

Volume 19

[2013] C.E.L.B.

Issue 2

THE
CARDOZO ELECTRONIC
LAW BULLETIN

FALL 2013

RIGHT TO HEALTH OF NEWCOMERS TO CANADA.
REFLECTIONS IN THE LIGHT OF A COMPARISON WITH ITALY

Viviana Molaschi

IL CONSENSO-DISPOSITIVO.
STRATEGIE DI GIURIDIFICAZIONE
NELLA COMPARAZIONE TRA SISTEMI

Cristina Costantini

IL FAUST INCOMPIUTO DI LUDOVICO ACTIS PERINETTI
LAW, POLITICS, PHILOSOPHY
AND THE INTELLECTUAL CLASH OF THE '50'S

Francesco Forte

IN THE SHADOW OF AN ABSENT LAW.
HUMAN RIGHTS AND THE MEANING
FROM CONRAD TO COPPOLA, VIA ELIOT AND BROOKS

Pier Giuseppe Monateri

THE CARDOZO INSTITUTE
ISSN 1128-322X

The Cardozo Law Bulletin is a peer-reviewed, English and Italian language journal concerned to provide an international forum for academic research exploring the thresholds of legal theory, judicial practice and public policy, where the use of a 'comparative law and literature' approach becomes crucial to the understanding of Law as a complex order.

The Cardozo Law Bulletin, established in 1995 as one of the world first Law Journals on the Web, invites the submission of essays, topical article, comments, critical reviews, which will be evaluated by an independent committee of referees on the basis of their quality of scholarship, originality, and contribution to reshaping legal views and perspectives.

SUBMISSIONS: The Cardozo Law Bulletin only accepts submissions made in accordance with the MLA (Modern Language Association) style, the most commonly used to write papers and cite sources within the liberal arts and humanities.

<http://www.jus.unitn.it/cardozo/>

CHIEF EDITOR: Pier Giuseppe Monateri

MANAGING EDITOR: Cristina Costantini

REFEREES: Ermanno Calzolaio, Daniela Carpi, Maria Rosaria Marella, Giovanni Marini, Roberto Pardolesi, Giovanni Pascuzzi, Federico Pizzetti, Giovanni Maria Riccio, Giovanni Sciancalepore, Salvatore Sica, Andrea Zoppini.

© 1995-2013 The Cardozo Institute

2013 Edition: Vol. 19 (2013) – 2, The Fall Issue

ISSN 1128-322X

THE CARDOZO ELECTRONIC LAW BULLETIN

VOLUME XIX

FALL 2013

NUMBER 2

CONTENTS

ARTICLES

RIGHT TO HEALTH OF NEWCOMERS TO CANADA.
REFLECTIONS IN THE LIGHT OF A COMPARISON WITH ITALY

Viviana Molaschi

IL CONSENSO-DISPOSITIVO.
STRATEGIE DI GIURIDIFICAZIONE
NELLA COMPARAZIONE TRA SISTEMI

Cristina Costantini

IL FAUST INCOMPIUTO DI LUDOVICO ACTIS PERINETTI.
LAW, POLITICS, PHILOSOPHY
AND THE INTELLECTUAL CLASH OF THE '50'S

Francesco Forte

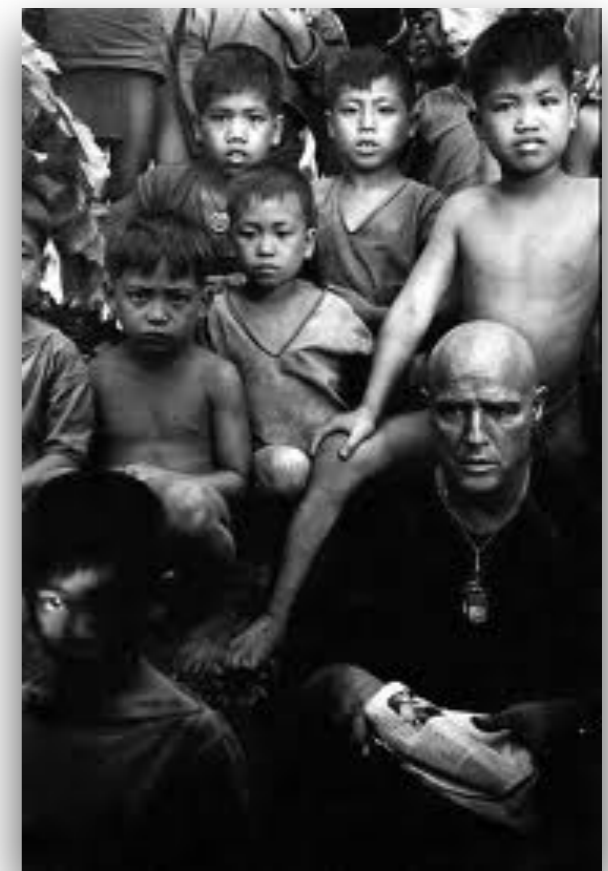
IN THE SHADOW OF AN ABSENT LAW.
HUMAN RIGHTS AND MEANING
FROM CONRAD TO COPPOLA, VIA ELIOT AND BROOKS

Pier Giuseppe Monateri



...In the Shadow of an Absent Law.

Human Rights and Meaning from Conrad to
Coppola, via Eliot and Brooks.



The agony of indistinction, the erasure of boundaries, the becoming virtual of borders and identities spells the universalization of comparison and the advent of non-law.

Peter Goodrich, *Interstitium and Non-Law* (2012)

Scheme

- The Matter of Law in Apocalypse Now
- How the Story Produces Its Meanings
- What Can We Derive by This Analysis

A Matter of Law

- Kurtz Became Insane
- His Command Must be Terminated
- He Must Be Killed
- Why ?

A Matter of Human Rights

- KURTZ's Account

" I've seen horrors...horrors that you've seen. But you have no right to call me a murderer. You have a right to kill me. You have a right to do that...But you have no right to judge me. It's impossible for words to describe what is necessary to those who do not know what horror means. Horror. Horror has a face...

I remember when I was with Special Forces...Seems a thousand centuries ago...We went into a camp to inoculate the children. We left the camp after we had inoculated the children for Polio

We went back there and they had come and hacked off every inoculated arm. There they were in a pile...A pile of little arms. And I remember...I...I...I cried...

And I want to remember it. I never want to forget it. I never want to forget. And then I realized...like I was shot...Like I was shot with a diamond...a diamond bullet right through my forehead...And I thought: My God...the genius of that.

HR Violation



- The 1st element of the Story, not of Plot
- The One starting the chain of events
- Is Violation of Childrens' Rights
- Kurtz's Violent Reaction is Humanitarian

From Atrocity to Atrocity

- The genius. The will to do that. Perfect,

genuine, complete, crystalline, pure. And then I realized they were stronger than we.

they had the strength...the strength...to do that.

If I had ten divisions of those men our troubles here would be over very quickly. You have to have men who are moral...and at the same time who are able to utilize their primordial instincts to kill without feeling...without passion...

without judgement...without judgement. Because it's judgement that defeats us. "

Law & War



- Law its limit, its essence and
- Its possible presence in War
- War is the perfect state of exception

Conrad's Horrors have a face

- The Beginning of Kurtz's Self Destruction
Lies in HR violations

US Army Reaction



- COLONEL KURTZ (on tape)

" I watched a snail crawl along the edge of a straight razor. That's my dream. That's my nightmare. Crawling, slithering, along the edge of a straight razor, and surviving. "

ON TAPE

"11th transmission, December 30th, 0500 hours, sector KZK."

KURTZ (on tape)

" We must kill them. We must incinerate them. Pig after pig, cow after cow, village after village, army after army. And they call me an assassin. What do you call it when the assassins accuse the assassin ? They lie.. they lie and we have to be merciful for those who lie. Those nabobs. I hate them. How I hate them..."

Murder



- Now he's crossed to Cambodia with his Montagnard army, who worship the man, like a god, and follow every order however ridiculous."

CORMAN

"Well, I have some other shocking news to tell you. Colonel Kurtz was about to be arrested for murder."

WILLARD

"I don't follow sir. Murdered who ?"

LUCAS

"Kurtz had ordered executions of some Vietnamese intelligence agents. Men he believed were double agents. So he took matters into his own hands."

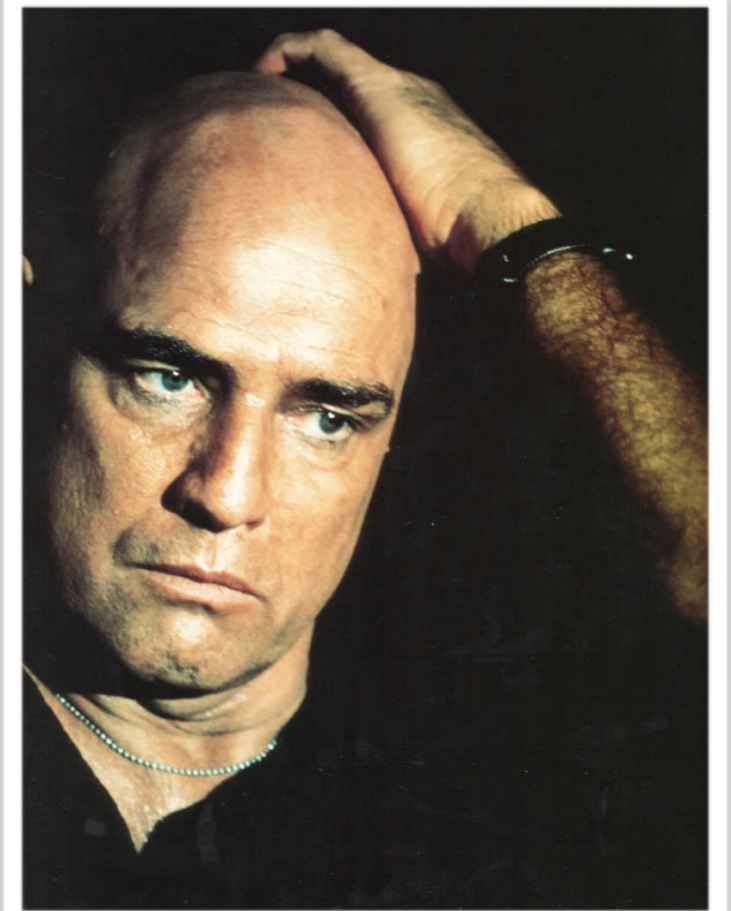
Insanity

- CORMAN

"Well, you see Willard... In this war, things get confused out there, power, ideals, the old morality, and practical military necessity. Out there with these natives it must be a temptation to be god. Because there's a conflict in every human heart between the rational and the irrational, between good and evil. The good does not always triumph. Sometimes the dark side overcomes what Lincoln called the better angels of our nature. Every man has got a breaking point. You and I have. Walter Kurtz has reached his. And very obviously, he has gone insane."

WILLARD

"Yes sir, very much so sir. Obviously insane."



The Mission



- LUCAS

"Your mission is to proceed up to Nung river in a Navy patrol boat. Pick up colonel Kurtz' path at Nu Mung Ba, follow it, learn what you can along the way. When you find colonel infiltrate his team by whatever means available and terminate the colonel's command."

WILLARD

"Terminate ? The colonel ?"

CORMAN

"He's out there operating without any decent restraint. Totally beyond the pale of any acceptable human conduct. And he is still in the field commanding his troops."

CIVILIAN

"Terminate with extreme prejudice."

LUCAS

"You understand captain... , that this operation does not exist, nor will it ever exist."

Law / No-Law

- Vietnamese violations -> Kurtz Illegality
- Army : Accusation of Murder
- But to Kill Him in a non existing operation
- Everyone is reacting illegally to the illegality of the other
- Law discarded by all participants, even if
Law in War is the Issue

How Meaning is Produced



- Peter Brooks, Reading for Plot :
- 1st narrator [Marlow[Kurtz]end Marlow's]end
- Coppola [Conrad [Eliot]Conrad]Coppola

- Plot : a series of event where ending gives meaning to the whole (to the beginning)
- Peculiarly similar to Eliot's Effect,
- A plotting on a Plot centered upon deferment in the same time as it makes explicit the nature of meaning as deferment

How the Meaning is produced



Waste Land

- NOTES

Not only the title, but the plan and a good deal of the incidental symbolism of the poem were suggested by Miss Jessie L. Weston's book on the Grail legend: *From Ritual to Romance* (Macmillan)

To another work of anthropology I am indebted in general, one which has influenced our generation profoundly; I mean *The Golden Bough*; I have used especially the two volumes *Attis Adonis Osiris*.

The Footnotes to the Waste Land realize the meaning of the Poem through its deferment

Coppola is deferring meaning through an indirect quotation to a Poem where meaning is deferred

This Screen Shot is besides the visual realisation of Eliot's Footnotes : device of correlative objective as theorized by the same Eliot

Analisi letteraria

- tema : legge, guerra , stato di eccezione, diritti umani
- uccisione / giudizio
- nuda vita / vita vestita : braccia
- inversion - torsione concetti giuridici
- MA : come il testo produce i suoi significati

production of meaning

- Foscolo : metonimia come esperienza ontologica, non come figura retorica
- Casablanca : codici di censura di Hollywood : produce entrambi i significati
- Coppola -> Conrad, ma via Eliot
- cioè attraverso il centro del Canone
- differendolo

Eliot is Flagging Kurtz' Presence



- Prufrock (the Heblem of deferring)
- The Hollow Men (explicit)
- By Allusion :The Waste Land (books implicit sub-text) through foot-notes (implicit sub-text)



i 3 riff.



- If Prufrock is the Hemblem of Deferment
- Hollow Men Explicit in Epigraph : *Mistah Kurtz - he dead.*
- But Why the Waste Land, and why by allusion

Le tre opere di Eliot come centro del
Canone modernista
and the extreme intellectual operation
of plunging pop culture
into
The Literary Canon
to produce its meaning
about the Law

Concetti Chiave

- Differimento / intertestualità (Law)
- Collasso Critica / testo letterario
- lotta per il canone (Montale - Gozzano)
- Miglior modo di approcciare Eliot via i suoi testi critici : Amleto

Waste Land

- Coppola ?

THE WASTE LAND.

By

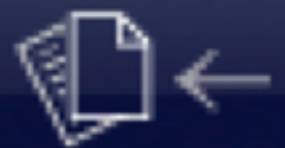
T.S.Eliot.

"Did he live his life again in every detail of desire, temptation, and surrender during that supreme moment of complete knowledge? He cried in a whisper at some image, at some vision, - he cried out twice, a cry that was no more than a breath -

'The horror! the Horror!'"

CONRAD.

Ezra Pound persuaded Eliot to drop the epigraph, taken from *The Heart of Darkness* – "I doubt if Conrad is weighty enough to stand the citation." – to which Eliot replied 'It is much the most appropriate I can find', but he acquiesced. ◀



Meaning

- What Kurtz is, and then what the meaning of the work is depends on Eliot's Reading of Conrad, not on Conrad himself
- And in a way it is the same meaning of the Waste Land, because the best elucidation of it for Eliot was his citation of the Horrors of Kurtz
- And we saw that in Coppola's Kurtz these Horrors were the arms of the children inoculated for Polio

The New Epigraph



- Eliot : impossibility to use Kurtz, then...
- *Nam sybillam quidem Cumis ego ipse oculis meis vidi in ampulla pendere, et cum illi pueri dicerent, Sibylla tì theleis, repondebat illa Apothanéin thélo.*
- **WHY these lines can be the equivalent to Kurtz ‘Horror Horror’**



- Passage from Satyricon has nothing to do with the matter of the Poem
- Trimalchione showing off, Boasting what he has (Lands in Sicily, extra quality wines, etc.)
- And Even to have met himself the Sibyl
- Of being of noble origin since those youths (illi pueri) were initiated to occult rites connected with the Sibyllian Books

The Meaning of the Sibyl



- Well..
- In the VI Book of Virgil's Aeneid it is the Cuman Sibyl who gives the hero the
- 'Golden Bough' as a magic stick
- to descend to the Hell

- Fraser : Sibyl : Golden Bough : Katabasis - Horror
- Weston : Grail, Cup : Anabasis - Resurrection
- 2 Books cited by Eliot and Coppola for Kurtz

- Epigraph [Poem] Notes
- Notes -> Epigraph -> Text
- The Meaning is not given by the end of the poem (Shantih Shantih Shantih) BUT by the embedment of the text
- And further deferred toward other texts
- Revealed through deferring

- Implications
- The sense of the Horror here is not given by the absence of meaning of life (birth copulation and death ...)
- It is not an Horror Vacui, But a Horror Repleni
- The Horror of Katabasis as the *voluntary* descent to the Hell

- Thus, maybe ...
- April is the cruelest of month because it brings Passion and Easter, Katabasis and Anabasis which are the substance of the poem
- Reference to Prufrock : clivage given by ...
- “I am Lazarus come from the dead, come back to tell you all / And I shall tell you all”

Concluding

- Production of Meaning by deferment
- produces a hard real meaning
- a theological meaning
- not a mere dispersion

Further

- Marlow / Marlowe
- Evil Angel at the moment of the death of Dr. Faustus “Now, Faustus, let thine eyes with Horror stare [Hell is discovered]
- 3d Scholar reporting his death :”I heard him shriek and call aloud for help / At which self time the house seem’d all on fire
- with dreadful horror of these damned fiends

In Law

- Kurtz descent to Hell // descent to the lawless state of exception
- State where 'things get confused' man/God
- When it becomes possible to establish a new Law

Human Rights

- If even in war there are Human Rights
- then a real state of exception is avoided
- Human central because otherwise Humans become mere 'bare life'
- children's arms piled, hacked off and piled
- The horror of seeing humans for what they simply are : living bodies

Law/Humans

- It is the Law to dress up the bare life
- transforming bodies into humans
- Humans are not natural but legal
- But Law is always built up around its void center as state of exception
- Very Similar to Dante's Earth : a Husk, a Packaging around the void cone of Hell

