

Literature in the legal classroom

Pawlowski considers the use of literature in the law school curriculum



Perhaps not unexpectedly, different law teachers have different ideas about what ‘law and literature’ means in the context of a legal curriculum. Broadly speaking, law and literature classes fall into three categories: law *in* literature, which considers the fictional representation of lawyers and the law; law *as* literature, which looks at judgments and statutes as literary works; and *legal imagination*, which looks predominantly at language and style. Inevitably, a course on legal literature will utilise elements from all three schools of thought, while concentrating on perhaps the most accessible: law in literature.

Increasingly, academics complain about the difficulty that students have with independent study. Law teachers are now proficient at PowerPoint and appreciate the importance of detailed lecture handouts; we feed our students digestible bites of law as if they were baby birds, rather than encouraging them to flap their own intellectual wings. One of the joys (and worries) of running a legal literature course is that, with this subject, spoon-feeding is not an option. The process of reading selected texts, thinking about them and discussing them in workshops, and then writing about them not only develops measurable legal skills but also, for some students, ‘lights a fire’ that continues long after they have obtained their law degree: see M Pawlowski and S Greer, ‘Film and Literature in the Legal Classroom’, (2009) *Law Teacher*, Vol 43/1, 49-61.

Some selected texts

An obvious theme of any legal literature course is the way in which lawyers are perceived in popular culture. This is to be found in a range of classical and popular fiction from Charles Dickens’ *Bleak House* to Mark Gimenez’s *The Colour of Law*. The perception of the lawyer as a grasping, amoral money-making machine has changed little from Tulkinghorn to Scott Fenney. Against this enduring image, students can explore what it means to be a good lawyer; through Scott Fenney’s transformation from villain to hero and, in the portrayal of Atticus Finch in *To Kill a Mockingbird*, as the ultimate defender of justice.

Such a course invariably also explores the complex machinery of the legal process, and prompts students to question the balance

between justice and procedure. This is echoed again in *The Colour of Law* and in Susan Glaspell’s short story *A Jury of Her Peers*, where the legal system is rejected and justice taken back into the hands of the female members of the community. There is also F Tennyson Jesse’s novel, *A Pin to See the Peepshow*, in which the snobbery and narrow-mindedness of the participants in the legal process condemn an innocent woman to death.

Needless to say, the jury system is famously explored in Harper Lee’s *To Kill a Mockingbird*, through the eyes of Atticus Finch and his children, Scout and Jem. The lynch mob baying for Tom Robinson’s blood are the same men charged by the law to decide his fate a part of a jury. Prejudice and the jury system is a recurring theme of the literature, and students reading *To Kill a Mockingbird* and then *The Colour of Law* are quick to identify that, in this respect, little had changed in the years between both novels.

Aims

Literature workshops are aimed to encourage students to think about some of the key tools of the lawyer’s trade. Advocacy, whether verbal or written, is a vital skill for the lawyer. The student must be able to construct an argument, present it, and defend it when necessary. Communication is also a key skill—words are the lawyer’s bread and butter. It is interesting to look at the opening passage of *Bleak House* with its creeping fog and move on to an extract from Lord Denning’s dissenting judgment in *Miller v Jackson* [1977] 3 All ER 338, which begins, in true Denning style:

‘In summertime village cricket is the delight of everyone. Nearly every village has its own cricket field where the young men play and the old men watch.’

We think about the kinds of writing, the words used and why they are used, the metaphors and the effect on the reader. Invariably, Dickens is, of course, judged to be the most literary of the two, but Denning offers us a glimpse of the law as literature. It is, perhaps, not surprising that students often comment on the relative ease with which they can read and understand a ‘Denning judgment’ when compared with some of the more convoluted and ‘weightier’ judgments of his counterparts.

Workshops involving the texts themselves will inevitably vary according to the text and issues that can be identified from it. Some will involve discussions about wide topics; in others, the student may be asked to concentrate on the text in some detail. In *To Kill a Mockingbird*, for example, after spending some time on the major themes of the text, the focus will turn to the trial scene, both as a dramatic device and as a piece of courtroom practice. After reading it and working through the mechanics of examination-in-chief and cross-examination, students may be asked to analyse the lawyers’ handling of their respective witnesses and compare Atticus’ closing speech with those of some real criminal advocates.

Writing like a lawyer

Law students often struggle with the idea of writing ‘like a lawyer’. In an attempt to make themselves sound ‘learned’, they will often either use meaningless Latin phrases and pompous-sounding expressions, or try to remove any trace of individual style from their work. In a legal literature course, therefore, students are required to think about how language is used to persuade the reader and to edit their work carefully.

It is also possible to build some oral advocacy into such a course by encouraging students to participate in a moot. Many of the texts lend themselves to this: Shakespeare’s *The Merchant of Venice* is an interesting possibility. Not surprisingly, Shakespeare’s plays are already used as the subject matter for moots in the US and Canada.

Conclusion

Several academics have already stressed the educative potential of law and literature studies. Apart from being ‘user-friendly’, such courses provide huge opportunities for teaching by analogy and example. Learning *about* the law in this way gives students new insights into the nature of law, how it functions and its role within society. Above all, such courses enable students to improve their abilities to analyse and communicate effectively within a legal discipline. This is to be welcomed at all levels.

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