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### BETWEEN LAW AND ACADEMIC NOVEL: *OBITER DICTA* BY F. ANNUNZIATA

Milan, March 2020. At the dawn of the COVID-19 pandemic, Giacomo Bergamini, PhD student in comparative law, struggles with his research project. His supervisor, Achille Briola, guides him in developing a thesis proposal based on the work of Gino Gorla (1906–1992). By analysing Gorla's archives at the UNIDROIT in Rome, Giacomo discovers some handwritten notes with the potential to profoundly change our understanding of the Western European legal tradition. Based on this discovery, Giacomo and Achille engage in a virtual dialogue, but they will have to face the consequences of radical choices and unforeseen events.<sup>1</sup>

A novel is not the kind of literary product that one expects to find among the reviews of an academic journal. And yet from this brief synopsis it is immediately clear how *Obiter dicta* is not just a novel. It is a product that must be read from the perspective of that branch of studies known as 'Law and Literature': born in the United States in the twentieth century under the impulse of the great American jurists,<sup>2</sup> this movement has found a late and yet great success among the European scholarship of these last thirty years,<sup>3</sup> within the broader field of studies of Law and Humanities.<sup>4</sup> In particular,

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<sup>1</sup> F Annunziata, *Obiter dicta. Romanzo* (La Vita Felice 2022).

<sup>2</sup> For a historical account of this movement, K Stierstorfer, 'The Revival of Legal Humanism' in K Dolin (ed), *Law and Literature* (CUP 2018); C Baron, 'Droit et littérature, droit comme littérature?' [2021] *Tangence* 107, 125-126.

<sup>3</sup> The scholarly production in this sense is extremely vast. Here we will refer just to a limited number of recent works: JS Lanter and C Baron (eds), *Droit et littérature* (Société française de littérature générale et comparée 2019); M Cau and G Marchetto (eds), *Droit et littérature* (2005) 5 *Laboratoire Italien* <<https://journals.openedition.org/laboratoireitalien/179>> accessed 16 June 2023.

<sup>4</sup> See recently S Stern, M Del Mar and B Meyler (eds), *The Oxford Handbook of Law and Humanities* (OUP 2020); C Battisti, S Fiorato and D Carpi (eds), *Law and the Humanities: Cultural Perspectives* (de Gruyter 2019).

*Obiter dicta* can be placed into the branch of ‘Law and Literature’ known as ‘Law in Literature’, which studies the numerous works that use law as a literary subject. And yet, this novel is not merely yet another product of this kind, but it shows its own peculiarities which make it worth to delve into it more deeply.

Firstly, Filippo Annunziata’s book can be rather considered a product of Law and Humanities in a wider sense. The author, indeed, seems to seek to establish a dialogue between law and art in a broader perspective, going beyond literature alone and involving several other means of human creativity, such as music and cinema, through the character of Achille Briola. In Achille’s cultural tastes it is easy to denote a certain ideal of the humanistic education of the jurist, seen as an intellectual *tout court*. Certainly, this carries the echoes of the Author’s own interests and experiences, as Annunziata is both a jurist and a musicologist.

The second element which is worth to mention is the absolute centrality of law in *Obiter dicta*. In light of the synopsis of the book, this might seem a trivial consideration; however, upon closer examination, this feature is much less obvious than one could assume. In fact, fictional literary works that we commonly include in the ‘Law in Literature’ canon only rarely show a genuine interest in law as such. Usually, in these products law is rather used as a metaphor or narrative device, instead of being an object of interest in itself.<sup>5</sup> In contrast *Obiter dicta* shows a striking, intense, and meticulous immersion in law: legal doctrine, historical critique, and technique are of great interest to the Author. Perhaps this could be better understood by using – albeit in a somewhat improper way – Hart’s famous theoretical distinction between the internal and external perspectives on law:<sup>6</sup> in this sense, *Obiter dicta* is a product of an eminently internal perspective, as it is evident in its sensitivity, interests, and in the role that legal doctrine plays in the novel. This, however, emerges not only from how the book speaks, but also to whom it intimately speaks: that is to say, to jurists above all.

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<sup>5</sup> See RA Posner, *Law and Literature* (3rd edn, HUP 2009) 21.

<sup>6</sup> HLA Hart, *The Concept of Law* (Clarendon Press 1961) distinguishes between two different perspectives with which one looks at a legal system. The underlying idea is quite intuitive: the internal perspective is that of legal professionals, such as jurists, lawyers, and judges; the external perspective is that of laypeople, such as sociologists or writers observing and describing the law.

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However, if we consider *Obiter dicta* a legal novel, saying ‘legal’ means everything and nothing: what kind of law is the law in this book? The answer to this question shows another peculiarity on the novel. In most literary works, law tends to enter with its casuistic and procedural dimension: the trial, which is naturally the closest to the common representation of law and also the most dramatic.<sup>7</sup> This is not the case in *Obiter dicta*, where the crux lies instead in legal doctrine. This doctrinal emphasis creates a link with the other dimension of the book: since doctrine, understood in the continental European sense of the learned opinions of jurists, pertains necessarily to the representation of the academic world, the Author combines the literary treatment of legal themes with a certain type of genre literature: the academic novel.

Academic novels are a literary product originated in the Anglosphere that has spread greatly in recent decades, including Italy.<sup>8</sup> Usually, a distinction is made between two types of novels in this genre: the so-called ‘campus novel,’ which portrays university life from the students’ perspective, and the academic novel strictly speaking, usually focused on the scholar’s point of view. In both cases, often these books aim at unveiling the academic world and its rules, either criticising or idealising it.<sup>9</sup>

By naturally placing itself in this category, *Obiter dicta* encompasses numerous themes and functions of the academic novel. In terms of pure literary criticism, the dichotomy of the two protagonists, the doctoral student Giacomo and the Professor Achille, makes it both a campus novel and an academic novel in a proper sense. This dichotomy of perspectives also becomes a generational dichotomy: they represent the two opposite poles of the academic career, the apprentice and the *Homo Academicus*.<sup>10</sup> Therefore, it is a dichotomy of aims and perspectives. On one hand, *Obiter dicta*

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<sup>7</sup> Posner (n 5) 33.

<sup>8</sup> See L Magro, ‘Il romanzo accademico. Appunti per uno studio sul campus novel italiano (L’accademia e il fuori: Il problema dell’intellettuale specializzato in Italia, Pisa, Auditorium Le Benedettine, 23-24 giugno 2022)’ <[https://www.academia.edu/81964009/Il\\_romanzo\\_accademico\\_Appunti\\_per\\_uno\\_studio\\_sul\\_campus\\_novel\\_italiano](https://www.academia.edu/81964009/Il_romanzo_accademico_Appunti_per_uno_studio_sul_campus_novel_italiano)> accessed 16 June 2023; L Magro, ‘Narrare l’accademia: Una conversazione sul *campus novel* con Dario Ferrari, autore di La ricreazione è finita’ *Il Tascabile* (Rome, 29 May 2023) <<https://www.iltascabile.com/societa/campus-novel/>> accessed 16 June 2023.

<sup>9</sup> Magro, ‘Il romanzo accademico’ (n 8).

<sup>10</sup> Borrowing the famous terminology of P Bourdieu, *Homo Academicus* (Editions de Minuit 1984).

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describes the allure of the academic life through Achille, who represents the ideal scholar, the *Homo Academicus* that everyone wants to be: success, culture, the Professor's house museum, the intellectual satisfactions; this aligns with a certain taste of academic novel as a genre that at times makes an escapist form of literature. On the other hand – and again this is perfectly consistent with the academic novel genre – *Obiter dicta* describes and condemns the dysfunctional aspects of that world that we know well: pretentiousness, pettiness, toxic relationships, selfishness, questionable morality.

This does not mean, however, that Achille and Giacomo embody two opposite, one-dimensional stereotypes, as they carry ambiguities, contrasts, and contradictions: Achille, professionally accomplished, still experiences a growing unease, while Giacomo despite enduring the most toxic flaws of academia, is fatally attracted to and stimulated by it, succumbing to vices and becoming a sort of anti-hero.

In the background, the recent events of the pandemic are not just a narrative device and do not have a purely journalistic dimension: the insularity of life during the pandemic reflects the insularity of the academic world. And even this insularity is ambivalent: it fascinates (Giacomo no longer wants to leave the seclusion of his house), but it also creates alienation. Insularity becomes both an idyllic environment of escapism and a cause of discomfort and dissatisfaction.

The dramatic events that occur at the end of the novel also raise important themes in the book. Through Giacomo's perspective, *Obiter dicta* is first and above all a coming-of-age novel, embodied through his doctoral research. The narrator himself states it well at a certain point: '*la tesi è un rito di passaggio verso la vita adulta, con la quale bisogna confrontarsi*'. Thus, Annunziata's book becomes a *Bildungsroman*,<sup>11</sup> a story of growth where the initial dichotomy between the apprentice and the master is solved with the Giacomo's initiation to the mysteries of academia, thus becoming he himself a *Homo Academicus*. Like all the rites of passage, this initiation requires a sacrifice: the boy becomes a man learning the difference between expectations and reality, as well as the necessity to compromise.

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<sup>11</sup> And, incidentally, the *Bildungsroman* is another genre that often intertwines with the literary canon of both the campus novel and the canon of 'Law in Literature': Magro, 'Il romanzo accademico' (n 8); Posner (n 5) 36, 156.

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In conclusion, *Obiter dicta* is a pleasant novel that lends itself to multiple levels of interpretation, especially but not exclusively for jurists and academics. By demonstrating the complexity of the symbiotic relationship between literary fiction and legal academia, it can certainly contribute to shape both our understanding of ‘Law in Literature’ studies and the Italian canon of academic novel.