French pox'³²⁹ as two characters discuss about

³²⁵ Ferdinand's jealousy is also reminiscent of Justiniano's in *Westward Ho* (1604).

³²⁶ McD. Emslie, "Motives in Malfi" in *Essays in Criticism*, 9:4 (October 1959), 391-405, 391-2.

³²⁷ Cf. Charles R. Forker, *Skull Beneath the Skin: the Achievement of John Webster*, cit., p. 305.

³²⁸ Christina Luckyj (ed.), *The Duchess of Malfi: a Critical Guide*, Bloomsbury Publishing, London, 2011, p. 36.

³²⁹ By the end of the Sixteenth century syphilis had rapidly spread throughout Europe. Webster calls it the "French pox" to adjust to the way the Italians called the disease (*morbus gallicus*), which suggested that the responsibility for the outbreak was on the French who, later on, retaliated with the "Neapolitan disease." Let us not forget that the action takes place in Naples at the time of the Spanish rule. For further details

the importance of quitting licentious habits.³³⁰ Furthermore, he takes up the question in *The White Devil* alluding to the fact that “Camillo having ‘shed hairs’ is indicative of a venereal disease.”³³¹

From a legal perspective, a well introduced and substantial exploration of the theme would complicate our task even more. The law studied kinship, regulated endogamy and proscribed blood unions depending on the level of consanguinity, hence on the gravity of lewdness. The historical dilemma over King Henry VIII’s request for a dispensation to marry Anne Boleyn had raised a tough legal question alongside many problematic ethical implications. During the Renaissance, the matter was still influenced by scriptural prohibitions, but it surely pertained to natural law. Besides, “the very repetition of the word ‘natural’ in so many different contexts placed the concept itself under intense strain [since] the transformation of natural law into moral law introduces a prescriptive element apparently at odds with the ‘intrinsic’ quality of the law itself.”³³² What is certain is that if Ferdinand’s incestuous behaviour were a well-founded reality rather than mere speculation, he would be chastised by any religious or lay statute, which treated incest as crime and enforced legislation against “li vitij della carne” (sins of the flesh).³³³ I accept and support the widely held opinion that Ferdinand does have incestuous tendencies, but I exclude the possibility he would express them by any means. He sublimates his impulses only to manifest them through language, which he ‘thickens’ and vulgarises to

see Ruben D. Rumbaut, “The Great Pox: The French Disease in Renaissance Europe” in *JAMA*, 278:5, (August 1997), 440.

³³⁰ Ariosto advises Julio, the dissolute son of Crispiano, to leave his ‘whoring’ (II, i, 125-33).

³³¹ Rebecca C. Dobbin, “Safely Shooting a Quiet Woman: A Study of Patriarchy, Sexuality, Racism, and Putrefaction in John Webster’s Plays” (Honors Thesis), Bates College, Lewiston, Maine, 2016, p. 39.

³³² Richard A. McCabe, *Incest, Drama and Nature’s Law, 1500-1700*, Cambridge University Press, Cambridge, 1993, p. 60.

³³³ Cf. Nicholas Davidson, “Theology, nature and the law: sexual sin and sexual crime in Italy from the fourteenth to the seventeenth century” in Trevor Dean, K.J.P. Lowe, *Crime, Society and the Law in Renaissance Italy*, Cambridge University Press, Cambridge, 1994, p. 77.

render “his sister an ‘unbridled’ horse/whore figure.”³³⁴ Unlike his brother the Cardinal, Ferdinand does not seem to be sexually or romantically involved with any women; to be exact, he never interacts with the opposite sex at all, except for his sister. His sexophobia leads him to suppress his pathological instinct; nonetheless, he would rather have her killed than “slyly stealing from his sister’s bed.”³³⁵

The Duchess’s promiscuity seems to be Ferdinand’s primary concern within the cultural boundaries of what Frank Whigham calls *social posture*; unwilling to risk a degrading association with inferiors, Ferdinand “narrows his kind from class to family and affirms it as absolutely superior, ideally alienated from the infections of interactive social life. The Duchess then becomes a symbol, flooded with affect, of his own radical purity.”³³⁶ Antonio Bologna (a faithful attendant who is a little more than a varlet and a lot less than an aristocrat) is a noxious presence, an affront to the dignity of an ancient household. Ferdinand’s compulsivity in alluding to the image of blood and infection – which I have discussed previously – is exactly the point. It arises from the Racinian ‘pictorial’ imagery, from “a collective image (...) surrounding action and dialogue [which] crystalizes issues and thought into a single, nearly *physical* whole.”³³⁷ I will now quote a few verses which better define the essence of the antagonists’ disposition:

FERD: Your inclination to shed blood rides post

Before my occasion to use you.

(...)

BOS: It seems you would create me

³³⁴ Lauren Coker, “Continental Sexuality and the Auditory Construction of Early Modern Englishness” in Michael Saenger (ed.), *Interlinguicity, Internationality, and Shakespeare*, McGill-Queen’s University Press, Montreal & Kingston, 2014, p. 134.

³³⁵ “Jove slyly stealing from his sister's bed.” Christopher Marlowe, *Hero and Leander* (1598) v. 147.

³³⁶ Frank Whigham, “Sexual and social mobility in *The Duchess of Malffi*” in *PMLA*, 100:2 (Mar. 1985), 167-186, 169.

³³⁷ T.B. Tomlinson, *A Study of Elizabethan and Jacobean Tragedy*, Cambridge University Press, Cambridge, 1964, p. 134.

One of your familiars.

FERD: *Familiar!* What's that?

BOS: Why, a very quaint invisible devil, in flesh. (*DM*, I, i, 241-2; 249-251)

Ferdinand's plans to chase his sister's suitors reminds of the story of Ulysses and the Proci³³⁸ and somehow stores a hidden sense of preservation and cherishing of ancient family traditions; he wishes to be informed about whatever they do to "solicit her for marriage" (244) because he is aware that his rambunctious sister is quite attractive. "That body of hers [in which his] blood ran pure" (IV, i, 121-2), deflowered, prosperous and pregnant, is what defines her as a *lusty widow* and what undermines her selfhood. In fact, "by emphasizing his sister's femininity, Ferdinand seeks to deprive her not only of her life and political title, but of her very identity."³³⁹ The wedding question triggers an ontological crisis on three levels, individual, familiar, and social; it also cuts the siblings' kindred ties and dissipates any attempts at reconciliation. All matches are dissolved, inside and outside the family unit.

Hierarchies and class boundaries are often debated by the characters, who question the circumstances of the achievement of eminence and stature. According to Elli Abraham Shellist "the issue of social mobility, so manifest in questions of whether honour is inherited or earned, is the source of cultural conflict that is most frequently and intensely enacted in Webster's plays."³⁴⁰ Social mobility in Elizabethan England began to spread because of the strong economic boost, while the Italian city-states were still much responsive to the system of lineage and marriage. Romelio's opposition to his

³³⁸ There is a further tribute to the Grecian hero at the end of the first scene where Antonio, solicited by Ferdinand to discuss about the art of horsemanship, mentions the wooden horse described by Homer in the *Odyssey* and by Virgil in the *Aeneid*.

³³⁹ Christy Desmet, "Neither maid, widow, nor wife: Rhetoric of the Woman Controversy in *Measure for Measure* and *The Duchess of Malfi*" in Dorothea Kehler, Susan Baker (eds). *Another Country: Feminist Perspective on Renaissance Drama*, The Scarecrow Press, Metuchen (NJ) 1991, p. 84.

³⁴⁰ Elli Abraham Shellist, "John Webster" in Arthur F. Kinney (ed)., *A Companion to Renaissance Drama*, Blackwell Publishers, Oxford and Malden, 2002, p. 557.

sister's passion for an impoverished nobleman and his decision on a wealthier and greater catch says something about the writer's system of values and culture, practical, entrepreneurial, "English." Even in *The Duchess* the relevance which is given to the social gap between the lady and her steward is minimal if compared to the stir her behaviour generates within the Calabrian community; what creates a sensation is the lady's refractory nature and disrespect of the law more than her stubbornness in marrying down. The Duchess exhibits all the traits of a cast out and consciously disrupts social norms by proposing to Antonio and tricking him to marriage. By marrying below her status, she defies the patriarchal system and values and shows she is the strongest and most authoritative element in the couple. She is the one who seizes the initiative and who makes decisions; she is able to stand her ground, adopt a logistic strategy to escape and eventually take cover. Antonio makes a fair lover, but an unfair ally. Weakened by his social inferiority and by his failure in standing up for his own wife, he eventually expresses his "hope of reconciliation / To the Aragonian brethren" (V, i, 1-2), thus showing his tendency to go with the flow and let others determine his life's course.

The courtroom becomes an ideal arena where social confrontation takes place. While in *The White Devil* we assist to a clash of higher-class members and Church dignitaries, *The Devil's Law-Case* is a mockery of the entire system of lower-level tribunals, often packed with bourgeois and gentlemen coming from the mercantile society. As Webster's career as a writer progresses, his interest in lower society increases. *A Cure For A Cuckold*, *A Pleasant Comedy* is also a "peasant" comedy; the sub-plot is based on the story of a sailor who eventually goes to law and sits before a judge... in a tavern. Still, the focus on social diversity and identity is strongest in the triad. The disregard Brachiano has for Francisco, the Grand Duke of Florence, is partly motivated by his perception of himself as his inferior. He attempts to unsettle hierarchies first by repudiating Isabella de Medici, then by carrying on a private and public dispute with the cardinal and, ultimately, by seducing a young gem of the fallen gentry. Unlike his father, Giovanni will snub Francisco's elevated peerage and condemn his "most noble uncle in disguise" who has now "turned murderer" (*WD*, V, vi, 288-290). Flamineo is clever enough to understand that he can only make his way in the world through money, not power, which is the reason why he chooses to team up with the richest, not the

mightiest. The dispute involves two warring factions which support and stand with each other even in the courtroom: “FRAN: I stand for Marcello. FLA: And my Lord Duke for me.” (*WD*, III, ii, 254-5). In the tragicomedy a duel is set up between “the brave Ercole / And noble Contarino” (*DLC*, II, i, 292-3). This exchange implies the Maltese’s subordinate position and the Italian’s noble bearing. The former is a valiant knight and a businessman, the latter an aristocrat with few financial resources. Both disregard their positions in society and agree to settle accounts privately and away from the law. They choose to act “like noble gentlemen, / And true Italians” (II, i, 85-6), either implying the inefficacy of the law on the Italian soil, or the general and prejudicial tendency of Italian citizens to take justice into their own hands. Private justice outweighs the law also in *A Cure For A Cuckold* which, unlike the tragicomedy and the two *vendettas*, is set in England. There, where merchants and lawyers moved forward at the same pace, the practice of duelling arrived in the 1570s.³⁴¹ Besides, the respect of the code of honour was mainly a noble-class affair, and it was considered by many as a great opportunity to resolve legal issues in a more practical and less clerical way. The practice, so cruel and atrocious, was not welcomed by the Queen herself, who managed to outlaw it temporarily in 1571.³⁴² This might explain why Webster chose to make his characters travel to Calais to fight, since the custom had been practically declared illegal across the Channel for a short period of time. During James’s reign, “the Star Chamber tried about two-hundred cases where sending or receiving challenging or duelling itself formed a part of the charge” until “the king finally decided to take more drastic action against it.”³⁴³ In 1613 Francis Bacon announced that the court would prosecute “all that challenged others, or went

³⁴¹ Robert B. Shoemaker, “The Taming of the Duel: Masculinity, Honour and Ritual Violence in London, 1660-1800,” in *The Historical Journal*, 43:3 (2002), 525-545, 525.

³⁴² Richard Cohen, *By the Sword: A History of Gladiators, Musketeers, Samurai, Swashbucklers, and Olympic Champions*, Random House, New York, 2002, p. 40. See also: Wade Ellett, “The Death of Duelling” in *Historia*, 13 (2004), 59-67, 60. Available at: <https://www.eiu.edu/historia/2004issue.php> Last access: May 2021.

³⁴³ Markku Peltonen (ed)., *The duel in Early Modern England: Civility, Politeness and Honour*, Cambridge University Press, Cambridge, 2003, p. 82; 85.

beyond seas to fight;”³⁴⁴ this case is presented by Webster when Lessingham and Bonville leave the country to evade surveillance and operate outside the law.

This is, in fact, a crucial passage. Webster was so trained and well-versed in the juridical science he seldom failed at applying the (pretended) laws based on the statutes they (presumably) referred to. Therefore, Italian characters were free to combat *seul à seul* right in the middle of the street (Flaminese and Marcello’s quarrel in *The White Devil* is another valid example), while the English were forced to take alternative resolutions. In his *Commentaries* Blackstone explained how, juridically, institutions considered the practice of duelling a form of premeditated murder:

This takes in the case of deliberate duelling, where both parties meet avowedly with an intent to murder: thinking it their duty as gentlemen, and claiming it as their right [...] without any warrant or authority from any power either divine or human, but in direct contradiction to the laws both of God and man; and therefore the law has justly fixed the crime and punishment of murder on them, and of their seconds also.”³⁴⁵

The question appears to be quite controversial, since in the late Sixteenth century “there grew up a much closer and more intriguing relationship between the new social practice of duelling upon point of honour, and the rapidly changing law of homicide” to the point where judges were conscious that “duelling had to be dealt with the law of homicide as early as 1558.”³⁴⁶ The brothers’ quarrel in *The White Devil* cannot be considered by any means a matter of honour; it rather results in a violent brawl aimed at resolving family issues. Judicial duelling is mocked in *A Cure For A Cuckold*, where one of the opponents tricks the other to combat by leading him to think he would just be his second (and by revealing, only later, he is his intended rival).

³⁴⁴ *Ibidem.*, p. 88.

³⁴⁵ William Blackstone, *Commentaries on the Laws of England*, Vol. II, Callaghan and Company, Chicago, 1884, p. 199 (section ‘Homicide’).

³⁴⁶ Jeremy Horder, “The Duel and the English law of Homicide” in *Oxford Journal of Legal Studies*, 12:3 (Autumn 1992), pp. 419-430, 424.

After all, the comedy is undoubtedly the most advantageous for the use of spoofs and parodies of the law. In *The Devil's Law-Case* this purpose is reached through sporadic jokes about the legal profession and through the final, unlikely trial scene. We count two duels, the first being set between Jolenta's suitors, while the second one – fought by Romelio and Ercole – is arranged and sanctioned by the tribunal (trial by combat). The first one appears to be illicit because the parties are not seconded, while the second one is confirmed as legit. Trials by combat were allowed in the English laws until the Sixteenth century; they established that in extreme cases “the defendant in appeal of murder or felony might fight with the appellant and make proof thereby whether he be culpable or innocent of the crime.”³⁴⁷

Although performed dynamically and inclusive of a significant verbal exchange between fencers, the first challenge of the play has tragic undertones. The bone of contention is pointed out and discussed accurately by the adversaries. Again, the lack of seconds is the one element which makes us question both the legality and the validity of the event:

CON: You'll not forgo your interest in my mistress?

ERC: My sword shall answer that.

[...]

CON: Bethink yourself

How fair the object is that we contend for.

ERC: O, I cannot forget it. (*DLC*, II, ii, 1-2; 12-4)

Contarino's advice to consider how fair the object of their dispute is, has a double meaning. At first, we naturally understand he is referring to Ercole's proposal to Jolenta (though she has vowed to marry Contarino and, therefore, agreed to enter a binding precontract). Now, if we were to interpret the line literally, we could assert that the

³⁴⁷ Thomas Edlyne Tomlins, *The Law-Dictionary Explaining the Rise, Progress, and Present State of the British Law*, Vol. I, J. and W.T. Clarke, London, 1835, p. 130.

woman is here intended as a mere object of trade whose sole purpose or requirement is to be meek and fair (see the closing courtroom scene: JOL: “For I proclaim’t without control, / There’s no true beauty but i’t’h’ soul. ERC. O ‘tis the fair Jolenta!” (*DLC*, V, vi, 48-50). The legal dependence of vulnerable subjects such as women and children and their consequent limitations in pursuing legal actions or attending proceedings is never really objected, only staged. Women’s access to the courts of law is a recurring theme in Renaissance drama, though it appears highly unlikely (but not impossible) that a woman could appear *pro se*, especially if relatively poor or uneducated.³⁴⁸ If women are antagonistic and belligerent litigants who constantly threaten the legal system and question its shortcoming, children are bearers of peace and solution. Balance is possible only when a child takes the stage. The young represent a new beginning after a time of uncertainty and agony; they reconstitute justice and restore order, thus establishing a need for enforcement and renovation in the legal and social sphere. Giovanni takes power and delivers his last lines in the hope that “all that have hands in this shall taste our justice” (*WD*, V, vi, 292). Being Brachiano’s successor and sole heir and the affectionate nephew of the Pope, it is his duty to impart justice and practice rigour, at the cost of condemning his closest and noblest relatives. *The Duchess of Malfi* ends in the same, exact way. After the bloodbath, Delio enters the scene with the Duchess and Antonio’s surviving son. Out with the old and in with the new, he can finally secure for him and for himself the promise to “make noble use / Of this great ruin; and join all our force / To establish this young. Hopeful gentleman / In’s mother’s right” (*DM*, V, v, 109-112).

Sadly enough, this consideration only pertains to the tragedy. In the infamous trial of *The Devil’s Law-Case* Ariosto takes judge Crispiano’s place because he is falsely accused to be personally involved in the facts (CRIS: “My definitive sentence in this cause / Is, I will give no sentence at all.” IV, ii, 437-8). Crispiano is described as “one of the most

³⁴⁸ Catherine of Aragon’s speech before the Legatine Court, which is predominantly based on historical records, is the perfect antithesis. The Queen eventually walks away and refuses to participate in the proceeding, which is adjourned by the King. Cf. William Shakespeare, *The Famous History Of The Life Of King Henry The Eighth* (II, iv).

eminent civil lawyers in Spain” (II, i, 4) or, again, as “the famous *corredigor* of Seville,” (13) thus reflecting the existing conditions of a gerontocratic and rank-based system. His fame is despicably clouded by his son, who happens to be a reckless and a spendthrift and who does not take pleasure in the “melancholy study of the law” (32).

Despite his grudge against the ‘vulgar multitude,’ Webster managed to communicate with his audience in the most enjoyable and accessible way. Some Jacobean tragedians tended to be more philosophical and their works demanded a more niche and selected public; in short, “none contain[ed] thought too abstruse for a reasonably intelligent listener to follow, though Chapman’s verse and syntax required, no doubt, more attention than Jonson’s or Webster’s.”³⁴⁹ Webster was definitely among those “popular dramatists [who] played to large, predominantly bourgeois audiences”³⁵⁰ and whose intellectual interest and inclination were more existential than metaphysical, more practical than contemplative. And he surely succeeded in enacting a social communication strategy by recognising the law as a system of identification, an everyday reality which was stranger to none. But to do so, he needed to be able to draw on the realities of the society he was addressing to and refer to those legal issues which were of most interest to that society: marriage, property, and inheritance. In the following pages I will be trying to break down this precise process.

³⁴⁹ Robert Ornstein, *The Moral Vision of Jacobean Tragedy*, The University of Wisconsin Press, Madison, 1960, p. 6.

³⁵⁰ *Ibidem*.

III. “*Music amongst lawyers? Here’s nothing but discord.*”³⁵¹ *Legal practice and legal performance in the plays by John Webster.*

One of the greatest achievements of Jacobean drama was the shift from the royal courts to lower society and to “the miseries induced by the law relating wards and inheritance”³⁵² as well as to “the damage done by uncontrolled extortionate usury, the anxieties of debt, foreclosure and risky investment.”³⁵³ Webster’s *The Devil’s Law-Case* is extremely relatable to such issues, because it depicts “a typical mercantile world based on all kinds of contracts: transfers of money, shipping profits, class interaction between merchants and aristocracy through marriage contracts *etc.*”³⁵⁴ Also the city comedies *Westward Ho!* and *Northward Ho!*, which are the result of a collaboration between Webster and Thomas Dekker (1604-1605), present the theme of social mobility of the new gentry, particularly of a courtier holding some profitable monopolies and a merchant who squanders his fortune to live the privileged life of the well-off. The intrinsic preoccupation with crime perpetration is equally considerable, paired with a general attempt on the part of the dramatists to examine the relevance of legal structures and social attitudes towards the issue of homicide. But the underlying concern about the reliability of the legal system also gave cause for perplexity and raised new questions as whether the law should break off the apparatus of formal hindrance and reticence and adjust its conventions to satisfy even the most fallible and emotional individuals. In *The Gentleman Usher* by George Chapman (1606) Margaret questions the inflexibility of the

³⁵¹ *CFC* (IV, i, 58).

³⁵² Pascale Aebischer, *Jacobean Drama*, Palgrave Macmillan, New York, 2010, p. 84.

³⁵³ *Ibidem*.

³⁵⁴ Daniela Carpi, “*The Devil’s Law-Case* by John Webster: legal fraudulence or new professionalism?” in *Anamorphosis, Revista internacional de Derecho e Literatura*, 4:2 (Jan. 2019), 345-56, 345.

law by refusing “to allow the course of ‘God and Nature’ [...] to be circumscribed by man’s wayward inhibitions:”³⁵⁵

Are not the laws of God and Nature more
Than formal laws of men? [...]
Or shall laws made to curb the common world,
That would not be contain’d in form without them,
Hurt them that are a law unto themselves?³⁵⁶

This is particularly clear in *The Devil’s Law-Case*, where “the rationale for law [...] is secular and relativist, rather than religious and absolute. Law is not a reflection of Divine Reason, but it represents humanity’s most successful attempt to be reasonable.”³⁵⁷ Nonetheless, we cannot ignore the side effects of judicial *narratio*³⁵⁸ and the ambiguity it ignited within the legal circles. Legal *mimesis* in drama could engender “circumstantiality as the product of the skilful artifice of forensic rhetoric, [resulting] more productive of illusion [...] than objectively investigative and revelatory of truth.”³⁵⁹ Hence, the interference “of the feelings, desires, and repressions of the characters created by the dramatist”³⁶⁰ would inevitably lure the audience into the realm of possibility and interpretation. On his part, Webster succeeded in recovering some elements of reality and took the risk to exacerbate references to the historical environment and overload the

³⁵⁵ David Farley-Hills, *Jacobean Drama: A Critical Survey of the Professional Drama 1600-1625*, Macmillan Press, Houndmill, Basingstoke, Hampshire and London, 1988, p. 88.

³⁵⁶ George Chapman, *The Gentleman Usher* (IV, ii, 133-4; 137-9).

³⁵⁷ Dena Goldberg, *Between Worlds: A Study of the Plays of John Webster*, Wilfrid Laurier University Press, Waterloo, Ontario, 1987, p. 148.

³⁵⁸ The definition is Lorna Hutson’s.

³⁵⁹ Lorna Hutson, *The Invention of Suspicion: Law and Mimesis in Shakespeare and Renaissance Drama*, Oxford University Press, Oxford, 2007, p. 127.

³⁶⁰ *Ibidem*, p. 128.

“context of law and justice [with] gratuitous details”³⁶¹ just to ensure “that guilt and innocence [were] given a specifically legal connotation to reinforce the moral judgements passed.”³⁶² Thus, Vittoria’s self-advocacy and the Cardinal’s harangue in *The White Devil* keep that element of realism which challenges perception and which makes sure that the audience participates in the scrutiny and forgets about the precepts of disbelief and its engagement with dimensions of doubt. In short, there is a fine line between fictional trials and the real ones,³⁶³ so the audience may have happened to leave the playhouse with a feeling that what they had witnessed was an actual tribunal hearing.³⁶⁴ In *The Duchess of Malfi*, the distinction between private and public space is outlined first by the Duchess’s domain of her lodgings (where anything that happens is hidden from external view, included the audience), and then by specific proxemic schemes which separate domesticity from “a newly differentiated public world of state power, law and politics represented by Ferdinand and the Cardinal.”³⁶⁵ Naturally, such ‘public’ stage required adequate public speaking. Actors played a fundamental part in the exploitation of good rhetoric (to which, it appears, Jacobean audiences were very sensitive). It follows that

the audience of the trial scene of *The White Devil* [...] is explicitly and repeatedly told to examine carefully the rhetoric used in the scene; the

³⁶¹ T. F. Wharton, *Moral Experiment in Jacobean Drama*, Macmillan Press, Houndmill, Basingstoke, Hampshire and London, 1988, p. 61.

³⁶² *Ibidem*.

³⁶³ The edge is blurred, and the courtroom becomes the scenic place. See Contilupo: “’Tis a case shall leave a precedent to all the world / In our succeeding annals, and deserves / Rather a spacious public theatre / Than a pent court for audience” (*DLC*, IV, ii, 97-100); In the following scene, having bribed an officer by offering him money, Ercole enters on tiptoes and takes a private seat in a closet which ‘belongs to th’court;’ that would be the backstage or the discovery space.

³⁶⁴ The Duchess abhors her existence in this ‘world as a stage:’ “I account this world a tedious theatre, / For I do play a part in in’t ‘gainst my will” (*DM*, IV, i, 81-2).

³⁶⁵ Curtis Perry, Melissa Walter, “Staging Secret Interiors: *The Duchess of Malfi* as Inns of Court and Anticourt Drama” in Christina Luckyj (ed.), *The Duchess of Malfi: A Critical Guide*, Continuum, London, 2011, p. 87.

patterns of rhetoric [...] were surely made more obvious by the emphasis given to them by the actors. Thus, if we find, for instance, a devilish cardinal framing highly-mannered rhetorical devices in an increasingly sibilant alliteration, we can imagine the effect of the insidious hissing of the Jacobean actor who personated that cardinal.³⁶⁶

Scholars seldom carry out their research thinking of Webster as a visual artist, though “we must be aware of these clear aspects of theatricalism even when they are not discussed.”³⁶⁷ The visual dimension becomes particularly valuable in the tragedies with the inclusion of tournaments, masques, and dumb shows. An “interesting and revealing dumb show takes place in *The Duchess of Malffi*, act three, scene four, on the occasion of the Cardinal’s instalment and the banishment of the Duchess, Antonio and the children.”³⁶⁸ As indicated in the paratext, during the “ceremony, [a] ditty is sung to very solemn music” (*DM*, III, iv). *The White Devil* repeats a similar (if not identical) pattern; in act four, scene three, Monticelso/Paul IV appears on the terrace in his consecrated garments and proceeds to excommunicate and banish Vittoria and Brachiano. The cardinals are thus associated with religious and military emblems and costumes (the sword, the sceptre, the helmet, the flowing robes). This formalistic and ritualistic depiction of justice is, again, a form of criticism against its excessive grandiosity and peaks with Vittoria’s arraignment, where “combined visual formality of procession, robes, prisoner and judge symbolises solemnity and engenders awe. [...] The formality of the legal surroundings and process emphasises Monticelso’s status as a Cardinal with judicial power over men and women.”³⁶⁹ Webster’s meta-theatricality, together with his “conscious manipulation of visual, iconic and special arrangements of characters, props

³⁶⁶ H. Bruce Franklin, “The trial scene of Webster’s *The White Devil* examined in terms of Renaissance rhetoric” in *Studies in English Literature, 1500-1900*, 1:2 (Spring 1961), 35-51, 36.

³⁶⁷ Samuel Schuman, “The theatre of fine devices: the visual drama of John Webster” in James Hogg (ed). *Jacobean Drama Studies*, Institut für Anglistik und Amerikanistik, Universität Salzburg, Salzburg, 1982, p. 6.

³⁶⁸ *Ibidem*, p. 58.

³⁶⁹ Kate Aughterson, *Webster: The Tragedies*, Palgrave Macmillan, Houndmills, 2001, pp. 58-9.

and settings”³⁷⁰ show how well the dramatist marshals the creation of “visible and self-consciously choreographed formality, spectacle and dramatic meaning[s].”³⁷¹ The dramatist’s excessive zeal in the way he stages legal wrangling and applies protocols, follows the list of elements which allow us to think he might have been a student of the law.

Legal satire in Webster does not aim at showing the man’s disrespect for law as discipline or as principle, even if his provocative verses give the impression of a rather apolitical and insurgent soul.³⁷² The criticism is levelled at senior figures in the institution, as a result of an excessive bureaucratisation, an iniquitous administration of justice and a conception of law itself as a social construct merely sustained by unprincipled professionals. In the opening of *The Duchess of Malfi*, Antonio expresses his admiration for the French court and its “judicious king” (I, i, 6). He then proceeds to describe the prince’s court which “Is like a common fountain, whence should flow / Pure silver drops in general; but if’t chance / Some cursed example poison’t near the head, / Death, and diseases through the whole land spread” (I, i, 12-5). Historically,

the metaphor of the fountain was used repeatedly in the Elizabethan and early Stuart period to describe the monarchy, especially the king’s favour, to his subjects. Bountiful, free-flowing, continuous, the king granted favour to his subjects. [...] At the same time there was, in practice, a second aspect of a fountain: recirculation. [...] Contemporaries invoked the same metaphor to describe political corruption [which is] identified by Webster in *The Duchesse of Malfi* with corporeal images of death and disease.³⁷³

This type of symbolism retrieves the allegorical representations of medievalist precedents. In Ambrogio Lorenzetti’s frescos *Allegories and Effects of Good and Bad*

³⁷⁰ *Ibidem*, p. 161.

³⁷¹ *Ibidem*.

³⁷² This attitude is expressed in the following verses: Counsellor: “Come to the strength of reason, upon which / The law is grounded” (CFC, IV, i, 161-1).

³⁷³ Linda Levy Peck, *Court Patronage and Corruption in Early Stuart England*, Routledge, London, 2003, pp. 1-2.

Government (1338 ca).³⁷⁴ Tyranny (who is depicted as a satyr with monstrous traits) sits on the left, a black goat at her feet. On the bottom 'IVSTTTIA' lies immobilised and imprisoned in a straitjacket. Sometimes legitimate, sometimes heightened, the sense of judicial corruption intensified in Jacobean England and became a commonplace.³⁷⁵ The exchange between Sanitonella and Contilupo in the fourth act of the tragicomedy is exemplifying and laughable at the same time: the latter is bribed with utmost ease and, in the meantime, jokes are made about it.

SANIT: 'Tis a foul copy, sir, you'll hardly read it.

There's twenty double ducats, can you read, sir?

CONT: Exceeding well; very, very exceeding well.

SANIT: [*aside*] This man will be saved: he can read. Lord, Lord,

To see what money can do; [...]

CONT: Is not this

Vivere honeste?

SANIT: No, that's struck out, sir,

And whenever you find '*Vivere honeste*' in these papers,

Give it a dash, sir. [*DLC*, IV, i, 76-80; 82-4]

It must be said that Webster's poetics reflected a substratum of social and cultural assumptions "that judges were susceptible to corruption and prone to partiality, [...]" so it was entirely reasonable to suppose that judges, like other powerful figures, would reward friends and punish enemies."³⁷⁶ This does not imply that bribery was such a

³⁷⁴ Located in the Sala del Consiglio dei Nove, Siena, Italy.

³⁷⁵ The distrust in politics and justice was part of the culture. Cf. e.g. *A Cure For A Cuckold*. [Nurse] "Gentlemen, this does but show how the law will hamper you" (III, ii, 95).

³⁷⁶ Wilfred Prest, "Judicial Corruption in Early Modern England" in *Past & Present*, 133 (Nov. 1991), 67-95, 76.

common occurrence³⁷⁷ (Blackstone put pen to paper and clearly stated that it was an offence against public justice and a misdemeanour punishable at Common Law). While recognising the need for law, Webster was calling for a radical dismissal of some of those who were appointed to positions of authority. In Ariosto's words: "Bad suits, *and not the law*,³⁷⁸ bred the law's shame" (*DLC*, IV, i, 67).

We cannot ascertain whether the dramatist had access to any historical sources (at least not the originals, but he probably came across some rewritings in the form of published chronicles), nor can we determine whether he was actually interested in remaining faithful to the events or how much of the original stories he would have saved intentionally.³⁷⁹ What is certain is that the (apparent) moralistic tone of his plays often clashes with the representations of justice, meaning that the more the audience sympathises with a character, the less the law confirms itself as an example of rectitude. For instance, when Lodovico appears in the first scene of *The White Devil*, we soon learn about his amorality. Antonelli and Gasparo recount his past as a troublesome citizen and admit openly the fairness of the judgement the court has just pronounced (ANT: "Come, my lord, you are justly doomed" *WD* I, i, 13). The courtiers "ostensibly uphold traditional morality and so undermine Lodovico's sense of righteous indignation. Hypocritically, he turns on the system he had exploited. [...] All the spokesmen here

³⁷⁷ Webster takes up the subject ironically in *A Cure For A Cuckold*: "I knew one once fifteen years courtier-old / And he was buried ere he took a bribe" (*CC*, II, iii, 98-9;) "I once knew someone who in all of fifteen years as a courtier never took a bribe and, unusually, went to his grave without ever doing so." Cf. John Webster, René Weis (ed.), *The Duchess of Malji and Other Plays*, Oxford University Press, Oxford, 1996 (reissued 2009), p. 422.

³⁷⁸ Emphasis added.

³⁷⁹ In the case of *The White Devil*, the fact that "no document which would immediately and completely solve the problem of the origin of the play has been identified" could mean that Webster "may have relied on what he heard rather than on what he read." Gunnar Boklund, *The Sources of The White Devil*, Haskell House, New York, 1966, pp. 133-4.

seem guilty, either of hatred and logical inconsistency, or of hypocrisy.”³⁸⁰ Justice is never achieved because of its diligent officials; it rather happens to be a slim consolation, a “compromise” on the end of a long chain of calamitous events. It is “the rough justice of rebellion and revenge”³⁸¹ which causes the failure of judicial objectivity and exposes the perversion of the entire structure. In Webster justice dies symbolically and substantially; the same nature of justice is deadly since death seems the only means to obtain it. “The theme of reward and punishment and corrupt justice is also emphasized [in the ending of *The White Devil*,] echoing the first scene of the play. Flamineo wants to do *justice* by killing his sister and Zanche because of his anger at their deception,”³⁸² while in *The Duchess of Malfi* Bosola assassinates the Cardinal out of repentance and in a desperate attempt at recreating fairness. Now the “agent of Divine Justice, [...] he is vindictive to the Aragonian brothers because when they killed their sister, they ‘[Took] from Justice her most equall ballance’ (V, v, 40).”³⁸³ Once again, “once the rule of law ceases, violence becomes necessary.”³⁸⁴ Besides, do not vigilante justice, self-determination and anarchic conduct constitute a denunciation of courts corruption *per se*? The lack of justice³⁸⁵ together with its failure “is Webster’s demonstration that man needs something beyond justice and beyond mere natural reason if he is to move

³⁸⁰ Lee Bliss, *The World’s Perspective: John Webster and the Jacobean Drama*, Brighton, The Harvester Press, 1983, pp. 100-1.

³⁸¹ Dena Goldberg, *Crime and Law in the Plays of John Webster*, University of Wisconsin, Madison, 1964, p. 150.

³⁸² Susan H. McLeod, *Dramatic Imagery in the Plays of John Webster*, University of Wisconsin, Madison, 1972, p. 107.

³⁸³ K. Habibmohamed Ansari, *John Webster: Image Patterns and Canon*, Sterling Publishers, Delhi, 1969, p. 54.

³⁸⁴ Dena Goldberg, *Between Worlds: A Study of the Plays of John Webster*, cit., p. 150.

³⁸⁵ Absence is central. “In Webster [according to Steven Marche] everything is coloured by a dark sense of lack.” Jonathan Culpeper, Dawn Archer, Alison Findlay, Mike Thelwal, “John Webster, the dark and violent playwright?” in *A Quarterly Journal of Short Articles, Notes and Reviews*, 31:3, 2018, 201-210, 201.

beyond tragedy”³⁸⁶ and this goes in favour of the general view that “Webster is indifferent to morality.”³⁸⁷ Ian Jack observed that Webster’s choice to deal with the revenge tradition was itself “evidence of a lack of harmony in his own mind,”³⁸⁸ but this may not suffice; in view of the previous observations, I believe the explanation lies in his design to give a glimpse of early modern reality through its busiest activities and its most popular interests, namely old grudges and legal contentions. Webster lived in a time where the law was in a phase of adjustment from the point of view of direction and internal administration, with the installation of courts and the appointment of ancillary competent bodies (of which I have spoken in the first chapter). Not to mention the numerous legal theories which prompted and spread throughout Europe and which had an enormous impact on contemporary philosophy. The English Renaissance is a crucial landmark in the evolution and the establishment of traditional law. Our modern legal systems are the direct offspring of this era. Ordinary concepts such as property rights, testamentary dispositions and trade laws are rooted in the transition between the late Middle Ages and the early modern civil and cultural evolutions. The same idea of seeking legal protection was essential for the Sixteenth and Seventeenth century societies, at a time when the Inns of Court had already been training lawyers for many decades. Since justice is discretionary, relative, and not to be expected, “every decision is taken, and any legal act is carried out by a specific human being for other specific human beings.”³⁸⁹ And the deficiency of equity in the Websterian legal imagery is mainly due to a lack of humanity and compassionate behaviour in some ‘specific human beings.’ For instance, although “Tourney also deals with the corruption of law and justice, his characters do not show so much consciousness of the evils in the administration of justice as Webster’s characters do.”³⁹⁰

³⁸⁶ Peter B. Murray, *A Study of John Webster*, Mouton, The Hague, 1969, p. 213.

³⁸⁷ *Ibidem*.

³⁸⁸ Ian Jack, “The Case of John Webster” in *Scrutiny*, 16:1 (March 1949), 38-43, 39.

³⁸⁹ Daniela Carpi (ed.), *The Concept of Equity*, Winter, Heidelberg, 2007, ix.

³⁹⁰ K. Habibmohamed Ansari, *John Webster: Image Patterns and Canon*, cit., p. 33.

In his beautiful study of *The White Devil*,³⁹¹ Giorgio Melchiori insisted on the importance of central scenes in the dramatic action, lingering over the fact that turning points are the moments of absolute intensification of the representation of statesmen and ecclesiastics as those who decide the fate of others. In *The White Devil* (act four) Monticelso and Francisco figure out what to do about Brachiano and Vittoria; in *The Duchess of Malfi* (act three, scene three), the Cardinal of Aragon and Duke Ferdinand, who likewise are in a position of real power, receive the news of their sister's marriage to an unidentified spouse with the immediate condemnation shouted by Ferdinand: "That! / That damns her" (*DM*, III, iii, 61-2). Melchiori's observations are based on the fact that the real agents of the massacres are the highest members of religious and political hierarchies, implying that the seed of crime is the nexus between spiritual and temporal powers.

It is my belief that the dramatist was very much aware of where he was going; his uniqueness is such that even if he is usually considered as *one* of the greatest and most noteworthy late-Elizabethans, he is just as much deserving of "a place of his own." Indeed,

his powerful personality coloured what he wrote, and yet [his] plays are more representative than any that had led to them, of the period behind them. The stream swept straight on from Marston and Tourneur to Webster. [...] He stands in his loneliness, first of that long line of last Elizabethans. As the edge of a cliff seems higher than the rest from the sheer descent in front of it, Webster, the Webster of these two plays, appears even mistier and grander than he really is, because he is the last of Earth.³⁹²

In the Nineteenth century Charles Lamb inaugurated Webster criticism in his *Specimens of English Dramatic Poets* (1808). His "rhapsodic praise strongly implied that Webster

³⁹¹ Cf. Nemi D'Agostino, Giorgio Melchiori, Agostino Lombardo (eds.), *Teatro elisabettiano: Marlowe, Webster, Ford*, Accademia Olimpica, Vicenza, 1975, pp. 27-44.

³⁹² Rupert Brooke, *John Webster and the Elizabethan Drama*, John Lane Company, New York, 1916, pp. 74-5. The passage is also cited by John Wilhelm F. Vinje, *An Echo of Chaos: A Search for Order in John Webster* (Master Thesis) University of Bergen, 2018. Available at: <https://hdl.handle.net/1956/3322>

deserves an exalted place in the dramatists' pantheon,"³⁹³ a judgment which "has rarely been questioned."³⁹⁴ Speaking of 'singularity,' I would like to stress on the importance of some considerations Dena Goldberg makes about Webster's "democratisation" of the legal system, whereby she identifies individualism and, more generally, the act of 'standing out' from the crowd as possible obstacles to the attainment of justice. This can only be, Goldberg says, the achievement of collective commitment. Webster's

reconciliation to law in *Appius and Virginia* is a revolutionary position. In shifting his focus from the individual to the society, Webster has come to envision resistance to oppressive power as something more potent than the acts of isolated individuals – the passive resistance of the Duchess, the spirited equivocation of Vittoria. In *Appius and Virginia* resistance is a social act, made possible by the voluntary submission of individuals like Virginius to the general will.³⁹⁵

Peter Murray explains that characters purportedly "act without any moral, social, or natural restraint and become completely independent, selfish, and finally isolated individuals."³⁹⁶ The tragic heroines are thus relegated into their areas of confinement, which happen to be inaccessible and hidden from the rest of society. The audience, followed closely by the readers, remains the only external agent to participate in the events as they unfold and to be able to examine and re-contextualise them, even giving its own assessment. As it happens, the author tends to leave room for interpretation (at least this was the original intention, spoiled by the cold reception of the unfavourable audience of the Red Bull); on this level of arbitrariness, we cannot tell whether Vittoria is involved in the assassination of Camillo (is she Brachiano's accomplice or not?) or why the Duchess lives her life in secrecy and marries reneging on her promise to remain a widow. We only understand that the law is oppressive to those who rage against it in the

³⁹³ Melvin Seiden, *The Revenge Motive in Websterian Tragedy*, Institut für Englische Sprache und Literatur, Universität Salzburg, Salzburg, 1973. p. 42.

³⁹⁴ *Ibidem*.

³⁹⁵ Dena Goldberg, *Between Worlds: A Study of the Plays of John Webster*, cit., pp. 150-1.

³⁹⁶ Peter B. Murray, *A Study of John Webster*, cit., p. 31.

name of liberty. Defiance and individualistic rebellion are more likely a wasted effort. Marcus Nordlund introduces the element of the “uncertainty of sight,” by which

just as Webster’s protagonists are caught up in a surface without depth, so the spectator is constantly denied access to any deeper meanings, or is tapped between conflicting meanings [...] This is a succinct formulation of the why in which the audience is constantly denied tragic identification with the protagonist, and the eye is doomed to skirt a dramatic world of ubiquitous appearances.³⁹⁷

Webster fashioned two tragedies in which nihilism and the search for selfhood easily lead to devaluing judgments and misinterpretation. The confusion which still prevails among the critics of Webster and which – as some claim – explains his “alleged failure as a dramatist”³⁹⁸ stems from “his method of mixing unrealistic conventions with psychological-realistic representation [which] leads to a lack of structure in his plays as wholes.”³⁹⁹ This is particularly true of *The Devil’s Law-Case*, where, as stressed by René Weis, the use of “an increasingly freer versification which can stretch to fourteen syllables and almost merges into the rhythms of prose speech”⁴⁰⁰ is made worse by a general inconsistency and a lack of cohesion in terms of language and action. The several (and, sometimes, inconsequential) plot-twists affect the storyline and culminate in the final scene which, to quote a bold statement, “deserves reprobation.”⁴⁰¹ The fact that Webster’s contribution to Jacobean tragicomedy results underwhelming in terms of intensity (despite the commendable attempt of some scholars to re-evaluate and

³⁹⁷ Marcus Nordlund, *The Dark Lantern: A Historical Study of Sight in Shakespeare, Webster and Middleton*, Acta Universitatis Gothoburgensis, Göteborg, 1999, p. 370.

³⁹⁸ Inga Stina Ekeblad, “The ‘impure’ art of John Webster” in *The Review of English Studies*, 9:35 (Aug., 1958), 253-267, 253.

³⁹⁹ *Ibidem*.

⁴⁰⁰ John Webster, René Weis (ed.), *The Duchess of Malfi and Other Plays*, Oxford University Press, Oxford, 1996 (Reissued 2009), xxxii.

⁴⁰¹ D. C. Gunby, “*The Devil’s Law-Case*: An Interpretation”, in *The Modern Language Review*, 63:3 (Jul. 1968), 545-558, 545.

appreciate it), is of secondary importance. In its own substance, the play surely offers numerous elements of reflection for our “quest” for legal contents.

The judiciary sophistry of the works puts into perspective the way in which the literary production of the period revealed the mechanisms of culture and its conventional ethics, giving some context to the placement of law on a scale of social values. Legal matters are the main constituent of this theatre, from the acerbic portrayal of lawyers in *The Devil's Law-Case* and *A Cure For A Cuckold*⁴⁰² to the brutality of the acts of murder and the chicanery of conjugal law in the tragedies (which, I think, is of primary importance). This will be our next step.

⁴⁰² ‘Pettifog’ and ‘Dodge’ are two attorneys debating during the trial which takes place in the fourth scene of the play. Considerations about dishonesty of lawyers are frequent in the text; however, they are more attributable to Webster, than to Rowley. Cf. e.g. Bonvile “Fight as lawyers plead, / Who gain the best of reputation / When they can fetch a bad cause smoothly off” (*CC*, III, i, 25-7).

III. I. *Marital Law.*

In the previous chapter I have intentionally introduced the sources for *The White Devil* and left the genealogy of *The Duchess of Malfi* aside. The reason lies in the construction of the sources themselves, and in their being indissolubly tied to the social practice and the juridical configuration of marriage (which I am about to discuss), as well as scrupulously compliant with religious *dicta*. The underlying moralistic and misogynistic message of the original materials constitutes, at one time, a point of conjunction and a point of divergence with the target text.⁴⁰³ Giovanna d'Aragona (1478-1510) is the historical person behind the misfortunate duchess. Her life events correspond – with some regular exceptions – with those reported by Webster. Left a widow at a young age after the assassination of her husband, don Alfonso Piccolomini Todeschini, Duke of Amalfi, the woman married in secret her steward, Antonio Baccadelli of Bologna, and faced up the tragic consequences to her actions. Cardinal Luigi d'Aragona, her bother, denied the couple his blessing and had them killed separately along with their children. The third brother, Carlo, Count of Gerace, was already dead at the time of the carnage.

Matteo Bandello's *Novella XXVI* was the first literary work to be based on the events. In it Antonio is described as “vertuoso ed onestamente ricco”⁴⁰⁴ (virtuous and discreetly rich) despite his social inferiority, a reality the duchess would gladly change by renouncing her title and her estate and by living the private life of a gentlewoman. Delio appears as Bandello's *alter ego*; he interacts with the characters, witnesses the events, and allows himself to be inspired by them to write a tale. Captain Daniele da Bozzolo (Bosola) appears only at the end, just in time to accomplish his task and kill Antonio with a group of executioners. The question of honour and of contemporary sexual mores is a central theme in the Italian *istoria* (a quite distant reality for Webster, a modern

⁴⁰³ The duchess's story inspired another play by Lope de Vega, *El mayordomo de la Duquesa Amalfi*, which appeared four years after Webster's own and which focused on the social advancement of Antonio Bologna.

⁴⁰⁴ Matteo Bandello, Gustavo Balsamo Crivelli (ed.), *Le quattro parti de le Novelle del Bandello*, Volume I, UTET, Torino, 1910, p. 291.

and evolved playwright who apparently got his lady with child at an early age before the wedding). In *Bandello*, the element of marriage is only secondary; in the first part of the *novella* the duchess's eroticism torments her. She is a slave to her sexual desires and goes in search of a lover to restore an activity she can no longer enjoy in widowhood.⁴⁰⁵ Emma Smith clarifies that "All the previous retellings of the story are almost all moralistic" and underlines how Webster "strips out or complicates [their] moralistic gloss."⁴⁰⁶ It is very likely that Webster came to know the story through William Painter's translation of *Bandello's novella*, which appeared in the third volume of *The Palace of Pleasure* (1566), a storehouse of Elizabethan plots.⁴⁰⁷ Here, the 'Napolitane Gentleman' is praised in his countless virtues; he frequents the French royal court, plays the lute most pleasantly, is a valiant man of war and is trained in the knowledge of good letters. On the other hand, the duchess acquires her reputation as a 'lusty widow,' leading Antonio to "fall headlonge into hys death and ruine."⁴⁰⁸ Obviously, there is a slight, germinal difference in the writers' conception of the female character. To Webster, the Duchess is a stubborn woman with a strong inclination for freedom⁴⁰⁹ who proposes to the steward

⁴⁰⁵ "(...) nè le parendo ben maritarsi e lasciare il figliolo sotto altrui governo, si pensò di volersi trovare qualche voglioso amante, e con quello goder la sua gioventù." *Ibidem*. "(...) it felt wrong to remarry and leave her son under the guardianship of some other man, so she thought of finding an unsuitable lover to enjoy her youth with." (My translation).

⁴⁰⁶ <http://podcasts.ox.ac.uk/duchess-malfi-john-webster> Last access: May 2021.

⁴⁰⁷ *Appius and Virginia* (Novella V) appeared in the first tome of the collection, together with other English translations of Italian novels originally written by Boccaccio, *Bandello* and *Straparola*.

⁴⁰⁸ William Painter, Joseph Jacobs (ed.), *The Palace of Pleasure, Elizabethan Versions of Italian and French Novels from Boccaccio, Bandello, Cinthio, Straparola, Queen Margaret of Navarre and Others*, Vol. III, published by David Nutt in the Strand, London, 1890, p. 5.

⁴⁰⁹ The subversion of the rules of courtship in *The Duchess of Malfi* creates a precedent in the history of English drama. The play lacks the exchange of letters between lovers, a usual element in contemporary plays such as *The Gentleman Usher*, *Romeo and Juliet*, *Much Ado About Nothing*, *Twelfth Night* and the like.

of her household and almost imposes her will upon him.⁴¹⁰ Her marital choice “reinscribe[s] the masculine terror of a female sexuality turned loose, which dictates the structure of feeling in Jacobean tragedy.”⁴¹¹ However, to Bandello and Painter, two sanctimonious judges, she is a blameful devil, the serpent in the garden of Eden, and her proposal is neither an act of free-will, nor a practice of self-love, but a provocation, an irresistible temptation. This homiletic reading of the story of the duchess is possibly amplified in a third retelling from 1597: *The Theatre of God’s Judgments* by Thomas Beard. A fervent Puritan preacher, Beard conceived his work first as an account on the dangers of the theatre,⁴¹² and then as a sort of encyclopaedia of ‘notorious sinners’ whose ‘exorbitant power had broke (*sic*) through the barres of Divine and Humane Law.’ Antonio and the Duchess are stigmatised as fornicator and adulteress, and their case is presented in Chapter XXIII, “Of Whoredoms Committed Under Colour of Marriage” (which precedes the section “Of Unlawfull Marriages And Their Affairs.”) As Stephen Marche argues, “Webster’s *Duchess of Malfi* works on exactly the inverse narrative principle. [...] What Beard forces on us as the moral of the story, Webster leaves entirely unspoken”⁴¹³ and this supports some before mentioned considerations on the nothingness and the godlessness of Webster’s creation. Beard’s tone is particularly

⁴¹⁰ All things considered, “Antonio’s part in all [the] schemes, although they concern his well-being, is still largely passive. He acts only under the Duchess’s supervision or Delio’s advice.” A. L. and M. K. Kistner, “Man’s will and his futility in *The Duchess of Malfi*” in *Studia Neophilologica*, 68:1 (1996), 49-60, 50.

⁴¹¹ Aspasia Velissariou, “The Body Politic, Female Transgression and Punishment in Jacobean Tragedy” in Sidia Fiorato, John Drakakis (eds.), *Performing the Renaissance Body: Essays on Drama, Law, and Representation*, De Gruyter, Berlin, 2016, p. 275.

⁴¹² The book includes the first account of the death of Christopher Marlowe (printed ‘Marlin,’) a “play-maker and a poet of scurrility” who, according to Beard, “denied God and his sonne Crist [and] blasphemed the Trinity.” Cf. Beard, *The Theatre of God’s Judgments*, printed by S.I. & M. H., London, 1648, p. 92.

⁴¹³ Stephen Marche, “John Webster and the Dead: Reading *The Duchess of Malfi*’s Eschatology” in *Renaissance et Réforme*, 28: 2 (2004), 79-95.

sententious; he equates divine and human justice and rules the marriage illegitimate on the basis of religious and cultural assumptions:

Seeing that oftentimes it falleth out, that those which in shew seem most honest, thinke it a thing lawfull to converse together as man and wife by some secret and private contract, without making account of the publike celebration of Marriage as necessary, but for some worldly respects, according as their foolish and disordinate affections misperswadeth them, to dispence therewith. It shall not be impertinent as we go, to give warning how unlawfull all such conversation is, and how contrary to good manners, and to the laudable customes of all civill and well governed people. For it is so far from deserving the name of Marriage, that on the other side it can be nothing but plain whoredom and fornication [...] besides the evill examples which is exhibited, there is this mischief moreover, that the children of such a bed cannot be esteemed legitimate, yea God himselfe accurseth such lawlesse familiarity, as the mischiefes that arise therefrom do declare.⁴¹⁴

If in the older versions the focus was mainly on the morganatic marriage, in the play it shifts to social factors and to the Duchess's zeal in defending her legal claims and in preventing legal impediments (though *Bandello* and *Painter* had reverted to the same theme to show how manipulative and conniving women can be). The marriage proposal, which occurs in all the sources in different ways, represents an interesting base for comparing (and contrasting) the texts.

In *Bandello*, the wedding takes place *per verba de presenti*. The duchess acts consciously and in complete autonomy:

- "Antonio, sta di buona voglia e non ti sgomentare, chè se tu vorrai, io ho deliberato che tu per ogni modo sia mio marito" (*Bandello*: 294);⁴¹⁵
- "Aveva la duchessa una figliuola di colei che l'aveva fin dalla culla nodrita, la quale ella già aveva dei suoi pensieri fatta consapevole. Onde la chiamò, e non v'essendo altri che

⁴¹⁴ Thomas Beard, Thomas Taylor, *The Theatre of God's Judgments*, cit., p. 256.

⁴¹⁵ "Cheer up, Antonio, and don't be dismayed, because if you must, I will be resolved to make you my husband at any cost." (My translation).

lor tre, volle alla presenza della sua cameriera esser dal Bologna per moglie sposata” (295);⁴¹⁶

- “[...] sono già alcuni anni passati che io sposai, alla presenza di questa mia cameriera [...] il signor Antonio Bologna [...] ed egli è mio legittimo marito” (297).⁴¹⁷

Novella XXVI: “Il Signor Antonio Bologna sposa la duchessa di Malfi, e tutti dui sono ammazzati.” (1st Ed. 1573).

Despite Painter was rather faithful to the original text, he decided to exclude the element of the witness (namely the third party). The wedding vows are pronounced privately, and only later is the marriage consummated in the presence of a lady-in-waiting (*per verba de futuro carnali copula subsequuta*):

- Thus the Duchesse founded hir enterpryse, determining to mary hir houshold Mayster [...] and vpon a time sent for him vp into hir chamber, as commonly she did for the affaires and matters of hir house, and taking him a side vnto a window [...] she knew not how to begin hir talk (Painter: 14) [...] she tooke hym by the hand, and beholdinge him with a wanton and luring eye [...] she sayde thus vnto hym: Signor Anthonio, I pray you be of good cheere, and torment not your selfe for any thing that I haue said [...] I sware vnto you, and doe promise that if you thinke meete, it shalbe none other but your self whom I wil haue, and desire to take to husband and lawful spouse, beyng assured so much of you, as the loue which so longe time hath ben hidden and couered in our hartes, shall appeare by so eudent prooffe, as onely death shal end and vndo the same (18);
- And the houre was assigned the next day, that the faire Princesse should be in hir chamber alone, attended vpon with one onely Gentlewoman which had ben brought vp with her from the cradle, and was made priuy to the heauy mariage of those two louers which was consummate in hir presence (20).

Novel XXIII: “The infortunate mariage of a Gentleman, called Antonio Bologna, wyth the Duchesse of Malfi, and the pitifull death of them both.” (1st Ed. 1566)

To Thomas Beard, the lovers were both culpable. He insisted on the brutish aspect of morality and on the vision of sin as an instrument to punish “those who under the veil of secret marriage thought it lawfull for them to commit any villainy” (Beard: 256). We

⁴¹⁶ “The duchess had her nurse’s daughter in her service, with whom she had already shared her thoughts. Therefore, she summoned her and – since it was just the three of them – she decided to marry Bologna in her presence.” (My translation).

⁴¹⁷ “[...] it’s been a few years since I married Antonio Bologna in the presence of my chambermaid, and he is my lawful husband.” (My translation).

can assume, as readers, that both parties decide to be joined together in marriage by mutual agreement:

- [...] A Gentleman of Naples called Antonio Bologne, that had been Governour of Fredericke of Arragons house, when he was King of Naples, and had the same Office under the Duchesse of Malfi after she was widow; with whom in protract of time he grew to have such secret and privie acquaintance (albeit she was a princesse and he her servant) that he enjoyeed her as his owne wife. And thus they conversed secretly together under the colour of Marriage accorded betwixt them, the space of certain yeares, untill she had bore unto him three children. [...] The matter being come to her brothers eares, they took it so to the heart, that they could not rest untill they had revenged the vile injury and dishonour which they pretended to have been done to them and their whole house, equally by them both (256).

In Webster, the practice of law is almost overplayed. The scene is loaded with technical details, which we soon read when the Duchess appoints her intended as a notary under the pretext of writing her will. She sends for him and exhorts him to “sit down, take pen and ink, and write” (*DM*, I, i, 352). By doing this, she is making sure that Antonio writes (or, better, undersigns) the marriage conditions in the capacity of wedded husband.⁴¹⁸ As she dictates, her figural language becomes increasingly vague and impersonal, a sense which she stresses through the use of majestic plurals:⁴¹⁹ “After these triumphs, and this large expense, / *It’s fit, like thrifty husbands, we inquire / What’s laid up for tomorrow” (356-8). Her later statement “I am making my will” (367) is quite ambiguous; in a figurative sense, she is asserting her rights over her own life without considering traditional restrictions and the requirements of authorities.⁴²⁰ After a frivolous exchange of words, the lady finally reveals her intentions:

⁴¹⁸ The Duchess reiterates this duplicity multiple times. See: “If I had a husband now, this care were quit; / But I intend to make you overseer” (I, i, 374-5).

⁴¹⁹ By the end of the scene, the Duchess will justify the cloudiness of her speech: “The misery of us that are born great: / We are forced to woo, because none dare woo us; [...] so we / Are forced to express our violent passions / In riddles, and in dreams [...]” (I, i, 431-2; 435-6).

⁴²⁰ In this regard, many critics contend that “the circumstances surrounding the marriage of the Lady Arbella Stuart parallel those of John Webster’s Duchess.” Sara Jayne Steen, “The Crime of Marriage: Arbella Stuart and The Duchess of Malfi” in *The Sixteenth Century Journal*, 22:1 (1991), 61-76, 61. Lady

DUCH: Fie, fie, what's all this?
 One of your eyes is bloodshot: use my ring to't,
 They say 'tis very sovereign: 'twas my wedding ring
 And I did vow never to part with it
 But to my second husband.
 ANT: You have parted with it now. [...]

There is a saucy and ambitious devil in this circle.
 DUCH: Remove him.
 ANT: How?
 DUCH: There needs small conjuration, when your finger
 May do it: thus, *is it fit?⁴²¹
[She puts her ring upon his finger. He kneels.] (394-8; 402-3)

The Duchess is anticipating with actions the solemnisation of the marriage. The sequence of kneeling, kissing, embracing, handfasting contributes to outlining that element of theatricality which takes shape in one simple object: the ring. The 'circumference,' (459) as the Duchess calls it, "is visible on stage. Actually, the word is probably a reference to both the wedding ring and the embrace"⁴²² the couple exchange, even though a stage ring "may stand for the more temporary urges of sexuality (specifically female lust)."⁴²³ This interpretation is reinforced by Ferdinand's disparagement of the value of jewels:

Arbella (1575-1615) was the first cousin of James I; having been denied the king's permission to marry William Seymour (a Tudor claimant to the throne), she wedded him in secret at Greenwich on 22 June 1610. The couple were separated and convicted; in the aftermath, they managed to reunite and plan an escape, but they kept going through adverse circumstances. After a subsequent recapture, they spent the rest of their lives in seclusion and never got to see each other again.

⁴²¹ *Observe how she puns on the lines "It's fit." / "Is it fit?" (357; 402).

⁴²² Samuel Schuman, "The theatre of fine devices: the visual drama of John Webster" in James Hogg (ed). *Jacobean Drama Studies*, Institut für Anglistik und Amerikanistik, Universität Salzburg, Salzburg, 1982, p. 27.

⁴²³ *Ibidem*. p. 11.

DUCH: Diamonds are of most value,

They say, that have passed through most jewellers' hands.

FERD: Whores, by that rule, are precious. (*DM*, I, i, 290-2)

The ambivalence of images does not stop there. Antonio suggests they “imitate the loving palms, / Best emblem of peaceful marriage, / That ne'er bore fruit divided” (475-7). Weis reports a quotation from Thomas Overbury's *Characters*⁴²⁴ where a widow is defined as “the Palme-tree that thrives not after the supplanting of her husband.”⁴²⁵ But the ‘polysemic’ palm is also a reference to *Romeo and Juliet*, and to the immortal image of the preying palms lightly touching (“And palm to palm is holy palmers' kiss” *RJ*, I, v, 99). We come now to the actual pronouncement:

[*They kneel. Cariola comes from behind the arras.*]

ANT: Hah?

DUCH: Be not amazed, this woman's of my counsel.

I have heard lawyers say, a contract in a chamber

Per verba de presenti is absolute marriage.

Bless, heaven, this sacred Gordian, which let violence

Never untwine. (*DM*, I, i, 466-470)

To an English audience, the marriage “would probably have seemed valid”⁴²⁶ since the element of physical contact is made so explicit and since “many marriages transacted outside of [the] rules that [they] should be advertised in advance by calling of banns three times, solemnised in open church by a minister, and recorded in the parish

⁴²⁴ To which Webster contributed, together with Dekker and Donne.

⁴²⁵ John Webster, René Weis (ed.), *The Duchess of Malfi and Other Plays*, Oxford University Press, Oxford, 1996 (Reissued 2009), p. 391.

⁴²⁶ Frances E. Dolan, “Can this be certain?: The Duchess of Malfi's Secrets” in Christina Luckyj (ed.), *The Duchess of Malfi: A Critical Guide*, Continuum, London, 2011, p. 121.

register.”⁴²⁷ But this could only happen on very rare occasions in accordance with the English Common Law.

However, according to Canon law (to which marriage was a sacrament) the problem of consummation complicated matters. Putting the contract into effect by consistorial rules and bureaucratic standards would imply first a religious celebration *in facie ecclesiae*, and then a subsequent registration in the local parish. If this did not happen, the marriage would be voidable. Unfortunately, the Duchess only knows the law by hearsay⁴²⁸ (*ignorantia legis non excusat*) and tries to ignore either the excessive complexity of regulations or the simple notion that marriage validity is determined by the church: “What can the church force more? [...] How can the church build faster? / We are now man and wife” (478; 481-2). *Sponsalia per verba de presenti* was legal in all respects; but the failed procedure we witness in the scene seems to be a technicality, a fault in the design of contracting honestly an ‘absolute marriage.’ Then as now, there was a world of difference between *betrothing* and *marrying*, that is to say between *verba de futuro* and *verba de presenti*. The one pronounced by the Duchess and her steward is a type of informal agreement which needed enforcement to be recognisable (as Ferdinand says: “Such weddings may more properly be said / To be executed, than celebrated” (*DM*, I, i, 313-4). But as I have tried to demonstrate several times before, the lack of a Divine agent in Webster is commonly replaced by the omniscience of the law; therefore, the spouses unequivocally acknowledge their legal responsibilities, but are untouched by divine grace. At this point it is clear that “although the Duchess’s marriage to Antonio itself is legal, the consummation of it is irregular and would open the couple to ecclesiastical penalties.”⁴²⁹

Yet, as I am writing, Webster’s attempt to make it appear as if the Duchess acted out of naivety seems to me a lot less plausible. I think it is legitimate to rely on the principle

⁴²⁷ *Ibidem*.

⁴²⁸ Cf. Urse: “I have no skill in law, sir, but you heard a lawyer say so” (*CC*, IV, i, 69).

⁴²⁹ Theodora A. Jankowski, “Defining/Confining the Duchess: Negotiating the Female Body in John Webster’s *The Duchess of Malfi*” in *Studies in Philology*, 87:2 (Spring 1990), 221-245, 233.

of indeterminacy, that ‘uncertainty of sight’⁴³⁰ which I would like to rename for once ‘impossibility of sight.’ As Frances E. Dolan points out, “although the audience is invited into the secret that the Duchess and Antonio are married, we are also shown that the legitimacy of this marriage is illegible to everyone who lives with them except Cariola.”⁴³¹ As far as we know – or, as far as we can see – the spouses might have brought the procedure to completion off-stage, at a later time. In act four, the Duchess turns to Ferdinand and speaks the most puzzling words: “Do you visit me for this? You violate a sacrament o’th’ church / Shall make you howl⁴³² in hell for’t” (IV, i, 38-9). This supposition seems to dissolve the ambiguity regarding some lines the Duchess delivers before exiting the first act, and which suggest that the marriage is not consummated straightaway:

DUCH: I would have you lead your fortune by the hand,
 Unto your marriage bed [...]
 We’ll only lie, and talk together, and plot
 T’appease my humorous kindred; and if you please,
 Like the old tale, in ‘Alexander and Lodovic’,
 Lay a naked sword between us, keep us chaste. (*DM*, I, i, 485-6; 488-90)⁴³³

Throughout the play, and especially in the context of marriage negotiation, the Duchess asserts the dominance of her ‘body natural’ over her ‘body politic.’ She watches it change and accepts the progressing of her pregnancy with delight under the watchful eye of Bosola (“I observe our duchess [...] / She wanes i’th’ cheek [...] / And (contrary to our Italian fashion) / Wears a loose-body’d gown—there’s somewhat in’t!” II, i, 59; 62;

⁴³⁰ Cf. Marcus Nordlund, cit.

⁴³¹ Frances E. Dolan, “‘Can this be certain?’: The Duchess of Malfi’s Secrets” cit., p. 121.

⁴³² The line is yet another allusion to Ferdinand’s lycanthropy.

⁴³³ The situation recalls *A Cure For A Cuckold*, where Annabel and Bonvile are forced to delay “the blessings of the bed” (II, ii, 76) due to the groom’s sudden departure.

63-4). The mutability and the ‘rawness’⁴³⁴ of her pregnant belly represent, in a sense, the generational change she is implementing behind closed doors (the Duchess gives birth to two sons and one daughter, thus renewing the initial family status of the House of Aragon). But her physical maturation also becomes the sublimation of her social estrangement and the cause of her descent into political opprobrium. By ideally combining both sides, she would have her body politic take her body natural’s features, thus imposing a lovable and nurturing model of matriarchal supremacy on her subjects. This idea is powerfully expressed in the following lines:

DUCH: Doth not the colour of my hair ‘gin to change?

When I wax grey,⁴³⁵ I shall have all the court

Powder their hair with orris, to be like me.

You have cause to love me: I entered you into my heart. (*DM*, III, ii, 58-60)

Overall,

The Duchess of Malfi questions long ingrained assumptions about women’s rule as naturally tyrannical, and women’s desire as insatiable, embedded in the supposed feebleness, changeability, and vulnerability of the female body. Webster constructs a female aristocrat whose desire in violation of social status and traditional gender position disempowers her politically, and renders her a private person.⁴³⁶

⁴³⁴ Bosola finds it execrable and abominable.

⁴³⁵ Observe the contrasting image of Winifred reluctantly dyeing her hair grey to look older and deceive the judges in *The Devil’s Law-Case*: “She [Leonora] made me colour my hair with bean-flour to seem elder than I was / And then my rotten teeth, with eating sweetmeats [...]” (*DLC*, IV, ii, 493-4;) Cf. also Bosola: “Thou art some great woman, sure, for riot begins to sit on thy forehead; clad in grey hairs, twenty years sooner than on a merry milkmaid’s” (*DM*, IV, ii, 128-9).

⁴³⁶ Aspasia Velissariou, “The Body Politic, Female Transgression and Punishment in Jacobean Tragedy” in Sidia Fiorato, John Drakakis (eds), *Performing the Renaissance Body: Essays on Drama, Law, and Representation*, De Gruyter, Berlin, 2016, p. 278.

Webster's eponymous Duchess and Shakespeare's Gertrude represent the two main tragical portrayals of remarrying dowered widows on the early modern stage.⁴³⁷ Cornelia is the one character that reflects the traditional prototype of the 'virtuous widow' outlined by Overbury,⁴³⁸ whose "main superstition is [to think] her husband's ghost⁴³⁹ would walk, should she not perform his will"⁴⁴⁰ and that "married that she might have children, and for their sakes she marries no more."⁴⁴¹ In contrast, Leonora⁴⁴² and the Duchess imitate the 'ordinary widow':⁴⁴³ "the end of her husband begins in tears, and

⁴³⁷ Widows typically belong to the comedy, which is why "nearly all the well-known theatrical names of the first quarter of the seventeenth century produced at least one comic remarrying-widow plot: Chapman, Jonson, and Rowley wrote two apiece; Beaumont and Fletcher two, and Fletcher alone, one; Middleton turned out an astonishing seven; Dekker, Massinger, Brome, Field, Cooke, and Barry all tried their hands at one." Jennifer Panek, *Widows and Suitors in Early Modern English Comedy*, Cambridge University Press, Cambridge, 2004, p. 5.

⁴³⁸ Since "not all the contributions commissioned [...] have been identified by author" the widow is most probably an Overburian character, though some attribute it to Webster, to whom "some thirty-two [characters were assigned,] which were first included in the sixth edition." Cf. D.A. Beecher, "The Overbury Characters" in *Cahiers Élisabéthains: A Journal of English Renaissance Studies*, 60:1 (2001), 31-41, 31.

⁴³⁹ The influence of Giovanni Boccaccio on the characterisation of the 'merry widow' is undeniable. In *Corbaccio* (1365 ca). the protagonist is visited by the spirit of the deceased husband of the woman he has fallen in love with. The ghost warns him against the mischiefs committed by the *malvagie femmine* ('wicked females,') and exhorts him to write about the dangers and the depravity of the female sex.

⁴⁴⁰ Thomas Overbury, *His Wife, With Additions of New Characters, and Many Other Wittie Conceits Never Before Printed*, Printed by R. B. for Robert Allot, London, 1632, [Character 64, "A virtuous widow."]

⁴⁴¹ *Ibidem*.

⁴⁴² Although Leonora does not remarry, she has a romantic side and tries to sabotage her daughter's wedding by wooing her son-in-law in a traditional way (and by gifting her portrait to him). Cf. *DLC* (I, i).

⁴⁴³ I would add Urse, the cuckold's wife, to the list. Thinking her husband is dead at sea, she suddenly grows "lusty; and [...] wears better clothes [...] fair gowns, brave petticoats, and fine smocks." (*CC*, II, iii, 66; 68).

the end of her tears begins in a husband.”⁴⁴⁴ Observe how similar the construction is, along the following lines:

DUCH: I'll never marry.

CARD: So most widows say,

But commonly that motion lasts no longer

Than the turning of an hour-glass; the funeral sermon

And it, end both together. (*DM*, I, i, 292-5)

Webster's choice to make his Duchess childless, bondless, and carefree is quite curious, since the historical figure had a son from Piccolomini, an element which occurs also in the works by Bandello and Painter. It is not something Webster just swept under the rug; instead, his decision to alter the woman's condition seems rather sensitive, because it empowers and extends her liberty to make decisions and it tests her ability to overcome limits.⁴⁴⁵ Her actions seem a lot less questionable from an ethical perspective, while in legal terms the presence of a male heir would have put her in a position where she must abide by his rules. Webster was strongly aware of the current social and juridical restrictions widows were subjected to. In Renaissance Italy, for instance,

a widow [...] could live in her husband's family, by her children's side; she could live independently without remarrying, but near her children; or, finally, she could remarry and leave the first family that had received her. But in practice a widow, if young, was barred from the second option and found herself subjected to contradictory pressures that prevented her from quietly choosing between the other

⁴⁴⁴ *Ibidem*. [Character 65, "An ordinary widow."]

⁴⁴⁵ The choice alone proves that "it is a commonplace to say that Webster cannot construct plays." Christina Luckyj, "Great Women of Pleasure: Main Plot and Subplot in *The Duchess of Malfi*" in *Studies in English Literature, 1500-1900*, 27:2 (Spring 1987), 267-283, 267.

two possibilities. Young widows were in fact the target of a whole set of forces struggling fiercely for control of their bodies and their fortunes.⁴⁴⁶

A further level of investigation is given by the plurality of orthodoxies in the post-Reformation period. Margaret Mikesell contends that the “comparison of Catholic and Protestant views of widowhood reveals substantial differences as to the advisability of remarriage and the ability of the widow to conduct her own life,”⁴⁴⁷ stressing that “the Catholic position is a product of the patristic conviction [of marriage as] a necessary evil.”⁴⁴⁸ However, although on the one hand Protestantism endorsed remarriage and mitigated its attitude toward widows, on the other one hand Puritanism totally demonised it. Hence, it is presumable that Webster’s intent was to create a sympathetic character for his English audience knowing that this one could, however, end up being regarded differently by a society which was culturally and religiously stratified.

If the Duchess of Malfi finds herself a widow due to unfortunate circumstances, Vittoria is made one for the sake of a larger design. The fact that Brachiano deliberately puts himself in the same condition as a widower demands a lot of attention from a cultural perspective. In fact, in the play the state of widowhood is undertaken differently according to criteria of gender and social rank; more precisely, it is hardly associated with the duke, who does not acknowledge publicly his new status and exits the second scene of the third act before the announcement of Isabella’s death is made. As Flamineo acutely observes, even Francisco “carries it well” (*WD*, III, ii, 303), as to suggest that the passing of the duchess is only a political matter, unworthy of male sympathy.⁴⁴⁹ Through

⁴⁴⁶ Christiane Klapisch-Zuber, *Women, Family and Ritual in Renaissance Italy*, The University of Chicago Press, Chicago, 1985, p. 120.

⁴⁴⁷ Margaret Lael Mikesell, “Catholic and Protestant Widows in *The Duchess of Malfi*” in *Renaissance and Reformation/Renaissance et Réforme*, 7:4 (Nov. 1983), 256-279, 269.

⁴⁴⁸ *Ibidem*.

⁴⁴⁹ Isabella’s value is only determined in a political paradigm, being the one who ensures continuity to the male householder’s lineage. See, also, Francisco: “O, all of my poor sister that remains! / Take him [Giovanni] away for God’s sake.” (*WD*, III, ii, 338-9).

Isabella, Webster presents to us a third version of a widow, the psychic, the ‘woeful widow’ who mourns the loss of love and who talks in metaphors: “O my unkind lord, may your sins find mercy, / As I upon a woeful widowed bed / Shall pray for you” (II, i, 209-211). This weeping, mournful “widow”⁴⁵⁰ has nothing to do with the ‘white devil’ who remains unmoved by the evidence of Camillo’s assassination and who “comes not like a widow; [but] arm’d / With scorn and imprudence” (III, ii, 120-1). Somehow, Giovanni is the guarantor that ensures Brachiano a position in the Medici family, while Vittoria, childless, way below her husband’s status, with no agency, self-governance, nor favourable blood relations, ceases to be a member of Camillo’s household the moment he breathes his last. Thus, the disadvantages of her natural condition delegitimise her authority of lawfully wedded wife (if she ever had one).

In *The White Devil* Vittoria and Brachiano’s union is not officialised (at least not before the audience). The first encounter, which takes place in the first act, seems more a rehearsal, a sort of prefiguration of future events.⁴⁵¹ Brachiano’s pledge (“You shall to me at once / be dukedom, health, wife, children, friends and all” I, ii, 256-7) is abruptly interrupted by Cornelia, who breaks into the scene like a fury. It can be argued that this illicit marriage is the result of disharmony and inconsistency in the ones which give it cause to be. Specifically, there is one legal flaw which alone would be tantamount to question the aptness (but not the validity) of both marriages, namely the non-compliance with marital obligations which, in the case of Vittoria and Camillo, is compounded by the lack of heirs. According to law, husband and wife were mutually expected to fulfil their responsibilities:

⁴⁵⁰ Isabella “makes frequent use of *m*-alliterations (‘woeful,’ ‘widowed,’ ‘wretched,’ ‘wife’) which replicate her wailing.” Natascha Wanninger, “Theatrical Colours: Cosmetics, Rhetoric and Theatre in Webster’s *The White Devil*”, in *E-rea*, 12.2 (2015) Available at: <https://doi.org/10.4000/erea.4475>

⁴⁵¹ Vittoria’s recounting of her ill-omened night-dreams, where she is haunted by Camillo and Isabella’s ghosts, give form to this premonition. Francisco senses Isabella’s presence too: “Methinks she stands afore me / And by the quick idea of my mind, / [...] I could draw her picture” (IV, i, 102-3). Finally, this gothic atmosphere is horrifyingly intensified through the “superstitious howling” of the women winding Marcello’s corpse in the last act. (Cf. *WD*, V, iv, 60).

We mean by marriage not only the parties married but all conjugal and marriage duties and offices that peculiarly belong to this honourable estate and are necessarily to be performed mutually of both. For this promise touching persons themselves is of such force and weight that it tendeth to the alienation of the property of bodies [...] because they that promise marriage do necessarily thereby promise that two shall become one flesh and that they will always give mutual benevolence one to another.⁴⁵²

However, Camillo suggests otherwise when he whines about his loneliness:

FLA: How now, brother,

What, travelling to bed to your kind wife?

CAM: I assure you, brother, no. [...]

I do not well remember, I protest,

When I last lay with her. [...] (*WD*, I, ii, 49-50; 52-3)

Nonetheless, by the Common law “spousals *de praesenti*, though not consummated, [are] in truth and substance very matrimony, and therefore perpetually indissoluble except for adultery”⁴⁵³ (as in this case). This means that, other than that, there would be no grounds for voiding the marriages. Brachiano is perfectly aware of the legal consequences his offence implies, and therefore he is resolute in his decision to clear the way at the cost of Isabella and Camillo’s lives.

The White Devil is absolutely the play which most degrades marriage in its religious and legal meanings. In act two, scene one, Brachiano performs his “latest ceremony of love” (193), a sort of ‘inverted ritual’⁴⁵⁴ of marriage desecration. He first tells his wife he wants a divorce “as if the judge had doomed it” (197), then returns the nuptial ring and

⁴⁵² Llyod Davies (ed.), *Sexuality and Gender in the English Renaissance*, Taylor and Francis, New York and London, 1998, p. 194.

⁴⁵³ Henry Swinburne, *A Treatise Of Spousals Or Marriage Contracts*, Printed by S. Roycroft for Robert Clavell, London, 1686, p. 15.

⁴⁵⁴ Cf. James R. Hurt, “Inverted Rituals in Webster’s *The White Devil*” in *The Journal of English and Germanic Philology*, 61:1 (Jan. 1962), 42-47.

vows by it he will never lie with her again. The same question of non-observance of conjugal duties reappears in the verses which precede those I have quoted above: “[...] was’t your trick / To meet some amorous gallant here in Rome / That must supply our discontinuance?” (II, i, 175-6). Flamineo defaults on his obligations too when he breaks his oath to Zanche:

HORT: I hear she claims marriage of thee.

FLA: ‘Faith, I made to her some such dark promise, and in
Seeking to fly from’t I run on, like a frightened dog [...] (WD, V, i, 151-3)

Nonetheless, during the Renaissance, pre-nuptial agreements and verbal contracts were as common as they were binding (as Blackstone observed, any contract made *per verba de futuro* was valid “before the time of George II”).⁴⁵⁵ A couple of precontracts are stipulated in *The Devil’s Law-Case*. Contarino is the first suitor to ask Romelio his sister’s hand (a promise the merchant breaks); he pronounces his words of future several times in the presence of Winifred, who suggests he and Jolenta get soon in bed together (for “no civil lawyer for his fee / Can give [...] better counsel” I, ii, 249; 250).⁴⁵⁶ The second agreement (duly but forcibly executed) is contracted by Jolenta and Ercole. The ritual is performed by the book, as the two kiss, touch each other’s hands and embrace. The knight pronounces his *sponsalia* to his intended in the presence of her guardians (Romelio and Leonora) and immediately obtains their *consensus* (“You see, my lord, we are merry at the contract” I, ii, 139). The last step, the *matrimonium*, would finally enshrine this union, but Ercole’s presumed death “forces” Romelio to circumvent the law:

⁴⁵⁵ William Blackstone, Robert Malcolm Kerr (ed.), *Commentaries on the Laws of England*, Printed by John Murray, London, Albemarle Street, 1873, p. 103.

⁴⁵⁶ “Marriages *per verba de futuro carnali copula subsequuta* were fairly common throughout Europe before the Council of Trent in the mid-sixteenth century.” Julius Kirshner, *Marriage, Dowry, and Citizenship in Late Medieval and Renaissance Italy*, University of Toronto Press, Toronto, 2015, p. 23.

ROM: [...] we will affirm

The precontract was so exactly done,

By the same words used in the form of marriage,

That with a little dispensation,

A money matter, it shall be registered

Absolute matrimony. (*DLC*, III, iii, 46-51)

Comic characters, often engaged in litigation, are understandably more used to (mis)interpreting the law to their advantage. Webster shows that marriage is a harmful tool in the hands of an impostor.

III.II. *Family and Property Law.*

According to Roman Law, nobody is born free from paternal authority. In ancient times, the *pater familias* was at the helm of his family and was vested in the power to dispose of the lives (and in extreme cases, death) of the persons who were related to him by lineage or adoption. *Patria Potestas* (an axiomatic principle in the Roman legal culture which entered a variety of jurisdictions) regulates legal relationships between family members, establishes filial and parental obligations, prescribes liability, and determines legitimacy. Blackstone described the legal implications of parenthood in the English civil law and introduced the concepts of maintenance, protection, and education of the children, maintaining that – by a principle of natural law – it is a father’s duty to provide for the upbringing and the fostering of his progeny. As for the problem of legitimacy (which, by extension, has always been a major concern in Renaissance drama), he stated that “from the remotest period of its history, our law has considered children born before marriage illegitimate”⁴⁵⁷ and thus ineligible for legal protection and unable to exercise the same rights as those who were considered legitimate.⁴⁵⁸

In Early Modern England, “the family, conceived of as the mirror image of the state, was the foundation of the social status of its members; individuals were not perceived as having identities in themselves, but were subsumed into the one of the *pater familias*.”⁴⁵⁹ Housewives were expected to act according to the same premise; in the eye of the law, husband and wife were one flesh, one person,⁴⁶⁰ a deal which began to be gradually

⁴⁵⁷ William Blackstone, Samuel Warren (ed). *Blackstone’s Commentaries, systematically abridged and adapted to the existing State of the Law and Constitution*, Printed by W. Maxwell (Lincoln’s Inn), London, 1856, p. 341.

⁴⁵⁸ Cf. Henry de Bracton, *De Legibus et Consuetudinibus Angliae*, (c.1235) Vol. II, cp. f. 33 “Those who are in the potestas of fathers: ‘*In potestate autem patrum sunt filii qui nascuntur ex iusto et legitimo matrimonio*’ (“Under the authority of fathers are sons begotten in rightful and lawful wedlock.”) Available at: <https://amesfoundation.law.harvard.edu/Bracton/Framed/mframe.htm> Last access: May 2021.

⁴⁵⁹ Sidia Fiorato, Introduction to: *Performing the Renaissance Body: Essays on Drama, Law and Representation*, De Gruyter, Berlin, 2016, p. 5.

⁴⁶⁰ “The notion of conjugal unity has a biblical origin. *Genesis*, ii, 24, is explicit that husband and wife ‘shall be one flesh,’ and this is repeated in the New Testament. [...] There can be no doubt that it was the

unilateral, meaning that this ‘doubled’ legal identity was eventually reduced to the husband’s. Hamlet repurposes this legal principle to affirm his agonizing vision of filial duty to lost parents, by which the survivor is “bound in filial obligation for some term / To do obsequious sorrow.”⁴⁶¹

HAM: Farewell, dear mother.

CLA: Thy loving father, Hamlet.

HAM: My mother. Father and mother is man and wife,
man and wife is one flesh, and so, my mother. (*Hamlet*, IV, iii, 52-5)

This system, known as *coverture*, established that women should subsume their legal actions into those of their husbands (*sub potestate viri*); it developed and established itself during the Middle Ages and was rapidly incorporated into the common law. In his own time, Henry de Bracton combined the question of the unity of flesh and blood⁴⁶² with property retention, stating that although a good may be the wife’s, the husband, who exercised his power on her, was its keeper: “[...] sicut inter virum et uxorem qui sunt quasi unica persona, quia caro una et sanguis unus. Res tamen propria uxoris sed vir eius custos cum sit caput mulieris.”⁴⁶³ The law’s tendentiousness in promoting masculinity,

theological metaphor that produced the legal maxim.” Glanville L. Williams, “Legal unit of husband and wife” in *Modern Law Review*, 10:1 (Jan. 1957), 16-31, 16.

⁴⁶¹ William Shakespeare, *Hamlet* (I, ii, 90-1).

⁴⁶² Cf. Duchess: “[...] Sir, be confident; / What is’t distracts you? This is flesh, and blood, sir; / ‘Tis not the figure cut in alabaster / Kneels at my husband’s tomb” (*DM*, I, i, 443-5).

⁴⁶³ Henry de Bracton, *De Legibus et Consuetudinibus Angliae*, (c.1235) Vol. IV, f.429b; cp. f. 67, ‘The exception that a husband not be answered without his wife whose inheritance the thing claimed is, but not conversely. If he who claims has no action.’ (“[...] as between a husband and wife, who are, so to speak, a single person, because they are one flesh and one blood, but the thing is the property of the wife, and the husband its custodian, since he rules his wife.”) Available at: <https://amesfoundation.law.harvard.edu/Bracton/Unframed/English/v4/335.htm> Last access: May 2021.

facilitating gender inequality and asserting male dominion both in the domestic and public spheres was tangible. The doctrine of coverture “eclipsed the legal identity of a married woman, leaving her unable to sign a contract or sue or obtain credit in her own name. As a widow, a woman might be entitled to only one third of her husband’s real property or might even be left entirely at the mercy of his will.”⁴⁶⁴ Besides, in Renaissance Italy the strictures of coverture were slightly narrowed:

Marriage established the husband as head of the family, but it did not give him a power over his wife that was as consistent as the *patria potestas* he could hope to have over his children from her. Texts of the *ius commune* conceded that a wife was in submission (*obsequium*) to her husband and owed him [...] *servitia* [...] There was a vague allowance made for physical punishment of a noncompliant wife, but there were also limits to the husband’s powers of coercion and correction that canon law courts were willing to explore.⁴⁶⁵

By the same token, while in England “it was not possible to bring suit against one’s spouse, [...] a woman under *ius commune* retained some legal independence [...] Her property remained separate, if not necessarily under her control. She could, in legal theory, transfer it or concoct a will to direct it to whom she wished.”⁴⁶⁶ The capacity of women under *ius commune* to hold and to exercise property rights (though limited and surely not homogeneously granted by all the local statutes), as well as the differences in the implementation and constitution of legal principles in the common law and in continental jurisdictions, pose questions as to how we should approach those texts which are set overseas. The Duchess’s ability to dispose of her own assets is either confirmable or reduceable, depending on our frame of reference. But regardless of this division, both the customary nature of the English law and the suppressive policy of Canon Law conferred a certain authority on men and curtailed women’s freedom of action civilly, religiously, and legally. To an extent, Canon Law

⁴⁶⁴ Amy Louise Erickson, *Women and Property in Early Modern England*, Routledge, London, 1993, p. 3.

⁴⁶⁵ Thomas Kuehn, *Family and Gender in Renaissance Italy, 1300-1600*, Cambridge University Press, Cambridge, 2017, p. 109.

⁴⁶⁶ *Ibidem.*, p. 110.

corrupted the Common Law of England and perverted the civil codes of other nations. Under Common Law, [for instance], sisters were not allowed to inherit with brothers; property, according to old ecclesiastical language, going to the worthiest of blood. Blackstone acknowledges that this distinction between brothers and sisters reflects shame upon England, and was not part of the old Roman law, under which the children of a family inherited equally without distinction of sex.⁴⁶⁷

The Duchess's brothers crave this kind of benefit and aspire to take up the dukedom which once belonged to their sister's *flesh* (see Ferdinand: "I had a hope, / Had she continued widow, to have gained / An infinite mass of treasure by her death" IV, ii, 275-7). From an English law perspective, the authority of a husband would surmount the one of siblings, while *ius commune* tended to preserve a woman's *ordo affectionis*, her "continuing legal ties to her family of origin."⁴⁶⁸ When the Duchess's husband was living, he had his control on her (*dominium, manus*), while after his death her brothers continued to hold *potestas* as a form of legal privilege over the family property they had inherited from their father (and of which she was part, being a *res corporalis*). For instance, under *ius commune*, if a widow's "father were alive, she would still be under his *potestas* and he would be able to pursue the claim for the dowry, which would accrue to him."⁴⁶⁹ Nevertheless, "whatever the nature of ownership and rights of usufruct on women's property in any given community, the capacity of women to act on their property rights was a distinct issue. In some places women might have full ownership of goods but be more or less unable to dispose of them."⁴⁷⁰ Naturally, the same applies for basic dowry and paraphernalia from apparel and jewellery to linens. The theatre, which was a specular reflection of society, used common objects to pinpoint the tough reality of women's

⁴⁶⁷ Matilda Joslyn Gage, *Woman, Church & State: The Original Exposé of Male Collaboration Against the Female Sex*, Good Press, Glasgow, 2019, pp. 55-6.

⁴⁶⁸ Thomas Kuehn, *Family and Gender in Renaissance Italy, 1300-1600*, cit., p. 110.

⁴⁶⁹ *Ibidem.*, p. 137.

⁴⁷⁰ *Ibidem.*, p. 139.

condition and denounce their impossibility to retain social personality and legal capacity.⁴⁷¹ For instance,

if we read the handkerchief in *Othello* as an article of paraphernalia, the tension between Othello's insistence that it is his and Iago's assertion "'tis hers, my lord," takes on far greater cultural weight, and further emphasizes the way in which the play's conception of jealousy is embedded in contested notions of value and property.⁴⁷²

In *The White Devil* Brachiano commodifies Vittoria and sells himself as the "first taker," a higher bidder to protect her from "all the fevers of a jealous husband" (*WD*, I, ii, 250). The trade is carried out with a strong dose of sexual innuendo:

BRAC: What value is this jewel?

VIT: 'Tis the ornament

Of a weak fortune.

BRA: In sooth I'll have it; nay, I will but change

My jewel for your jewel.

FLA: [*aside*] Excellent,

His jewel for her jewel; well put in, Duke.

BRA: Nay, let me see you wear it.

VIT: Here, sir?

BRA: Nay lower, you shall wear my jewel lower.

FLA: [*aside*] That's better; she must wear his jewel lower. (*WD*, I, i, 209-16)

⁴⁷¹ For example, in *The Taming of the Shrew* Petruchio takes possession of Katherine and of the dowry she brings: "I will be master of what is my own. / She is my goods, my chattels; she is my house, / My household stuff, my field, my barn, / My horse, my ox, my ass, my anything." (III, iii, 202-5).

⁴⁷² Natasha Korda, *Shakespeare's Domestic Economies: Gender and Property in Early Modern England*, University of Pennsylvania Press, Philadelphia, 2002, p. 153.

In *A Cure For A Cuckold* Annabel's bracelets and carcanet are locked unto her, and Bonvile keeps the key to unlock them. Apart from the sexual allusion (they recall by all means a chastity belt), the jewels, being a bridal gift, are a joyful and symbolical celebration of life. In *The Devil's Law-Case* the bride's possessions have a positive and a negative connotation at once and collocate the analogy between two extremes (*eros* and *thanatos*):

JOL: [*to Winifred*] Reach me the caskanet. I am studying, sir,

To take an inventory of all that's mine.

CONT: What to do with it, lady?

JOL: To make you a *deed of gift*.⁴⁷³

CONT: That's done already; you are all mine.

WINIF: Yes, but the devil would fain put in for's share, in likeness

Of a separation. (*DLC*, I, ii, 205-10)

This visualisation of objects climaxes in *The White Devil* where, in the trial scene, Vittoria declares all her goods ("I have houses, / Jewels, and a poor remnant of crusadoes" (*WD*, III, ii, 214-5). In *The Duchess of Malfi* the devotional function of family heirlooms and artifacts connects ownership and death. The use of "paraphernalia of charnel-house and the tomb [have] no conceivable purpose except just to make our flesh creep,"⁴⁷⁴ and intensify the sense of 'inwardness' and domesticity of the play. Bosola's dirge⁴⁷⁵ in the

⁴⁷³ The reference to the devil which follows the line creates a parallel with the demonic 'deed of gift' Faustus hands to Mephistophilis in the form of a scroll (Cf. Christopher Marlowe, *The Tragical History of the Life and Death of Doctor Faustus* (1592), II, i, 88-91).

⁴⁷⁴ Don D. Moore, *John Webster: The Critical Heritage*, London, Routledge, 1981, p. 140.

⁴⁷⁵ Todd Borlik observes that the dirge "conforms to the Catholic protocol, which encourages the invocation of saints," while Brachiano's death-scene in *The White Devil* "even more explicitly dramatizes a Catholic rendition of the *Ars moriendi*, complete with Crucifix and Hollowed Taper." Todd Borlik, "Greek is Turned Turk: Catholic Nostalgia in *The Duchess of Malfi*" in Christina Luckyj (ed.), *The Duchess of Malfi, A Critical Guide*, London, continuum, 2011, p. 147.

guise of ‘common bellman’ and ‘tomb-maker’ is also an inventory of the Duchess’s possessions:

*Much you had of land and rent,
Your length in clay’s now competent. [...]
Strew your hair with powders sweet,
Don clean linen, bathe your feet,
And, the foul fiend more to check,
A crucifix let bless your neck.* (DM, IV, ii, 173-4; 181-4)

Ferdinand bequeaths his sister only instruments of death; he first gives her a poniard and dares her to take her own life, then Bosola makes the explicit request to “Send her a penitential garment to put on / Next to her delicate skin, and furnish her / With beads and prayer-books” (IV, i, 119-121).⁴⁷⁶ When previously, in the first act,

the Duchess says to Antonio “I am blind [...] / I would have you lead your fortune by the hand / Unto your marriage bed,” she takes on one of Fortune’s main attributes, blindness [...]. At the same time, [...] when she speaks of herself as Antonio’s ‘fortune’ she clearly means his ‘good fortune’ with implications of his future; but also to be heard is ‘fortune’ as money, the goods of the world, with connotations of *cupiditas*. Certainly, by leading his Fortune to bed, Antonio accepts the dual fortune – money and fate – she bestows.⁴⁷⁷

This very idea is reinforced when the Duchess whispers in Antonio’s ears: “Use your fortune elsewhere” (III ii, 194), as to suggest that by allowing him to manage their common property, she can provide for his maintenance while he is in exile. The Duchess is aware of the value of her riches, which she utterly entrusts to Antonio by making him overseer and by empowering his initial position as steward of the house; he did already manage her estate, but now he “may discover what a wealthy mine / [She] make[s] [him]

⁴⁷⁶ He would also bequeath his handkerchief to her ‘bastard’ “to make soft lint for his mother’s wounds / When [he has] hewed her to pieces” (DM, II, v, 30-1).

⁴⁷⁷ Leslie Thomson, “Fortune and Virtue in *The Duchess of Malfi*” in *Comparative Drama* 33:4 (Winter 1999-2000), 474-494, 479.

lord of' (I, i, 419-20). Notice how, curiously enough, the characters play with another element pertaining to the world of funerary paraphernalia (along with the bell, the cords and the coffin of the fourth act), which is the winding sheet, the burial shroud,⁴⁷⁸ which Antonio interprets, more or less intentionally, as the wedding linen, a classic item in a lady's dowry:⁴⁷⁹

ANT: Begin with that first good deed began i't world

After man's creation, the sacrament of marriage;

Id' have you first provide for a good husband,

Give him all.

DUCH: All?

ANT: Yes, your excellent self.

DUCH: In a winding sheet?

ANT: In a couple. (*DM*, I, i, 376-380)

In this context, the reference to the *Book of Genesis* has a value in itself; like the forbidden tree, all that belongs to the Duchess is untouchable, so the act of taking over her material goods and bequeathing them unleashes the wrath of a superior force. The Duchess taking control of her finances is an incredibly powerful image. Even in the moments she pretends to be a victim of extortion and accuses Antonio of a 'feignèd crime,' that is

⁴⁷⁸ The image reappears at the end of the scene, re-echoing the conflict between *eros* and *thanatos*. Cf. Duchess: "O, let me shroud my blushes in your bosom, / Since 'tis the treasury of my secrets" (I, i, 492-3). Webster alludes to the fact that "after the Duke's death, the Duchess craved a shroud only for her blushes." Elizabeth Oakes, "The Duchess of Malfi as a Tragedy of Identity" in *Studies in Philology*, 96:1 (Winter 1999), 51-67, 65.

⁴⁷⁹ Fortune (as 'prosperity' and 'contingency', the "necessity of [a] malevolent star" *DM*, III, ii, 198) and the destructive combination *eros-thanatos* permeate the play. Cf. Bosola: "Fortunate lady, / For you have made your private nuptial bed / The humble and fair seminary of peace" (*DM*, III, ii, 283-4). Also, the Duchess would have Antonio "lead [his] fortune by the hand / Unto his marriage bed" (I, i, 485) while Bosola's "direction / Shall lead [her] by the hand" (III, ii, 314) to her death bed.

having “dealt so falsely with [her] in’s accounts” (III, ii, 167), the Duchess affirms her material might and reminds everyone around her, including the officers she has summoned, who is in charge. Her stern and princely tone reaffirms her authority social-wise and financial-wise: “We do confiscate, / Towards the satisfying of our accounts / All that you have” (204-5). Now, having contracted a marriage in secret, even the law which regulates that marriage is practiced secretly. Tacit consent implies connivance between spouses. Besides, there is a slight contradiction in the formulation of the agreement by which Antonio should be made absolute owner of his wife’s property and absolute master of the household. The husband is always obsequious and subservient to his wife and reveres her like a prince⁴⁸⁰ (see Antonio: “O the inconstant and rotten ground of service;” “You may see, gentlemen, what ‘tis to serve / A prince with body and soul” 200; 209-10).⁴⁸¹ In theory, Antonio has access to funds and is entitled to own effects, but nothing leads us to think that he ever disposes of the sum in complete autonomy; the couple rather make a deal *inter coniuges* and manage a common property under *communio bonorum*. Since the marriage secures their alliance, we assume the spouses become an economic and legal entity with semi-equal rights and liabilities. However, not only does the Duchess evade paternal laws and act *sui iuris* ignoring her male relatives,⁴⁸² thanks to theatrical and meta-theatrical fiction, she is also able to maintain her status of *feme sole* despite the rules of coverture. Even when she finally reveals to Bosola the identity of her husband, she hands out orders and takes over the rules of husband and wife at once: “You shall take charge of all *my* coin and jewels, / And follow him, for he retires himself / To Ancona” (III, ii, 305-6). Despite the dedication she puts in her love life, she always manages to preserve her identity of magnanimous ruler by separating social duty from self-direction. She is, admittedly,

⁴⁸⁰ It is all meant to create a contrast between the Duchess and her brother Ferdinand who, throughout the play, is often addressed as a tyrant.

⁴⁸¹ Notice Bosola and the Cardinal’s contrasting lines in acts four and five: “O, the secret of my Prince / Which I will wear on th’inside of my heart” (III, ii, 303-4); “Be well advised, and think what dangers ‘tis / To receive a prince’s secrets” (*DM*, V, ii, 255-6).

⁴⁸² Cf. Antonio: “But for your brothers?” Duchess: “Do not think of them” (*DM*, I, i, 458-9).

“Duchess of Malfi still” (IV, ii, 134). She knows her riches will be the cause of her destruction and accounts the detrimental value of money nominally and metaphorically, suggesting that wealth is morally and physically harming:

DUCH: What would it pleasure me to have my throat cut
With diamonds? Or to be smothered
With cassia?⁴⁸³ or to be shot to death with pearls? [...]
[.] Tell my brothers
That I perceive death, now I am well awake,
Best gift is they can give, or I can take. (*DM*, IV, ii, 208-10; 215-7)

Last wills and testaments are a classic feature of early modern drama. These are a kind of transaction which generally involves a male benefactor and a female receiver who, in Webster, are lovers (Brachiano and Vittoria, Bonvile and Annabel, Contarino and Jolenta). Generally, in the Jacobean plays

the central issue concerns property and the transfer of wealth from one social class to another. The acquisition of property is what contributes to the creation of personhood within the play. [...] People have a value as long as they ‘possess’, not ‘are.’ Indeed, the changing nature of persons and communities is reflected in and shaped by changing conception of property.⁴⁸⁴

It is important to say that in *The White Devil* and in *A Cure For A Cuckold* land is the asset transferred;⁴⁸⁵ land was surely more valuable than money itself, since it could also be used as an alternative means of payment to settle a debt (*datio in solutum*). Overall, from

⁴⁸³ Spices were so highly priced they were used as trading goods.

⁴⁸⁴ Daniela Carpi, “*The Devil’s Law-Case* by John Webster: legal fraudulence or new professionalism?” in *Anamorphosis, Revista internacional de Derecho e Literatura*, 4:2 (Jan. 2019), 345-56, 353.

⁴⁸⁵ Cf. Lodovico: “He hath conferred the whole state of the dukedom / Upon your sister” (*WD*, V, iii, 76-7); Annabel: “His will, wherein / He has estated me in all his land.” (*CFC*, III, iii, 5-6).

the point of view of the plot, wills are commonly intended to restore an initial order.⁴⁸⁶ If in *The Duchess of Malfi* Antonio's surviving son is established *ab intestato* "in's mother's right" (V, v, 112), in *The Devil's Law-Case* Leonora aims to "restore the land to th'right heir," (IV, ii, 272) namely her daughter. Gary Watt argues that

some of the Jacobean plays engage with the broadly testamentary concern that an aging father would naturally have for his daughter (think *Lear* [and] *Prospero*), but in the Elizabethan plays a legal last will and testament appears as a plotting device and even as a physical prop, and it is only in the Elizabethan plays that the word 'testament' is ever repeated and [...] the testamentary word 'executor' ever appears.⁴⁸⁷

Actually, the word appears in the last act of *The White Devil*, when Flamineo asks Vittoria for financial recognition for making her rich: "You are my lord's *executrix*, and I claim / Reward for my long service" (*WD*, V, vi, 7-8). Brachiano entrusts his dukedom to Vittoria until Giovanni reaches his majority. Orsini's last wishes have been proven by historical evidence.⁴⁸⁸ Apparently, the duke of Bracciano left a large sum to his spouse and saw to it that his children might preserve their dowry and titles.⁴⁸⁹ Another truth emerges from Domenico Gnoli's reconstruction, which testifies the pope's desire for vengeance and Vittoria's resolution in collecting the inheritance. The pope ordered the

⁴⁸⁶ Bosola's monologue after the execution of the Duchess strengthens this sense. Haunted by regret, he is in fact resolute to "execute [her] last will; that's deliver / [Her] body to the reverent dispose of some good women" (*DM*, IV, ii, 362-4).

⁴⁸⁷ Gary Watt, *Shakespeare's Acts of Will: Law, Testament and Properties in Performance*, Bloomsbury, London, 2016, p. 3.

⁴⁸⁸ Among other things, we know that the Duke left Vittoria several pieces of cutlery, a silver tankard, a silver basin, a couple of silver candelabras, a silver toilette, a gold string necklace and a jewel box embellished with rubies and pearls. Source: Domenico Gnoli, *Vittoria Accoramboni: storia del secolo XVI corredata di note e documenti*, Le Monnier, Firenze, 1890, pp. 418-9.

⁴⁸⁹ "Aveva prima fatto testamento col quale, dopo aver assegnato alla sposa ricchi legati, confermò l'antico fedecommesso di famiglia a favore del figlio Virginio e lasciò alla figlia la dote d'uso." Vincenzo Celletti, *Gli Orsini di Bracciano: glorie, tragedie e fastosità della casa patrizia più interessante della Roma dei secoli XV, XVI, e XVII*, F.lli Palombo, Roma, 1963, p. 116.

nuns of the monastery where some jewels and other valuables Orsini had gifted to Vittoria had been deposited, not to let anything out. In the meantime, other members of the Orsini family hoped to prove her marriage to the duke was not valid to rebut the will.⁴⁹⁰ What is certain is that, unlike what Webster wants us to believe, Vittoria did not inherit the whole duchy: Cardinal de Medici handled the question in person. Aspiring in his turn to be named heir by Virginio, he looked after his interests and appointed Francesco Orsini as governor by a pledge of fealty.⁴⁹¹ Again, this comes in contradiction with the play, where Brachiano “hath conferred the whole state of the dukedom” (V, iii, 76) upon Vittoria. The choice of altering reality and making Brachiano’s dukedom momentarily vacant facilitates Webster’s narrative intent for two reasons: first, it resolves the intricate legal question of the hereditary peer and the disposition of land, which could not be carried out immediately, especially if the recipient was a woman and the testator a man of noble birth. Secondly, the female character draws more attention and criticism for her ability to win the duke’s trust and thus gain titles and privileges.⁴⁹² This is an element we encounter in the historical documents as well, since Lodovico was quite convinced that the woman had had such a coercive power over the duke, he had eventually lost his wits.⁴⁹³

⁴⁹⁰ “[...] et per la prohibitione che li fu fatta da Gregorio di maritarsi, et per l’homicidio seguito nella persona del marito [...] la legge vuole che non possa essere sua moglie, et finalmente questo legato è tanto dannoso a Virginio che è da pensarvi bene et fare ogni sforzo d’annullarlo.” Domenico Gnoli, *Vittoria Accoramboni: storia del secolo XVI corredata di note e documenti*, Le Monnier, Firenze, 1890, p. 307.

⁴⁹¹ “Il Cardinale de’ Medici, giuntagli appena nuova della morte del duca, era andato a darne conto al papa e attendeva, a nome di Virginio, ad entrar nell’eredità. Subito tolse il governo di Bracciano a don Lelio Orsini, col quale ebbe questione [...] e vi mandò Francesco Orsini a prenderne il possesso e il giuramento di vassallaggio.” *Ibidem*, pp. 307-8.

⁴⁹² Monticelso is the first to insinuate this in the trial scene. Cf. “My lord Duke sent to you a thousand ducats, / The twelfth of August; ‘Twas interest for his lust” (*WD*, III, ii, 221; 224).

⁴⁹³ “A Vittoria e al fratello non è a dire quanto desse noja la sua venuta e l’intromettersi negli affari della eredità: ma non meno s’inaspri Lodovico com’ebbe notizia del testamento, ch’egli stimava estorto dagli artifici della rea femmina all’animo stupidito del Duca.” *Ibidem*, pp. 304-5.

There is a scrap of truth in Webster's readaptation. In the play Lodovico reports Brachiano's last will stressing that he is "most deadly ill," (V, iii, 67) and speaks "the most brainsick language" (71). His intent is obviously to show that Vittoria has circumvented an incapable, that the duke is *non compos mentis* and that both his mental condition and the woman's undue influence invalidate his capacity of judgment.⁴⁹⁴ But in his delirium Brachiano realises he has been manipulated and accuses Vittoria (or Flamineo, this is not clear) of fraud and abuse. Money is the motif of his hallucinations. We are now close to the Jonsian exaltation of the prodigality of money, of the "wondrous pelf" that, being true in itself, "makes all men false" and that "a man may trust when his father, brother, friend or wife cheat him."⁴⁹⁵

BRA: Away, you have abused me.

You have conveyed coin forth our territories,

Bought and sold offices, oppressed the poor,

And I ne'er dreamt on't. Make up your accounts;

I'll now be my own steward.* [...] ⁴⁹⁶

See, see Flamineo who has killed his brother

Is dancing on the ropes there; and he carries

A money-bag in each hand, to keep him even,

For fear of breaking's neck. And there's a lawyer

In a gown whipped with velvet, stares and gapes

When the money will fall [...] (*WD*, V, iii, 80-3; 98-113)

⁴⁹⁴ Webster plays with the polysemy of the word "will." In the scene preceding Brachiano's death, Flamineo, grovelling, tells him "Your will is law now, I'll not meddle with it" (V, iii, 75) where 'will' is seemingly readable as 'order,' 'desire' or 'testament.'

⁴⁹⁵ Cf. Ben Jonson, *The Case Is Altered* (1609), (II, i, 29-31).

⁴⁹⁶ Cf. *A Cure For A Cuckold*. Compass: "All this law I deny, and will be my own lawyer." (*CFC*, IV, i, 170).

In *The Devil's Law-Case* last wills and testaments are an occasion to reclaim power and riches and to pursue class mobility. Julio hopes that his father Crispiano would die “in perfect memory” (II, i, 108) i.e. ‘with a clear head’ in order to produce a valid will and make him his heir; Romelio takes advantage of Contarino’s weakness for his sister Jolenta (whom he has made his sole heiress) and stabs him on his death-bed to make sure he will not alter it⁴⁹⁷ (his endeavour being ultimately unsuccessful). Daniela Carpi points out that Romelio’s “pretext of entering Contarino’s room officially, in front of the two surgeons who are taking care of him, is again a legal one. Romelio affirms that he has a way to revive Contarino, make him *compus sui*, then convince him to change his will.”⁴⁹⁸ His final goal is to be “left guardian of [Jolenta’s] estate” (III, iii, 197) thus letting his materialistic spirit prevail and his brotherly love succumb. The tragicomedy is the play which, perhaps, most dehumanises relationships and asserts the logic of money, “the dependency of kinship ties on monetary interests, the fluidity of family roles and the concomitant alienation at the core of the family.”⁴⁹⁹ In the course of litigation, Leonora testifies her son Romelio was born out of wedlock to deprive him of his inheritance. In this regard Aspasia Velissariou points out that

in contrast with Webster’s tragedies, revenge now belongs to women. Leonora’s accusing her son of bastardy signifies the reshuffling of family positions that have to remain stable for the proper function of social dimension. This reshuffling, however, displays paternity as an extremely vulnerable category, the instability of which also becomes evident in Jolenta’s “pregnancy.” This instance serves as the mirror image of the same pattern of dubious paternity that Leonora’s law-case exposes: Ercole is replaced both by Contarino and Romelio as the supposed father of her offspring.

⁴⁹⁷ A thing Bonvile and Woodroff threaten to do (Cf. *CFC*, V, i).

⁴⁹⁸ Daniela Carpi, “*The Devil's Law-Case* by John Webster: legal fraudulence or new professionalism?” cit., p. 351.

⁴⁹⁹ Aspasia Velissariou, “Class and Gender Destabilization in Webster’s *The Devil's Law-Case*” in *Cahiers Élizabéthains* 63:1 (April 2003), 71-88, 72.

*Mater semper certa, pater numquam.*⁵⁰⁰ Webster places vengeance in Leonora's hands and puts her into a new diegetic context. She goes from being a clumsy, romantic widow to being a harpy, a perjurer, a woman with no morals who "publish[es] her dishonour voluntarily" (IV, ii, 234) and disowns her son in a public trial to benefit her daughter instead:

LEO: Here begins

My part i't play: my son's estate is sunk

By loss at sea, and he has nothing left

But the land his father left him. 'Tis concluded,

The law shall undo him. (*DLC*, III, iii, 350-4)

In the trial scene by "locating [Leonora] as a representative of natural law in respect of the maternal affection she should show, Crispiano reminds her that 'compassionate nature' makes no difference between so called 'base' and 'legitimate' offspring."⁵⁰¹ Nevertheless, Leonora "chooses to obey her own version of the law of nature,"⁵⁰² which she upsets in its connotative meaning. Her destabilizing femaleness and her unsuitable sexuality collide with the phallocratic order of the court. Her strategy proves ineffective and eventually backfires, for "if [Romelio] be a bastard, and must forfeit his land for't, / She has proven herself a strumpet, and must lose / Her dower" (IV, ii, 275-7). Indeed, womanhood is reassessed according to unconventional schemes. If the chimeric 'pregnant nun' embodies "the inability of religion to repress libidinal forces,"⁵⁰³ maternity in general is vilified and denaturalised in every possible way. Not only is Jolenta's "baby" unreal; by the end of the play it is also believed to be begotten by her

⁵⁰⁰ Cf. Pettifog: "[...] *partus sequitur ventrem*, says the civil law" (*CFC*, IV, i, 75).

⁵⁰¹ Alison Findlay, *Illegitimate Power: Bastards in Renaissance Drama*, Manchester University Press, Manchester and New York, 1994, p. 19.

⁵⁰² *Ibidem.*, p. 82.

⁵⁰³ *Ibidem.*, p. 83.

brother, thus becoming a dreadful product of incest and dishonour. As for Contarino's delivery, Winifred asserts it happened "at seven months' end" (IV, ii, 202) to reconcile her mistress's lies with the certified evidence; by doing so she bends, again, the austere rules of nature. Finally, since family law is at stake, it can be argued that even the law of hospitality is contravened. Contilupo says it clearly during his summation,⁵⁰⁴ but we see the same dynamic in the other plays. The domestic space is always contaminated: Antonio becomes the 'owner' of the palace he administers, Brachiano woos Vittoria under Camillo's nose, Rochfield enters Woodroff's house to rob him and Franckford seduces Urse in her own place while her husband is at sea.

Hereditary questions interweave with those concerning legitimacy and succession, and at this point paternal laws come into play. Leonora's accusation broadens our perspective and enables us to investigate an issue which has always been at the centre of legal and cultural discussion. In 1594 William Clerke published *The Triall of Bastardie*, an articulate treatise on prohibited marriage and legitimacy. In it, the writer approached the subject of incest, drawing tables of family connections and genetic maps and discussing the extremes of tolerability of such an 'abominable custom.' The fifth chapter concerning 'matrimonie and legitimate issues' gives a definition of legitimacy in terms of natural conception and lawfulness. We understand that in Tudor England bastardy law was very restrictive, to the point where marriages could not be more than enough to ensure legitimacy if contracted after the birth; historically, the practices of adoption and arrogation (defined by Clerke as bare imitations of the acts of nature) were certainly very common in the Roman law but were not formalised in the common law until the nineteenth century.⁵⁰⁵ During the Middle Ages, the matter was often left to ecclesiastical jurisdictions. In fact, while

⁵⁰⁴ "This gentleman, I say, / Breaking all laws of hospitality, / Got his friend's wife with child." (*DLC*, IV, ii, 184-6).

⁵⁰⁵ "Roman law is the unquestioned source of our adoption statutes of today; [...] strange as it may seem, adoption has never been known to the Scotch law or the English law. [...] The common law ever looked askance at this legal act." John Francis Brosnan, "The Law of Adoption" in *Columbia Law Review*, 22:4 (Apr. 1922), 332-342, 332; 335.

land held in lay fee was within the cognizance of the secular courts [...] determination of a man's legitimacy belonged to the spiritual courts, [so] whenever an issue of bastardy was raised in the royal courts, the process there was suspended and a writ sent to the bishop, asking for a resolution of the bastardy issue.⁵⁰⁶

Besides, "the English Reformation made no apparent changes in the practice. Questions of general bastardy still went to the bishops for decision."⁵⁰⁷ This consideration changes my perspective on this line Compass delivers on the subject of bastardy litigation in the third act of *A Cure For A Cuckold*: "Must we go to law for our children nowadays? No marvel, / If the lawyers grow rich" (III, ii, 105-6). By staging the legitimacy case (which, at this point, appears to be an uncommon occurrence for the English middle-class society), Webster emphasised the fact that land and real property were at the centre of secular legislation and that the English law in particular tended to combine legitimacy with inheritance without pondering natural or emotional factors (which itself explains why such matters were mostly handled by ecclesiastical courts). By asserting "The child is mine. I am the father of it" (70) Franckford implies that not only is he the biological father of the contended baby, but he can lawfully claim his fatherly authority because he has named him his 'business partner' by assigning to him part of the land he has just acquired:⁵⁰⁸

FRAN: I made a purchase lately, and in that
I did estate the child, 'bout which I'm sued,
Joint purchaser in all the land I bought.

⁵⁰⁶ Richard H. Helmholz, "Bastardy Litigation in Medieval England" in *American Journal of Legal History*, 360 (1969), 360-383, 361.

⁵⁰⁷ *Ibidem.*, p. 383.

⁵⁰⁸ As a good merchant, Franckford buys the service of the law. Cf. Act III: "[...] and to the law / Given satisfaction: my purse has paid for't" (III, ii, 54-5) to which Compass replies: "Your purse? 'Twas my wife's purse!" (here intended as 'vagina'). The clash is, again, between the precepts of the natural law and those of the civil law.

Now that's one reason that I should have care,
 Besides the tie of blood, to keep the child
 Under my wing, and see it carefully
 Instructed in those fair abilities
 May make it worthy hereafter to be mine,
 And enjoy the land I have provided for't. (CFC, IV, i, 39-47)

The subplot, thus, repurposes one of the central themes of the main plot, where Rochfield struggles with the plague of primogeniture by which “the elder fool inherits all the land” (II, i, 3) and asks himself the bigger of questions: “Why should law, / If we be lawful and legitimate, / Leave us without an equal dividend?” (5-7).

Virtually, all children born out of wedlock counted as illegitimate at English law. For this reason, Clerke limited his consideration to subjects born

naturall and *legitimat*, [...] natural, so termed, *Quia naturaliter generati*; *legitimat ex Legitima parentum coniunctione approbata per leges*, that is to say *Natural* of their natural begetting; *Legitimat* of their parents lawfull coniunction approved by the lawes. This is the issue of the body lawfully begotten, other issue hast thou none but Bastards.⁵⁰⁹

In this passage the purpose is not to make a proper distinction between ‘legitimate’ and ‘illegitimate’ children, but to define the conditions under which a legitimate child should be recognised as such in legal terms. And the discriminating factor is the validity of marriage, outside which procreation automatically falls into illicit behaviour. Clerke considers also the issue of clandestine marriage and wonders if those who are born from unions “contracted so priuily that they cannot bee lawfullie proued by witnesses, shall [by] that be bastarded.”⁵¹⁰ He goes on to point out that *ecclesia non indicat de occultis* (an assumption which appertains to *The Duchess of Malft*). In this play Ferdinand probably

⁵⁰⁹ William Clerke, *The Triall of Bastardie: that part of the second part of Policie, or Maner of Government of the Realme of England*, printed by Adam Flip, London, 1594, p. 39.

⁵¹⁰ *Ibidem*. p. 40.

reasons in terms of legitimacy as applying to the ‘foreign’ continental law, which clearly differentiates between bastards and lawfully conceived sons and which refers the question to the Church:

FERD: Where are your cubs?

DUCH: Whom?

FERD: Call them your children,

For though our national law distinguish bastards

From true legitimate issue, compassionate nature

Makes them all equal.

DUCH: Do you visit me for this?

You violate a sacrament o’t church. (*DM*, IV, I, 33-40)

The question of the legitimacy of the Duchess’s children is quite intricate because it practically depends on whether we consider her marriage valid or invalid based on foregoing considerations. Nevertheless, in consequence of his parents’ death, we may assume that the only surviving son to the couple grows up as Delio’s ward until he comes of age: by that time, in fact, wardship allowed the interested party to claim their legal rights on their property.⁵¹¹

To conclude, I would like to insist once more on the crucial importance of *The Devil’s Law-Case* in the context of the history and practice of law. As Carol Blessing points out, the tragicomedy gives voice to a growing social fear for “it reflects the women’s power to initiate court proceedings regarding inheritance, [but also] to determine their only gender-specific right, that of deciding the legitimacy of their own

⁵¹¹ For a deeper insight see Lotte Fikkers, “*World Now Thou Seest What Tis to Be a Ward*: Representations of Wardship and Enforced Marriages on the Seventeenth-Century Stage” in *Open Library of Humanities*, 6:1 (2020), Available at: <https://olh.openlibhums.org/article/id/4627/>

children.”⁵¹² In *A Cure for A Cuckold* this last aspect is highlighted even more. Between the two litigants, Urse is finally recognised as the sole owner of her baby since “the law is on the mother’s part” (CFC, IV, i, 182). Webster was well aware of the profound changes which were taking place in his contemporary society. One of these was certainly “the increasing number of lawsuits initiated by women beginning in the late Elizabethan period.”⁵¹³

⁵¹² Carol Blessing, “*It shall teach all Ladies the right pact to rectifie their issue: Bastardy Law* in John Webster’s *The Devil’s Law-Case*” in *ANQ: A Quarterly Journal of Short Articles, Notes and Reviews*, 31:3 (2018), 161-167, 163-4.

⁵¹³ *Ibidem.*, p. 162.

III. III. *Four devils, five advocates, one woman's wit:*⁵¹⁴ *women on trial.*

When women go to law, the devil is full of business. The misogynistic subtitle of John Webster's tragicomedy expresses a vision which was not a rarity in early modern drama, namely the one of women litigants as dangerous, irreverent troublemakers. If women should beware women and be very mindful of the shady and competitive nature of other females (especially in terms of love and relationships), men should beware women in the courtroom in front of their ability to 'scandal their proceedings'⁵¹⁵ by stupefying the bystanders with their sexual energy. The first thing I would like to do before I approach to the issue as related to our dramatist is providing some facts about the historical phenomenon of women venturing into courts in the Elizabethan age. In that time

the proportions of women litigating in central jurisdictions fluctuated, rising in Chancery, falling in Common Pleas and Queen's Bench, and remaining fairly constant in Requests. But the physical number of women involved in litigation increased steadily. This meant more women travelling to London, more women staying in London for extended periods, and more women milling around Westminster, visiting attorneys, appearing as witnesses and presenting evidence by oath.⁵¹⁶

Maria Cioni observes that "recognition by the Elizabethan Chancery that women should be accorded some regularized course of action of rights indicates that social attitudes towards women were changing."⁵¹⁷ In fact, in order to comply with social needs, Chancery gave women "judicial aid in enforcing possessory rights and in recognizing their property rights because common law had been consistently unreceptive to their

⁵¹⁴ *DLC*, III, iii, 395.

⁵¹⁵ Cf. Monticelso: "See, my lords, she scandals our proceedings" (*WD*, III, ii, 129).

⁵¹⁶ Tim Stretton, *Women Waging War in Elizabethan England*, Cambridge University Press, Cambridge, 1998, p. 43.

⁵¹⁷ Maria L. Cioni, "The Elizabethan Chancery and Womens' Rights" in Delloyd J. Guth, John W. McKenna (eds), *Tudor Rule and Revolution: Essays for G.R. Elton from his American Friends*, Cambridge University Press, Cambridge, 1982, p. 159.

legal demands.”⁵¹⁸ The social discourse is more diverse than the institutional one, for many were still reluctant to accept that women could file lawsuits and insisted on their marginalisation in a juridical sense. There was a sudden, alarming realisation that “men were not alone in displaying knowledge of the law [and that] women were knowledgeable about the law and its workings and were able to draw on it when needed.”⁵¹⁹ As early as the first half of the fifteenth century, the *querelle de femmes* began to spread throughout Europe. *Le Livre de la Cité des Dames* (1405) by Christine de Pizan is perhaps the most influential work on the status of women of the entire century. In all its complexity, the *autrice* addresses in it the theme of the exclusion of women from the spheres of order and jurisdiction through the allegorical figure of Lady Reason, whom she interrogates together with Rectitude and Justice:

CHRISTINE ASKS REASON WHY WOMEN ARE NOT IN THE SEATS OF
LEGAL COUNSEL; AND REASON’S RESPONSE. I. 11.1

Most high and honored lady, your fair words imply satisfy my thinking. But tell me still, if you please, why women do not plead law cases in the courts of justice, are unfamiliar with legal disputes, and do not hand down judgements?

*

men [...] learn the laws — and must do so — in order to keep the world under the rule of justice and, in case anyone does not wish to obey the statutes which have been ordained and established by reason of law, are required to make them obey with physical constraint and force of arms, a task which women could never accomplish.⁵²⁰

Nevertheless, Reason goes on to make clear that “if anyone maintained that women do not possess enough understanding to learn the laws, the opposite is [...] manifest and has been manifested in many women [...] who have been very great philosophers and

⁵¹⁸ *Ibidem*. p. 160.

⁵¹⁹ Griet Vermeesch, “Reflections on the relative accessibility of law courts in early modern Europe” in *Crime, Histoire & Sociétés / Crime, History & Societies*, 19:2 (2015) On-line since 1st November 2017; Available at: <http://journals.openedition.org/chs/1598>

⁵²⁰ Christine de Pizan, Jeffrey Richards, Marina Warner (eds.), *The Book of the City of Ladies*, Persea Books, New York, 1982, pp. 30-1.

have mastered fields far more complicated, subtle, and lofty than written laws.”⁵²¹ The opposition between ‘masculinity’ and ‘understanding,’ between ‘brute force’ and ‘skilful mind’ is very clever and elucidates the real concern that would have agitated the Elizabethans not long afterward; the real danger was not the presence of women in the courts of law itself (scabrous and inconceivable to some), but their flair for rational thinking and their “natural sense for politics and government.”⁵²² In the 1632 treatise *The Law’s Resolution of Women’s Rights* T.E. gave a biblical explanation for women’s exclusion from any sorts of legal activities. Following the original sin, Eve,

because shee had helped to seduce her husband [...] *In sorrow shalt [...] bring forth [her] children, [her] desires shall bee subject to [her] husband, and he shall rule over [her].* See here the reason [...] that Women have no voyse in Parliament, They make no Lawes, they consent to none, they abrogate none. All of them are understood either married or to bee married and their desires or subject to their husband.⁵²³

Sexual morality and judicial customs confined women and prevented them from being given credit in public confrontations, but the dismantling of these conventions was finally approaching. However, on the matter of legal proceedings, Lotte Flikkers clarifies that, despite the progress that had been made by the early modern legal system, “women were thought to be less reliable witnesses; [...] only men could provide reliable information and testimony and [...] the credibility of witnesses was connected to their social status, with the testimony of men of property receiving the most weight.”⁵²⁴ The general restrictions forced women to sue “cases in their own names over disputed wills,

⁵²¹ *Ibidem*. p. 31.

⁵²² *Ibidem*.

⁵²³ T. E., *The Lawes Resolutions of Women’s Rights, or The Lawes Provision for Women*, printed by John More, London, 1632, p. 6 Available at: <https://quod.lib.umich.edu/e/eebo/A21071.0001.001?rgn=main;view=fulltext> Last access: May 2021.

⁵²⁴ Lotte Flikkers, “Early modern women in the English courts of law” in *Literature Compass*, 15:12 (2018); Available at: <https://doi.org/10.1111/lic3.12499>

tithes and, most often, sex and marriage.”⁵²⁵ *The White Devil* represents fully the cultural backlash against female eroticism; Vittoria, who understands the game of the patriarchy, takes the (already abused) conceit of sexuality to extremes. She personifies Justice and claims she has been raped by masculine authorities: “You have ravished justice, / Forced her to do your pleasure” (*WD*, III, ii, 273-4). By all means, this “type of forensic drama [...] fore-grounds equity by placing the issues of female characters at the centre of the action: as the law interrogates femininity, femininity interrogates the law.”⁵²⁶ Vittoria’s strategy may fail in terms of results, but at least she is able to reposition herself publicly and individually, thus subverting the established order and remodelling social constructs.

An aspect which is worth analysing is the depiction of women as “initiating as well as disrupting court procedures.”⁵²⁷ Initiation in this case is generally connotated negatively (see Romelio. “[...] this suit of hers / Springs from a devilish malice” (*DLC*, IV, ii, 285-6). Women who actively engaged in litigation for the purpose of asserting their own rights were often seen as waging a sex war against men. There is a principle of causality⁵²⁸ which induces to blame their actions, and which prejudices the outcome of the proceedings. This is absolutely clear in *The Devil’s Law-Case*, where Ariosto’s judicial opinion is biased, despite the fact that he is initially described as being “the very miracle of a lawyer” (II, i, 96) and “a man of extreme practice” (102). He and Contiluppo depict

⁵²⁵ Laura Gowing, “Language, power and the law: women’s slander litigation in early modern London” in Jennifer Kermode, Garthine Walker (eds.), *Women, Crime and the Courts in Early Modern England*, UCL, London, 1994, p. 26.

⁵²⁶ Ina Habermann, “She has that in her belly will dry up your ink: Femininity as Challenge in the ‘Equitable Drama’ of John Webster” in Erica Sheen, Lorna Hutson (eds.), *Literature, Politics and Law in Renaissance Drama*, Palgrave Macmillan, Houndmills and New York, 2005, p. 100.

⁵²⁷ Subha Mukherji, *Law and Representation in Early Modern Drama*, Cambridge University Press, Cambridge, 2006, p. 206.

⁵²⁸ Here clearly expressed by Monticelso: “Such a corrupted trial you have made / Both of your life and beauty” (*WD*, III, ii, 260).

Leonora as mentally unstable⁵²⁹ and blame her decision to take a legal proceeding since “such vile suits disgrace our courts” (IV, i, 59). When Ariosto speaks of “the melancholy humour [which] flows in [her] face” (58) using a simple oxymoron, he could also be alluding to the humoral theory by Galen which explains how

production of either an excessive or insufficient amount of one or more humours disrupts the internal equilibrium and causes physical and/or mental illness. [However], the sixteenth and seventeenth century medical perception of melancholy differs from the original Galenic view in an important way. It links melancholy [...] with the activity of the devil [that] manipulates the humour of melancholic women, thus creating a delusion that they are performing, or participating in, an unnatural act.⁵³⁰

Many critics acknowledge that Vittoria’s trial in *The White Devil* is highly inquisitorial; its structure is “very much rooted in the practice of torture (here moral rather than physical) as an *inquisitio peccatorum*: the discovery of truth represents grounds for expiation of the sin and a condition for the culprit’s redemption.”⁵³¹ Nevertheless, Vittoria is immune to the logic of torture and violence and puts her ideology of resistance to practice. She uncovers layers of corruption and malpractice, especially in remarking that it is not a Cardinal’s duty “to play the lawyer” (III, ii, 62) and in praying Monticelso that if he “be [her] accuser” he shall “cease to be [her] judge; come from the bench, / Give in [his] evidence ‘gainst [her], and let these / Be moderators” (225-8). During the sitting Camillo’s death is just hinted, so the whole case is principally set to prosecute her for adultery and sexual promiscuity more than for murder. In actual fact, “while the murder of Vittoria’s husband catalyses legal intervention, Camillo’s death is clearly not the focus

⁵²⁹ Cf. Ariosto: “Woman, you’re mad, I’ll swear’t, and have more need / Of a physician than a lawyer” (IV, i, 56-7); “She’s mad, my lord, and would be kept more dark” (IV, ii, 49); Contilupo: “She’s sick, my lord” (48).

⁵³⁰ Sam Migliore, “The Doctor, the Lawyer and the Melancholy Witch: European Witchcraft in the 16th and 17th Centuries” in *Anthropologica*, 25:2 (Jan. 1983), 163-192, 168; 173.

⁵³¹ Daniela Carpi, “The trial in John Webster’s *The White Devil*: Italy in the reenactment of a Renaissance English drama” in *Forum Italicum: A Journal of Italian Studies*, 53:2 (Feb. 2019), 363-374, 367.

of this criminal investigation.”⁵³² The central theme (so, the indictment) of the trial is whoredom. Monticelso expounds on the true meaning of ‘whore,’ correlating the word to a series of mischievous practices one could enact (like dazing a man with alchemy or poisonous perfumes). In drama the word was not used to “denote the actual financial and sexual relations of prostitution, but as a shorthand for a fuller exposition of sexual misconduct.”⁵³³ Julia monetises her prostitution in *The Duchess of Malfi* but, ironically, she results less sexually corrupted than Vittoria, whose extreme sexuality is almost supernatural; the sepulchral elements of the dream she recalls in the first act (the withered blackthorn, the pickaxe, the shovel, the whirlwind) and the gloomy atmosphere surrounding it are all meant to obscure her and stigmatize her ‘devilish’ character. In the course of her examination, she calls her charges “feigned shadows of [her] evils” (146), mere “painted devils” (147), to bounce the clear attempt of the court to intimidate the audience and convince them it is a witch they are trying. Everything contributes to confining Vittoria into an infernal circle of damnation: her shamelessness, her fierceness and, above all, her ability to stand up for herself. This is what defines her, for good or ill.

Caught between the need to win sympathy and to deflect attention from her culpability as an adulterer, Vittoria ends up making herself both repellant and attractive to her audiences – the ambassadors, the cardinal, the duke and the playgoers. Her ‘brave spirit’ in challenging the fairness of the proceedings wins the admiration of the audiences – ambassadors and playgoers – and distracts from her guilt as adulterer, known to the playgoers and accepted by the ambassadors. For the theatre audience, Vittoria’s performance at trial stirs sympathy even as it shields her interiority, for Vittoria challenges the accusation of adultery while managing not to lie. Indeed, any sympathy she has won from the playgoers would be lost if they caught her in a lie.⁵³⁴

⁵³² Kathryn R. Finin-Farber, “Framing (the) Woman: *The White Devil* and the Deployment of Law” in *Renaissance, Drama and the Law*, 25 (1994), 219-245, 219.

⁵³³ Laura Gowing, “Language, power and the law: women’s slander litigation in early modern London” cit., p. 28.

⁵³⁴ Lisa Klotz, “Grammatical Laments, feminine arguments: unconfessional inwardness in Webster’s *The White Devil*” in *Cahiers Élisabéthains: A Journal of English Renaissance Studies*, 92:1 (2017), 50-67, 60.

Vittoria implements this strategy the moment she appears onstage. The first line she ever speaks (“I did nothing to displease him” I, i, 10), is a denial of wrongdoings, which will characterise her future exculpatory rhetoric. Soon after, her “superiority in the use of language becomes clear when she resorts to witty retorts which leave Brachiano to praise her in a rather clichéd fashion.”⁵³⁵ But her intelligence does not impress only Brachiano. Vittoria steals the show in the third act of *The White Devil*: she stands in a tennis court as she plays her part in a verbal fencing with whom happens to be her accuser, examiner and judge at once. Like any good lawyer, she balances defence and accusation and performs a rather memorable plea. Her defence of force “personate[s] masculine virtue” (III, ii, 136) and calls for an unconventional conduct which becomes more and more compulsive as Monticelso weighs down the allegations. Being Camillo’s next-of-kin, the latter “violate[s] Coke’s maxim⁵³⁶ that no man should be a judge in his own cause,”⁵³⁷ while Crispiano, who withdraws halfway through the lawsuit “exemplifies Webster’s message that there can be no justice if the judge is partial, or even perceived to be interested in the outcome.”⁵³⁸ Vittoria’s looseness and verbal aggressivity causes a sensation in the audience while damaging a discriminatory and gendered system which tries to silence her and which implements a necessary measure: the annihilation of an insubordinate woman.

Vittoria, *mulierum corruptissimam*, requests her accusations be read in a vernacular language instead of being “clouded in a strange tongue” (18) in which half of the

⁵³⁵ Natascha Wanninger, “Theatrical Colours: Cosmetics, Rhetoric and Theatre in Webster’s *The White Devil*”, in *E-rea*, 12.2 (2015), Online since 15th June 2015. Available at <https://doi.org/10.4000/erea.4475>

⁵³⁶ Cf. *The Lord Coke, the Preface to His Charge given at the Assises houlden in Norwich, the fourth of August 1606*: “A judge [...] having many friends kins-folkes, and allies [...] time might unhappily produce some such occasion wherein his sentence, in the place of judgment, might give distaste, procure enemies, lose friends and gain suspect for hatefull partialitie.” Robert Pricket, (ed.), *The Lord Coke, His Speech and Corruption of Officers* (1607), Theatrum Orbis Terrarum, Amesterdam, 1972, p. 6.

⁵³⁷ Sara Deutch Schotland, “Women on Trial: representation of women in the courtroom in Elizabethan and Jacobean drama” in *Women’s History Review*, 21:1 (Feb. 2012), 37-60, 48.

⁵³⁸ *Ibidem*.

auditory (on and off-stage) “may be ignorant” (16). The denunciation of the misuse of the ‘legalish’ jargon is central in the scene; the lawyer who reads the accusations juggles with idioms and Latinisms to value his prestige and confuse the audience. The idea of the corruption of the Latin language is reiterated ironically in the trial scene of *The Devil’s Law-Case*, where Winifred demands: “Please your lordship, question me in Latin, for the cause is very foul”⁵³⁹ (IV, ii, 365). In the tragedy though, the defendant’s request to switch to the ‘usual tongue’ is targeted at resisting the Church’s hegemony and hindering its cultural expression at its highest. The use of Latin needs to be read as a complaint for the lack of transparency both in secular and ecclesiastical institutions. The social and religious critique Webster (an Anglican writer) makes is more complex than it may seem, because it concurrently undermines the reliability of the courts and the formality of Christian rites. Questioning the use of Latin equals questioning centuries of tradition: in fact, while “Latin is a language associated with the exclusively masculine fields of the law and ecclesiastical authority – in which women had no legitimate voice – Vittoria mocks the language of the law and deems it irrelevant.”⁵⁴⁰ Brachiano, instead, blends in the patriarchal community and addresses the Cardinal in Latin before leaving the courtroom. In the case of *The White Devil* the absence of a masculine (indicted) voice in the dock is emblematic of the underlying cultural premises of the whole play. Vittoria is left alone to fight a gender battle while Brachiano, the real mind behind the crime she is accused of, moves away from it. Flamineo, the perpetrator, is not even summoned. The culpability of Vittoria is suspended. Is she a criminal? Is she even an oppressor? Is she a white devil? She is certainly innocent in a legal sense, but to some she is guilty of conspiracy and of showing the Duke how “to make away his duchess and her husband” (I, i, 247) and of doing it in consciousness. Flamineo will acknowledge his sister’s capability to master language and exercise a witty rhetoric to obtain private favours and public

⁵³⁹ The adjective (as referred to the case) comes up other times. Cf. Sanitonella: “’Tis a foul copy, sir, you’ll hardly read it” (*DLC*, IV, i, 76); “be the hand never so foul, / Somewhat will be picked out on’t” (80-1).

⁵⁴⁰ Bilal Tawfiq Hamamra, “Silence, Speech and Gender in Webster’s *The White Devil*: A Presentist Palestinian Perspective” in *Early Modern Literary Studies*, 19:1 (2016), 1-19.

consensus (the critique sounds absurdly incoherent though, since he seeks to manipulate Brachiano in the same exact way Iago manipulates Othello, namely through irony, elusory images, rhetorical questions, and an acquiescent language).

FLA: Leave your prating,
For these are but grammatical laments,
Feminine arguments, and they move me
As some in pulpits move their auditory
More with the exclamation than sense
Of reason, or sound doctrine. (*WD*, V, vi, 68-72)

Unlike Flamineo, the lawyer in the courtroom underestimates Vittoria's linguistic skills twice, first by questioning her comprehension of Latin, then by concluding she "knows not her tropes nor figures, nor is perfect / In the academic derivation / of grammatical elocution" (III, ii, 40-1). She proves otherwise and interrupts the stream of the lawyer's lies on several occasions by "put[ting] the lawyer in a desperately defensive position."⁵⁴¹ As for him,

despite the fact that Vittoria's quasi-legal elocution is obviously more lucid than [his], he accuses her of improper *grammatical* relations so that, as in the seduction scene, her trespass doubles, moving from the social to the rhetorical. As a result, the opening of this legal proceeding displays an intersection between 'unruly women and unruly tropes:' it displays an unsettling lack of linguistic and social control in the very arena constructed to enforce social order.⁵⁴²

The lawyer's insistence on the exigence and the rigour of the legal language reopens the conflict between "the scholastic jurisprudence [...] and the new wave of humanist

⁵⁴¹ H. Bruce Franklin, "The trial scene of Webster's *The White Devil* examined in terms of Renaissance rhetoric" in *Studies in English Literature, 1500-1900*, 1:2 (Spring 1961), 35-51, 38.

⁵⁴² Kathryn R. Finin-Farber, "Framing (the) Woman: *The White Devil* and the Deployment of Law", cit., p. 230.

studies of the law”⁵⁴³ which witnessed the uprising of the new ‘grammarians’ as told in “a little-known treatise *On the corrupted words of civil law* published by Claudio Tolomei in 1517. In this dialogue [...] Poliziano ridicules Giason for his ties with Bartolus, Baldus and such *barbarians*, whom he taxes with ignorance of history and bad taste in language.”⁵⁴⁴ This is a page of Italian juridical history which witnessed a proliferation of medieval case commentaries and which divided commentators and glossators on the matter of the exegesis of the Roman law and its adaptability to modern legal standards and necessities. Webster’s suggestion to purge the legalistic language (or, at least, to render it less antiquated) is almost declared. In the comedy he puns frequently to show that words can be deceitful in constructing meaning; but the tragedy is that place where language fails to communicate the most. In *The Duchess of Malfi* the ‘mad lawyer’ who, by definition, blabbers and blathers, says that “Hell is a mere glass-house, where the devils are / Continually blowing up women’s souls, on hollow irons” (IV, ii, 78-9). This is maybe one of the most significant comments Webster makes on the deplorability of women’s condition and it certainly does not lose its meaning if spoken by a mad man (except, however, that it lacks centrality). Jaqueline Pearson observes that “this theme of the deceptive nature of language is an important one in Jacobean tragicomedy, pioneered by Marston and by Beaumont and Fletcher and explored particularly closely by John Webster.”⁵⁴⁵ In the tragedies the Duchess and Vittoria denounce the manipulation male characters operate on language and discover their ability to sugar-coat their lies and evil intents:

DUCH: Pray thee, why dost thou wrap thy poisoned pills
In gold and sugar? (*DM*, IV, i, 19-20)

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⁵⁴³ Donald R. Kelley, “Civil Science in the Renaissance. Jurisprudence Italian style” in *The Historical Journal*, 22:4 (Dec. 1979), 777-94, 777.

⁵⁴⁴ *Ibidem.*, p.778.

⁵⁴⁵ Jaqueline Pearson, *Tragedy and tragicomedy in the plays of John Webster*, Manchester University Press, Manchester, 1980, p. 39.

VITT: I discern poison

Under your giled pills. (*WD*, III, ii, 190-1)

Contilupo's 'poor malicious eloquence,' pompous, verbose, and emphatic is as ineffectual in the oral form as Sanitonella's is in the written. Crispiano criticises their attempt to defend a *guilty* woman "with as much oratory / As [he ever] did hear them in [his] life" (*DLC*, IV, ii, 37-8). In the tragicomedy, the sense of scandal and shame attached to the lawsuit affects the literature on it. Contilupo's sly reference to the culture of the common law (which is based on legal precedents) is intended to underline that this is "a case so rare, so altogether void of precedent" (95) – and therefore subject to public opinion – that the officers must take special care not to let any "brachygraphy men [...] take notes" (28), for the court "cannot have a cause of any fame" (29) while they "must have scurvy pamphlets and lewd ballads engendered of it" (31). The Accoramboni affair, along with the Overbury and the Cenci, teaches us that speculation and gossip were inevitable when a woman was tried, especially if she was involved in a sex scandal.

In 1581, after the assassination of Francesco Peretti, Vittoria Accoramboni moved in with Bracciano; the Roman people believed she was trying to escape from the allegations of the court, which suspected her of connivance and conspiracy.⁵⁴⁶ What Webster stages as a public trial with a real commission and 'real' proofs, has, in reality, the purpose to condensate a long list of precepts, interrogations and injunctions which a few surviving documents testify and which for the most part deal with the irregularity of the marriage the couple contracted "*sine expressa licentia*."⁵⁴⁷ In the play, as in real life, the lack of proof is replaced with the inquisitor's attempt to make one up:

FRANC: My lord, there's great suspicion of the murder,

But no sound proof who did it. For my part,

⁵⁴⁶ Cf. *Il Fuggilozio, amenità letterarie contemporanee*, Anno II, Borroni e Scotti, Milano, 1856, p. 220.

⁵⁴⁷ Domenico Gnoli, *Vittoria Accoramboni: storia del secolo XVI corredata di note e documenti*, Le Monnier, Firenze, 1890, p. 417.

I do not think she hath a soul so black

To act a deed so bloody. [...]

MONTIC: Now the Duke's gone, I will produce a letter,

Wherein 'twas plotted he and you should meet

At an apothecary's summer-house,

Down by the river Tiber [...]

VITT: Grant I was tempted,

Temptation to lust proves not the act. (*WD*, III, ii, 181-4; 192-5; 199-200)

Monticelso's letter has more validity as a stage-prop than as an actual proof. Webster's theatricalization of legal proceedings exemplifies what Subha Mukherji defines as the *theatre-as-court* metaphor, which "is so pervasive in Renaissance drama, sometimes suggesting the theatricality of trials, at other times the judicial structure of drama."⁵⁴⁸ Legal plays marked the social role of the theatre as *magister vitae*; those who had no familiarity with the legal world could finally access it and receive information about court procedures, terminology, and spatiality. But the most useful lesson they could learn was how to relate to practitioners. Websterian characters are the most irreverent when they are on trial and their attitudes towards the courts are certainly worth examining. Leonora and Vittoria alternate humble and proud attitudes, Luce and Urse are more acquiescent and barely speak; Romelio is cunning during the sitting but insults and mocks Ariosto in the second act scorning the legal category and profession; Brachiano and Compass are menacing and impetuous and show their disrespect for the institutions without fear. Vittoria and Romelio are both hostile to the lawyers reading the briefs and presenting their cases. Their reactions to the lawyers' verbose eloquence cause their dismissal or their replacement:

⁵⁴⁸ Subha Mukherji, *Law and Representation in Early Modern Drama*, Cambridge University Press, Cambridge, 2006, p. 1.

VITT: What's he?⁵⁴⁹

FRAN: A lawyer that pleads against you. (*WD*, III, ii, 10-1)

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ROM: Speaks he all this to me?

ARIO: Only to you, sir. (*DLC*, IV, ii, 123-4)

At times, Webster's meta-theatricality reflects itself. Monticelso, for example, points out that while Vittoria's affair is causing the "Rialto talk,"⁵⁵⁰ it is also "balladed, and would be played o'th' stage" (*WD*, III, ii, 249). *A Cure For A Cuckold* is another play with a theatrical self-consciousness, in which "theatricality seems not only threatening, [...] but also to be a valid way of expressing feelings and consolidating the happy ending. [...] In the scene with the lawyers Compass firmly confines violence and immorality to a safely fictional context"⁵⁵¹ and claims "There's better law among the players yet, for a fellow shall have his share though he do not play that day" (*CFC*, II, iii, 134-5). There is an equal interchange of images and ideas between life and representation, society and the playhouses, culture and drama. Women, who had always been excluded from the courts of law as from the stage, would gradually conquer both. The Restoration period actualised what was already germinating in Webster's young years. The dramatist recognised the importance of the social role of the theatre and apparently recognised, as well,

the inherent theatricality of equity and made it central to his approach to theatre. In his plays, he employs forensic hermeneutics, creating an equitable drama concerned both with the particularities of a case and with the action of it, with the way events play themselves out. While the legal connection is particularly prominent in Webster's plays [...] all contemporary drama can be regarded as equitable. Plays

⁵⁴⁹ Vittoria asks rhetorical questions to show the nonsense of her trial. Cf. also "What's all this?" (III, ii, 33), "Ha? Whore? What's that?" (78), "Well, what then?" (103), "O' your own grafting?" (234), "Ha?" (238) *etc.*

⁵⁵⁰ Rialto was an important site of gathering. Monticelso means that Vittoria's case is already in the public domain in her hometown.

⁵⁵¹ Jaqueline Pearson, *Tragedy and tragicomedy in the plays of John Webster*, cit., p. 126.

may contain special questions or hypotheses in the tradition of rhetorical deliberation, but they focus on individual stories, placing them in a broader moral and ethical framework. Moreover, rather than supplying a simple illustration of a problem, theatre gives the audience ‘images to think with’, which enables an exchange that is dynamic and ultimately unpredictable.⁵⁵²

Historicism takes its part in this. Carol Blessing, for instance, reflects on the influence popular literature about Mary Stuart might have had on Webster’s writing. She spots interesting similarities between Vittoria and the Queen of Scots, focusing particularly on their maidenly appearance; she observes how the virginal white contrasted with the women’s explored sexuality and suspects Webster’s play is somehow related to François Clouet’s portrait of the Stuart queen titled *en deuil blanc* (where ‘deuil’ is the French for ‘mourning’ which she is wearing in the form of a white headpiece).⁵⁵³ Yet, another coincidence binds the two, and this coincidence warrants deeper reflections.

Blessing’s observations on the analogies between the stories of Mary, Queen of Scots and Vittoria Accoramboni trigger further suppositions regarding the influence such historical matters might have had over our dramatist. The re-marriages, the suspicions about their involvement in their husbands’ murders, the judicial harassments, the casket letters provided as proof of the extramarital affairs, the prosecutions, the intent to make an example of their cases *etc.* are all elements that unite the story and its ‘re-telling.’ F. L. Lucas acknowledged these similarities in his edition of the works of John Webster, but to this day there is no objective evidence of a real intention on the part of the author to draw inspiration from the queen’s tragedy. But besides being tempting, the hypothesis is also realistic; indeed, Renaissance historical literature was elemental to dramatists, who turned to notorious events related to royal dynasties either to support or contest monarchical authority. In this regard, I should like to trace another

⁵⁵² Ina Habermann, “She has that in her belly will dry up your ink: Femininity as Challenge in the ‘Equitable Drama’ of John Webster”, *cit.*, p. 103.

⁵⁵³ Cf. Carol Blessing, “The Trial of Mary Stuart: Anxious Circulations in John Webster’s Drama” in Andrew J. Majeske, Emily Detmer-Goebel (eds.), *Justice, Women and Power in English Renaissance Drama*, Farleigh Dickinson University Press, Madison & Teaneck, 2009, pp. 80-97.

parallel with the Stuart queen. On 30 June 1559 king Henry II of France, Mary Stuart's first father-in-law, was fatally wounded during a tournament which had been set to cement the marriage agreement between Philip II of Spain and his eldest daughter, Elizabeth. The Count of Montgomery's joust lance broke right into the king's right eye, causing permanent damages to his brain and a slow, agonizing death. The medical case, so complex and unprecedented, was observed and documented and many accounts of the death of the King of France were published. In *The White Devil* Camillo (the fictional counterpart of Francesco Peretti and Lord Darnley, if we accept Blessing's comparison) is killed in a dumb show. As we get to know from the stage directions, the music plays in the background and a vaulting-horse is brought into the scene, as Flamineo and Camillo get themselves ready to vault. While Marcello and the captains are distracted in the distance, Flamineo snaps Camillo's neck and drags his body closer to the horse, to try to make it look like an accident. Henry of Valois-Angoulême's real accident was so sensational and popular on his day, that it could have inspired Webster to set a jousting event to stage Camillo's death in act two.⁵⁵⁴ Brachiano, who dies in his armour and whose 'brain's on fire' in a poisonous helmet, is equally comparable to the king-jouster. But whether Webster was really inspired by that specific historic moment or not, it is undeniable that the theatrical staging of violent deaths is a distinguishing mark of his theatre.

⁵⁵⁴ Francesco Peretti was actually surrounded by Bracciano's enforcers who shot at him with arquebuses at Monte Cavallo (today's Quirinal Hill) in Rome.

Final Remarks:

The general fascination with crime and the influence of Seneca over English drama unleashed the proliferation of gory plays in which, for the most part, criminality had political motifs and repercussions. But the crime rate of contemporary England (which was steadily growing in the lower-class society) led them to address the issue with particular care; criminal studies also “produce evidence of fluctuations in levels of crime, which might in turn be compared against other socio-economic variables: demographic trends, harvest failures, inflation, trade depressions, the impact of war and so on.”⁵⁵⁵ Above all, the most serious crimes committed “were treason, murder, and a range of crimes classed as felonies, including manslaughter, rape, sodomy, arson, witchcraft, burglary, and grand larceny.”⁵⁵⁶ All these cases are listed and commented along with high treason and conspiracy in Michael Dalton’s manual *The Country Justice* (1618). With regards to homicide, the English barrister specifies what categories are not chargeable (like lunatics or infants under eight years of age) but writes that generally murder is punishable by death or imprisonment.⁵⁵⁷

In Webster (who explores domestic crime, political crime, and crime of passion), almost all kinds of murder are committed, escalating into fratricide, uxoricide, infanticide and manslaughter. Writes Naomi Liebler: “infanticide was itself only newly criminalized during the period and prosecuted vigorously in law in the popular press only when committed by unmarried women.”⁵⁵⁸ In particular, “the burden of the vigilant prosecution of infanticide fell on the unmarried mother, who was presumed to be guilty

⁵⁵⁵ James A. Sharpe, *Crime in Early Modern England 1500-1750*, Routledge, London and New York, 2013, p. 59.

⁵⁵⁶ Jeffrey L. Forgeng, *Daily life in Elizabethan England*, Greenwood Press, Santa Barbara, Denver and Oxford, 2010, p. 36.

⁵⁵⁷ Cf. Michael Dalton, *The Country Justice, Containing the Practice of the Justices of the Peace out of their Sessions...* (1618), The Company of Stationers, London, 1655, p. 307.

⁵⁵⁸ Naomi Liebler, “Mothers from hell: Medea and the Duchess of Malfi” in Franck Lessay, François Laroque (eds.), *Enfers et délices à la Renaissance*, Press Sorbonne Nouvelle, Paris, 2003, p. 269.

of her infant's death."⁵⁵⁹ The increase in the rate of the practice in Jacobean England led to the promulgation in 1624 of the *Infanticide Act*, in full "Act to prevent the destroying and murdering of bastard children."⁵⁶⁰ The phenomenon was thus mainly connected with witch prosecutions, along with bastardy, petty treason and adultery. Many modern 'Medeas' were punished by death; "often death by a means (drowning, burning) far more painful than that typically used (hanging, decapitation) in the case of a male criminal."⁵⁶¹ Besides, while "the murder of new-born children was not uncommon in Renaissance England – especially among poor and unmarried women – the drama explores such murders only rarely, reflecting little of the tendency of the period."⁵⁶² The plays which, perhaps, best exemplify the issue are Shakespeare's *Titus Andronicus* (with the revolting addition of the tecnophagy) and *The Winter's Tale* (where the crime is meditated but not committed) and, of course, Webster's *Duchess*. The peculiarity lies in the fact that both dramatists insist on the male criminalisation of the act, despite the consistent range of cases involving women and the prejudicial culture surrounding the issue of infanticide and its legal construction.⁵⁶³

The fratricide Flamineo commits in *The White Devil* has none of the serious political motifs and implications we find in *Hamlet*; it is rather inspired by those ordinary quarrelsome family disputes which usually occurred in the middle-class and in the little nobility and which were equally part of England and Italy's social life. Here, "fratricides occurred in the course of drunken arguments and during arguments over the divisions of

⁵⁵⁹ Margaret L. King, *Women of the Renaissance*, The University of Chicago Press, Chicago and London, 2008, p. 10.

⁵⁶⁰ Cf. Authority, *The Statutes, Second Revised Edition, Vol. III*, Printed under the Authority of her Majesty's Stationery Office, London, Edinburgh and Dublin, 1889, p. 697.

⁵⁶¹ *Ibidem*.

⁵⁶² Betty S. Travitsky, "Child Murder in English Renaissance Life and Drama" in *Medieval and Renaissance Drama in England*, 6:63 (Jan. 1993), 63-84, 63.

⁵⁶³ For a deeper insight see: Josephine Billingham, *Infanticide in Tudor and Stuart England*, Amsterdam University Press, Amsterdam, 2019.

patrimony.”⁵⁶⁴ Flamineo/Cain stabs Marcello/Abel⁵⁶⁵ to death, bringing their mother to insanity.⁵⁶⁶ The biblical archetype is enhanced through Marcello’s anecdote about his father’s crucifix, which Flamineo iconoclastically destroyed in his tender age, and which Webster reifies as the weapon Flamineo hands his brother while challenging him into fight. The comparison results into a blasphemous, but striking image, which epitomises how “*The White Devil* exposes the corruption of Cornelia’s family by juxtaposing the story of the crucifix with Flamineo’s act of fratricide:”⁵⁶⁷

MAR: I have heard you say, giving my brother suck,

He took the crucifix between his hands,

Enter Flamineo.

And broke a limb off.

CORN: Yes: but ‘tis mended.

FLA: I have brought your weapon back. (*WD*, V, ii, 11-5)

Flamineo’s crime raises a question which has often been an object of cultural and religious discussion, especially with reference to *Hamlet* with regards to ecclesiastical law. Marcello is denied a proper burial because he dies in a quarrel, while Ophelia (who commits suicide) is not allowed a full *requiem* but is eventually buried on sacred soil, as

⁵⁶⁴ Colin Rose, *A Renaissance of Violence: Homicide in Early Modern Italy*, Cambridge University Press, Cambridge, 2019, p. 37.

⁵⁶⁵ Flamineo and Marcello “exhibit extremes of behaviour. Flamineo panders his sister, murders his brother, drives his mother mad and finally attempts to murder his sister [while] his brother, on the other hand, is called ‘virtuous Marcello’ and ‘noble youth’ and his actions bear out these epithets.” Susan H. McLeod, “Duality in *The White Devil*” in *Studies in English Literature 1500-1900*, 20:2 (Spring 1980), 271-285, 279; Cf. also Vittoria: “I give that portion to thee, and no other, / Which Cain groaned under, having slain his brother” (*WD*, V, vi, 13-4).

⁵⁶⁶ Similarly, the brotherly bond between Lessingham and Bonvile is tested on the battleground.

⁵⁶⁷ Elizabeth Williamson, *The Materiality of Religion in Early Modern English Drama*, Ashgate, Farnham and Burlington, 2009, p. 143.

befits her social rank. In the last act Cornelia cries out a dirge while claiming her son's right to a Christian burial:⁵⁶⁸

COR: [*Sings*] *But keep the wolf far thence, that's foe to men,*

*For with his nails he'll dig them up again.*⁵⁶⁹

[*Speaks*] They would not bury him 'cause he died in a quarrel,

But I have an answer for them.

[*Sings*] *Let holy church receive him duly,*

Since he paid the church tithes truly. (*WD*, V, iv, 99-104)

Cornelia's grief represents the peak of the dramatic action. The excruciating preparation of Marcello's body is only an infinitesimal portion of the big picture of the ritual of death, which is a *cliché* in the drama of the period, but which Webster exacerbates. Sensationalism is the key for understanding the construction and the aesthetics of Webster's plays; every death scene is written and staged for the sake of it.

Webster also "associates strange language with the criminal benefits of coded speech – the riddles, dreams, and emblems that are central prompts to action and murder – while simultaneously showing the confused nature of such speech."⁵⁷⁰ For example, Brachiano is delusional at the moment of his death and Cornelia becomes delusional in consequence of Marcello's assassination. In *A Cure For A Cuckold*, instead, Clare's riddle⁵⁷¹ (completely misunderstood by Lessingham), leads him to the battlefield and almost causes his and Bonvile's death.

⁵⁶⁸ Cornelia is reminiscent of Antigone. As Rupin Desai observes, "Webster gives us momentarily a glimpse of conventional tragedy in the form of Cornelia's grief over the death of her son Marcello." Rupin W. Desai, "Spectacles fashioned with such perspective art: a phenomenological reading of Webster's *The White Devil*" in *Medieval & Renaissance Drama in England*, I (1984), 187-198, 191.

⁵⁶⁹ Cf. T. S. Eliot, *The Waste Land* (1922), vv. 74-5: "Oh keep the Dog far hence, that's friend to men, / Or with his nails he'll dig it up again!"

⁵⁷⁰ Callan Davies, *Strangeness in Jacobean Drama*, Routledge, London, 2020, p. 98.

⁵⁷¹ "Prove all thy friends, find out the best and nearest / Kill for my sake that friend that loves thee dearest" (*CFC*, I, i, 97-8).

Ferdinand's brutality and the cruel creativity of his *mens rea* perfectly serve this type of graphic, visually oriented theatre. His wild imagination causes him to become at times completely estranged from the present context and to indulge in soliloquy even when he is not alone on the stage:

FERD: I would have their bodies
Burnt in a coal-pit, with the ventage stopped,
That their cursed smoke might not ascend to heaven;
Or dip the sheets they lie in, in pitch or sulphur,
Wrap them in't, and then light them like a match;
Or else to boil their bastard to a cullis,
And give 't his lecherous father, to renew
The sin of his back. (*DM*, II, v, 69-74)

The character alone brings about all the disturbing elements which contextualise criminality both in a legal and a visual sense (the waxwork figures, the dead limbs, carnage, torture, agony, mutilation *etc.*). His brother the Cardinal sacrilegiously poisons his copy of the Bible⁵⁷² and tricks Julia to kiss it 'most religiously' once he senses that she has been sent to force out a confession of his involvement in his sister's murder.⁵⁷³

Andrea Henderson observes that

both the cardinal and Ferdinand are "punished" for their abuse of theatricality by becoming victims of their own fictions and shows. Ferdinand orders the masque of madmen for the Duchess with the ostensible aim of making her sane but with the

⁵⁷² The death scene of Isabella de Medici, who dies 'poisoned by the fumed picture' of the duke is similar to Julia's, especially if observed in the context of iconoduly. In the dumb show the metaphor death-theatre-rite is reiterated: "*She kneels down as to prayers, then draws the curtain of the picture, does the reverences to it, and kisses it thrice.*" (*WD*, II, ii). Also notice that in *Westward Ho!* the merchant Justiniano fakes his wife's poisoning to upset her wooer.

⁵⁷³ The Cardinal drops subtle hints of what is about to come before he proceeds to poison his mistress: "'tis a secret / That, like a ling'ring poison, may chance lie / Spread in thy veins, and kill thee seven years hence" (*DM*, V, ii, 261-2).

true aim of making her insane, and yet it is he and not she who becomes mad. [...] Similarly, the cardinal's fiction that he may cause a commotion in the palace to which no one should respond, turns out on him when he does call out for help and no one heeds him in time.⁵⁷⁴

In the moments preceding her execution, the Duchess confronts Bosola on the matter of entombment and the fashion of "Princes' images on their tombs [...] seeming to pray up to heaven [...] carved [...] as if their minds were wholly bent upon the world" (*DM*, IV, ii, 148; 150-1). The characters' conscious reflections on the interplay between *death as action* and *death of the action* break the traditional pattern of disbelief. In *The White Devil* the action of the play ends the moment Giovanni orders the removal of the bodies from the stage, hence once the perpetration/performance of crime has been carried out at the highest level, culminating in the slaughter of the characters negotiating a suicide pact in a sort of 'Mexican standoff'.⁵⁷⁵

FLA: *Riseth*

I am not wounded;

The pistols held no bullets: 'twas a plot (*WD*, V, vi, 150)

By quoting Christina Luckyj's edition of the play, Roberta Barker points out that "Flammineo's mock death is a meta-theatrical joke; as Flammineo rises, Webster makes his audience (which has shared the women's illusions) conscious of the reality of the theatre, in which death is always feigned."⁵⁷⁶ Contarino's *death-non-death* in the tragicomedy fits into this process. On the subject of the meta-theatricality of *The Duchess of Malfi* instead, Barker adds that

⁵⁷⁴ Andrea Henderson, "Death on the Stage, Death of the Stage: the Antitheatricality of *The Duchess of Malfi*" in *Theatre Journal*, 42:2 (May 1990), 194-207, 197-8.

⁵⁷⁵ In staging the final slaughter in *The Duchess of Malfi* Webster rewrites the scheme 'Flammineo-Vittoria-Zanche' as 'Cardinal-Ferdinand-Bosola' (*viz.* two siblings higher in rank and their insurgent servants).

⁵⁷⁶ Roberta Barker, "Another Voyage: Death as Social Performance in the Major Tragedies of John Webster" in *Early Theatre: A Journal Associated with the Records of Early English Drama*, 8:2 (Dec. 2005), 35-56, 35.

although Bosola tries ‘to define himself as an actor’, he is often alienated from, and by, his own social-climbing theatricality. As he participates in the Duchess’ torture and death, disguise becomes less a source of advancement than a means of escape from his own self-disgust; he tells Ferdinand that he will not see the Duchess again, or at least ‘[n]ever in my own shape’ (4.1.131). Retreating into the strategies of performance, he disguises himself as a tomb-maker and attempts to play out a tale of *vanitas mundi* designed to mortify the Duchess’ aristocratic pride (4.2.174).⁵⁷⁷

Bosola unmask himself and scorns the theatrical pretence. He recognises his role on the great stage set up by the Aragonian brethren (“[...] and lastly for myself, / That was an actor in the main of all / Much ‘gainst mine own good nature” *DM*, V, v, 83-5). He insistingly plays with the dichotomy *crime-fiction* and speaks of his own death as if it were a recital: “Thus it lightens into action: / I am come to kill thee” (V, v, 10); “My death is plotted; here’s the consequence of murder” (V, iv, 38). When Malateste questions him about Antonio’s death, he responds it all happened in a mist in the dark, like in the playhouse, where the light is dim and where the edge between life and representation is thinnest: “I know not how; Such a mistake as I have often seen / In a play” (94-5). This last line gives Webster occasion to reflect on his own experience as a writer for the contemporary theatre of gore and on the possibilities of staging melancholy, the malady of the Jacobean age. It is precisely like the art of killing: “it must be done i’ t’ dark” (V, iv, 34).

As T. S. Eliot asserted in his essay *The Possibility of a Poetic Drama*, “the Elizabethan drama was aimed at a public which wanted entertainment of a crude sort but would stand a good deal of poetry.”⁵⁷⁸ Gruesome bloodbaths are the inevitable fate of Webster’s characters, cruel, tormented, victimised and ‘much possessed by *law*.’

⁵⁷⁷ *Ibidem.*, p. 40.

⁵⁷⁸ T.S. Eliot, *The Sacred Wood: Essays on Poetry and Criticism* (1921) Available at: <https://www.bartleby.com/200/sw5.html> Last access: May 2021.

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