

The Cardozo Electronic Law Bulletin

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e Giacomo Stuart
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Recensione a Jean d'Aspremont,
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Pier Giuseppe Monateri

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MAURO BALESTRIERI

LAW AND THE EMPIRE**Some Reflections about Legal Aesthetics and Comparative Law**

Abstract: According to numerous authors, legal globalization seems to be divided between two opposing outlines. On the one hand, the idea of a multiform and diversified legal framework made up of national laws, customs, and traditions. On the other hand, an immense global order which, despite sectoral differences, maintains its compact and homogeneous physiognomy. The aim of this contribution will be to illustrate such antinomy using the conceptual tools of *legal aesthetics*. As it will be shown, the phenomenon of globalization results first of all in a ‘crisis of the gaze,’ which determines a different way of observing the relationships between law, economy and politics. If at the basis of the legal phenomenon there is, first of all, a certain way of perceiving the ‘other,’ it is then necessary to understand the reasons that join so closely law and aesthetics.

Keywords: empire; legal traditions; jurisdiction; comparative law; law and humanities.

TABLE OF CONTENTS: 1. The Empire between Law and History — 2. Images of the Global — 3. Aesthetics and Legal Traditions.

*1. The Empire between Law and History**

In today’s talk, I will try to show how the concept of Empire is at the intersection of three different approaches: law, politics, and aesthetics. Far from appearing isolated, these three streams participate in a continuous and ongoing alteration.¹ The main idea is that the concept of Empire operates as a *symbolic form*, that is, as an essential motif of disclosure and expression in permanent reshaping.² In this vein, it is important to consider symbolic forms not as abstract thought, but as

* The content of this article has been originally delivered at the University of *Sciences Po* (Paris) on 30 September 2021. I wish to thank Prof. Horatia Muir Watt for her kind invitation and all the participants involved in the seminar for their insightful comments. All errors, of course, are my own.

¹ See Cacciari, Massimo. *Europe and Empire: On the Political Forms of Globalization*. New York: Fordham University Press, 2016.

² On the concept of “symbolic form” see Cassirer, Ernst. *The Philosophy of Symbolic Forms: Vol. 1*. London: Yale Univ. Press, 1996. For a specific extension of Cassirer’s thought on law, see Coskun, Deniz. *Law As Symbolic Form: Ernst Cassirer and the Anthropocentric View of Law*. New York: Springer, 2010. Cassirer has also been influential among international political scholars: see Bartelson, Jens. *Sovereignty As Symbolic Form*. London: Routledge, 2014.

naturally action-oriented. Symbols exist precisely to be communicated, transmitted, and transformed into practice. Narratives, in turn, shape our world generating a specific legal imagination.³

From a first point of view, the question of the Empire appears traditionally as a question of geography – where it starts, where it ends, is there any “outside”?⁴ But the question of geography is, implicitly, a question of aesthetics.⁵ We can grasp the world only if it is written and visualized through an image, and this image becomes in turn the political device through which we dislocate authority. In the history of human culture, cartography was precisely the art of drawing maps, that is, of giving form and shape to what is unknown. If in the Middle Ages geographers and artists produced beautiful manuscripts and illuminated codes whose main concern was to usher souls into the Kingdom of God, in the “cartographic revolution” of the fifteenth through eighteenth centuries mapmakers conceived of the physical nature of the world as something to be possessed.⁶

In those years, everything had to be measured, calculated, examined and meticulously reported inside documents or charts. The main function of mapmaking was to create an inventory of endless information to serve apparatuses of power and their strategies of military dominium.⁷ Maps became the “legal means” by which to prove to the rest of the world the expanding sovereignty of the European States, which included their alleged ownership over territories in the New World. Exactly for this reason, in his *Nomos of the Earth* Carl Schmitt argued that “[a] scientific cartographical survey was a true legal title to a *terra incognita* [uncharted territory]”.⁸ The adage “*cujus regio, ejus religio*” was progressively

³ Cover, Robert. “Nomos and Narrative”. *Narrative, Violence, and the Law: The Essays of Robert Cover*. Ann Arbor: University of Michigan Press, 1995, pp. 95–172.

⁴ This is the question shared, for example, by Hardt, Michael, and Antonio Negri. *Empire*. Cambridge, Mass: Harvard University Press, 2007, p. 222.

⁵ ‘Aesthetics’ must be assessed here in its double meaning: “literal” (as resulting from the Greek αἴσθησις, that is “perception from the senses”, as Baumgarten stated in his seminal book), and “metaphorical” as “experience of the world”. According to this, the concept of Empire can be viewed as the continuation of aesthetics by other means, precisely because insists on the *sensible perception* of reality and at the same time on the *conceptual understanding* of it.

⁶ Padrón, Ricardo. “Mapping Plus Ultra: Cartography, Space, and Hispanic Modernity”. *Representations*, vol. 79, 2002, pp. 28–60.

⁷ Foucault, Michel. *Power/Knowledge. Selected Interviews and Other Writings 1972-1977*. New York: Pantheon Books, 1980, pp. 74–77.

⁸ Schmitt, Carl. *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York: Telos Press, 2006, p. 133.

replaced, or at least supported, by the new rule of international politics: “*cujus carta, ejus regio*”.⁹

It is important to note that center and periphery are not only spatially located phenomena, but most of all symbolic mechanism through which power is manifested, administered, and made effective.¹⁰ Put another way, whenever the concept of Empire is evoked, a specific *image* of law is called into play.

From a different, historical point of view, the question of Empire embodied the belief in the universal value of law and unity as directed towards the creation of peace and order.¹¹ The German philosopher Peter Sloterdijk defined the essence of Europe precisely by its obsession for carrying, from generation to generation, the tradition and the emblem of Empire. The idea of maximal ambition, the *translatio imperii*, and human rights cooperated in Sloterdijk’s view to promote and endure a certain idea of the global. In this context, law turned into the expression of an imperial vocation aimed at imposing a form of Western dominance (with, or without hegemony). From Dante to Kelsen up to the creation of a worldwide “international legal community”, legal thinking has historically realized, improved, and legitimized practices of domination, mostly through the help of admired jurists such as the humanists Alberico Gentili, Hugo Grotius and many others.¹² Empires, in this sense, both spread and imposed law.

The key element here is the emergence of “jurisdiction” as a main concept in the history of international politics, as well as the device through which law is made effective and concrete. In the western legal tradition, the concern of jurisdiction (which we can translate as the power to *speak* the law, and similarly to *decide* what law is) has been one of the first legal questions raised. Writing the law, mapping its extension, collecting precedents, and categorizing their field of application are the

⁹ Sloterdijk, Peter. *In the World Interior of Capital. For a Philosophical Theory of Globalization*. Cambridge: Polity, 2013, pp. 103–104.

¹⁰ Shils, Edward A. “Centre and periphery”, in *The Logic of Personal Knowledge: Essays Presented to M. Polanyi on his Seventieth Birthday, 11th March, 1961*. New York: Routledge, 1961, pp. 117-30.

¹¹ At the very beginning of modern era, the great attempt of Christianity was indeed to unify the globe within a single spiritual message, in which no divisions or clashes would appear, but that ironically led to the exact opposite, as expressed by religious wars and struggles against heresy, paganism and heterodoxy. Schmitt’s well-known theory of the friend-enemy distinction is still there to remind us of the conflicted nature of the Western soul. See Koskenniemi, Martti, “Introduction. International Law and Empire—Aspects and Approaches”, in Koskenniemi, Martti, Walter Rech, and Fonseca M. Jiménez. *International Law and Empire. Historical Explorations*. Corby: Oxford University Press, 2017, p. 1 ff.

¹² Anghe, Antony. *Colonialism, Sovereignty, and the Making of International Law*. Cambridge, UK: Cambridge University Press, 2004.

four essential ways in which a pragmatics of legal institutions can be achieved.¹³ Properly speaking, jurisdiction is the *function of existence* of law, the technological and conceptual infrastructure which assured the longevity of western legal traditions in their ambition of ordering and administering a portion of territory.¹⁴ But the idea of a global sovereignty evokes and at the same time challenges the theory of jurisdiction. According to the medieval tradition, the emperor is *dominus universalis* precisely because he has jurisdiction over everything: “*dominus quoad jurisdictionem*” as Bartolus puts it.¹⁵

The concept of Empire embodies and echoes this kind of symbolic logic: a theory of totality, an image of a whole. The sublime and mysterious dimension, the majesty and the terrifying appearance, the violence and at the same time the sacredness of its figure: all of them cooperate in shaping both the rhetorical and symbolical forces still at work today in the theory of jurisdiction. The Empire is a conceptual agent that establishes a science of context, that is, of the adaptation of the law to its manifestation and its application in living reality. That’s why, even if in different and asymmetric forms, we are still in a postcolonial situation and the big theme of “extraterritorial jurisdiction” is here reminding us about the invisible hand of empire, as it has been recently defined.¹⁶ The “colonial moment” itself, with its enduring brutality and unexpected metamorphosis, is not something frozen in the past but a mechanism constantly evoked and made alive in the present.¹⁷

But Modernity is not simply the product of European development, arising from within and self-generating. Rather, the nation-state system is the outcome of intertwined histories and multiple vectors. Alongside a cartographic and historical vision of law, a third one emerges here under the concept of “entanglement”.

The word “entanglement” has its home discipline in physics and names the integral and yet mysterious interconnection between particles. Entanglement doesn’t mean “just any old kind of connection, interweaving, or enmeshment in a complicated situation”; rather, to be entangled “is . . . to lack an independent, self-contained existence.”¹⁸ According to contemporary physics, this condition belongs

¹³ Dorsett, Shaunnagh, and Shaun McVeigh. *Jurisdiction*. London: Routledge-Cavendish, 2012.

¹⁴ Foucault, Michel, *The Archeology of Knowledge*. London: Routledge, 1994, p. 86.

¹⁵ See especially Monateri, Pier G. *Dominus Mundi: Political Sublime and the World Order*. Oxford: Hart, 2018

¹⁶ Quiroga-Villamarín, D. “*Vicarius Christi: Extraterritoriality, pastoral power, and the critique of secular international law*”. *Leiden Journal of International Law*, vol. 34, n. 3, 2021, pp. 629–52.

¹⁷ Roberts, Andrew D. *The Colonial Moment in Africa: Essays on the Movement of Minds and Materials, 1900-1940*. Cambridge: Univ. Press, 1992.

¹⁸ Barad, Karen. *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning*. Durham: Duke University Press, 2007, p. 160.

to matter as a whole, and to the countless interactions that determine the birth of complex physical systems.

Transposing this scientific lexicon to the realm of cultural and political studies, the old dogma of autonomy is challenged in favor of a line of argument which encapsulate the myriad of world-making relationships (political, natural, cultural).¹⁹ Relationships that are not just interactions between discrete actors but the site through which subjects and objects, situations and identities, themselves emerge. Talking about entanglement inevitably means talking about ecology, and ecology deals with the environment. But here we speak of a different and more subtle problematization of the idea of environment, not as something ‘given’, something to which an organism or a system must adapt. On the contrary, we must consider Gaia as an intricated fabric, a sort of multifaceted and flexible reference which changes according to positions and perspectives.

As Bruno Latour demonstrated in his celebrated *We Have Never Been Modern* (1993), the perception we have of ourselves as human beings rests on a deep misunderstanding: we believe we have clearly separated the domains of science and politics, nature and culture, but actually we have spent our time constructing our world on the basis of an unending series of hybridizations.²⁰ The science referred to as “modern” has intertwined science and politics, humans and non-humans: it has produced with all its strength what Latour names “attachments”, that is, connections between nature and technology. If in contemporary debate there is a great interest in “recalling nature”, what we should do according to Latour is properly “recalling modernity” and the way we have built this idea.²¹

How the Earth is conceptualized in light of the general-ecological effort, or what a general-ecological conception of the Earth might look like, thus takes on decisive importance.²² What is at stake is no less than the discovery of a new “nomos of the earth” in which the political core moments of the present and the future might contract. As Benjamin Bratton has recently argued, the frame of the nation-state as traditionally conceived is a design of a geopolitical architecture derived from the

¹⁹ As brilliantly shown by Delmas-Marty, Mireille. *Les forces imaginantes du droit. Tome 2, Le pluralisme ordonné*. Paris: Editions du Seuil, 2004.

²⁰ Latour, Bruno. *We Have Never Been Modern*. Cambridge, Mass: Harvard University Press, 2002.

²¹ See in this last sense Latour, Bruno. “Onus Orbis Terrarum: About a Possible Shift in the Definition of Sovereignty.” *Millennium*, vol. 44, no. 3, 2016, pp. 305–320.

²² Mann, Geoff, and Joel Wainwright. *Climate Leviathan*. London: Verso Books, 2018.

partitioning of planar geography, which separates and contains sovereign domains as discrete, adjacent units among a linear and horizontal surface.²³

Today, on the contrary, we are witnessing a new architecture of law in which different levels coexist vertically and horizontally. Here a different concept of Empire seems to emerge, unfolding unexpectedly in front of our eyes. A concept in which there isn't any outside, but everything is part of the same, complex structure. This of course doesn't mean that the Earth is a single, smooth surface free of fractures: multiple geographies are still nested one inside the other and new borders, together with endogenous frames and anomalous segments, mark their return. But what is really at issue here is a fundamental acknowledgement that something has changed in the very lexicon of sovereignty—something which calls into question the *impenetrability* of states as a given.

2. Images of the Global

According to recent views, the figures of Leviathan and Behemoth still rise to crucial importance in delineating the powerful imagery at work in western ideas of legal and political order.²⁴ “Land” and “sea” appear as the physical conditions necessary to approach the development of globalization, and at the same time as the conceptual categories through which to understand its challenges.

But if Leviathan and Behemoth are the symbols par excellence of this imaginary, there is, however, a *third* figure in the ancient mythology that deserves to be analyzed and which stands alongside the first two. It is the biblical bird called Ziz: a giant griffin that according to some Talmudic accounts symbolizes the aerial counterpart to the maritime majesty of Leviathan and the terrestrial power of Behemoth. We can appreciate these three figures at work in a curious medieval miniature from the thirteenth century.

²³ Bratton, Benjamin H. *The Stack - On Software and Sovereignty*. Massachusetts: MIT Press, 2016.

²⁴ Agamben, Giorgio. *Stasis: Civil War as a Political Paradigm*. Stanford: Stanford Univ. Press, 2015.

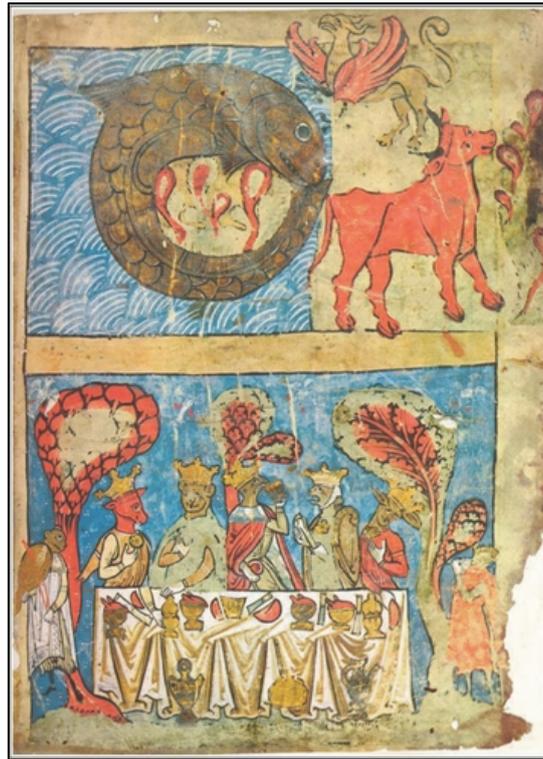


Figure 1. Messianic beasts and banquet of the righteous. Milan, Ambrosiana, MS B 32 inf., fol. 136^r (p. 153).

As we can see, in the lower left corner a red bull appears symbolizing Behemoth and the telluric element. Immediately to the right, the giant fish Leviathan – caught in a circular spiral to emphasize its movement – exemplifies the water element. Above, we see for the first time Ziz, the enormous griffin which dominates the scene ruling the skies. In a famous passage of Ginzberg’s *The Legends of the Jews*, Ziz is described in all its magnificence:

[a]s Leviathan is the king of fishes, so the Ziz is appointed to rule over the birds. His name comes from the variety of tastes his flesh has; it tastes like this, *zeh*, and like that, *zeh*. The Ziz is as monstrous of size as Leviathan himself. His ankles rest on the earth, and his head reaches to the very sky.²⁵

An aura of mystery surrounds this figure. The name Ziz is indeed mentioned only twice in Scriptures. In *Psalms* 50:11, we can read “I know all the birds of the mountains and *Ziz sādāy* is mine.” In *Psalms* 80:13-14, we have “The boar from the

²⁵ Ginzberg, Louis. *Legends of the Jews: From the Creation to Moses in the Wilderness*. Philadelphia: Jewish Publication Society, 2003, pp. 28-29. On the history of Ziz, see Drewer, Lois. “Leviathan, Behemoth and Ziz: A Christian Adaptation.” *Journal of the Warburg and Courtauld Institutes*, vol. 44, 1981, pp. 148–56.

forest ravages it, and *Ziz sādāy* feeds on it.” In both cases, modern translations render the name ‘Ziz’ with a periphrasis: “all that moves”.²⁶

Standing next to Leviathan and Behemoth, Ziz counterbalance their power: it equalizes them to the earth, taming their monstrous, omnipotent, and unlimited aura. Quite surprisingly, Carl Schmitt was aware of this mysterious biblical figure. In a private letter addressed to Ernst Jünger in 1942, he was struck above all by the destructive force of this animal, as we can read in a brief passage:

I have found *Ziz* or *Bar-Juchne* in the Talmudists and Kabbalists, who may have taken it from Persia. It is indeed the great animal of the air, corresponding to the sea monster Leviathan and the terrestrial Behemoth. It is so powerful that if it drops an egg in flight, it crushes a thousand giant cedars and makes a thousand rivers overflow.²⁷

But that’s the point: for some critics, this attraction of Schmitt for the legendary great bird would hide a precise geopolitical meaning. The era of land and sea was coming to an end; on the contrary, the air started playing a central role in the development of the WWII conflict. In the skies planes whiz by; in the air electromagnetic communications flow, but above all: the air is endless and embraces the globe, dismantling national boundaries, superseding physical obstacles, and absorbing political differences.

I would like to see the giant griffin as an allegory of a different way of thinking the concept of Empire. An allegory that reminds us of how relevant the idea of the globe as a unit is both from a political and juridical as well as a theological point of view. In other words: Ziz as the image of a new *nomos* of the Earth, in which the global turns out to be not the problem, but the lively essence of law and politics.

3. *Aesthetics and Legal Traditions*

What makes the Western and Eastern views of Empire interesting is that both struggle for the affirmation of a political concept that actually takes the form of an image.

There is a fundamental interdependence that ties the role of image to the corporal and political existence of our institutions. The image lies at the heart of all

²⁶ For a detailed philological appraisal of Ziz, see Wazana, Nili. “Anzu and Ziz: Great Mythical Birds in Ancient Near Eastern, Biblical and Rabbinic Traditions.” *Janes*, vol. 31, 2009, pp. 111–35.

²⁷ Jünger, Ernst, Carl Schmitt. *Briefe 1930-1983*. Stuttgart: Klett-Cotta, 1999, p. 109.

considerations of the symbol and the sign, as well as their relation to the aspects of being and appearing, seeing and believing, and finally law and power. It is important then to understand how the image became the cornerstone of a certain legal and political discourse, as well as the kind of implications which this logic had (and still is having) in the history of law.

The image is operative: it does something that speech does not. It provides a source of legitimacy that can be inscribed inside political institutions or wander around without never being captured.²⁸ The image, in other words, is powerful precisely because it is ambiguous: it exhibits the sacred, the mythical, the political, and at same time keeps them alive. In a brilliant book devoted to the concept and authority of images as well as their power, Horst Bredekamp demonstrated that images are not simply vehicles for action but themselves actors possessed of sovereign agency, separable from their handling or their perception by people.²⁹

The concept of Empire embodies precisely this kind logic. In this sense, the real issue hidden behind the question “Who will be the Lord the World?” could be expressed also with a similar question: “Who will be the Lord of the Image?”.

The image is a mystery: it is the enigma which articulates the arcane nature of the sacred into the sensible form of reality. In this vein, we can borrow this kind of logic and extend it to the realm of law. If the law symbolizes the purpose of governing living bodies inside a community, then we cannot have law if we do not have a specific aesthetics. Law and aesthetics constitute the two faces of the art of government, as well as the true object of the dispute of every act of dominion.

The political element of aesthetics has been widely recognized by many authors. In the first volume of his book *Symbolic Miseries* (2004) Bernard Stiegler argues that: “[t]he question of politics is a question of aesthetics and, vice versa, the question of aesthetics is a question of politics”.³⁰ Not differently from that, Jacques Rancière reaffirmed that “[t]here has never been any ‘aestheticization’ of politics in the modern age because politics is aesthetic in principle”.³¹

²⁸ A very clear example of that has been provided by the beautiful book by Mondzain, Marie-José. *Image, Icon, Economy: The Byzantine Origins of the Contemporary Imaginary*. Stanford, Calif: Stanford University Press, 2005.

²⁹ Bredekamp, Horst. *Image Acts: A Systematic Approach to Visual Agency*. Berlin: De Gruyter, 2018.

³⁰ Stiegler, Bernard. *Symbolic Misery*. Vol. 1: The Hyper-Industrial Epoch. Cambridge: Polity Press, 2014, p. 1.

³¹ Rancière, Jacques. *Disagreement: Politics and Philosophy*. Minneapolis: University of Minnesota Press, 1999, p. 58.

The simple fact of living within a community, surrounded by rules and legal institutions, implies the existence of an immense archive of images, figures and metaphors which are constantly at work in qualifying the legal and political existence of human beings. Living within this profound network of styles and symbols therefore requires the development of a comparative method that can combine the morphology of culture with the dynamic force that lies within it.

Each epoch develops its own peculiar “regime of visibility.” Codifications have inaugurated a new vision of the individual in relation to political power. The same can be said of constitutionalism, as well as of the modern international order. The idea of law fluctuates between the written text, the oral formulation, reaching now the elusive features of algorithms. Law is embedded inside rankings and economical forms, permeates rhetorical discourses and technical procedures.

So the real question that legal scholars ask themselves when they say “What is the law?” turns out to be “What kind of image does it imply?”.

At the same time, law is not simply a passive object, but something that stares at us in its own way. As Michael Stolleis demonstrated in his celebrated book “The Eye of the Law”, the history of this metaphor is fascinating and arcane.³² Apparently similar to a rhetorical reference, devoid of real consistency, the “gaze of law” is a subtle trace which from antiquity endures through to the present day. Examples like the Greek Eye of Justice, the Eye of God watching the miseries of humankind, the Eye of the Prince conducting his subjects, to the modern idea of the impartial eye of the judge testify precisely this hybrid connection of words and figures, power and symbols.

So, where did these images come from? What kind of dogmatic conditioning do they impose on the minds of jurists? I think it would not be surprising to discover that the mentality of legal practitioners is the result both of a literary culture and a visual one. In a seminal article, Pierre Schlag has shown how legal thought is inherently devoted to aesthetic consideration. The legal method, its concepts, the professionals who practice it, as well as the emotions that are at play in the conduct of a trial, testify to a tension, or rather, an *energy* that is embedded within it.³³

³² Stolleis, Michael. *The Eye of the Law: Two Essays on Legal History*. Abingdon: Birkbeck law, 2009.

³³ Schlag, Pierre. “The Aesthetics of American Law.” *Harvard Law Review*, vol. 115, no. 4, 2002, pp. 1047–118.

In the history of the twentieth century, there was a term that tried to condense this approach by applying it to the highest domain of humanistic culture: iconology. The author who was its authentic creator, Aby Warburg, is now the object of an incessant intellectual rediscovery that occurs even in our day.³⁴ On the basis of the distinctions made by Erwin Panofsky (one of the strictest fellows of Warburg) it is possible to distinguish three different forms of interpretations (pre-iconographical; iconographical; iconological) united one to the other, as represented by the following diagram.³⁵

OBJECT OF INTERPRETATION	ACT OF INTERPRETATION	EQUIPMENT FOR INTERPRETATION	CORRECTIVE PRINCIPLE OF INTERPRETATION (<i>History of Tradition</i>)
I <i>Primary or natural</i> subject matter—(A) factual, (B) expressive—constituting the world of artistic motifs.	<i>Pre-iconographical description</i> (and pseudo-formal analysis).	<i>Practical experience</i> (familiarity with <i>objects</i> and <i>events</i>).	History of <i>style</i> (insight into the manner in which, under varying historical conditions, <i>objects</i> and <i>events</i> were expressed by <i>forms</i>).
II <i>Secondary or conventional</i> subject matter, constituting the world of <i>images, stories</i> and <i>allegories</i> .	<i>Iconographical analysis</i> .	<i>Knowledge of literary sources</i> (familiarity with specific <i>themes</i> and <i>concepts</i>).	History of <i>types</i> (insight into the manner in which, under varying historical conditions, specific <i>themes</i> or <i>concepts</i> were expressed by <i>objects</i> and <i>events</i>).
III <i>Intrinsic meaning or content</i> , constituting the world of “ <i>symbolical</i> ” values.	<i>Iconological interpretation</i> .	<i>Synthetic intuition</i> (familiarity with the <i>essential tendencies of the human mind</i>), conditioned by personal psychology and “ <i>Weltanschauung</i> .”	History of <i>cultural symptoms</i> or “ <i>symbols</i> ” in general (insight into the manner in which, under varying historical conditions, <i>essential tendencies of the human mind</i> were expressed by specific <i>themes</i> and <i>concepts</i>).

Culture was seen by Warburg as a process of transmission, reception, and polarization of aesthetic patterns which left traces in the intricate fabric of history. The symbol and the image are the crystallization of an energetic charge, of an emotional experience that survive as an inheritance transmitted by social memory. Here, fiction and reality merge together crafting our cultural imagery.³⁶ Referring precisely to the discipline created by Aby Warburg in a contribution published some years ago, Giorgio Agamben curiously defined it as the “Nameless Science”.³⁷ According to Agamben, the original project who Warburg had in mind and devotedly cultivated during his entire life is still an enigma that has not reached a complete definition.

³⁴ Mitchell, W J. T. *Iconology: Image, Text, Ideology*. Chicago: Univ. of Chicago Press, 2009.

³⁵ Panofsky, Erwin. *Meaning in the Visual Arts: Papers in Art and History*. Chicago: Univ. of Chicago Press, 1955, pp.40–41. The diagram was the result of numerous adaptations. For an history of this process, see Elsner, Jaś, and Katharina Lorenz. “The Genesis of Iconology.” *Critical Inquiry*, vol. 38, no. 3, 2012, pp. 483–512.

³⁶ In these terms, see Didi-Huberman, Georges. *Surviving Image: Phantoms of Time and Time of Phantoms: Aby Warburg's History of Art*. Pennsylvania: Pennsylvania State University Press, 2018; Michaud, Philippe-Alain. *Aby Warburg and the Image in Motion*. New York: Zone Books, 2007.

³⁷ Agamben, Giorgio. *Potentialities: Collected Essays in Philosophy*. Stanford, Cal: Stanford University Press, 2007, pp. 89–103.

I guess it is precisely for this reason that the *iconology of law* might offer an important challenge and at the same time a great opportunity for comparative legal methods today. If comparative law is the study of what is different, unknown, mysterious, and undetected, then a correct appraisal of all the narratives and fictions which surround a specific idea of law becomes essential.

The iconology of law, we may finally argue, assumes its central ambition precisely in unveiling the strategies, the symbols and the imageries which inhabit our institutions, and showing their existential connection with the past. Images and visual forms are legal devices, the very place of human cognitive activity in its vital confrontation with traditions and memory. In this context, the problem that must be immediately posed to Warburg's thought, as well as to a newer comparative method devoted to the study of legal traditions is a purely philosophical one: the status of the image and the relation between image and center and periphery.