

**“A Legal and Moral Discourse on the
Roles of Shylock and
Portia in *The Merchant of Venice*”**

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ABSTRACT

After her eloquent delineation of “the quality of mercy” failed to persuade Shylock to be lenient on Antonio’s breach of contract, Portia went along with him by handling the case strictly by the letter of the law. Shylock’s eventual defeat was caused by his own insistence on the justice of harsh legalism; but if Shylock had opted for leniency could it be called, “justice served?” Would the Christian majority have lessened the moral outrage and the racial discrimination against Shylock?

Although she won the legal battle with Shylock, both he and she were moral victims – Shylock as a member of the Jewish minority, and Portia as a maiden and thus regarded as not intelligent enough to choose her own husband, and not fit to serve in the legal profession.

KEY WORDS

justice
tripartite
moral
legal
discrimination

mercy
dichotomy
usury
Jew
Christian

Although not as deserving as King Lear to be classified an Aristotelian tragic hero, Shylock, a Jewish minority member in Christian/Patriarchal Venice, at least at the early part of the play, deserves to use Lear's famous line of being "... a man more sinn'd against than sinning" (King Lear, 3. 2. 60).¹ When Antonio tries to negotiate a loan from Shylock to help finance Bassanio's courtship of Portia, Shylock bluntly reminds Antonio of the usual discriminatory treatments he receives from him:

You call me misbeliever, cut-throat dog,
And spet upon my Jewish gaberdine,
And all for use of that which is mine own.
Well then, it now appears you need my help.
Go to then, you come to me, and you say,
"Shylock, we would have moneys," you say so--
You, that did void your rheum upon my beard,
And foot me as you spurn a stranger cur
Over your threshold. (1. 3. 111-9)

In addition to the above complaint, Shylock further asks Antonio a rhetorical question concerning the loan request:

"Fair sir, you spet on me on Wednesday last,
You spurn'd me such a day, another time
You call'd me dog; and for these courtesies
I'll lend you thus much moneys" (1. 3. 126-9)

Antonio does not hide his hostilities and readily replies:

I am as like to call thee so again,
To spet on thee again, to spurn thee too.
If thou wilt lend this money, lend it not
As to thy friends, for when did friendship take
A breed for larren metal of his friend?
But lend it rather to thine enemy,
Who if he break, thou mayst with better face
Exact the penalty. (1. 3. 130-6)

Through his earlier aside Shylock has already revealed his hatred toward Antonio based on both commercial and religious reasons:

I hate him for he is a Christian;
But more, for that in low simplicity
He lends out money gratis, and brings down
The rate of usance here with us in Venice.
If I can catch him once upon the hip,
I will feed fat the ancient grudge I bear him.
He hates our sacred nation, and he rails
Even there where merchants most do congregate
On me, my bargains, and my well-won thrift,
Which he calls interest. Cursed be my tribe
If I forgive him! (1. 3. 42-51)

The Christian Venetian men when reacting to each other seem to be normal, decent human beings with appropriate morals. Their rude behavior clearly manifests religious animosity and/or racial bias toward Shylock, the Jew.

Shylock is fully aware of the situation and of the Christian moral standards and social restrictions under which he has to structure his life. There is little room for him to

make a living. Despite the Middle Age concept of considering charging interest on a loan as unnatural or immoral, Shylock still has to settle with usury as his line of business. When Antonio is lending money without interest, it is a direct threat to Shylock's livelihood. Due to the significant financial threat coupled with the constant verbal and physical abuses from Antonio and his friends, it should surprise no one that if Shylock is greatly disgusted with them. Under such circumstances any human being, Jewish, Christian, Hindu, or Muslim, would react the same.

A more difficult fact to ascertain is Shylock's hatred of Antonio. According to Alice N. Benston, Shylock as a character has been submitted to various interpretations; tragic hero, evil incarnate, comic fool. (Wheeler 164). Keith Geary also adroitly calls Shylock's character being both caricature and human being "double headed." He further states that the design of the character is fundamentally ambivalent (56). Even just to speculate about Shylock's genuine motivation for demanding one pound of flesh from Antonio is a rather thorny issue. Along with many other critics, M. Jastrow and George Brandes both argue that when the bond is signed, Shylock only intends to humiliate Antonio, not to exact the fatal penalty. It is the elopement of his daughter Jessica with Lorenzo and her conversion into Christianity, the loss of his late wife Leah's ring, and the stealing of many of his ducats by the couple that harden his heart enough to want to take Antonio's life (Small 25).

Another school of thought represented by Bill Overton regards the same matter quite differently; he cites the following dialog of Jessica which occurs before the elopement to prove Shylock intends to commit premeditated murder (Wheeler 294).

When I was with him I have heard him swear
To Tubal and to Chus, his countrymen,

That he would rather have Antonio's flesh
Than twenty times the value of the sum
That he did owe him; and I know, my lord,
If law, authority, and power deny not,
It will go hard with poor Antonio. (3. 2. 284-90)

Regardless of Shylock's original motivation, at the time of the courtroom trial he is obstinate about handling the case strictly by the letter of the law. He is more than certain that he will win the case easily. The law is finally going to bring him justice. Being a money-lending Jew, Shylock does not need such profound intelligence to know not to trust public opinion in a society that is dominated by Christian morality. According to the teachings of the Middle Age Christian doctrine, money itself produces nothing, so charging interest when loaning someone money is unnatural and therefore immoral. This doctrine obviously aims at stressing the moral significance of manual work and the artificiality of money. There were probably some people who still believed in and practiced the doctrine in Shakespeare's time.²

From today's capitalistic perspective, Shylock is nothing but a conservative, morally neutral banker and Antonio a risk-taking, high-roller commodity trader. Down deep in his heart, Shylock very likely shares the modern viewpoint. The risky nature of Antonio's venture is very well depicted by Shylock:

Yet his means are supposition;
he hath an argosy bound to Tripolis, another to the
Indies; I understand moreover upon the Rialto,
he hath a third at Mexico, a fourth for England,
and other ventures he hath, squand'ed abroad.
But ships are but boards, sailors but men; there be
land-rats and water-rats, water-thieves and land-
thieves, I mean pirates, and then there is the peril of
waters, winds, and rocks. (1. 2. 17-25)

In contrast to the frugal Shylock, Bassanio, another main Christian character, is noted for his prodigality but is indeed in financial trouble. He is trying to pay off his debt by marrying rich, a typical fortune hunter by any standards. Shylock's famous line: "Fast bind, fast find-A proverb never stale in thrifty mind" (2. 5. 54-5), helps to evince he is the antithesis of Bassanio, morally and financially. The dialog between Bassanio and Shylock at the beginning of Act I Scene II further demonstrates their different value judgement even on a simple word like "good":

Shy. Three thousand ducats, well.

Bass. Ay, sir, for three months.

Shy. For three months, well.

Bass. For the which, as I told you, Antonio shall be bound.

Shy. Antonio shall become bound, well.

Bass. May you stead me? Will you pleasure me?
Shall I know your answer?

Shy. Three thousand ducats for three months, and Antonio bound.

Bass. Your answer to that.

Shy. Antonio is a good man.

Bass. Have you heard any imputation to the contrary?

Shy. Ho, no, no, no, no! my meaning in saying he is a good man is to have you understand me that he is sufficient. (1. 3. 1-17)

Needing to deal with a gentile society represented by Antonio and Bassanio, no one can blame Shylock for not trusting their moral judgement, but, rather, rely on the law. Of the twenty scenes of the play, Shylock merely appears in five of the scenes.³ In each and every scene that he appears he mentions the word "bond" several times. In choosing between

morality and legality for support, Shylock all along regards the latter a much safer bet. When the Duke and all the dignitaries of the city of Venice try hard to persuade Shylock to give up his pursuit of revenge, he turns a deaf ear to their appeals.

Disguised as the newly arrived Balthazar, a young learned male doctor, Portia further buttresses Shylock's confidence in winning his case to the extent that he calls her "A Daniel come to judgement! Yea, a Daniel! O wise young judge" (4. 1.223-4). Nevertheless, before she entangles him in a helpless legal cobweb, three chances are given to Shylock to steer him away from inflicting on Antonio the punishment of harsh legalism.

First, she delivers the famous "mercy speech," one of the best known passages in the English language:

The quality of mercy is not stain'd
 It droppeth as the gentle rain from heaven
 Upon the place beneath. It is twice blest;
 It blesseth him that gives and him that takes.

.....

Therefore, Jew,
 Though justice be thy plea, consider this,
 That in the course of justice, none of us
 Should see salvation. We do pray for mercy,
 And that same prayer doth teach us all to render
 The deeds of mercy. (4. 1. 184-87, 198-202)

To such eloquence, Shylock simply responds, "I crave the law, the penalty and forfeit of my bond" (206-7). Portia's second offer comes in the form of money: three times of the original loan. To that he says, "I charge you by the law, whereof you are a well-deserving pillar. Proceed to judgement" (238-40). His last chance concerns saving Antonio's life. She asks, "Have by some surgeon, Shylock, on your charge, to stop

his wounds, lest he do bleed to death" (257-8). He is not worried about it, because the bond does not stipulate his providing a surgeon (262). After flatly rejecting the three opportunities to change his mind, Shylock is still totally unaware that he has been trapped by a legal scheme set up by the young doctor. The stage is set for a reversal which Shylock has never even dreamt of. He is ready to be jolted into a status of legal defeat and moral annihilation.

The three offers concern mercy, money, and murder and could be called Shylock's "Three-M Chances." This interpretation fits in with the tripartite quality of the play. *The Merchant of Venice* consists of three stories: the rings, the caskets, and the pound of flesh. The play is also rich in triads. There are three couples: Portia and Bassanio, Lorenzo and Jessica, Nerissa and Gratiano; three rings: Leah's ring to Shylock, Portia's to Bassanio, Nerissa's to Gratiano; three caskets: the gold, the silver, and the lead. In addition to these conspicuous and well-known triads, various researchers have also pointed out some interesting tripartite elements of the play. Keith Geary writes,

"The conduct of the relationship of Jessica and Lorenzo parallels and contrasts with that of Portia and Bassanio: both relationships involve a casket, a disguise, and a ring."

He further indicates,

"The sub-plot shows a woman escaping the restrictions of her position as daughter and making the choice of her husband for herself." (61)

Ralph Berry also contributes to an intriguing finding that there are three kinds of money in a play where money plays such an important role: Shylock's thrifty money, Antonio's

risky capital, and Portia's inherited wealth (43). His excellent analysis of the social classes they represent and of their relation to money greatly enhances the comprehension of the play. Alice N. Benston's study deserves to be called the most significant among the writings that I have reviewed. She proposes that the key to understanding the thematic and structural organization of the play is to see the play as a series of three trials: Bassanio's casket scene, Shylock's trial and the ring episode.⁴ Of all the triads mentioned, this article is concerned mainly with Shylock's trial.

In refusing Balthazar's eloquent plea for mercy on behalf of Antonio, Shylock shows the same inhumanity that he has constantly received from his Christian neighbors. It would be easy to condemn Shylock for not choosing mercy but selecting the route of justice. However, such outright condemnation without considering Shylock's social milieu and his being a member of a long persecuted race would be too simplistic. Even before the arrival of Balthazar, the Duke already wisely asked Shylock, "How shalt thou hope for mercy, rend'ring none?" (4.1.88) Knowing the Christians in Venice, contrary to their religious principles, were keeping slaves, Shylock equates their slavekeeping with his demand for the pound of flesh from Antonio:

You have among you many a purchas'd slave,
Which like your asses, and your dogs and mules,
You use in abject and in Slavish parts,
Because you bought them. Shall I say to you,
"Let them be free! Marry them to your heirs!
Why sweat they under burthens? Let their beds
Be made as soft as yours, and let their palates
Be season'd with such viands?" You will answer,
"The slaves are ours." So do I answer You:
The pound of flesh which I demand of him
Is dearly bought as mine, and I will have it.

If you deny me, fie upon your law! (4. 1. 90-101)

In saying so, he means not that he is morally superior to the Christians but that he is not any worse. However, rhetorically speaking the equation is inappropriate. Because he plays by the book, at least the secular law is on his side; by holding slaves, the Christians conduct a breach of their religious law. Consequently, he is actually better than the slave holding Christians. As a matter of fact, the issue goes beyond who is superior or better, rather it is about trust. Shylock is not willing to render mercy simply because he does not believe he will receive mercy in return; he cannot trust the Christians who have mistreated, humiliated, and discriminated against him all his life; he does not believe that any mercy he shows Antonio would significantly lessen the long-established moral outrage and racial bias against him. The crux of the problem lies less in his unwillingness to render mercy than in his lack of trust of the Christians.

After Shylock has turned down the mercy plea, Portia, disguised as Balthazar during the trial, offers him thrice his money twice (4.1.227,234). To the first offer, he counters, "I have an oath in heaven! Shall I lay perjury upon my soul?" (228-9) When she repeats her offer, he responds, "By my soul I swear there is no power in the tongue of man to alter me: I stay here on my bond" (240-42). As an indication of how much more he is relying on legal than moral support, his use of the words "oath" and "bond," as contained in his two replies to Portia, is far more numerous than that of any other character in the play.⁵ Prior to the above dialog with Portia, the audience (or the reader) has already learned on two different occasions that he is opposed to a monetary settlement for his bond, In Act III Shylock's daughter Jessica tells Salerio that she has overheard Shylock telling his Jewish friends, "He would rather have Antonio's flesh than twenty times the value of the sum that he did owe him" (286-8). In Act IV Scene I

Bassanio makes a feeble diminutive offer of paying Shylock six thousand ducats for his original three thousand (84). It is precisely here, before Portia makes her offer, the audience has learned that the monetary settlement is out of the question through the following response by Shylock:

If every ducat in six thousand ducats
Were in six parts, and every part a ducat,
I would not draw them, I would have my bond. (4. 1.
85-87)

Through Shylock's own words, "I will have the heart of him if he forfeit, for were he out of Venice I can make what merchandise I will" (3.1.127-9), the audience has also been informed about Shylock's commercial motive behind his relentless stance.

Since mercy and money have both failed to help change Shylock's position, Portia immediately proceeds to the third phase of her legal strategy. She starts with one side of the balance "mercy" for settling human conflict, gradually moving to the other side of "justice." She is giving Shylock his last chance to set Antonio free and to simultaneously avoid conviction for attempted murder. The most crucial question that Portia puts to Shylock is about the availability of a surgeon to prevent Antonio from bleeding to death (4.1.257-8). If he is willing to provide for that, the worst possible result of his trial would be the confiscation of his lands and goods. As explained to him by Portia;

This bond doth give thee here no jot of blood;
The words expressly are "a pound of flesh."
Take than thy bond, take thou thy pound of flesh,
But in the cutting it, if thou dost shed
One drop of Christian blood, thy lands and goods
Are by the laws of Venice confiscate

Unto the state of Venice. (4. 1. 306-11)

If, when Portia asked about the surgeon, he felt he had humiliated Antonio long enough and had enough compassion for precious human life to be willing to take three times the sum of the original loan and forget about the pound of flesh, he could still have come out of the trial a winner. Unfortunately, Shylock adamantly adheres to the letter of the law by asking Portia if the bond requires the presence of a surgeon. When he is told the bond is not so expressed but it does not stop him from doing so out of charity, he again chooses to brush aside Portia's last plea for mercy and ignores the fact that Antonio will bleed to death by having a pound of flesh cut from him (4. 1. 260-62).

Although the play is written by the greatest English playwright, the trial procedure in the play is certainly not English. The Duke presides over the trial and later administers the sentence. He leaves the duties of weighing the evidence and/or interpreting the law in the hands of the court-appointed Balthazar, who is Portia in disguise. She has been brilliantly fluctuating between the roles of defending and prosecuting attorney. By now she has completely laid her groundwork to prosecute Shylock fully. She has duly informed Shylock unless he can guarantee not to drop any christian blood when cutting the flesh, his lands and goods, through confiscation, will belong to the state of Venice. She also explains to him that his being an alien attempting to use the legal system to take Antonio's life is a serious violation of the Venetian criminal code which puts his own life at the mercy of the Duke. She charges Shylock with attempted murder and the charges are spelled out in the following legal jargon:

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 ganrst 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 merey
Of the Duke only, gainst all other voice;
In which predicament I say thou stand'st;
For it appears, by manifest proceeding,
That indirectly, and directly too,
Thou hast contrived against the very life
Of the defendant; and thou hast incurr'd
The danger formerly by me rehears'd. (4. 1. 347-62)

At the end Shylock does receive some mercy from both the Duke and Antonio. The former spares his life and the latter greatly softens his financial penalty. However, one of the two conditions attached to Antonio's kindness is that he presently converts to Christianity (4.1.368-87). His legal defeat is undoubtedly devastating; the forced conversion to Christianity, which amounts to a moral rape, is probably harder to swallow. Derek Traversi sums up the peculiar quality of Shakespeare's dramaturgy very well when he says he believes that the bard takes the contemporary convention of viewing the Jew as villain, inhuman and Machiavellian, as his starting point and then contrives to humanize the Jew by providing him with motivation for the behavior expected of him in the light of established conventions (Ford 185).

As uniquely as he presented Shylock, the Jew, Shakespeare gives us Portia, a perfect fairy-tale heroine who comes to the rescue of a group of wealthy Christians who run the city of Venice but who are helpless in dealing with Shylock's demand of the pound of flesh from Antonio:

Twenty merchants,

The Duke himself, and the magnificoes
 Of greatest port, have all persuaded with him,
 But none can drive him from the envious plea
 Of forfeiture, of justice, and his bond. (3. 2. 279-83)

The legal dexterity that enables Portia to singlehandedly defeat Shylock is the result of her cram session of a few notes provided by her cousin Doctor Belario (3.5.49-51). Her courtroom performance is without a doubt praiseworthy. However, her excellence also reflects on the incompetence of the practicing legal profession of Venice: for the person who tackles their judicial difficulties is actually a young woman whose late father didn't think she was smart enough to choose her own husband.

People will probably never decide for sure whether Portia's going along with her dead father's edict of marrying the person who chooses the lead basket is due to an obligatory sense of legal contract or simply motivated by her filial piety. Before we can blame her for being too obedient to a dead person's wishes, she cheats a little by singing a little song, "tell me where is fancy bred, or in the heart or in the head?" (3.2.63-64) Using the rhyming scheme of "bred" and "head" to hint to Bassanio, the only suitor she desires, the "lead" casket is the right choice. This is one of the very few moral and legal imperfections exhibited by our heroine.

On the one hand, in terms of her relations with her late father and husband, Portia is the most obedient woman in the play. On the other, disguised as Balthazar, she performs a Herculean act in the courtroom that is mightier than the combined efforts of the Venetian patriarchal structure.

Like many of Shakespeare's plays, *The Merchant of Venice* is rich in dichotomies. Over the centuries various scholars have observed the play's phenomenon of dichotomies. Alice N. Benston's observation is a typical one:

Among the problems one faces in dealing with *The Merchant of Venice* is the difficulty of sensing a whole, a harmony, in a play that seems to work so consistently with dichotomies. Christian and Jew, mercy and law, love and friendship, prodigality and frugality-all are captured in the contrast between Belmont's moonlit, fairy-tale peace, and Venice's mercantile hubbub. (Wheeler 163)

In my opinion the most fascinating quality of dichotomy exists in the character of Portia.

In the casket scene, she is willing to be picked as a prize. After being "properly" picked by Bassanio, she submits herself entirely to him:

Though for myself alone
 I would not be ambitious in my wish
 To wish myself much better, yet for you,
 I would be trebled twenty times myself,
 a thousand times more fair, ten thousand times more
 rich

.....

Happy is this, she is not yet so old
 But she may learn; happier than this,
 She is not bred so dull but she can learn;
 Happiest of all, is that her gently spirit
 Commits itself to yours to be directed,
 As from her lord, her governor, her king.

(3. 2. 150-4, 160-5)

But in disguising herself as Balthazar, she performs in a more manly way than any one of the Venetian patriarchy. Her going from a humble maiden to the mightiest man in town is surely a binary phenomenon. Looking at Portia's impersonation as Balthazar, both morally and legally produces another aspect of

dichotomy.

Her male disguise seems to hold the key to the Christian victory over Shylock in the court of law. Her willingness to spend all the money it takes and to disguise herself in order to save the life of her husband's best friend is morally correct and later proven legally effective. At a glance, one may also agree that Shylock is morally wrong in insisting on having a pound of flesh from Antonio. Yet if one looks at the whole situation from Shylock's perspective, the moral ground may become a little shaky. He never intends to violate any law. Disregarding whatever motive he may have, he lends money to people who have been calling him names and insulting him all his life. Furthermore, both his daughter and servant are lured away by the Christians and they take along with them many of his ducats and some of his precious jewels. In a nutshell, Shylock is a terribly mistreated minority in a "Christian" society. Portia's male disguise does further injustice to him, because the disguise is done illegally.

Since Balthazar is fictitious, with her outstanding legal skill and knowledge, it would be totally inconceivable, if Portia did not know forgery of document was committed when the letter from Bellario is read, to introduce herself as Balthazar to the court. By the same token, impersonation of another person is illegal in any county's courtroom. Shylock is punished by the law for not knowing the "fine print" of the law; Portia knows the law, but knowingly violates it. Legal matters aside, one can easily see whose morality is on a higher plateau.

We probably have come a long way from the time and idea of E. E. Stoll, a critic of the twenties, who thinks people should take sides, or sympathize with either Shylock or the Christians whom Portia represents (318). Any court today which is sensitive about human rights will very likely look at Portia and Shylock as victims rather than victor and victim. They are moral victims of an overwhelmingly pa-

triarchal/Christian society: Shylock, a Jew; Portia, a woman—they are members of two powerless groups.

In a more ideal world, Portia would have the potential to be a famous judge or lawyer, the graduate of a reputable law school, who would help Shylock to establish that the “bond” concerning a pound of flesh is technically unenforceable thereby making him immune from other related legal penalties. Of course, she would also prevent the enforced conversion of religion of Shylock or anybody else in our civilized world. Nevertheless, a play is a play. Certainly we can always take a good look at the appearance of the play and speculate about various interpretations. But what is the true hidden message of the play? Perhaps, one of Shakespeare’s famous lines can shed some light:

“All that glisters is not gold.” (2. 7. 65)

Notes

¹ The text of “The Merchant of Venice” and other Shakespearean plays are taken from G.B. Evans’ *The Riverside Shakespeare* (Boston: Houghton Mifflin, 1974).

² Francis Ferguson, *Shakespeare: The Pattern in His Carpet* (New York: Delacorte Press, 1970), 115.

³ He appears in Act I Scene III, Act II Scene V, Act III Scene I & III, and Act IV Scene I.

⁴ Alice N. Benston, “Portia, the Law, and the Tripartite Structure of *The Merchant of Venice*,” *The Merchant of Venice; Critical Essays*, ed. Thomas Wheeler (New York: Garland Publishing, Inc., 1991), 166.

⁵ Shylock utters the word “bond” 22 times. Portia has the distant second place with 10 times. The former says “oath” 5 times; the latter twice.

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