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INTERVIEW WITH IAN WARD

THE EVOLUTION IN LAW AND LITERATURE STUDIES IN RECENT YEARS HAS BEEN REMARKABLE

BY DIETER AXT¹



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BA in the University of Keele in 1986, he earned a PhD at the University of Cambridge, in 1989. In 1990, he obtained an LLM at the University of Toronto, and, in 2010, an MSc at the University of Leicester. He has expertise in English constitutional history and thought and is currently working on a book on mid-nineteenth century gender, law and literature. His main research interest lies at the intersection of Law, Literature and History.

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Including countless publications among books, articles, book chapters and reviews, stand out *Law and Literature: Possibilities and Perspectives* (1995); *Shakespeare and the Legal Imagination* (1999); *Sex, Crime and Literature in Victorian England* (2014); *Writing the Victorian Constitution* (2018), and his latest *English Legal Histories* (2020). Furthermore, he edited *Literature and Human Rights: The Law, The Language and the Limitations of Human Rights Discourse* (2015). He is also a member of the AIDEL (*Associazione Italiana Diritto e Letteratura*) and the SLS (Society of Legal Scholars).

In this interview, Ward talks about the connection between Law and Literature and gives his impressions of the movement's evolution since the publication of *Law and Literature: Perspectives and Possibilities* in 1995. He also recalls his biography and his important academic production, taking us through the Victorian Era and Shakespearean theater.

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Dieter Axt - *Among your main areas of interest, there are Law, History, and Literature. During your academic life, to what extent have you measured the interaction and the complementarity of these three areas? You also teach Law and Literature. Please, tell us a little about the teaching dynamics in your classroom.*

I was not, originally, a lawyer. My doctoral research was in history, and I became a legal academic almost by accident. I encountered 'Law and Literature', still to an extent in its infancy, whilst starting out on my academic career. I am not sure I fully appreciated the necessary interplay of the three 'disciplines' at that point; though with hindsight it seems obvious! As to the dynamics of my own undergraduate course, as you have perhaps anticipated, it is very much underpinned by history. The moment of writing, and reception, provides the immediate context for the critical appreciation of any text.

Dieter Axt - In reference to two questions developed in *Legal Education and the Democratic Imagination*: what is the use of a Law School, especially in a global environment of growing anti-intellectualism, social fragmentation, and technicism? What should a Law School teach after all?

It is interesting that you would suppose a global anti-intellectualism. There is certainly a strong sense of such in the United Kingdom at present; exacerbated necessarily by the furore which surrounds 'Brexit'. Another context which is starting to assume an alarming dimension is the increasingly utilitarian attitude of government towards education, at all levels. In this context the responsibility of Law Schools is peculiar. Possessed, by reason of financial sustainability, of a strength and vitality that can sometimes be difficult to discern elsewhere. There is, of course, a difference between having a voice and making it heard. And there are internal pressures to, which move around the relevance of humanities-based subjects in modern Law Schools. As you might expect, I am a strong advocate, of retaining the place of the humanities in the Law School curriculum.

Dieter Axt - We have recently had the opportunity of interviewing Daniela Carpi, founder of AIDEL, *Associazione Italiana Diritto e Letteratura*, an association you participate. How has AIDEL contributed to the knowledge exchange between its participants and for the development of the Law and Literature area in Europe? How do AIDEL and other associations, such as EURNLL, *European Network for Law and Literature*, relate in order to reach their goals?

The importance of organisations such as AIDEL can be put simply; huge. Compared with so many other areas of legal scholarship, including the humanities-based and cross-disciplinary, 'law and literature' can seem a relatively marginal enterprise. In very simple terms, limited numbers of engaged scholars. Different now perhaps, compared with twenty-five years ago. But even so. In this context, it is ever more important to bring scholars together, to exchange ideas, to nurture a sense of dynamic engagement. And, of course, to reach across geographical, as well as disciplinary, boundaries.

Dieter Axt - *In 2020, the publication of Law and Literature: Perspectives and Possibilities celebrates its 25th anniversary. It was the very first British publication on this theoretical movement, in which you considered the important contributions Literature could bring to Law and its statutes, concrete cases, and juridical reviews. Well then, throughout these 25 years, have your expectations of the past become true? Are the perspectives and possibilities of 25 years ago the same nowadays? What has changed since then in studying Law and Literature, especially in a context some point as a moment of crisis in the Humanities?*

I think it was probably a first in the sense of a survey of ‘law and literature’. There had, of course, been plenty of related work, both in Britain and elsewhere. To a considerable extent I saw myself as developing ideas which were already advanced in North America. The work of James Boyd White and Richard Weisberg was especially inspiring. And Peter Goodrich, who was leading the way in the UK at the time. As to expectations, I am certainly not disappointed. A considerable amount of ‘law and literature’ scholarship has since appeared, as well as that which might be more broadly conceived as ‘law and humanities’. And various journals too; *Polemos*, *Law and Humanities*, *Law and Literature*. Are the ‘perspectives and possibilities’ the same? The ‘perspectives’ have probably broadened, for the reasons I have just given. I am not sure the ‘possibilities’ have; for the simple reason that they were never really narrowed.

Dieter Axt - *Is the Law a form of literary expression? To what extent can the Shakespearian plays A Midsummer Night’s Dream and The Tempest motivate a debate on Law as artistic expression? How can you compare the validity criteria used in the interpretation of the legal text and the literary text?*

I have absolutely no doubt that law is a literary expression. For the simple reason that it always comes to us in textual form, written, spoken or otherwise. We engage it on those terms, and on those terms only. The two

plays you identify are very good examples. But not only. The same might be said of so many other Shakespearian plays, and so many other literary texts. I find the second question here very hard. In part because I am not entirely sure what is meant by ‘validity criteria’. But if it means is ‘The Tempest’ as valid, as a text warranting the attention of a lawyers, as any Supreme Court case just decided and printed, I would say yes. Whether it is more valid is the far more difficult question.

Dieter Axt - Harold Bloom highlights the pioneering aspect of Shakespeare for Modernity. In Shakespeare and the Legal Imagination, you also identify pioneering traces of modern constitutionalism in the work of the English playwright, such as the concepts of sovereignty, Law and Morality, and market regulation. What do the works by Shakespeare show regarding the relation between the legal discourse and the political thought? Is the legitimacy of a legal writing subjected to the acceptance of an “audience”? What is the role of Literature in all this? And, considering the title of the publication, can one infer the influence of James Boyd White on your production?

Well I can start at the end here, and say a very firm affirmative. I have found the work of James Boyd White hugely inspiring. The idea of a ‘legal imagination’ is transformative, and am unaware of any serious humanities-based legal scholarship which is inclined to dispute this. Returning to the first part of the question, there is a risk, always, of assuming too much. It is possible to detect early traces of key concepts in modern constitutional thought in Shakespeare, as there is in a variety of jurists writing in the same moment; Hooker, Coke, Bacon. But they have, of course, evolved over time. Modern ideas of ‘parliamentary sovereignty’ or the ‘rule of law’ are very different today than they were four hundred years ago. Or indeed, just one hundred years ago. And yes, of course, the audience changes everything. Each literary text, like indeed each jurisprudential context, is shaped by the shifting perceptions of particular audiences.

Dieter Axt - *Hamlet, amidst his existential dilemma, utters the famous sentence to be or not to be, that is the question. In the 18th century, Immanuel Kant conceived the categorical imperative: “Act only according to that maxim whereby you can, at the same time, will that it should become a universal law”, which you identify as the longest lasting expression of the liberal ideology. Was this model present in Hamlet? Why is this relation of fundamental importance to understanding the contemporary Anglo-American theory of Law?*

A good question, which does identify a recurrent risk faced by any historian; that of presuming too much across centuries and contexts. It is intriguing to contemplate the extent to which Shakespeare might have been anticipating Kant, but also very risky! As I reflect on this, I just wonder if I might have over-reached myself! I am certainly wary of suggesting that there was a ‘model’. Maybe just a whiff, a Derridean ‘trace’?!

Dieter Axt - *Your research on the relation between the plays by Shakespeare and Philosophy also deals with Philosophy in Literature, that is, Literature as an open field for Philosophy to dwell, thus establishing between both areas a deep connection. Why do the works of Shakespeare allow us to see this connection? And what benefits can Philosophy in Law, more than the Philosophy of Law, bring to the teaching and the practice of the Law?*

I have to say I struggle a little with the latter question, because I am not sure I accept the premise. In the same way that I am never entirely sure about the distinction, often supposed, between law ‘in’, and law ‘as’, literature. That said, accepting the premise, I think that the place of philosophy ‘in’ Shakespeare is a consequence of his desire to explore, not just things, but people. Seeking not just to describe or depict, but to insinuate understandings, however fragile.

Dieter Axt - *The complexity of the Victorian Age is deeply analyzed in your production. Why is Charles Dickens a fundamental author in order to*

understand this period? How does Dickens portray the middle-class English family in Dombey and Son? Please, compare and contrast the importance of that novel in the context of Victorian Society to its importance nowadays.

Dickens matters for a variety of reasons. But most importantly for the more prosaic reason; that he was so widely read in his moment, and has continued to be so. This is not to refute those who rightly question the shaping of the ‘canon’. But it is to engage a simple reality. I found ‘Dombey and Son’ oddly fascinating, perhaps because it has fallen out of fashion a little. It is also one of Dickens’s least obviously ‘legal’ novels, and sometimes it is more intriguing to contemplate law where it has a glancing presence in a text. Which is the case in ‘Dombey’. The final question here is intriguing, because it asks us to appreciate changing perceptions, and receptions. Much of what occurs in ‘Dombey’ might seem historically determined. But it is not. Intimations of spousal violence is an obvious example. What is perhaps different is how a reader might have reacted, in 1847, when the novel first appeared. Not just a male reader in that moment, but perhaps more importantly a female.

Dieter Axt – *In Sex, Crime and Literature in Victorian England, you study the social role of women in Victorian times, focusing on the criminalization of behaviours such as adultery, bigamy, infanticide, and prostitution, topics that were very present in the period’s Literature. What is the place of the Brontë sisters in this scenario, considering their feminine characters with strong personalities and, in many senses, their pioneering work with topics that would be developed by the 20th century feminism? Moreover, what was the effect of the popularization of the novel for the women readers at that time? Besides that, you bring to light an instigating approach for Wuthering Heights, by Emily Brontë, to think the contemporary idea of terrorism. Could you describe that idea?*

In regard to the Bronte sisters, and their ‘place’ within evolving social understandings, I think my response picks up from the last. It is one of the most frustrating, though fascinating, consequences of literature and

history. We can only surmise the extent to which, at any moment, a text impacted upon a larger shift in contemporary opinion. It is commonplace to suggest that the novels of women writers, such as the Bronte sisters, helped to fashion a female ‘consciousness’, perhaps even a feminine. I would not wish to doubt this. But what evades us is any sure sense of how this might have impacted upon changing attitudes towards the law. Put prosaically, can we trace a line between depictions of unhappy marriages, such as that found in ‘The Tenant of Wildfell Hall’, with subsequent matrimonial law reform. The idea of ‘terrorism’ in ‘Wuthering Heights’ is designed to test our understanding of what might, or might not, be though terroristic. To challenge the assumption that a terrorist is someone who commits acts of terror in public spaces only; a common enough perception. Terror is a peculiarly inexact term, which makes it a peculiarly inexact concept.

Dieter Axt – *In A State of Mind?: The English Constitution and the Popular Imagination, you trace back the history of British Constitutionalism as far as the Tudors until modern times, identifying its constant reinvention and reaffirmation through a certain narrative that mixes itself to social imagination. Would you say such narrative constantly promotes a return to origins, a permanent revision of a long-lost past, similarly to a founding myth? What is the strength of this narrative in the times of Globalization, reaffirming a constitutionalism that, as is the case of England, is essentially unwritten, secular, and immemorial? Considering the reaction to the death of Princess Diana, what evidence does it promote regarding this constitutional, social imagination in Britain? To what extent does Literature influence its structure?*

The idea behind ‘A State of Mind’ was to broaden an understanding of a constitution, so that it amounted to more than a set of rules and principles, and laws. To understand how a constitution has evolved, as a consequence of more than merely legal dynamics. An interplay, if you like, of text and audience. Whether it returns to ‘origins’ I am not entirely sure. I prefer to see it, perhaps, as something more organic; constantly changing, but retaining something of its previous self. Traces again. The death of

Princess Diana has, of course, assumed a more historical dimension now. So it is felt less. But the idea that our politics is shaped as much by feeling as it is reason is, I am sure, no less pertinent. A very recent example would be the ‘Brexit-debate’. Which, until the arrival of Covid-19, had dominated political discourse in the UK for three years. Almost entirely visceral.

Dieter Axt - *You’ve recently organized the publication Literature and Human Rights: Interdisciplinary Reflections on the Law, the Language and the Limitations of Human Rights Discourse. In the introduction, you emphasize the statement by Professor Kieran Dolin: law is inevitably a matter of language. This idea places us in front of an eminently hermeneutic discussion. What conditions do you think are necessary so that the Globalization process is able to facilitate the pretention to reach the universalization of the ideal of human rights? Could we and should we reformulate the modern ideal of universal values? Is it possible to defend the discourse of human rights in post-modern culture? Can the improvement of literary imagination promote a more empathically-driven moral judgment toward the individual, making the human rights’ ideals more effective?*

A lot of questions here! I think I have touched on the matter of law being a matter of literature or text before, and I would say precisely the same of language. It is something written and read, or spoken and heard. It can be received differently, of course; envisioned for example. But it is, far and away, most commonly written and spoken. The realization of human rights is a frustration, perhaps because it is saddled with the idea of ‘universalization’. Lawyers still move towards this ideal. The contribution of literature is, perhaps, to defray this instinctive response, and to see both ‘human’ and ‘right’ as things which are far more differentiated. And yes, the literary imagination is surely all about empathy; seeking to nurture a relation between text and reader, and reader and reader. Whether that can all make human rights ‘ideals more effective’ is an enormous question, possessed I think of too many imponderables!

Dieter Axt - *Why is Literature a fundamental asset for the education of citizens who are democratically committed and prepared to understand the complexity and the challenges of a globalized world?*

I like to think it is important. Whether that makes it ‘fundamental’ I am not so sure. I think that would be a huge claim, which might not be sustainable. Plenty of citizens might be educated and be genuinely committed to democracy and the challenges of a global world, without having been much exposed to literature. A different question might be whether we can hope to nurture a progressive global environment unless literature is a reasonably common experience. I think that question would require a response in the affirmative.

Dieter Axt - *To finish, which literary works would you say are essential for the legal training and education? Additionally, what is your perspective regarding the evolution in the studies of Law and Literature in the following years?*

I think I am going to dodge this last question, in part at least. For similar reason to my previous evasion! I am always wary of the word ‘essential’. I don’t think that any literary works could be said to be essential, not even for students of literature. There is a ready temptation to suppose something in the canon, Shakespeare maybe, or Dickens. I would go so far as to say desirable, even recommended. But not any further. As to the second question here, I think the evolution in Law and Literature studies in recent years has been remarkable. With the benefit of hindsight, we may say it has followed a predictable path. But no less remarkable for that. The diversification into aligned branches of humanities scholarship, and indeed the social sciences, is very much to be welcomed.