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Desacralized Law: Shakespeare and the Tragedy of Sovereignty

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Abstract: In the history of Western literary tradition, early modern theatres constituted an important passage for the construction of a different perception of community as well as a different appraisal of legal institutions. In modern playhouses, traditional values were staged, debated, and critiqued. In this paper, I will focus on three Shakespearean tragedies (*Hamlet*, *Macbeth*, *Romeo and Juliet*) that provide relevant insights about the way in which power and legal themes were challenged and questioned. In these plays Shakespeare provided a critical view of what we might call the "mystical foundation of authority." Shakespeare's theater is the triumph of rule and exception, of order and disorder, of sacred and profane. As I will show, in *Hamlet*, *Macbeth* and *Romeo and Juliet*, law is always living on the danger of its eclipse and its suspension: the threshold which separates the legal and the illegal, the legitimate and the illegitimate, is then the result of a narrative process of which Shakespeare's theater provides perhaps the highest example in Western literary culture.

Keywords: Shakespeare, law, Renaissance theatre, sovereignty, *Hamlet*, *Macbeth*, *Romeo and Juliet*

1 Inventing the Human

In one of his most celebrated books, Harold Bloom claimed that William Shakespeare was not simply the author who embodied in the most exemplary way the Western canon, but also the one who properly "invented" the human.[1]

This seeming paradox can be resolved considering Shakespeare's talent for staging unhappy and painful feelings in that interminable "chain of being" into

1 Harold Bloom, *Shakespeare. The Invention of the Human* (New York: Riverhead Books, 1998). The famous theory about Shakespeare as the center of the Western literary tradition is expressed in Harold Bloom, *The Western Canon: The Books and School of the Ages* (New York: Harcourt Brace, 1994), 15.

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which every human being is thrown from birth. Shakespeare – Bloom argues – was the playwright who expressed in the best way a material sense of "universalism" and communitarianism.[2] In his plays we see not only the celebration of pain, anger, remorse and ambition, but a true sense of equality in suffering and enduring evil as part of the human condition.[3]

If the Bible showed the *sacred* pathos of suffering, Shakespeare did the same with the *secular*. In the Bible the center is God – or at least, a certain idea of God; the center of Shakespeare's theater is on the contrary the multifaceted human condition: the *mise-en-scène* of its infinite dispositions and temperaments together with the ability to transform individual characters into universal models capable of circulating eternally in literary tradition.[4]

In both cases a powerful imagery served as a reference point for allusions, echoes, references.[5] This universe of citations and symbols is what distinguished Renaissance knowledge as a whole: a human encyclopedia that has been transfused into the artistic form of literature to the point of admitting, as the marvelous paradox in *The Winter's Tale* shows, that "[t]he art itself is Nature" (4.4.97).[6]

Shakespeare gave life to a vivid world whose substance is visible both in fiction and in reality, developing a "structure of feelings" that acts in parallel synchrony with our lives, overlapping and completing it.[7] To use Wittgenstein's insightful observation, "I do not think that Shakespeare can be set alongside any other poet. Was he perhaps a *creator of language* rather than a poet?".[8]

Certainly, Shakespeare is part of a larger tradition in which theater emerged as the key place for discussing (and challenging) the most important issues of politics

2 Bloom, *Shakespeare. The Invention of the Human*, 3.

3 Paula M. Cohen, *Of Human Kindness: What Shakespeare Teaches Us About Empathy* (New Haven: Yale University Press, 2021) 4.

4 See Richard Meek, Erin Sullivan (eds), *The Renaissance of Emotion. Understanding Affect in Shakespeare and His Contemporaries* (Manchester: Manchester University Press, 2015).

5 For a "biblical" reading of Shakespeare, see Hannibal Hamlin, *The Bible in Shakespeare* (Oxford: Oxford University Press, 2013). See also Charles Laporte, "The Bard, the Bible, and the Victorian Shakespeare Question," *ELH* 74:3 (2007), 609–628.

6 William Shakespeare, *The Winter's Tale*, ed. John Pitcher (London: Bloomsbury, 2010), 265.

7 About the concept of "structure of feeling", see Raymond Williams, *Marxism and Literature*, (Oxford: Oxford University Press, 1977), 128 ff.

8 Ludwig Wittgenstein, *Culture and Value: A Selection from the Posthumous Remains*. Edited by G. H. von Wright and Heikki Nyman. Translated by Peter Winch (Oxford; Cambridge, MA: Blackwell, 1998), 95. On this point, see also Wolfgang Huemer, "Wittgenstein's enigmatic remarks on Shakespeare," in *The Routledge Companion to Shakespeare and Philosophy*, eds. Craig Bourne and Emily Caddick Bourne (New York: Routledge, 2018), 197–204.

and law.[9] Similarly, it is well known how Greek theater, and especially tragedy, proceeded in the same way, assimilating legal language within its own structure.

The obsessive use of legal terminology in the great Greek tragedians, the preference for scenes of blood, violence, and civil disobedience, the use of inquisitorial forms often concluded with a judgment or sentence, show without any doubt the profound closeness between the central themes of law and their exhibition in the form of theatrical performance. As Jean-Pierre Vernant wrote, "no tragedy is a legal debate any more than the law, in itself, comprises any elements of tragedy".[10]

The literary production of Shakespeare can be easily viewed in the line of this classical tradition: modern theatres were places of public speaking and debating, aimed at exploring the deep implications of political, legal, and religious themes.[11]

In this sense, inventing the human means much more than just showing passions and revolutions on stage: it means uncovering their true political and legal core.[12] In Shakespeare, money, power, sex, and ambition are often the sign of a political, ethical, and religious tension.[13] But according to François Ost, passions can also be directed to another, different purpose: to express and embody an inner desire (or an inner repulsion) for law. In this case, the focus shifts from what is simply external (a movement of the human spirit) to the object of a deeper connection: the struggle for/against the law.[14]

This will be a key point in our reasoning. Inventing the human, Shakespeare did the same with the law but in a double direction: he showed the origin of the social bond, and at the same time its collapse; the birth of legal conscience and its end; the circle of time and the forms of its disruption. Shakespeare did not simply portray the "political": rather he dismantled it, shedding light on the abyss of power, on its dark mechanisms, and on the fragile balance on which every political organization rests.

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9 On the role of theater as key political place during the Renaissance, see Stephen Orgel, *The Illusion of Power. Political Theater in the English Renaissance* (Berkeley: University of California Press, 1991) and Greg Walker, *The Politics of Performance in Early Renaissance Drama* (Cambridge: Cambridge University Press, 1998).

10 Jean-Pierre Vernant, Pierre Vidal-Naquet, *Myth and Tragedy in Ancient Greece* (New York: Zone Books, 1988), 32.

11 Paul Yachnin, "Performing Publicity," *Shakespeare Bulletin* 28.2 (2010): 210.

12 On the role of passions for a legal understanding of Shakespearian plays, see François Ost, "*I crave the law*: De quelques passions juridiques," in *Law and the Humanities: Cultural Perspectives*, eds. Chiara Battisti and Sidia Fiorato (Berlin: de Gruyter, 2019), 131–152.

13 A specific attempt in this direction, for example, has been made by René Girard, *Shakespeare. Les feux de l'envie*, trans. B. Vincent (Paris: Grasset, 1990).

14 François Ost, *Le droit, objet de passions?* (Bruxelles: Académie royale de Belgique, 2018).

We may argue that what properly distinguishes Shakespearean theater is the conflict, the attraction and the tension towards excess together with fundamental questions like what it means to belong to a community and to respect the law. In other words, Shakespeare's theater is the triumph of rule and exception, of order and disorder, of sacred and profane. As we will see in the following pages, Shakespeare did much more than imitate nature: he showed its intimate predilection for corruption, decay, and anomie.

2 "The King Rises"[15]

Throughout the whole Act II of *Hamlet*, Shakespeare displays a real judicial question swirling in the mind of the young prince of Denmark as closely involved in the mystery of his father's death. Hamlet needs to understand whether the terrible and sublime manifestation of the ghost of the deceased king should be believed or not, being maybe the sign of an evil spirit that has come to Earth to deceive him.[16]

Although he initially welcomes the ghost's words with wonder and enthusiasm, doubt soon begins to creep into his mind. It is necessary to find factual evidence to certify the accusations, and at the same time to solve the mystery of the sovereign's death. What until now was simply the realm of words and storytelling must be transformed into the realm of facts and evidence. The play turns then into an instrument of forensic enquiry: the "darkness" and ambiguity of the regicide has to be brightened, step by step, by the process of evidentiary allegation directed to the resolution of the murder.[17]

In the famous soliloquy in which Hamlet plans the staging of *The Murder of Gonzago*, we observe him reflecting not simply on the role of theater but on the very legal function of literature, that is, on the ability to overcome lies and subterfuges of the court to reach the truth.

> Hum, I have heard
>
> That guilty creatures sitting at a play
>
> Have by the very cunning of the scene

15 William Shakespeare, *Hamlet*, ed. Ann Thompson and Neil Taylor (London: Bloomsbury, 2016), 346. Further references in the text.

16 On the process of this ambiguous confirmation, see Quentin Skinner, *Forensic Shakespeare* (Oxford: Oxford University Press, 2018), 234 ff.

17 Rhodri Lewis, *Hamlet and the Vision of Darkness* (Princeton: Princeton University Press, 2017), 214 ff.

Been struck so to the soul that presently

They have proclaimed their malefactions.

For murder, though it have no tongue, will speak

With most miraculous organ. I'll have these players

Play something like the murder of my father

Before mine uncle. I'll observe his looks,

I'll tent him to the quick. If 'a do blench

I know my course. The spirit that I have seen

May be a de'il, and the de'il hath power

T'assume a pleasing shape. Yea, and perhaps

Out of my weakness and my melancholy,

As he is very potent with such spirits,

Abuses me to damn me! I'll have grounds

More relative than this. The play's the thing

Wherein I'll catch the conscience of the King. (2.2.523 – 540)

The adaptation of the *The Murder of Gonzago* becomes the premise for a forensic intent aimed at the staging of a crime and at the same time at its disclosure. One of the most interesting elements in this soliloquy is indeed the special attention that Hamlet pays to details. In order to prove his uncle's guilt, it is necessary to carefully observe the clues on his body, the redness of his face, his unconscious expressions, a slight anger or annoyance. This aspect will be emphasized even more strongly when Horatio tells Hamlet that he clearly noticed an unexpected disturbance on the sovereign's face.

HAMLET: O good Horatio, I'll take the Ghost's word for a thousand pound. Didst perceive?

HORATIO: Very well, my lord.

HAMLET: Upon the talk of the poisoning.

HORATIO: I did very well note him.

HAMLET: Ah ha! Come, some music! Come, the recorders!

For if the King like not the comedy

Why then belike he likes it not, perdie.

Come, some music! (3.2.278 – 287)

God is in the details, we may say, but evil too likes to hide in the smallest things. Merging together detective fiction and psychoanalysis, art history and medical science, Carlo Ginzburg has greatly elucidated in a famous contribution the meaning of this "evidential paradigm" in the cultural history of the West.[18] Tracing the birth of modern science and showing its connection to seemingly disparate practices such as hunting or divination, Ginzburg showed how the systematic gathering of "small insights" has played a key role in the humanities to the point of being considered a true theory, even if not yet fully explicated.[19]

Drawing inspiration from the words of Ginzburg, we can therefore say that in *Hamlet* Shakespeare has produced a perfect example of "evidential theatre", both legal and literary: as in the intentions of a detective, the young prince developed an investigative strategy following the clues and searching for the author of a crime in order to unmask him and condemn him publicly. The very title of the play metaphorically includes this practice of hunting: *Mousetrap* is the trap set to catch a prey, maybe hidden like a rat behind curtains as in the case of Polonius.

Literary criticism has often exercised in examining the true sources of Shakespeare's idea.[20] A similar scene was indeed narrated in Plutarch's *Lives* about the emotional reaction shared by Alexander of Pherae watching the tragedy of Queen Hecuba. In the scene where Hecuba flew from the flames of Troy after the death of her husband Priam, Alexander, seized with emotion, left the theater in grief:

18 Carlo Ginzburg, "Clues: Roots of an Evidential Paradigm," in *Clues, Myths, and the Historical Method* (Baltimore: Johns Hopkins University Press, 1989), 96–125.

19 As Ginzburg argues connecting the practice of hunting with that of storytelling: "[p]erhaps the actual idea of narration (as distinct from charms, exorcisms, or invocation) may have originated in a hunting society, relating the experience of deciphering tracks. This obviously undemonstrable hypothesis nevertheless seems to be reinforced by the fact that the rhetorical figures on which the language of venatic deduction still rests today—the part in relation to the whole, the effect in relation to the cause—are traceable to the narrative axis of metonymy, with the rigorous exclusion of metaphor. The hunter would have been the first "to tell a story" because he alone was able to read, in the silent, nearly imperceptible tracks left by his prey, a coherent sequence of events", Ginzburg, "Clues", 103.

20 See David M. Gaunt, "Hamlet and Hecuba," *Notes and Queries* 16 (1969): 136–37.

> And another time, being in a Theater where the tragedy of *Troades of Euripides* was played, he went out of the Theater, and sent word to the players notwithstanding, that they should go on with their play, as if he had been still among them; saying, that he came not away for any misliking he had of them or of the play, but because he was ashamed his people should see him weep, to see the miserie of Hecuba and Andromache played, and that they never saw him pity the death of any one man, of so many of his citizens as he had caused to be slaine. The gilty conscience therefore of this cruell and heathen tyran did make him tremble at the only name and reputation of Epaminondas.[21]

This translation, which Thomas North realized in 1579 and which Shakespeare certainly read, returns the vivid image of the emotional shock felt by Alexander, as well as by Claudius.[22] Things and words, *res* and *verba*, appear dramatically connected under the power of imagination and the theater possesses the unprecedented ability to elicit emotions too strong to be politically legitimate. The tragedy of Hecuba becomes the model for expressing this tension between language and feelings which in turn will affect the entire play.[23]

But there is another, even more significant connection. In Plutarch's text, the ruler exits the scene bewildered by grief and ashamed to be seen by his subjects while shedding tears. In a strikingly similar way, Claudius also leaves the stage visibly upset, getting up and escaping from the darkness of the stage. The act of representation thus becomes something powerful and at the same time mysterious: it incorporates the ability to recall before the eyes the living memory of a tragic fact with all its vividness and clarity.

Theater, we may argue, *suspends* the order of law by desacralizing it. The theatrical performance interrupts the intangibility of the sovereign and acts as a confirmation (*confirmatio*) of the evidentiary allegations provided by the specter. Reversing the plans, Hamlet's investigative strategy goes so far as to resurrect his deceased father by making him alive on stage. Theatre, in other words, annihilates the usurper uncle by expelling Claudius from the space of political legitimacy.

Beyond any philological origin, what Hamlet performs here is a true strategy of the gaze in which theatrical canons and political vision interweave originally. The sovereign Claudius is no longer the center stage but appears downgraded to the role of a spectator. At the same time, however, he is on the scene in the words

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21 Plutarch, *The Lives of the Noble Grecians and Romanes*, tr. Thomas North (Oxford: Oxford University Press, 1928), III, 43. On this reference, see also John W. Velz, *Shakespeare and the Classical Tradition. A Critical Guide to Commentary, 1660–1960* (Minneapolis: University of Minnesota Press, 1989), 313–326.

22 Patricia S. Gourlay,"Guilty Creatures Sitting at a Play: A Note on Hamlet, Act II, Scene 2," *Renaissance Quarterly* 24 (1971): 221–25.

23 Tanya Pollard, "What's Hecuba to Shakespeare?," *Renaissance Quarterly* 65 (2012): 1060–1093.

and actions of an actor who fictionally takes his place by carrying out the murderous act.

In this oscillation of planes in which *background* and *foreground* overlap each other, Shakespeare produces a revolution that is both visual and political, breaking the aura of sacredness that surrounds the actions and words of the king. The sovereign is no longer the sovereign but part of the audience of the performance, reduced to a pure spectator unable to act excepting for rising and leaving the scene. At the same time, the sovereign is caught in the instant he performs the criminal act, the regicide, lowering his authority to the status of a murderer.

In his lectures devoted to the concepts of security, territory, and population, Michel Foucault paid particular attention to the literary mechanisms that allowed, among other things, the birth of the idea of the modern nation-state. According to Foucault, there can be no security without an apparatus of means capable of guaranteeing respect for the established order. Literature – of which the theater was one of the major genres in Renaissance Europe – immediately showed to be an ally of power, incorporating at the same time a principle of action potentially revolutionary:

> [w]e touch here on an apparently marginal problem that I think is nevertheless important, and this is the problem of theatrical practice in politics, or again the theatrical practice of *raison d'État*. The theater, theatrical practice, this dramatization, must be a mode of manifestation of the state and of the sovereign as the holder of state power. In contrast with and in opposition to traditional ceremonies of royalty, which, from anointment to coronation up to the entry into towns or the funerals of sovereigns, marked the religious character of the sovereign and articulated his power on religious power and theology, I think we could set this modern kind of theater in which royalty wanted to be shown and embodied, with one of its most important manifestations being the practice of the *coup d'État* carried out by the sovereign himself.[24]

The theater embodied then a dual purpose which we can define at the same time as "representative" and "subversive". The function of the theater was to stage the contradictions of power, its hypocrisy, its arcane workings: a function for this same reason "political", that is, directed to shed light on the mechanisms of power at the moment of their greatest tension.

As Foucault still argued, "after all, a part of Shakespeare's historical drama really is the drama of the *coup d'État*."[25]

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24 Michel Foucault, *Security, Territory, Population: Lectures at the College De France, 1977–78* (New York: Palgrave Macmillan, 2014), 265.

25 Foucault, *Security, Territory, Population*, 265.

3 The Tyrant Touch

Macbeth can be defined without any doubt as the tragedy par excellence of sovereignty and kingship.[26] The ambition for power and the desire to obtain what is legally and politically forbidden act in the play as powerful magnets orientating the unlimited desires of the main characters.

Conversely, Macbeth expresses the ambiguity of a ruler who is strong and weak at the same time, personifying the dual function of protagonist and villain, of one who embodies the principle of kingship and at the same time contradicts its assumptions.[27] Macbeth is the representation of a paradox, we may say, both legal and psychological, in which feelings like regret, fear, shame and guilt intertwine with ambition, desire, and thirst for blood.[28]

Moreover, if regicide represents a traditional theme in Shakespeare's theater, in *Macbeth* it appears declined even in a deeper and darker key: "Stars, hide your fires, / Let not light see my black and deep desires" (1.4.50–51), murmurs Macbeth winking at the sword clutched in his hand.[29] Here the heart of darkness of human soul plays really a decisive role in questioning the problematic nature of power.

In some way, the beginning of the play demonstrates the conflict between Christianity and paganism, that is, between the sacred and the profane. Macbeth is a hero in the classical sense: he does not disdain violence, is valiant on the battlefield, kills without mercy and is praised for his fervor in cutting enemy soldiers in half: "For brave Macbeth – well he deserves that name – / Disdaining Fortune, with his brandished steel, … fixed his head upon our battlements" (1.2.16–23).

But surprisingly this same conduct will be heavily blamed in the final part of the play, when from a valiant fighter Macbeth will turn into nothing more than an illegitimate butcher unworthy of any respect: "the snares of watchful tyranny, / Producing forth the cruel ministers / Of this dead butcher and his fiend-like queen" (5.9.34–35).

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26 Andrew Hadfield, *Shakespeare and Renaissance Politics* (London: Arden, 2004); Stephen J. Greenblatt, *Tyrant. Shakespeare on Politics* (New York: W. W. Norton & Company, 2019).

27 Rebecca W. Bushnell, *Tragedies of Tyrants: Political Thought and Theater in the English Renaissance* (Ithaca: Cornell University Press, 1990), 126.

28 Allison P. Hobgood, "Feeling fear in *Macbeth*," in K. Craik & T. Pollard (eds.), *Shakespearean Sensations: Experiencing Literature in Early Modern England* (Cambridge: Cambridge University Press, 2013), 39–30.

29 William Shakespeare, *Macbeth*, ed. Sandra Clark and Pamela Mason (London: Bloomsbury, 2015), 152. Further references in the text.

It is not by chance that the parable of sovereignty expressed in *Macbeth* goes from the exaltation of valor and courage in battle to the deprecation of tyranny, as if Macbeth himself and his wife were experiencing a slow and inexorable involution together with the very idea of legitimate power.

On this point Shakespeare could obviously draw on a very rich political tradition, silently evoked in the lines of the play.[30] On the one hand, the political absolutism of James I constituted an obvious critical reference to the contemporary times, as if to signal a hypothetical form of tyranny condemned by Shakespeare. On the other hand, the opposition to a despotic government does not seem directed toward a clear assertion against monarchical powers, distinguishing the tyrannic regime of an individual from hereditary monarchy.[31] *Macbeth* maintains an inner ambiguity as to which kind of political constitution should be adopted, preferring on the contrary to focus on the body of the sovereigns, on their physical weakness, and on the endless tragedy of their assassination.[32]

Anyway, the emphasis on tyrannicide was one of the key themes in modern political thought together with the influence of the myth of Rome.[33] From the reception of Bartolus to the vast literature developed by Monarchomachs thinkers, the legal idea at the base of the possibility to brutally dismiss tyrannical kings was that they were not the legitimate owners of the public rights, but usurpers who had unlawfully stolen power from the people.[34]

The "divine" role of kings was no longer considered as such but simply a form of criminal deception of the true idea of the kingdom.[35] Tyrants, in turn, represented the evil force at work among men to the point that their expulsion was often damned and colored by the dark atmosphere of religious revulsion.[36]

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30 See the analysis developed by François Laroque and Franck Lessay, *Figures de la royauté en Angleterre: de Shakespeare à la Glorieuse Révolution* (Paris: Presses de la Sorbonne nouvelle, 1999), 46.

31 Arthur F. Kinney, *Lies Like Truth: Shakespeare, "Macbeth," and the Cultural Moment* (Detroit: Wayne State University Press, 2001), 96.

32 Peter C. Herman, "*Macbeth*: Absolutism, the Ancient Constitution, and the Aporia of Politics," in *The Law in Shakespeare*, ed. Constance Jordan and Karen Cunningham (New York: Palgrave, 2007), 208.

33 Warren Chernaik, *The Myth of Rome in Shakespeare and His Contemporaries* (Cambridge: Cambridge University Press, 2011), 196 ff.

34 On this point see Daniel Lee, *Popular Sovereignty in Early Modern Constitutional Thought* (Oxford: Oxford University Press, 2016), 140.

35 Monique Cottret, *Tuer le tyran? Le tyrannicide dans l'Europe modern* (Paris: Fayard, 2009).

36 William A. Armstrong, "The Elizabethan Conception of the Tyrant," *The Review of English Studies* 22 (1946): 180.

There is a remarkable detail in the play which connects the holiness of lawful kings with the desacralization of tyrants passing through the reference to hand and touch. In Act IV, comparing the kingdom of Scotland with that of England, Malcolm and MacDuff praise the English sovereign for his political and moral perfection, his harmonic order, and his benevolence. Shakespeare immediately offers a concrete example of this sacred perfection ascribed to the English king's miraculous thaumaturgical abilities. As the Doctor says,

> … there are a crew of wretched soulsen
>
> That stay his cure; their malady convinces
>
> The great assay of art, but at his touch,
>
> Such sanctity hath heaven given his hand,
>
> They presently amend. (4.3.141–145)

The English sovereign heals his subjects with the sacred touch of his hand, conveying the sanctity of his majesty to the sick bodies deprived of all hope. The idea of purity expressed by this blessed function represents the ability to cure evil and disease dispelling chaos, restoring order, and providing health to the kingdom. As Malcolm will reaffirm,

> … How he solicits heavenen
>
> Himself best knows, but strangely visited people
>
> All swoll'n and ulcerous, pitiful to the eye,
>
> The mere despair of surgery, he cures,
>
> Hanging a golden stamp about their necks
>
> Put on with holy prayers, and 'tis spoken
>
> To the succeeding royalty he leaves
>
> The healing benediction. With this strange virtue,en
>
> He hath a heavenly gift of prophecy,en
>
> And sundry blessings hang about his throne
>
> That speak him full of grace. (4.3.149–159)

Obviously the miraculous gifts possessed by the English sovereign were not unknown to the Renaissance political thought. Marc Bloch has dedicated an important analysis to this subject aimed at elucidating the political, religious and mystical meanings associated with the healing powers of sovereigns.[37]

According to Bloch, "[t]he royal miracle stands out above all as the expression of a certain concept of supreme political power".[38] From the Middle Ages to the late Renaissance, French and English kings were indeed considered capable of manifesting miraculous powers because of their "sacred" nature. This belief in the magical influence of the sovereigns, however, constituted an element of profound disagreement with the Church. Christianity tried in every way to eradicate this conviction from the popular mentality in order to sustain, on the contrary, how only clergy, bishops and popes possessed such mysterious prerogatives.[39]

The element at stake in that debate was of course the dominance over a sacred imaginary, which for that very reason was also political and somehow *demonological*.[40] The wounds that covered the bodies of the sick subjects were the sign of a miraculous remedy that had to be accompanied by a precise rite made of gestures, words, and verses. As James Frazer already noted in his famous anthropological investigations, since the earliest times the royal circle participated in such atmospheres of mystery and sacredness that made kingship inscrutable and arcane.[41]

It is extremely surprising how this iconology of the sovereign miracle is evoked, and immediately reversed in the play. The reference to the English sovereign's sacred touch is indeed associated with the gesture performed by Lady Macbeth when she desperately tries to wash her hands of the holy blood shed in the killing of King Duncan.

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37 Marc Bloch, *The Royal Touch: Sacred Monarchy and Scrofula in England and France* (New York: Routledge, 1973).

38 Bloch, *The Royal Touch*, 11.

39 On this point, see James F. Turrell, "The Ritual of Royal Healing in Early Modern England: Scrofula, Liturgy, and Politics," *Anglican and Episcopal History* 68 (1999): 3–36.

40 In fact, scrofula was considered the "King's Evil" as perfectly noted by Malcolm (4.3.146). On the demonological aspect of sovereign power, see especially Pier Giuseppe Monateri, *Dominus Mundi: Political Sublime and the World Order* (Oxford: Hart, 2018), 68 ff.

41 James Frazer, *The Golden Bough*, Vol. 1, (London: Macmillan, 1922), 371: "Royal personages in the Pacific and elsewhere have been supposed to live in a sort of atmosphere highly charged with what we may call spiritual electricity, which, if it blasts all who intrude into its charmed circle, has happily also the gift of making whole again by a touch. We may conjecture that similar views prevailed in ancient times as to the predecessors of our English monarchs and that accordingly scrofula received its name of the King's Evil from the belief that it was caused as well as cured by contact with a king".

MACBETH: Will all great Neptune's ocean wash this blood

Clean from my hand? No, this my hand will rather

The multitudinous seas incarnadine,

Making the green, one red.

LADY, LADY MACBETH: My hands are of your colour, but I shame

To wear a heart so white. (2.2.61–66)

In the intentions of Lady Macbeth, the gesture of handwashing expresses the desperate attempt to get rid of all responsibility about the killing of the sovereign.[42] An image rich in symbolic meanings and that famously recurs in the sacred writings, when Pilate relinquishes all responsibility after having condemned Jesus to death.[43]

But there is something that cannot be washed or purified: something that lies at the very root of death and disruption. As Theodore Spencer noted, in *Macbeth* the confusion of the political sphere is reflected in the nature and imagination of the individuals.[44] Hallucination turns into madness and the line between mental turmoil and physical pain seems to get thinner and thinner until it disappears. The boundlessness of the ocean is a metaphor for the atrocity of the crime, exemplarily expressed by the redness of the blood and counterbalanced by the pure white of Duncan's soul.

There is therefore a true "theory of colors" in *Macbeth* which appears from the beginning as purely legal, concerning the rights and the prerogatives of the sovereign. King Duncan's innocent blood becomes a powerful political signifier that enlightens the crime and at the same time the shame that followed it. It will no longer be possible to repair the injustice that led to the regicide. At the same time, madness and remorse take hold of the scene throwing the two main characters into an abyss of chaos and violence.

As Macbeth himself will recognize right after he killed Duncan in his sleep, with the death of the King every form of sacredness has now totally disappeared from the community. The world reveals its profane, bare, and miserable quality. The holiness of sovereigns is stripped of their liturgical nature and magnificence: "All is but toys" – says Macbeth – "renown and grace is dead" (2.3.87).

42 Miranda Fay Thomas, *Shakespeare's Body Language: Shaming Gestures and Gender Politics on the Renaissance Stage* (London: Arden, 2020), 141.

43 On the symbolic meaning of Pilato's handwashing see James Hall, *Dictionary of Subjects and Symbols in Art* (London: John Murray Ltd, 1974), 308.

44 Theodore Spencer, *Shakespeare and the Nature of Man* (Cambridge: Cambridge University Press, 2009), 154.

4 *Stasis* and Anomie

In a sense, the *Prologue* of *Romeo and Juliet* condenses in only 14 lines the entire political theory of the West in its moment of maximum rupture and crisis: the civil war.[45]

In this sonnet, entrusted to the voice of the Chorus, Shakespeare reproduces with masterful precision the key themes concerning civil discord, the struggle for power, and, as we shall see, the ever-present collapse of legal institutions. Here, every single line appears relevant as if each word were a treasure chest in which the sense of a lost political bond could be found:

> Two households, both alike in dignity
>
> In fair Verona, where we lay our scene,
>
> From ancient grudge break to new mutiny,
>
> Where civil blood makes civil hands unclean.en
>
> From forth the fatal loins of these two foes
>
> A pair of star-crossed lovers take their life;
>
> Whose misadventured piteous overthrows
>
> Doth with their death bury their parents' strife.
>
> The fearful passage of their death-marked love
>
> And the continuance of their parents' rage,
>
> Which, but their children's end, naught could remove,
>
> Is now the two hours' traffic of our stage;
>
> The which, if you with patient ears attend,
>
> What here shall miss, our toil shall strive to mend. (1.1.1 – 14)[46]

45 See Marjorie Garber, "*Romeo and Juliet*: Patterns and Paradigms," in John F. Andrews, *Romeo and Juliet. Critical Essays* (New York: Routledge, 2015), 125.

46 William Shakespeare, *Romeo and Juliet*, ed. René Weis (London: Bloomsbury 2012), 123. Further references in the text.

As we can learn from the beginning of the text, two families of equal strength, power, and pride are contending for the control of the political space of Verona. The fierce struggle spreading in the city stains the hands of its inhabitants with blood, leading to an internal discord that will soon result in civil war.[47]

Revenge, the germinal nucleus of a violent reciprocity devoid of any legal means, rages as the only admitted form of law in a political space with apparently no authority, command, or order. Romeo and Juliet, the sacrificial victims of a chaos that is not only political but *cosmic*, appear in turn under the bad influence of the stars – a clear omen of a tragic destiny soon to be realized.

Something surprising and at the same time perfectly human is hidden in these first lines of the play. Whereas *Romeo and Juliet* is universally regarded as the most exemplary play about love, the kind of feeling shared in the opening is not properly the kind dedicated to the beloved one. On the contrary an unbridled impulse aimed at death, despair and bloodshed seems to pervade from the beginning the landscape of the city.

Overturning the canons of literature and showing a deep closeness between public and private affairs, Shakespeare demonstrates all his genius by sarcastically opening the Prologue in the form a sonnet. In the Western literary tradition, the sonnet was indeed the composition that the "poet-*persona*" usually addressed to the "love-*persona*".[48] Influenced by the courtly love lyrics of Provençal troubadours, its function was to represent a *bond* and at the same time the *impossibility* of its physical realization.[49]

Ironically flipping over the nature and the function of the sonnet, Shakespeare shows up a communication based not on love but on deadly fight. The Chorus – traditionally embodying the political unity of the *polis* – echoes the divisions, seditions and revolts which take place in the city.[50] The concept of love, in turn, appears split into two types of drive, the first directed to the impossible happiness of two young lovers doomed by the stars; the second to the unstoppable destruction of the social bond and to the collapse of the political community. As Daniela Carpi has clearly shown, it is the word "mutiny" that acquires here a

47 Stanley Wells, "Prologue: Shakespeare and Verona," in Silvia Bigliazzi and Lisanna Calvi (eds), *Shakespeare, Romeo and Juliet, and Civic Life. The Boundaries of Civic Space* (New York: Routledge, 2016) 8 ff.

48 About the concepts of "poet-*persona*" and "love-*persona*", see William T. H. Jackson, "Persona and Audience in Two Medieval Love Lyrics," *Mosaic* 8.4 (1975), 147–159.

49 Paul Oppenheimer, "The Origin of the Sonnet," *Comparative Literature* 34.4 (1982): 289–304.

50 On the origin and meaning of the chorus in ancient Greek tragedies, see Anastasia-Erasmia Peponi, "Theorising the Chorus in Greece," in *Choruses, Ancient and Modern*, edited by Joshua Billings, Felix Budelmann, and Fiona Macintosh (Cambridge: Cambridge University Press, 2013), 15–34.

significant symbolic value, illuminating the meaning of the upheavals that shake "fair" Verona.[51]

According to Schmidt's *Lexicon*, "mutiny" indicates always in Shakespeare the close concepts of rebellion, insurrection, discord, and strife.[52] In the play, we have at least two occurrences of this word: the first in the *Prologue* as linked to the public carnage occurring in the streets of Verona and followed by the Prince's exhortations to reach finally peace and order.[53] The second – more intimate – in Capulet's home during the private party when Tybalt recognizes Romeo among the guests and Capulet curbs his violent instincts preventing him to pick a fight: "Am I the master here, or you? Go to! / You'll not endure him! God shall mend my soul, / You'll make a mutiny among my guests" (1.5.77–79).

Asserting one's authority, as occurs in the first case through the Prince's words and in the second with the paternal reprimand, is of course a sign of strength, but at the same time of weakness. It indicates that control is always susceptible to being overthrown or destabilized. Again, the word "mutiny" serves here as the sign of a discord that is not simply political or public, but also familiar and private: it is an anthropological-political structure which runs through the entire play framing the existential horizon of Verona.

"Mutiny" appears then not only as an external form – e.g., the form of conflict – quite as the inner logic determining the context and the events occurring within the play. In other words, it is precisely the idea of *pólemos* (war) that informs *Romeo and Juliet* from the beginning, together with the concepts of *thymós* (spiritedness) and *thánatos* (death) as the invisible engines of subversion.

Nicole Loraux has brilliantly showed how this idea was rooted at the origin of the Western concepts of politics and political life. In his investigation of Athenian political culture in the fifth century BCE, Loraux clearly shows the paradoxical bond that united the citizens of ancient Greece.[54]

In every city there was indeed a dual order, political and military, which constituted its authentic foundation and that was always ready to erupt in violent and unpredictable forms. On the one hand the citizens, gathered in assembly, and

51 Daniela Carpi, "Law and its Subversion in *Romeo and Juliet*," in *Shakespeare and the Law*, ed. Paul Raffield and Gary Watt (London: Hart Publishing, 2008), 119–134.

52 Alexander Schmidt, *Shakespeare Lexicon and Quotation Dictionary – Vol. 1*, ed. Gregor Sarrazin (New York: Dover Publications, 1971), 753.

53 This appeal however is apparently ignored as curiously evidenced by the insistence on the auditory metaphor: "Rebellious subjects, enemies to peace, / Profaners of this neighbor-stainèd steel —/ Will they not hear? What, ho!" (1.1.79–81); "Throw your mistempered weapons to the ground, / And hear the sentence of your moved Prince!" (1.1.86).

54 Nicole Loraux, *The Divided City: On Memory and Forgetting in Ancient Athens* (New York: Zone Books, 2006).

ready to deliberate on the political necessities of common living; on the other, the military force, aimed at the defense of the city, to ensure order and stability. Each city is therefore composed of *two* distinct cities, intertwined with each other, and based on a latent conflict that only the art of democracy and public speech could heal and remove.

The dark shadow of this tradition, well present in the minds and works of the ancient Greeks, was precisely the collapse of this distinction – a collapse that took the tragic form of *civil war*. The Greek term used to represent this concept was indeed "*stasis*" which contains an interesting etymology. "*Stasis*" recalls the idea of "staying," that is, of occupying permanently a position or territory with the purpose of controlling it and limiting intrusions. This attitude soon turns into faction, intolerance, intention of fight, and then into conflict.

For these reasons, "stasis" introduces a serious element of disorder into the city which affects the same structure of citizenship and which demanded to be somehow healed or purified. There was an important oath that took shape in Athens during the fifth century B.C. and that was directed precisely to "not recall the misfortunes of the past." As Loraux says, it was as if the authentic nature of the city was actually founded on the forgetfulness of political conflict as such.[55]

During the process of reconciliation that followed these solemn oaths, it was as if the essential division that constituted the structure of the city was thus recognized but removed to the point of falling into oblivion, so as to allow for a new peaceful rearticulation of power in the forms of collective participation. Oblivion served as an engine to *repoliticize* the city, that is, to give new life to legal and political institutions eroded by civil conflict. The heart of darkness of the civil war became the authentic taboo around which the democratic life of the city was paradoxically constituted.

Shakespeare seems to bring back the distant echo of this tradition by showing a real *passion* for the fight involving the whole Verona. The idea of *amour-passion*, so famously declined in the immortal dialogues between the two young lovers, gets a violent counterpart from a political point of view: an erotic desire directed to revenge, civil disobedience, and to the endless reparation of ancient wrongs suffered and never forgotten. Like the concept of "being" in Aristotle, also for Shakespeare "love" is said "in many ways", appearing often under the light of subversion, chaos, and uncontrollable violence.

Interestingly, in *Romeo and Juliet* civil war does not appear simply in its military form. In some passages, it emerges symbolically under the shape of a contagious disease that corrupts the social body undermining its integrity and

55 Loraux, *The Divided City*, 42.

solidity. A clear example is provided by the scene in which Mercutio argues against Tybalt, ending brief after with a violent quarrel.

> Help me into some house, Benvolio,en
>
> Or I shall faint. A plague o' both your houses!en
>
> They have made worms' meat of me: I have it,
>
> And soundly too: your houses! (3.1.107 – 110)

As it is easy to notice, "A plague o' both your houses" takes the form of a curse repeated three times by Mercutio during, and after the fight with Tybalt. The incipient corruption of Mercutio's own flesh, now tragically close to death, is intentionally directed against the families of the Montagues and Capulets ("both your houses! … your houses!") so that they could suffer the same fate. And also in this case, the form of reciprocity on which the avenging violence of the city is grounded transforms it into a subliminal connection between the *private* (the dying body of Mercutio) and the *public* (the political body of Verona).

Mercutio's curse will come true shortly after when Romeo, full of hatred, will throw himself against Tybalt killing him and certifying in this way an inexorable spiral of revenge that only the death of the two young lovers will finally end.

Of course, the imagery here at work recalls again the classic tradition of civil war as often equated to plague and pestilence.[56] Thomas Hobbes, for example, will be aware of this connection which he will find directly in the work of Thucydides. In a significant passage from *The History of the Peloponnesian War*, the plague was considered the origin of a licentious disorder (*anomie*) and of a revolutionary upheaval (*metabolè*) – as Hobbes himself translated – that shook the political structure of Athens from its very foundations.[57] Legal and political rights collapsed under the pressure of the pandemic state of emergency, and the civil bond was broken in the form of a collective disorder. Recently, Giorgio Agamben has underlined, in his turn, the political role of civil war for

56 As elucidate by John L. Barroll, *Politics, Plague, and Shakespeare's Theater. The Stuart Years* (Ithaca: Cornell University Press, 1991).

57 See Thomas Hobbes, *Eight Books of the Peloponnesian War*, in *The English Works of Thomas Hobbes of Malmesbury*, VIII, ed. Sir William Moleworth (London: John Bohn, 1843), 208: "And the great licentiousness [*anomia*], which also in other kinds was used in the city, began at first from this disease. For that which a man before would dissemble, and not acknowledge to be done for voluptuousness, he durst now do freely: seeing before his eyes with such quick revolution, of the rich dying, and men worth nothing inheriting their estates". About Hobbes' translation, see Richard Schlatter, "Thomas Hobbes and Thucydides," *Journal of the History of Ideas* 6:3 (1945): 350–362.

understanding the plague as the trace of the *dissoluta multitudo* which inhabits the city under the *Leviathan*'s dominion.[58]

In the reciprocal intersection of public and private, *Romeo and Juliet* illuminates then the precarious balance that underlies the political bond of a community. In this scenario, the role of law as a limit to violence meets all its crisis and at the same time its pure futility.

5 Conclusion: Law on Stage

Much can be said about the relevance of Shakespearean theater in illustrating some fundamental themes of modern political thought. From a law and literature perspective, early modern theaters were certainly the place where traditional values were staged, debated, and critiqued.[59] Similarly, early modern playhouses were an important step in the construction of a community that can never be taken for granted, but instead is built step by step through human and political relationships. What is formed during this process was not only a sense of communality, but also an authentic *legal* culture.[60]

Law can truly be considered as the true protagonist of Shakespearean theater along with its conflicts, captiousness, and sophistry.[61] But above all, law is the pliant material that Shakespeare bends and distorts to raise profound questions about the meaning of the political life of a community.[62]

Like all passions, the passion for law is both "constructive" and "destructive". Constructive because it allows to stage specialized debates that would only take place in courtrooms or lawyers' offices, raising questions and providing answers. Destructive because it brings to the surface the foundations of political life, its implicit inner violence, and the constant danger of upheavals and revolts.

Precisely in this sense, law is always in Shakespeare the object of a *sacralization* and at the same time of a *desacralization*. Law is sacred because it allows a community to live together in a peaceful and orderly manner, resolving conflicts,

58 Giorgio Agamben, *Stasis. Civil War As a Political Paradigm* (Stanford: Stanford Univ. Press, 2015), 48–49.

59 Desmond Manderson, "'As if' — the Court of Shakespeare and the Relationships of Law and Literature," *Law, Culture and the Humanities* 4 (2008): 3.

60 As recently argued by Penelope Geng, *Communal Justice in Shakespeare's England. Drama, Law, and Emotion* (North York: University of Toronto Press, 2021), 5–6.

61 On this satirical critique of law in modern theater, see Edward Gieskes, *Representing the Professions. Administration, Law, and Theater in Early Modern England* (Newark: University of Delaware Press, 2006), 119–20.

62 In this sense, see the collected essays in Daniela Carpi, François Ost eds., *As You Law It. Negotiating Shakespeare* (Berlin: De Gruyter, 2018).

allowing for a form of justice, and rationalizing the most selfish or destructive impulses. At the same time, law is on the verge of being desacralized, that is, of being deprived of its harmonizing function so as to appear nothing more than a form of violence perpetrated by other means.

In a famous article dedicated to Renaissance theater, Franco Moretti argued that the public execution of Charles I was the direct consequence of a rearticulation of the concept of monarchy that interrupted the aura of untouchability which English kingdom traditionally possessed.[63] The Elizabethan and Jacobean tragedy played, according to Moretti, as the decisive factor in emptying the figure of the monarch of all his severity by allowing, at the same time, the creation of a public dimension ready to denounce the misdeeds of the sovereign.

Renaissance theater became therefore a decisive *rite de passage* for a new vision of history and politics that led to the destruction of the dominant paradigm in the culture of the time: "[t]ragedy disentitled the absolute monarch to all ethical and rational legitimation. Having deconsecrated the king, tragedy made it possible to decapitate him."[64]

It is possible to go even further than Moretti's intuitions and apply them to legal thought and legal institutions as well. There is something like a hidden foundation that animates the birth of law: something close to a "mystical foundation of authority", to use Jacques Derrida's words.[65] Here, power shows its ambiguous valence, oscillating between fact and value, justice and violence, *Recht* and *Gewalt*.[66]

Hamlet, *Macbeth* and *Romeo and Juliet* are, in this sense, three striking examples of the desacralization of law and its necessary connection with issues of sovereignty. Exactly like their main characters, law lives on the edge of its eclipse. The threshold that separates the legal and the illegal, the legitimate and the illegitimate, is the result of a narrative process of which Shakespeare's theater provided perhaps the highest example in Western literary culture.[67]

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63 Franco Moretti, "The Great Eclipse. Tragic Form as the Deconsecration of Sovereignty," in *Signs Taken for Wonders. Essays in the Sociology of Literary Forms* (London: Verso, 1983), 42–82.

64 Moretti, "The Great Eclipse," 42.

65 Jacques Derrida, "Force of Law. 'The Mystical Foundation of Authority'," in Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson (eds), *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992), 3–67.

66 Walter Benjamin, "Critique of Violence," in *Reflections. Essays, Aphorisms, Autobiographical Writings* (New York: Schocken Books, 2007), 287, 295.

67 See on this point the brilliant analysis by Cristina Costantini, "Transfixing Shakespearean Worldliness: How Literary Texts Haunt Law and Politics," in *Law and the Humanities. Cultural Perspectives*, ed. by Chiara Battisti and Sidia Fiorato (Berlin: De Gruyter, 2019), 27–46.

Bionote

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