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**VERBAL REALISM IN A MAGIC WORLD:  
CARLOS SANTIAGO NINO VS. JORGE LUIS BORGES**

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**ABSTRACT:** This paper is an investigation of the reference made by Carlos Santiago Nino about Jorge Luis Borges, in the fifth chapter of his *Introduction to Legal Analysis*, in which he introduces the concept of *verbal realism*. The production by Borges mentioned by Nino is the poem *The Golem*, which tells the story of rabbi Judah Loew, who attempted to create another human being in his rituals. Thus, this study develops new considerations on the power of words to evoke things, and the common belief that words intrinsically relate to what they represent. In order to do that, the first objective of analysis is the immediate reference of Borges, the dialogue *Cratylus*, by Plato, together with other references, such as Goethe's *Faust*, which has a similar narrative to the analyzed poem. The question raised is whether verbal realism offers definitions to constitute the universe built up by Borges. Hence, this article concludes that words, in normative contexts, are useful for summoning certain phenomena towards the events, and that verbal realism, then, has a dimension that Carlos Santiago Nino did not explore.

**KEYWORDS:** normativity; essentialism; magic.

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## INTRODUCTION

This paper introduces a possible correlation between literature and law by dealing with the works of two very important Argentinian authors of both areas, Carlos Santiago Nino, and Jorge Luis Borges. In order to clarify the investigation object, the reading hypotheses, as well as possible theoretical solutions, there is a need of firstly describing the scientific field in which this research is inserted. In other words, it is necessary to understand to what extent the present paper connects to the *law and literature* movement.

The research in that area is well developed in the United States, where the papers usually attend to the correlation between author, work, and reading public, so that the field feeds from such dialogue. In Brazil, however, the area has been developing, not always with the same vigor or rigor, throughout the last twenty years. André Karam Trindade and Luísa Giulini Bernst (2017), in a very detailed overview, established three phases for the movement in Brazil. The first one with pioneer studies; the second one with the institutionalization of studies, and the formation of groups within the academy; and the last one, in which there is the dissemination of such groups and studies throughout the country, together with the organization of conventions on nation-wide.

As for the *modus operandi*, the movement splits in two branches, either in Brazil or in the USA, according to Eliane Botelho Junqueira (1998). For the first one, literature is set of records where references can be reached in order to analyze matters of the law. For the second one, the law itself is the object of analysis as a written phenomenon, with literary traits among others, which makes it available for all sorts of scrutiny: from discourse analysis, compared literature, literary theories, and, in a broader sense, from several so-called *theories*.

Hence, this article is confessedly hybrid when it comes to a theoretical background. It does not necessarily fit any of those currents, but it is, to some extent, tributary to all of them. That is because, indeed, its analysis is not based on sciences or theories of the law, or literary studies, but rather language philosophy (Dutra, 2017). The aim is to know, in detail, to what extent the poem *El Golem*, by Jorge Luis Borges, may be

useful as corpus in order to investigate the relation of word and meaning. Also, this paper investigates how such corpus can be seen as an object, or a fragment, not only of such relation, but also of a certain effect for the legal world, that is, whether words are endowed with a specific quality: the ability to provoke, in a normative environment, certain events.

Such differentiation of object and approach is equally present in the connection established in this article between law and literature by reading the literary production by Borges. Previous studies on that matter include “*Cervantes, Borges e eu: quem é o autor da Constituição?*”, (“Cervantes, Borges and Me: Who is the author of the Constitution?”), in which Marcelo Galuppo (2018) explores the literary studies on authorship in order to analyze the dilemmas lived by the theory of constitutional law. As will be presented, the present paper starts from a smaller corpus and constitutes its analytical tool from inferred suggestions that come not from the outside, but from within Borges’s own stated references.

Similarly, the choice of this specific poem by Borges was not random: the production was previously used by the Argentinean jurist Carlos Santiago Nino in a paper that is a seminal reference for the theories of law, not only for this article, but also for all the academic community. It is a paper that, due to the way of exposing its ideas, with richness of examples and conceptual accuracy, has received daily attention from post-graduation and bachelor degree programs in Law.

That said, let us move on to the introduction of this article and its research object.

In his *Introdução à análise do direito (Introduction to legal analysis)*, translated and published in Brazil by Marins Fontes Publishing House, Carlos Santiago Nino develops his considerations about a poem by Jorge Luis Borges, named *El Golem*. His commentary is based on a reading of the poem as an example of magic realism, and presents no further analysis. The present paper proposes the opportune analysis by Nino on the production by Borges and adds new considerations. The new focus of analysis is the link between words and their meanings, in order to investigate its possible repercussions to the world of law.

In order to do so, this article connects the hypothesis that in legal relations words are evoking, that is, they are able to summon certain phenomena to real events. Considering, however, that the production by Borges is not isolated from the concrete world, but that it is connected to a certain literary tradition, an analysis of Borges has to consider the imaginary in which philosophy and literature consecrate the autonomy of words. This shows – and proves – the argument that in other writings of the literary canon the evoking function of words works as a tool of rigorous regulation of the narrated scenes.

This paper, thus, is aimed at tracing intertextuality, looking at immediate, intentional references, as well as mediate, unwanted references, accomplished by Borges: Plato, Goethe, and Álvares de Azevedo. In order to establish a dialogue between these authors from different circumstances, we use the writings by Borges, but also theoretical reflections by Antonio Candido, from the thoughts of *A educação pela noite* (*Education through the night*), regarding the idea that learning is not necessarily a luminous, rational process. Also, this article considers the ritualistic tradition of the pact, which equally emphasizes the magic dimension of words.

The method used hereby is of comparison and contrasting the chosen writings. Objectively, comparing *El Golem* to the starting scene of *Faust*; subjectively, the writings by Nino, Candido, and Borges himself, whose style of writing includes, itself, the formulation of theses or comments on the process of writing. And whether on the one hand the authors one reads are guilty of scrambling other writings inside their own productions, on the other hand it is up to us readers to deal with them by linking these writings together, the primary sources to the secondary sources they refer to. When this process is done, the method used hereby, via selection, enumeration, comparison, contrast and commentary on the writings is more than an analytical process, it is dialectic, since, according to the famous dialogue between Goethe and Hegel, it *organizes contradictions*.

Firstly, it is our intention to relocate the poem by Borges in relation to the place it was given by Carlos Santiago Nino. Secondly, we recall

Borges's expressed reference to Plato, placing it in the philosophical debate. Still regarding Philosophy, it is noticeable that the conception of *rules* of Von Wright, which are Nino perfectly applies in his Introduction, are also useful as a reading tool for the poem of Borges, and thus confirm its phenomenal strength.

At this point, a note is necessary: although taken as an example, Borges's writing allows one to go beyond the comparative link, that is to say, the comparative method. It allows one to trace relations between law and literature that value not only the content – the topic, the recurrent references, and the relevant cases – but above all, the form of the text, its construction, and its analysis.

Following to that, we develop a new way of reading the Golem of Borges in relation to the *Faust* of Goethe, a reference that is in the core of Western literature and that maintains a strict relation to previous and posterior works, thematically and formally.

In the end, in order to close the cycle, this paper return to Carlos Santiago Nino, just where Borges's text had been overcome, to show, in detail, that the discontinuity of the debate about the Golem allows, on the other hand, the enunciation of possible developments, whose infinite series we draw here only a short and finite series of references. A series that, again, justifies this paper.

Before proceeding with this article, we recommend reading the poem *El Golem*, whose original and translated versions are fully transcribed in the appendices section.

### **RELOCATING THE POEM OF BORGES**

In the poem *El Golem* (Borges, 1998b, p.110-113), the Argentinian writer Jorge Luis Borges tells the story of rabbi Judah Loew, who was "Thirsty for God's knowledge". Due to that, he did a lengthy and thorough ritual in order to give life to a clay figure he had created. Closed in the synagogue, night after night, the rabbi intends to impose his dream onto

reality<sup>3</sup> and, to do so, he does several gestures and utters a series of words he'd learned from the Kabbalah. Despite the rabbi's great efforts, the creature only expresses reactions that are absolutely inaccurate to human behavior. Feeling frustrated and unhappy, the rabbi regrets his creation and realizes his own pretentiousness in attempting to make something in his own image and likeness. Then, the narrator of the poem states:

Who can tell us the things God felt  
When He looked to his rabbi in Prague? (71-72)<sup>4</sup>.

Borges's poem unveils different approaches on the current use of words. Such approaches might be equally useful for those who somehow work with words in the legal area. This is the case of legislators, magistrates, and public administrators. But it is also the case of common citizens who, every day, based on their own worldviews, give new perspectives do the words of law.

At first, the poem seems to touch on dear matters for legal science and legal activities. Carlos Santiago Nino, a jurist and professor from Argentina, noticed that. In his *Introdução à análise do direito* (*Introduction to legal analysis*), he used the narrative about the Golem as a starting point. Talking about verbal relativism, Nino (2010, p. 294) transcribes the first verse of the poem,

If (as the Greek states in his Cratylus)  
a name holds the archetype of a thing  
then in the letters of 'rose' dwells the rose itself  
and the whole Nile is in the word 'Nile' (1-4)

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<sup>3</sup> Similar intentions are represented in the story "The circular ruins", in the compilations *The Garden of Forking Paths* and *Ficciones*. In this case, Borges revisits a heated debate on epistemology that, since Bishop Berkeley, considers the possibilities of testing what is current, what is perceived, in order to assess its compatibility with what is real. At that moment, Borges's character strongly believes in the possibility of making true an even greater reality, from the realm of dreams. The procedures for making dreams true involve severe and difficult to performing rituals. The result of the narrative, however, proves the circularity of that same narrative, since at the end it takes the character to an initial point. After creating a new being, and imposing it onto reality, the creator realizes that he himself is nothing but a creature created by the same procedures. Along with the impressive ability to produce images of the arduous creative process that the character undergoes, Borges manages to touch and develop, in a second layer of the text, a debate about belief justification, which, after all, can never be verified as true or false, for which there is no definitive answer. Borges crosses, then, the field of philosophical investigations, a path that starts from Plato's *Theaetetus*, and includes Saint Augustine, in the *Confessions*, and Bishop Berkeley, and Immanuel Kant, and later reaches Edmond Gettier, in the 1960s, with the very brief article "Is justified belief knowledge?"

<sup>4</sup> See the Appendix for the whole text.

and indicates, at that point, that Borges (1998b, p. 110) starts his narrative with an ironic remark on that form of realism. For Nino, the Argentinian writer opens his poem with a question about whether there is, in fact, a true and only meaning for words. From then on, Nino did not credit Borges's text more than presenting an allusion to the realistic perspective of language: the question would thus be what is in language and what is in the world, and, after all, what relation – essential or not – exists between these two. This point is interesting and, as will be seen later, there was no resolution – and perhaps it does not need one – regarding philosophy of language. Also, the issue has important repercussions, backwards, with immediate reference to Plato's dialogues, a reference that makes it unavoidable to reread the *Cratylus*. In any case, the reduction of the problem to the plane of discourse made by Nino – quite possibly due to textual economy and the purposes of his *Introduction* – and what is presented in the following pages end up closing the analysis. It is as if the author's brief, illustrated and pertinent literary excursion and the historical, theoretical considerations about verbal realism closed door between the reader's eyes and Borges's poem.

Like any cutscene, this one deserves attention. It is possible – and even probable – that Borges's poem has something more to say on a point that was not denied, but was also not properly explored. There is something more to language, and to the supposed tension between words and things, something beyond the Platonic tradition, suggested by Borges, quite possibly sensed by Nino, but which did not come to paper. There is something more in the thorough rites of Rabbi Judah: something rigorous, something normative, something magic, that refutes the discursive universe and the language – sorry for the apparent redundancy – of the philosophy of language done by Nino, in an allusion to Rudolf Carnap (Nino, 2010, p. 293-294).

In the Golem text, the contributions of which this article intends to excavate, it can be concluded without much exaggeration, that the rabbi fails in his creative mission, not because of the plurality of meanings that a word is endowed with, but for the simple reason that the creation of reality is not possible. Our first analysis, which should only occupy the

background of this text, is as follows: every message, along its path, including the message of the real, undergoes a kind of extralinguistic resistance, which deteriorates its content and prevents it from reaching the recipient intact.

A second, equally interesting form of analysis, for the jurist Nino's reading of the writer Borges, points to the magic character of words, which makes them truly evocative for normative formulations of a well-ordered linguistic system<sup>5</sup>. In this sense, words have a ritualistic function precisely because they operate, in the various possible arrangements between them, an internal and monotonic logic, a function that produces predefined and expected results. The magic world is deeply regulated and endowed with specific regulatory regimes that require its agents to have prior knowledge of the senses at stake, the definitive rules of their rituals, the consequences of their actions. In such cases, the words serve as a double link between the world of actions and the magic world, whence their evocative strength and their power of creation.

Any resemblance to the law world is no coincidence. Far from the banalized, and even kitschy, use of archaic Latin expressions, the proper manipulation of Latin expressions in acting before the courts, such as *ratio decidendi and ex injuria non oritur jus*, serves as an example of the evocative force of words in Law.

#### **THE FIRST LAYER: THE WRITINGS OF PLATO**

If the poem written by Borges mentions another text, that is, the *Cratylus*, by Plato (1997, p. 101-156), it is possible to state that realism is, thus, the starting point for unveiling the background of the Argentinian writer's production. The dialogue between the Greek Socrates, Cratylus and Hermogenes brings up a debate on whether things have an intrinsic designation. Socrates thinks there are several ways of referring to aspects of a similar object, but is there only one word for each object in the world? The background discussion, here, is of an essentialist perspective. In this

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<sup>5</sup> In the original (Nino, 2010, p. 293): "This idea has already been considered in other parts of this work under the label "magic conception of language", given by Carnap, or "verbal realism", used by Kantorowicz".



view, all things available to our senses are but a projection of their ideal form, located somewhere outside the cave, illuminated by solar reason.

This debate repeated itself so many times and, in the last century, the Sapir-Whorf thesis (2010) put to the test the strong hypothesis that the mechanisms of representation that operate in language have a decisive impact on the cognitive conformation of enunciating subjects. Thus, the increase in designation possibilities also means an increase in the ability to know. At the bottom of this thesis, therefore, an epistemological ideal of a rationalist basis prevails, according to which the justification of beliefs occurs through analytical reason or, at least, through analysis, not experience.

As for Plato, the subject gains very special outlines, since the reception of his work, at least in the world of law, has favored, with ease, his writings of deontic connotation, such as the *Republic* (Plato, 1997, p. 971-1223). This makes sense, since it is in the first volumes of those writings that Plato establishes debates on justice, equality, social organization of the city-state, authority, legitimacy, and so on. It is also in the *Republic* that Socrates, especially in his dialogue with Thrasymachus, suggests a relocation of the concepts at stake (justice, equality, etc.) from the simple arbitration to the establishment of certain defining rules. Such idea is further developed by the philosopher Von Wright – also mentioned by Nino in his *Introduction to legal analysis* (2010, p. 77-90) – much later.

Thus, the purpose<sup>6</sup> of a certain type of handicraft, say, carpentry, is used as the criterion to choose the definition of what it is to be a good carpenter. And the purpose of a government, hence, is the criterion to choose the definition of what it is to be a good ruler. We are able to foretell where this discussion leads: according to this idea, there are elements arranged in the world that are shared and, before many other random elements, they must occupy the front positions when choosing how to designate the objects.

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<sup>6</sup> The concept of purpose is also used by Aristotle, in *Metaphysics*, in a broader and more complete discussion about the definition of *substance*. In Aristotle, purpose equates to the *final cause*, which is paired with three other causes: motive, which indicates the source of the substance; formal, which indicates its form; and material, which indicates its content.

## THE SECOND LAYER: THE WRITINGS OF BORGES

In the poem written by Borges, the mention of the dialogue with Cratylus is placed in specific philosophical areas: aesthetic, ontological and deontological. The aesthetic aspect is announced in the first verse: “in the letters of ‘rose’ dwells the rose itself and the whole Nile is in the word ‘Nile’”. Here, the water flow is felt in the river itself, a resource Borges (1998b, p. 10; 1998a, p. 95, translated) uses in other writings as well:

At this point my dream melts, like water in water

And in

So eternal  
like water and air

Secondly, the ontological aspect. Knowing the debate about *what there is* and *what is*, Borges, as a reader of Spinoza and Hume, does not intend to solve it, but rather prefers to indicate, within his own language, the characteristics of that same debate. Just as in the verse “afternoons equal afternoons”, Borges (1998b, p. 166, translated) suggests – as obvious as it may seem, it is important to repeat – that afternoons can only be equal to afternoons. The identity, in this case, is not just an identity of the statement, but an identity of the statement as a *thing-that-is-in-the-world*, that is, the identity of the sentence that contains the statement. Identity beyond the indicated referent – the afternoons – which could be seen as a time between the morning and the evening, for example. It is, in more rigorous logical terms, a prevalence of *in-tension* (with *s*, the text as a thing) over *extension* (the text as a text)<sup>7</sup>. The question thus suggests us that linguistic signs have a condition of *thing-in-the-world*. And what is well constructed in Borges’s text, among other creations of his, is precisely the idea that both words and things have evocative powers.

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<sup>7</sup> For Mortari (2016, p. 70, translated): “this is usually referred to as the intension (or connotation) of a word, as opposed to its extension (or denotation)”. Despite the short and clear definition by the author, the expressions ‘denotation’ and ‘connotation’ are usually about vocabulary entries. Borges, in this case, refers to the word as an object, as something that “is”, as a being that is passed through by a message. Words are passed through in the order of the discourse, as things are. Their evocative potentiality probably dwells in the very condition of opening up itself for similar language contexts. In homogeneous situations, with strict and clear rules, especially where rules are very imperative, strong, exaggerated, the evocative potential of words (and things) is proportionally more visible.

In the poem about the Golem, the problem also appears in education – in the sense that German Romanticism gave it, *Bildung* – of which Rabbi Judah is a conductor: “this is my foot; this one is yours, this is a rope”. It is important to note that such education occurs, as for children, through the designation of objects arranged before the sensitivity of the apprentice and objects that, inserted in the circumstances of the poem, have an essentially ritualistic role. In a way, the rabbi announces a magic relationship between words and things present in the synagogue, and his nightly education also teaches definitive rules of a magic world, which without them cannot operate regularly.

We are, therefore, in the third aspect of modern philosophy: deontology. Borges’s poem features a Rabbi Judah Loew for whom there is a magic world, the world of Kabbalah, in which definitive rules, perfectionist rules and prescriptive rules are inscribed, in the sense that Von Wright attributes to them (Nino, 2010, p. 77- 90). So, let us see how these rules work in the proposed scene.

Definitive rules are those that characterize an activity and without which that activity ceases to be. Nino alludes to the rules of chess<sup>8</sup>: it is possible for two players to decide on changing the powers of a pawn, for example, but this simple change implies abandoning chess to promote, from then on, a new game not yet named. In the case of the Golem, definitive rules appear as designations that circumscribe the magic world in which the creature and its creator are inserted. At this moment, the rabbi expresses fundamental notions of time and space, of the self and the other. It is natural, however, that in the present case the definitive rules have a very special function, because they indicate the regulation of a Kabbalistic world whose laws operate beyond materiality. It is to say, in the final analysis, that these are the same rules that make possible the existence of the creature and the creator and that, for this very reason, they are sacred rules. It is the case of the possible reading of the name of

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<sup>8</sup> In one of his poems about chess, called *Ajedrez*, Jorge Luis Borges also associated the rigidity of the definitive rules with the game of chess: “In their grave spot, the players | move the slow pieces. The board | delays them until dawn in its severe | two colors premises in which they hate each other. | *Magic rigors radiate within* | the forms: homeric tower, speedy | horse, armed queen, late king. | oblique bishop and aggressor pawns” (1998b, p. 16, translated, emphasis added).

god, which cannot be said – “the articulation of the Sacred Name” – and yet, in the poem, it is desecrated by the rabbi – “despite such high wizardry, the apprentice of man never learned to talk”.

Perfectionist rules, in turn, are those that regulate the performance of conditions to achieve a certain result. In Borges’s text, these rules are embodied in the ritual employed by Rabbi Judah Loew in the exercise of bringing to life the clay figure he had created. The laws ruling alchemy, however, refute enlightened science and indicate the same magic space as of Kabbalah. Again, the profanation of the divine name is responsible for the breath of life into the puppet. Afterwards, it is presented as a cause of regret. This regret, in turn, indicates the third narrative layer, on the textual surface, of a deontic aspect, which orders the reservation of the divine name and the containment of the creative impulse.

Thus we reach an imperative prescriptive rule that determines the rabbi the recognition of his human condition and the maintenance of his actions within the safe hemisphere of the sacred. It is precisely the dissatisfaction with this condition, it is the approach to the creator, which results in crossing the fine line between what is allowed and what is forbidden, in the ultimate transgression that consists in the creation and suppression of human life. From a strictly deontological point of view, we are, therefore, faced with the choice for satisfaction in the face of nature’s facts or for domaining, by magic means, the laws of that same nature.

The set of elements put in scene by shuffling the rules of the world *that is* with the rules of the world *that should be*, from a transcendent perspective, ends up offering a very beautiful and agonizing view of Rabbi Judah Loew’s dilemmas. A vision that corresponds, after all, to our most human dilemmas. In the present case, the theme takes on strength because this shuffling has in common a magic world in which words are endowed with meanings previously fixed by circumstances that are also magic. For this reason, it is possible to recognize the prevalence of a naturally magic regime of words, which only offer themselves to effective interpretation, capable of producing consequences in the real world, if considering definitive rules born also of magic extraction.

This is the case among the primeval societies, for whom a transcendent and extralinguistic referent often pre-exists, which is why they explain the world from a totality (Lévi-Strauss, 1987). However, it is important to note, in the case of Judah Loew (1525-1609) we are talking about a man who lived between the Middle Ages and the Renaissance, influenced by institutions that, in large part, inhabit our own world of readers. Very close to him is Goethe's *Faust* (2004), a very similar narrative, regarding subject, aesthetics, and scene structures. The relation is also due to the fact that the Germanic legend of Faust is in the same space between medieval and modern times, contemporary to Judah Loew, which is seen in the tragedy *Faust* by the English writer Christopher Marlowe (1564-1593).

In order to establish the relation with *Faust* it is important, above all, to recognize the thematic choice and the problems it poses. This is because one of the first scenes of *Faust*, inside the room, which unveils his problems and the inaugural appearance of Mephistopheles, also indicates the ancestry of evocative words, with previously defined magic powers, expressing a set of definitive, perfectionist and prescriptive rules with superhuman referents. Such rules are far beyond institutionalized law, which, in Faust's view, is yet another confirmation that the world of lights is boring and does not bring humans closer to what they most desire, the spirit incarnated in Nature (*Die Natur*) evoked by Goethe. Very soon, we see that this world is not, at heart, governed by reason, but by magic powers. So, right at the beginning of that scene

Now, oh! Philosophy,  
Jurisprudence and Medicine,  
And poor me! also Theology”  
Thoroughly studied, with great effort.  
There I am now, poor simpleton,  
And I'm as wise as before!<sup>9</sup>

This type of learning Antonio Candido (2011, p. 11-23) called *education through the night*, in an eponymous essay, which aimed to analyze the works of Brazilian Romanticism writer Álvares de Azevedo,

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<sup>9</sup> Loosely translated: “Habe nun, ach! Philosophie, | Juristerei und Medizin, | Und leider auch Theologie | Durchaus studiert, mit heißem Bemühn. | Da steh'ich nun, ich armer Tor, | Und bin so klug als wie zuvor!” (Goethe, 2004, p. 62).

especially *Macário* and *Lira dos vinte anos*. In a short but strong text<sup>10</sup>, Candido reveals the intertwining of different romantic traditions, namely, German and Brazilian, as well as the productive thematic sharing between the young Brazilian author and the old Goethe. In this sense, it is important to note, first, that Azevedo reconstitutes, as in *Faust*, a literary scene in which words are endowed with evocative force and receive, also from a magic world, essential meanings.

In the case of *Faust* and Rabbi Judah Loew, and even *Macário*, the poetic narrative describes a set of elements that share the property of being all endowed with a magic dimension. Within it, lies a *subset* of words evocative of magic, the meaning of which is determined by the characteristics, in the case of Borges, of Kabbalah. This way, the rules that constitute a closed world can only be read through a kind of verbal realism, which considers the power that words have, in those specific circumstances, to call certain phenomena to the event. In a way, they operate a larger machine, a motor-continuum with only seemingly mechanical regulation and transcendent reasoning, which serves as a function where words are launched to produce previously defined results – quite true, due to magic circumstances

### **THIRD LAYER: BACK TO THE WRITINGS OF NINO**

Recalling the writings of Nino, it is interesting to note that the Argentinian jurist properly mentioned a realistic perspective of language, but did not go further in it. Quite the contrary, the author criticized, reasonably, that verbal realism translates anything illusory, or childish, in the use that jurists make of language. A reflection that even suggests a comparison between these same lawyers and the way in which children appropriate words and even believe that the things put in the world necessarily correspond to the sound they learned to produce. In a freer

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<sup>10</sup> In Candido's view, *Noite na taverna* "is a research of these dubious boundaries, and his material seems conceived and chosen by Satan as an episode of a kind of anti-Bildungsroman, which he proposed for the education (backwards) of his pupil. For him, dead Penseroso, that is, the possibility of purity and ideal is lost, there remains that ferocious way where man seeks to know the secret of humanity through immoderation, in the school of a behavior that denies all norms" (Candido, 2011, p. 15, translated).

reading, Nino's text could indicate, in another perspective, a certain pleasure of conquest over language in the eyes of the child who adds, with each new word, a new object to his/her world in construction.

Furthermore, it is worth noting that Nino refers to Plato's text as a document that records the essentialist debate. But his indication, perhaps he did not perceive it, in addition to the formal record of a given current in the debate on the philosophy of language, produces a second effect: it assumes that verbal realism, in the updated version of essentialism, could have been overcome and that in fact, there is not much else new to say on the subject. Which is, of course, equally correct, since the language map to which he had access, not far from ours, had already been radically reconfigured.

In any case, as it was, Nino's writings turned the page of the Platonic problem with Borges's poem, shrugged off essentialism and continued his excellent prose on law, language and interpretation. We find here the cue to recall verbal realism in another way. This is because, unless mistaken, an equally relevant dimension seems to have escaped Nino's field of vision: that verbal realism is not just an illusion of those who deal with law, but also a way of access, through language, to the rules manufactured by a specific regulatory context.

For the last seventy years, we have favored the necessary criticism of rationalism and we read from it, with modern institutions, also the legal forms. And not without reason: scientific enlightenment and the State appropriated them in order to regulate their world. But even so, in the context of the highest legal rationality, the words maintained their evocative power and the courts preserved, with even more zeal, the rituals that organize their universe. Jorge Luis Borges, well situated in his own literary place, was aware of this and it can even be said that, with Borges and other authors of fantastic realism, we can see how difficult, if not impossible, it is for the organized world to live without the evocative force of words and without extralinguistic references,

transcendent ones, capable of imposing some mystical authority on the most rational of rules.

If we follow the simplest rite of our courts, like tax enforcement, we can foresee, without further complications, the rules that govern the instruction of the deed. And if we spend the afternoon sitting in the auditorium of a Jury Court, we feel these rules even more strongly, and as if mesmerized, we are stuck, from beginning to end, to familiar or strange events that unfold in court. And if we finally follow a legislative session, we will not miss a ritual, no matter how boring these sessions have become.

The idea is: we do not need to resort to exotic artifacts, languages in extinction, strange ceremonies to our urban place, to see the magic dimension of Law. Actually, the presence we produce in the world is integrated through language, even for auditors, lay people, unsuspecting passers-by; and our place, although urban, has always been archaic. In this relation with and through language, beneath the varnish of institutions and so-called reason, magic elements operate, whose best form in the world is the word as *thing-in-itself*, which in the most banal of scenarios is capable of *summoning certain phenomena to the event*.

### FINAL THOUGHTS

We saw that, in Borges's poem, the character and his circumstances suggest a world governed by definitive rules, that is, prescriptive rules that constitute the very universe of Kabbalah, and whose commands are projected onto the scene through words. In the particular case, the signs of language – among them, words – are endowed with an evocative character, they are capable of calling certain phenomena to the event. Also, in this text, Borges's reference to Plato's *Cratylus* is just a starting point, which presupposes an intrinsic relation between words and things. It even assumes that words have a determined intention, that is, they are in the world as things, they carry a summon, and if placed in a certain



order, uttered with a certain intonation, they can reveal more than their referent, but produce serious changes in the scene in which they are said.

Therefore, and in this specific, but not diminished, sense, we also verify that verbal realism – or, in the most general formula, *essentialism* – are denominations that match, but also reduce, the relation of intimacy between word and thing. Especially in normative relations, what is lost – because it is refuted, unspoken or simply ignored – is precisely the opportunity to recognize that, in the most everyday occasions of legal activity, words operate definitive rules, have evocative force, trigger normative devices and regimes of life far, infinitely beyond a mere referring to which they seem immediately destined.

Taking as a theoretical place a text by Antonio Candido, the scenes that describe education through the night, of which Judah Loew and the Golem, Mephistopheles and Faust are protagonists, and in a way, at some point in our formation, we ourselves, these scenes revealed themselves an ideal place for investigating the normative effects of words and their relation to things.

More than in theory, the text reveals to us the tools for identifying verbal phenomena are within the text itself, among which the literary forms are those that best work as a means of understanding the world. After all, if the observer has any difficulty in establishing his/her own method to investigate the *word-thing* function in the daily life of the courts, crossed by different temporal information, in literature he/she can still find a certain narrative peace, a certain order of laws more or less rigidly operating. To recapitulate Von Wright's expression, it is as if in literature the definitive rules worked better. Firstly, because the author has some intention, although vain, to communicate something of his/her own, to send the message package so that it arrives with some enunciative and semantic integrity to its recipient. Secondly, because, once written, the text is there: as much as its content is never the same for each reader, and even if for each reader their new reading implies new meanings, the fact that the text is already written, that the words are already spelled out, finished, printed, gives the author, the text and the reader a certain pacification.

In the particular case, which we developed from Nino's silence and Borges's eloquence, such considerations seem to confirm the fertility of the cross between literature and law. In this sense, its relevance is legitimized far beyond the exemplary cases – which are often investigated in academia and outside it, as if looking from theories of law towards literature. Here, however, Borges allows us to establish a perspective shift, and we enter the field of the method, or the suggestion of a method, without universal forms, whose recommendations can only be read in the text itself, without, however, neglecting that the contemporary problems and theories, leaning on the observer's trapeze, will be there, in one way or another, exerting influence over their reading and interpretation activities. In any case, it is as if the novel, the novella, the short story, the poem, were gradually giving the reader the words that govern the universe on the basis of its constitution and, in these cases, the text is woven from the very life of the story they conceal. Otherwise, these same texts, with their own laws, serve as a mirror – no matter whether or not they are representative – for external references. It is certain that they never identify themselves, flawlessly. But it is also certain that, by contrast, the text and the world are subject to communication, through the one and the same way of reader interaction, this machine of attributing meanings and senses.

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## APPENDIX THE GOLEM<sup>11</sup>

- 1 If (as the Greek states in his Cratylus)
- 2 a name holds the archetype of a thing
- 3 then in the letters of 'rose' dwells the rose itself
- 4 and the whole Nile is in the word 'Nile'.
  
- 5 And, made of consonants and vowels,
- 6 there shall be a terrible Name that copies
- 7 the essence of God and that holds
- 8 Omnipotence in cabal letters and syllables.

<sup>11</sup> Loosely translated from Spanish by Felipe Zobarán. Unfortunately, original metric and rhyme schemes have been altered.

9 Adam and the stars learned of it  
10 in the Garden. The rust of sin  
11 (as the kabbalists say) has erased it  
12 and generations have lost it.

13 The crafts and wills of men  
14 are endless. We know there was a day  
15 when the people of God searched for the Name  
16 in the vigils of Jewdom.

17 Not in the same way as others, which insinuate  
18 a vague shadow in the vague history,  
19 that memory is still green and alive  
20 of Judah Loew, who was a rabbi in Prague.

21 Thirsty for God's knowledge,  
22 Judah Loew began some trading  
23 of letters and of complex variations  
24 and became able to pronounce the Name that is the Key,

25 the Door, the Echo, the Guest, and the Palace,  
26 onto a puppet he made with clumsy hands  
27 in order to teach it the arcane knowledge  
28 of Letters, of Time, and of Space.

29 The simulacrum opened its sleepy  
30 eyelids and was able to see colors and shapes  
31 it could not understand, lost in rumors,  
32 as it attempted fearful movements.

33 It gradually saw itself (as all of us)  
34 imprisoned in this sound network  
35 of Before, After, Yesterday, Meanwhile, Now,  
36 Right, Left, Me, You, Them, Others.

37 (The kabbalist who worked as a creator  
38 named the vast creature Golem;  
39 these truths are referred to in Scholem  
40 somewhere in his volumes.)

41 The rabbi explained to the creature about the universe  
42 "this is my foot; this one is yours, this is a rope."  
43 and after many years, he was able to make the freak  
44 well or not, in the synagogue, learn to sweep.

45 Maybe he'd made a spelling error  
46 or a mistake in the articulation of the Sacred Name;  
47 despite such high wizardry,  
48 the apprentice of man never learned to talk.

49 Its eyes, less of men than of dogs  
50 and much less of dogs than of things,  
51 followed the rabbi through the doubtful  
52 gloom of its confinement's premises.

53 There was some abnormal and rough trace in the Golem,  
54 for at its passing, the rabbi's cat  
55 hid away. (This cat isn't mentioned in Scholem  
56 but, through time, I guess it was there.)

57 Raising its childlike hands to its God,  
58 it copied the devotions of its God  
59 or, stupidly and smilingly, it hollowed out  
60 in concave oriental gestures.

61 The rabbi looked at it with fondness  
62 and with some horror. 'How' (he said to himself)  
63 'could I come up with such sad child  
64 and leave it in inaction, what sense is there?'

65 'Why have I added to the infinite  
66 series yet another symbol? Why, to the empty  
67 skein that unwinds in eternity,  
68 have I given another thing, another effect, another worry?'

69 In the hour of distress and vague light,  
70 on his Golem his eyes lingered.  
71 Who can tell us the things God felt  
72 When He looked to his rabbi in Prague?

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