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THE LAW(S) BETWEEN THE DOGMAS OF FAITH AND REASON: THE NAME OF THE ROSE AND ITS SYMBOLOGY ON MODERNITY (IN LAW)

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ABSTRACT

This article intends to analyze, from socio-legal and historiographical perspectives, the reconstruction of the Middle Ages undertaken by Umberto Eco in the novel The Name of the Rose, seeking to debug how the author understands the tension between modern and pre-modern elements in the construction of the plot and to what extent this debate reveals keys to reading medieval legal pluralism.

Keywords: The Name of the Rose. Umberto Eco. Pre-Modernity. Modernity. Medieval Legal Order. Legal Pluralism. Crime Investigation. Inquisition.

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INTRODUCTION

The name of Rosa is, according to Umberto Eco himself, built from the premise that "*books always talk about other books and every story tells a story already told*" (ECO, 1985, p. 20). It is a novel in which the first-person narrator, Adso of Melk, a Benedictine monk of the fourteenth century, narrates at the age of eighty the sinister events that take place in an Italian abbey in 1327, when he was only eighteen years old. In addition, the version reported by Adso in the work is not exactly the original one, remembered and written by him at the end of his life, but a product of translations and adaptations made by Vallet and Mabillon over the centuries and which finally arrived to be published only in 1970, when the manuscript was (re)discovered in a used book store in Buenos Aires.

In other words, there are at least four narrative layers that are embodied in a "mask" (ECO. 1985, p. 20) worn by Eco to tell his story *about* and *in the* Middle Ages (ECO, 1985, p. 19), thus transferring to others the responsibility for the (re)construction of the world in which the plot unfolds. Here is the great challenge posed by Eco: "*To make everything understood through the words of someone who understands nothing*" (ECO, 1985, p. 32).

As if that were not enough:

> "Adso's narrative style is based on that figure of thought called preterition. [...] We say we don't want to talk about something that everyone knows very well, and in saying that we mean the thing. This is more or less the way Adso points to people and events that would be well known, but speaking of them. As for the people and events that the reader of Adso, a German at the end of the century, could not know, because they were from Italy at the beginning of the century, Adso does not hesitate to describe them, and in a didactic tone, because that was the medieval chronicler style, eager to introduce encyclopedic notions every time he mentioned something" (ECO, 1985, p. 35).

This way of narrating adds a series of peculiarities and symbolisms to the already complex and detailed version of the medieval world carved by the author, provoking a cascade of semantic plurality not always originally foreseen by Eco himself and which explains, in part, the birth success of the historical novel and its extensive critical fortune.

In addition to the already known various interpretative perspectives developed by literary criticism since the work was published in 1980, two that still lack development concern Umberto Eco's views on the historical-sociological debate on the transition from pre-modernity to modernity and on the medieval legal order.

In this essay, it is precisely proposed to develop some perfunctory perspectives on these two points.

THE DEBATE ON MODERNITY IN THE POSTSCRIPT TO *THE NAME OF THE ROSE*

Years after the publication of *The Name of the Rose*, Umberto Eco published a postscript to the novel, in which he discussed his writing process. Refusing to give interpretations of the work, the Italian semiotician evidences in this work, however, theoretical and methodological aspects essential for the weaving of possible analytical paths for understandings (in the plural) of his history.

According to Eco, "*the book begins as if it were a detective novel (and continues to deceive the naïve reader until the end, in such a way that the naïve reader may not even realize that it is a detective novel where very little is discovered, and the detective ends up defeated)"* (ECO, 1985, p. 45).

The important thing, in fact, are the underlying logics of the investigative event, because the "*basic story (who is the killer?) branches out into many other histories, all of them histories of other conjectures, all revolving around the structure of conjecture as such*" (ECO, 1985, p. 45).

One of these stories of conjecture is the labyrinth: "*The labyrinth of my library is still a Mannerist labyrinth, but the world in which Guilherme thinks he lives is already structured in the form of a rhizome; or rather, it is structurable but never definitively structured*" (ECO, 1985, p. 47).

By rhizome, invoking Deleuze and Guattari, he understands that which "*has no center, no periphery, no way out, because it is potentially infinite. The space of conjecture is a space of rhizome*" (ECO, 1985, p. 47).

There are, here, indications of a declared tension between modernity and pre-modernity.

Ironizing the debate on "post-modernity" and its voracious claim to apply to this category "everything that pleases those who use it", Eco discusses it as follows:

> "I believe, however, that the postmodern is not a tendency that can be delimited chronologically, but a spiritual category, or rather, a Kunstwollen, a way of operating. We can say that each era has its own postmodern, just as each era would have its own Mannerism (so much so that I wonder if postmodern would not be the name of Mannerism as a metahistorical category). I believe that in every epoch one reaches moments of crisis, such as those described by Nietzsche in the Second Extemporaneous Consideration, on the evils of historical studies. The past conditions us, oppresses us, threatens us. The historical avant-garde (but here I would also understand avant-garde as a meta-historical category) seeks to settle accounts with the past. [...]
> But there comes a time when the avant-garde (the modern) cannot go further, because it has already produced a metalanguage that speaks of its impossible texts (conceptual art). The postmodern response to the modern consists in recognizing that the past, since it cannot be destroyed because its destruction leads to silence, must be revisited: ironically, in a non-innocent way. [...]

> Irony, metalinguistic game, enunciation squared. Therefore, with the modern, those who do not understand cannot accept it, while with the postmodern, it is possible not to understand the game and take things seriously" (ECO, 1985, p. 55-57).

Advancing the argument, and certainly demonstrating some intentionalities of his work, Eco quotes a suggestive passage from John Barth:

> "The ideal postmodern novel should overcome the diatribes between realism and unrealism, formalism and 'contentism', pure literature and engaged literature, elite narrative and mass narrative... The analogy I prefer is rather with good jazz or classical music: listening several times and analyzing the score, we discover many things that were not noticed the first time, but that first time must be able to hook us to the point that we want to listen to it other times, and this goes for both specialists and non-specialists" (ECO, 1985, p. 59).

In some excerpts from the postscript, it is clear that this is how Eco also understands *The Name of the Rose*: as a postmodern historical novel, in this sense of Barth, insofar as it provokes a tension between past and present, mixing classical and erudite literary elements (historical reconstruction of the Middle Ages based on the use of original chronicles of the fourteenth century to produce the dialogues between the characters) with elements of detective literature (e.g., Sherlock Holmes). An erudite *best seller*? Or an erudite book acclaimed by the general public?

Remember when Eco comments on the suggestions of friends and editors to suppress or reduce the first hundred pages of the novel, which outline a detailed (and often tedious) account of the socioeconomic and architectural microcosm of the Abbey, to which the author responds negatively, saying that this would be the price to be paid by the reader who wanted to enter that universe and have access to the facts and mysteries that occurred there. The reader who could not or did not want to do so, "*will remain on the slopes of the hill*" (ECO, 1985, p. 36).

At another point, he comments that a seventeen-year-old reader warned him that he had understood nothing of the various and long theological discussions held in the book, "*but that these acted as extensions of the space labyrinth (as if they were thrilling music in a Hitchcock film)*" or, in other words, "*even the naïve reader sniffed that he was facing a story of labyrinths and not of space* labyrinths", coming into "direct contact with the fact that it is impossible for ***a** history to exist*" (ECO, 1985, p. 47-48).

From this stands out his intention to create an "ideal" reader model for his novel:

> "I wanted to become completely medieval and live in the Middle Ages as if this were my time (and vice versa). But at the same time, I wanted, with all my strength, to draw a figure of a reader who, after overcoming initiation, would become my prisoner, or rather, prisoner of the text and think he did not want more than what the text offered him" (ECO, 1985, p. 47).

One of the possible explanations for his assumed fixation with the Middle Ages (ECO, 1985, p. 17-18) is made explicit as a kind of indispensable return to the cultural cradle of Western Europe as one of the possible keys to understanding contemporaneity:

> "Needless to say, all the problems of modern Europe, as we feel them today, have their origins in the Middle Ages, from communal democracy to the banking economy, from national monarchies to the city, from new technologies to the revolts of the poor: the Middle Ages are our childhood, to which we must always return to make our anamnesis" (ECO, 1985, p. 62).

To a certain extent, this is something similar to Koselleck's explanation for the dynamics of historical time, which develops, according to him, by the tension between the *space of experience* and the *horizon of expectation*. By *experience*, he understands "*the current past, the one in which events were incorporated and can be remembered*" (KOSELLECK, 2006, p. 309). Expectation, in turn, "*is the present future, focused on the not-yet, on the unexperienced, on what can only be predicted*" (KOSELLECK, 2006, p. 310). Koselleck states that these categories are not simple antithetical concepts, because they "*indicate unequal ways of being, and from the tension that results from them something like historical time can be deduced*" (KOSELLECK, 2006, p. 312).

The German professor maintains, therefore, that one cannot draw a linear conclusion from this productive tension in the sense of directly deducing expectations only from experiences. And this is because "*the difference between the two categories takes us back to a structural characteristic of history. In history there is always a little more or less of what is contained in the premises. [...] the historical future is never the pure and simple result of the historical past*" (KOSELLECK, 2006, p. 312).

Concluding his reflections on the relationship between pre-modernity and modernity in *The Name of the Rose*, Eco discusses it as follows:

> "In this sense, I certainly wanted to write a historical novel, and not because Ubertino or Michele had really existed and said more or less what they really said, but because everything that fictional characters like Guilherme said should have been had at that time.
> I do not know to what extent I have been faithful to this purpose. I do not believe that I failed to fulfill it when I masked quotations from later authors (such as Wittgenstein) by passing them off as quotations from the time. In these cases, I knew very well that it was not my medievals who were modern, but the moderns who thought like medievals. I wonder if I have not sometimes lent my fictional characters an ability to, from *the disiecta membra* of purely medieval thoughts, compose some conceptual unicorns that, as such, the Middle Ages would not recognize as its own. I believe that a historical novel should also do something else: not only identify in the past the causes of what happened afterwards, but also draw the process by which these causes slowly produced their effects.
> If a character of mine, comparing two medieval ideas, draws from them a third, more modern idea, **he is doing exactly what culture did later**, and if no one has ever written down what he said, it is certain that someone, even in a confused way,

> should begin to think about it (perhaps without saying so, possessed of a thousand fears and shames).
> In any case, there is something that amused me a lot: every time a critic or a reader wrote or said that one of my characters affirmed things that were too modern, well, in all these cases and precisely in these, I had used textual quotations from the fourteenth century.
> There are other pages in which the reader has savored as deliciously medieval certain attitudes that I felt were illegitimately modern. It is that each one has their own, usually distorted, idea of the Middle Ages. Only we, monks of that time, know the truth, but by saying it, we can be burned alive" (ECO, 1985, p. 64-65).

From the excursion undertaken so far on the postscript to *The Name of the Rose*, some conclusions about Umberto Eco's vision of modernity stand out.

In the first place, Eco creates narrative "masks" to tell stories about the Middle Ages, despite the fact that his book is based on careful research of historical sources to build the microcosm of the Abbey and that the characters' speeches have been elaborated from authentic medieval chronicles of the fourteenth century. necessarily.

Secondly, the author sees his book as a postmodern historical novel, in which (unlike modernity – as he understands it – and its supposed rational fixation with the avant-garde) the past is recovered with irony in order to say essential things about contemporaneity.

Thirdly, Eco sees that narrated universe as a world in crisis. And these crises are evident, for example, when the author constructs the figure of the labyrinth in the library, as seen above, not as an exclusively spatial reference to the center of the Abbey's orbit or to the multiplicity of stories and plots that intertwine and intend each other in his novel, but also as a metaphor for *"[t]he world in which William* ***thinks he lives",*** which ***"****is structurable but never definitively structured*" (ECO, 1985, p. 47, he highlighted).

In this sense, he assumes that he used several stylistic resources to mark this tension between the Middle Ages and modernity. In other passages, much more recent authors, such as Wittgenstein, were invoked to construct the characters' speeches (ECO, 1985, p. 64-65).

As a justification, he states that "*it was not my medievals who were modern, but the moderns who thought like medievals*" and that "*a historical novel must also do something else: not only identify in the past the causes of what happened later, but also draw the process by which these causes were slowly producing their effects*" (ECO, 1985, p. 64).

These narrative devices of (re)constructing the pre-modern by the modern or of showing that the modern is still very much a tributary of the pre-modern ("*the Middle Ages is our childhood, to which we always have to return to make our anamnesis*" — ECO, 1985, p. 62) are evident:

> "If a character of mine, comparing two medieval ideas, draws from them a third, more modern idea, he is doing exactly what culture did later, and if no one has ever written what he said, it is certain that someone, even in a confused way, should start thinking about it (perhaps without saying it, possessed of a thousand fears and shames)" (ECO. 1985, p. 65).

In addition, several times, he mentions the term mannerism in his postscript[3], usually accompanied by his reflections on *postmodernism*, which he identifies as a peculiar way of dealing theoretically and aesthetically with the past, as explained above.

[3] According to the Itaú Cultural Encyclopedia: "Mannerism is used by modern criticism to designate artistic production, especially Italian, which takes place between 1520 and 1600, that is, between the end of the High Renaissance and the beginning of the Baroque. The recovery of the notion as a historical category, referring to a specific style - which can be observed in the interwar period, especially in the 1920s - should not obscure its tortuous trajectory, marked by inaccuracies and a series of negative connotations. The term is popularized by Giorgio Vasari (1511-1574) - himself an artist of the period - who speaks of maniera as synonymous with grace, lightness and sophistication. [...]. Stripped of the pejorative meaning attributed to it by critics until the beginning of the twentieth century, Mannerist art began to be thought of as a critical development of the Renaissance. The break with the classical models is observed, among others, by the rupture with perspective and proportionality; by the discarding of regularity and harmony; by the distortion of the figures; by the emphasis on subjectivity and emotional effects; by the displacement of the central theme of the composition. Created in palatial environments for an aristocratic audience, Mannerist art cultivates formal style and elegance, beauty, grace and ornamental aspects. Mannerist aspects can be found both in Michelangelo's Florentine phase and in the late period of Raphael's production, some commentators indicate, which leads to think of this production as an unfolding of certain problems posed by Renaissance art. The first Mannerist generation was linked to the names of Pontormo (1494-1557) and Fiorentino Rosso (1494-1540), in Florence; that of Domenico Beccafumi (1486-1551) in Siena; and that of Parmigianino (1503-1540), in northern Italy. The murals made by Pontormo in Certosa di Val d'Ema, 1522 and 1523 are emblematic of the Mannerist options. In them there is no recourse to perspective. The figures, of elongated proportions and unnatural mode, are dissolved in the composition, whose movement is obtained by accentuated contrasts". Available at: https://enciclopedia.itaucultural.org.br/termo3189/maneirismo (last accessed on 20.11.2020). This critical facet of Mannerism in relation to the classical Renaissance artistic canons is also described by the art historian E.H. Gombrich: "By 1520 all art lovers in Italian cities seemed to agree that painting had reached the apex of perfection. Men like Michelangelo and Raphael, Titian and Leonardo had done everything that previous generations had tried to do. No drawing problem seemed to be too difficult for them, no subject too complex. They showed how to combine beauty and harmony with unsurpassed correctness, and—it was said—had even surpassed the most celebrated statues of Greek and Roman antiquity. For a young man who aspired to become a great painter, this general opinion would perhaps not be very pleasant to hear. However much he admired the works of the great living masters, he would certainly wonder if it was true that there was nothing left to do, because everything that art could accomplish was already done. Some seemed to accept this idea as inevitable, and studied hard to learn what Michelangelo had learned and to imitate his style as best they could. [...] More recent critics, realizing that these young painters had erred simply because they imitated Michelangelo's manner, called this period because it was fashionable, the Mannerist period. But not all young artists of that time were foolish enough to believe that all that was asked of art was a collection of nudes in difficult postures. In fact, many doubted that art had reached a point of limit, that it was impossible at last to surpass the famous masters of the previous generation, if not in their treatment of human forms, then, perhaps, in some other respect. Several artists wanted to surpass them in terms of invention. They engaged in a painting full of meaning and wisdom—so much wisdom, in fact, that the work would remain obscure except to the most learned. His paintings almost looked like pictorial puzzles, and could only be solved by those who knew what the scholars of the period believed to be the true meaning of Egyptian hieroglyphics and many almost forgotten ancient authors. Still others wanted to attract attention by making their works less natural, less obvious, less simple and harmonious than the creations of the great masters. They seemed to argue that these creations were indeed perfect—but perfection is not always interesting. Once familiar with it, it ceases to cause any aesthetic excitement. Thus, the surprising, the unexpected, the unusual were now sought" (GOMBRICH, 1999, p. 361-362).

According to Professor Arnaldo Godoy, Eco would understand postmodernism as a theoretical attitude critical of the excess of rationality that marks the emergence of modernity[4]. See:

> "In this sense, it allows us to think of postmodernism as a skeptical attitude towards the rationality constructed by Enlightenment thought. Apparent negativism, which sets the tone of a nihilism that truistically points nowhere, is what provides the thematic axis of postmodern considerations. Postmodern thought is opposed to the rationality and promises of what is meant by modern, which beckoned to the objectivity, neutrality, and unlimited progress of a redemptive and soteriological science. The promises of modernity, because they have not been fulfilled, have become problems for which there seems to be no solution.
>
> The postmodern rejects the foundationalism of modernity, defined as the epistemological and ontological anchor of the Enlightenment. This reference was built around a subject defined by the Cartesian cogito and Kantian transcendentalism. The Enlightenment signaled with commitments that it did not fulfill, with a free and solidary society that could not transcend the texts of programmatic constitutions. Salvationist rhetoric was refueled, using freedom to kill it and reason to derationalize it" (GOGOY, 2013).

The Italian professor associates, in the postscript, Mannerism and postmodernity with crises and tensions of a given historical moment: "each era has its own postmodern, just as each era would have its own Mannerism (so much so that I wonder if postmodern would not be the name of Mannerism as a metahistorical category)" (ECO, 1985, p. 55). Something identifiable, therefore, to the crisis of a paradigm, in the view of Thomas Kuhn in The Structure of Scientific Revolutions.

According to Kuhn, scientific development does not occur peacefully and always for the better. On the contrary, it develops through ruptures, jumps, paradigm shifts, that is, "*through a relatively abrupt and unstructured event similar to an alteration of visual form*" (KUHN, 2011, p. 160).

Menelick de Carvalho Netto and Guilherme Scotti point out that "*this discussion of Kuhn's is also closely linked to the developments in the philosophy of language, to the so-called pragmatic turn*" (CARVALHO NETTO; SCOTTI, 2011, p. 30).

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[4] According to Menelick de Carvalho Netto and Guilherme Scotti: "What leads several authors to postulate the label of postmodernity, in order to attribute such a great structural specificity to the times in which we live as that which occurred in the transition from traditional societies to modern society? It is precisely the recognition of the excessive pretensions attributed to human rationality in modernity: the overcoming of the myth of modern reason, which would be capable of revealing eternal, immutable, ahistorical truths, as well as the recognition of the high costs paid for the belief in this myth.
In the company of Niklas Luhmann and Jürgen Habermas, however, we prefer to recognize our times as more modern than those of the men who coined this term to designate their time, precisely because we no longer believe in that mythical rationality, in science as absolute knowledge. We believe that we do live in a still modern era, in a late modernity, which may be wiser, more modern, than the modernity that preceded it, due to what we were able to learn from our own experiences. Modernity thus reveals itself as an unfinished project" (CARVALHO NETTO; SCOTTI, 2011, p. 25-26).

In fact, Kuhn's work was clearly influenced by Gadamer's philosophical hermeneutics regarding the role that tradition plays in the interpretation of texts and the question of the universality of the hermeneutic phenomenon (GADAMER, 1997, p. 263). Furthermore, it is worth noting the influence of the second Wittgenstein, that of the *Philosophical Investigations,* on the limits of the (in)determination of language and the different "*language games*" that today's communication gives rise to (CARVALHO NETTO, 2001). On this issue, Menelick de Carvalho Netto states the following:

> "When we remove from the tacitly shared background of silence any word that we consider to have an obvious meaning, bringing it into the universe of discourse, as we did with the term democracy, we will see that about its meaning there was not a rational agreement, but a mere prejudice, that is, an unreflective pre-understanding, a knowledge that was believed to be absolute and that, for this very reason, it was not knowledge at all" (CARVALHO NETTO, 2001).

Thus, communication is only possible to the extent that the communicants do not problematize each and every word they use in their discourses, so that the practice of language is naturalized (WITTGENSTEIN, 2009, p. 290). In other words, communication can only be conceived in view of the existence of a shared background of silence, that is, of linguistic prejudices. In short, "*We communicate because we don't communicate*": this is the paradox of language (CARVALHO NETTO, 2001).

Such a shared background of silence represents, for Thomas Khun, the very notion of paradigm, which "*stems from a grammar of social practices that we carry out every day without being aware of it and that shapes our own way of looking, at the same time, sharpens and makes precise our vision of certain aspects, blinding ourselves to others, and this is part of our human condition*" (CARVALHO NETTO, 2001).

Returning to the concept of crisis advocated by Umberto Eco, it can be said that this historical category is to a certain extent identifiable with the concept of crisis of a scientific paradigm developed by Thomas Kuhn:

> "While the tools provided by a paradigm are still able to solve the problems it defines, science moves faster and deepens even more through the confident use of these tools. The reason is clear. In manufacture, as in science, the production of new instruments is an extravagance reserved for those occasions which require it. The meaning of crises consists precisely in the fact that they indicate that the time has come to renew the instruments" (KUHN, 2011, p. 104-105).

Specifically about the responses to crises, the American philosopher discusses as follows:

> "Let us suppose that crises are a necessary precondition for the emergence of new theories and then ask how scientists respond to their existence. Part of the answer, as obvious as it is important, can be discovered by first observing what scientists never do, even when faced with prolonged and severe anomalies. Although they may begin to lose their faith and consider other alternatives, they do not renounce the paradigm that led them to the crisis. On the other hand, they do not treat anomalies as counterexamples of the paradigm, although, according to the vocabulary of the philosophy of science, they are precisely that. In part, this generalization of ours is a historical fact, based on examples such as those mentioned above and those that we will indicate later. This already suggests that our examination of the rejection of a paradigm will reveal in a clearer and more complete way: a scientific theory, after having achieved the status of a paradigm, is only considered invalid when there is an alternative available to replace it" (KUHN, 2011, p. 107-108).

Therefore, convergences between Kuhn and Eco can be noted here, insofar as a paradigm (for example, the medieval world), even in crisis, continues to provide answers to the problems presented by the phenomenal reality, still in accordance with the existing instrument, which begins to operate in constant tensions with new explanatory perspectives (Baskerville's scientific rationalism, for example) arising from the crisis. This helps to explain, to some extent, Umberto Eco's stated intentionality in portraying the medieval world as a paradigm in crisis that, despite its explanatory anomalies, still effectively perpetuates its dogmas, albeit mutually intersected by new and deviant explanations.

SOME CENTRAL ASPECTS OF MEDIEVAL LAW AND ITS CONTEXT IN *THE NAME OF THE ROSE*

The investigations conducted by Guilherme de Baskerville appear to have an air of modernity, superimposed on a logic that is still extremely "medieval" still in force in collective relations and consciousness. The choice of nationality and the rule to which the researcher belonged are not unreasonable. England, since Late Antiquity, has revealed itself to be a territory of reluctant submission to the authority of Rome. In the same way, the Franciscan order succeeded in asserting itself as an autonomous regular order, endowed with specific rules.

Such elements operate as instruments of distancing the character from the historical moment narrated there, still marked by a supposed imperative of the rigid Benedictine rule and the dogmatic imperatives of the Catholic Church. The care of the crimes committed inside the abbey required the participation of an investigator unrelated to that reality, capable of attributing solutions that escaped the explanatory logic of those subjects who resorted to elements of a spiritual nature, in various eschatological moments. To this end, the Franciscan scrutinizer makes use of advanced investigation techniques, such as his famous magnifying glasses for reading or the attempt to elucubrate events through deductive reasoning, without resorting to explanations of a metaphysical order.

Although these elements are seductive, seeming to characterize Baskerville as a historical agent out of his time, a careful reading of the work offers contrary evidence. Advances, retractions, resistances, theological debates, eschatological digressions, rudimentary technologies in the gestational stage, and all other elements indicative of a supposed harbinger of modernity, often constitute typical movements of medieval dynamics. Trying to characterize the medieval period as a period in which historical agents were not imbued with any rationality, governed solely and exclusively by impulses of a spiritual order, to the detriment of an essentially rational modernity, implies resuming the already outdated interpretation that classifies the period as the Dark Ages (LE GOFF, 2005).

The objective of this article, therefore, will be to analyze the elements provided by Umberto Eco's novel that denote the legal logics of the period, making use of passages from the work that show an accurate portrait (as would be expected from a medievalist of the author's calibre) of the period in which the facts are narrated. In this scenario, two relevant characteristics of this medieval theater deserve to be highlighted: the standards of devotion and the plural legal reality, very well explored by Umberto Eco.

COLLECTIVE AND INDIVIDUAL DEVOTION. AN INTERNAL CLASH

Traditionally, historiography presents the period in which the events of the novel take place as a time of crises, marked by the proliferation of plagues (with an average of recurrences every twenty years), wars, and the recrudescence of life in the cities (LE GOFF, 2007).

During the first half of the fourteenth century, the time in which the events narrated in the novel take place, medieval Europe, in fact, suffers from difficulties of all kinds. General famine, which had not occurred for more than a century, and bubonic plague are responsible for skyrocketing mortality in towns and cities, with varying effects in the different regions in which they occurred (BASCHET, 2006, p, 250). Added to these events are major wars (Hundred Years' War and War of the Two Roses) and the Great Schism of the Catholic Church, the latter even portrayed in the work of Umberto Eco. About the period, the French historian Jérome Baschet asserts that the continent was devastated by a feeling of pessimism, so characteristic of periods of crisis:

> "Pessimism invades the spirits and the feeling of living in a world that is dying, that is coming to an end, is more present than ever. The obsession with death explodes everywhere, in funerary practices as well as in literature and art, where macabre themes, such as the Triumph of Death, and later, the macabre dances gain prominence" (BASCHET, 2006, p, 250).

This feeling is elevated to great proportions within ecclesiastical discourses and practices, acquiring eschatological contours and which is much portrayed in several passages of the work, especially in the speeches of Jorge de Burgos, who constantly foretells the arrival of the Antichrist:

> "The ways of the Antichrist are lengthy and tortuous. He comes when we do not foresee it, and not because the calculation suggested by the apostle was wrong, but because we have not learned the art of it." Then he shouted in a very loud voice, his face turned to the room, making the vaults of the *scriptorium* rumble: "He is coming! Do not waste the last days laughing at monsters with mottled skin and twisted tails! Do not dissipate the last seven days." (ECO, 2009, p. 116).

The fear of God and his wrath are characteristic of the fourteenth century, but it is not possible to establish, in a peremptory way, a cause-and-effect relationship with the dramatic episodes. After all, talking about the Middle Ages presupposes talking about crisis, questionable sanitary conditions and conflicts. Thus, these elements must be relativized as the cause of the feeling of pessimism of the *trecento*, since the idea of "*mundus senescit* ("the world grows old") is a *topos* that impregnates long-standing clerical thought during the centuries of medieval development" (BASCHET, 2006, p, 252). The difficulties resulting from these episodes also had different consequences depending on the regions treated, so that in the Italian Peninsula, the territory where the facts occur, there is a reaction and the resumption of a feeling of optimism (BASCHET, 2006, p, 252).

A characteristic phenomenon of the period was religious sectarianism, embodied by the multiplication of movements that proposed new interpretations within the Catholic Church itself (LE GOFF, 2007, p. 56). Some were successful and were incorporated (Franciscan Order), many others fell into disgrace and were the target of intense persecution, such as the Albigenses. This scenario of dissonant voices is very well portrayed in the famous dialogue between William of Baskerville and the monk Ubertino de Casale (ECO, 2009, p. 66-84), a moment in which they debate the numerous orders that proliferated in Europe in the twelfth, thirteenth and fourteenth centuries, each with its own particular theological and cosmogonic interpretation of the world.

The monk Salvatore, burned by the stern hands of Bernardo Gui, is the synthesis of the religious sectarianism experienced within the Catholic Church after the passage of Late Antiquity. The character does not speak any specific language, but rather a myriad of mixed dialects resulting from his wanderings with the different groups that proposed particular religious interpretations, as the passage in which Salvatore is introduced to the reader clearly demonstrates:

> "I must, in the continuation of this story, speak still, and a great deal, of this creature and relate his conversations. I confess that it is very difficult for me to do so because I could not say now, as I did not understand then, what kind of language he spoke. It was not the Latin in which we expressed ourselves among learned men in the abbey, it was not the vulgar of those lands, nor any other vulgar that I had heard. I think I have given a faint idea of his manner of speaking by relating a little above (as far as I remember) the first words I heard from him. When I later learned of his adventurous life and the various places in which he had lived, without finding roots in any, I realized that Salvatore spoke all languages, and none." (ECO, 2009, p. 81).

In the face of the cenobitic life of the monastery, shielded from the social and religious upheavals of the thirties, the construction of this character that is highly dissonant from the sober Benedictine lifestyle is probably the way found by Eco to bring into the Abbey the discussion around the existence and performance of these small religious movements. It is even possible that the portrayal of Salvatore as a figure close to bestiality is a way of conveying to the reader the feeling that the Benedictine monks had in relation to the subjects who belonged to the movements of extreme asceticism and who clashed with the lifestyle of the Cluniacians.

Although it was marked by these internal questions and experienced significant changes, such as greater dynamism in the cities and increased commercial flow, the century in which the events of *The Name of the Rose take place* contemplates a relevant moment for the Church. A time of consolidations of dogmas and relevant theological institutes, it is in this period that theology climbs relevant steps, such as, for example, the establishment of the seven deadly sins, the seven gifts of the Holy Spirit and the seven sacraments. From this process of dogmatic consolidation, the faithful (clergy and laity) aspire to a direct and individual relationship with God (LE GOFF, 2007, p. 88).

Especially among the clergy, this kind of individual devotion generated disagreements within the Church itself. On the one hand, the solitary monks who were "worshippers, individual interlocutors of God. Hermits, anchorites had a direct relationship with God" (LE GOFF, 2007, p. 88). On the other hand, the traditional position of the Church, which understood that "the most licit, the best, form of monastic life was cenobitism, that is, collective life in convents" (LE GOFF, 2007, p. 88). This theological dichotomy ended up generating the contrast between the aspiration to a collective devotion and to an individual one, without intermediaries.

This characteristic of the theological shift experienced at the end of the twelfth century does not escape Umberto Eco. William of Baskerville is a Franciscan monk, who, due to his wandering posture, met peoples, cultures and the most varied theological perspectives. In the debates held with Ubertino de Casale and Jorge de Burgos, it is possible to note that the explanations given by Guilherme are almost private, the result of

reflections resulting from the accumulation of his experiences (university, literary, theological and personal experiences). William's devotions and *theological ratio* do not obey the logic of the regular or secular clergy, implying that they are the result of *individual reflections.* It contrasts with the *traditional cenobitic collective devotion* of the other Cluniac monks. At various moments in the work, William's ideas cause scandal, such as the passage in which, through a particular interpretation, he defends that Christ smiles.

Another demonstration of this dichotomy between individual/collective devotion occurs in the main point of the work: the murders. The reasons that gave rise to the deaths investigated by Guilherme are nothing more than drastic measures to contain deviant behavior. The victims were the monks who tried to break through the collective standards of devotion to God imposed by that monastic community. Those who searched for books whose access was forbidden because they violated the rules that instituted a certain standard of devotion died.

Although it constituted a cardinal sin, the deaths of individuals were justified as protection against this pattern of collective devotion and not only as a reprisal for curiosity. Undoubtedly, the "conflict between the God worshipped collectively and the one who reveals himself to man alone" constituted a major problem in the Middle Ages, "especially among clerics" (LE GOFF, 2007, p. 90). In the novel, Friar Michele de Cesena warns that the period of crisis generated by the papacy in Avignon, still occupied by a greedy pope like John XXII, generated risks of free interpretation: "on the *one hand a mad pope, on the other the people of God who, even if it is through the mouth of their theologians, will soon pretend to interpret the scriptures freely*" (ECO, 2009, 314-315).

The great risk of this type of particular interpretation was that the "desire for a direct relationship with God is one of the doors to heresy" (LE GOFF, 2007, p. 90). The reality of the Abbey is full of flirtations and episodes that touch on heretical behavior. Curious monks who invaded the library at the end of the day, friars formerly belonging to erratic orders and who survive on the premises of the Abbey proclaiming the most scandalous blasphemies, affront to the commandment not to fornicate and even William of Baskerville with his daring theological interpretations.

The inventiveness and alleged progress made by the Franciscan friar, which are often taken as typical postures of modernity, made up the internal reality of an institution like the Church. It is important to note that many of these ideas, glimpsed as indications of the "new times", did not escape theological logic, which entailed tensions and distensions in the doctrinal sphere.

An example of this is the dialogue between Baskerville and Nicola de Morimondo, at which time the Franciscan presents the glasses to the glass monk. The first indication that it was not a revolutionary invention, but already known, although of low circulation, is evidenced by the glassmaker's statement that he had already "heard about it from a certain Friar Giordano whom I met in Pisa [...]. He said that it had not been twenty years since he was invented." Guilherme rectifies the observation: "I believe they were invented much earlier" (ECO, 2009, 119). From this begins a brief theological debate as to whether the invention could be interpreted as "witchcraft" or "diabolical manipulation". The Franciscan friar defends his valuable instrument not under some argument of rational aspiration that tries to demystify the superstitions that hover over the glasses. The justification is entirely theological, as follows:

> (...) There are two forms of magic. There is a magic that is the work of the devil and that aims at the ruin of man through artifices of which it is not lawful to speak. But there is a magic which is the work of God, where the science of God is manifested through the science of man, which serves to transform nature, and one of whose ends is to prolong human life. And this is holy magic, to which the wise should always devote themselves, not only to discover new things, but to rediscover many secrets of nature that divine wisdom had revealed to the Hebrews, the Greeks, other ancient peoples and today even the infidels (and I won't even tell you how many wonderful things of optics and the science of vision there are in the books of the infidels!). And of all this knowledge a Christian science must take possession, and take it back from the pagans and the infidels tamquam ab iniustis possessoribus. (ECO, 2009, p. 120).

Then, speaking of other prodigious inventions, the Franciscan monk advocates that his knowledge remain obscure, under the control of the wise so that it would not be used for evil purposes. It would therefore be up to the Church to decide "when and how" (ECO, 2009, p. 121) these inventions would be used. From an invention that flirted with heresy, William transforms it into an operative instrument for strengthening the ecclesiastical institution, to the extent that he elevates the Church as the guide of the paths to be followed by men.

By his unquestionable shrewdness, or just because he was a clergyman of the fourteenth century, William explains several events from a theological point of view. The men and women of the Middle Ages are not naïve. The advantages of devices such as glasses were unquestionable. However, its use required legitimacy and Guilherme knows it. He knew that if he tried to persuade his interlocutor with arguments of a merely rational nature, he would not succeed.

Finally, under the internal organization of the Church, the work is very salutary for demonstrating that the Church was not a homogeneous institution, without friction or internal ruptures. In addition to radical movements such as the Albigensians, who flirted with

heresy, the novel brings interesting dialogues to the understanding of internal theological debates that indicated heterogeneity of ecclesiastical thought:

> "The gospel says Christ had a purse!"
> "Enough of this bag that you even paint on the crucifixes! What do you say then about the fact that Our Lord, when He was in Jerusalem, returned every night to Bethany?"
> "And if Our Lord wanted to go to sleep in Bethany, who are you to control his decision?"
> "No, old goat, Our Lord returns to Bethany because he had no money to get an inn in Jerusalem!"
> "Bonagrazia, you are the goat! And what did Our Lord eat in Jerusalem?"
> "And would you say then that the horse that receives oats from the master to survive has the property of oats?"
> "Look, you are comparing Christ to a horse..."
> "No, it is you who compare Christ to a simoniac prelate of your Court, a receptacle of dung!" (ECO, 2009, p. 361).

The debate continues, in radical terms, in which even saints of the Catholic Church are offended, such as St. Thomas Aquinas and the Pope:

> That was what that glutton of your Thomas said!"
> "Look at the wicked! He whom you call a glutton is a saint of the holy Roman church!"
> "Saint of my sandals, canonized by John to make spite of the Franciscans! Your pope cannot make saints, because he is a heretic. Or rather, he is a heresiarch. (ECO, 2009, p. 361)

The debate is relevant to the understanding of the juridical and social fabric of the Middle Ages, marked by the dispute for power inside and outside the Church. This diversity of ideas reflected a plural juridical-political reality, marked by the profusion of multiple centers of power and jurisdictional autonomy.

PLURAL LEGAL FABRIC

It must be taken into perspective that the characteristics of Law in a given historical period and in a given legal tradition carry with them the marks of their time and see what the glasses of the paradigmatic condition allow one to see. Thus, according to Habermas, it is denoted that a "*legal paradigm is deduced, in the first place, from the exemplary decisions of justice, and is generally confused with the implicit image that judges form of society*" (HABERMAS, 1997, v. II, p. 128). This is because:

> “[...] Specialists interpret normative propositions in two contexts: that of the legal body taken as a whole and that of the dominant pre-understanding in today's society. In this way, the interpretation of the law is also a response to the challenges of a certain social situation, perceived in a certain way." (HABERMAS, 1997, v. II, p. 123).

Thus, in the words of Marcelo Cattoni de Oliveira, "*legal paradigms constitute horizons of meaning for the development, in a given historical context, of a society, internally guiding legal practice*" (OLIVEIRA, 2013, p. 147).

After all, what are the most evident characteristics of this medieval legal order and how are they described by Umberto Eco in *The Name of the Rose*?

The reality of the medieval period was not one and easy to understand. We cannot reduce it to a simplistic scheme in which we classify those men as naïve and spiritualized historical agents, to the detriment of a modernity with conscious and rational actors of a progressive historical process. There was no universal truth, even within the greatest institution of the Middle Ages, which was the Church. Within it there were dissonant voices, debates, advances and retreats.

At the same time, in medieval political geometry, different groups competed in the dispute for leadership and privileged positions over the other historical agents. As Guilherme well taught Adso, "*an abbey is always a place where monks are fighting among themselves to take over the government of the community*" (ECO, 2009, p, 154).

The plurality of actors and plots generated attempts to incursion into other jurisdictions that went beyond the borders of the clergy. An example of this is the passage William details the political game between Franciscan friars, the pope and the emperor: the "minorities play the imperial game against the pope [...]. And then I am caught between two contrasting forces" that were Emperor Ludovico and Pope John XXII (ECO, 2009, p; 360).

Statutory rights, concordats, particularist norms, unwritten customs, canon law, decretals and many other normative manifestations made up an imbricated legal web. As pointed out by Paolo Grossi, what characterizes the legal reality of the Middle Ages is its autonomy:

> "The medieval legal order is a world of autonomies, founded and built on this fundamental and characteristic notion, in relation to which it is easy and simple (almost obvious) to suppose, in the same place and within the same political entity, the concurrence of a plurality of legal systems, each with its own specific scope; it presupposes coexistence and respect for others, it has no pretensions of comprehensive expansionism." (GROSSI, 2014, p, 277)

In this sense, it is important to deepen the idea of *iurisdictio,* which encompasses the "power to make laws and statutes (*potestas lex ac statua condendi),* to appoint magistrates (*potestas magistratus constituendi*) and, more generally, to judge conflicts (*potestas ius dicendi*) and to issue commands (*potestas praeceptiva*)" (HESPANHA, 1994, p. 41). This functional autonomy of political bodies is perfectly portrayed in *The Name of the Rose*.

The events involve crimes against the lives of monks, but at no time is the possibility of secular officials acting. The entire process is conducted within the Institution and by vicars. The abbey has its own jurisdiction for the settlement of *internal corpora matters*, and the appointment of William of Baskerville is the result of the exercise of the abbot's authority. He is the holder of the maximum prerogative within that circumscription of power, responsible for the delimitation of the competences and limits to the investigator's action:

> "Well," said William then, "can I ask the monks questions?"
> "You can"
> "Will I be able to move freely around the abbey?"
> "I give you the right."
> "Are you investing me with this mission coram monachis?"
> "Tonight."
> (...)
> The Abbot jumped to his feet, his face very tense. "You will be able to move around the abbey," I said. Certainly not on the top floor of the building, in the library" (ECO, 2009, p, 70).

At a certain point, again urged by the Franciscan monk to allow access to the library, which, in his view, was closely related to the crimes committed in the Abbey, the Abbot closes the discussion with the reinforcement of his prerogatives as *the head* of the community:

> "In this sense, all sixty monks have to do with the library, just as they have to do with the church. Why then do you not look in the Church? Friar William, you are conducting an investigation by my order and within the limits in which I ask you to conduct it. Moreover, within these walls, I am the only master after God, and by his grace. And this will also be true for Bernardo." (ECO, 2009, p, 234).

Pluralism, even within the Church itself, in which there are different orders, endowed with their own autonomy, is evidenced in the passage in which the minority friar Michele de Cesena declares that the Pope could not discuss "our desire for poverty and our interpretation of the example of Christ" (ECO, 2009, p. 310).

At other times, the work shows how this legal pluralism and these overlapping jurisdictions reveal themselves as an arrangement that is difficult to understand even for medieval men. William of Baskerville attempts to clarify to Adso the jurisdiction of the pope:

> "All this," William added with a hílare expression, "is not for the limitation of the powers of the supreme pontiff, but rather for the exaltation of his mission: for the servant of the servants of God is in this world to serve and not to be served. And, finally, it would be bizarre, to say the least, if the pope had jurisdiction over the things of the empire and not over other kingdoms of the earth. As is well known, what the pope says about divine things is as valid for the subjects of the king of France as it is for those of the king of England, but it must also be valid for the subjects of the Great Khan or the sultan of the infidels, since they are said to be infidels precisely because they are not faithful to this beautiful truth. And therefore, if

> the pope were to admit that he had temporal jurisdiction, as pope, over all things of the empire, he might leave room for the suspicion that by identifying temporal jurisdiction with spiritual jurisdiction over the Saracens or the Tartars, but neither with the French and the English, this would be a criminal blasphemy. (...) . The pope has no greater rights over the empire than over other kingdoms, and since neither the king of France nor the sultan are subject to the approval of the pope, there is no good reason why the emperor of the Germans and the Italians should be subject to him" (ECO, 2009, p. 369).

It is noteworthy that this legal plurality did not make up an easy-to-understand arrangement, even causing doubts in literate men, who were deeply knowledgeable about the letters of the law.

Thus, there was a complex distribution of jurisdictional competences between the different groups of power (the Church being inserted in this reality) that competed in a given territory. At certain moments, this competence was very well defined, as in the passage in which Bernardo Gui discovers that the monk Salvatore was prowling the Abbey accompanied by a woman. Politely, he clarifies to the Abbot that "if it were only a matter of the violation of the vow of chastity, the punishment of this man would be your responsibility" (ECO, 2009, p. 344), but, due to the discovery of a black cat and accessories that indicated his intention to sacrifice the animal in witchcraft rituals, the competence to judge the matter should be extended to the Inquisition.

When the inquisitorial process began, the Abbot asked Baskerville, obviously in secret, whether the procedure was legitimate or not. To support his doubt, he relies on canon XXXVII of the Fourth Lateran Council (1215), the content of which forbids the summoning of the accused for testimony by judges who are two days' walk from their domicile. The Franciscan friar responds that the rule does not apply to the case, because *"the inquisitor is outside any regular jurisdiction*" and "*should not follow the rules of common law. He enjoys a special privilege and is not even obliged to listen to lawyers*" (ECO, 2009, p, 382).

The legal geometry of feudalism comprises "*an exclusive legal universe, which has developed its own rules and has its own courts to apply them*" (GROSSI, 2014, p, 275). However, these particularist manifestations "*do not have totalitarian pretensions, they do not place themselves in frontal antagonism with the common law; rather, in its scope and order, they integrate it, specify it, even contradict it with particular variations, do not (nor do they intend to do so) to deny it*" (GROSSI, 2014, p, 276).

The jurisdictions competed and often confronted each other. This often occurred through the occurrence of the phenomenon of *interpretatio*, which constituted the interpreter's statement to the text with a view to correcting, complementing or modifying it. Thus, it operated as a mediator between the text and the facts, granting the multiplicity of

medieval norms a plastic character, capable of being molded according to circumstantial requirements (GROSSI, 2014, p, 279).

The plastic nature of the law is essential for the unraveling of the facts narrated in the Abbey, especially for the inquisitorial trial. Salvatore carried the black cat and its accessories with the aim of performing a kind of magic to conquer women, as confessed to Adso, moments before being discovered by Bernardo Gui's archers:

> "He pulled me close to him and told me with an obscene smile that he wanted no more than the steward or I, because we were one powerful and the other young and beautiful, we could have the love of the girls of the village, and he did not because he was ugly and poor. That he knew a portentous magic to make a woman fall in love. You had to kill a black cat and gouge out its eyes, then put them inside two black hen eggs, one eye in one egg, one eye in the other (and he showed me two eggs that he assured he had obtained from the appropriate chickens). Then it was necessary to lay the eggs to rot in a pile of horse manure (...) and from there a little devil would be born from each of the eggs that would then remain at his service, providing him with all the delights of this world. But, unfortunately, he told me, for the magic to work, it was necessary for the woman, from whom he intended love, to spit on the eggs before they were buried in the manure, and that problem distressed him, because he needed to have the woman in question by his side that night, and take her to do the job without her knowing what it was for." (ECO, 2009, p. 325).

However, in the behavior that merely contained syncretism, expected of an ignorant, superstitious friar who for years knew the most heterodox practices in his wanderings, Bernardo Gui glimpsed signs of heretical practices:

> "Cat and black rooster... But I know these paraphernalia. (...) And isn't the cat the animal loved by the Cathars, who according to Alan of the Islands are rightly called catus, because they kiss the rear of this beast considering it the incarnation of Lucifer? And does not this repugnant practice also confirm William of Alvernia in his De legibus? And doesn't Albert the Great say that cats are potential demons? And does not my venerable confrere Jacques Fournier report that on the deathbed of the inquisitor Gaufrid of Carcassonne two black cats appeared, who were nothing but demons who wanted to mock the spoils?" (ECO, 2009, p. 345).

The legal discourse responsible for the subsumption of the facts to the norm required an *interpretatio,* a mediation between what was understood as heresy and the facts that occurred. In this case, it was necessary to resort to other sources of law (customs, practices, teachings, experience) for the investigation of the heresy to advance. On the subject, Paolo Grossi advocates:

> "[...] dimensions that can be the universal human community that produces, by divine inspiration, rational rules interpreted by the leges and science, the particular territorial communities that produce local norms, the subjects of the feudal universe, the class of merchants, a particular *ethnos* that intends to reaffirm its originality at a juridical level, and so on" (GROSSI, 2014, p. 286).

It was not a homogeneous vision, which all historical agents could agree on, which is why Adso tries to prevent his arrest. For a moment, he threatens to tell Bernardo Gui that Salvatore did not intend to perform any kind of witchcraft, but only to conquer the poor peasant woman, who was lured by him by delivering a rooster – which also had nothing to do with witchcraft, but only with the purpose of feeding his family: "*I thought, on the contrary, that it was not necessary to attract her, the poor hungry woman who had already abandoned (and for love of me!) her precious ox heart last night*" (ECO, 2009, p. 344).

The legal arrangement of the medieval period does not take place in a rigid way, with perfectly liquidated general norms that should be obeyed because they come from a competent authority. It was purposely "open", plastic, and the interpreter's role in modeling its effects and in the mediation of its text was essential, as Paolo Grossi points out:

> "We cannot forget the golden warning of Allain de Lille, according to which the medievals – and therefore also the jurists – cannot do without a formal authority in their solitude, but that for them this authority has a nose of wax, that is, it must be understood as plastic material and can be directed to one side or the other depending on the requirements of the operator". (GROSSI, 2014, p, 281).

The understanding of the legal particularism typical of the medieval period requires the interpreter to overcome theoretical premises that have already been naturalized. It is necessary to overcome views conditioned to the overvaluation of formal aspects of a general law that produces unrestricted effects in a given territory. The reach of the law is not limited "*in a spatial frontier, but in the quality of the subjects legitimized to the enjoyment of certain legal rules*" (GROSSI, 2014, p, 275).

In this case, the condition displayed by Bernardo Gui, as well as the subject matter of his investigation, attracts special privileges and prerogatives that are not subject to general dictates, but which are not unrestricted. It is the inquisitor's responsibility to cure the soul of the heretic, but the "cure of the body of the accused is always entrusted to the secular arm" (ECO, 2009, p. 386). Baskerville clarifies to Adso that this is a technique for the inquisitor to be dissociated from any trace of cruelty and the accused urged to confess his sins. The Inquisition was not unaware of the importance of law, having effectively contributed to the development of canon law:

> "The juridical spirit, by the way, is no stranger to the institution of the Inquisition, an instrument of inquiry and research to eradicate heresy. When Gregory IX (who reigned from 1227 to 1241), himself a jurist, makes the Inquisition the main instrument of the pope in his fight against heterodoxy, he paradoxically consecrates the triumph of Law." (LE GOFF, 2005, p. 165).

Therefore, within this plural reality, the improvement of canon law and its importance in "a world in which the Church is omnipresent, and the juridical impregnation of mentalities is profound" (LE GOFF, 2005, p. 163). Given the universalist vocation of the Church, the importance of the development of canon law and its rules overflows from the particular interests of the institution, radiating effects to the whole of society:

> "Medieval civilization therefore relies on the law to attack problems, and to justify decisions. It thus responds to the deep concern for security, a concern that is manifested in all domains, both in the economy (the fourteenth century saw the birth of the first assurances) and in religion: the reorganization of the sacraments is a means of avoiding restlessness, of establishing references". (LE GOFF, 2005, p. 163).

Umberto Eco's novel therefore accurately portrays the legal pluralism that prevailed in the fourteenth century, characterized by an arrangement in which multiple jurisdictions and authorities dialogued. Such jurisdictions sometimes had well-defined borders, containing the actions of political actors outside the group, sometimes drawing fluid limits, which required the intervention of the interpreter.

POLICE INVESTIGATION, INQUISITION AND TORTURE: TENSIONS AND CONTRADICTIONS IN THE DEBATE ON MODERNITY AND PRE-MODERNITY IN *THE NAME OF THE ROSE*

One of the central facets of the debate waged by Eco in *The Name of the Rose* about the relationship between the Middle Ages and modernity, in the field of law, is materialized in the investigative procedures used by Guilherme de Baskerville to try to elucidate the murders that took place in the Abbey. From the beginning of the novel, when Guilherme arrives at the monastery with Adso to participate in the theological debate about poverty and, faced with the first death, is urged by the Abbot to investigate the mysterious events, the paradigmatic contrast woven by Eco between a typically medieval way of dealing with problems of this nature and the methods used by Baskerville is evident. on the other hand, to decipher such phenomena.

It is important to remember here that Eco himself emphasizes, in the postscript (as already emphasized in this *paper*), that — if the dialogues of his characters, at given moments, seem to reflect more modern conceptions than the historical epoch he describes could suppose — his intention is precisely to mark the historical-social processes that would inevitably occur later, even if they did not actually occur that way at that exact moment (ECO, 1985, p. 65).

This narrative key is very interesting for possible readings about the estrangement that the figure of William of Baskerville represents for other medieval religious, including his own pupil Adso de Melk.

From the first moment that the Abbot commissioned William to investigate the deaths of the monks, the standard version circulating in the Abbey about the crime was embodied in some supposed metaphysical and diabolical event that tormented the monastery.

Guilherme, however, represents a certain opposition to this thesis, insofar as he begins to investigate the occurrences based on pragmatic procedures: he interrogates and contradicts witnesses, examines the crime scenes, performs autopsies of the corpses, analyzes footprints, invades the library at night in search of clues, uses work instruments that are difficult to access (glasses, hourglasses, astrolabe), as well as conditioning his investigative reasoning in eminently empirical observations and deductions.

On this point, Menelick de Carvalho Netto discusses it as follows:

> "The dissolution of this paradigm has been verified over at least three centuries, due to a number of factors ranging from the dissolving action of capital, to diluting feudal ties and obstacles and making more and more free and possessive individuals participate in the growing market as owners, at least of their own body, that is, of the labor force that enables them to attend the market on a daily basis as owners of a commodity to be sold (Marx); passing through the development of police investigation practices (Foucault, Urnberto Eco); by the destruction of the closed and hierarchical feudal cosmology, replaced by the isonomic mathematical structure of atoms that constitutes the infinite universe of Galileo's physics (Koyré); for the struggles for freedom of religious confession and for the consequent distinction and separation of the nominative spheres of religion, morals, social ethics and law (Weber), etc." (CARVALHO NETTO, 2004).

According to Professor Nelson Silva Junior, "*The profile of William [Guilherme] is the profile of the man who transits in the passage to scientific thought and it is this profile that will make him investigate the deaths that are occurring in the abbey*" (SILVA JUNIOR, 2018, p. 227).

In his introduction to the book, the English critic David Lodge states the following:

> "The detective-hero of The Name of the Rose, William of Baskerville, is a Franciscan friar who possesses many intellectual traits that belong to the modern world, is to a large extent a critic of the institutional church, and in the eyes of his devotedly orthodox acolyte, Adso, the narrator of the story, comes dangerously close to questioning the philosophical foundations of the Christian faith.
> [...]
> Eco tells us that he would find it much easier to situate history in the twelfth or thirteenth centuries, a period he knew well; but the intertextual device of making his detective a medieval precursor of Sherlock Holmes was already central to the project, and this impelled him to situate his story in the fourteenth century, about which he was initially much less informed, since the investigative approach to crime, anticipating the modern scientific method, could only be adopted by a Franciscan friar influenced by the philosophical teachings of the Franciscans Roger Bacon and

William of Ockham, the latter having lived in the first half of the fourteenth century" (LODGE, 2009, p. 13-14).

In fact, William of Baskerville's invocations to Bacon[5] and Ockham are recurrent[6]. Always designated as his "masters", these authors are philosophical precursors of Galileo Galilei and René Descartes, who would contribute to philosophically forging, centuries later, the rationalist scientific ideology as the great driving force of modernity (CARVALHO NETTO, 2004), alongside the invention of the individual (HABERMAS, vol. I, 2010, p. 17; NEVES, 2009, p. 8).

One cannot, however, see William as an enlightened man, a man out of his time and predestined to solve riddles based on a rational ideology that he personally would have taken to the Abbey. If, on the one hand, he embodies in himself the metaphor of the crisis of the medieval paradigm; on the other hand, it is intrinsically inserted in this same paradigm in crisis, as previously discussed. He is a religious man and fearful of Christian morality, even if he institutionally criticizes the Church (i.e., by siding with the Emperor in the debate against poverty, in opposition to the Pope).

Also remember that Guilherme does not unveil the entire story of the murders in a timely manner and ends up, therefore, defeated. Moreover, if there were techniques on his part to investigate the crimes, there were techniques (although paradigmatically different) of poisoning and exploration of the labyrinth used by the old blind monk Jorge de Burgos, the real murderer, to protect the library and prevent the disintegration of the *Catholic status quo* by reading books supposedly unwanted by religious dogmas. Likewise, if Guilherme used the deductive method and the use, for example, of his unusual glasses for the analysis of parchments found at the crime scene, the murdered monk Venancio, in turn, also used expedients such as the inscription, with lemon juice, of codes with signs of the zodiac to confidentially record forbidden information about the library.

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[5] There are, in the novel, 21 references to Roger Bacon. For example: "*Roger Bacon, whom I venerate as a master, taught us that the divine plan will one day pass into the science of machines, which is natural and holy magic. And one day, by force of nature, navigational instruments may be made thanks to which ships will go unto homine regent, and much faster than those propelled by sail or oars; and there will be cars 'ut sine animali moveantur impetu inaestimabili, et instrumenta volandi et homo sedens in medio instrumenti revolvens aliquod ingenium per quod alae artificialiter compositae aerem verberent, ad modum avis volantis'. And tiny instruments that will lift infinite weights and vehicles that will allow you to travel on the seabed.*" (ECO, 2009, p. 55-56).

[6] There are, in the novel, 8 express citations of the name of William of Ockham. One of the most evident, although it does not mention the name of the English philosopher, refers to the famous "Ockham's Razor", a philosophical principle according to which, of multiple adequate and possible explanations for the same set of facts, one should choose the simplest of those. See:

"Adso: Why do you say that it is a less expensive solution for our heads?

Guilherme: Dear Adso, it is not necessary to multiply the explanations and causes without having a strict necessity. [...]" (ECO, 2009, p. 138).

One can see here, therefore, a narrative device by Eco to precisely mark the tensions between a socio-historical paradigm in crisis, pretensions of maintaining the medieval and religious *status quo*, pretensions of disobedience of this *status quo* and searches for the elucidation of such strange events in the light of new answers (scientism), in which, for Eco, more important than the discovery of the murderer by the detective (who ends up frustrated) is the narrative process of (re)construction of a world with infinite social, political, religious and legal tensions.

This narrative process, in turn, is also marked by a tension between the supposed scientific-rationalist bias of William (a pupil of Ockham and Bacon) and the fact that Baskerville, although with occasional heterodox disagreements, was an essentially medieval man and a cleric. This is clear in the following passage of the debate between Guilherme and Ubertino:

> "Do not pronounce the name of this viper any more!" cried Ubertino, and for the first time I saw him transform from bitter as he was to angry. "He has sullied the word of Gioacchino of Calabria and made it a banner of death and filth! Messenger of the Antichrist, if he ever existed. But you, William, speak like this because you do not really believe in the coming of the Antichrist and your Oxford masters have taught you to idolize reason by diminishing the prophetic capacities of your heart!"
> "You are mistaken, Ubertino," William replied very seriously. "You know that I worship Roger Bacon more than any other of my masters..."
> "Who dreamed of flying machines," Ubertino bitterly mused.
> "Who spoke clearly and clearly about Antichrist, warned him of the signs in the corruption of the world and the weakening of knowledge. But he taught that there is only one way to prepare for his coming: to study the secrets of nature, to use knowledge to improve the human race. You can prepare to fight the Antichrist by studying the healing virtues of herbs, the nature of stones, and even designing the flying machines you mock."
> "The Antichrist of thy Bacon was a pretext for cultivating the pride of reason."
> "Holy pretext."
> "Nothing that is pretextuous is holy. Guilherme, you know I love you. You know I trust you a lot. Chastise your intelligence, learn to weep over the wounds of the Lord, throw away your books." (ECO, 2009. p. 107-108).

Another point that deserves to be highlighted in this debate between pre-modernity and modernity, in the field of law, is the issue of the Inquisition.

From the beginning of the novel, William of Baskerville's inquisitor past is thematized. Everything leads us to believe that the Abbot seeks him out to unravel the murders motivated precisely by his well-known past inquisitorial action (ECO, 2009, p. 70).

However, Adso's mentions of his master's past as an inquisitor are often interspersed with statements that intend to differentiate him from the *status quo* of the Inquisition: "[...] *in England and Italy my master had been an inquisitor of some processes, where he had distinguished himself by his perspicacity, not separated from great humanity*" (ECO, 2009, p. 70).

Also in several dialogues William seeks to criticize the common practices of the inquisitors:

> "Abbot: — '[...] Often the inquisitors, in order to give proof of solértia, extract at any cost a confession from the accused, thinking that a good inquisitor is only the one who concludes a process by finding a scapegoat...'
>
> — 'Even an inquisitor can be driven by the devil', said Guilherme" (ECO, 2009, p. 70).

Adson himself seems to share his master's opinions when he criticizes inquisitorial actions motivated by essentially personalistic interests:

> "And many Franciscans had rejoiced a great deal, it seems too much, so much so that in the middle of the century, in Paris, the doctors of the Sorbonne condemned the propositions of that Abbot Joachim, but it seems that they did so because the Franciscans (and the Dominicans) were becoming too powerful, and wise, in the university of France, and it was intended to eliminate them as heretics. This was not done afterwards and was a great good for the church, because it allowed the works of Thomas Aquinas and Bonaventure of Bagnoregio to be disseminated, which were certainly not heretical. Where we see that even in Paris the ideas were confused, or someone wanted to confuse them in their own interest. **And this is the harm that** heresy does to the Christian people, making ideas obscure and leading everyone to become inquisitors for their own benefit. Everything I saw in the abbey afterwards (which I shall relate later) made me think that it is often the inquisitors who create heretics. And not only in the sense that they imagine them when they do not exist, but in the sense that they so vehemently repress the heretical plague as to impel many to become partakers, out of hatred for them. In fact, a circle imagined by the devil, God forbid" (ECO, 2009, p. 62-63).

In a similar sense, also in the words of Adso:

> "I concluded from this which, in some singular way, he was inquiring, and whether he made use of a formidable weapon that every inquisitor in the exercise of his function possesses and maneuvers: the fear of the other. Because every questioner habitually tells the inquisitor, for fear of being suspected of something, what can serve to make another suspect" (ECO, 2009, p. 363).

In the famous theological debate between Ubertino and William, still on the first day, the motivation for Baskerville's withdrawal from the inquisitorial office is evident:

> "But the holy enterprise to which you invited me was to send Bentivenga, Jacomo and Giovannuccio to the stake," said William quietly.
> "They were obscuring her memory, with their perversions. And you were an inquisitor!"
> "And just at that time I asked to be relieved of that burden. The story did not please me. I did not like it, I will be frank, also the way you induced Bentivenga to confess his mistakes. You pretended to want to join his sect, if it was a sect, you wrested his secrets and made him arrest."
> "But so it is against the enemies of Christ! They were heretics, they were pseudo-apostles, they reeked of the sulfur of Friar Dulcino!" (ECO, 2009, p. 100).

In another passage of the same debate:

> "William hesitated for a moment: "I heard him say 'penitenziagite.'"
> Ubertino was silent. He moved his hand as if to scare away an unpleasant thought.
> "No, I don't believe it. You know what these lay brothers are like. People from the countryside. Who have perhaps listened to some walking preacher, and do not know what they are saying. In Salvatore he would have other things to disapprove of, he is a gluttonous and lustful beast. But nothing, nothing against orthodoxy. No, the evil of the abbey is another, it seeks it in those who know too much, not in those who know nothing. Don't build a castle of suspicion over a word."
> "I never will," William replied. "I gave up being an inquisitor so as not to do that. But I also like to hear the words, and then I think about them." (ECO, 2009, p. 108-109).

And he concludes, talking about torture:

> "If there is one thing that excites animals more than pleasure, it is pain. You live, under torture, as under the power of herbs that provoke visions. Everything you have heard, everything you have read, comes back to your head, as if you were transported, not to heaven, but to hell. Under torture you say not only what the inquisitor wants, but also what you imagine may give him pleasure, because a connection is established (this one is truly diabolical) between them... I know these things, Ubertino, I was also part of those groups of men who believe they can produce the truth with incandescent iron. Well, you know, the glow of truth is of another flame. Under torture Bentivenga may have told the most absurd lies, because it was no longer he who spoke, it was his lust, the demons of his soul." (ECO, 2009. p. 103).

However, there are some passages in which Guilherme himself invokes, albeit as a rhetorical-investigative strategy, torture to psychologically coerce possible investigated:

> "Then William decided that it was worth not giving him rest: 'No, you saw him later too, and you know more than you would have us believe. But here two deaths are already at stake and you can no longer be silent. You know very well that there are many ways to make a person speak!'
> William had told me many times that, even as an inquisitor, he had always avoided torture, but Berengar misunderstood him (or William wanted to make himself misunderstood), in any case his game proved effective.
> "Yes, yes," Berengar said, breaking into unbridled weeping. "I saw Adelmo that night, but I saw him already dead!" (ECO, 2009, p. 161).

A similar strategy was used by Baskerville to extract information from Salvatore about his past and that of Remigio:

> "Do you know that tomorrow the inquisition arrives here?" he asked him. Salvatore didn't seem pleased. With a thread of voice he asked: "E mi?"
> "And you would do well to tell the truth to me, who am your friend, and I am a lesser friar as you were, before telling it tomorrow to those you know very well."
> Assailed so abruptly, Salvatore seemed to abandon all resistance. He looked at Guilherme with a submissive air as if to make him understand that he was ready to tell him whatever was asked" (ECO, 2009, p. 326).

It is noted, therefore, that Guilherme, despite having abdicated the office of inquisitor precisely because he disagrees with his tortuous methods for obtaining the "truth", still uses the imaginary of torture to psychologically force frightened witnesses to collaborate with his investigations of the murders. This aspect, therefore, also corroborates the perspective according to which Baskerville, despite emerging as a possible representation of the crisis of the medieval paradigm (at this specific point, embodied in the juridical-philosophical contestation of inquisitorial methods), is inserted in this same paradigm, benefiting – consciously, or not – from its artifacts and judicial methods for the unraveling of crimes.

CONCLUSION

The name of the rose can be characterized as a portrait of Umberto Eco's perceptions of the tensions between a socio-historical paradigm in crisis, pretensions of maintaining the religious *status quo*, pretensions of disobedience of elucidation of events in the light of new responses, legal and religious pluralism, etc.

Although the novel contrasts an allegedly medieval way of dealing with murders, of a spiritualized nature, to one understood as modern, embodied in a supposed investigative rationality of William of Baskerville materialized in procedures (deductive method, empiricism, etc.) and advanced instruments (glasses, hourglass, astrolabe), because it was a time marked by strong tension and transformations, it cannot be said that William of Baskerville was a man out of his time, a modern man.

If, on the one hand, he embodies in himself the metaphor of the crisis of the medieval paradigm; on the other hand, it is intrinsically inserted in this same paradigm in crisis. He is a religious man and fearful of Christian morality, even though he criticizes behaviors and ideas of some religious segments. It also understands and dialogues well with the plural legal logics typical of the fourteenth century, marked by the profusion of jurisdictions endowed with relative autonomy and diverse normative nuclei. Advances, retractions, resistances, tensions, clashes and so many other elements indicative of a supposed harbinger of modernity, many times, when better examined, constitute typical movements of the Middle Ages itself, as ironically recognized by Umberto Eco himself in his postscript to the novel when he says that some elements that many readers saw as excessively modern were, in fact, quotations from authentic fourteenth-century sources and, on the other hand, several dialogues that were seen as legitimately medieval were, in reality, composed of quotations from modern authors such as Wittgenstein (ECO, 1985, p. 64-65).

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