


Legal Literature: A Descriptive Analysis

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ABSTRACT

‘Literature is the reflection of life.’ Thus, studying "Literature" is beneficial for one's spiritual renewal in addition to intellectual goals. The use of literary texts in language classes can foster the development of young students' critical thinking skills. The present paper emphasizes the value of "Literature" in a “Legal English” course. The "Bar Council of India" agrees that literature is important and has suggested that “Legal English” should be a compulsory subject in law schools. The authors have described how, during the COVID-19 pandemic, first-semester law school undergraduate students performed a dramatization of William Shakespeare's *The Merchant of Venice* using a "Virtual Platform" (Zoom). Upon completion of the class activity, the classroom goals of group scaffolding, creative use of literary language, and cross-cultural understanding were attained.

Keywords: *COVID-19, Virtual Platform, William Shakespeare, Law, English Language Teaching.*

INTRODUCTION

Law and Literature

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‘Literature’ reflects the various facets of society, relationships, life’s complexities, and individuals through its plot, characterization, theme, and story. ‘Literature’ is the fictional account of ‘Law’ that revolves around the lives of individuals in the panorama of society. ‘Literature’ provides an insight into the turmoil of life, faced by people as characters and how they overcome the challenges of life like that of ‘Law’ which finds solutions to the complicated problems which people are caught into in their real life. In this way, ‘literature’ can be the mirror of ‘Law,’ which makes people realize that a society is built on the threshold of certain norms and acceptance, which if disapproved leads to chaotic conditions that ultimately lead to the doom of the society. A piece of literature holds no compulsion or legal sanctity yet it can make people think about the consequences of their deeds which can either bring happiness or downfall in their lives.

A good piece of literature always has a purpose which is to enhance the lives of people by making them better human beings. The didactic aim of ‘literature’ is to resolve the complications of lives in an easier and more refined manner. The purpose of "law" is to restrain people's emotions to preserve social harmony. Both "law" and "literature" deal with individuals and society, in this way they are connected as both deal with people and society.

As ‘literature’ reflects society, it sometimes possesses a legal context, which is seen in the plays of William Shakespeare related to real life. Thus, William Shakespeare has presented the legal aspect through his play *The Merchant of Venice* which can be included in a “Legal English” course for Law students. *The Merchant of Venice* is not merely a comedy or romance rather it is about several issues prevailing in our society such as racism, prejudice, subjugation, ethics, mercy, and justice.

Literature Review

The Merchant of Venice by William Shakespeare an ideal literary text prescribed in a ‘Legal English’ Syllabus: The literary pieces which are a part of the ‘Legal English’ syllabus usually analyze law-related themes such as justice, cultural heritage, and socio-legal and political relations that are concerned with the values essential in the legal profession. The common characteristic of law and literature is that both fields emphasize the meaning of words and their application in a meaningful context.

According to (Weisberg, 1980), the stories depicting ‘Law’ in great classics provide a valuable technique of critical thinking to lawyers motivating, them to approach ‘Law’ from a

multicultural and postmodern perspective. As (Posner, 1980), stated how metaphors in the ‘Law’ are used in making significant judicial opinions. In the same way (Hirshman,1980) emphasized how literature creates reflection, consciousness, choices, and responsibilities that help human beings make decisions based on their morals.

Further, (Weisberg, 1992), points out the role of the ‘Mediating Act’, which is mostly found in the genre of comedies to resolve a conflict. The role of mediation can be seen in *The Merchant of Venice*, in which Portia brings out the different forms of ‘Christian Mediation’ which rekindles Shylock’s Jewish beliefs. As (Weisberg, 1992), critically states that literary texts must retain the quality of bonds and adhere to their sanctity on legal grounds.

James Boyd White (1994) refers to the way he teaches literature to law students by allotting some assignments to the students that would reinvigorate their imagination in a legal context and guide them to evaluate the character of another person or the human conduct, social expectations and in making judgments. The ‘Legal English’ course should include literary texts that depict legal scenarios such as those found in the novels such as *Pride and Prejudice*, *Huckleberry Finn*, the poems of Dickinson and Frost, the passages from *Slave Narratives*, *Nigger: An Autobiography* by Dick Gregory, *Captain Scott’s Diary* by Robert Falcon Scott, *Oliver Cromwell’s Letters and Speeches* and so on. The objective of literature and law is to engage students in cultural, aesthetic, and ethical criticism. Both law and literature are about more than just how words are expressed; they are about the emotions they arouse. Similarly, *The Merchant of Venice* presents contracts that resonate with the legal connotation of England.

It revolves around a legal theme when Bassanio borrows “three thousand ducats” by making Antonio his surety from Shylock. Bassanio needs money as he wants to woo Portia as an eligible suitor to be able to marry her. Shylock lends the loan amount with a condition of legal bond i.e. the forfeiture of the bond will lead Shylock to take legal action against Antonio and to collect “a pound of his flesh” as the forfeit. The legal theme of the play involves the ‘breach’ of the contract made between Shylock and Antonio that leads to the litigation regarding the ‘penalty clause.’ William Shakespeare has pointed out the ‘Comparative Law’ practiced in Venice, which is the setting of the play. Shylock follows the ‘Civil Law’ rules and accordingly takes Antonio to a notary for the legal seal to make the contract legally enforceable. Shylock tells Antonio the following:

“Go with me to a notary, seal me there

Your single bond; and, in a merry sport,
If you repay me not on such a day,
In such a place, such sum or sums as are
Express'd in the condition, let the forfeit
Be nominated for an equal pound
Of your fair flesh, to be cut off and taken
In what part of your body pleaseth me”.

The ‘Notary’ sanction provides legal authorization to the transaction made between Shylock and Antonio which makes the contract legally valid and binding. Both the parties i.e. Shylock and Antonio had mutually accepted the terms and conditions of the contract without any mistake or undue influence. Therefore, all the above-mentioned conditions gave Shylock the right to enforce the contract upon breach which implies that Shylock was legally entitled to impose the penalty on Antonio who had breached the contract made between them. Shakespeare has addressed the old laws of ‘Rome’ which indicated that those debtors who were unable to pay their debts were imprisoned and had to compensate it with a pound of their flesh. Even Portia refers to the old laws of ‘Rome’ highlighting the ‘Comparative Law’ which is an important part of the legal history when as a judge she lays a condition on Shylock to cut exactly a pound of flesh to which he was entitled and not even a hair more than that.

The promissory note between Antonio and Shylock with the “penalty clause” had solid legal context according to Venetian law. Antonio was also fully aware of the legal ramifications of the contract's agreement with the notary's approval. Even, Portia states in Act IV, Scene IV of the play about the supreme power ‘Law’ has over courts when she attests to the penalty clause's application. When Shylock was prepared to execute Antonio by chopping off a pound of flesh close to his chest as punishment, Portia stopped him and referred to the French Civil Code, section 1133 which stated that a cause would be considered illegal and prohibited when it contradicts the welfare of the public order. Portia tells Shylock the following:

Therefore, prepare thee to cut off the flesh.
Shed thou no blood, nor cut thou less nor more
But just a pound of flesh. If you tak'st more
Or less than just a pound, be it but so much
As makes it light or heavy in the substance
Or the division of the twentieth part

Of one poor scruple; nay, if the scale do turn
But in the estimation of a hair,
Thou diest, and all thy goods are confiscate.

At last, when Shylock is denied his bond by Portia and wants to leave the courtroom, Portia asks to wait and says the following:

Tarry, Jew!
The law hath yet another hold on you.
It is enacted in the laws of Venice,
If it be proved against an alien
That by direct or indirect attempts
He seek the life of any citizen,
The party 'gainst the which he doth contrive
Shall seize one half his goods; the other half
Comes to the privy coffer of the state,
And the offender's life lies in the mercy
Of the Duke only, 'gainst all other voice.

The numerous legal dilemmas that William Shakespeare raised in *The Merchant of Venice* reflected the precarious circumstances that the Jews faced in medieval Europe. Portia not only denies Shylock of his legal rights related to the contract but also traps him trickily by accusing him of planning to kill a citizen of Venice. In the end, even the Duke pardons Shylock of his life with the condition that he has to convert himself into a Christian and accept 'Christianity' which depicts the vulnerable situation of the minorities in England.

Moreover, (Weisberg, 1992) discusses Shylock's, infamous lawsuit against the merchant Antonio is defeated through the legalistic brilliance of the disguised Portia in his essay "Christianity Ends". He claims Shylock not as a victimized hero but as a comedic villain who is depicted with a fully formed set of ethical values that stands in contradiction to the Venetian majority.

According to lawyer critics, Shakespeare in *The Merchant of Venice* has even indicated the structure of mediation and its mitigation according to the Courts of Equity. Throughout the play, *The Merchant of Venice* paired characters who have a direct bond with each other are portrayed as unable to conclude their affairs without the mediation of a third character. Often

the irresolution of the paired characters revolves around a written text. The mediator facilitates this kind of situation by unbinding the two parties from the problematic association.

In Act IV, the concept of mediation finally wraps the Law too, making the legal system incapable of resolving disputes as even the Duke although acting as the legal officer of Venice waits for the arrival of Portia (mediated by her disguise) to resolve the case in the legal context. As the trial scene ends, through Portia's mediation Shylock is violently removed from the allegorical lawsuit and the play.

According (Hinely, 1980) states that the theme of *The Merchant of Venice* is that of the bonds that make a society endurable such as emotional bonds of love and friendship and the monetary bonds of the world of trade which relates to the law and order of a peaceful society. The theme of *The Merchant of Venice*, (Hinely, 1980), is the relationships that make a society resilient, such as the financial bonds of trade, which are related to the law and order of a peaceful society, and the emotional bonds of love and friendship.

As (Hamill, 1978) stated that the conflict presented between Portia and Shylock determined the relationship between 'justice' and 'mercy' for attaining human 'salvation'. According to (Benston, 1979), In *The Merchant of Venice*, Portia's goal is to utilize the law to preserve the law. The pure theatricality of the "courtroom drama" that Shakespeare uses depicts his fine understanding of the Law, especially through the character of Portia who has acted as an eloquent spokesperson enforcing the law by adhering to the sanctity of the contract and also curtailing Shylock of his hideous vindictive intentions. Thus, she has successfully managed to preserve the law and the state.

Basically, (Sokol, 1992) stated, that *The Merchant of Venice* depicted the 'Mercantile Law' as applicable during Shakespeare's time, which emphasized creating a 'bond' with a legally authorized seal that would ensure the payment of debt and would also allow the enforcement of the penal obligation under the legal system.

As (Scott, 2004) brings about another interesting factor in *The Merchant of Venice* which is how Shylock challenges society as he appeals to the legal concept of 'ownership'. Here he refers to the practice of slavery or the slave trade of the Africans that prevailed in England referring to the practice of the same by the 'Queen' and the 'Privy Council' to prick the conscience of the Shakespearean audience. Therefore, Shylock insisted on his demand for the

pound of Antonio's flesh to which he claimed his rightful ownership under the terms and conditions of the contract.

Recent literature such as *The Victory of Law* (2006), *Race, Citizenship, and Law in American Literature* (2002), and *Slavery on Trial* (2007), etc., depicts the relationship between literature, culture, and law concerning the issues of race and slavery, that is related to the concept of democracy. The literature depicting law presents the proceedings of the legal courtroom, prosecutor, defendant, jury, and the victims through the portrayal of different determining the legal decisions ensuring justice in the 'Court of Law'.

Therefore, the author has specifically discussed the play *The Merchant of Venice* as an important literary text, especially for Law students. As a result, the author has addressed *The Merchant of Venice* as a significant literary work, particularly for law students who can delve deeper into the understanding of its legal context. William Shakespeare has provided insight into merchant laws, contract law, the role of mediation, the role of statutes, notary, and many other important legal implications through *The Merchant of Venice*, which possesses a legal connotation and hence it is justifiable to include this essential literary text to be included in 'Legal English' course.

William Shakespeare's *The Merchant of Venice* as a teaching material during Covid-19 Pandemic:

The notion of teaching materials can extend to auditory or visual means in addition to a textbook, commercial materials such as dictionaries, grammar books, etc., teacher-prepared materials, games, or realia. According to (Tomlinson, 2001), instructional materials that are linguistic, visual, aural, and kinaesthetic, aid in language acquisition. These materials can also be delivered through print media, live performances or displays, cassette, CD-ROM, DVD, or the internet.

The Merchant of Venice by William Shakespeare is a prescribed literary text in the 'English Literature' syllabuses of most high schools and universities. This makes it appreciated by students of all levels. Yet the critical aspect of studying the play is primarily related to the field of legal education, as law students need to delve deeper into this literary text to find new interpretations that could be applicable in the legal context. To overcome the shortcomings of online classroom teaching during the COVID-19 pandemic, The text was not just read but also role-played.

The present paper is the result of an extended classroom teaching of William Shakespeare's play *The Merchant of Venice* for 1st Semester undergraduate law students and gives a succinct explanation of the various activities conducted after reading it, such as group discussions on the various themes of the play, role-plays, debates on the issues dealt in the play, writing a critical analysis of the characterization, etc which the law students have thoroughly enjoyed and explored the different aspects of the play. Teaching literature to law students is different as the objective is to make the content interesting for the law students to ponder over issues present in our society. In the present paper, the authors have shared their experience of teaching *The Merchant of Venice* during the COVID-19 pandemic situation in the virtual mode. The authors took this situation not as a challenge but as a means of thinking out of the box and designing a new pedagogy of teaching *The Merchant of Venice* in the Online/ Virtual mode.

The authors have shared the lesson plan of *The Merchant of Venice* demonstrating the execution of the lesson in virtual mode as given below:

METHODOLOGY:

Lesson Plan

Duration: 8 hours, one class per day of 1hr duration.

Topic: *The Merchant of Venice* by William Shakespeare, Act IV- Scene-IV (Trial Scene)

Class: 1st Semester, B.A.LLB, B.Sc.LLB & B.B.A.LLB

Subject & Code: English-I [LW1111]

Class Venue: Virtual Platform (Zoom)

Learning Objective:

- To imbibe the love of reading legal texts
- The utilization of creative literary language, group scaffolding, and cultural awareness.
- To conceptualize role of law in the field of literature.
- To reflect on the issues of legal education focusing on human nature, law, and justice.
- To understand the different human situations in society as the application of the law through examples from literature and the legal discourse.

- To read and analyze literary pieces in relation to the understanding of the challenges during the proceedings of a trial.

Execution of the Lesson:

Day 1: The teacher introduces a play *The Merchant of Venice* written by William Shakespeare, and discusses the various plays written by William Shakespeare, the genre of the plays & the elements commonly present in Shakespearean plays. The literary terms discussed in the plays and their significance in unfolding the characterization. The teachers give a succinct synopsis of *The Merchant of Venice* before moving on to talk about Act IV, Scene IV, or the "Courtroom Scene."

Day 2 & Day 3: Act IV, Scene IV is read thoroughly analyzing the various legal connotations. The teacher asks students to read the dialogues with proper stress and intonation. The teacher tries to involve a maximum number of students to read the text by acting as the different characters present in the scene. Students read the dialogues and analyze the text. The teacher explains the texts emphasizing the legal aspects depicted in the scene.

Day 4: After studying Act IV, Scene IV the teacher assigns issues such as mercy, justice, racism, religion, prejudice, friendship, love, and law as discussed in the play to students in groups and sends them to different breakout rooms on 'Zoom' online platform to discuss the issues in detail building a connection with the current real-life situations. The students are allotted 20 minutes to discuss the issues as well as prepare a presentation to explain the issues to the class. The teacher visits each room and monitors that the students are involved in the discussion and provides any assistance they need. After 20 mins the teacher assembles the entire class in the main room where each group presents the issue assigned to their respective groups by explaining it and elaborating, on how the same issues still exist in our society regarding different cases.

Day 5: The Teacher conducts a debate by dividing the class into different groups and assigning a character of the play and how that character has justified his/her role in the play. The students are given 10 minutes to discuss the strong points of the character in the breakout rooms. After discussion, all the groups join the main room, and one group must face the other group as an opponent and take the stance of the character assigned to their group.

After the debate is conducted the teacher forms around 8-10 groups with an equal number of students and asks each group to select any of the scenes of *The Merchant of Venice* and present the same in the class as a 10-minute Skit /Drama Presentation. The students are given three days' time to prepare the skit which includes a weekend and a holiday. The skit was also to be evaluated by the teacher as a class assignment. The rubric of the evaluation was language skills, body language, accuracy/precision, teamwork & creativity

Day 6: The teacher asks the students to make the presentations. Students display their coordination in presenting the skit, they exhibit their creativity by using the digital platform background, for props, they use the features available on 'Zoom', and they use music to add to the authenticity of the scene. The students use proper body language, make-up, and costume as per the requirement of the character. The teacher evaluates the groups' performance and notes down the details of their performance.

Day 7: Presentation continues...

Day 8: The teacher shares the feedback on the performance both individually and in the group. Besides that, the teacher also states the marks or scores of each group. The teacher also encourages peer feedback and suggestions.

Reflections of The Lesson

The teaching of the play *The Merchant of Venice* in an online/virtual mode initially seemed to be challenging yet was more interesting, meaningful, engrossing, and fruitful for both the teacher and the students. The authors as teachers could explore the different ways of teaching the play with the aid of technology similarly, the students got the opportunity to exhibit their skills of group scaffolding, coordination, and creativity. The various features of the Zoom Online platform such as breakout rooms, chat options, etc., were completely utilized for teaching and learning. Moreover, during the 'COVID-19 pandemic' students were demotivated, lethargic, and disinterested in 'Online' classes but this lesson of *The Merchant of Venice* provided them with the experience of physical classroom learning. Students were keen to participate in all the class activities related to the text as well as quite enthusiastic about participating in the drama or skit of *The Merchant of Venice*. It was an excellent experience for the students to coordinate with each other and do online rehearsals for the skit presentation. Overall, the lesson was successfully implemented with the cooperation and dedication of the students.

Conclusion

The authors of the present paper have demonstrated the application of the “Notional Functional Approach Theory” in the teaching of the play *The Merchant of Venice* by William Shakespeare prescribed in a ‘Legal English’ syllabus for the 1st Semester undergraduate law students. The lesson has focused on the communicative function of the language that the law students need to express such as negotiating mediating, interrogating, and expressing agreement and disagreement. The concept of ‘Law’ is intricately woven as the theme of the play which helps to develop the legal vocabulary of the law students. The grammatical structure used in the text acquaints students with the complex and formal linguistic structure of the English language. Moreover, the targeted ‘Legal English’ is well adapted in this lesson with reference to the setting of the play i.e. Act IV, Scene IV courtroom scene that makes the play *The Merchant of Venice* the a relevant literary text for law students because of its legal connotation. The online presentation of the drama of Act IV, Scene IV of *The Merchant of Venice* provided scope to the students to enact the different roles representing the characters of the play such as the appellant, prosecutor, defendant, and judge which though fictional is yet connected with the roles that the law students will act in their real-life legal professional field. The students enacting the drama get exposure to experience practicing in real-life court proceedings. By participating in the drama, the students were engaged in legal discourse that helped in developing their rhetorical skills. The teacher adopted the group scaffolding technique by assigning group tasks to students of presenting a skit on any of the scenes of *The Merchant of Venice* in groups which helped the students understand the linguistic structure in a better way by articulating the dialogues of the play. Moreover, the lesson sparked the imagination of the students who efficiently utilized the various features of the online digital platform ‘Zoom’ in a very creative manner which provided a real-life stage presentation experience of their skit presentation. The important factor was to rehearse the skit which students ardently practiced with their team coordination. They used props, background music, wallpaper, and appropriate makeup through various APPS that made the lesson a memorable one. Thus, the lesson is in context with the notional syllabus (Wilkins 1976), which emphasizes the specific semantic-grammatical and communicative function of language that is required in developing the language proficiency of law students.

‘Law and Literature’ are related to each other as both deal with human beings and their communities. ‘Law’ enforces restrictions on individuals living in a society and ‘Literature’

provides freedom of imagination, and the norms of the society. ‘Literature’ presents human passions and emotions and the ‘Law’ curtails those. In the present paper, the various themes of law have been discussed, which are aesthetically presented through literature. To elaborate on the significance of literature in legal studies, the authors have dealt with one masterpiece of literature that is *The Merchant of Venice* by William Shakespeare which has been an eminent piece of literary text taught in most ‘Law Schools’ because of its legal significance. The authors have not only discussed the relevance of *The Merchant of Venice* as prescribed in a “Legal English” syllabus but also presented their personal practical teaching experience of the text to undergraduate law students. The teaching methodology has been shared especially in context with the Covid-19 pandemic period when the text was taught in the ‘Online Mode’ (Zoom) which was a highly successful endeavor. The students not only appreciated the text but also felt rejuvenated by performing the ‘Courtroom Scene’ of the play as a skit presentation through ‘Online Mode’ (Zoom) which allowed them not only to exhibit their creative skills but also boosted their enthusiasm which was adversely affected due to the dreadful situation of the Covid-19 Pandemic. Lastly, the real significance of teaching ‘Literature’ is to the law students as it is they who will be dealing with the intricate problems or challenges faced by human beings in society and how they can overcome these complicated situations which are well reflected in ‘Literature.’

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