

The Fusion of Boundaries: A Review of the Legal Literary Criticism Advocated by Wu Di

Chang Liching

Abstract: The study of the correlation between law and literature is typically interdisciplinary. Based on the interdisciplinary studies of literature and the connotation of the academic movement of “Law and Literature,” Wu Di puts forward the concept of “Legal Literary Criticism,” and makes his voice for literary scholars in the field of the comparative study of law and literature. His related researches are based on his understanding of literature. The purpose of legal literary research is not purely to solve legal problems, but to deepen his control over the spiritual connotation of literary works and his comprehensive understanding of the writer’s worldview. However, Wu Di is not satisfied with the role of legal events in the development of the plot of the literary works but wants to explore the writer’s legal thoughts and legal ethics in addition to aesthetics. The legal literary criticism advocated by Wu Di not only enables a new critical vision of literature, but at the same time, it also provides a reference for the study of related issues in the field of law.

Keywords: Wu Di; interdisciplinary research; legal literary criticism; law and literature

Author: Chang Liching is Chair Professor at the Shih Chien University, and a doctor of law at the University of Munichcc and National Taiwan University. Her research interests include law and literature (Email: liching0903@yahoo.com.tw).

标题: 跨界的融合：评吴笛倡导的文学法律批评

内容摘要: 法律与文学之间的相互关系的研究，属于典型的跨学科研究。吴笛教授基于文学的跨学科视野，借鉴“法律与文学”学术运动的合理内涵，提出了“文学法律批评”的理念，在法律与文学比较研究领域，为文学学者发出了自己的声音。他的相关研究，以文学的感悟为基点，研究的目的是不是纯粹为了解决法律问题，而是为了加深对文学作品精神内涵的掌控，以及对作家世界观的全面理解。不过，吴笛教授并没有满足于法律事件在作品情节展开中的作用，而是要探究作家除了审美之外的法律思想和法律伦理思想。吴笛教授所倡导的文学法律批评，不仅使得文学有了新的批评视野，与此同时，也为法律领域相关问题的研究提供了参照。

关键词: 吴笛；跨学科研究；文学法律批评；法律与文学

作者简介: 张丽卿，实践大学讲席教授、德国慕尼黑大学法学博士、台湾大

学法学博士、高雄大学法学院前院长，主要从事法律与文学比较研究。本文为国家社科基金重大招标项目“世界文学基本文献的整理、翻译与研究”【项目编号：24&ZD242】阶段性成果之一。

Law and literature are inextricably linked, their relation often metaphorically referred to by scholars as a “sisterhood” or a “happy partnership.” “Law and literature share the same function. Both have ‘man and society’ as the object of their attention, and both take the idealization of man and society as their task, and their basic function is to sensitize and transform man and society. Literature has the functions of indoctrination, improving self-expression, stimulating sympathy, searching for the self, feeling life, and healing the body and mind. In this way, literature sensitizes the human mind and inspires the human heart to strive for a better world, an ideal society, and human justice” (Chang 249-250). The academic movement of “law and literature,” which had an extremely wide scope, made many legal scholars participate in it and strive to open up the frontiers for cross-border researches of various disciplines. However, in the past, this academic movement was mainly confined to the circle of legal scholars, and literary scholars rarely participated in it. Even if there are scholars involved, most of them are limited to this academic movement in the legal circle to hold discussions. However, based on the interdisciplinary view of literature and the reasonable connotation of legal research, Wu Di (also known as Deyi Woody) puts forward the concept of “legal literary criticism” and raises his voice for the participation of literary scholars.

I. Academic Expansion Based on Comparative Researches

For scholars engaged in legal research, their literary knowledge is relatively limited, especially in the perception of literary works, and they often feel overwhelmed. Wu Di’s research is based on literary perception, and the purpose of the research is not only to solve legal problems but also to deepen the control of the spiritual connotation of literary works and the comprehensive understanding of the writer’s world outlook. In other words, the movement “law and literature” in the field of jurisprudence uses literature as material to solve legal problems, while the legal literary criticism advocated by Wu Di uses the law as material to solve related problems in literature. The propositions concerning the legal wording of literary works, legal metaphors, and legal elements in the structure of literature are beyond the reach of scholars who study “law and literature.” Of course, they are also complementary in a certain sense, expanding the ideal space for comparative studies between literature and law.

Wu Di also aptly defines “legal literary criticism” by saying: “‘Legal literary criticism’ aims to explore the legal issues in literary works, including the themes, images, wording, and techniques, or the influences received from the law, from the perspective of legal criticism, and to explore the refraction of legal thought in the historical development process of literature, as well as the writer’s deep thoughts on the treatment of legal issues in the process of creation, and the resulting jurisprudential thoughts and the formation of the writer’s legalistic outlook” (“Legal Literary Criticism vs. Law and Literature” 36). From this definition, we can feel the difference between “legal literary criticism” and the “law and literature” academic movement. “Law and Literature” is mainly to use literary texts as materials to explore the legal issues in them. Literature comes from real life and is the sublimation of real life, so legal scholars often consider literary works as a broad social reality and explore legal propositions from them. On the other hand, “legal literary criticism” is to use law as a critical perspective of literature, and to examine the influence of law received by literary scholars, as well as the potential role of legal elements in literary creation.

Of course, literary works embody the spirit of the times and the ideals of the writers, and in Wu Di’s opinion, “legal literary criticism” is no exception, which can explore the legal thoughts and the formation of the writers’ legal outlook as well as the corresponding cognitive value of the writers’ creations from the literary texts, in addition to the aesthetic value. “Legal literary criticism has a unique value and function to study the problems related to law in literature from the perspective of law, which has been neglected by previous scholars [...] It allows us to emphasize the social value of literary works while emphasizing the aesthetic concept” (Wu, “Legal Literary Criticism as an Interdisciplinary Research Method” 74). It can be seen that Wu Di’s proposition not only has doctrinal depth but also has practical significance, expanding the space and academic connotation of the comparative study of literature and law at a certain level.

For example, in his monograph *New Studies in Thomas Hardy*, Wu Di devotes a chapter to discussing the unique function of some legal events in Hardy’s *Tess of the d’Urbervilles* in terms of the artistic structure of the novel, and meticulously examines them, arguing that the legal issues in *Tess of the d’Urbervilles* are mainly related to three aspects: “The novel deals not only with criminal law, but also with marriage law, property law and other related aspects. However, as far as the basic structure elements depicted in the novel are concerned, there are three main places where legal issues are involved: namely, Tess’s humiliation in the first part, Alex’s murder by Tess in the seventh part, and Tess’s death sentence at the end of the

novel” (*New Studies in Thomas Hardy* 76). In Wu Di’s view, these three legal events are crucial to the development of the novel’s plot, and it is these legal events that drive the plot of the work. They play a key role in the development of the beginning, the climax, and the end of the plot of the work.

However, Wu Di is not satisfied with the role of legal events in the unfolding plot of the work but rather explores specific evidence and the writer’s ideas. In the following exposition, Wu Di thoroughly examines all three aspects of the problems that arise in *Tess of the d’Urbervilles*. In particular, he examines and analyzes the legal events related to Tess’s victimization extremely thoroughly. Moreover, in the process of argumentation, he emphasizes the role of evidence, according to Hardy’s specific details in his works, especially in the dark forest, after a close reading of the text, he found a very evidential expression like the sentence “She was sleeping soundly” (Hardy 82). He relies on 19th-century English legal texts and case records of the time, such as *Digest of English Case Law*, *The Law and Family Marriage: A Manual of Practical Law*, etc., to make a completely different point of view from that of the critics. He believes that the hero of the work, Alec d’Urberville, had committed a crime with clear facts and solid evidence, but was not severely punished by the law. Moreover, he believes that this was Hardy’s criticism of the imperfection of the law and the double standard of the trial process, as he wrote in his monograph:

We have made it clear from the above two parts of the argument that both Alec d’Urberville’s violence against Tess and Tess’s revenge killing of Alec d’Urberville were acts that violated the laws of England at the time. It is unfortunate, however, that the law punished them in completely different ways. The laws of the same country applied “double standards” to both the rich and the poor. Alec d’Urberville’s criminal behavior is not punished in any legal sense; on the contrary, Tess’s action of a certain rebellious nature pays the price of her life. (*New Studies in Thomas Hardy* 87)

This review gives us an intuitive impression of understanding Hardy as a realist writer. Especially for writers like Hardy who had unique insights into legal issues, the advantages of legal literary criticism are quite obvious, not only as a critical method to intervene in traditional literary criticism, but also as a way to deeply understand the real value of literary works, as Wu Di said: “Legal literary criticism as an interdisciplinary research method has its characteristics and values, and also has its rich theoretical resources, including the overall social sciences and humanities. The study of legal principles and legal issues in literary works

can deepen our control over writers' creative intentions, help us understand the possibilities of new interpretations of works in terms of themes, techniques, and characterization after the intervention of legal concepts, and thus embody the cognitive value of literary works in addition to aesthetic enjoyment. Moreover, the legal imagination in literary works and the legal thinking of literary scholars undoubtedly have reference significance for the study of jurisprudence, and also have certain reference significance for the perfection of law and the justice" ("Literary Legal Criticism vs. Law and Literature" 41).

II. The Broad Vision Beyond the Study of National Literature

The legal literary criticism advocated by Wu Di has a broad scope and a wide vision, not only macro-theoretical statements but also specific and detailed interpretations of works. He believes that the scope of research of legal literary criticism includes literature on legal subjects, legal thought and the value of jurisprudential documents in literature, the writer's view of jurisprudence, legal events in works, and the value of legal critical attitudes in literature, and so on. Moreover, even when he deals with a particular aspect, he does not limit himself to the literature of one country or one type of literary creation but deals with many genres of literature from many countries. This is closely related to his macroscopic mastery of world literature. In his view, the literature of legal subjects not only includes a wide range of poems, novels, plays, and other literary genres, but also includes important writers and works from many regions in the East and West, such as the myths and legends of ancient Greece, Shakespeare and Dickens in England, Tolstoy and Dostoyevsky in Russia, Kafka in Germany, and so on. Wu Di is more concerned with legal writing in English literature and Russian literature.

For example, in his article "A Study of the Legal Ethics in Scott's *The Heart of Midlothian*," he argues that the two legal events in Walter Scott's novel, "Porteous Riots" and "The Unfair Conviction of Effie Deans," form the basis of the work's structure and are the driving force for the plot development of the novel.

In discussing Charles Dickens's masterpiece, *A Tale of Two Cities*, he focuses on the role of legal elements in the structure of the work that other scholars have overlooked, arguing, "*A Tale of Two Cities* tells not only two stories, two cities, two classes, but two generations. Even basically a two-phase comparison. In the two generations connected with the Marquis St. Evremonde, the former commits a crime, does willfully as he likes, and is guilty of it, and the latter suffers and bears the debt of his predecessor's sins, and is punished for no reason at all. In the two generations associated with Madame Defarge, the former suffered cruelty and

persecution at the hands of the aristocracy, and the latter was determined to avenge it. In the two generations connected with Doctor Manette, the former made tearful accusations because of the persecution they suffered, and the latter almost suffered the fate of having their families broken up because of the accusations of their predecessors” (“The Legal Writing in Dickens’ *A Tale of Two Cities*” 30).

In his article, “A Study of the Unfair Trials and the Legal Ideal in Scott’s Novels,” he argues that there is a unique interaction between literature and law, and he aptly expresses the dialectical relationship between law and literature by arguing that “literature is often imbued with elements of law, and law is the upholder of human order, while literature is the overseer of law” (94). According to Wu Di, the writing of unjust imprisonment in Scott’s novel is a cry for the realization of his legal ideals. “*The Heart of Midlothian* is of great documentary value both in terms of recognizing the historical events of the early 18th century and understanding the legal issues after the union of England and Scotland, which fully embodies the ideological qualities and spiritual aspirations of Scott’s dual roles as a writer and a jurist. The novelist expressed his thoughts on the concept of jurisprudence in the form of literary works, which is undoubtedly an example of legal writing in literature. Scott regarded literary works as a platform for publicizing his legal ideals and explaining his view of jurisprudence. His novels closely combine real historical events with the portrayal of the ideal image in the author’s mind, and succeed in writing about injustice on a legal level” (101).

Wu Di not only pays attention to the legal writing in the classics of English literature but also has considerable insight into the legal writing in Russian literature. In the article “A Study of the Legal Narration of Alexander Radishev’s Literary Works,” he believes that Radishev is a writer who pays great attention to the law, and that “an in-depth discussion of the legal issues related to his literary works can undoubtedly deepen our understanding of his works as well as his creative thinking. Likewise, Radishev’s legal reflections and corresponding legal ideals are of reference value for the perfection of law and legal justice” (57).

The monograph *History of Russian Fiction* also contains a great deal of legal writing. For example, in the third subsection of Chapter 3, Wu Di provides a better discussion of the legal writing in Old Rus’ literary works, such as *The Trial of Corruption*, *Yershoy Yershovitch*, and others. He argues that the work *Yershoy Yershovitch* was created in the form of a court trial. In it, there is a satirical simulation of the proceedings of the 16th and 17th centuries. *The Trial of Corruption* takes a humorous and satirical approach, “revealing the greed of the judge and the injustice of the law through the depiction of the three crimes and three punishments

of the main character” (Wu, *History of Russian Fiction* 47).

Wu Di’s legal literary criticism is extremely broad and covers a wide range of topics. “The richness of literature not only provides a diversity of thought, but also cultivates a broad vision and broad-mindedness of the legal person, and does not allow the legal person to be confined to the traditional legal niche” (Chang 233). Many of the legal issues Wu Di mentions in his relevant treatises, as well as some of the English and Russian legal cases he studies, are extremely rare qualities for lawyers and have a certain value for relevant legal research.

III. From Legal Writing to the Exploration of Legal Thought and Legal Ethics

If exploring the embodiment of legal elements in the structure and metaphors of literary works is one of the main features of Wu Di’s legal literary criticism, he does not rest on these aspects, but also actively explores and makes unique attempts at the level of legal thought and legal ethics in literary works, which have been neglected by legal scholars.

In his article “A Study of the Legal Narration of Alexander Radishev’s Literary Works,” he considers Radishev’s masterpiece *Journey from Petersburg to Moscow* as an outstanding work of legal justice and expression of legal ideals. He thinks that “Radishev saw through the nature of tsarist autocracy and found it difficult to realize his legal ideals in practice, so he conveyed his legal ideals and jurisprudential concepts through literary creation out of his conscience” (58).

If Radishev is considered a representative of the dual identity of a lawyer and a writer in Russian literature, then Scott is undoubtedly a representative of such a dual identity in English literature. As a writer who studied law and had been a lawyer since graduating from university, Scott had always been able to express his legal ideals in literary form. Therefore, in the article “A Study of the Unfair Trials and the Legal Ideal in Scott’s Novels,” Wu Di argues that literature is an important medium for Scott to present justice. “Scott regarded literary works as a platform for publicizing his legal ideals and elaborating his view of jurisprudence. His novels closely combine real historical events with the portrayal of the ideal image in the author’s mind, and were successful in writing about the legal aspects of wrongful imprisonment” (108).

The legal literary criticism is not only a typical interdisciplinary criticism, but also an important part of the criticism of literary ethics. In the process of engaging in literary ethics criticism, Wu Di has also further explored and realized that legal ethical thought is equally important in ethical literary criticism. Therefore, in the article “A Study of the Legal Ethics in Scott’s *The Heart of Midlothian*,” he focuses

on the legal ethical thought in the works of Scott, an important historical novelist in the early 19th century of England, and makes an in-depth excavation of this thought, and thoroughly discusses the significance of Jenny Deans, the heroine of Scott's novel, who is a moral model in legal ethics.

In particular, Scott expresses his legal ethics through the writing of "The Unfair Conviction of Effie Deans," which "reinforces the importance of legal ethics in the conflict between 'love' and 'law,' and the protagonist, Jenny Deans, an ideal model, is allowed to make her own difficult ethical choices in the violent collision between flesh and blood and legal justice. It is in the multiple conflicts and ethical dilemmas of the characters that Scott emphasizes the idea of legal ethics and the call for legal justice" (Wu, "A Study of the Legal Ethics in Scott's *The Heart of Midlothian*" 125).

Wu Di agrees with Scott's portrayal of Jenny as an ideal moral model and believes that the idea of legal ethics is an important inspiration for both legal justice and legal ethical criticism. "Legal ethics is a code of conduct that legal practitioners must adhere to in the course of their practice and plays a crucial role in maintaining the integrity of the legal system as well as in the administration of justice" (Wu, "A Study of the Legal Ethics in Scott's *The Heart of Midlothian*" 134).

Conclusion

To sum up, the legal literary criticism advocated by Wu Di expands the function and meaning of literature, not only providing a new and ideal way to study and understand the literary classics but also providing a reference for related research in the discipline of law. Wu Di's legal literary criticism is also enlightening for my research. Twenty-three years ago, I received a Fulbright scholarship to study at Stanford University Law School for one year. Wu Di happened to be visiting Stanford as a Fulbright scholar, so I had the honor of meeting him. I was already interested in literature and inspired and influenced by Wu Di, I visited Stanford University for the second time and ended up in the Comparative Literature Department. When I returned to Taiwan, I started a new program, Law and Literature, in the graduate schools of several universities.

Since law students have to prepare for the judicial examination with great difficulty, reading literary works and thinking about the legal issues in literary works may help them relax their tense spirits, open a new window for them, and breathe different fresh air. The law gets quite a bit of nourishment from literature, and literary scholars have a lot of associations that are thought-provoking to the legal professions. Therefore, the law and literature movement could develop and flourish.

The legal literary criticism advocated by Wu Di not only allows literature

and law to merge across the border but also makes legal scholars benefit from it. The ethical teaching function and universal value of literature involved in legal literary criticism are of great enlightening value to law scholars, and the attention that legal literary criticism pays to the legal-ethical thoughts in literary works is of positive significance to the maintenance of justice and the improvement of the legal consciousness and moral standard of the broad audience.

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