Duke Vincentio, Sex and the Law

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For
Ann and Anna

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CHAPTER 1

INTRODUCTION

A collection of essays on Shakespeare's *Measure for Measure* in the "Theory in Practice" series notes that "the day-to-day consideration of literary texts is the staple ingredient of most tuition in English". The rubric its contributors were asked to follow was "to offer a reading of the literary text" while taking into account "the implications for interpretation found in particular essays or studies". While this response to the current interest in literary theory places the importance of the text in a wider context, it is also necessary to stress, as its "consideration of literary texts" implies, that in literary criticism the importance of the text remains primary. Placing the text in a wider context must not limit its imaginative dimension. While all the essays in the collection contribute something to our appreciation and understanding of *Measure for Measure,* sometimes feminist or Foucaldian approaches, although successful in the last fifty years in increasing our understanding of Shakespeare, need to be regarded with some caution.

Editor Nigel Wood's introduction obviously increases the reader's appreciation of the play. While cognizant of the relevant scholarship of others, it has regard to the play's text and the questions this raises. In considering the play in relation to its obvious sources, it notes that "comparative reading does little to dilute the sense of sophistication in Shakespeare's work". Wood's introduction is illuminating in discussing the implications of the play's title. In asking "how measured are the Duke's closing arrangements", it notes that "the mercy extended to both Angelo and Lucio unsettles the balanced and (of necessity) formulaic application of law". His reference to *The Merchant of Venice*, in noting the importance of "mercy being a quality and not a quantity", reminds us that the "law" cannot inevitably "be equated with justice". And contrary to what most critics assume, Wood gives primacy to the text in seemingly suggesting that Isabella does not eventually marry the Duke: "Her silence at the Duke's offer of marriage is entirely consistent in its perverse refusal to take part in the closing patriarchal games".[1] In commenting on this aspect of the play, I'll

be suggesting the text contains no compelling evidence that, as a novice nun, Isabella's affection has moved beyond the cloister.

Wood's introduction also notes the relevance of the action to Leonard Tennenhouse's recognition of “the folkloric tradition of the disguised monarch on walkabout”.[2] The role of ruler was paramount to the welfare of the state and its people, and David L. Stevenson has pointed out that Duke Vincentio invites detailed comparison with James I.[3] The play was staged in the Banqueting House at Whitehall as part of the Christmas celebrations on 26 December 1604, which was the new king's first Christmas in central London.[4]

Since its theme deals with the death penalty for fornication, Shakespeare, whose first child was conceived before his marriage, developed this theme with some subtlety. While it has been noted that the text allows for a measure of ambiguity, I shall be arguing not only that this allows for different presentations of, and responses to, the ending, but that there is every reason for supposing that Shakespeare's personal response to the ending would have been very different from that of James I.

Measure for Measure was first published in the First Folio of 1623 where it was grouped with the “comedies”. What was presented at Court is likely to have conformed to the printed text of which the first line, 'Of government the properties to unfold', would have caught the new king's ear. As James VI of Scotland he had written in 1599, as a “kingly gift” for his young son Henry, *Basilikon Doron*, a text describing what kind of man a king should be, and how he should govern. This work on statecraft was revised, reprinted, and widely translated when he became James I of England. The text of the play distinctly echoes James's work, and in 1959 David Stevenson wrote: “*Measure for Measure*, in so far as it is concerned with the 'properties' of government, is more than a casual and fortuitous reflection of Renaissance political piety. It is a play in which the political element bears the conscious and unmistakable imprint of the predilections of James I himself”.

Stevenson's essay offers a detailed analysis of how the play reflects and embodies James's “ideas and attitudes”. He notes the text reflects James's “distaste” of unruly crowds, and cites the pamphlet of Gilbert Dugdale describing “James's spontaneous outbursts against what he considered the unruly English mob's failure to keep its distance from his person and a proper decorum in his presence”. This is echoed in the Duke's words to Friar Thomas of the failure strictly to administer the “laws”, with the result that

"Liberty plucks Justice by the nose" and "quite athwart / Goes all decorum". This echo of the reference to "the unruly English mob" interestingly implies that such "liberty" is licence that needs to be restrained by a more coercive judicial process, of which the death penalty for fornication represents an extreme example. Seeing the Duke as exemplifying James I, Stevenson notes he is "willfully Jamesian in his views of himself and in his attitudes towards affairs of state". He adds: "It would be difficult to find *any* comment in this play concerning the 'properties' of government and 'sufficiency' in office which did not agree rather narrowly with James's personal convictions as of 1603-1604".[5]

Since James regarded himself as an intellectual and published all of his major writing in 1603, the year he came to the English throne, Shakespeare would have known how the king desired to have his ideas accepted and promoted. In writing now as one of the King's Men, the dramatist would have been concerned to continue the king's patronage of his acting company. During the period he wrote the last two of his great tragedies *King Lear* and *Macbeth*, Shakespeare gave dramatic substance to ideas and topics James had entertained. *King Lear* illustrates the dangers of a divided kingdom, James having desired the union of England and Scotland, though this was not accomplished until another century had elapsed. *Macbeth* obviously reflected James's keen interest in witchcraft. A tenet of *Basilikon Doron* which proved central to *Measure for Measure* was the humanist concept that justice should be tempered by mercy, a view James stressed in his book on statecraft:

> And when you have by the severitie of justice once setled your countries, and made them knowe that yee can strike, then may ye thereafter all the dayes of your life mixe justice with mercie, punishing or sparing, as ye shall finde the crime to have been wilfullie or rashlie committed, and according to the by-past behaviour of the committer. For if otherwise ye kyth your clemencie at the first, the offences would soon come to such heapes, and the contempt of you growe so great, that when yee would fall to punish, the number of them to be punished would exceede the innocent; and ye would be troubled to resolve whome-at to begin: and against your nature would be compelled then to wracke manie, whom the chastisement of fewe in the beginning might have preserved.[6]

In this passage James might have been reflecting something of what had been his own experience in Scotland, but his injunction to at first "strike" and then mix justice with mercy is reflected in the dramatic action of *Measure for Measure*. On becoming Duke Vincentio's Deputy, Angelo immediately issues a "proclamation" that all the brothels "in the suburbs of

Vienna must be plucked down", and Claudio is publicly led to prison to face the death penalty for having got his beloved Juliet with child. At the end of the play, the Duke mixes justice with mercy by pardoning both Angelo and Claudio, both of whom have been, according to the Church's view, guilty of fornication. When in the Prison the Duke, disguised as a friar, is seeking to persuade a not unwilling Provost to spare Claudio, even though Angelo as his Deputy has demanded his head, he says to the Provost: "Claudio, whom here you have warrant to execute, is no greater forfeit to the law than Angelo who hath sentenced him". As Ernest Schanzer wrote: "In his union with Mariana Angelo has, in fact, committed fornication, and is thus as much subject to the death-penalty under the law which he has revived as Claudio had been".[7]

The competing claims of justice and mercy are found in a story in Giraldi Cinthio's *Hecatommithi*, which Brian Gibbons, the editor of the "updated" edition of the play in the New Cambridge Shakespeare series, describes as "the chief source for *Measure for Measure*": "The story of the corrupt magistrate and the infamous bargain is central to Shakespeare's play". But in Shakespeare the concepts of justice and mercy function dramatically throughout, whereas in Cinthio's story, though these concepts arise in the story of Epitia and Juriste, it is, as Gibbons notes, left at the end to a group of ladies to discuss "this exemplary tale":

> They find it hard to decide whether the justice or the mercy pleases them more; at first they would be happy if the rape of Epitia were punished, but it seems no less praiseworthy that her plea for mercy for Juriste should succeed. The more experienced conclude that mercy, in tempering punishment, is a worthy companion to royal justice, and leads to a certain moderation in the minds of princes.[8]

What Shakespeare added to his sources was a political theme that centered on the Duke's concern about fornication, or sexual intercourse outside a marriage that had not been solemnized in church. This requirement in Shakespeare's time had a cultural dimension aiming at social discipline. Indeed the Duke thought fornication should be subject to the death penalty, since sexual intercourse outside marriage was a sin. The Bible had declared "the wages of sin is death" and St Paul said fornicators were among the "unrighteous" who "shall not inherit the kingdom of God". Because of the further belief that man had been made in God's image, much heat could be directed against fornication. The penance exacted by the ecclesiastical courts for fornication in Shakespeare's day could be quite harrowing, and Victoria Hayne has noted: "The church's official position was clear: sex before the wedding ceremony was a sin. But it was also a widespread

practice".[9] What constituted wedlock was in Shakespeare's time something of an open question since the plighting of troths could be regarded as marriage according to civil law. Christopher N. L. Brooke has pointed out: "From the late twelfth century until the Council of Trent it was unambiguously the case that at the heart of every marriage lay an act of consent; and that consent *de praesenti* in the presence of witnesses – 'to take you to wife here and now' – made a marriage which could not be dissolved, even if no religious ceremony, and no consummation, had taken place".[10]

Obviously sexual intercourse was likely to occur between couples in love who had not been married or plighted their troths. We cannot know under what circumstances Anne Hathaway became pregnant, but she was clearly so when Shakespeare married her. Though Shakespeare does not trail any personal motives in writing *Measure for Measure*, the events it deals with clearly relate to what frequently happened between couples. Victoria Hayne has addressed the point in stating: "*Measure for Measure* was written to speak to an audience who could imagine, could experience, such situations and such problems; recent research in social history allows us to see how profoundly – and how concretely and with what particularity – the play is embedded in the social practices of its historical context".[11] As the Provost exclaims of Claudio, who has been condemned to death for having sex before his "true contract" with Juliet was solemnized, "All sects, all ages smack of this vice, and he / To die for't?"

Nigel Wood has stated *Measure for Measure* "had been presented at Court at the same time as James had first turned his wrath on sexual irregularity".[12] As a traditionalist, James was very much a conformist in supporting the established religion, and would at various points have concurred with the play's action. Because he preferred to have ministers appointed who were not puritans, he might well have agreed with the Duke that Angelo's performance should be assessed. Donna B. Hamilton has pointed out, with reference to Act 5, how relevant it would have been to hear the Duke attest "the temporal ruler as the one who holds the power to address the right of the subject". When speaking as Friar Lodowick, he says, "Is the Duke gone? Then is your cause gone too". The play's action and the mercy the Duke dispenses at the end show, in her words, what can happen "without an appropriate temporal ruler in place".[13]

The Duke admits to his friend Friar Thomas his own laxity in not administering the death penalty for fornication. While he also says he wants to test Angelo by seeing how he uses power, the main reason why he has appointed the "precise" or puritanical "Lord Angelo, / A man of stricture

and firm abstinence" as his Deputy would appear to be to have him administer the letter of the law against fornication:

> We have strict statutes and most biting laws,
> The needful bits and curbs to headstrong weeds,
> Which for this fourteen years we have let slip.

Eighteenth-century editor Lewis Theobald proposed emending "weeds" to "steeds", presumably to preserve what seemed to him the metaphor. It has, however, been noted that William Empson defended the Folio's reading on the grounds that the use of "biting" "expresses both the effect of a *curb* on a 'steed' and the effect of a scythe on a *weed*". Shakespeare uses the same image in *The Tempest*, when Prospero finally consents to Ferdinand having Miranda. He warns him that "heed" be taken "As Hymen's lamps shall light you":

> If thou dost break her virgin-knot before
> All sanctimonious ceremonies may
> With full and holy rite be minister'd,
> No sweet aspersion shall the heavens let fall
> To make this contract grow; but barren hate,
> Sour-eyed disdain, and discord, shall bestrew
> The union of your bed with weeds so loathly
> That you shall hate it both.

Puritans then and later, when in Cromwell's time the death penalty was briefly brought in for adultery and incest, inveighed against sexual irregularity as a crime that debased the purity of marriage. In Shakespeare's time the Puritan pamphleteer Philip Stubbes wrote: "Who so committeth fornication sinneth against his owne body. . . . Knowe you not, that your bodyes are the Temples of the holy ghost, which dwelleth within you? And who so destroyeth the Temple of God, him shall God destroy".[14] Angelo clearly gave credence to this view during his debate with Isabella in what seems an extreme argument on his part in opposing her plea to save her brother:

> Ha! Fie, these filthy vices! It were as good
> To pardon him that hath from nature stolen
> A man already made, as to remit
> Their saucy sweetness, that do coin heaven's image
> In stamps that are forbid

Isabella's response, "'Tis set down so in heaven, but not in earth'", both underlines Angelo's fear of future judgment, and questions his present judgment of Claudio.

Claudio, in asking Lucio to approach his sister Isabella to plead for him, cites the “true contract” which allowed him to get “possession of Julietta's bed”. This is agreed to have been a betrothal *per verba de praesenti* rather than a betrothal *de futuro* since Claudio claimed Juliet

> is fast my wife,
> Save that we do the denunciation lack
> Of outward order.

They had kept their “contract” secret in order to preserve a dowry “in the coffer” of Juliet's friends “Till time had made them for us”. Claudio's “fast” suggests their betrothal had made them man and wife. If J. W. Lever, the editor of the Arden edition of the play, is right in noting that “fast” is “perhaps alluding to 'handfasting' in the traditional *sponsalia*”, then a “*de praesenti*” betrothal would seem virtually certain.[15] Under such circumstances, given the prevailing practice of the times, Claudio and Juliet would arguably not have felt guilty for what they had done, though Ernest Schanzer suggests that they did.[16] The fact that arguments can exist on this and other points is indicative of the different responses that Shakespeare's text can generate. Its potential ambiguity is able to engender such responses. Against what James I would have thought, that Claudio and Juliet rightly earn the Duke's condemnation, a case can be made for their “mutually committed” act, and beyond that for Shakespeare's view of the play as a “comedy”, being different from what James and doubtlessly his Court would have thought made it so. The play's inbuilt ambiguity and what this can lead to can even be illustrated from the very different critical views that can be gleaned from two contemporary editions of the play recognized as authoritative, the Arden and the New Cambridge Shakespeare.

In considering whether or not Claudio and Juliet feel guilty because of their sexual act, two passages from the play are marginally relevant. Lucio asks Claudio why he is being taken to prison:

> LUCIO What, is't murder?
>
> CLAUDIO No.
>
> LUCIO Lechery?
>
> CLAUDIO Call it so.

Claudio's response would seem to suggest that he himself is not prepared to regard their act as “lechery”. Later when the Duke, acting in his disguise as

a friar, tries to confess Juliet, the tenor of their exchange suggests he is trying to impose on her the admission of a sin. She responds:

> I do repent me as it is an evil
> And take the shame with joy.

Is her "as" to be construed "because", or could her words rather be taken in the sense, "because it is considered as". Brian Gibbons in his edition notes: "Juliet acknowledges the dogmatic view, but her words affirm the supremacy of joy and gladness in the child and the love that made it". In his Introduction Gibbons remarks: "It is the Duke who rapidly gets out of his depth. Juliet cuts off his moralistic platitudes".[17]

Opposed views expressed about the play have involved the role of the Duke. For F. R. Leavis he was "a kind of Providence directing the action from above". G. Wilson Knight in a once influential essay noted "a clear relation existing between the play and the Gospels", adding: "There is thus a pervading atmosphere of orthodoxy and ethical criticism, in which is centred the mysterious holiness, the profound death-philosophy, the enlightened human insight and Christian ethic of the protagonist, the Duke of Vienna". Darryl J. Gless, in his religious reading, even viewed the Duke as "God's imperfect earthly simulacrum".[18] On the other hand, G. K. Stead, the editor of the "Casebook" on the play, posed a number of questions about the Duke's behaviour:

> Why does he load more pain on the already suffering Isabella by letting her believe Claudio has been executed? Why does he sententiously urge Juliet to repent of her "mutual entertainment" with Claudio, and then urge Mariana into Angelo's bed (assuring her it is "no sin") – when the contract of *neither* pair has been blessed by the church? Why does he labour to convince the suffering Claudio that there is no escape from death? Why does he manipulate events to bring about the marriage of the virtuous Mariana to a man who has attempted (in effect) both rape and murder?

While answers might be offered to several of these points, their general tenor sorts with the criticism Clifford Leech made in noting the Duke's "supreme indifference to human feeling" is "as persistent a note as any in the play".[19] Arguably the Duke should be seen, not as a god, but instead in dramatic terms as a willing but not always successful *deus ex machina*.

Inbuilt ambiguity means the two editions cited differ in their criticism of the Duke. The Arden edition claims, "True virtue, like true authority, rests in the Duke", and Lever's criticism of the play largely follows from this

assumption. Brian Gibbons, however, in his NCS edition writes: “In *Measure for Measure* it remains possible that although an audience is meant to feel tempted to see things as the Duke would have them seen, they should nevertheless think again”.[20] When Wallace Robson reviewed the Arden edition in the first issue of the *Cambridge Quarterly*, he objected to its formulation of the Duke as the repository of all “virtue” and “authority” on the grounds that it made the play sound “easy”. But the play is far from easy, as opposing critical views demonstrate.

William Empson in referring to the play noted the paradoxical situation that “the law which would kill Claudio . . . would also have killed Shakespeare, whose first child was born soon after marriage”, and he therefore assumed, with reference to the Duke's conversation with Friar Thomas, that “his distaste for lust at the time of writing did not (I take it) carry him so far as to make him agree with the Duke here”.[21] Shakespeare, as suggested, shows no direct sign of personal involvement with the play's theme, but the Church's prescription of what constituted womanhood was obviously in his mind when he created the talked-about but otherwise insubstantial Mrs Elbow who, as a wife, seemingly accommodated “Master Froth” more than “once” at Mistress Overdone's brothel. Given *Measure for Measure* was a “comedy”, James would have looked for marriages executed or expected, and most critics and producers have assumed that the Duke and Isabella were to be married. Accordingly, the response of James and his Court to the Duke's unanswered proposals might well have been along the lines Angela Stock envisaged: “When Isabella, who had decided to keep out of harm's way and make herself unavailable to men, is summarily told to “Give me your hand, and say you will be mine”, a Jacobean audience may well have perceived the marital subjugation of virginity/the Virgin Queen by a male ruler who stylised himself as the father of his commonwealth”.[22]

Shakespeare, however, might have been more interested in the happiness of Claudio and his pregnant Juliet, who enjoy the freedom of being together at the end. So little direction is given about the final grouping of characters in Act 5 that it is up to the producer to determine how the final scene will be staged. An interesting exception to the more usual view is, however, recorded in Peter Corbin's essay entitled “Performing *Measure for Measure”*. He notes that in John Barton's 1970 production at the Royal Shakespeare Theatre Isabella made no response to the Duke's final proposal: “staring out into the auditorium and overwhelmed by emotion, she seemed not to hear him”, the stage being left “to the solitary heroine”. Corbin adds: “The final stage image of the confused, traumatized Isabella confronted the audience, encapsulating the numbing complexity of the play's experience”.[23]

“Numbing complexity” is an apt description of what for many “the play's experience” seems to have been.

In his attempt to seduce Isabella, Angelo was falsely offering her a kind of measure for measure, her brother's head for her maidenhead. He is finally pardoned by the Duke, despite breaking his promise to Isabella by subsequently demanding Claudio's head. This the Duke later describes as “criminal in double violation / Of sacred chastity and of promise-breach”. Shakespeare would have ensured James's applause at this instance of the Duke's mercy, but it has subsequently evoked a measure of critical disagreement. As a critic who was so consistently a moralist, Samuel Johnson remarked in his edition of Shakespeare's plays: “Angelo's crimes were such, as must sufficiently justify punishment, whether its end be to secure the innocent from wrong, or to deter guilt by example; and I believe every reader feels some indignation when he finds him spared”. Coleridge viewed Angelo's pardon and marriage to Mariana as “degrading to the character of woman”; and Swinburne was “baffled” that Angelo was spared. Even more recent critics have found the ending to be in some sense lacking. Harriet Hawkins has stated: “The kinds of solutions offered by the Duke – whether Shakespeare intended them or not – seem hopelessly inadequate in the face of the psychological, sexual, and moral conflicts they are supposed to have resolved”; while Amanda Piesse, in offering an “historicist reading” of the play, also noted “the unsatisfactory nature” of the play's ending.[24]

In Act 5, before Claudio is revealed as still alive, the Duke says:

> An Angelo for Claudio, death for death;
> Haste still pays haste, and leisure answers leisure;
> Like doth quit like, and measure still for measure.

His lines reflect an Old Testament concept of justice that involved the necessity of punishment, his words echoing the kind of parallel statements found there advocating an eye for an eye. If “like” is to “quit like”, then Angelo himself must die if he has had Claudio killed. But the Duke's words also reflect the Sermon on the Mount, which stated: “with what measure ye mete, it shall be measured to you again”. When therefore Claudio is revealed as alive, Angelo, despite his attempt to seduce Isabella, must remain alive, ensuring not only the Duke's pardon for the fornication committed with Mariana, but James I's satisfaction in thereby seeing justice appropriately tempered with mercy.

In the theatre, where audiences are more likely to be swept up by the action than a reader in the study, such a pardoning at the end is less likely to draw

the kind of response that critics have sometimes recorded because of Angelo's escaping punishment. Yet questioning is likely to persist why the Duke seems so ready to discount the punishment he seemingly insisted on for fornication. This was the primary reason he had appointed Angelo as his Deputy, and in the final Act, when disguised as Friar Lodowick, he reported as "a looker-on here in Vienna" to "have seen corruption boil and bubble / Till it o'errun the stew". Yet he might also have witnessed something as a looker-on which encouraged him to take a wider view, and a close analysis of the text, given what he experiences as the Duke-as-Friar in the city, might from the juxtapositions posed in Act 3 make such a contention more likely.

The Arden editor agreed with the view that the Duke is a simulacrum of, or surrogate for, James I:

> To see the Duke in *Measure for Measure* as an exact replica of James I would be to misunderstand both Shakespeare's dramatic methods and the practice of the contemporary stage. But to suppose that no parallel was to be drawn between the two characters, or that, according to the familiar formula, "any resemblance to any living person was purely accidental", would seem to be just as untenable. In times when real life took on the property of legend, it was likely enough that the chief playwright of the King's Men should find fresh relevance in the theme of the Disguised Ruler.

Lever noted that the role of "Disguised Ruler" had affinities with "tales concerning monarchs who went about in secret amongst their people, discovering abuses and righting wrongs", and who represented "an active force reconciling opposites through moderation and virtue", including acting "between the extremes of justice and mercy". The disguised ruler who was cited in works of the period, including Sir Thomas Elyot's *The Image of Governaunce* (1541) and George Whetstone's *A Mirror for Magistrates of Cyties* (1584), was the Roman emperor Alexander Severus, whom Jonathan Dollimore and Alan Sinfield describe as re-establishing "order in the State by setting up a system of sophisticated surveillance and social regulation which includes himself going disguised among his subjects and observing their transgressions at first hand". Lever noted in this context, quoting from Whetstone's work, "There was need for 'visible Lightes in obscure Corners'", and suggested that here "Shakespeare may have found the original model for a 'Duke of dark corners' who was intent on discovering the true state of affairs in his city; who appointed two deputies for the purpose; who himself remained secretly omnipresent; and who finally staged a well-timed exposure of corruption".[25]

In such a role, the Duke-as-Friar could well have experienced what prompted him to take a wider view, thereby differentiating him from the Angelo he had appointed to administer the law, and who had himself so quickly lost patience when visiting the city. In his very first speech while still in power the Duke had shown a concern not only for the "properties" of government, but for "the terms / For common justice"; and in his final granting of pardons, when he finds "an apt remission" in himself, he appears to realize that the operation of justice was not inevitably to be dictated by or equated with the law. Nigel Wood suggests that for Richard Wilson the "action follows the contemporary state preoccupation with surveillance and mediated intervention in moral affairs". In his essay "Prince of Darkness: Foucault's Shakespeare", Wilson notes "the supersession of sovereignty by surveillance".[26] While not all remarks that relate *Measure for Measure* to Foucaldian ideas seem apposite, here one can see a clear relevance to the idea of the Disguised Ruler being prepared to take a wider view and a more enlightened position on how the law should be applied. This results in a greater understanding of the "properties" of government and "the terms / For common justice".

Notes

1. *Measure for Measure* (Theory in Practice series), ed. Nigel Wood, Buckingham and Philadelphia, 1996, pp.3, 8.

2. Ibid., p. 6.

3. "The Role of James I in Shakespeare's *Measure for Measure*", *ELH*, 26 (1959), 188-208.

4. Because of the plague of 1603, James spent the first Christmas after his Coronation with his Queen at Hampton Court.

5. "The Role of James I in Shakespeare's *Measure for Measure*", pp. 189, 190, 192, 207.

6. *Basilikon Doron, or King James's Instructions to his Dearest Sonne Henry the Prince*, London, 1682 reprint, pp. 22-23.

7. *The Problem Plays of Shakespeare*: *A Study of 'Julius Caesar', 'Measure for Measure', 'Antony and Cleopatra'*, London, 1963, p. 103.

8. *Measure for Measure* (New Cambridge Shakespeare 'Updated edition'), ed. Brian Gibbons, Cambridge, 2006, pp.7, 8. Hereafter cited as *Measure for Measure*. Quotations from the play are taken from this edition.

9. “Performing Social Practice: The Example of *Measure for Measure*”, *Shakespeare Quarterly*, 44 (1993), 5.

10. “Marriage and Society in the Central Middle Ages”, in *Marriage and Society: Studies in the Social History of Marriage*, ed. R. B. Outhwaite, London, 1981, p. 27. Cf. *Measure for Measure*, p. 34n.

11. “Performing Social Practice”, p. 2.

12. *Measure for Measure*, ed. Wood, p. 7.

13. *Shakespeare and the Politics of Protestant England*, New York and London, 1992, pp. 111-27, esp. 113, 120.

14 *The Anatomy of Abuses*, Introductory Note by Peter Davison (Johnson Reprint Corporation), New York and London, 1972, sig. H2.

15. *Measure for Measure* (Arden), ed. J. W. Lever, London and New York, 1965, p. 16n.

16. *The Problem Plays of Shakespeare*, p. 75.

17. *Measure for Measure*, p. 48.

18. *The Common Pursuit*, London, 1952, p. 169; *The Wheel of Fire: Interpretations of Shakespearian Tragedy with Three New Essays*, London, 1965 repr., p. 76; “*Measure for Measure*”*, the Law, and the Convent*, Princeton, N.J., 1979, p. 255.

19. *Measure for Measure* (Casebook), ed. C. K. Stead, London and Basingstoke, 1971, p. 17; “The 'Meaning' of *Measure for Measure*”, *Shakespeare Survey*, 3 (1960), 69.

20. *Measure for Measure* (Arden), p. lxxxi; *Measure for Measure*, p. 49.

21. *The Structure of Complex Words*, London, 1951, p. 282.

22. *Measure for Measure*, p. 72.

23. *Measure for Measure*, ed. Wood, p. 31.

24. *Johnson on Shakespeare* (The Yale Edition of the Works of Samuel Johnson), ed. Arthur Sherbo, New Haven and London, VII (1968), 213; *Coleridge's Shakespeare Criticism*, ed. T.M. Raysor, London, 1960 edn, I. 102; *A Study of Shakespeare*, London, 1880, p. 203; *Devil's Party: Counter-Interpretations of Shakespearian Drama*, Oxford, 1985, p. 72; "Self-Preservation in the Shakespearian System", *Measure for Measure*, ed. Wood, p. 87.

25. *Measure for Measure* (Arden), pp. xliv, xlv, l, li; *Political Shakespeare: New Essays in Cultural Materialism*, ed. Jonathan Dollimore and Alan Sinfield, Manchester, 1984, p. 79.

26. *Measure for Measure*, ed. Wood, pp. 7, 168.

CHAPTER 2

THE DUKE, ANGELO, AND THE LAW

The Duke, supporting the view of the Church, deplores sexual promiscuity that involves intercourse outside the formal observance of marriage. Yet while he wanted the law of Vienna made more rigorous, *Measure for Measure* raises the more general question to what extent legislation should operate in such matters. Although the plot accords with James I's view that justice should be tempered with mercy, the play implicitly questions how prescriptive should the law be in its response to human behaviour. In reviewing the Arden edition, Wallace Robson appears to have raised this point by referring to "the vivid imagining in art, by the greatest English mind known to us, of the consequences in one particular case of an attempt to impose morality by legislation". Legislating about certain sexual matters still raises vexed questions today. If, however, as the Duke implied to Friar Thomas, the letter of the law should be followed in having fornication subject to the death penalty in order that "evil deeds" should not "have their permissive pass" and escape "punishment", how in particular instances could justice be tempered with mercy as the Duke had told Angelo it should be?

In granting Angelo his commission as his Deputy, the Duke had said:

> In our remove be thou at full ourself.
> Mortality and mercy in Vienna
> Live in thy tongue and heart.

The Duke's main reason for proposing the "precise" Angelo as his Deputy, rather than the more humane Escalus, was to have him administer the death penalty to those guilty of fornication. Yet he had a further reason in wanting to test Angelo. When, instead of going abroad, he goes to borrow a habit and get instructions from Friar Thomas about acting as a friar, in order to remain at home in disguise and, incognito, observe things at first hand, the Duke describes Angelo as one who:

> Stands at a guard with envy, scarce confesses
> That his blood flows or that his appetite
> Is more to bread than stone.

Significantly he adds: “Hence shall we see, / If power change purpose, what our seemers be”. The way Angelo used power, whether in his “tongue and heart” he could find a place for “mercy”, was, then, to function as a testing of him. James I doubtlessly endorsed such a testing as entirely appropriate since he regarded puritans to be “verie pestes in the Church and Commonweale”[1]; and recalling this reveals how Shakespeare kept James in mind, and hence, presumably, on side. His use of ambiguity in the play to allow for different responses suggests, however, that his own view at certain points could have been very different from the king's.

The passage in which the Duke laments to Friar Thomas his refusal to administer the state's “most biting laws”, with the result that “Liberty plucks Justice by the nose” and “quite athwart / Goes all decorum”, would have gained assent, as already noted, from the James who criticized the unruly English mob. Yet the incongruity of what the former Duke has been saying is suggested by Jonathan Dollimore and Alan Sinfield in arguing for their thesis of “how the scapegoat mentality works”. “Demonised as a threat to law” and hence society, so-called offenders become “the rationale of authoritarian reaction in a time of apparent crisis”, namely “a counter-subversive attack on the 'liberty' of the low-life” which leads to the appointment of Angelo as Deputy.[2] Moreover, what is striking, even though largely implicit in Shakespeare's presentation of the Duke and his Deputy, is the contrast between them that affects not merely their personal life, but also their attitude to the law.

In his debate with Isabella, Angelo's personal insistence on the law seemed almost requisite to keep his own sexual drive in check. Here the Duke's difference from him, which is underscored in a number of ways, seems apparent as he tells Friar Thomas, who had assumed some affair of the heart led to the Duke's temporary retirement:

> No. Holy father, throw away that thought,
> Believe not that the dribbling dart of love
> Can pierce a complete bosom. Why I desire thee
> To give me secret harbour hath a purpose
> More grave and wrinkled than the aims and ends
> Of burning youth.

What the Duke says about the need to have the laws administered differently does not however imply he could himself have taken such a course, as he makes clear in rationalizing an answer to the Friar's question about why he hadn't so acted:

> Sith 'twas my fault to give the people scope,
> 'Twould be my tyranny to strike and gall them
> For what I bid them do.

While we might question whether the problem was as great as he had described it, the Duke's contrast here with Angelo is singularly apparent. Though like the Church and traditionalist King James he was clearly opposed to sexual licence, he does not constantly insist on it as a capital offence, even though when disguised as a friar he had told Juliet that Claudio would "die tomorrow". When, however, he hears Angelo has improperly propositioned Isabella, he is concerned, doubtlessly for several reasons, that Claudio should be saved. Angelo, on the other hand, is immediately intent on enforcing those "biting laws". When the Duke leaves, Escalus is in some doubt of the "strength and nature" of the "power" he has been given, and though Angelo would appear to claim to be also in some uncertainty, his immediate acts of dismantling the brothels in the suburbs and having Claudio publicly led to jail reveal his haste to be decisive. Act 2 begins with him telling Escalus:

> We must not make a scarecrow of the law,
> Setting it up to fear the birds of prey,
> And let it keep one shape till custom make it
> Their perch and not their terror.

How insistently prescriptive Angelo will be is evident when Escalus says, "Let us be keen, and rather cut a little / Than fall and bruise to death", while afterwards seeking to make a case for Claudio. Angelo is adamant there is a difference between being tempted and actually falling and, in stating so peremptorily, "what's open made to justice, / That justice seizes", indicates his overriding aim will be strictly and immediately to apply the law.

Judging from the dramatic action, there seems to be no reason to support a law administering the death penalty for fornication. In the introduction to his edition Brian Gibbons stated that *Measure for Measure* demands a thinking audience, while Peter Corbin has argued that the play "should not leave its audience or reader with a comfortable and simple solution to the issues which it raises, but rather with a series of nagging questions".[3] The Duke, after all, does not gain his power and authority from the laws he

wishes enacted, but from his position as Duke. In his role as a friar, as both Juliet and Barnardine in their different ways demonstrate, he proves unable finally to impose his will. As Duke he is able to sit in judgment of those in Vienna and determine what a person's fate will be. For this reason what amounts to his concept of justice, and not just the law, becomes of central importance.

If the "properties" of government determine how the law is to be administered, the question still remains what should be the law. Various voices in the play articulate views about this. An example that resonates with the central theme occurs when Escalus asks Pompey, who is the "tapster" of Mistress Overdone's brothel, "How would you live, Pompey? By being a bawd? What do you think of the trade, Pompey? Is it a lawful trade?'" Pompey, realizing what was lawful depended on what was the law, replies, "If the law would allow it, sir". On hearing this, Escalus becomes emphatic: "But the law will not allow it, Pompey; nor shall it not be allowed in Vienna". Pompey then asks, 'Does your worship mean to geld and splay [spay] all the youth of the city?" When told "No", Pompey says: "Truly, sir, in my poor opinion they will to't then".

Pompey's questioning of what is acceptable according to the law anticipates his later contrasting fornication and usury: "'Twas never merry world since, of two usuries, the merriest was put down and the worser allowed by order of the law – a furred gown to keep him warm, and furred with fox and lamb-skins too, to signify that craft, being richer than innocency, stands for the facing". The Arden editor notes the "two usuries", lechery and money-lending, were concepts traditionally associated, the Greek word for interest being literally "offspring". The reference to "fox" is apt when associated with the usurer, but while that "craft" is open to deceitful exploitation, what, to quote Claudio's words, "our natures do pursue" is forbidden or "put down . . . by order of law". Pompey's remark highlights how wrong-footed is the law against fornication, given that the lending of money at extortionate interest was by contrast allowed.

When Angelo and Escalus in visiting the city encounter Elbow trying to arrest Froth and Pompey, Elbow says to his officers: "Come, bring them away. If these be good people in a commonweal, that do nothing but use their abuses in common houses, I know no law. Bring them away". To Angelo's questions, "what's your name, and what's the matter?", Elbow replies: "If it please your honour, I am the poor Duke's constable, and my name is Elbow. I do lean upon justice, sir, and do bring in here, before your good honour, two notorious benefactors". After his malapropism is

corrected by Angelo's, “Are they not malefactors?”, Elbow maintains their association with a house of ill-repute. Asked how he knows this, Elbow answers: “Marry, Sir, by my wife, who, if she had been a woman cardinally given, might have been accused in fornication, adultery, and all uncleanliness there”.

ESCALUS By the woman's means?

ELBOW Ay, sir, by Mistress Overdone's means. But as she spit in his face,
so she defied him.

At this point Pompey intervenes, saying it was not so, and begins to tell at length how it was: “Sir, she came in great with child, and longing, saving your honours' reverence, for stewed prunes”. Pompey then goes into a stalling rigmarole about the prunes and the dish they were in until Escalus interrupts with, “Go to, go to: no matter for the dish, sir”, and Pompey agrees, stretching the matter out further. He finally brings Froth into the act, with Pompey telling of Froth “cracking the stones of the foresaid prunes”. Again Escalus interrupts: “Come, you are a tedious fool, to the purpose: what was done to Elbow's wife, that he hath cause to complain of? Come me to what was done to her”. But Pompey for the moment puts off answering and goes on rambling about Froth, “whose father died at Hallowmas – was't not at Hallowmas, Master Froth?” Angelo, fed up, says to Escalus:

I'll take my leave,
And leave you to the hearing of the cause,
Hoping you'll find good cause to whip them all.

Exasperated by this experience of the city, Angelo abruptly leaves. This ultimately provides a contrast to the Duke, whom Lucio later refers to as “the old fantastical Duke of dark corners”. The Duke-as-Friar, who moved about incognito, might have been disturbed by what he saw, and what through his own action he was associated with, but he eventually showed clemency when it became appropriate to do so. In being prepared to witness “dark corners”, the Duke on one level might have been prepared to enlighten his understanding concerning the “properties” of “government”, as well as being able to find out how Angelo was shaping as his Deputy by hearing what kind of man he was.

After Angelo has left, Escalus returns to his question: “Now, sir, come on: what was done to Elbow's wife, once more?” Pompey replies: “Once, sir? There was nothing done to her once”. But the point is lost on Elbow who says: “I beseech you, sir, ask him what this man did to my wife”. Pompey says that the worst thing about Froth is his face and, if Escalus agrees, he can't have done the constable's wife any harm. When Escalus says “He's in the right, constable, what say you to it?”, Elbow answers with a malapropism, “respected” for “suspected”: “First, and it like you, the house is a respected house; next, this is a respected fellow; and his mistress is a respected woman”. When Pompey, who knows that “Mistress Elbow” was “*carnally* given”, makes use of Elbow's malapropism to describe her – “By this hand, sir, his wife is a more respected person than any of us all” – Elbow, not surprisingly, flies off the handle: “Oh, thou caitiff! Oh, thou varlet! Oh, thou wicked Hannibal! I respected with her, before I was married to her? If ever I was respected with her, or she with me, let not your worship think me the poor Duke's officer!” Escalus then asks Pompey his “mistress name”, to which Pompey answers, “Mistress Overdone”. Asked whether she had more than one husband, Pompey says, “Nine, sir; Overdone by the last”. Representing himself as “a poor fellow that would live”, Pompey is given a second chance by Escalus, who nevertheless informs him how he will act should he find him a bawd in the future: “If I do, Pompey, I shall beat you to your tent, and prove a shrewd Caesar to you: in plain dealing, Pompey, I shall have you whipped”. Yet when Pompey provokes Elbow by exploiting his misuse of “respected” and “suspected”, Escalus is forced to ask himself: “Which is the wiser here, Justice or Iniquity?”

This scene introduces us to life in the city, where, as Brian Gibbons remarks, “Pompey's trade demonstrates the seeming inseparability of sinfulness from life-sustaining instincts”.[4] Despite the efforts of Edward III and Henry VIII, London was not without its brothels, and the actor Edward Alleyn and his father-in-law Philip Henslowe, who built and ran the Rose theatre, owned a brothel in Southwark close to the Globe. This scene also questions the need for the revamped law in shrewdly raising questions about the Church's notion of what constituted womanhood, for the suppositious Mrs Elbow as the constable's wife should have known only him and not been visiting Master Froth in Mistress Overdone's brothel. When in Act 5 the Duke asks Mariana whether she is a maid, widow or wife, he follows the Church's traditional view that a woman should be one of the three. Mariana answers, “Neither, my lord”, prompting the Duke to say: “Why, you are nothing then: neither maid, widow, nor wife”. At this point Lucio pipes us, offering a bit of light relief: “My lord, she may be a punk, for many of them are neither maid, widow, nor wife”. Clearly Mariana subsequent to the bed-trick is not

a “punk” in being “neither”, which shows the narrowness of the traditional definition.

The same would have been true of Anne Hathaway after Shakespeare had slept with her. Given that Elbow's talked-about wife would have exemplified the limitations of what the Church accepted as constituting womanhood, this suggests a measure of subtlety, and even implicit opposition on Shakespeare's part in handling this theme.

A question is arguably raised about the accepted law by the potential ambiguity of Elbow's malapropisms, which suggest some inability to get things right. Ambiguity is later built into the action, and what becomes obvious is the ambiguity of Angelo's name. In this early city scene Pompey says that what is legal is what the law allows, while the legally-minded Angelo's departure suggests how uncongenial he finds the city, where the brothels had been preserved because of the support of a “wise burgher”. After Pompey is later sent to prison for being a bawd, we are told what Angelo's administration of the law has reduced the city to. Pompey witnesses the effect of the revamped law: “I am as well acquainted here as I was in our house of profession. One would think it were Mistress Overdone's own house, for here be many of her old customers”. After naming some to show how the city as a society has been depopulated and deprived of business and freedom, Pompey adds, “and I think forty more, all great doers in our trade, and are now 'for the Lord's sake'”, which, as noted, was “the cry of poor prisoners begging from the grating or window of their prison”. When Pompey tried to tell Escalus that if he took “order for the drabs and the knaves”, he “need not to fear the bawds”, Escalus, reflecting what Angelo was proposing, had replied: “There is pretty orders beginning, I can tell you: it is but heading and hanging”. In answer Pompey had said: “If you head and hang all that offend that way but for ten years together, you'll be glad to give out a commission for more heads. If this law hold in Vienna ten year, I'll rent the fairest house in it after three pence a bay. If you live to see this come to pass, say Pompey told you so”.

By contrast with Angelo, the Duke-as-Friar comes into contact with so much that goes on in the city, and an important difference between the two is at least emphasized by the man-about-town Lucio. His comments cannot be easily disregarded in the way G. Wilson Knight would appear to have done in claiming his “very existence” was “a condemnation of the society which makes him a possibility”.[5] Lucio is one means by which Shakespeare questions the extent to which fornication, in most circumstances, should be regarded as a sin and subjected to legal consequences. As something society

indulged in since it answered human instincts, fornication should not have been subject to the death penalty if society were to continue its customary functioning. Any measures taken against it would need to be appropriate, enabling Angelo and Claudio to be pardoned, while Lucio was rightly required to marry Kate Keepdown, whom he had previously "promised" to marry. Obviously, the Duke had a score to settle with Lucio; and that Lucio had conceived his child in a brothel would also have weighed with the Duke.

The contrast between the Duke "of dark corners" and the legally-minded Angelo can be illustrated in various ways, of which their attitude towards Isabella is an obvious one. Their different experience of the city is especially noteworthy. Angelo grew impatient at what he saw and heard and quickly left, but the Duke's extended time there in disguise is arguably revealing in what it exposed him to. Though Elbow is not successful in making arrests after Angelo leaves the city, during the Duke-as-Friar's time there we see the arrest of Mistress Overdone and Pompey, the latter with the Duke insisting on it as so necessary to a bawd whose life is "so stinkingly depending". Though the Duke makes no answer to Pompey's objection to the illogicality of the law in respect of the "two usuries", the Duke's phrase may indicate the evidence of some change of view during the course of the play. Though in Act V as Friar Lodowick he still inveighs against the "corruption" he sees "boil and bubble / Till it o'errun the stew', it may be that, given his own devising of the bed-trick, he is prepared to make some distinction between what goes on in the brothels or stews of the city, and what might be regarded as a more socially acceptable involvement in fornication, including among what Gibbons designated the "upper-class" of society.[6] Victoria Hayne indeed remarks: "Despite the comic inefficiency of Elbow, the disguised Duke eventually sees his law enforcement apparatus working well enough: Pompey and Mistress Overdone, pimp and brothelkeeper are finally arrested by the ordinary workings of the law"; and she notes that it is a "question still open in Jacobean society – how the sexual behaviour of ordinary people, non-professionals, as it were, should be regulated".[7]

Throughout the play the Duke always supports Angelo as his Deputy, except when he is representing to Isabella how he wronged Mariana. With an unfriar-like lack of discretion he assures Claudio that he has confessed Angelo, who was only testing his sister's "virtue" when trying to seduce her. And later in the prison, when expecting Claudio's pardon, he defends Angelo against the Provost's complaint that "it is a bitter deputy":