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Law and Mercy in *The Merchant of Venice* and the Present Refugee Crisis

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The aim of my essay is to analyse the concepts of law and mercy in *The Merchant of Venice*. The famous court scene has been interpreted as the conflict of the rhetoric of law, which recalls the Old Testament; and of mercy, which is the central concept of the New Testament. I will argue that this straightforward dichotomy does not quite apply. Different kinds of 'law' are evoked, subverted, and transgressed throughout the play. The treatment of parental duty, a servant's obligations to his master and marital vows, are all relevant to the discussion of this purported victory of Christian mercy over the legalistic Jew. References to broken trust, unkept promises as well as clever manoeuvres within the existing laws in order to assert one's own will abound in *The Merchant of Venice*; while mercy, and rather dubiously at that, is evoked only within other agendas. Indeed, we could speculate that, as A. D. Moody argues: 'Mercy is not being practised, but merely invoked as cover for "will"' (Moody, 1964: 40). Both law and mercy are ostensibly meant to facilitate understanding, but in fact serve to give one side advantage over the other. I will argue that the interpretation of the play in terms of law and mercy has to be tempered by two considerations. First, that although the dichotomy of law and mercy automatically suggests that the central subject of the play is the clash of two different religious systems and their codes of behaviour, the events of the play are in fact not so much driven by religion than by financial matters. Second, if the play is to be interpreted through the prism of law and mercy, it cannot be viewed as a conflict in which one of the two prevails, but rather as a warning against various misuses of both law and mercy, which lead to problematic solutions for the issues that the play presents. The discussion of law and mercy will then be used to raise questions about ways in which today's 'Christian Europe' (Christian in name but focused on easy, enjoyable life, much like the Venetians) may profit from

recognition of what kind of law and what kind of mercy we may offer those who come into our country, who are our 'Others' and whose 'Others' we are.

The interpretation of the plot of *The Merchant of Venice* in terms of contention between law and mercy, the Old Testament and the New, revenge and forgiveness, is fairly widespread, especially in the play's earlier criticism.¹ For example, John P. Sisk interprets the outcome of the play as loving, generous Christians triumphing over the evil, parsimonious Jew. In his interpretation, all of the actions of the Christians are justifiable since 'the action of the play [is] to be released by love from all false and evil bonds to a fulfilment of life' (Sisk, 1969: 218). Shylock is viewed as the embodiment of 'bondage to money and hatred' (*idem*, 219) while the Christians are the soul of 'magnanimity' both regarding money and 'the free dispensing of mercy' (*idem*, 220). In the interest of this dichotomy, the Christians' faults and questionable behaviour are interpreted in a positive light, while Shylock's good traits such as his faithfulness to his wife are ignored completely. Another strain of interpretation that frequently refers to law and mercy is a typological reading of the play.² John Scott Colley reads the play as 'the symbolic fraternal struggle between Jacob and Esau, the younger and the elder, the new and the old [...] a clash between the perfect legal righteousness of Old Testament Law, on the one hand, and the New Testament tenets of faith and forgiveness, on the other' (Colley, 1980: 184). Much like the Biblical story where Jacob uses dishonest means to steal Esau's blessing and become the first-born and, notwithstanding, is revealed to be chosen by God, the author argues that the pattern of the play is to 'sin in order to do the right thing' (*idem*, 187). The actions are not made palatable by any merit of the Christians but simply by the fact that they are God's chosen people, which justifies anything they do as long as in the end the outcome is the triumph of Christianity. This is problematic not least because the supposedly chosen Christians do not take their religion very seriously, a problem further

discussed below. Therefore, it seems that Christian religion simply puts those who profess it into a privileged position and can be used to excuse the actions of theft, treason and trickery as long as they leave them victorious in the end. Furthermore, one may compare the Biblical Jacob, who is clearly aware that he has done an injustice to his brother and goes to reconcile with him bearing gifts and humbly calling himself his brother's servant, with the Venetian Christians who self-righteously gloat over the destruction of Shylock, which prevents any possible reconciliation or forgiveness similar to that which Esau shows to Jacob.

As I have mentioned, the reading of the play as a conflict of Christian mercy versus Jewish law is complicated by the fact that neither the Christians nor Shylock uphold the principles of their religion very rigorously. Most of the Venetians live for dinners, parties and amusements, and even the reserved Antonio clearly does not abide by the Biblical maxim of 'love your enemies' (Matthew 5:43), while Shylock appears, at least by the end of the play, to be willing to break one of the Ten Commandments ('You shall not murder' [Exodus 20:13]) in order to eliminate Antonio. John Gross argues that 'Shylock's stage-Judaism is a pseudo-religion, a fabrication: there is no true piety in it, and nothing to hold him back as he pursues his revenge' (Gross, 1992: 46). The same applies to Antonio's Christianity, which in no way prevents him from spitting on Shylock. The words 'Christian' and 'Jew' are used primarily to create an opposition between the two sides. It is the easiest way to clearly separate one side from the other, as Shylock and Antonio share quite a lot of other characteristics, being both Venetians, both merchants. Religion is used to draw the battle lines: it functions as a means of separating 'us' from 'them', as well as a perfect excuse to insult the other side, although the complaints that each side has against the other have less to do with religion and more with economics. In contrast to this, John P. Sisk argues that 'the good people in the play put love ahead of money' (Sisk, 1969: 219). The good people are, in his reading, everyone except

Shylock, which ignores or diminishes some of the basic facts of the play, such as that Bassanio's courtship of Portia is at least partly motivated by his intention to pay off his debts with her money; that Jessica not only runs away from her father, but also steals from him; and that even Antonio, the Christian martyr, as some critics style him to be³, is not impervious to financial motivations. As a matter of fact, I would argue that most of the play's events are motivated by money rather than by religion.

As an example of this tendency one may first turn to the central event of the play: Antonio's bond and his near-sacrifice. At the first glance it seems to be the pinnacle of Christian morality – 'greater love has no one than this: to lay down one's life for one's friends' (John 15:13). However, if closely analysed, Antonio's bond becomes much less a selfless sacrifice than a miscarried attempt to save some money. When he agrees to the bond, Antonio does not think he is risking anything at all. Although his ships are presently at sea, he stresses that '[his] ventures are not in one bottom trusted / Nor to one place' (1.1.43–4)⁴ and that 'Within these two months, that's a month before / This bond expires [he] expect[s] return / Of thrice three times the value of his bond' (1.3.169–71). Under these circumstances, Antonio could easily concede to pay interest since he believes he will have the money to do it. Instead, Antonio agrees to guarantee the bond with a pound of flesh, which means that he will avoid paying Shylock any extra money.⁵ Choosing to rather risk his life than his money is hardly congruent with the Christian injunction to 'take heed and beware of covetousness: for a man's life consists not in the abundance of the things which he possesses' (Luke 12:15). When Antonio's ships miscarry, and he is suddenly held to his bond, he assumes the posture of a martyr for love of Bassanio, either forgetting or disregarding his original motivation in sowing the seeds of the present situation.

On the other side of the conflict, Shylock's reason for hating Antonio is also ostensibly religious – he even says, 'I hate him for he is a Christian' (1.3.42). However, he goes on to add, 'But more for that in low simplicity / He lends out money gratis and brings down / The rate of usance here with us in Venice' (1.3.43–5). His main complaint against Antonio indeed appears to be that he takes away Shylock's profit and sullies his business reputation 'where merchants most do congregate' (1.3.49) by condemning his business practices, which incidentally are closely connected to his Jewishness. This provides Antonio with extra ammunition, since he feels that as a person of different religion, he does not need to treat Shylock as a human being. Nevertheless, I would argue that the core of the problem is in fact money, i.e. making profit off of the Christians.

Other examples of financial rather than religious motivation abound in the play. Launcelot Gobbo makes a point of saying that he is breaking his loyalty to the Jew, and incidentally going against Paul's teachings about servants in Colossians, because of religion, since the 'Jew is the very devil incarnation' (2.2.26–7). However, his goal is financial betterment, and his complaint is not about the Jew's religious practices but the way the Jew works him hard and does not reward him to his liking. Master Bassanio, in contrast, 'gives rare new liveries' (2.2.109) and lives extravagantly enough that Launcelot will have a good chance of gaining better rewards in his service. Therefore, his words to Bassanio, 'you have the grace of God' (2.2.150), smack of empty flattery and are hardly the reason for Launcelot's desire to serve him.

Jessica's flight from the Jew has its monetary aspect as well, because she steals as much as she possibly can from her father before she leaves, but also because of the careless way in which she spends the money, exchanging her mother's ring for a monkey and spending 'in one night fourscore ducats' (3.1.107–8). Although in Sisk's interpretation, the

fact 'that she takes some of [Shylock's] wealth with her is much less important than the fact that, in the interest of loving and living, she voluntarily cuts herself off from rich expectations' (Sisk, 1969: 219), I would argue that Jessica's motivation is to enjoy the money she takes and have fun now rather than obey her father's wishes and probably be married to a man of his choosing, who most likely would not allow her to cultivate a lavish lifestyle. She says to Launcelot, 'I am sorry thou wilt leave my father so: / Our house is hell, and thou, a merry devil, / Didst rob it of some taste of tediousness' (2.3.1–3). Tediousness is Jessica's main complaint about her father's household, not cruelty or inhumanity on her father's part. Her relationship with Lorenzo then revolves around what Shylock terms 'shallow foppery' (2.5.36), since they escape from Venice to Genoa to spend all the stolen money on presumably amusements, and then come to Belmont to enjoy Bassanio's hospitality, who throughout the play is known to foster a similar lifestyle.

Not only are the uses of law and mercy in the play not motivated by religion, but I would also argue that, rather than look at the clash of these two values, one should look at the play as a series of fundamental misunderstandings and self-serving misuses of both. In order to interpret *The Merchant of Venice* as a conflict of law and mercy, one would have to draw a strict line between the side of the Christians that is defined by mercy and Shylock who exclusively follows the law. This does not work for two reasons. First, at the end of the play Shylock no longer cares about law but only about revenge. He does not insist on the bond because of his incorruptible adherence to the letter of the law, but because at this point he wants to hurt the Christians in retaliation for his daughter's betrayal. Second, it is Portia who can manoeuvre the law in a way that not even Shylock can do, which makes her the ultimate legalist. John Scott Colley points out that 'Shylock is foiled by a sharp bit of legal sleight-of-hand worthy of an Old-Law pettifogger' (Colley, 1980: 185), while Richard H. Weisberg

argues that Antonio himself 'turns out to be no *ingénu*: his false generosity is but the preface to a highly legalistic manoeuvre that will totally destroy Shylock' (Weisberg, 1998: 15). Samuel Ajzenstat similarly argues that 'in a further irony it is Antonio, though a Christian, who is the play's committed legalist' (Ajzenstat, 1997: 270), as shown both by his initial resignation in the face of the law and, after Portia's reversal of his fortunes, his deft manipulation of the situation to his advantage. Moreover, Gross points out the fallacy of the law/mercy divide being equated to Judaism versus Christianity: 'the notion that Judaism has an inadequate grasp of the concept of mercy is a travesty – as much of a travesty as it would be to suppose that Christianity has an inadequate grasp of the concept of justice' (Gross, 1992: 81).

Many critics nevertheless attempt to view the finale of the court scene in a positive light as a triumph of Christian mercy over Shylock's misguided adherence to the letter of law. Barbara K. Lewalski interprets this scene in terms of religion, stating that 'Shylock, as a representative of his entire race, having refused the earlier opportunity to embrace voluntarily the principles of Christianity, must undergo in the trial scene the harsh "Schoolmastership" of the Law, in order to be brought to faith in Christ' (Lewalski, 1962: 342). She does not elaborate much on Shylock's dispossession, merely stating that 'Shylock's pecuniary punishment under the laws of Venice precisely parallels the conditions imposed upon a Jewish convert to Christianity' (*idem*, 341). However, as Weisberg skilfully shows, Antonio's mercy is in fact no mercy at all, since instead of forgiving some of the fine that is due to him (half of Shylock property), Antonio in fact seizes more of Shylock's future property by establishing a trust with his half, that is for him to 'use', which means that 'under his direction alone [...] [the money] will be invested, and they will provide both income and preservation or growth of the principal itself' (Weisberg, 1998: 16) – the principal is reserved for Jessica

and Lorenzo, while the growth of the sum 'provides an annual income [...] to Antonio for as long as Shylock lives' (*idem*, 17). Not content with this, Antonio oversteps the bounds of his privileges by insisting that Shylock leaves all of his present and future property to Jessica and Lorenzo after he dies and also converts to Christianity, which, as Jan Lawson Hinley points out, 'will have the immediate effect of destroying Shylock's livelihood' (Hinley, 1980: 228). The Duke then threatens to rescind his pardon for Shylock's life unless he acquiesces. Antonio thus returns control of half of Shylock's present, and all of his future, property into Christian hands, and at the same time eliminates him as competition and gets rid of the thorn in the side that Shylock's moneylending has been to him. Reiterating the point about financial instead of religious motivation, I argue that the conversion is not concerned with Shylock's soul at all (he is clearly not convinced and does not convert out of his own will), but rather with making him unable to practice usury and thus endanger the Christians' profits. Arguably, this also parallels the reason why Shylock wants to get rid of Antonio – not because he is a Christian but because of the threat he poses to his business. Antonio does not need to kill Shylock to neutralise the threat – his 'mercy' does that well enough. The contrast between law and mercy therefore breaks down completely since the Christians, despite Portia's and the Duke's appeals to mercy, are themselves adept at reading and applying the law to their own ends,⁶ while Shylock, although he attempts to use law to enact his vengeance, is not in fact motivated by it.⁷

In contrast to this, the mercy offered at the very end of the play by Portia to Bassanio is very generous and unconditional. While disguised as a lawyer in the Venetian court, Portia witnesses her husband liberally offering to pay the debt 'ten times o'er' (4.1.218) with her money, but also saying to Antonio that

life itself, my wife, and all the world,
Are not with me esteem'd above thy life.
I would lose all, ay, sacrifice them all
Here to this devil, to deliver you. (4.1.196–9)

Finally, Bassanio breaks two promises that he has given to Portia, first, that 'till I come again, / No bed shall e'er be guilty of my stay, / no rest be interposer 'twixt us twain' (3.3.337–9). After the trial he goes with Antonio to his house and resolves to set off for Belmont in the morning. Second and more importantly, Bassanio promises that 'when this ring / Parts from this finger, then parts life from hence' (3.2.187–8), following Portia's statement about the ring's significance when giving it to Bassanio:

This house, these servants and this same myself
Are yours, my lord: I give them with this ring;
Which when you part from, lose, or give away,
Let it presage the ruin of your love
And be my vantage to exclaim on you. (3.2.174–8)

The ring symbolises their marriage and all that Bassanio has gained by the union (both property and wife), and therefore when he gives it away on Antonio's prompting to 'let his deservings and my love withal be valued against your wife's commandment' (4.2.468–9), Bassanio symbolically sacrifices his marriage and once again shows the disguised Portia that he values Antonio's friendship and advice above her love. The same plot is also mirrored in Nerissa similarly getting her ring off Gratiano. The ease with which their husbands forswear their oaths must be shocking and disappointing to both young wives, although, given the treatment of different laws, oaths and promises by the Christians in the play, perhaps not surprising to the audience. To add insult to injury, when confronted, instead of being contrite, Gratiano rudely calls his gift 'a hoop of gold, a paltry ring' (5.1.160), signalling once again the preoccupation with financial rather than spiritual value of things that is typical of the play.

Both Bassanio and Gratiano keep insisting that the judge and the clerk deserve the rings; Bassanio even unselfconsciously declares, 'my honour would not let ingratitude so much besmear it' (5.1.234–5), showing that he does not give the oath he gave his wife enough importance to even think about it being dishonourable to break it. After these rather weak and insulting excuses, both Portia and Nerissa briefly tease Bassanio and Gratiano by indicating that they were unfaithful to them with the judge and the clerk, to which Gratiano immediately reacts with righteous indignation, saying 'are we cuckolds ere we have deserved it?' (5.1.284). Insultingly, his indignation is on account of being cuckolded so soon in the marriage, revealing his opinion of their wives' virtue in having expected it to happen at all. He is mildly reprimanded by Portia for speaking grossly, then both women reveal the deception and suddenly all is well, everyone forgiven. Randy Lee argues that 'the mercy displayed in this context is a fruitless mercy, a mercy that seems not to fuel redemption or a better heart [...] because forgiveness is obtained so easily and without consequence by Bassanio and Gratiano, they take it for granted; perhaps they do not even notice that it was ever needed' (Lee, 2006: 22). Indeed, the men appear to feel sorry mostly because their wives are angry with them, not because they realise the fault in their actions. The cheap mercy that they are offered may encourage them to act similarly in the future, knowing that their spouses may berate them but will easily be won over.

Finally, reflecting on the various applications of law and mercy in the play, one may sense irony in Portia's famous speech in court, where she declares that 'earthly power doth then show likest God's / When mercy seasons justice' (4.1.202–3). Although it is a great truth, throughout the play the audience never gets an example of such wise tempering of justice with mercy, but only careless breaches of unwritten laws such as familial duty,

marriage vows, and servant's loyalty in the name of financial gain; strict application of the law that masquerades as mercy; and cheap, unheeded mercy that has no justice in it.

What should then be the lesson with regard to the current refugee crisis? Perhaps one may consider that, much like in the case of Antonio's and Shylock's conflicts, the reasons for the resentment towards refugees are perhaps of more economic than religious quality. After all, although rhetorically Europe has rediscovered its 'Christian roots' under the perceived threat of Islam, a great number of Europeans in no way practice Christian religion. Furthermore, the Czech government has also refused the applications of 70 Chinese Christians who left their country because of religious persecution; only eight people were accepted.⁸ It therefore seems logical that the complaints are much more concerned with the money that goes towards aiding the refugees instead of benefiting the citizens, rather than with religious or cultural considerations. In addition, there are somewhat spurious attempts to distinguish between people fleeing for their lives, and 'economic migrants'. The futility of such an effort can be illustrated by two articles published within a week of each other in July 2017 on two different Czech news sites. One headline reads, 'Economic migrants are a myth: 80% of people flee to Europe [from war and conflicts]'⁹, while the other one states, 'According to OSN, seven out of ten refugees are economic migrants'.¹⁰ The discussions are fraught with conspiracy theories, for example, that refugees are in fact in search of Europe's wealth (to be gained without honest work, of course) rather than trying to make a peaceful living. This may recall the Christian's resentment of Shylock's money and how he earned it, while he considers it simply 'well-won thrift' (1.3.50). Undeniably, there is fear involved: fear of the 'Other' from a different culture and religion. A survey made in October 2018 shows that out of a thousand respondents, two-thirds are afraid of the refugees settling in their country and 86% are afraid of the refugees spreading Islam.¹¹ Furthermore, it seems that in the minds of many

Czech people, migrants are closely connected with crime – another survey cites 72% respondents as worried about national safety.¹² Once again, we may refer to the play and to how both sides – the Jew and the Christians – feel that abuse and perhaps even crime are justified against the Other, because they are not part of the community. These feelings in the play stem from the fact that both sides refuse to see each other as fellow human beings, nursing one-dimensional concepts of the Other that suit their own narratives. There is not a single instance in the play where both sides meet with the intention to truly understand each other. What is more, though both strict law and unconditional mercy, practiced unilaterally and without understanding on both sides, may in fact bring an immediate resolution of the problems that arise, such a resolution is superficial and promises more problems in the future. Similar reasoning may be applied to the present crisis, the long-term solution of which will require careful mediation between the proponents of the strict law (protecting the boundaries, not letting anyone enter) and those of unconditional mercy (providing aid without imposing limits or conditions), and facilitation of learning and understanding on both sides.

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¹ William Baker and Brian Vickers give a useful overview of this strain of interpretation from 1939 onwards in the introduction to *Shakespeare: The Critical Tradition: The Merchant of Venice 1775-1939* (Baker and Vickers, 2005: 14–15).

² See also Lewalski, 1962, and Danson, 1978.

³ See Snider, 1872; Gollancz, 1931; Lewalski, 1962; Sisk, 1969.

⁴ All quotations from *The Merchant of Venice* are from the Folger Digital Texts edition.

⁵ Interestingly, Antonio has no qualms about spending money on his friends. As a possible reason for this, Jan Lawson Hinley suggests that 'Antonio is practicing his own spiritual usury' (Hinley, 1980: 227) by expecting return for his investment, particularly in Bassanio, not in money but in privileged position in his life and affections.

⁶ Grace Tiffany connects this tendency to monetary interests in 'Law and Self-Interest in *The Merchant of Venice*', where she argues that 'contractual laws, or rules, designed to keep property safe hold sway in *The Merchant of Venice* despite its Christians' protestations of absolute generosity. Throughout the comedy not only enemies, like Shylock and Antonio, but lovers and friends hedge their commitments to one another with rules, charges, directions, and laws safeguarding their interests' (Tiffany, 2010: 174).

⁷ Richard H. Weisberg shares this claim in 'Antonio's Legalistic Cruelty: Interdisciplinarity and *The Merchant of Venice*', where he states that 'neither [Portia] nor any even-handed observer of the play as a whole needs find any necessary linkage of "legalism" to vengeance' (Weisberg, 1998: 14).

⁸ 'Proč nedostali čínští křesťané azyl? "Strach z perzekuce nestačil, přitížila jim práce", říká právníčka'. *iROZHLAS*, 12:30 (22 February 2018). https://irozhlaz.cz/zpravy-domov/cinsti-krestane-azyl-cesko-ministerstvo-vnitro-rozhodnuti_1802221230_kno (accessed 29 December 2018).

⁹ 'Ekonomičtí migranti jsou mýtus. 80 % lidí do Evropy prchá, tvrdí zpráva' (8 July 2017).

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¹⁰ 'Sedm z deseti uprchlíků jsou ekonomičtí migranti, tvrdí OSN'. *Týden* (3 July 2017). https://t.tyden.cz/rubriky/zahranici/evropa/sedm-z-deseti-uprchliku-jsou-ekonomicti-migranti-tvrdi-osn_436882.html (accessed 29 December 2018).

¹¹ 'Dvě třetiny Čechů mají strach z uprchlíků, devět z deseti se bojí rozšíření islámu'. *zpravy.aktualne.cz* (26 November 2018). <https://zpravy.aktualne.cz/domaci/dve-tretiny-cechu-ma-strach-z-uprchliku-9-z-10-lidi-se-boji/r~5830c872f16a11e884f6ac1f6b220ee8/> (accessed 29 December 2018).

¹² 'Přibýlo odpůrců přijímání uprchlíků, k jaké národnosti jsou Češi vstřícnější?', *zpravy.tiscali.cz*. (9 November 2018). <https://zpravy.tiscali.cz/pribylo-odpurcu-prijimani-uprchliku-k-jake-narodnosti-jsou-cesi-vstricnejsi-320493> (accessed 29 December 2018).