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The Play of Law in Modern British Theatre

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The Play of Law in Modern British Theatre is an enjoyable read ‘about the interplay of law, politics and history’ (1). It is the first book that assesses this multiple relationship within the context of theatre. Yet, we have a certain familiarity with law and politics engaging with each other; their connexion has been explored, amongst others, by critical legal studies scholars. Taking a clearly political position, this strand of scholarship was particularly concerned about legal education. Unpacking the law meant explaining to prospective lawyers that it is, first and foremost, ‘a political instrument wielded to political purposes’ (12).

Legal formalism still draws a divide between the law and the non-legal variables that influence it. As legal scholars, our ‘law job’ is to teach students a well-defined state of mind. Besides a series of ‘behavioural habits’ that will ‘equip them nicely for life as professional lawyers’ (13), we explain to them that the closure of the law to contexts secures its neutral character.¹ The critical legal geographer Nicholas Blomley terms this closure ‘bracketing’, since it constructs ‘a boundary within which interactions take place more or less independently of their surrounding context’.² Bracketing is value-laden and ideologically motivated. Once enshrined in legal texts, ideology is carefully crafted to fix its legal objectivity and inspire ‘deference’ and ‘unquestioning attitude’ in students, allowing ‘the legal hierarchy’ to perpetuate ‘itself, from one generation to another’ (13).

In *The Play of Law*, interdisciplinary research runs counter to the idea of the autonomy of the law. Ward calls for lawyers’ closer commitment in the life of our political communities. He argues that legal devices must be assessed *in context*, taking into consideration that their full understanding entails a full understanding of all the variables that affect them. The law is not an empty box encapsulating ‘anonymous authority and power’.³ Quite the opposite: external factors pragmatically enrich its meaning. My understanding of Ward’s argument is that he also aims to go beyond the mainstream relationship between law and power. As it usually focuses on how ideology is encoded through law, it still represents a form of bracketing, where the law-power interplay is conveyed by means of implicatures, i.e. a linguistic interpretation of the meaning of the law which merely asks ‘what is hinted at by an utterance in its particular context, what the sender’s “agenda” is.’⁴

Ward is interested in a different visualisation of the law, which manifests itself in British drama as written and ‘performed over the previous half-century’ (1). Modern theatre allows him to stage a critical, cross-disciplinary, and contextual

¹See Jaakko Husa and Mark Van Hoecke (eds.) *Objectivity in Law and Legal Reasoning* (Hart, 2013).

²Nicholas Blomley, ‘Disentangling Law: The Practice of Bracketing’ (2014)10 *Annual Review of Law and Social Science* 133 at 135.

³Matti Rissanen M, ‘Standardisation and the language of early statutes’. In: Wright L (ed) *The Development of Standard English 1300-1800: Theories, Descriptions, Conflicts* (Cambridge University Press, 2000), 117–130, 121.

⁴Patrick Griffiths, *An Introduction to English Semantics and Pragmatics* (Edinburgh University Press, 2006), 7.

debate as regards highly contentious issues, such as terrorism, governance, murder, sexual violence, and pornography. All these topics are addressed by several theatrical *pièces* that Ward distributes into three 'sets' (6).

The first set comprises two 'documentary' dramas aimed at raising critical voices and stimulating critical thinking. Chapter 1 explores David Hare's *Murmuring Judges* (1991) with its vivid portrait of the hypocritical 'legal ethics' suffusing English legal education and practice. Clinging to 'market-forces' by Thatcherism, the decline of legal integrity is dominated by the 'innate conservatism of the Bar' (20), 'hierarchy and deference' facilitating 'petty racism and myriad misogynies' in courtrooms (23). Chapter 2 addresses Richard Norton-Taylor's *Called to Account* (2007). In challenging the British response to terrorism and its participation in the war on terror, it reconvenes the audience as a kind of court, inviting it 'to assume the role of investigative jurors' as regards Tony Blair's alleged breach of international law for his crime of aggression against Iraq (43).

The second set stages the writing of histories in British drama. Chapter 4 examines the 'political urgency' of women's condition (57) through Caryl Churchill's *Light Shining in Buckinghamshire* and *Vinegar Tom* (1976). Set in seventeenth-century England, these companion pieces extend the interplay between law and politics over the demoralising state of gender politics in the 1970s. Chapters 4 and 5 present a series of dramas that Ward labels 'histories' related to the state of the Nation and its constitutional governance. Kingship is explored through Howard Brenton's *55 Days* (2012) and Mike Bartlett's *King Charles III* (2014). Whereas the latter stages the morbid state of the monarchy in the aftermath of Queen Elizabeth II's death, the former performs the fifty-five days before Charles I's trial leading to his execution in 1649.

In the third set of chapters, 'matters of high politics and constitutional controversy are replaced with contemplations of private and personal tragedy' (8). Ward styles them as 'tragedies'; the grand narrative of the British Nation is here depicted through the *pétites histoires* of 'ageless' crimes: 'rape, child murder, and pornography' (215). Chapter 6 analyses Sarah Kane's *Blasted* (1995), an 'in-yer-face' drama challenging the role of law, which usually 'focusses on the "event" rather than the "experience" of rape'. It also overturns its masculine 'jurisprudential script' (145); by staging the rape of both a man and a woman, the gendered perspective on this crime is turned into 'totemic' violence which the law cannot completely grasp. Chapter 7 focuses on an infamous crime, the unusually cruel infanticide of James Bulger committed by two ten-year-old boys in 1993. Not an ordinary case, then; and hard enough to test the 'integrity of a legal system' (169). The death of little Jamie, the boys' conviction and detention at Her Majesty's pleasure, the public dismay, and the denial of fair trial that contravened the ECHR are assessed through Niklas Radstrom's *Monsters* (2009). In the same chapter, punitive legal strategies are coupled with Bryony Lavery's *Frozen* (1998), where the abduction, sexual assault, and murder of a young girl is examined through restorative justice schemes. The girl's mother and the murderer meet; then, the latter hangs himself. This theatrical staging does not intend to denigrate restorative justice; rather, it stresses how sensitively it must be directed. Things may indeed go wrong 'if the respective parties are left to work it out for

themselves' (192). Finally, Chapter 8 confronts another infamous crime: image-based abuse (also known as revenge porn). Ward filters the morbidity of the *pétite histoire* and the devastating effects of online harassment through Evan Placey's *Girls Like That* (2013). Again, Ward shows that the law is concerned more with the event rather than the victim's experience. The law is suffocated by its inability to provide a statutory definition of crimes related to pornography, by the obsession with procedural formality, and by the balancing of alternative rights: the victim's experiences count as a right to be juxtaposed to pornography as a form of free expression.

The Play of Law presents a variety of disturbing topics, which oblige us to step out of our comfort zones and realise how demoralising the picture of the legal system might be. Theatre, of course, facilitates this. 'It is the place for abrasion' (171). Drama has traditionally represented a strategic device for depicting and discussing such disturbing topics. In the pieces selected by Ward, the poetical of the theatre encounters the extraordinary of the legal with its 'identifying and prohibiting behaviour, which is not, by definition, considered normal' (208). The pattern of visualisation is attained through performance, which focuses on the practice of law, setting it on stage to discuss its legitimacy, authority, interpretation, and enforcement. But it also highlights its incoherence and loopholes. As well as its detachment from real-world politics, victim's experiences, and integrity. Probing the law in context, *The Play of Law* reveals the tensions and relations that saturate the real world, by resorting to the potential of theatre to 'foster dialogue about the unbearable tear in the fabric of our humanity' (8).

The interplay between law and politics must also be performative: 'theatre serves no purposes if the only change takes place on stage' (4). Ward's strategy is threefold. Firstly, he reappraises the very idea of the stage. Documentary and verbatim dramas like *Murmuring Judges* and *Called to Account* set the scene on broader stages, treating the practice of the law like a performing art. Schools and shopping centres, parish halls, and political assemblies all represent theatrical fora in which to press political arguments. The interplay of law and politics now extends over society, reflects its pluralism, and (which is typical of modern British theatre) opens up to societal evolving dynamics. Secondly, paraphrasing Richard K Sherwin, Ward acknowledges that, when the law goes *performative*, it may 'coincide with a broader pattern of cultural change'.⁵ This has affected how we conceive of the law: 'any attempt to understand adequately [how the] law works in contemporary society requires that popular culture be taken into account'.⁶ Public opinion 'runs alongside legal regulation' (164). With its dynamics, pluralism, ethical relativism, multi-culturalism, and gender issues, it engulfs mass media – also social media, as *Girls Like That* demonstrates. Public opinion becomes 'the primary if not the exclusive source of the public's knowledge about law, lawyers, and the legal system as a whole'.⁷ Together with legal regulation, 'they prescribe what we deem to be acceptable, and unacceptable,

⁵Richard K Sherwin, *When Law Goes Pop: The Vanishing Line between Law and Popular Culture* (The University of Chicago Press, 2000), 39.

⁶Sherwin, *When Law Goes Pop*, 8.

⁷Sherwin, *When Law Goes Pop*, 17.

behaviour' (164). Thirdly, such a stage-based representation of the law has skirted the line separating its closure and the energising forces operating in the real world also in a diachronic perspective. Here lies Ian Ward's intuition; in *The Play of Law* the interplay also extends to history. Engaging with the past indeed provides a context within which 'the present might be reconceived, and the future perhaps better imagined' (2).

This strategy is present in documentary dramas, where the interplay between law and politics is part of contemporary British history and therefore made present through its performance. But it is also clear in the chapters staging 'histories', where *The Agreement of the People*, the Putney Debates, witchcraft and Charles's I trials, Shakespeare's *Richard III*, and Bagehot's *The English Constitution* make us reflect on English grand narratives so as to foster political and social debates also related to legal reforms. In the 'tragedies' set, finally, the strategy assumes a different shape, inasmuch as its *pétites histoires* are inscribed in the grand English narrative; again, their theatrical staging makes them present and therefore make them relevant for the law. In so doing, tensions and relations staged outside the law unavoidably become legally relevant and enter into conversation with it. In the common law environment, this strategy reflects an alternative way of stirring the law, which is not usually taught to prospective students, and obliges us all to step outside the comfort zones of our classrooms to become engaged and active within our communities.

It is, in other words, a way of nurturing the broader debate about the law through the 'capacity of literature, and performance, to humanise', by opening it up well beyond classrooms, courtrooms, and barrister chambers (214). There is also, *si parva licet*, a cultural ambition, which aims to stir at least our individual's morality; like equity, it invites us to 'use the imagination to reach the reality' (216).

The Play of Law is a contribution to the cross-disciplinary intellectual project of law and literature, whose strategies also comprise 'the deployment of literary texts in order to reshape otherwise familiar legal tensions' (2013). Ward's book is an invaluable addition to this field, because he provides anyone researching law and humanities with a further strategic device, i.e. the staging of the law in broader society so as to nurture (and humanise) our legal engagement and avoid bracketing it for the sake of our complacency. Examining the law as a performative force is thus an important contribution, as well as one that should encourage us to continue to remain vigilant and, like equity, keep the door of the law open to a constant conversation with the world.⁸

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⁸See Gary Watt, *Equity Stirring. The Story of Justice Beyond Law* (Hart, 2009), 1.