

Law and Literature in the novels of Robert Louis Stevenson

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There are many ways to approach the concept of “Law and Literature”. In the classical manner, the authors distinguish three paths: the Law *of* Literature, involving a technical approach to the literary theme; Law *as* Literature, a hermeneutical and rhetorical approach to examining legal texts; and finally, Law *in* Literature, which is undoubtedly the most fertile and documented perspective (the fundamental part of this paper lies in this direction).

Apart from this, even focusing on the third perspective, which is dedicated to showing how great issues in the theory and philosophy of law receive an original treatment in fictional works, numerous options arise: to concentrate on a period, on an author, or on a legal issue, for example. In this regard, here we decisively chose to study the novels of Stevenson.

Robert Louis Stevenson was a Scottish writer whose novels often describe the history and landscape of Scotland. He was born in Edinburgh in 1850 and died in Samoa at the young age of forty-four. His achievements include a notable and abundant literary output, including novels, essays, poetry, travel writing and descriptive writing. He suffered from chronic tuberculosis.¹

Stevenson was both a writer and a student of law.² Perhaps this explains his admiration for other writers, such as Michael de Montaigne, Walter Scott and Alejandro Dumas, whose novels were characterized by the inclusion of legal facts.³

Stevenson has particular empathy for characters rejected by society: victims, social pariahs, the defeated, outcasts and those who went against conventional morality. This may have its origins in his peculiar background, having been rejected at school and suffering from a fragile physical constitution, with a sense of being out of place due to having to move from one country to another, and his childhood experience with an old convenanter in the bedroom of a house in Edinburgh. In reality, he came from a bourgeois family and as such did not fit among the socially rootless, which increased his sense of isolation.

His profound knowledge of the legal world, as the qualified lawyer he was, must be added to the above and is reflected in the plots of his novels: the presence of illegal behaviour in the form of crimes such as homicides; legal concepts such as inheritances; and characters from the legal world such as judges and lawyers. Also ever-present in his work is the character of the outsider, represented as a counter-balance to the legal system, as a figure on the edge of or even outside the law.

¹ Iker Nabaskues, *Derecho y Literatura: El sentido de la Justicia en las novelas de Robert Louis Stevenson*, Navarra, Universidad del País Vasco-Thomson Reuters Aranzadi, 2012, p. 110. María José Falcón y Tella, *Derecho y Literatura*, Preface by François Ost, Madrid-Barcelone-Buenos Aires-Sao Paulo, Marcial Pons, 2015. Reviews: in *International Journal of Education and Social Science*, vol. 12, 12, December, 2015, pp. 41-42. By Nuria Cuadrado Gamarra, in *Las Torres de Lucca. Revista Internacional de Filosofía Política*, 7, 2015, pp. 325-328. And forthcoming: by Isabel Araceli Hoyo Sierra, in *Iuris Tantum. Revista de la Facultad de Derecho. Universidad Anahuac*, México, año XXX, 26, Tercera Época, 2015. By Cristina Fuertes Planas-Aleix, in *Foro. Revista de Ciencias Jurídicas y Sociales*. 2016 (forthcoming). And in *International Journal of Arts and Humanities*, 2016 (forthcoming). There is a translation into English, *Law and Literature*. Preface by François Ost, Leiden-Boston. Martinus Nijhoff Publishers. 2016 (forthcoming).

² Roslyn Jolly, “Robert Louis Stevenson, Henry Maine, and the Anthropology of Comparative Law”, in *Journal of British Studies*, 45, 3, July 2006.

³ Iker Nabaskues, *Derecho y Literatura...*, *op. cit.*, pp. 50-53. Daniel Balderston, *El precursor velado: Robert Louis Stevenson en la obra de Borges*, translation into Spanish by Eduardo Paz Leston, Buenos Aires, Editorial Sudamericana, 1985.

In addition to the foregoing, Stevenson's novels suggest a solid knowledge of the history of Scotland, which is related with his university life, during which he took great interest in the markedly Scottish law-focused public law classes of James Lorimer.⁴

The sense of justice in Stevenson's novels is linked, as we shall see in the two stories that we examine, to the individual nature of the protagonists, revealing the author's personal focus: he considered the human being as the core of existence. For Stevenson, power is not something impersonal; instead, it is what a character decides is useful in a specific situation. In Stevenson's adventures, the characters are free to act in one way or another. Power is not the invisible hand that moves the characters, but their own will to act. The author's adventure stories offer an optimistic view of what a person may do. In contrast to determinism, his works assert the power of human individuals as the creator of their own stories. Stevenson's map is not socio-political, but the map of human passions. The battlefield is the human heart and psychology.

Character development in a Stevenson story always occurs on the basis of some incident. The subject submits to a trial-and-error method, meaning mistakes can be fixed through their own insight. For the characters in his novels, the just person is whoever acts justly in a particular situation, rather than the focus falling on an abstract category of justice. Justice is no other than what transpires from the incident. Justice occurs through experience, rather than revealing itself in a universal and mystical order. It only acquires substance when applied to the particular case. In other words, without a concrete case, there is no such thing as justice.

Stevenson is not interested in morally censoring his characters, but rather in allowing them to develop freely over the course of the story on the basis of events. Stevenson does not judge people, and does not moralize over the story, but rather limits himself to showing the ethical complications that underpin the human condition, far from Manicheanism and favouring the moral ambiguity that arises out of the adventures and paradoxical situations in his plots: complexity as opposed to simplicity. Stevenson does not reflect pious and immaculate protagonists, but normal, fallible and weak people, whose acts are never ethically pure and who often infringe the law and moral codes.

Stevenson is not a contemporary of Freud for nothing. It is no surprise that he is the creator of one of the most famous schizophrenic or double personality myths of all, *The Strange Case of Dr Jekyll and Mr Hyde*. As in psychoanalysis, Stevenson goes through a rebellious stage, of cutting the umbilical cord with its ties to paternal and irrational authority, to religion and the law. Because Stevenson, as we have stated, sympathizes with rebels, who break the law and social conventions, though ultimately the writer makes virtue prevail upon them, ascribing to a classical perspective with regard to justice.⁵

Below we shall analyse two of his most popular novels: *Treasure Island* and *The Strange Case of Dr Jekyll and Mr Hyde*. Other celebrated Stevenson novels with a legal background are: *Prince Otto*; *The Dynamiter*; *Kidnapped*; *The Black Arrow*; *The Master of Ballantrae*; *The Wrong Box*; *The Wrecker*; *Catriona*; *the Ebb-Tide*; *Weir of Hermiston*; and *St Ives*.⁶

1.-*Treasure Island*

In *Treasure Island* (1883), one of his most renowned novels, there is a mutiny –a frequent offence on royal naval ships during the 18th Century–. The novel depicts the confrontation between agents of the law –Captain Smollett, Squire Trelawney, Dr Livesey and some seamen– and the mutinous pirates, led by Long John Silver, who represent the world of crime, in the context of a desert island. The essential characteristic of the novel is the clash between these two groups, the legal operating under the auspices of the Crown and of the British government, and the opposing group symbolizing indiscipline, murder and, in short, illegality: in sum, law and order against crime.

⁴ Iker Nabaskues, *Derecho y Literatura...*, *op. cit.*, pp. 81-82.

⁵ *Ibid.*, pp. 444-465.

⁶ Robert Louis Stevenson, *The Works of Robert Louis Stevenson*, Swanston Edition, London, Chatto and Windus, in association with Cassell and Company Limited, William Heinemann and Longmans Green and Company, 1911-1912. Volume V: *Strange Case of Dr. Jekyll and Mr. Hyde*. Volume VI: *Treasure Island*. *Id.*, *Dr. Jekyll y Mr. Hyde*, translation into Spanish by Carmen Criado, Madrid, Alianza, 2004. *Id.*, *La Isla del Tesoro*, translation into Spanish by Fernando Santos Fontenla, Madrid, Alianza, 2007.

Set in the year 1740, the book tells of the adventures of the young Jim Hawkins after he discovers a map that shows the location of treasure on a desert island. The fact that the drama unfolds on a wild island in a lost part of the Pacific Ocean, where there are none of the mechanisms common to modern society, permits the author to give the fullest expression to this dichotomy between legality and illegality. On the journey, Jim shoots dead the pirate Israel Hands. The pirates decide to execute him. On Treasure Island, numerous violations of legality are committed: a mutiny, murders, kidnapping and blackmail. But what is interesting is that the plot unfolds in a virgin context, a desert island, on which the treasure that both parties seek is buried. The fact that the adventure takes place in the context of a virgin space holds key interest. In this environment, human nature is expressed in a more genuine fashion, outside of social conventions.

The men who organize the voyage to Treasure Island are the representatives of legal justice, while the mutineers seek to do so illegitimately. In the confrontation between the groups, Stevenson always highlights the virtues of the legal group as against the pirates. The former, then, comprising only seven men, stubbornly defend their stockade position.

The story introduces the character of an adolescent, Jim Hawkins, who represents the gaze of the innocent, a virgin character, at the edge of both the legal and criminal worlds. The character of Jim takes the main representative of duality and crime, Long John Silver, as a personal model. The latter holds a seductive and paternal influence over Jim. Herein lies the ethical tension of the tale: Jim takes his moral choices while having empathy for the biggest criminal, though not giving up his values.

Stevenson's story contains a paradoxical duality in the fact that Captain Smollett, the highest authority on the ship and a respectable figure but one that is portrayed as cold and authoritarian, with a restrictive and dominating role, represents the world of legality. In contrast, Long John Silver, who, despite being a Machiavellian figure, is described in the novel as possessed of an attractive, fascinating, and seductive character, winning the friendship of Hawkins, symbolizes the world of crime.

But Jim's affection toward Silver does not shake his moral principles. As soon as he knows of the mutiny –when, hidden in an apple barrel, he overhears a conversation about the intention of the pirates to take over the ship– he informs Captain Smollett, Trelawney, and Livesey, “betraying” Silver. Jim's moral choice in favour of the “legal” group is reinforced when he witnesses the murder of Tom, a seaman not involved in the mutiny, at the hands of Silver. From this point, Silver becomes his enemy.

The relationships of and influences between the characters are not one-way, but rather reciprocal. Jim's innocence also has a certain impact on Silver, who sees him as a purer being than the world of legality can offer, recognizing in the youth the child that all men once were. Hawkins sees a passion for life in Silver, and the pirate sees wholesome purity and virtue in Jim.

The most prized asset is the plan containing the location of the treasure, for which the characters are prepared to kill. Whoever has the map has the treasure. If the plan were a legal document, it would evidence that its legitimate possessor had the right to the treasure. But it is no such thing, because the plan passes from hand to hand and nobody is able to seize the legitimacy of a legal title over the treasure hidden in the island. An interesting question arises here: According to justice, to whom should the treasure belong?

In reality, at the beginning of the story the gentlemen are the ones who are less entitled to the treasure, since from the outset it is clear that it belongs to the world of the buccaneers, and was transported to the island by Captain Flint's men. The question is: Are the pirates less human than Captain Smollett for attempting to take the treasure at all costs?

The characters in each group possess some shared features that distinguish them from the opposing group, with regard to the legal party's organizational capacity and the pirates' lack of the same ability, their ineptitude in finding the treasure. The abyss that separates the legal world from that of barbarism is made clear when Dr Livesey provides medical attention to the pirates who have been injured after the confrontation of the parties, since his professional code of ethics is applicable even in the case of armed combat, though he himself does not assume the task of reminding his injured patients of the penal consequences that their crimes. The idea of law is also represented in the British flag that Smollett raises in the stockade, as a sign of the principles that the ship represents.

Although audacity and courage are commendable features in any fictional character, the paradox is that Jim takes them to the extreme of using the pirates' methods to achieve his aims, in taking the ship ("the Hispaniola"), which, according to the laws of the time, means he has committed a serious crime of piracy, punishable with the gallows. Though his intention is to return the ship to its rightful owners, he attempts to combat piracy by making use of its own means. But "pirate" Hawkins is unlike the real pirates, because he is fighting for legality and possesses virtues that the other buccaneers lack. Moreover, Jim kills Israel Hands when the latter attempts to stab him. This does not mean that Hawkins possesses the pirates' "ethos". He is part-Smollett and part-Silver, because he defends what the former represents, but uses the methods that the latter taught him.

The criminal aptitudes that Jim shows in these events are recognized by Silver, who, when the course of events shifts in favour of the legal party, sees Jim as the way to save his skin. Jim's story deeply impresses Silver, who offers him a deal behind the backs of the pirates. The situation is ambiguous. It is not clear if Silver wishes to keep Hawkins alive as a hostage to blackmail the legal party, or if the pirate has really changed sides and this is why he saves the boy's life. In any event, the agreement that Silver reaches with the legal group may be compared to the social contract: he admits Smollett's authority and in exchange he respects the life of the boy, giving up the freedom afforded to him in the wild state of nature in which he lived and being able to return to England in the ship alongside those loyal to the Captain.⁷

2.-The Strange Case of Dr Jekyll and Mr Hyde

In *The Strange Case of Dr Jekyll and Mr Hyde* (1886), a doctor attempts a scientific experiment that would allow him to separate good from evil in a human being. Among other consequences, the experiment causes the murder of a Member of Parliament. The novel raises the question of the protagonist's criminal and moral responsibility in the commission of the crime. To solve the crimes, the narration contains the figure of a lawyer, who seeks to decipher the enigmas included in a mysterious testament.⁸

This novel is one of the most widely studied from the perspectives of numerous fields of knowledge, including psychology, criminology, psychiatry, medicine and moral philosophy. It reflects features of Victorian society such as its rigid moralism. Every bourgeois, such as Jekyll, hid a troglodyte such as Hyde. Victorian literature was influenced by the Kantian distinction between the sensual and the rational, the subjective and the objective. Another characteristic of the Victorian era is the boom in scientific experiments with the aim of achieving discoveries such as, for example, that of James Simpson with regard to chloroform.

The protagonist of the tale, Dr Jekyll, is a socially powerful doctor, but sickly at the same time.

It is possible that Stevenson's novel was inspired by Mary Shelley's *Frankenstein*. Both Frankenstein and Jekyll are neurotic and obsessive over their experiments, isolating themselves from the outside world, and in both cases unleashing an evil that destroys them. The difference between the stories is that, while Frankenstein's monster is created from plundered parts of animals and humans that are pieced together in the laboratory, Mr Hyde is the result of a chemical experiment performed by the creator on his own body. Another precedent for this split-personality drama is found in the tale Stevenson published in 1884, two years before writing *The Strange Case of Dr Jekyll and Mr Hyde*, entitled *The Body Snatcher*.

The novel is also influenced by Darwinism, then in its heyday with the publication of Darwin's masterpiece *On the Origin of Species*, and this is seen in the book's idea of regression toward the primal state in which we had once existed.

Cocaine probably also had an influence on the work. Stevenson took cocaine to combat respiratory problems and it gave him prodigious energy in writing the book. It is probable that the side effects of this narcotic helped to inspire the author in writing the story.

⁷ Iker Nabaskues, *Derecho y Literatura...*, op. cit., pp. 89-114.

⁸ Colin Manlowe, "Closer than an Eye: The interconnection of Stevenson's Doctor Jekyll and Mr. Hyde", in *Studies in Scottish Literature*, XXIII, Columbia, South Carolina, University of South Carolina, 1988. Jean-Pierre Naugrette, "The Strange Case of Dr. Jekyll and Mr. Hyde: pour une relecture ecossaise", in *Cahiers Victoriens et Edouardiens*, Montpellier, Université Paul Valéry, 54, October 2001. Edwards Owen Dudley, "Stevenson, Jekyll, Hyde and all the Deacon Brodies", in *FOLIO*, National Library of Scotland, Issue 1, fall 2000. Christine Persak, "Spencer's Doctrines and Mr. Hyde: Moral Evolution in Stevenson's 'Strange Case'", in *The Victorian Newsletter*, University of Kentucky, 86, fall 1994.

The novel addresses various legal issues –first, the theme of “duality” between the good side of a person (represented by Dr Jekyll) and the evil side (embodied by Mr Hyde)–. This duality gives rise to the following legal doubt: Is the doctor legally and morally responsible for the crimes that Hyde commits? The novel reflects how complicated it is to identify the doctor’s criminal responsibility with respect to his “alter ego”, Mr Hyde.

The book recounts an episode involving a girl being knocked down and trampled on a pitch-black night, which reveals the merciless and indifferent nature of Hyde toward human suffering, ignoring the duty to come to the aid of any citizen. The brutality that Hyde uses against the girl evokes reminiscences of the Victorian era, during which great efforts were made to protect children and the legislation limiting child labour in factories. The murderous germ that grew in Hyde is not an isolated event, but something that was part of Victorian society.

But the most important criminal event in the novel is the murder of the British parliamentarian Sir Danvers Carew. Stevenson appears to contrast the virtuous nature of the victim with the animal behaviour seen in the criminal actions of Hyde. The parliamentarian is described as an affable and pleasant person. It is precisely this virtue that angers Hyde and acts as the catalyst for his moral response. Hyde shows a savage indifference to others, the antithesis of the values of enlightened moral philosophy focusing on the natural sociability of human beings and sympathy, on the openness of the person to society, because, both physically and emotionally, Hyde represents the image of Herbert Spencer’s “savage”, more similar to a beast than to a man. The injustice of the terrible act transcends mere penal categorization as a crime, becoming an absolute violation of the natural sociability of the person. The murder is the action of a beast.

The lawyer, Utterson, is the trustee of Dr Jekyll’s will and testament and knows the clauses therein that establish a series of conditions in favour of one Mr Hyde. The attorney cannot imagine who such a person might be, since the answer goes far beyond the imagination of any human being. Stevenson thus illustrates the limits of Utterson’s legal reasoning with relation to the mystery that he seeks to unravel.

The document that Dr Jekyll leaves in his drawing room for the lawyer Utterson has great legal importance, as it is the documentary evidence that sheds light upon the case. It is at this point that the lawyer is able to produce a coherent story regarding what has happened. In this case, the document is the legal construct that allows the facts, and with them the truth, to be known. The document allows the novel to conclude with the death of Jekyll, the permanent disappearance of Hyde, the solution of the crimes and the final resolution of the testament.

But perhaps the theme of the profound duplicity of life is at the core of this work. Jekyll’s existence is an unending source of moral fears and rebukes, while the existence of Hyde is entirely free and without moral binds. There is no fear in Hyde’s personality, while Jekyll is all fear. This is the consequence of separating the good and the evil of a single person. The experiment that is recounted is no other than a projection of the idea that happiness cannot be achieved by doing good, but by committing evil. This is the moral concept behind Orthodox Calvinism, as opposed to Hutchinsonian morality, according to which virtue is a synonym of happiness. From this perspective, the only way in which Jekyll can feel free of his obligations is to carry out his fantasies and become Hyde.

But within little time, Jekyll becomes aware that his experiment is failing, that his own formula is failing him. It is the same moment in which the man who buys power from hell discovers the hitch in the contract. Because nothing is absolutely guaranteed, much less a Satanic guarantee. Jekyll escapes from one prison only to enter another through his concoction, by way of an experiment that is part science, part religion.

The doctor’s responsibility with respect to the crime of murdering Carew is an important issue. Is Jekyll evading his legal responsibility? In reality, as Carew’s true murderer is Hyde and such an act would be unthinkable from Jekyll, it appears that he is not responsible. But, however, it is true that Jekyll knows the consequences of taking the potion he has prepared with his own hand. Jekyll’s responsibility appears to be up in the air. For Jekyll, Hyde is the cover for all his perverse actions. One might argue that it is in the paternity assumed by the doctor with respect to Hyde that his responsibility lays.⁹

When Jekyll decides not to drink the potion again, he re-enters society as normal. But the internal desire to return to being Hyde tempts and tortures him, until he submits and drinks the concoction.

⁹ Anne Stiles, “Robert Louis Stevenson’s Jekyll and Hyde and the Double Brain”, in *Studies in English Literature*, 46, 4, fall 2006.

The murder of Carew is subsequently narrated, followed by Jekyll's process of guilt and his later decision to never return to taking the potion. But it is already too late for him, because the effects of the potion mean that he needs it constantly in order to recover his normal appearance. In the end, he is unable to prepare the potion, because it had been an "unknown impurity" that made the original version effective. It is now too late to turn back: Jekyll meets his death.

Nothing frightens Dr Jekyll so much as confronting his internal darkness and shadows – those that all humans have within them. The novel reflects the conflict that arises when people do not know how to reconcile the internal inclinations that emerge from these shadows. To attain a harmonious life, we must walk along with our dark sides, not hide from them. The shadows tend to cover all those things of which we do not feel proud, what we keep in dark rooms. As Socrates would say, one must know oneself.

If, on the contrary, we split the poles, the good and the bad, we will see the schizophrenic disintegration of the person. Because Jekyll's thirst for knowledge, in wishing to separate the dark and light sides of humanity, leads him to pursue something which is impossible even for the most renowned of scientists. The case is the same as that of Faust, who agrees a pact with the devil motivated by his thirst for knowledge. The result is the death of no less than three people –Carew, Lanyon and Jekyll himself– and a chain of criminal and unjust acts.

But Stevenson's attitude to these facts is certainly not a moralistic one. He avoids moral judgments, covering the complexity of the human condition without moralizing, without puritanism and without referring to Victorian moral categories. The novel's chronicle is no more than the description that Dr Jekyll's experiment does not have a future, because "Jekyll suffers both from the good and from the bad".

At the end of the novel, rather than one man becoming two men, two men become one, since there is only one man that has been born and, therefore, only one who goes to the grave. In the end, responsibility cannot be avoided, since it is not possible to escape one's own conscience.¹⁰

Dr Jekyll and Mr Hyde admits various interpretations or readings. It is a story of suspense and intrigue; it is also an analysis of split-personality psychosis; and it is also a discourse on the dual morality of man, on the battle between good and evil, between the angel and the devil, between Cain and Abel.¹¹

¹⁰ Iker Nabaskues, *Derecho y Literatura...*, *op. cit.*, pp. 133-162.

¹¹ Albert Fina Sanglas, *Justicia y Literatura*, preface by Eugeni Gay Montalvo, Barcelone, Bosch, 1993, pp. 110-112.