

# Legal Problems and Legal Consciousness in *The Merchant of Venice*

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Shakespeare is a playwright with humanistic spirit in the Renaissance; he loves law writing and has profound legal cultivation and profound legal consciousness. His works not only provide aesthetic value, but also give readers many aspects of thinking and enlightenment. The legal issues and legal writing in the play fully reflect Shakespeare's attention to national laws and social issues in literary creation, and reflect Shakespeare's jurisprudential view. These thoughts and ideas are not only worthy of study by legal researchers, but also worthy of in-depth study by literary researchers, so as to deepen the understanding of the characters in the works and the writer's creative thoughts. From the perspective of literary legal criticism, this paper examines the legal issues in *The Merchant of Venice* and explores Shakespeare's legal consciousness by analyzing the legal events and dialogues of the characters in the play.

**Keywords:** Shakespeare, *The Merchant of Venice*, writing laws, legal consciousness, literary legal criticism

## Introduction

There are many literary works in different periods of the development of western society, some of which reflect the legal ideas and humanistic thoughts followed in different periods. In the Renaissance period, Shakespeare's ironic play *The Merchant of Venice* reflected humanism's pursuit of freedom and equality and the supremacy of law in Venice at that time.

*The Merchant of Venice* is one of Shakespeare's early famous satirical play. While celebrating kindness, love, and friendship, the play also reveals the relationship between loan sharks and commercial capitalists in early capitalism. The contract issue becomes the core of the play, and the trial part is the climax of the play. Therefore, studying the play from the legal perspective is an indispensable Angle that can help us better understand the author's thoughts and intentions.

"Literary legal criticism" is an academic discourse used by Chinese scholars, which belongs to the category of literary research. Taking literature as its ontology, it emphasizes the intervention of legal perspective in literary criticism, that is, using legal perspective and appropriate research methods to examine literary works, so as to deepen people's understanding and cognition of writers and their works. While emphasizing the aesthetic concept, it can highlight the social value of literary works.

Based on literary legal criticism, this paper focuses on the legal events and trial scenes in the play, combines

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the characters' rights and speech behaviors, explores the author's legal consciousness and views on social issues, and then demonstrates the legal value of the work.

### Literature Review

For so many years, *The Merchant of Venice* has been the focus of scholars' research, which has been studied by domestic and foreign scholars in literature, law, philosophy, and many other fields. With the spread and development of culture, there are also many scholars involved in the research of translation and drama adaptation. The focus of this paper is literary criticism; in this field, scholars at home and abroad have studied this work from various aspects such as characters, politics, culture, religion, and law.

The analysis of the characters in the play is a much-studied topic. Zhang Ziyi uses the viewpoint of historical materialism to rationally analyze the historical and social issues, and analyzes Shylock's positivity through in-depth discussion from different aspects (2023). From the perspective of Marxist feminist criticism, Wang Hao interprets the source of Jessica's oppression and her pursuit of her own value (2023). Foreign scholars also point out through the analysis of female roles that the dominant position of men in the play implied the promotion of discrimination against women in Shakespeare's time (Saed, 2022). Zhu Huimin focuses on ethical identity and ethical choice to analyze the logic behind characters' behaviors and explore the value of ethical teachings in the play (2023).

Shakespeare set the story in Venice, which imparts profound politics and meaning. From the perspective of geography and space theory, Li Ying and Li Weifang explore the geographical factors and political connotation of Shakespeare's choice of Venice as the place of the story (2024). Ning Zihan analyzes the damage of the consanguineous community, geographical community, and spiritual community in the play through the community perspective of Tennis, and then analyzes how they reflect the social contradictions in England in the 16th century (2023). Victor Lenthe examines different meanings attached to the adjective "sad" in the 1590s in order to reinterpret the sexual politics of *The Merchant of Venice* (2023).

The historical and cultural value of *The Merchant of Venice* cannot be ignored. Wang Xiaolu reveals the construction of literary meaning from the perspective of intentionality, and expounds the historical cultural function and aesthetic value of *The Merchant of Venice* (2023). Liu Wengang explores the complex relationship between costume and memory in the drama from the perspective of new historicism, and deeply explains the interaction between text and history (2021).

Chen Shiqin re-examines the conflict between Shylock, a Jew, and Antonio, a Christian, which constituted the basic conflict of the play, by comparing the relevant doctrines of Judaism and Christianity and combining the situation of Jews in Britain (2019).

The legal issues in *The Merchant of Venice* have always been one of the topics that Shakespearean scholars and jurists argue about. From the perspective of contemporary Chinese law, Guo Yanchang takes "defending Shylock" as the main line, revises Shylock's case from different angles, and reveals the legal concept and spirit of rule of law contained in the classic play (2021). Zhou Yiran analyzes the conflict between the legal concept of equality of all people and the belief (2018). Zhang Ting and Sheng Xuemei analyze the play from the perspective of legal interpretation around the contract and rights of "a pound of flesh" (2018). Costa and Campello compare Sophocles' classical natural law, Shakespeare's Renaissance law, and Kafka's contemporary law to explore the grasp of the ideal of justice (2016).

In general, the research on *The Merchant of Venice* presents a trend of diversification. In the field of literature research, some scholars have analyzed works from the perspective of law, but few have used literary legal criticism to sort out the legal themes and ideas of works close to the text, and few scholars have studied the embodiment of writers' legal thoughts in the rhetorical structure of literary works.

### **Legal Problems and Social Contradictions in *The Merchant of Venice***

Shakespeare is regarded by some scholars as a jurist. The examination of legal problems in Shakespeare's plays has always been a hot topic in literary research. For Shakespeare, the theatre was a court of law, an ideal place for investigation, interrogation, torture, and judgment, as well as legal education (Wu, 2021). According to Kornstein, "Even if we don't talk about the trial scene, the play is dominated by some legal themes throughout". If we do not grasp these legal themes, it is simply impossible to understand the dramatic work in depth (2014, p. 36). The legal issues in *The Merchant of Venice* are the key points for us to grasp the theme of the work and the author's thoughts, and to examine it from the perspective of literary legal criticism can give us a deeper understanding of the law popularization value and humanistic thought of the work.

The writing of the law revolves around borrowing money and cutting flesh. In order to help his friend Bassanio marry his beloved, Antonio borrowed 3,000 gold coins from Shylock, and they signed a contract that if the payment was overdue, Shylock would cut a pound of flesh from Antonio. Then Antonio was unable to repay the loan because of the merchant ship crash, the two people came to the court to ask the judge trial, Portia dressed as a woman, appearing in court to defend Antonio, and finally Shylock lost the case and property because he could not complete the bloodless cutting of the flesh.

Shakespeare's writing on the above legal issues, especially the trial, shows his excellent legal literacy and attention to legal events. However, Shakespeare's description of legal issues is not only to increase the conflict and tension of his works, but also to express his dissatisfaction with social problems and his appeal for humanism.

The court trial in the work is based on the social context in which the story takes place. *The Merchant of Venice* was created in the Elizabethan era, when humanism became the mainstream of the Renaissance, people pursued freedom and equality and paid attention to human needs. However, at that time, British society encountered contradictions and difficulties: The development of "enclosure movement" led to the rapid reproduction of workshops, the income of farmers and factory workers formed a large gap, coupled with bad weather, and farmers' living conditions became worse. Then the farmers rose up in revolt. At the same time, the bourgeoisie grew stronger and stronger and broke its alliance with the royal family. Shakespeare thus saw the gap between humanist ideals and English reality (Wang, 2023). In *The Merchant of Venice*, a satirical play, Shakespeare implied his thoughts on social contradictions through legal events and characters' words and behaviors, and expressed his appeal for equality for all and the elimination of differences.

Through the setting and description of characters, Shakespeare alludes to the above social problems. In the play, Shylock is a stingy miser, representing the bourgeoisie, while Antonio is an exploited emerging bourgeoisie. The act of cutting flesh implies the exploitation and oppression between the two classes. Antonio borrows money from Shylock in order to help his friend move into a higher class, which also implies the accumulation of capital by the bourgeoisie.

In the drama, Antonio and Shylock have disputes due to the contract. Shylock, as a Jew, is discriminated against in life. However, Shakespeare uses the tool of law to provide Shylock with a platform to complain, and the court does not deprive Shylock of his right to complain and demand punishment because he is a foreigner. It

shows that the law in Venice gives equal rights to people, which is the embodiment of Shakespeare's humanistic spirit, and shows his depiction of the beautiful desire of people to respect each other and have equal rights. This hope reflected the social problems of the time, namely the inequalities and differences in class relations and wealth, which Shakespeare hoped to eliminate so that people could live equally and harmoniously.

At the trial, Portia, pretending to be a judge, persuades Shylock, hoping he will be merciful, "... as the gentle rain from heaven... When mercy seasons justice" (Zhu, 2018, pp. 735-736). This is not only Portia's last sermon to Shylock, but also Shakespeare's sermon to all sentient beings in the world. This natural law, which is higher than the law, treats all people with "mercy", and all people should have the right to be human—human rights (Wei, 2013). This statement shows Shakespeare's humanistic view.

All in all, Shakespeare skillfully sets up legal issues, and permeates his thoughts on social contradictions and humanism in the shaping of characters and the development of events.

### **Courtroom Narrative and Legal Consciousness in *The Merchant of Venice***

"The Duke cannot deny the course of law; For the commodity that strangers have with us in Venice, if it be denied, 'twill much impeach the justice of the state..." (Zhu, 2018, p. 717). This sentence of Antonio can be said to explain the reason and background of the law as an iron law in the play. Venice prospered in commerce and trade, and it was precisely because merchants believed that the law was supreme and that the law would guarantee their rights that they were willing to enter into contracts freely. It can be said that the majesty of law is the foundation and guarantee of Venice's prosperity and development (Zhang, 2015).

Antonio knows that the law cannot be modified, so even in the face of such unreasonable requirements for cutting meat, forced by the contract signed before, Antonio no longer disputed and debated with Shylock, said that "peace of mind waiting for his brutal disposal".

In court, the duke has a noble position and power; even if he intends to defend Christianity and the countrymen, he cannot change the law. Because the contract in Venice has absolute and unchangeable legal effect, he knows that changing the law is more harmful than Shylock cutting a pound of flesh from Antonio. If the court is carried out according to the usual procedure, there should be two sides to provide evidence and debate, which is a process of rational competition, but the duke and all the people can only use emotional persuasion, hoping for Shylock's mercy, as he said in his article: "We are expect a gentle answer, Jew" (Zhu, 2018, p. 706).

"If you deny it, let the danger light upon your charter and your city's freedom" (Zhu, 2018, p. 707). This is Shylock's response to the duke, seemingly plain but powerful, full of Shylock's firmness and self-confidence; even as a foreigner in the court, Shylock is still not shy to speak out his own ideas and appeals, because he knows that the law of Venice is supreme and unchangeable, and his claim is completely legitimate. This straightforward expression is the author's legal thought.

The plot of Portia pretending to be a lawyer, ruling and sentencing the case, is the turning point and climax of the play. It seems that Portia overruled Shylock's appeal and saved Antonio with wisdom and sophistry, but in fact Portia also used the weapon of law. Portia first tells Shylock that the law permits him to cut off Antonio's flesh, and in Shylock's ecstasy, Portia gives him a blow: The contract does not allow Shylock to take Antonio's blood, so that if Antonio sheds a drop of blood, according to the law of Venice, Shylock's land property will be confiscated. And the weight of the flesh must be one pound, no more, no less. At this point, Shylock realized that he could not get the result he wanted, he wanted to give up the complaint and chose to take back the principal, but Portia continued to come up with the rules of Venetian law against Gentiles, so that the law was completely

completed to Shylock's reply. Portia's judgment was made in accordance with the reasoning and procedure of the law, and even Shylock was blameless and could only obey and be punished. This episode once again shows the position of law in Venice, which no one can override, so long as the judgments and reasoning of law are relied upon. Antonio's victory is not only a great victory for Christianity, but also a logical closed loop of the law in the drama. The law promotes the development of the event from beginning to end, reflecting the author's idea of the supremacy of law.

### Conclusion

In the time when Shakespeare wrote *The Merchant of Venice*, legal issues were widely concerned by people. As a profound humanistic thought, Shakespeare showed concern and reflection on legal issues under the influence of cultural and social environment. Because of this, both Shakespeare himself and the characters he created have the legal consciousness in line with the times. Knowing this will help us to better understand the theme and characters of *The Merchant of Venice*. Just as the vitality of law lies in the fact that it constantly prompts people to think about the answers to questions, it in turn influences and shapes the legal culture (Feng, 2014). The legal issues raised by Shakespeare in his works can still arouse people's thinking and enlighten people today.

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