LAW AND THE WORLD OF IMAGINATION

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Abstract

This article is trying to establish the connections between two worlds that at first seem to have nothing in common, namely the world of literature and that of law. The main argument is that those training to become legal professionals could benefit from reading literature as this experience equips them with the necessary skills in dealing with the intricacies of the case at law and this way they can adequately describe it, interpret it and render their perspective effectively.

Keywords: law, literature, legal professionals, discourse, arguments

One may ask the question what literature and law have in common as former is generally regarded as the expression of individual feelings and perceptions that are tested by the criteria of authenticity and aesthetics, and the latter is about a set of rules that are enforced according to the criteria of rationality and justice. In his search of arguments and methods of analysis the lawyer resorts to the findings and techniques of sciences like sociology, psychology or history. Literature is not part of this array as it does not establish propositions about the world on the basis of which the lawyer is building up his arguments.

Literature is art and the question arising here is how the lawyer can benefit from this world of imagination. How can a lawyer benefit from reading Shakespeare? When the playwright wrote his plays he was not doing this for the present lawyers, for our present concerns but out of his own motifs and hopes. His plays do not provide us with consistent and coherent sets of values or beliefs as social or natural sciences do, yet when approaching his works the lawyer has to do this without limiting his mind and spirit to any rigid theoretical scheme and be ready to expand his understanding of himself and of the world. This is what literature teaches us, never to accept as final any view of the world, of ourselves, constantly to question any established rules and be ready to "complicate" our sense of the world and of ourselves.

For the person working in the field of law the experience of reading literature followed by a new reading of the text of law may reveal new characteristics of the language used by the text of law. The literary texts, in a way, equip the legal professionals with the skills of identifying the inadequacies, gaps, imperfections of the self-assumed propositional character of the legal language and open the way to the prolific realm of speculations that a legal professional must master. Thus, it is variety that literature teaches the legal professionals and not new propositions; variety in tone, style, direction of

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thought and this variety is born out of the multiple engagements literature offers its readers.

The openness to another way of living, another way of imagining life engages the relationship between the reader and the text which emerge as newly created identities: the reader assumes an active role in the act of reading by exploring the interpretative horizons offered by the text, which in its turn, through the act of reading is redefined and assigned new meanings. This active way of reading confronts the reader with what Roland Barthes called the "writerly text" which opens multiple interpretative horizons to a reader whose reading becomes a form of work. Such an active reading questions the thoughts and feelings we have taken up to that very moment as natural. It is true that this active reading draws on previous conventions, norms and concepts and that the text is shaped within cultural, historical and cultural contexts, but it is equally true that the act or reading is an interpretative one through which the reader ascribes new meaning to the text, as well as to his Self and to the world. This act of interpretation creates a new perspective, a new world and the interpreter becomes responsible for it. The reader becomes responsible for the ways he attunes himself to what he reads, for how he judges it and for who he becomes in relation to the text.

This reasoning applies to the world of lawyers whose reality is not language free and who are responsible for what they see and say and their questions and answers are ultimately literary. The lawyer should not expect to find answers to the questions of law when reading Jane Austen or Thomas Hardy, yet the way he chooses to interpret the ready-made methods and materials of law, the way he tells the story of the case, the way he addresses the judge or speaks as a judge all these get him close to literature. He addresses the rules of law in his arguments but he's doing this in an interpretative act that considers both his thoughts and way of expression and those of his adversary, of the judge or, if the case, of the jury. Consequently we learn that the graduate of law should be learned not so much about the rules of law but mainly about the successful way to interpret law and to render this interpretation by using language well. Literature can offer the future legal professional a good way of training his interpretative skills and, comparison with other texts and discourses can reveal the characteristics of the legal language, both its limitations and resources. Such a comparison surely develops the capacities of better understanding the intricacies of the human mind and the nature of the human language and by employing this comparison the law student can apply his talent of analysis to the discourse of law. It's true that when interpreting the law, when building up the arguments lawyers resort to the findings and methods of sciences like sociology, economics, psychology or history. Yet the very process of translating these findings into the legal context is in fact literary, it is a form of art, it engages the problem of language and discourse because it is the lawyer who has to determine which findings are authoritative and give meaning to his arguments and what relations should be established between other discourses and the law.

Therefore the literary text can function as a recipe for understanding the workings of the law because it offers not final propositions, not findings but experiences of

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language that engage our interpretation and consequently get us closer to what the heart of justice is: not a dry distribution of fixed rules but an interpretation of the rules of law perpetually challenged by matters of fact. Justice is defined by the capacity of the mind to read and interpret authoritative texts, to pay equal attention to the opposing parties in a trial, to the opposing claims, to be open to new situations, to new voices and to be able to produce a result for which it is held responsible. Justice is after all a matter of choice and not something that is dictated by fixed rules. It is a matter of perpetual interpretation that engages reason and emotion, politics and aesthetics. Thus literature and law get to function on similar grounds. The power of the law rests not so much on its rules and decisions but on its language and its coercive character. The legal professional must master the language of the law which implies reading the literature of the law, speaking and writing in this language and always doing this by making something new out of existing materials. This experience of discovering, determining, interpreting and composing the legal texts renders the legal professional as a creator of new meanings, as an artist whose work is not dictated but it is the expression of the relations and connections *he* makes, an expression of *his* choice, an expression of *his* way of thinking.

The lawyer is thus an artist with language and thought and his turning to literary texts can help him understand the workings of law and then make his choice. In order to do so he should grasp de variety of discourses imbedded in the discourse of law as this is about people and their actions, their way of acting and speaking, and not about a rigid set of rules and policies. It is only when the lawyer feels the different voices of the case at law that he can adequately describe it, interpret it and render his perspective effectively. Unfortunately the traditional way of teaching does not encourage students of law to express their own thoughts but rather to follow certain patterns. Instead of thinking for themselves and express their thoughts in an accessible way for themselves they are encouraged to think within the limits of templates and little attention is paid to the substance of their writings. Literary texts may break these barriers if read as alternatives to legal texts and thus they can unchain the students' capacities to freely express themselves and to better deal with the intricacies of the language of law.

This experience of reading literature may be revealing to those training to become legal professionals as law is by its nature literary and the lawyer in his plea is turning into an artist, who, by interpreting the text of law, is the creator of a new meaning, of a new world for which he is held responsible. The lawyer in his profession expresses his Self on different levels, according to the responsibilities and opportunities defined by his relation with the client, according to the requirements of law, according to the professional aims and purposes and the way he manifests his Self should be appropriate to the situation. The way he expresses his Self is obviously judged and learning how to express in such situations is fundamental in his legal education.

Literature is one source for this education as it can provide the legal professional with ways to escape clichés, to think for himself and be able to use his language in ways that are appropriate to his thought. As a matter of fact literature offers us a way of reading all kind of texts, a way of focusing our attention on the languages that we use, on

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the relations we establish between them. It teaches us a way of reading that becomes a way of writing, a way of acting and reacting. And this is also true for lawyers who, by reading fiction, learn how to become true professionals, not simple recipients of practical and theoretical knowledge but creators of new meanings for which they assume full responsibility.

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