SYLLABUS

We will read the literary and other works on the annexed reading list. Each assigned work (or set of works) will occupy about 2-4 class hours. Some of the questions we will try to address for each work or generally are:

• How does literature use law as a source of structure and theme?

• How does literature view law and legal institutions?

• What can literature and literary imagination bring to the performance of legal tasks, including "telling stories" about cases? Indeed, how much of law itself is a series of narratives, of stories?

• What different (or similar) interpretive rules do lawyers, authors, and literary critics employ in construing a text? For example, a will. And how does each profession define "text"?

• How are human passions and the human condition differently described and treated in law and literature?

The Calendar. Our first class is Tuesday, August 31. After a general introduction, we will begin our discussion of Antigone that day.

The Papers. This course carries “B” writing credit. You will have to write six papers (of the eight assigned) of 900-1000 words each. The topic and deadline for each paper are annexed. We advise you to read the assignment prior to reading the work. The papers should be 12 point type and double-spaced.

You may omit two of these eight assignments but everyone must do the first assignment for Antigone, which is due on September 5 for discussion on September 7. Everyone is required
to read all of the assigned works (whether or not writing a paper) and come to class prepared to discuss them and the question posed.

Papers **must** be handed in **on time** to Dean Stimpson and to Professor Gillers as described below and on the annexed chart. It is necessary that you hand your paper in on time so we each have a chance to read them before class. Each of our classes is on Tuesday from 4:00-6:00. The deadline for each paper (in the weeks that a paper is due) is the immediately prior **Sunday at 5:00 p.m.** The papers may be handed in via e-mail as follows:

**To Dean Stimpson:** You should e-mail your paper to Dean Stimpson at catharine.stimpson@nyu.edu. (Notice that “catharine” is spelled with an “ar” not an “er.”)

**To Professor Gillers:** E-mail the paper to stephen.gillers@nyu.edu.

**To be certain** there are no problems with e-mail attachments, you should both **attach** your paper (remember to put your name on the attachment) in either WordPerfect or Word format **and** also put the paper in the body of the e-mail.

**Course Requirements.** There will be no final examination. Grades will be based on the quality of the papers and class participation.

Attendance is mandatory absent an emergency. Because this class is heavily dependent on collegial class discussion (see below), you are expected to be present for all of every class. Because your instructors need to have read your papers before the class at which they will be discussed, the deadline for their submission is firm.

The purpose of the papers is to focus your attention on certain questions and thereby facilitate class discussion. Independent research is not expected nor encouraged. On the other hand, if you happen to know of a critical observation or a reference that helps make your point, you are free to cite it with attribution. You must write your paper without conferring unduly with others.

In evaluating the papers and class participation, we are interested in: Thoughtfulness, demonstrated familiarity with the text, clarity, specificity (anchoring your answers in the text), and quality of writing. To save space in your papers, you should **not quote extensively** from the text. Citations can be in any conventional format. For books, you can just cite the page number. For the plays, you can cite the act, scene, and line. Footnotes are **strongly discouraged.**

Following class discussion, we will copy and place on Blackboard two or three papers so you can see how others addressed the same questions. If you prefer for any week that we **not** distribute your paper, please say so at the end of the paper. We will write comments on your paper but our comments will generally not be extensive. We will instead rely on class discussion of the question to illuminate the themes we think are important. You can pick up your papers
with comments after 4:00 pm on the Thursday after the Sunday on which the paper has been handed in. Papers can be picked up from Professor Gillers’ assistant, Shirley Gray.

**The Orientation of the Course.** Why have an interdisciplinary law school class that closely reads literary works?

Law and literature courses are taught at about two-fifths of American law schools. Their content ranges broadly. Some focus on traditional works by such as Aeschylus, Shakespeare, Dickens, Camus, Melville, and Dostoevsky. Some add modern fiction, like *To Kill A Mockingbird*. Some even include John Grisham. A few add nonfiction -- memoirs for example.

We expect to use the assigned works in three ways:

First, the works raise questions of law and morality, broadly defined. We can discuss these questions in the context of the works and more generally. This is the “law” part of the course.

Second, we can discuss the works as stories -- talk critically about their structure, narrative, and characters, their motives and actions -- in an effort to understand what they can teach us about the human condition and about the meanings of law. This approach is close to, but distinct from, the first approach. It’s the “literature” side of the course.

Third, we can study the narrative qualities and the language of the works -- their density, use of ambiguity, imagery, conciseness, word choice, puns, descriptions of motivation, skill in conveying character and describing action -- for what they may teach us about the performative dimensions of writers’ and lawyers’ work. This is both the “literature” and the “law” part of the course.

Much of your professional life will be spent conveying ideas and events to others -- adversaries, judges, colleagues, juries, public officials, clients -- in language, written and oral. This is so true of lawyers’ work we hardly ever focus on it as a distinct component. But what has this truth got to do with the study of literature? Can the study of how a good writer tells stories and uses language improve corresponding skills in lawyers? We think the answer is yes. (The lawyer half of us believes strongly that working with literature -- learning how to read and talk about literature -- improved his skills in practice.) Moreover, some of you may be involved, now or later, in the field of intellectual property, which includes literature, drama, movie and TV scripts, lyrics, etc.

**The Importance of Class Discussion.** So it is a premise of the class that reading and discussing literature improves legal skills, and indeed the skills in any endeavor that demands an understanding of human motivation, character, performance and language. That endeavor needn’t be traditional work. It can be the “work” of personal relations.
For example, if we pay attention, reading and discussing such works as *King Lear*, *The Merchant of Venice*, *Othello*, *Hamlet*, or *The Tempest*, should teach us something about parent-child relationships. Notice, we say “discussing.” And here’s the important point and the foundation for the class.

The *full* benefit of literature (not only for lawyers) is gained in discussion with others who are equally engaged. Any of us could read the works on the syllabus, alone in a room in the dead of night, perhaps with critical essays alongside, and get a lot out of them. This is always worth doing, of course.

But we are likely to get even more if we can talk about the stories, the characters, and the language with those similarly inclined. This phenomenon of the whole being greater than the sum of its parts is also true when lawyers gather to discuss and solve legal problems. For one thing, we are forced to articulate our inchoate thoughts as expressions that others can understand and in doing so we understand them better. For another, we hear not only how others articulate their thoughts, but we also learn from their responses to what we think. You don’t have to subscribe to a postmodern view that the readers or community of interpreters are the dominant authors of a text to appreciate that when people discuss any work of art, they extend it (at least in their own experience) and become participants to the creative process. A work of art, like law, lives on through interpretative acts, which are a form of creativity.

At or before the start of each class, we will ask one or two students to begin the discussion. This responsibility will rotate randomly. Of course, everyone will be expected to participate in the discussion thereafter.

**The Unimportance of Experience.** Some members of the class will have a lot more experience with literature than do others. We may even have a few former English students in the class. Yet other class members may not have read much in (say) Shakespeare and nothing since a college (high school?) course years ago.

No one should worry about being wrong. Reactions to the works -- explanations of their events -- are not true or false for our purposes. Others may agree or disagree with our reactions, but that’s to be expected. Experts have diverged wildly, over time and in the same epoch, in their explanations of Shylock’s character or the proper way to understand *The Trial*. If experts can do that, so can we. What matters is that we contribute our understanding to the group effort to answer questions about the works and seek coherence in our own responses.. Even if we disagree with another person’s perspective, we might modify or better understand our own view after hearing it, and we should enhance our own analytical skills and emotional sensibilities.

What we have just written has two direct implications.

Mostly, the class will not be run hierarchically (if we can help it). This is a collegial effort. We have some prerogatives as teachers, but not many. (In any event, we don’t especially want them and don’t want often to have to call upon them.) Mainly, our prerogatives are to keep order, help direct the discussion, and ensure that the pace does not get too slow or too fast.
Next, you have to be willing to take two risks -- first to risk listening to others with a willingness to be persuaded; and then, to risk voicing your views on the questions under discussion, or to suggest others if you think they are better ones to ask. You can’t be shy. Nor can our discussion be restrained by political correctness. The works inspire many heated opinions. Many of the characters engender great dislike, others win our sympathy. Sometimes the same character does both, to different readers or to the same reader. We can discuss why this is so and how the author managed it.

Catharine Stimpson
Stephen Gillers
READING LIST

Here are the works we will read. The Law School Bookstore should have them all. Please buy the assigned editions of Shakespeare so we are all reading from the same page. Please buy the indicated translation of *The Trial*, which differs from prior translations.

Jean Anouilh, *Antigone* (Methuen 2001)


Sir Arthur Conan Doyle, Three Sherlock Holmes Stories\(^1\) (handout)


Herman Melville, *Bartleby, the Scrivener* (handout)


Shakespeare, *Troilus and Cressida* (Signet Classics 2002)

Shakespeare, *Merchant of Venice* (Washington Square Press)


Akira Yoshimura, *One Man’s Justice* (Harvest Books, 2002)

Excerpt from *De Profundis* (handout)

*Lawrence v. Texas*, 123 S.Ct. 2472 (2003)\(^2\)


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\(^1\) The Boscombe Valley Mystery
The Adventure of the Blue Carbuncle
The Adventure of the Abbey Grange

\(^2\) Please download these three opinions.
# Law & Literature
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## Fall 2004

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<thead>
<tr>
<th>Date</th>
<th>Reading</th>
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<tbody>
<tr>
<td>August 31</td>
<td>Introduction and Antigone (Sophocles, Anouilh)</td>
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<tr>
<td>September 7</td>
<td>Antigone</td>
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<td>September 14</td>
<td>Merchant of Venice</td>
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<td>September 21</td>
<td>Merchant of Venice / Troilus and Cressida</td>
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<tr>
<td>September 28</td>
<td>Troilus and Cressida</td>
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<td>October 5</td>
<td>Gross Indecency, <em>De Profundis</em> excerpt, <em>Lawrence v. Texas</em>, <em>Goodridge v. Dept. of Public Health</em></td>
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<td>October 12</td>
<td>[same]</td>
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<tr>
<td>October 19</td>
<td>The Trial / Bartleby / Holmes Stories</td>
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<td>October 26</td>
<td>[same]</td>
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<td>November 2</td>
<td>A Trial by Jury, Lucky</td>
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<td>November 9</td>
<td>[same]</td>
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<td>November 16</td>
<td>One Man’s Justice</td>
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<td>November 23</td>
<td>Equal Justice Under Law</td>
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<td>November 30</td>
<td>The Island</td>
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**Paper Due Dates:** Your papers for each work are due by 5:00 p.m. of the Sunday preceding the Tuesday on which the work is first listed for discussion (e.g., the paper for Antigone is due September 5 at 5:00 p.m.). The papers should be delivered to Dean Stimpson and Professor Gillers by e-mail as described above.