

PSYCHOANALYSIS IN THE COURT ROOM

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Abstract:

*Law and literature are inter connected in a manner such that literature is a mirror of human nature and while dealing with trials in court room, an insight into human nature is a primary requisite specially the psychoanalysis. Similarly, knowledge of law is essential for a writer to depict legal aspects (if any) in his writings. A text that comes particularly close to such interconnection in a compelling and cohesive manner appears in the form of William Shakespeare's *The Merchant of Venice*.*

Keywords:

Law, Literature, Psychoanalysis.

The law and literature movement aspire to create an amalgamation of the two fields with the goal that shortcomings of the law are ameliorated to an extent by literary theory. Some theorists are of the view that lawyers should look to literature as a rich source of certain forms of knowledge that the law is either missing entirely or could use a whole lot more. Literature reveals knowledge of human nature in its nuanced complexity, it concerns modes of reasoning that are emotional, intuitive, and concrete rather than detached, logical, and abstract; and, most importantly, it concerns the making of truly moral judgments.

The link between Shakespeare and the law is not new; even a casual perusal of the literature will show that scholars have long realized that the legal discourse can lead to a better understanding of Shakespeare's works. I submit, however, that the converse is also true: that the study of Shakespeare can lead to a deeper understanding of the fundamental nature of law.

Written in late sixteenth century England, *The Merchant of Venice* is a seminal work of Elizabethan literature. At the heart of the play is the bond between a Jewish moneylender, Shylock, and a Christian merchant, Antonio, upon whose credit his friend Bassanio acquires the loan. The enforcement of the bond would allow Shylock to take a pound of the merchant's flesh if he defaults on the loan repayment. When the merchant is unable to meet these demands, Shylock demands

the value of his bond. Antonio is taken to trial and Shylock demands a pound of flesh.

One cannot look at the concept of "justice" in Shakespeare's *The Merchant of Venice* and *Measure for Measure* without examining the role of law within Elizabethan England. People are greatly influenced by their environments, and the legal regime had a profound influence on Shakespeare's work. Shakespeare himself came in contact with the law both personally and professionally. Shakespeare's financial succession London allowed him to acquire real property in Stratford-upon-Avon, including a purchase of two parcels of land in 1602. The first parcel was New Place \on the corner of Chapel Street and Chapel Lane, while the second parcel was situated on the opposite side of Chapel Lane.²² Be-cause of some omission on Shakespeare's part, the first sale was held in trust by the manor lord until Shakespeare came to Stratford-upon-Avon to complete livery of seisin and other legal formalities.' Regarding the second purchase, Shakespeare's brother, Gilbert, acted as his agent to take title of the land in accordance with legal procedure.²⁴ Yet the law extended far be-yond Shakespeare's personal affairs; it directly influenced his genius.

Shakespeare explores the idea of justice in *The Merchant of Venice* and *Measure for Measure*. One cannot look at the concept of "justice" in Shakespeare's *The Merchant of Venice* and *Measure for Measure* without examining the role of law within Elizabethan England. People are greatly influenced by their environments, and the legal regime of the day had a profound influence on Shakespeare's work. William Carlos Williams once said that "Shakespeare is the greatest university of them all" (qtd. in Kornstein xiii). This is especially true with respect to the law: a dedicated scholar can discover a wealth of information on legal issues in Shakespeare's works. *Measure for Measure* and *The Merchant of Venice* are, of course, explicitly "legal" in content, but more than twenty of the plays have some form of trial scene (Kornstein xii). Virtually all of the plays are tangentially concerned with some aspect of the law; at the very least,

Shakespeare uses complex legal jargon to elicit a laugh. When one of the title characters in *The Merry Wives of Windsor* tosses out a line like:

If the devil have [Falstaff] not in fee simple [absolute possession], with fine and recovery [as of an entailment], he will never, I think, in the way of waste [despoiling], attempt us again (IV.ii.197-99, emph. added)

the law students who made up a large portion of his contemporary audience must have roared with laughter, even if few others got the joke.

A play like *The Merchant of Venice* has a great deal to offer in the course of such a reading. The action of the play is concerned with contract law, but issues of standing, moiety, precedent, and conveyance are also raised. At the most fundamental level, though, the trial scene in Act IV illustrates the conflict between equity and the strict construction of the law.

Equity, in the legal sense, is "justice according to principles of fairness and not strictly according to formulated law" (Gilbert 103). This definition, while easily understandable, presents us with a problematic – even dangerous - structure of opposition. Law and fairness are set at extreme ends of some continuum of justice, and are exclusive. The definition implies that one can have justice according to "fairness," or justice according to "formulated law." Yet if law is not inherently fair, if there is need for a concept of equity, how can the law be said to be fulfilling its purpose? And if "fairness" is not to be found within the confines of "formulated law," from whence does it come? This is not a new argument, of course; the conflict between law and equity was recognized even in medieval England.

Equity, in fact, has become so intertwined with law in the justice system that it is difficult to see the lines of demarcation. We must remember, however, that such was not always the case. When Shakespeare wrote *The Merchant of Venice*, there were actually separate courts in England for the administration of law and equity. One appealed to the Court of Common Law to seek redress under codified law, or to the Court of Equity to avail oneself of the judgment of men. The two spheres were kept strictly separate, and it was not until the reign of James I that courts of law began to consider principles of equity in the resolution of disputes (Keeton 136-37).

In such a system, the terms of forfeiture of a bond, like the one sealed between Shylock and Antonio, fell under the purview of the Courts of Common Law. These courts, in the sixteenth century, relied upon strict construction; that is to say, a literal

reading of applicable law and the instruments made to employ such law. A contract, like the one made between Shylock and Antonio, was "fully enforceable at law" (Keeton 136). This means that any penalty stipulated in the contract would be automatically awarded if the contract were not strictly upheld. A delay in repayment of even a single hour would result in any forfeiture that the debtor had agreed to pay. It is this notion of "fully enforceable" contract that leads Portia to proclaim initially that "lawfully by this [contract] the Jew may claim/A pound of flesh" (IV.i.229-30).

Shylock's punishment, and the evolving response of audiences over the course of four centuries, may also point to a crucial aspect of equity: that fundamental ideals of fairness can change over time to meet societal needs. Shylock comes to court to seek redress for default of a loan; he leaves the trial bereft of all of his property, stripped of his lifelong faith, and very nearly sentenced to death. Contemporary audiences likely would have applauded such a resolution; even a century ago, the world that saw the trial of Alfred Dreyfus would have found Shylock's treatment at the hands of the law completely fitting. In the post-Holocaust world, however, we recoil with revulsion from any hint of anti-Semitism whatsoever. The punishment of Shylock offends a cultural sensibility that cannot be denied, and politically correct.

Conclusion:

To conclude, we can say that Law & Literature rely heavily on each other for better understanding of the two. A perfect synchronization of Law & Literature can lead to a legal system more attuned to a perfect understanding of human nature and an insight into law will help to understand literature better.

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