

**Law and Literature: Reflections on William Shakespeare's *Measure  
for Measure***

**Derecho y literatura: reflexiones sobre *Medida por Medida* de William  
Shakespeare**

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**ABSTRACT**

*The relationship between law and literature is a topic that has been analysed in different essays. Certain authors consider that the latter is a useful instrument to train lawyers. There are novels, short stories and plays which constitute tools to reflect on law. Some plays written by William Shakespeare are suitable to think about different legal aspects. Measure for Measure is about the application and interpretation of law, ethics and morality. Furthermore, it is about political shrewdness. In this article I analyse the play from an interdisciplinary perspective.*

**KEYWORDS:** *Law, literature, Shakespeare, Measure for Measure.*

**RESUMEN**

La relación entre el derecho y la literatura es un tema que ha sido analizado en diferentes ensayos. Ciertos autores consideran que la segunda es un instrumento útil para capacitar a abogados. Hay novelas, cuentos y obras de teatro que constituyen herramientas para reflexionar sobre el derecho. Algunas obras escritas por William

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Shakespeare son adecuadas para pensar sobre diferentes aspectos jurídicos. *Medida por Medida* versa sobre la aplicación y la interpretación del derecho, la ética y la moral. Asimismo, trata sobre la astucia política. En este artículo analizo la obra desde una perspectiva interdisciplinaria.

PALABRAS CLAVE: Derecho, literatura, Shakespeare, *Medida por Medida*.

## **I. Introduction**

*Measure for Measure* is about law, politics, ethics, and morality. Vincentio, the Duke of Vienna, decides to delegate his power to Angelo, his deputy, because he wants to see how the city would be ruled by the latter. To achieve his aim, he pretends to leave Vienna. In fact, the Duke disguises himself as a friar to pass unnoticed while he observes the decisions made by Angelo. His new name is friar Lodowick. Meanwhile Angelo is assisted by a magistrate called Escalus. In Vienna, during this period of time, certain sexual activity is considered illegal by statute law. The purpose of the legislation is to eliminate brothels and to punish sexual relationships carried out by unmarried couples (fornication). The Duke has not enforced such legislation for a long period of time but Angelo, a very moralistic man, decides to enforce it. Therefore, Claudio, one of the main characters, is arrested under this legislation because he impregnated his lover (Juliet) before getting married. They had a consensual sexual relationship. In fact, they were engaged at that moment. However, Angelo wants to inflict a harsh punishment on him to show an exemplary sentence. Therefore, the accused is sentenced to death.

Isabella, Claudio's sister, lives in a convent because she is going to become a nun. She decides to talk to Angelo in order to prevent his brother from being executed. This religious lady begs him for mercy, but he refuses to change his decision. However, he makes an immoral proposal: he tells her that Claudio will not be executed provided

she has sexual intercourse with him. Thus, Angelo becomes hypocritical. He decides to enforce laws to combat certain actions, but at the same time he wishes to perform one of the acts that he wants to prohibit. The proposal is very offensive for Isabella, who is a religious and chaste woman.

The Duke, who is dressed as a friar during this period of time, decides to intervene in the matter. He talks to Isabella and creates a plan. The Duke encourages her to accept the deal proposed by Angelo, but he tells her that another person is going to have sex with him. Mariana is the person chosen by the Duke. The interim ruler of Vienna would not realize that the woman is not really Isabella because the meeting would occur in the darkness. Mariana is Angelo's ex-fiancée. She was left by Angelo when he learnt that her dowry had been lost in a shipwreck. So she is extremely sad. This way the Duke tries to help Mariana and Isabella in their different disgraceful situations. Angelo will be forced to pardon Claudio and will be himself involved in a sexual relationship with Mariana without being married to her. That plan is carried out, however, a problem arises: Angelo does not pardon Claudio. The provost, following the Duke's suggestions, sends Angelo the head of another prisoner, who has recently died, and tells him that it is Claudio's head to give evidence that he has followed his orders and Claudio has been executed. Even Isabella believes that his brother has been put to death. When the Duke returns to be in charge of his position, Isabella reports Angelo's behaviour to him. In fact, this lady accuses Angelo of having behaved in an immoral way. At first Vicentio, who knows what really happened, pretends that he does not believe her. In the end Isabella and Mariana expose Angelo in public and the Duke ends up revealing his two identities. Angelo admits having acted in an immoral way and his superior orders him to marry Mariana. Then, the Duke sentences his deputy to death for having committed the same crime committed by Claudio. Vicentio gives these reasons:

For this new-married man approaching  
here,  
Whose salt imagination yet hath wrong'd  
Your well-defended honour, you must pardon  
For Mariana's sake. But as he adjudg'd your  
brother,  
Being criminal, in double violation  
Of sacred chastity, and of promise-breach,  
Thereon dependant, for your brother's life,  
The very mercy of the law cries out  
Most audible, even from his proper tongue,  
'An Angelo for Claudio, death for death!'  
Haste still pays haste, and leisure answers leisure,  
Like doth quit like, and Measure still for Measure.  
Then, Angelo, thy fault thus manifested,  
Which, though thou would'st deny, denies thee  
vantage,  
We do condemn thee to the very block  
Where Claudio stoop'd to death, and with like  
haste.  
Away with him! (Shakespeare, 1978, pp. 103-104)

Therefore, *Measure for Measure* is the title of the play because the Duke considers that if Claudio and Angelo committed the same banned act, they should

receive the same punishment. Mariana begs for mercy in order to save Angelo's life. Isabella supports her. The Duke ends up pardoning his substitute. He also pardons Claudio and proposes to Isabella. At the beginning the play seems a tragedy, but the happy ending turns it into a comedy.

The aim of this article is to analyse *Measure for Measure* from a legal perspective. In the next paragraphs I will concentrate on certain aspects of the plot which give an opportunity to reflect about the relationship between law and literature.

## **II. Interpretation of statutes**

The plot deals with a very interesting topic: legal interpretation. Statutes may be construed literally, rigidly, in an abstract way, or they may be interpreted considering the specific context, with certain degree of flexibility. Despite the fact that *Measure for Measure* takes place in Vienna, there is a concept in the English legal system that should be considered to understand the play from the legal point of view. In that legal system the concept of *equity* is connected with the idea of flexibility in the interpretation of rules. I will try to provide a basic explanation about this topic. There are three basic sources in the American and English legal systems: *Common law*, *Equity* and *Statutory law* (Alcaraz *et al.*, 2013, p. 44). *Common law* is the law mainly created by judges in their decisions, and also by customs and traditions (Alcaraz *et al.*, 2013, p. 44). *Equity* was created in England. When litigants were not satisfied with judges' decisions, which were based on *Common law*, they requested the king to solve their conflicts. Kings were advised by the Lord Chancellor, an ecclesiastical authority. This way conflicts were solved considering principles based on fairness (Alcaraz *et al.*, 2013, pp. 45-46). As for statutes, they are the laws passed by legislatures. Thus, *equity* was

created to make the legal system more flexible. Otherwise, cases had to be solved following rigid rules.

As to the plot of *Measure for Measure*, David Bevington argues that "... Shakespeare invites special sympathy for a middle position in the legal tangle that afflicts the citizens of Vienna in that play" (2016, p. 164). Angelo interprets the statutes in a rigid way. His approach contrasts with the flexibility that the concept of *equity* implies.

In act II, scene I, Angelo and Escalus have an interesting conversation regarding the interpretation, function and enforcement of the law. Angelo says: "We must not make a scarecrow of the law, / Setting it up to fear the birds of prey, / And let it keep one shape, till custom make it / Their perch and not their terror" (Shakespeare, 1978, p. 83). But Escalus has a different approach. He suggests leniency in the following way:

Ay, but yet

Let us be keen and rather cut a little,

Than fall, and bruise to death. Alas! this gentleman,

Whom I would save, had a most noble father.

Let but your honour know,

Whom I believe to be most strait in virtue,

That, in the working of your own affections,

Had time cohered with place or place with wishing,

Or that the resolute acting of your blood

Could have attain'd the effect of your own purpose,

Whether you had not, sometime in your life,  
Err'd in this point which now you censure him,  
And pull'd the law upon you. (Shakespeare, 1978, p. 83)

Angelo rejects Escalus's ideas. He gives these arguments:

'Tis one thing to be tempted, Escalus,  
Another thing to fall. I not deny,  
The jury, passing on the prisoner's life,  
May in the sworn twelve have a thief or two  
Guiltier than him they try. What's open made  
to justice.

That justice seizes: what know the laws

That thieves do pass on thieves? 'Tis very  
pregnant,

The jewel that we find, we stoop and take it

Because we see it; but what we do not see

We tread upon, and never think of it.

You may not so extenuate his offence

For I have had such faults; but rather tell me,

When I, that censure him, do so offend,

Let mine own judgment pattern out my death,

And nothing come in partial. Sir, he must die. (Shakespeare,  
1978, p. 83)

Escalus gives this respectful reply: “Be it as your wisdom will” (Shakespeare, 1978, p. 83). Bevington (2016, pp 165-166) says that Angelo’s rigid interpretation is based on two different principles. As for the first one, he points out that Angelo’s aim is to deter people from committing offences because no one will be able to escape punishment. The offender’s social status or the fact that certain offences may not be considered serious does not excuse anybody from punishment. The second principle, according to Bevington, lies in Angelo’s statement that he will have to be punished if he breaks the same law. So Angelo gives the message that everybody is equal before the law and that nobody may escape the rigorous enforcement of the statutes. His credibility is damaged when he makes the immoral proposal to Isabella. He takes advantage of his position and becomes hypocritical.

Furthermore, Bevington (2016) mentions that it is not possible to accuse a prince who rules an absolutist state. He remarks that this situation can be seen in the play when Isabella, instigated by the disguised Duke, accuses Angelo because at first her accusations are dismissed. The author gives this argument:

What Angelo does not take into account in this play is the problem of who is to bell the cat. What subject, in an absolutist state, can bring accusation against the prince? Isabella attempts to do so, in the final scene of the play, at the instigation of the disguised Duke. Her pleading for justice from the state gets nowhere at first, of course, since the returned Duke, having put aside for the moment his disguise, turns the proceedings over to Angelo to hear his own case. The Duke is testing Angelo, knowing perfectly well what the result will be. (p. 166)



So, according to Bevington the Duke proves that it is impossible for a subject to accuse a corrupt prince since the latter will be judge of his own case. It is worthwhile highlighting the contrast between Escalus and Angelo regarding law enforcement. The magistrate believes that the law should not be strictly interpreted, but that idea is rejected by Angelo. Bevington says that it is clear who has the power when he indicates that "... Escalus pleads for tempering the rigor of the law in Claudio's case but is overruled by Angelo" (2016, p. 167). Angelo is the highest authority due to the Duke's absence and Escalus is a magistrate who acts as an assistant.

Then, during the interrogation of Pompey and Master Froth, Escalus has another opportunity for showing his flexibility when interpreting the statutes. Pompey and Froth are involved in activities connected with a brothel. They are breaking the law. Bevington analyses that scene in the following way: "... Escalus moves on to his next line of defense, which is to warn Pompey in plain terms that he will be whipped if he shows up once more in Escalus's court. Whipped, mind you, not executed, as is being planned for Claudio" (2016, p. 168). As for Froth, Bevington mentions that he "...is similarly given a warning, not of a whipping, since he is a gentleman, but of something undefined but no less unpleasant" (2016, p. 168). Escalus is in charge of this situation because Angelo does not seem interested in it. In that scene the magistrate shows flexibility because he does not interpret the statutes literally. For that reason, he does not mention the death sentence, the punishment for Claudio, if they break the law in the future. He gives them a warning and considers other punishments if they break the law again.

In the first scene of the first act the Duke utters an interesting phrase when he has a conversation with Angelo. He tells him: "... So to enforce or qualify the laws / As

to your soul seems good” (Shakespeare, 1978, p. 80). This way the Duke suggests that Angelo should not enforce the law in a mechanic way. He implies that law should be enforced taking into account personal values. His message gives the idea of a certain degree of subjectivity which is compatible with the concept of *equity*. Bevington refers to the phrase said by the Duke in the following way:

This idea, a long-familiar commonplace about the nature of justice on earth and how it must attempt to emulate the perfect justice of the heavens, takes on here a quality of equity that the play appears to celebrate. Human justice must practice equity, if only because humans are themselves so imperfect and prone to the corruption that justice seeks to remedy or at least hold in check. (2016, p. 171)

### **III. A prince-legislator duke**

Constance Jordan (2016) points out that “Shakespeare’s dramatization of justice in *Measure for Measure* has long been recognized as problematic, representing the government of an absolute prince who is both rigorously punitive and mercifully forgiving” (p. 101). That definition is very interesting. The play reflects on how an authority should act when statutes are not respected. In the plot there is a contrast between the rigid interpretation of statutes and the possibility of being merciful.

Jordan (2016) gives this description of the legal and political situation in the play: “... the Duke is a prince-legislator and his authority is absolute; he (or his deputy) functions as the law; he does not govern by means provided by the institution of a court of law” (p. 102). The Duke may create, interpret and enforce statutes. He is in charge of

imposing sentences because there is no a judicial body. Moreover, he is the highest political authority in the city. As a result, when the Duke delegates his authority to Angelo the former transfers such legal and political powers to the latter.

Jordan (2016, pp. 101-102) refers to two sources influencing on the Duke's behaviour. She remarks James's suggestions to Prince Henry, his son, as to the interpretation and enforcement of law. His recommendations imply combining justice with mercy. In addition, Jordan mentions a second source: Machiavelli's Cesare Borgia. Jordan refers to this aspect in the following way: "The Duke endorses James's reasoning and adopts Machiavelli's ruse of appointing a second to execute a dreadful law" (2016, p. 102).

During the Duke's absence Angelo becomes the highest political and judicial authority. Regarding Claudio's case, the lack of due process can be appreciated. Jordan (2016) indicates that Angelo decides to impose a death sentence (execution) but Claudio does not have a trial (p. 104).

In the third act Lucio has a conversation with friar Lodowick. He ignores that Lodowick is Vicentio disguised as a friar. In that conversation Lucio describes negative aspects of the Duke, this way damaging his reputation. In the fifth act the Duke forgives him for his slanders but compels him to marry his child's mother. Lucio utters this phrase: "Marrying a punk, my lord, is pressing to death, whipping and hanging" (Shakespeare, 1978, p. 105). The Duke gives this answer: "Slandering a prince deserves it" (Shakespeare, 1978, p. 105). "Slander" is an interesting word from the legal point of view. The word "slander" should not be confused with "libel". The act of slandering implies oral defamation while libeling involves written defamation.

As for the context in which the play was written, Elliott Visconsi gives this explanation: "The play was the first of Shakespeare's efforts under the new regime of

James I, who styled himself a philosopher-king, a theorist of sovereignty, and a divinely appointed judge of law and equity” (2011, p. 280).

Furthermore, Visconsi says that “... *Measure for Measure* is a play deeply concerned with equity, that principle of flexible legal interpretation in which a judge looks beyond the letter to the spirit of a law, beyond an act to its intention” (2011, p. 281). Regarding the positive and negatives aspects of equity, this writer analyzes them in the following way:

Without equity, the highest law (*summum ius*) may lead to the greatest injury (*summum iniuria*). So too the power to pardon is contained in the king’s equitable prerogatives: unless a king sits above the law, his ability to suspend punishment can be restricted by other constitutional actors. It is not hard to see where this theory leads. Early modern English republicanism was mobilized around the fear of a unitary executive whose arbitrary will is law. (Visconsi, 2011, p. 282)

Visconsi also says that “Angelo’s profound failure to be equitable is the narrative motor of *Measure for Measure*”. He adds that “... Angelo enforces but never qualifies the laws on the books, including the old law against adultery” (2011, p. 283). Regarding Angelo’s aims, Visconsin gives this interesting explanation: “His ambition is, at first, one of general deterrence: the criminals of Vienna have lost their fear of the law, and his brief is to restore its just terror” (2011, p. 283).

#### **IV. Conclusions**

*Measure for Measure* is an interesting play to reflect about absolutism and what happens when the judiciary is subordinated to the political power. In the play all the power is concentrated in just one person. There is no legislative body. There are not judicial authorities. Rules are created, interpreted and enforced by the same person. Who could dare to defy the ruler's authority? Besides, there is a lack of due process because Claudio does not have the right to defend himself. He does not have a trial. There is not a prosecutor who accuses him and presents evidence. Claudio does not have the opportunity to confront evidence presented against him. At the same time Angelo is the judge and the prosecutor. There is not an impartial court hearing the case.

The lack of a trial to determine the guilt of a person who is accused of having committed an illegal act is also present in *Othello, the Moor of Venice*, another famous play written by Shakespeare. McAdams (2016) points out that in the fifth act Othello kills Desdemona because he thinks that she committed adultery and tries to kill Cassio and he does not give them the right to have a trial in which they may defend themselves. This essayist contrasts that aspect with the first act in which Othello has the right to defend himself (2016, p. 123). He refers to the first act in which Brabantio, Desdemona's father, accuses Othello of having used witchcraft to manipulate Desdemona to marry him. Brabantio makes that accusation before the Duke. Othello requests the Duke to fetch Desdemona so that she may give her testimony and refute the accusation against him. Othello's request is granted. Therefore, he can defend himself by calling his wife, his witness. However, Desdemona and Cassio do not have a trial to defend themselves. Claudio, the character in *Measure for Measure*, is in the same situation. He does not face a trial.

*Measure for Measure* also offers the possibility of reflecting about the authorities' ethics. Angelo is accused of committing the same crime that he is trying to combat. He is clearly seen as a hypocritical.

As regards the lexical field, the word "slander" allows readers to reflect about the elements that are usually analysed in a defamation case in English speaking countries. In the Anglo-American legal system, the defamation depends on the way it is expressed, that is to say, it is necessary to distinguish whether the defamation is oral (slander) or written (libel). The criterion is different in the Argentine law because in the Argentine legal system the classification between *calumnias e injurias* does not lie in that distinction.

I think that the most important legal aspect in the play lies in the way statutes should be interpreted. Interpretation of statutes is an important field in the area of philosophy of law. A rule may be construed in different ways. Literal interpretation may not be a suitable way of solving a case. In the play there is a clear contrast between a literal, rigid interpretation of statutes and the interpretation made in a flexible way. That difference allows readers to grasp the legal concept of *equity*.

As for the political side, the Duke is cunning. He delegates the power to Angelo and this way he does not have to discipline the population. In this aspect, Vicentio seems to follow Machiavelli's recommendations. He does not make the unpopular decision of enforcing the statutes rigidly. He delegates this difficult task to Angelo. His reputation as a ruler is not damaged. The Duke is able to manipulate people and situations to solve the conflicts peacefully. In fact, he is such a skilful manipulator that he can achieve all his goals.

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