



Mirator 1/23 (2023)

eISSN 1457-2362

Glossa ry - Keskiajan tutkimuksen seura / Sällskapet för medeltidsforskning /

Society for Medieval studies in Finland

<https://journal.fi/mirator>

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A book review

Julie Stone Peters

Law as Performance: Theatricality, Spectatorship, and the Making of Law in
Ancient, Medieval, and Early Modern Europe

Oxford: Oxford University Press, 2022.

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To cite this book review:

Mia Korpiola, "A book review: Law as Performance: Theatricality, Spectatorship, and the Making of Law in Ancient, Medieval, and Early Modern Europe. Julie Stone Peters", *Mirator* 1/23 (2023), 37–39.

Julie Stone Peters

Law as Performance: Theatricality, Spectatorship, and the Making of Law in Ancient, Medieval, and Early Modern Europe

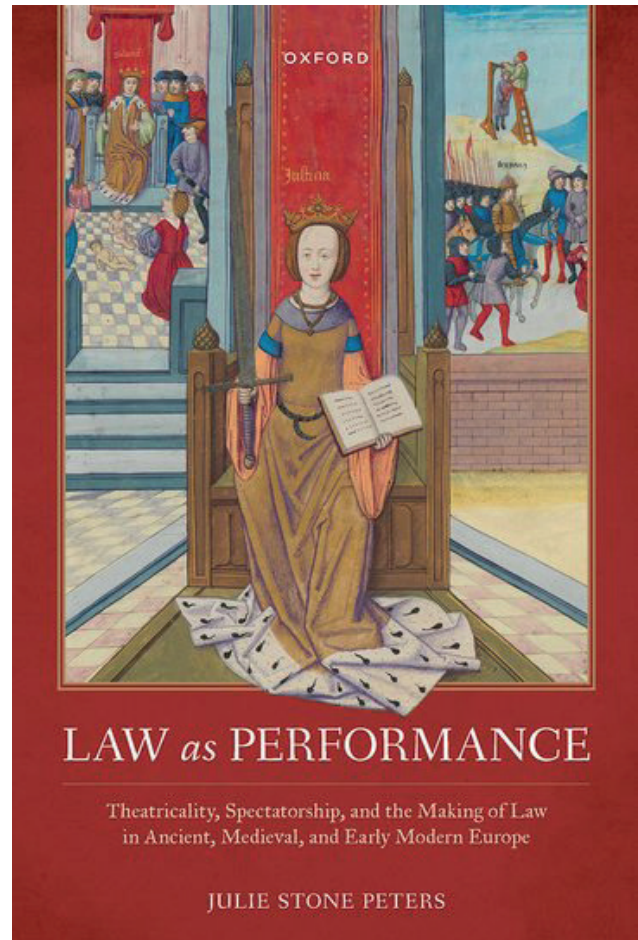
Oxford: Oxford University Press, 2022. 368 pages.

Julie Stone Peters's innovative book explores the legal history of Europe from Antiquity to the Early Modern period through the lens of performative practices in trials, advocacy and criminal law.

The book consists of an introduction, six main chapters and an epilogue. Peters begins the book with the “last trial by battle” in England, which had an audience of some thousands of Londoners. This wonderfully staged ordeal in 1571 never took place in the end. In her introduction, Peters argues for four points (p. 5). First, performative features “produce and enact law”. Second, “law’s aesthetic power is essential to its force”. Third, “stagers” used “performance to enact law, articulate doctrine, or enforce a decision”, but it could also be used to defy and counter authority. Fourth, the very theatricality of legal performance was simultaneously its inherent feature and its reviled antithesis.

Thus, the book emphasizes and highlights the permanent importance of performance and spectatorship in the courtroom and at trials through time. Peters investigates three factors in particular: the performance, the training of legal actors and the audience from ancient Athens to Early Modern England. The *longue durée* approach was not Peters's initial intention when she wrote the book. Yet, it not only helped to avoid hasty exceptionalist conclusions, but also came to enrich the study in revealing durable cultural traditions and the endurance of performance and spectatorship in law. I could not agree more with Julie Stone Peters as she observes (p. 10):

Only a longer trajectory can show how formative ideas and practices travel and mutate, continually generating new ones. Only such a trajectory can show tradition to be a thing that is not static or unidirectional: a thing that does not change in a from-to fashion or form a seamless totality, but waxes and wanes, crosses borders, disappears and



re-emerges in utterly new guises; a thing that is messy, multifarious, and often very untraditional.

The book's *longue durée* perspective does great service to the reader. Peters has gone through an impressive and diverse array of printed sources. Among the almost 290 titles, we find works of ancient philosophers and orators as well as those of their commentators (Plato, Aristotle, Seneca, Demosthenes, Cicero, Averroës, Giles of Rome and many others). Medieval authors include, for example, Einhard, Alain of Lille, Catherine of Siena and Jan Hus, while the list of works by Humanists and Reformers (for example, Erasmus, Sir Thomas More, Juan Luis Vives, Angelo Poliziano, Giovanni Pico della Mirandola, Alberico Gentili and Philip Melancthon) is perhaps even longer. Naturally, classical legal historical sources, such as Justinian's *Digest* (533), William Durand's *Speculum* (1271), the *Malleus maleficarum* (1487), the *Bambergische Peinliche Halsgerichtsordnung* (1507), Joost de Damhouder's works (1562–1567) or William Blackstone's Commentaries on the Laws of England (1765–1770), have not been forgotten either. Peters also uses a multitude of medieval and early modern chronicles and books on rhetoric as well as a plethora of early modern English and German manuals for advocates. Secondary works are also abundant (over 570 titles). The rich and colourful illustrations of the book deserve particular praise. For Peters, they are not only pretty images, but constitute an additional group of sources.

The book does not endeavour to synthesize European legal history from the chosen perspective. Indeed, Peters explains that it is a “collection of historical forays” with sets of “diverse methodologies” bound together by the same general theme of performativity. Accordingly, each main chapter ends with a conclusion, which concludes without summarizing. The book ends with an epilogue instead of a conclusion, which also highlights the somewhat fragmented character of Peters's explorations. Therefore, *Law as Performance* should be enjoyed as a winding ride over time and place.

The book is a sheer cornucopia of detail and different perspectives. Peters discusses spectatorship and audience in law, arguing against the stereotypical comparative difference between public criminal trials in England and the secret, closed trials of the Continent. Here images and contemporary descriptions of trials serve as evidence against such black-and-white juxtapositions. In Chapter 1, we learn about legal oratory in Ancient Greece, while Roman advocacy is at the centre in the following chapter. The lawyer-orator of ancient Athens and Rome was situated at the crossroads of contemporary political oratory, theatre and the courtroom, and the delivery of their discourses was crucial. Yet, the ethics of Roman advocacy suggested a difference between Roman and Greek legal oration: the Romans were not to impersonate simulated emotion in a hypocritical manner, but instead experience real emotions. Romans emphasized the link between law and theatre, even when Roman trials were not as public as Greek trials that were attended by hundreds of “citizen-spectators”. Advocacy also became more professional. The third chapter focuses on medieval rhetoric and its links to courtroom delivery that were central for theorists of rhetoric. As a professional class of advocates emerged in the High Middle Ages, “ancient theories of delivery” were adapted to courtroom pleading in “medieval legal arenas”. This development is discussed in connection with legal iconography.

Chapter 4, especially, is dedicated to more insubordinate descriptions of courtroom and penal

performance. Peters describes, for example, the mythical story of the defiant Calefurnia, who lifted her dress and exposed her private parts to the judge, the trial of Jan Hus and various displays of unruly behaviour by disorderly audiences both in court and at executions. Peters introduces the evolution of criminal legal procedure in late medieval Europe in a one-and-a-half-page footnote (pp. 146–148). This seems somewhat out of place. If the additional information provided by this context is so important – and I would argue that it is – it could have been incorporated into the main text. Alternatively, it could have been omitted altogether. In Chapter 5, Peters moves on to Renaissance France and Venice to discuss law as theatre and entertainment both through mock trials and through real-life drama enacted in court. The discussion of courtrooms as forensic anatomical theatres is especially fascinating. The main character in this chapter is the French “celebrity lawyer” Etienne Pasquier (1529–1615) with his pleadings and legal performance. Legal education through mock trials, public moots and plays – often including *double entendre* – in Tudor and Stuart England is the theme of the final chapter. Aspiring lawyers were taught to act and argue like lawyers at the Inns of Court. Manuals for lawyers also provided rhetorical training for English men of law.

The book contains an abundance of translated quotations from original sources in citation marks – usually without rendering the original text in the notes. This is admittedly useful for the reader, but occasionally the plentiful quotations make it a relatively heavy read. Moreover, it would have been valuable to have the original citations in the footnotes. While certainly sharing a great fondness for primary sources with Peters, I could not help thinking that some streamlining would have made the text more digestible. The sheer number of quotations emphasizes the descriptiveness of the text at the cost of analysis and synthesis. Peters also moves from one period and country to another within one chapter, requiring the reader to pay extra attention to the text in order not to lose the thread.

Nevertheless, these critical remarks ought not to overshadow my positive impression of Peters’s book, which opens new worlds for many readers like myself. Admittedly, it is not the unified monograph, systematically analysing the period with the same set of research questions that I originally expected. Yet, this wonderfully kaleidoscopic collection of thematic essays reveals hidden doors to various legal cultures. Peters has woven together the history of procedural law, rhetoric, theatre, the development of legal professions and legal iconography into the rich canvas of her highly original book. This indicates that scholars from many disciplines will find the book to be of interest.

Julie Stone Peters emphasizes that the performative elements of law unite various legal cultures across time. Her book opens the readers’ eyes to the ways in which courtroom pleading, staged legal spectacles and trials – real or imagined – formed the “legal entertainment industry”. Theatres of justice were stages of the performative arts in the past just as they continue to be in the present.

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