Daniel Berrigan's *The Trial of the Catonsville Nine* as Mini-jurisprudence

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Abstract

Although the inherent similarity between trial and drama is highly acknowledged among different scholarly fields, in particular among legal and literary scholars, a dramatic work can better speak some critical events and their corresponding legal cases. This is further observed in documentary drama whose fact-based trial form has the capacity not only to comment on or criticize legal history but also the power to reconfigure it. In this paper, one will expose how Berrigan's play serves as a mini - jurisprudence, challenging and exceeding the logic of the court of law and this by triumphing one major tenet in legal theory which is natural law theory's principles or ethics.

Keywords: Documentary Drama, Jurisprudence, Justice, Natural Law.

الملخص

على الرغم من أن التشابه المتأصل بين التجربة والدراما متعارف عليه في الاوساط و المجالات العلمية ، لا سيما بين العلماء القانونيين والأدبيين ، فإن العمل الدرامي يمكن أن يتحدث بشكل أفضل عن بعض الأحداث الحرجة والقضايا القانونية المقترنة بها .وهذا ملاحظ بالخصوص في الدراما الوثائقية التي بفضل استنادها على الحقائق لها القدرة ليس فقط التعليق على أو انتقاد التاريخ القانوني ولكن أيضًا القدرة على إعادة صياغته .في هذه الورقة ، سيتم التطرق الى كيف ان العمل المسرحي ل بريجان يمثل فقه قانوني مصغر يتحدى ويتجاوز منطق محكمة القانون وهذا من خلال انتصاره لأحد المبادئ الرئيسية في النظرية القانونية وهي مبادئ نظرية القانون الطبيعي.

الكلمات المفتاحية: الدراما الوثائقية ، الفقه ، العدل ، القانون الطبيعي.

Introduction

Daniel Berrigan's *The Trial of the Catonsville Nine* is about the trial of nine anti-Vietnam War activists. In this documentary drama, Berrigan (a priest, a poet and a playwright) reconstructs from the trial transcripts his own experience along with other Catholic activists who became later known as the Catonsville Nine. On May17, 1968, those nine persons decided to stand against the Vietnam War by breaking the law in Baltimore, Maryland. They seized government files and burned them with homemade napalm as a metaphor for the real violence caused by the war in Vietnam. As a consequence, a trial followed, ending with their conviction of destroying government property.

In this paper, one will discuss how the playwright exposes the nine defendants' challenge to the law and the nobility of their dissident act through invoking a crucial and an ignored jurisprudential tradition in courts of law: the inherent connection between morality and law as advocated in natural law theory. As such, one would contend that the play serves as a mini jurisprudence, challenging and exceeding the logic of the court of law by triumphing natural law theory's principle over the law's formalities. To do this, a number of points will be dealt with. First, one needs to discuss the relation between drama and trial in order to ponder their relevance for dramatists as well as for audiences. Second, introducing the documentary genre seems useful to state its powerful factual and aesthetic narratives. And finally, the playwright's position as natural law's advocator is highlighted.

Law and Drama

Generally speaking, the role literature may have in representing the law's transgression or, to borrow Richard Posner's words, "the literary indictments of legal injustice" (2009: 33) is highly recognized. To cite only few, Kafka's *The Trial*, Herman Melville's *Billy Bud*, and Fyodor Dostoyevsky's *The Brothers Karamazov* represent major examples of the representation of law (a trial) in literature. According to many scholars, the inherent similarity between trial and drama gives playwrights a considerable stimulus to their artistic representation and envisioned messages. Richard Posner (2009: 33) writes that:

> As a system for managing conflict, law provides a rich stock of metaphors for writers to draw on. It also provides ready-made dramatic techniques.... Whether historically the trial is modeled on the theatre and offers the litigants and society (the audience) the types of catharsis the theatre does, or vice versa, or whether both the trial and the drama have a common origin in religious rituals… few social practices are so readily transferable to a literary setting as the trial or so well suited to the literary depiction of conflict.

Law can provide both a raw substance and an element of theatricality to different literary productions. Law has its own dramatic effects that excite writers to build on some real conflicts. More importantly, when a work turns to be staged on theater, or even in its pure textual dramatic form, the similarities can be further grasped.

In this vein, Erin Carlston (2013: 215) points to the inherent cohesiveness between trial and drama. She writes that legal trials and plays are so closely related generically that the phrase courtroom drama might almost be said to be a redundancy. This is understandable, given that plays and legal cases share a number of fundamental elements. Carlston explains that a courtroom trial may offer many of the same features as an ensemble theater piece; that is, a fixed cast of central and minor characters; a set piece of oratory delivered by trained speakers to an audience; and a narrative arc that is intend to end in dramatic resolution, with a judgment and sentencing. Carlston (2013: 215) further notes that a trial transcript can be read very much like a script, with dialogue and limited stage directions, demanding a similar interpretive effort from readers who only possess the written text that enables them to reconstruct the live performance. The similarity between trial and drama enables this latter to represent or resolve more than the apparent legal themes. Indeed, a dramatic representation may refute the logic of the court and/or its conventional legal proceedings.

Given the numerous similarities between trial and drama, the tendency toward courtroom scenes and their dramatic representations is so demanding, especially when considering the impact legal issues that can have on peoples' lives. Apparently, the dramatic representation of trials has captivated not only the attention of audiences and literary critics or scholars but also legal scholars. Throughout the last decades of the twentieth century many legal scholars have attempted to find judicial relevance through artistic works, giving rise to the burgeoning interdisciplinary field known as law and literature studies. It is a field of study inaugurated in its birth by legal scholars. And though it has been observed that the movement is not new and that English lawyers of the nineteenth century had already written about some major literary works and their representation of law, it was not until the publication of James Boyd White's *The Legal Imagination* in 1973 that the movement emerged, as Richard Posner notes, as "a distinct, self-conscious field" (1986: 1352).

Focusing on the many shared features of storytelling in the two disciplines of law and literature, many exponents of the law and literature studies have highlighted the importance of such fruitful combination, linking between the literary narrative and the legal rhetoric. Richard Weisberg, for instance, asserts that through different periods law has drawn the attention of literary artists because of its similarities to narrative act, not its differences. He further adds that "Law's manner of recreating and discussing reality strikes the artist as close… to what story-tellers themselves are in the business of doing" (qtd. in Morawetz). Thus, what matters is that despite the fact that law consists of a strict system of orders, it shares with drama the element of addressing and mirroring humanistic experiences. However, the documentary genre and due to its factuality does not simply mirror some humanistic encounters with law. Basically, this genre critically reflects on some legal blemishes, transgressions or weaknesses.

Documentary Drama

One intends here to examine the dramatic genre concerned with representations of real trials. Plays that represent real trials (or issues about law and justice) and fact-based stories in drama (or theatre) are classified under the genre of documentary drama. Theatre scholar Gary Fisher Dawson (1999:1) refers to two greatest dramatists in Western literature who are acknowledged to inaugurate the genre of documentary theatre. The first one is Shakespeare, "the Ptolemy of historical drama; master of transforming moribund historical information compressed from secondary sources into orbits of plot and magical storytelling". And the second is the German playwright Georg Buchner, "the Copernicus of documentary theatre" who aimed through his works "to come as close to an actual event using instead

primary sources at the center of its creation". So, the use of primary sources in a given work or a work's relation to accuracy defines the genre as documentary.

To demonstrate how this genre is wide and intertwined and prone to different interpretations and views, Dawson (1999:1) draws the attention that Shakespeare's and Buchner's drama falls into two different forms of artistic theatre, in which the first is about a 'story based on factual history' and the second is that 'the story is the factual history'. These two versions of incarnating real events constitute, in fact, a debatable question in documentary theatre. Generally, German writers and dramatists were the forerunners in creating this genre. According to Dawson (1999: 2-5), Georg Buchner's *Danton's Death* (1835) marks the birth of this kind of theater, accentuating that Buchner's "contribution to modern drama practices is still being assessed".

It should be noted that Bertolt Brecht was also among the precursors who did revolutionize theatre or drama by giving away the "[t]raditional Aristotelian theatrical apparatus" (Horsman 2011: 92). Brecht created, particularly, a form of theatre called "legal theater". It is a kind of theatre that reorganizes the theatrical space as well as the relation between the stage and its audience. For Brecht, the aim of this theatre is to reveal new possibilities for political theatre, that is, to "make spectators ready for political action" (Ibid). In fact, whatever this kind of theatre is called it can effectively orient spectators to some important political and legal issues, as is the case of Berrigan's play.

After, stating the genealogy of documentary theatre and the major contributors as well as its critics, Dawson (1999:10) reaches the conclusion that there is no clear agreement even on the matter of label. But generally, he concludes that documentary theater or drama falls within the broader concept of historical drama or mise en scène. Actually, there are several concepts describing the genre: docudrama, documentary drama, theater of testimony, testimonial theater, theater of fact, memory play and also verbatim theater. It is worth mentioning that Dawson (1999: xiv) uses 'documentary theater' and 'documentary play' interchangeably, arguing that these two terms are more favoured over the traditional designation, documentary drama.

As another indication of the genre's classificatory breadth and confusion, Jacqueline O'Connor (2013: 4) opts for the phrase "documentary trial play" to designate plays with fact-based narratives. She relies on the "blending of verbatim excerpts from legal transcripts, media coverage of the events, and first-person interviews" (Ibid) in typifying for the genre she dabbed 'documentary trial play'. In her book, *Documentary Trial Plays in Contemporary American Theater*, O'Connor includes ten works written by playwrights from the 1970s to earlier years of the twenty first century, considering the role of the genre in re-constructing and reviewing narratives of significant conflicts in contemporary American history.

O'Connor (2013: 5-6) highlights that documentary trial play is in fact a very specific way to represent the law whether using existing trial rhetoric or any other form of legal language. She further goes on to say that documentary theatre has in its very objective the attention to be part of the wide "cultural examination of the judicial institution in all its complexities". Appropriating this quality to documentary trial play reveals not only its significance as a cultural discourse in modern American life but also as an alternative to the legal discourse.

Concerning the role of documentary drama in representing legal issues, O'Connor (2013: 5) quotes Eric Bentely who states that plays based on real trials are "theatre texts and cultural documents; they situate themselves on shifting border between imagination and law; they enact not just dramatic events but legal crises as well". Bentley, here, acknowledges the power of documentary drama in fulfilling two major goals: the aesthetic and the authentic. However, O'Connor (2013: 66) highlights that the role a play may have or achieve rests on a very precise way, that is, "writing an opinion", but, "not one to be upheld by law, for the curtain had already "been rung down". Though after the fall of the curtain, what matters is that audiences still can make their own judgment, engaging in a thoughtful evaluation of the same legal case of the same legal system.

Significantly, O'Connor (2013:140) includes Berrigan's *The Trial of the Catonsville Nine* among her genre of theatre. And for Dawson, Berrigan's work is a "semidocumentary" play, for incorporating both factual and fictional narratives. Berrigan's play, one might say, has its own authenticity and aesthetic. However, and regardless of claims to authenticity, what is significant is the way Berrigan

exposes one of the most conflictual and debated issue in legal scholarship that of natural law theory and positivism, extremely standing for the triumph of the former.

The Trial of the Catonsville Nine: a Mini-Jurisprudence

Apparently, the reconstruction of moments of legal history in a dramatic work is an exceptional mechanism for revaluation. After all, "a great drama is the great jurisprudence", as the famous playwright Arthur Miller contends (qtd. in Bigsby 1982: 91). It should be noted that jurisprudence in the study of law, the science or philosophy of law, a system or body of law and the course of court decisions ("Jurisprudence"). Also, jurisprudence is defined as the most central, general and theoretical plane "analysis of the social phenomenon called law" (Richard Posner 1999: xi). Jurisprudence is related to the ways laws can be interpreted, criticized and applied. Thus, one should ask: How can a dramatic work, like Berrigan's play, be a sort of analysis of such complex phenomenon as law? In other words, to what extent is a dramatic text capable of transmitting a legal notion or a legal situation?

Of course a documentary drama does not function in vacuum. It is essentially based on real events and real procedures, that is, it reflects vivid histories as already mentioned. Actually, both law and theatre are significant social institutions, where different parts uphold considerable responsibilities towards the nation's, whether individual or collective, most preoccupied matters. It should be noted that it has been argued that the documentary genre offers an opening for legal narratives to supply information and opportunity for assessment while also allowing for interpretive reactions (O'Connor 2013: 14). Indeed, dramatic works, though speaking different situations, can reflect on some pertinent and enduring questions in legal theory.

Hence, it is little wonder why an ancient Greek artistic work such as Sophocles' *Antigone* continues to inspire writers and critics. Though the major question in this enduring play is the conflict between God's laws and the King's laws, it has been widely argued that it is the issue of the "ethical ideal" that the play is all about. That is, the laws of God are above the laws of the king which prohibit the burial of Antigone's brother; for the ethical ideal of justice is absolute as well nonnegotiable (Friedman and Squire 1998: 73). That the ideal of justice (including the concept of conscience or morality) is unquestionable clearly speaks the condition of many protestors during the Vietnam War.

Like many American dissidents during the late 1960s and early 1970s, the Catonsville Nine also based their civil disobedience on the question of conscience. According to Merriam Webster dictionary, conscience is "the sense or consciousness of the moral goodness or blameworthiness of one's own conduct, intentions, or character together with a feeling of obligation to do right or be good" ("conscience"). Conscience entails both an inner good feeling and a corresponding duty to fulfill it. And this is what exactly natural law's exponents stand firmly to advocate and achieve, as will be later discussed.

In his discussion of political trials, Ronald Christenson (1999:155) remarks that in trials of dissenters the question of conscience and its relation to the law is usually raised in case these trials are upheld within the framework of the rule of the law. He further explains that though dissenters generally resort to the question of conscience to defend their legal status, not all dissidents can rightly claim their appeal to conscience (1999: 157). One can understand why an activist and a writer like Berrigan chose theatre to reconstruct the Catonsville Nine call for conscience. And what attracts one most to *The Trial of the Catonsville Nine* is the highly structured language of the defendants, particularly that of Berrigan.

Actually, Berrigan's eloquence is so convincing and genuinely advocated to the extent of gaining the admiration of the court itself. Yet, as Berrigan's poetic expression is acknowledged, the judge addresses him by saying: "I think you simply do not understand the function of a court" (Berrigan 1970: 40). On could say that anti-war protesters' engagements in acts of protests do not seem to reach the court's reasoning. Berrigan highlights more than the aesthetic aspect of his play. Indeed, he speaks of the necessity to have a say on law and the legal proceedings.

The final section of the play, entitled *The Day of the Verdict*, may summarize the whole issue of such an image. The judge announces his disagreement with the theory presented by the defendants for being "something which is entirely contrary to the law" (Berrigan 1970: 112). The refused theory the Catonsville Nine heartedly uphold and strongly stand to defend is that of conscience and/ or morality. The

idea is that moral motives and/ or one's conscience should be considered as an integral part of the judicial process, not alien or external to it. Remarkably, Daniel Berrigan (1970: 114-115) evokes the inherent relationship between law and moral values when he opines:

> I wish to ask whether or not reverence for the law does not also require a judge to interpret and adjust the law to the needs of people here and now. I believe that no tradition can remain a mere inheritance. It is a living inheritance which we must continue to offer to the living. / So it may be possible, even though the law excludes certain important questions of conscience to include them none the less; and thereby, to bring the tradition to life again for the sake of the people.

Berrigan, here, wants to convey the idea that judges should conduct their efforts to concentrate on moral issues as much as their concern for and commitment to the rule of law. This seems very sounding when considering the fact that in political trials, "the exclusion of morally relevant but legally irrelevant arguments...take on heightened significance" (Eric Posner 2005: 129). Apparently, the status of some dissenters and the relevance of their arguments are controlled by how much law is related to politics. That is to say, the legal system is more likely to consciously ignore some considerable moral arguments regarding the political nature of some cases. Berrigan, aware of such condition, requests the Catonsville judge to use his authority and power to enforce morality as a tradition which is to say implementing it within the law's processes. In doing so, this tradition can be revived, in a way that it would be triumphant over both the stringencies of laws and the influence of politics.

However, the playwright demonstrates the court's inability to practically incorporate moral motivations within its legal procedures. The Catonsville judge seems to uphold another legal stand. This is apparent in the instance he announces his disapproval with the nine defendants' stand though he does not hide his personal affection for them. The judge pronounces:

> As a man, I would be a very funny sort if I were not moved by your sincerity on the stand and by your views… but the issue of the war cannot be presented as sharply as you would like. The basic principle of our law is that we do things in an orderly fashion. People cannot take the law into their own hands. (Berrigan 1970: 115)

The judge's speech of doing 'things in an orderly fashion' reflects in fact an explicit adherence to a positivist conception of law which postulates the unnecessary connection between law and morality. The judge announces that law is intended to be applied in the same manner regardless of the nature of the case.

Actually, since the nineteenth and through the twentieth centuries legal thinking in the United States had been dominated by legal positivism which denied the existence of absolute standard or moral norms. Its exponents focused their attention on the rational analysis of existing systems of laws (Ziolkowski 1997: 215). There is a sort of conventional positivist vision that aims at excluding moral norms from the application of laws. Such conception, to a great extent, contradicts natural law's ethics. And this does certainly raise questions about the role of law in establishing justice or at least its real meaning. In the play, Berrigan and his comrades stand for the full defense of natural law theory.

The playwright thus criticizes the court's limitation in terms of excluding morality from legal arguments. Practically, moral issues are extremely meaningful in the context of their integration within the legal discourse. In other words, moral values are only meaningful when they are attached to legal actions. Indeed, such conceptualization is deeply rooted in the philosophy of law in which conscience (or justice) and laws are seen to be inseparable.

Mark Tebbit (2005: 6) points out that justice is a "fundamental moral concept" one that "can only be ascribed to situations involving consciousness, rationality and a moral sense". Accordingly, in this paper, morality or conscience is to be considered as inherently related to the concept of justice. That is to say, all these concepts are used interchangeably. Besides, to discuss the theme of law and justice (or morality) in both natural and legal theories is so enormous; therefore, one will try to be specific to what Berrigan stands for, that is, the illegality of the war and the protection of human lives.

That conscience (or justice) is not to be separated from the law's processes relates fundamentally to natural law ethics. As argued in legal scholarship, a major guiding light in natural law theory since its beginning is the integrality between justice and law (Tebbit 2005: 9). In natural law philosophy, the justness of a law is quintessentially measured according to how much this law reflects and fulfills moral

values or norms. In this regard, it is also argued that a major concern that forms the core of almost all controversies among contemporary legal thinkers "is the problem of how law is to be understood in relation to moral values" (Tebbit 2005: 3). Law cannot be wrenched apart from societies' accepted moral values or norms.

Robert George (2007: 172) argues that it is morality— as one central principle in natural law theories— that after all determines what constitutes a right action. This latter has one and foremost objective: to be compatible with, and aims to, "integral human fulfillment". George goes further to say that one fundamental proposition among natural law's philosophers centers on how it is possible "to arrive at a sound understanding of principles of justice, including those principles we call human rights" (2007: 173). In short, the vital idea that preoccupies many legal scholars is deeply related to how much a law is capable of promoting, protecting, and defending human intelligible human goods and natural rights.

Notably, one crucial point raised in the play centres on the necessity of reconsidering the indispensable interconnectedness between the concepts of achieving human good with the law's objectives. Philip Berrigan, for instance, insists upon the shortcoming of the government's institutions in establishing justice. As he argues, law "is no longer serving the needs of the people which is a pretty good definition of morality" (Berrigan 1970: 118). Indeed, this defendant points to one fundamental issue: justice can only be established if the government is, or will be, able to endorse natural law principles. These principles postulate that morality (or justice) is essentially linked to the prospect of fulfilling "good", or as he also describes it "man's survival" (Berrigan 1970: 118). More importantly, the defendant's words allude to the premise that the notions of good and human survival are typically universal.

Remarkably, in his play, Berrigan sheds light on the importance of one's voice to speak against the violation of the rights of both the whole American society as well as other societies, putting at the same time many lives at great risk. He particularly alludes to the Vietnamese who are enduring the charges of an unreasonable war. In doing so, Berrigan indeed stresses ones' moral commitment to protect these rights or lives. The nine protestors have chosen to act against the law because they:

> turn to the poor of the world/to the Vietnamese/to the victims/to the soldiers who kill and die/ for the wrong reasons for no reason at all/because they were so ordered by the authorities/of that public order which is in effect/ a massive institutionalized disorder/ We say: killing is disorder/life and gentleness and community and unselfishness/ is the only order we recognize/ For the sake of that order/we risk our liberty/ our good name. (1970: 94)

From these words, one might greatly consider the sacrifices taken by the defendants in order to withstand what they sincerely believe to be the government's support of a 'massive institutionalized disorder'. Heretofore, breaking laws that promote such a disaster should become a personal duty even at the expense of endangering one's liberty or reputation. After all, universal moral values are worth of pursuit that abstract, changeable laws.

In trying to give a solid plea for such interrelation— that is, the relationship between law and human rights— the Catonsville Nine stand as promoters of natural law ethics. Their defense is a kind of moral and legal struggle oriented towards showing the shortcoming of the legal system. This is about the court's refusal to fulfill such universal, enduring natural rights. Much more, one might further argue that their plea, borrowing Tebbit's words, proposes that law "is more than the factual matter of predicting and applying 'black letter' rules as laid down in the past by legislators and courts"; rather than, law also "comprises intrinsically moral legal standards such as principles of justice, rights and perceptions of good social policy" (Tebbit 2005: 54).

Again, to see the lucid implication of such philosophy in Berrigan's play, one would need to refer to an answer given by one of the defendants about the causes that led him to participate in the draft burning. Thomas Lewis confidently expresses that he broke the law because:

> The spirit of the New Testament deals/ with a man's response to other men/ and with a law that overrides/ all laws…/ The one law/ is the primary law of love and justice/ toward other men / As a Christian/ [He is] obligated/ to the primary law of brotherhood. (Berrigan 1970: 43)

Though stemming from a religious point of view, the defendant's argument calls for the compulsion to go back to natural law theory principles, especially those concerning basic human relations. For this defendant, the exclusion of God's law is a drawback that must always be addressed.

Indeed, Thomas Lewis' statement suggests two important and intertwined points. Firstly, people's obligation to obey laws should be only bound to those protecting people's lives and their well-being. Secondly, the justness of a law is essentially measured according to how much this law is capable of achieving basic values. One might say that a good law, like the law of brotherhood, is the one that asserts that "[a] just action or decision is one that is sensitive to the rights of all those affected by it. An unjust action or decision is one that violates these rights" (Tebbit 2005: 6). Therefore, laws that violate people's rights do not prescribe any duty for people to be attached to.

Co-defendant Thomas Lewis again illustrates this meaning when he explains to the judge his motives behind acting in Catonsville. He opines: "I wasn't concerned with the law/ I wasn't even thinking about the law…/ I was concerned with the lives/ of innocent people…/ My intent…/ was to save lives/A person/ may break the law to save lives" (Berrigan 1970: 48). Transgressing the letter of the law, here, the legal order, in order to defend one's higher law or the true meaning of justice, is one major message in the trial and its dramatic representation. For this defendant, human lives and liberties are more prestigious than obeying abstract laws. Thus, it can be argued that the playwright supports the idea that one's obligation to obey the law is not always unconditional but effectively assessed. That is to say, there are some laws that can be challenged and disobeyed particularly in certain moments or circumstances as is the case of the Vietnam War for higher objectives which are at stake. And this conforms to the core idea in natural law theory.

It comes as no surprise then that one of the defendants, George Mische, says that he wants to address the jurors as a human being to human beings, hoping that they would understand the defendants' motives. He then asks: "Will the jury dare to deal/ with the spirit of the law/and the issues we are talking about" (Berrigan 1970: 71). The implication is that laws should be applied not with strict rigidity, but with compassion. There are some principles that should be enforced into the process of judging conscientious objectors. That is, the court should look at the laws' purpose from which moral motives could be taken within the judicial proceedings.

More importantly, for the Catonsville Nine, reacting against natural law's ethics is a violation of a jurisprudential tradition. This is exemplified in the instance when one of the play's nine defendants advisedly prompts the court to reassess the inherent integrity of civil disobedience as being a "serious fashion" in American democratic history. He says:

> There have been times in our history/When in order to get redress/ In order to get a voice/ vox populi/Arising from the roots/People have so acted/ From the Boston Tea Party/ through the abolitionist and movements/ through World War I/ and World War II/ we have a rich tradition/ of civil disobedience. (Berrigan 1970: 29)

Referring to previous cases in which people reacted against what they saw as fair redress to injustice, is the defendant's way of expressing that civil disobedience is the sole mechanism for protecting people's rights. In fact, because of the many problems and protests that corresponded with the Vietnam War violence and its many traumatic effects, this defendant sees the inevitability to go back to natural law ethics in American courts of law. Thus, one major idea the playwright wants to defend is that both people and litigants possess the right to have a say on the nature and purpose of laws, particularly at times of heightened crises or charged atmosphere. And this is exactly what the Catonsville Nine succeeded in doing.

Berrigan clearly shows this meaning in the final section of the play when he includes the reaction of one of the present audiences in the courtroom. After the court announces the guilty verdict for the nine defendants, this person sadly declares: "Members of the jury, you have just found Jesus Christ guilty" (Berrigan 1970: 121). Though an audience's reaction is less authoritative than the word of law it greatly delineates people's disregard to a positivist vision of law. This means that if the court has found the Catonsville Nine guilty for breaking formal laws, the enduring natural law's principles of morality, justice and brotherhood have not been undermined, at least from the audiences' point of view.

By taking into consideration the practical differences and philosophical dimensions between a real trial and its dramatic representation, this latter nevertheless proves its power or if one could say its moral upper hand. The playwright and by referring to the trial transcript and exposing some blemishes, transgressions or weakness in the judicial process or its decision making, asserts that the documentary genre has an undeniable role in advancing some jurisprudential traditions, mainly natural law's principles.

As such, one might claim that Berrigan's play stands as a mini-jurisprudence for criticizing and reassessing the legal narrative and process. In doing so, a documentary drama can considerably participate in reconfiguring legal history; and one way to achieve this is by inciting readers/audiences to engage critically with legal issues.

Conclusion

Because of its closeness to reality, documentary drama can exercise a powerful effect particularly when it comes to commenting on or to criticizing legal issues and proceedings. As advocated in this paper, one major reason that features Berrigan's play as a mini jurisprudence is its focus on reviving a jurisprudential tradition: the ethics of natural law theory. By sanctioning conscience (or moral motives), life and human rights, which are primary pre-requisites of any natural law theorist, the playwright urges the court of law to realize the necessity of directing its conduct and efforts to judge on the real offenses inflicted by the war.

Whereas the Catonsville court limits itself to formalities without any reasonable humanistic reassessment of the defendants' challenge to the law and their claim to conscience or more broadly justice, it indeed offers a weak model for the law institution as an adequate tool for establishing justice. A dramatic work, however, can powerfully stand for a realistic consideration and interpretation of laws according to the existing human conditions, though this stand is less authoritative as do laws. Only through a natural law's perspective would it become possible to apply the real purpose of any law which is justice.

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