



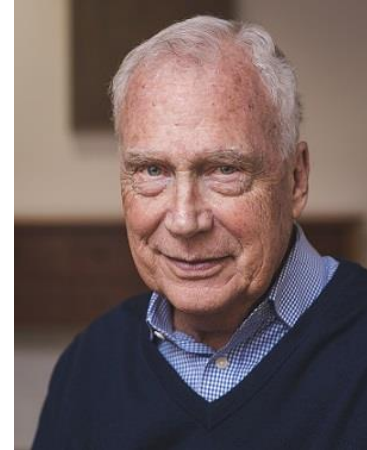
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REDE BRASILEIRA
DIREITO E LITERATURA

INTERVIEW WITH PETER BROOKS

LAW WORKS THROUGH LANGUAGE

BY DIETER AXT¹



Born in 1938, Peter Brooks is Sterling Professor Emeritus of Comparative Literature at Yale University. Following his retirement from Yale in 2009, he taught at Princeton University, as Andrew W. Mellon Scholar in the department of Comparative Literature and the Center for Human Values. He has been Professor in the Department of English and School of Law at the University of Virginia (2003-2006), and Director of the Program in Law and Humanities. Brooks also has served as visiting professor at Harvard University, the University of Texas, Austin, the University of Copenhagen, the University of Bologna and the Georgetown University Law Center, and as Visiting Lecturer at Yale Law School. In 1994, he was a visiting scholar at Stanford Law School. During the 2001-2002 academic year, he was Eastman Professor at Oxford University, and Fellow of Balliol College.

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BA in Harvard University in 1959, he earned a PhD in 1965 at the same University. He also studied at University College of London as a Marshall Scholar, and at the University of Paris. Brooks is the Founding Director of Yale's Whitney Humanities Center (1981-91), where he served again as Director from 1996-2001. His main research interest lies at French and English literature, law, and psychoanalysis.

Including countless publications among books, articles, book chapters and reviews, stand out *Reading for the Plot: Design and Intention in Narrative* (1984), *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess* (1976), *Body Work: Objects of Desire in Modern Narrative* (1993), *Psychoanalysis and Storytelling* (1994), *Troubling Confessions: Speaking Guilt in Law and Literature* (2000), *Realist Vision* (2005), *Henry James Goes to Paris* (2007), *Flaubert in the Ruins of Paris: The Story of a Friendship, a Novel, and a Terrible Year* (2017) and, his most recent book, *Balzac's Lives* (2020), finished during the period of this interview. In 2014, he edited, with Hilary Jewett, *The Humanities and Public Life*.

Brooks was decorated *Officier des Palmes Académiques* in 1986. In 1997 he received an honorary doctorate from the *École Normale Supérieure*, Paris, and in 2001 an MA from Oxford. In 2008, he was given the Andrew W. Mellon Foundation Distinguished Achievement Award, and in 2012 the William C. DeVane Prize for Scholarship and Teaching.

In this interview, Brooks talks about the challenges and benefits of connecting Law and Literature. He also recalls his biography and his academic production so far, and makes us think about the importance of Human Sciences in society, by taking us on a trip through the history of French and English novel production.

Dieter Axt – *Both your scholar practice and your research have mainly been devoted to the Narrative Theory as well as the English and French novel production. What led you to start studying Literature? Where does the interest in France and the nineteenth century come from?*

I have been a reader since early on, especially during a lonely adolescence. That was supplemented by adolescent francophilia, fairly common in my generation: we looked to French literature as place of ideas and disruptions. And then the nineteenth-century French novel turned out to be the place where everything was at stake.

Dieter Axt – *It is widely known that you succeeded Paul de Man as Sterling Professor at Yale University, after being his student. How would you assess the legacy left by Paul de Man? Have you read The Double Life of Paul de Man, his biography by Evelyn Barish, published in 2014?*

I reviewed the Barish biography in *New York Review of Books* (April 3, 2014); I refer you to that critique. The Barish book is a foolish and poorly-documented polemic on a subtle and crucial person and historical conjuncture. The legacy of Paul de Man will remain troubled, I believe – but should not be neglected for all that.

Dieter Axt – *What impact did the Law and Literature movement have at Yale University and in the general scholar environment in the USA when it first appeared, in the 1970s? Were you and James Boyd White fellow Harvard scholars?*

I became interested in the law in the 1980s, began teaching in collaboration with a friend at Yale Law School, then became aware that there was a “movement” underway, one that manifested itself in several different forms. I was most interested at the time in reading law with some of the tools of literary analysis, pointing up the *impensé* of the law: how it failed to analyse its own uses of rhetoric and narrative. I did not know James Boyd White at Harvard; I met him only much later.

Dieter Axt – *Oscar Wilde used to say that “the nineteenth century, as we know it, is largely an invention of Balzac’s”. Do you agree? Why is it that Flaubert’s Madame Bovary is, in your opinion, the novel that deserves the label of Realism above all others? Would it be possible to imagine Joyce if there had not been Flaubert? Would you say there is a connection between the Realism’s aesthetic and that of contemporary reality shows?*

So many questions at once! I just finished a book called *Balzac’s Lives* (publication September 2020), in which I quote Oscar Wilde’s remark on the first page. Yes, profoundly true. Flaubert has stripped Balzac of his metaphysical ambitions, so *Madame Bovary* remains uniquely anchored in the real. No, Joyce is unimaginable without Flaubert (*Dubliners* a direct child of Flaubert’s). Contemporary reality shows, to the paltry extent I know them, are not Flaubertian but rather full of dramatic conventions and trickery – more like the nineteenth-century Boulevard theater than like Flaubert.

Dieter Axt – *Is anyone still afraid of Virginia Woolf? To what extent did Woolf revolutionize Realism and started a new era in English Literature?*

It’s interesting how much Woolf’s Modernism remains faithful to the problems posed by “realism” before her – recast in a way she sees as more faithful to the representation of the real. Like Proust, she doesn’t really break with the novelistic tradition so much as sum it up and then take a leap beyond.

Dieter Axt – *In many aspects, the social portrait made by Émile Zola regarding the phenomenology of urban life still reverberates nowadays. Zola built social archetypes, such as the prostitute, or the old man, whose cruel destiny gained breathtaking contours in his work, especially if compared to Victor Hugo’s characters. What is your evaluation on such archetypes? Would you say that the conflict in Affaire Dreyfus has parallels with the present-daysocial setting of exaggerated ideology, fake news and judicial activism suspicion?*

The heroic Zola of *J'Accuse* — his entry into the Dreyfus Affair — is only partly continuous with his novelistic portrayals, which tend toward a somewhat bourgeois morality even while showing up the devastating effects of modernity, social class, imperial rule, etc. I keep wishing for a piece of writing that would have the bombshell effect of *J'Accuse* in our present political situation. But the media outlets are too many, too dispersed, and too many of them given over to falsity.

Dieter Axt – *As you said in a recent interview, nineteenth century novels acquired great popularity, above all due to the increase of literacy and the extensive accessibility to information. However, there has never been such a profusion of literary production as in the present days, and the access to them has never been so easy. Thus, why is there a supposed contemporary crisis of Humanities? What is the public importance of Humanities in times when people seem to enjoy staying in the shallows of their own? Did novels and Literature have a different status in the late nineteenth century society, as compared to the present?*

The so-called “crisis of the humanities” co-exists with the profusion of literary production, and considerable consumption of literature despite the disappearance of bookstores and serious book reviews and the great increase in screen time. The experience of literature in the nineteenth century has to some extent been replaced by the television serial. It’s hard to sort this all out. In academia, the humanities have been reduced in importance by the emphasis on scientific and technological knowledge, and by economic anxieties. Yet they often are the most interesting and innovative part of the curriculum, taught by creative and well-trained scholars. We need to keep on insisting, to university administrators, to publishers, to the public at large, that serious literature and its serious reading matter.

Dieter Axt – *The Humanities and Public Life recalls something that Shelley used to state: poets are non-acknowledged legislators of humanity. Also, Hölderlin said that “language is the house of Being” and that “those who think and those who create with words are the guardians of this home”.*

Well, one of the greatest challenges of Law is to inhibit partiality when sentencing. However, since the Salem witch trials, it is widespread that testimonies, accusation and confession can be equally problematic. To what extent can reading skills, especially of Literature, Poetry, and other Humanities, favor more scientific rigor – and ethical commitment – in the courts of law?

Reading skills are absolutely crucial to those professions – law first among them – that interpret human speech and action. We need to remember always that, as Robert Cover put it, legal interpretation takes place “in a field of pain and death”. There must be a commitment to rigorous standards of interpretation and its outcomes – what I have called an ethics of reading.

Dieter Axt – How do you see the outcomes of the plea bargain practice in the USA: has there been abuse in the use of negotiation or does it solve pragmatically the problems of Law? If out of ten law suits in the USA, nine are estimated to be solved via plea bargain, why does the country have the largest prison population on the planet? Do you think Literature understands better the trouble some nature of confession than Law does? How was your experience teaching Criminal Law to inmates and how did Literature and Cinema help in the process?

Very big questions! Plea bargaining has become a scandal, and needs to be much more closely supervised by judges. The US clearly overincarcerates, for reasons many have analyzed recently. The so-called war on drugs is heavily responsible, and the length of sentences handed out for fairly minor offenses needs revision. But beyond that, our dependence on incarceration needs to be subject to a rigorous critique, and the life of prisons radically altered. To the extent they are necessary at all, they should be places of learning and empowerment. Teaching law and literature to incarcerated students was a life-changing experience for me.

I think the honing of critical skills through study of literary texts (and some films) allowed us in the classroom to address legal practices with a finer sense of critique. I have rarely known students so eager to learn.

Dieter Axt – Sigmund Freud is a key author in your reflections and your bibliographic production... What motivated your approach to Freud's psychoanalytic theories? How do you complement the theory of Literary Narrative with Psychoanalysis?

I only started to read Freud well after my formal schooling – and when I did, he seemed to make sense of many things for me, and to argue the need for a dynamic sense of literary form, just as he worked constantly on the psychodynamics of persons and societies.

Dieter Axt – *In this context, there were great literature critics influenced by Jung, mainly, Erich Neumann and Northrop Frye, who seem to be forgotten nowadays, in spite of the monumental work and the huge success they achieved in the 1960s. What place would you grant in the theory to them? How do you see the work by Hayden White, which finds inspiration in Lacan's concepts of deep structures and links them to Literature, Narrative and Psychoanalysis?*

Jung's popularity may have faded because he is too close to literature – he doesn't provide the rigorous analysis from another discipline that I find invigorating in Freud. Lacan of course lends himself fruitfully to literary analysis since he rereads Freud in the light of structural linguistics. He makes more explicit what is already implicit in Freud: that we are all poets and fiction-makers, that the very construction of "self" is a poetic and fictional process.

Dieter Axt – *In Psychoanalysis and storytelling, you show vital connections between Psychoanalysis and Literature. Can these connections between Literature and Psychoanalysis also encompass Law? Is there such thing as Law with no Narrative? In other words, what are the fictional and the literary components of Law?*

Those are separate questions, I think. The law is suspicious of psychoanalysis since it rightly suspects that psychoanalytic insight about human motive and behavior would disable law, which resorts to a kind of common-sense notion of intention and free will, etc. Law doesn't want to

deal with the psychoanalytic conceptions of human “character”. Yet it needs to take these conceptions into account, especially when it judges and punishes.

No, there is no such thing as law without narrative — it exercises its power thorough rhetoric and narrative.

Dieter Axt – *Is the Plot an inevitable, universal, human concept? Is it a model of our mind’s structure? Do the stories we tell ourselves and others help to build our own identity? Is it also related to the “narrative plots” made in trials and sentences in Law?*

Yes, emphatically. We sturcture our life narratives, giving them plots to explain the past and to project the future. Our identity is in large part a narrative construct. Law makes its own narrative constructs, which attempt to avoid the construction of character to focus on event: what happened, and why, and who is responsible, and how much.

Dieter Axt – *Social critic Camille Paglia, mentored by Harold Bloom at Yale, has held that Humanities are facing crisis in the USA due to French post-structuralism and the excesses of political correctness in academic areas. Do you agree with this point of view? What is your perception on the still ongoing debate in Yale over the Nicholas Christakis case, seen by many as a strong argument against free speech? What is left to Humanities when facing disbelief in dialog and mutual understanding?*

Can we say that the Right seized upon the post-structuralist questionings of “truth” in a simple sense to declare the irrelevance of truth, in favor of what Trump calls “domination”? I think it will take much historical reflection to figure out the connection, if any, between the two. The debate over “free speech” has been wilfully misrepresented on the Right (and sometimes on the Left also): it’s not just a matter of speaking but of access to speech. Who is to be given access to the pulpit?

That’s very expensive on television, for instance, and free but not necessarily powerful on social media, where distinctions between truth and lie don’t seem to matter. What contexts of speech is the university to make

available to whom? I take a fairly absolutist view of free speech, but I think we have to be sensitive to the ways universities can be exploited in the name of free speech.

Dieter Axt – *What is the current status of Humanities, in times when the utilitarian logic, the far-right ideology, and the manipulation of minds by social networks grow widely; in times when bookshops are going bankrupt and young people let go of the reading habit, getting accustomed to fragments of thought; and, in times when students prefer taking degrees in other areas, which are seen as more job-oriented, in order to compete in the labor market? What is the role of libraries in the digital world?*

The humanities are clearly on the defensive — you might even say: on the ropes. But I do not think they benefit from a defensive posture. On the contrary, they need to speak out constantly urging that they are more than ever needed in the public sphere. The humanities teach us how to resist the false ideologies that are constantly being sold to us, imposed on us, offered as political and moral solutions to our contemporary despair.

Dieter Axt – *In Body Work: Objects of Desire in Modern Narrative, you identify that one's desire to know the other's body is a powerful storytelling dynamic, in all its forms, highlighting the influence this subject had in the works by authors such as Rousseau, Balzac, Mary Shelley, Zola, Henry James, and Marguerite Duras. Currently, internet and the social network can be described as places of hyper-exposition of one's self-image, emptied of symbolic meaning. How has this affected us in our ability to tell stories of our own times? Do you think there is some kind of emphasis on the female body concerning social attention and aspiration? How does this topic, the human body, re-enter contemporary art, for instance in the works by Robert Mapplethorpe?*

Good questions that I can't really answer except to say that in contemporary art and media the body has been made both banal and more than ever the object of fetishized attention. How do you sort that out? Except to note that we can never escape our bodiliness, something you feel more and more as you grow old.

Dieter Axt – *To finish, what future perspectives would you forecast to the Law and Literature movement, and which literary works in special would you suggest to jurists and law students?*

Law and literature studies have proliferated, and inevitably become more compartmentalized and specialized. My admonition would be that the movement should not lose sight of the essential: that law (especially in the Anglo-American tradition) works through language, it is a rhetorical practice, and needs to be reminded over and over again that it must be in dialogue with the humanities. It's not a matter of specific works of literature but of an attitude. Law and rhetoric in Antiquity belonged together, as twins. The professionalization of law has made it lose sight of that twin; it needs to be brought back together with it. It needs to take responsibility for its rhetorical nature.

Translated by Felipe Zobaran