

LAW AND LITERATURE IN DOSTOEVSKY AND MACHADO DE ASSIS¹

Direito e Literatura em Dostoevsky e Machado de Assis

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ÁREA: Direito e Literatura

ABSTRACT: The interdisciplinary study between law and literature provides a broad view of these two areas of knowledge not only distinctly considered but also in their multiple relationships. Dostoevsky (1821-1881) and Machado de Assis (1839-1908) were endowed with extraordinary talent for entering the depths of the human soul. Both were acutely aware of the injustice of the laws of their time. The Russian author was an assiduous reader of Criminal Law and knew well the intricacies of the Trial by jury to write his masterpiece, the novel *The Brothers Karamazov*, while Machado de Assis leaned over the Civil Code to write his most famous novel - *Dom Casmurro*.

KEYWORDS: interdisciplinary studies, *The Brothers Karamazov*. *Dom Casmurro*

RESUMO: O estudo interdisciplinar entre direito e literatura proporciona uma ampla visão dessas duas áreas do saber não somente distintamente consideradas mas também em suas múltiplas relações. Dostoiévski (1821-

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1881) e Machado de Assis (1839-1908) eram dotados de extraordinário talento na entrar nas profundezas da alma humana. Ambos eram possuíam agudo senso para conhecer a injustiça das leis do seu tempo. O autor russo era leitor assíduo do Direito Penal e conhecia bem os meandros do tribunal do júri para escrever seu romance mais lido, enquanto que Machado de Assis se debruçava sobre o Código Civil para escrever seu romance mais famoso - Dom Casmurro.

PALAVRAS-CHAVE: estudos interdisciplinares, *Os irmãos Karamázov*, *Dom Casmurro*

Although there is a wide range of approaches to literary investigations, some scholars still prefer to study literature as an entity in itself, as a self-contained art, ignoring the numerous possibilities of interdisciplinary studies, not only between literature and the other arts, but also between literature and other areas of human knowledge and experience. Within the broad spectrum of interdisciplinarity, the interrelations of law and literature still remain little explored, though it can provide a rich soil for fruitful comparative approaches.

Human beings are gregarious by nature, and only exceptionally do not live in contact with their neighbors in society in which they must obey the rules of good behavior, which restrict individual freedom in favor of an ideal of general welfare. Institutionalized by the State and coercively imposed, law has the main purpose to discipline the social harmony. In doing so, one consequence is that law does not always protect the righteous people. On the contrary, it is not rare the injustice of legal rules frequently born of illegitimate and arbitrary Public Power.

On the other hand, and fortunately, not all human conduct is regulated by legal rules. In many occasions the human beings act as legislators of themselves through their personal conduct and moral values. In this respect, moral is wider and more demanding than law itself because it can reach the most secret thoughts and the breaking of its precepts does not cause legal sanctions, but remorse, a more violent psychological self-reproach.

Dostoevsky (1821-1881) and Machado de Assis (1839-1908) were endowed with extraordinary talent to enter into the depths of the human soul. Both were deeply concerned to know the injustice of the law of their time. The Russian was a diligent reader of the Criminal laws and intricacies of the trial by jury, superbly depicted in *The Brothers Karamazov*, whereas the Brazilian leaned over the Civil Code to write most of his novels and short stories. One used the Criminal Code

and the other, the Civil Code to report the flaws of their respective national legal systems.

Dostoyevsky had a deep knowledge of the criminal proceedings of the tsarist regime of his time. Attended numerous judgments and criticized firmly the decisions of the courts. Acting as a journalist, he took full advantage of the researches he undertook to portray an impressive social panel of his time. By the 1870s, his popularity reaches its peak and he becomes a famous writer, widely acclaimed as the Russian Shakespeare. He held weekly column called “Diary of a Writer,” which received letters from all over Russia. Readers constantly asked his opinion on various issues, regarding him as a true spokesman of the nation.

His intense activity as journalist produced several texts that were later collected in a book form with the same title. In these writings, he demonstrates to be a writer deeply concerned with issues relating to education, especially to child care and the relationship between parents and children. In this sense, it is remarkable the aesthetic effect he produces in one of his reports on the Kroneberg case (in which a father is acquitted after brutally torturing a seven-year old daughter), which is in the diary, and transports it to the novel in the horrific reports that Ivan talks about the abuse of children by their parents (Book V, 4, p. 247-249).

The implementation of the trial by jury system in Russia took place on November 20, 1864, when Alexander II promulgated the judicial reform, inspired by Western models. In 1917, juries were abolished by the Bolsheviks, who, ironically, always proposed this type of procedure when they were arrested and brought to trial. Only with the entry into force of the new Constitution on December 12, 1993, the jury was reinstated and it appears in three articles: 1. Article 20³, which states that there is death penalty⁴ for only serious crimes against life, applied after a trial by jury; 2. Article 47⁵, which provides in the case of revision of criminal punishments; and 3. Article 123⁶, which guarantees the right to adversary and public trial.

Although one could argue that the legal issue is present throughout the novel, it becomes the central axis of the plot in about 300 pages (of over the

³ Article 20: Capital punishment until its complete elimination may be envisaged by a federal law as an exclusive penalty for especially grave crimes against life, and the accused shall be granted the right to have his case examined by jury trial;

⁴ Although the Penal Code still permits death penalty, Russia has not executed anyone since 1996.

⁵ Article 47: The accused of committing a crime shall have the right to the examination of his case by a court of jury in cases envisaged by the federal law;

⁶ Article 123: In cases fixed by the federal law justice shall be administered by a court of jury.

700 pages that make up the complete text). Thus, almost half of the narrative focuses on the investigation of the crime and its subsequent judgment (Book XII). The actual legal part of the novel begins in Book IX, entitled *The Preliminary Investigations*, when the young public official Pyotr Ilyich Perhotin goes to see the wealthy widow Madame Hohlakov one evening, and asks her, on his own, about the origin of the “two or three thousand rubles” he had seen with Dmitri, since he had given him ten rubles on loan two hours before. “His hands and face were all covered with blood, and he looked like a madman,” (p. 414) he added.

After obtaining a statement signed by the widow, in which she asserted that had never lent that amount to Dmitri, Pierhotin takes the matter to Mihail Makarovitch Makarov, a retired lieutenant colonel and court advisor. Upon arrival, the young bureaucrat finds him playing cards with the prosecutor Ippolit Kirillovich, who was really a deputy prosecutor, but regarded by all as if he were the prosecutor. Kirillovich soon became fascinated by the unexpected criminal case: “It was a case that might well be talked about all over Russia” (p. 418).

The interrogation begins with and the judge and prosecutor, using a speech full with legal jargon incomprehensible to Mitya, seeking to establish an alleged incriminating fact against Dmitri. Neither the judge nor the prosecutors, at any time, recall the right of the accused to have the assistance of a lawyer. The accused is left alone to present his defense. Only the right to remain silent is mentioned by the prosecutor:

Allow me to caution you, sir, and to remind you once more, if you are unaware of it.” The prosecutor began, with a peculiar and stern impressiveness, “that you have a perfect right not to answer the questions put to you, and we, on our side, have no right to extort an answer from you, if you decline to give it for one reason or another. That is entirely a matter for your personal decision. But it is our duty, on the other hand, in such cases as the present, to explain and set before you the degree of injury you will be doing yourself by refusing to give this or that piece of evidence. After which I will beg you to continue (p.432).

Under pressure, isolated and without legal assistance, the unfortunate Mitya is taken to admit a crime he did not commit. He tries to tell the truth, but both judge and prosecutor were eager to extort his confession. After the interrogation of the accused and the examination of the witnesses, the investigation is closed and the final report was written. Here, again, we see the accuracy of knowledge by Dostoevsky about the bureaucratic Justice and the forensic jargon.

When the protocol had been signed, Nicolay Parfenovich turned solemnly to the prisoner and read him the “Committal,” setting forth, that in such year, on such a day, in such place, the investigating lawyer of such-and-such a district court, having examined so-and-so (to wit, Mitya) accused of this and of that (all charges were carefully written out) and having considered that the accused, not pleading guilty to the charges against him, had brought forward nothing in his defense, while witnesses so-and-so and so-and-so, and the circumstances such-and-such testify against him, acting in accordance with such-and-such articles of the Statute Book, and so on, has ruled that, in order to preclude such-and-such (Mitya) from all means of evading pursuit and judgment, he be detained in such-and-such prison which he hereby notifies to the accused all communicates a copy of this same “Committal” to deputy prosecutor, and son, and so on.

In brief, Mitya was informed that he was, from that moment, a prisoner, and that he would be driven at once to the town, and there shut up in a very unpleasant place. Mitya listened attentively, and only shrugged his shoulders (p. 470).

The fragility of the preliminary investigation is blatant. Nobody was really convinced of Mitya’s guilt, nor the judge who regarded him “more unfortunate than guilty.” Kept in a pre-trial detention, he will face the next stage of the process and the worst: the trial by jury.

The lengthy Book XII carries the significant title of “A Judicial Error” and consists of 14 chapters (the longest in the novel), is devoted to scenes of court. Here Dostoevsky demonstrates profound knowledge and extraordinary experience of forensic rituals. The narrator is at the center of events and thoroughly describes what he sees and feels, from various angles, from the opening of the court session, through the trial itself, until the protests of desperate Mitya claiming to be innocent of his father’s death.

A fatal day is the title of the first chapter of this Book. Given the importance and grandeur of the events, the narrator appears to be very modest and hesitant about his ability to report the facts as they actually happened. The reader, however, realizes that he has full control of the situation and makes an impressive report about the trial:

I hasten to emphasize the fact that I am far from esteeming myself capable of reporting all that took place at the trial in full detail, or even in the actual order of events. I imagine that to mention everything with full explanation would fill a volume, even a very large one. And so I trust I may not be reproached for confining myself to what struck me. I may have selected as of most interest what was of secondary importance, and may have omitted

the most prominent and essential details. But I see I shall do better not to apologize. I will do my best and the reader will see for himself that I have done all I can (p. 610).

Before entering the courtroom, the narrator, being sure of his mission, stimulates the reader's curiosity by telling the repercussions achieved by the case and its resonance throughout the country. Many famous people came from other provinces and even from Moscow and Petersburg to compete for seats in the courtroom, which soon were busy long before the date set for the trial.

The male audience was generally hostile to Mitya, while the women longed for the acquittal of the accused because he had the reputation of conqueror of female hearts. Making this observation, the narrator found the division of the sexes in the audience, reflected by the discussions between husbands and wives.

The expectation of an exciting verbal battle between the prosecutor and defense counsel also created an atmosphere of hysteria, produced by a noisy crowd eager for sensational revelations. The trial begins at 10 am, with the arrival of the president, prosecutor and defense counsel. Each receives significant and ironic description by the narrator: "The president was a short, stout, thickset man of fifty, with a dyspeptic complexion, dark hair turning grey and cut short, and a red ribbon, of what order I don't remember. The prosecutor struck me and the others, too, as looking particularly pale, almost green (p. 613).

The jury, after a few refusals by the defense and prosecution, was composed of twelve people⁷: four petty officials, two merchants, six peasants and artisans. Dostoevsky was opposed to the system of trial by jury and this distrust is passed through conversations heard by the narrator even long before the trial, especially by ladies: "Can such a delicate, complex and psychological case be submitted for decision to petty officials and even peasants?" or "What can an official, still more a peasant, understand in such an affair"? (p. 613).

In the description of the three groups of jurors, one realizes that the narrator seeks to demonstrate that those laypersons had no technical expertise to evaluate the case put on trial:

⁷ The composition of the jury follows the western model and was implemented in Russia after the Judiciary Reform that took place about 15 years before the publication of the novel. They were twelve men, all parents, judging a case of parricide. This fact in itself can already give reasons for questioning the fairness and impartiality of the jurors.

• **Four petty officials**

All four officials in the jury were, in fact, men of no consequence and of low rank. Except one who was rather younger, they were grey-headed men, little known in society, who had vegetated on a pitiful salary, and who probably had elderly, unpresentable wives and crowds of children, perhaps even without shoes and stockings. At most, they spent their leisure over cards and, of course, had never read a single book (p.613).

• **Two merchants**

The two merchants looked respectable, but were strangely silent and stolid. One of them was close-shaven, and was dressed in European style; the other had a small, grey beard, and wore a red ribbon with some sort of a medal upon it on his neck (p.614).

• **Artisans and peasants**

There is no need to speak of the artisans and the peasants. Two of them wore European dress, and, perhaps for that reason, were dirtier and more uninviting-looking than others. So that one might well wonder, as I did as soon as I had looked at them, “what men like that could possibly make of such a case?” Yet their faces made a strangely imposing, almost menacing, impression; they were stern and frowning” (p.614).

The President opened the session and ordered to bring in the prisoner. There was a deep silence: “One could have heard a fly” (p. 614). Mitya entered dressed in a new frock coat, gloves, and exquisite linen, looking an “awful dandy”.

The counsel for defense, Fetyukovich coming from Petersburg, is ironically depicted⁸ as it follows

He was tall, spare man, with long thin legs, with extremely long, thin, pale fingers, clean-shaven face, demurely brushed, rather short hair, and thin lips that were at times curved into something between a sneer and a smile. He looked about forty. His face would have been pleasant, if it had not been for his eyes, which, in themselves small and inexpressive, were set remarkably close together, with only the thin, long nose as a dividing line between them. In fact, there was something strikingly birdlike about his face. He was in evening dress and white tie (p. 614).

⁸ In general, the figure of a lawyer does not enjoy good reputation in the novel: “The Russian people have long called a barrister ‘a conscience for hire’ (p.218), says Ivan Karamazov to report cases of tortures of children by parents. Lawyers could easily get their acquittal in court.

One can predict the resistance of the jury members, feeling inferior by the exaggerated elegance of the accused and the defense lawyer. Strictly following the legal formalities, the trial began by reading the accusatory criminal libel. “The whole tragedy was suddenly unfolded before us, concentrated, in bold relief, in a fatal and pitiless light”, reports the narrator. At the end of the reading, the president formulated the classic question:

“Prisoner, do you plead guilty?”

Mitya suddenly rose from his seat.

“I am not guilty of the death of that old man, my enemy and my father. No, no, I am not guilty of robbing him! I could not be. Dmitri Karamazov is a scoundrel, but not a thief” (p. 615).

The next step was the hearing of witnesses, which followed the appropriate rules of procedure. The prosecution witnesses were heard first and then followed the examination of the documentary proofs, starting by reading the medical reports prepared by three experts; all unfavorable to the accused. The analysis of the observations made by these three doctors provides more elements that reinforce Dostoyevsky’s disbelief in the trial by jury. Even the so-called scientific methods have not helped clarify the case.

The first expert was doctor Herzenstube, “a grey and bald old man of seventy, of middle height and sturdy build.” (p. 623). Obstinate as a mule, he “roundly declared that the abnormality of the prisoner’s mental faculties was self-evident” (p. 624). Being German, he confusedly expressed in Russian and that amused the audience. He noted that the accused,

“marched in like a soldier, looking straight before him, though it would have been more natural for him to look to the left where, among the public, the ladies were sitting, seeing that he was a great admirer of the fair sex and must be thinking much of what the ladies are saying of him now” (p. 624).

The second expert was a famous Moscow doctor, opponent to Herzenstube. For him, the accused was abnormal “in the highest degree,” obsessive and maniac. At the end of his rhetoric speech, he added ironically about the observation made earlier by Herzenstube. The accused should not look to the left, but, on the contrary, “to the right to find his legal adviser, on whose help all his hopes rest on whose defense all his future depends” (p.625).

The disagreement between the experts increases with the opinion of the young doctor Varvinski, the third expert. The prisoner, according to his “modest” opinion,” would naturally look straight before him on entering the court, as he had in fact done, as that was where the judges, on whom his fate depended, were sitting (p. 626).

Besides the laughable disparity of the expert reports, the young doctor and doctor Herzenstube also acted as prosecution witnesses, enrolled by the prosecutor. This dual role as experts and witnesses is contrary to the legal principles of Criminal Law. The occurrence of this fact would be sufficient to entail the nullity of the trial process of the helpless Mitya.

After the hearing of the prosecution witnesses, the next step was the hearing of the witnesses called by the defense. In the sequence it was heard: Alyosha, younger brother of Mitya; Katerina Ivanovna, former fiancée of the accused, who had lent him the money; Grushenka, who had had an affair with Mitya and the old Karamazov: “It was all my fault. I was laughing at them both – at the old man and at him, too - and I brought both of them to this. It was all on account of me it happened (p.634).

Ivan, another brother of Mitya, was called to testify. Like his brother Aliocha, he was not on oath. But he revealed the true identity of the killer: It was Smerdyakov, his bastard brother who had killed his father: “I was with him just before he hanged himself. It was he, not my brother, killed our father. He murdered him and I incited him to do it... Who doesn’t desire his father’s death?” (p. 637).

Soon after, another scene came to disrupt the trial. Katerina Ivanovna, in hysterics, breaks the session saying she had something to declare and shows the letter she had received from Mitya that explained how he would kill the father. Treacherously, his ex-girlfriend suggested that the crime was premeditated, affirmation that aggravated the situation of the accused. The reading of the letter, whose content was known to the reader, caused more excitement in the audience (Book XI, 7, p. 574).

This letter read aloud by the clerk made an overwhelming impression. It reveals a thirsty for revenge by a rejected woman. Dostoyevsky, who was ironically against the use of psychology in trials, used it to write about the bitterness in the heart of a woman who was replaced by another. The document, which revealed sole intention of the author to kill his father if he does not give him the 3000 rubles which he was entitled, became part of the material evidence of the crime and was decisive in convincing the jury.

Completed the hearing of witnesses and after Katerina's hysterical incident, brandishing the fatal letter, the president opened the floor for prosecution. The prosecutor said that from the beginning believed in the prisoner's guilt. He was accusing him not as an official duty, but 'for the security of society' (p. 644). His long speech, written in a forensic hollow rhetoric, full of figures of speech well known by Dostoevsky and already widely criticized by him in other texts he wrote on the subject of trials by jury, ends with a peroration "in fever" for jurors to condemn the accused. For him, the jury at that moment represented the whole Russia: "All Russia will hear you, as her champions and her judges, and she will be encouraged or disheartened by your verdict. Do not disappoint Russia and her expectations." (p. 670). The prosecutor's final rhetorical appeal produced great effect.

The defense lawyer also did not understand the case of Mitya. At heart, he was not convinced of the innocence of his client. In this sense, he disqualifies the crime of parricide, and justifies it as just an ordinary case of murder because the tyrannical old Karamazov was not a "true father." The most suitable defense argument should be the denial of authorship, a thesis never considered by the defender, who from the beginning was not interested in knowing who the killer was.

The defense impassioned appeal aroused great enthusiasm in the audience. Amid the general euphoria, rose the prosecutor to make the rejoinder which caused some murmurs of protests Kirillovich, feeling downcast by the commotion caused by the defendant's speech insists on the seriousness of the crime of parricide, which "is not a novel or a poem."

Concluded the speeches of the prosecution, defense and after the reply and the rejoinder, the president gave the word to the prisoner. Exhausted, both physically and mentally, Mitya, with a trembling voice, makes a beautiful humble and sensitive speech much more convincing than the pleadings by the prosecutor and defender. This scene is a striking example of the use of "plurality of voices", a notable feature of Dostoevsky's polyphonic novel, in the famous analysis of Bakhtin.

The jury retired for consultation and to formulate their conclusions. The president made a formal admonition to them: "Be impartial, don't be influenced by the eloquence of the defense, but yet weigh the arguments. Remember that there is a great responsibility laid upon you" (p. 697).

This last recommendation of the President shows a hint of his partiality. He advises the members of the jury not to get carried away by the eloquent words

of defense. This would mean that they could also get carried away by no less eloquent words of accusation? As it turns out, not even the president of the jury behaved with neutrality and impartiality.

It was almost one o'clock in the night, when the session was adjourned for deliberation of the jury. The expected verdict at the end was an inevitable acquittal of the accused. An hour later, the doorbell rang and the jury returned to the plenary. At this point, the narrator does not hide his difficulty in understanding what was happening:

I won't repeat the questions in order, and, indeed, I have forgotten them. I remember only the answer to the president's first and chief question: "Did the prisoner commit the murder for the sake of robbery and with premeditation?" (I don't remember the exact words.) There was a complete hush. The Foreman of the jury, the youngest of the clerks, pronounced, in a clear, loud voice, amidst the deathlike stillness of the court:

"Yes, guilty!"

The jury did not recognize any mitigating circumstance of the crime. The narrator remains impassive in the face of the incredible judicial error. He prefers to reproduce the statements he heard on the steps as he went out:

"He'll have twenty years' trip to the mines!"

"Not less."

"Well, our peasants have stood firm."

"And have done for our Mitya" (p.699).

The Russian Criminal Code then in effect provided that the punishment for the premeditated murder of a father was the death penalty. Dostoevsky attenuated it, opting for the 20-year sentence with hard labor in Siberia. In so doing, the writer reminds his own biography: his death sentence was transformed into exile. Mitya will be able to recover, as evidenced by the end of the novel. This same optimistic end about human nature bringing hope also occurred in *Crime and Punishment*. It remains a compensation for the unfortunate Mitya and Raskolnikov: the divine justice will absolve them in the Final Judgment.

Machado de Assis

The possible presence of Dostoevsky in the greatest Brazilian writer Machado de Assis (1839-1908) has been noted by critics and scholars. But so far there is

no in-depth study that takes into account this challenging matter. One can find references about him in Brazil after his death and the start of the Russian novel vogue in the 1880s in Paris with the first French translations.

The first studies on the relationship between the two writers were very unfavorable to Machado. The literary critic Sílvio Romero (1851-1914), who used to belittle the novelist, wrote: “Machado de Assis lacks a certain grand and epic tone that resonates in some pages of Dostoevsky’s *The House of the Dead*” (p. 1515).

Octavio Brandão (1896-1980) was still more aggressive and unjust in making the comparison. He concluded his bitter analysis with a preposterous statement: “Machado de Assis has something of Dostoyevsky, though he is much inferior to him” (p.83).

In the area of academic studies, Boris Schnaiderman, founder of Slavic studies at the University of São Paulo in the 1960s, wrote a short essay called “Alienista, um conto dostoiievskiano?”, in which hesitates to say whether Machado was influenced by Dostoyevsky: “Certainly, he knew the Russian novelist, whom he quotes in a chronicle concerning the ‘mysteries of the Slavic world’ and other minor references.” “But would he know enough to be marked? “, he questions. “It seems unlikely” (p. 270), he answers.

Schnaidermann, though unsure about a probable influence, hypothesizes that the Brazilian author could know the Russian writer through German translations, since the French translations only began after the publication of the short story “The Alienist” (1882) in which might contain marks of the readings of Dostoyevsky’s work. He also reminded that Inna Terterian, who wrote a preface for the translation of *Dom Casmurro*, made by T. Ivanova, and published in Moscow in 1961, said it would be important to investigate the influence of Dostoevsky on Machado de Assis.

In a chronicle of December, 16, 1894, published in *A Semana*, a weekly magazine, Machado de Assis wrote about what he had read: “A telegram from St Petersburg announced yesterday that the dancer Labushka committed suicide. It does not bring the cause, but says she was the mistress of the Emperor⁹, it is understood that she killed herself longing for him” p. 638.

The author sympathizes with the fateful gesture of the dancer and puts in doubt whether the news is true or he had read in some page of Dostoevsky, arguing: “Your suicide is a mystery. Great mystery that only the Slavic world is

⁹ The emperor was Alexander III who died on October 20, 1894.

able to give. Was it a telegram that I read? Was it some page of Dostoevsky”? (Obra completa, p. 638).

Dostoyevsky and Machado de Assis are two literary giants within their national literatures. There is no doubt that the Brazilian writer knew the work of the Russian author. Both were able to penetrate into the deep recesses of the human soul, and use the norms of positive law to bare the failures of the legal system of their countries.

Machado de Assis has always shown an abiding interest in the hypocritical attitudes of middle-class men and women, especially which concerned to the exploitation of one another. The Machadian characters, on the whole, shrewdly deceive or are cruelly deceived by their peers. They search for social ascension at any cost no matter if through illicit means. In this respect marriage and inheritance, frequently depicted as a hidden lucky strike, become necessary tricks to ascend in life.

There are numerous lawyers in Machado de Assis’s fiction. In this aspect he is aware of Brazilian social reality because Law graduates were predominant in the bourgeois society of his time. Politicians are next in quantity, and clergy comes afterwards. The predominance of lawyers and politicians indicates that the interrelation of literature and law bears an extraordinary relevance in his writings.

To prove that it is sufficient to remember that the most famous Machadian motto - “To the victor, the potatoes!”, constantly shouted by Rubião in *Quincas Borba’s* novel, enables a rich discussion about Law. Should the winner receive the prize no matter the means employed to obtain it? Is it socially acceptable to reward someone who uses coercion, fraud, and simulation to gain victory?

Dom Casmurro

The protagonist of this novel is a Bachelor of Laws, but he feels no enthusiasm for the profession. When he sees the diploma out of its case, while unpacking his trunk, he has the sensation of hearing an invisible fairy saying, “You will be happy, Bentinho; you are going to be happy.” This scene reminds him of the witches in Macbeth: “Thou shalt be king, Macbeth!”- “Thou shalt be happy, Bentinho!” By associating his fate with that of the Shakespearean character, Bentinho anticipates his own misfortune. He will not be happy. He will be deceived as it was Macbeth by the predictions.

He will be not a good lawyer either, but will make money because of familiar friendship: "I was an attorney for several wealthy houses, and the cases were coming in. Escobar had contributed greatly to my beginnings in the law courts. He had intervened with a celebrated lawyer to have me taken into his office, and had arranged some retainers for me, all of his own accord" (p. 195).

Having a lawyer as the omniscient narrator Machado de Assis is able to make full use of admirable interdisciplinarity of literature and law, noticeable in the abundance of legal terminology interwoven with the plot. Many chapters of the book have legal terms for titles, like "Law is beautiful", "The private audience", "Oath at the well", "The treaty", "Third party claim proceeding", "Legal papers".

Besides the protagonist, there is another lawyer in the novel, the widower Cosme, Bentinho's uncle: "Formed for the serene functions of capitalism, uncle Cosme did not get rich in law courts: he made a living" (Ch.6, p.13). He was in criminal law. Having no children, and considered a failure with bitter spirit and pessimistic view of the world. His portrait is depicted as it follows:

He no longer went in for love affairs. They say that, as a young man, he was a devil with the women, besides being a hotheaded partyman. But the years had taken from him most of his ardor, both political and sexual, and his fat put an end to the rest of his ideas, public and specific. Now he merely performed the duties of his job, and without love. In his hours of leisure he looked on, or played backgammon. Now and again he made a witty remark (p. 14).

The recurrent theme of inheritance appears in the novel with an subtle but very ironical aspect. Escobar, the narrator's best friend since the years of seminary, whom Bentinho suspects to be his son's father, named him substitute executor in the will: "He did not leave me anything, but the words that he wrote me in a separate letter were sublime in their expression of friendship and esteem" (Ch. 128, p. 235).

There had been heated debates whether Capitu, the narrator's wife, committed adultery. The novel is more than a century old and even today we can read articles, especially on daily newspapers defending opposite theses. The ones who accuse Capitu believe in the narrator's final report: "one thing remains and it is the sum of sums, the rest of the residuum, to wit, that my first love and my greatest friend, both so loving me, both so loved, were destined to join together and deceive me..." (Ch. 148, p. 263)

The ones who defend Capitu say the narrator is self-centered and mystifies. So, he is totally unreliable. Everything he says comes from his fertile and witty imagination. Modern Feminism criticism shares the same idea, and says that Bentinho embodies the model of macho behavior, and Capitu is not guilty of anything.

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