

Book Club

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PLEA Throws the Book at You

The law is related to literature in many ways. In fact, a whole field of study devoted to “law and literature” took root by the 1970s. Today, there are over 100 professors teaching law and literature.

Law and literature can be divided into two areas. Some people focus on the law *as* literature. This is the idea that legal writings such as judges’ decisions can be better understood using techniques of literary interpretation. Other people focus on the law *in* literature. This is the idea that concepts associated with law can be explored and better understood through literature.

It is law *in* literature that will be the topic of *The PLEA Book Club*. Drawing from the Suggested Units in Saskatchewan’s new English Language Arts 30 curriculum, it will provide teachers with approaches to teaching literature based on the curriculum’s Questions for Deeper Understanding. For casual book readers, it will provide a law-related basis upon which to consider some staples of literature.

PLEA 
Legal Information for Everyone



Considering Law in Literature

From recent popular books such as John Grisham's *The Firm* to literary staples such as Franz Kafka's *The Trial*, the law is commonplace in literature. However, it would be a mistake to limit the idea of law in literature to law firms, trials, and legal procedures. The ways that literature contributes to our broader thinking also connects to the law.

Martha Nussbaum, professor of Law at the University of Chicago, illustrates this concept well. She believes that literature provides us with the opportunity to better understand the complexities of life. When we have better understandings of the complexities of life, Nussbaum contends, we are better able to understand concepts of justice.

For example, think about a young child who reads E.B. White's *Charlotte's Web*. From this, the child can learn about everybody's intrinsic worth. Or, think about a Supreme Court Justice who reads Fyodor Dostoyevsky's *The Grand Inquisitor*. From this, the judge can more deeply consider the competing values of freedom and control. In either situation, the result is a reader with a greater understanding of the complexities of life.

When our understandings of the complexities of life expand, the opportunity exists for us to become more fair-minded people. Fair-mindedness can make for better understandings of justice, which can ultimately leads to society creating more just laws.

How could fair-mindedness make for more just laws?

As citizens, the democratic process gives each of us responsibilities for the laws and regulations that guide our society. We democratically elect governments to create and administer laws on our behalf. If we are more fair-minded citizens, the decisions we make about our governments will be more fair-minded. And when our governments are more fair-minded, our laws are more fair-minded.

The relationship between law and literature is complex. Literature holds the ability to teach us about the "nuts and bolts" of law. But beyond that, literature also holds the ability to make laws more fair-minded and just. Reading literature not only teaches us about the law: it can actually contribute to humanizing the law.

Book Chat

1. Think of an example of a book that taught you something about life. What did you learn from reading that book? Did it affect your ways of approaching life?
2. Understanding literature requires us to build meanings around what we read.
 - a) Is it prudent to expect that everyone will read a piece of literature in the same way?
 - b) How do people's views and biases affect their interpretations of literature?
3. In the study of literature, authorial intent is—as the term implies—the intention that the author had when writing the work. Some critics have said that because it is impossible to fully get into the mind of an author, authorial intent is meaningless for understanding literature. Do you agree or disagree?





Ambition, Power, and the Common Good: *Lord of the Flies*

The rule of law stipulates that no individual, organization, or institution in a democracy is above the law. What could happen if a society collectively withdrew its support for the rule of law? William Golding's *Lord of the Flies* offers some clues.

In Golding's 1954 dystopian novel, a group of boys is stranded on an island. They attempt to "have rules and agree" under the elected leadership of a boy named Ralph. However, order on the island quickly erodes.

The destruction of the island's orderly society is led by a boy named Jack. In his quest for power, Jack rejects not just the rules that the boys create; he goes so far as to reject the system of governance they created. Ultimately, Jack establishes a breakaway tribe. To coax boys to join, Jack uses a carrot-and-stick combination of bullying and offering food and protection from an imaginary beast.

Under Jack's leadership the island descends into a flaming wreck, its resources destroyed and several boys dead. Could this destruction be seen as a representation of what happens when a society rejects the rule of law?

Considering the rule of law

The rule of law is the belief that it is better to be ruled by laws than to be ruled by leaders who can act any way they like. For example, dictators often exercise absolute power without any guidelines. If the law rules us, leaders cannot use their power any way they like. Political leaders, police, and judges are subject to the same laws as everyone else.

The rule of law also requires peaceful and orderly ways to create and change laws. There must be guidelines that everyone can understand and use. This idea about the rule of law is demonstrated in our legal and our political system. Our political system allows us to control how our laws are made and enforced through a democratic, parliamentary process. This process gives us an organized way to create and change the law.

To understand what went wrong on the island, it has to be understood that Jack's rise to power was predicated on rejecting the island's orderly ways. Because Jack gains his authority by ignoring the rule of law, it should come as no surprise that once in power Jack rules the island without the rule of law.

Having Jack solely in command leaves the boys with no way to collectively govern their society. Knowledge, discussion, and deliberation have no role in decision-making. With these traits of society lost, the outcome is total destruction of their island and their society.

Book Chat

1. One of the ways Jack acquires power is through intimidating his opponents. As the story progresses, he picks on littluns, bullies Piggy, beats and intimidates Wilfred and Samneric, and finally rallies the entire island to literally smoke out and try to kill Ralph, the last openly dissenting voice on the island.
 - a) Are opinions that are contrary to your own always wrong?
 - b) What can you learn from engaging with people with dissenting opinions?
2. *Lord of the Flies* paints a dark picture of the nature of ambition and power. Do you think it is an accurate portrayal?
3. Although the island society starts as a deliberative democracy, it deteriorates into Jack holding unilateral power. What does *Lord of the Flies* teach us about imbalances of power in a society?





Dealing with Universal Issues: Achieving Justice in *Antigone*

We trust those in power to govern in ways that reflect our collective values and beliefs. So what happens when those in power administer laws in a way that is completely out-of-balance with the moral compass of a community? This is one of the questions that arises from Sophocle's Greek tragedy *Antigone*.

Antigone dates back to around 441 BC. In it, two brothers lead opposite sides in Thebes' civil war. The losing brother, Polyneices, dies on the battlefield. The King decrees that as punishment for his rebellion, Polyneices' body shall be left unburied on the battlefield, without being given last rites.

Polyneices' sister, Antigone, objects to this punishment. She goes to the battlefield and buries her brother. When the King learns of Antigone's actions, he orders her to be entombed alive in a cave. Following unrest by the people, the prophets, and the gods for what they see as an unjust punishment, the King reverses his decision. However, it is too late. Antigone has already killed herself, and the King's son—who is engaged to Antigone—kills himself out of sorrow. The play closes with the King a broken though now wiser man.

The disharmony that the King created could be seen as a reflection of what happens when justice lacks balance. Would there have been a better approach to ensure justice was served?

How restorative justice can bring about balance

Restorative justice recognizes that everything is connected, and a crime disturbs the harmony of these connections. When a crime takes place, its remedy should be determined by the needs of victims, the community, and the offender. This restoration is meant to heal victims and communities, while encouraging offenders to confront the consequences of their action. Such an approach is believed to lead to restoration for all.

None of these concepts were present in the King's harsh punishment of Antigone. It cannot be denied that Antigone acted contrary to the King's decree when she buried her brother's body. Yet, in punishing Antigone, the King failed to balance the needs of everyone involved.

Consequently, it is not surprising that the end result was the exacerbation of the disharmony in Thebes. Had the King approached justice with balance, the entire community would have been better.

Book Chat

1. What does *Antigone* suggest about making punishments appropriate to the crime and sensitive to the needs of the community?
2. The federal government recently introduced mandatory minimum sentences for certain crimes. Some judges have objected. They believe that discretion is needed for sentencing so that the punishment is appropriate to the circumstances of the crime. Why is judicial discretion an important aspect of justice?





deals: *The Grand Inquisitor*

Freedom is an ideal everyone in society strives towards. However, because society is a complex system of competing interests, some authoritative control is required to maintain order. The question of how we balance the competing needs of individual freedom and societal control is raised in Fyodor Dostoyevsky's *The Grand Inquisitor*.

The Grand Inquisitor is a parable from Dostoyevsky's 1880 novel *The Brothers Karamazov*. In it, Christ returns to Earth, performing miracles on the streets. For his work, he is arrested and sentenced to death. While he awaits his punishment, the Grand Inquisitor visits the imprisoned Christ to denounce his actions.

The conflict between the Inquisitor and Christ is rooted in their belief systems. Christ believes that people should be free to do as they wish. The Grand Inquisitor believes that humankind should be left happily ignorant while a ruling class holds the burdens of controlling and providing for society. After silently hearing out the Grand Inquisitor, Christ's response is to kiss him. The Grand Inquisitor, set aback, sets Christ free.

Of the many themes of *The Grand Inquisitor*, the conflict between absolute freedom and societal control is of central importance. So who was correct? The Grand Inquisitor, who believed society should be controlled, or Christ, who believed society should be free?

How do we determine limits to freedom?

The conflict between freedom and control in our society is an age-old debate. While absolute control is contradictory to the liberal society we have built, so too is absolute freedom.

Consider this simple example. History has shown that when individuals were free to do whatever they pleased with their garbage and other waste, they ended up throwing untreated waste in the streets and in rivers. This harmed the environment and damaged public health.

Facing polluted rivers and filthy streets, cities and countries created laws and regulations to limit what could be done with waste. This resulted in a cleaner environment and less disease. So while people's freedom to dispose of their waste as they pleased was limited, their freedom from filth and disease was enhanced. In other words, one freedom had to be limited in order to preserve another freedom.

This illustrates why society has generally accepted that the most freedom an individual can enjoy is the freedom to do what they please, so long as their actions do not infringe upon the freedom of another. To determine the limits to these freedoms, we democratically elect governments to create laws and regulations on our behalf.

In this sense, there was some validity to both the position of the Grand Inquisitor and the position of Christ. In practice, society has determined that the concept of freedom must be balanced with the concept of control. This perhaps explains the ending of *The Grand Inquisitor*: when the Grand Inquisitor lets Christ free, the meaning could very well be that both freedom and control must find ways to co-exist in our society.

Book Chat

1. Some literary critics believe that because Christ refused Satan's offerings, Christ represented the ability of people to act with inherent goodness. Even if there is an inherent goodness in people, do our actions sometimes fall short of our ideals?
2. What do you think motivated the Grand Inquisitor to believe in absolute control? What checks do we have on those in power in our local, provincial, and national governments?
3. Can you think of some examples of freedom and control co-existing in your everyday life?





Celebrate the Glorious, Acknowledge the Scandalous: *More Joy in Heaven*

We trust the justice system to be administered in the best interests of the public. So what happens when the self-interest of politicians and the media interfere with the good administration of justice? This is one of the questions that arises from Morley Callaghan's *More Joy in Heaven*.

More Joy in Heaven dates back to 1937. Based on the real-life story of Canada's most-famous bank robber, Norman "Red" Ryan, it tells the story of a bank robber named Kip Caley. Kip secures early release from prison due to media pressure and attention from a politician named Senator Maclean. They all believe Kip, who was a model prisoner during his time in Kingston Penitentiary, is a reformed man.

Unfortunately, Kip finds himself unable to handle life out of prison. His life spirals downwards until he ends up shooting a police officer in a bank robbery gone awry. Shot by the police, Kip is left to be buried in unconsecrated ground.

The tragic and unceremonious end for Kip Caley suggests that all of society—including Kip—would have been better off if his release and rehabilitation was left to independent bodies specializing in justice, and not politicians and media ballyhoo. So how could Caley's release from prison been better-managed?

Purpose of parole

For the first half of the 20th century, the Ticket of Leave process guided the early release of prisoners. Tickets of leave were granted by prison wardens. Unfortunately, the tickets were often granted based on the wardens' arbitrary whims. After release, there were no provisions to ensure surveillance of the offender.

In 1959, the *Parole Act* changed how we re-integrate offenders into society. It created the independent Parole Board of Canada. The Parole Board makes the protection of society the paramount consideration for the release of a prisoner.

When an offender is eligible for parole, the Parole Board considers the request in a public hearing. The Board takes into account information from the victim of the crime, a detailed risk assessment of the offender, statistical probabilities that the offender will re-offend, and risk factors specific to the offender. It is only after a thorough review that the Board makes its decision whether or not to release the offender into the community to complete their sentence.

If an offender is granted parole, their responsibilities and the responsibilities of the parole system do not end there. In addition to extensive standard conditions, the Parole Board may implement any number of specific conditions. To ensure these conditions are met, a parole officer monitors the offender's progress. This approach has proven highly effective, as the vast majority of those paroled go on to be successfully integrated into the community.

It is possible that the tragedy in *More Joy in Heaven* would not have unfolded if Kip Caley's release was guided by our current parole system. Media and political interference would have had no place in determining Kip's suitability for release. Further, even if Kip was released he would have been supervised by a parole officer. It appears that if anything can be learned from Kip's downfall, it is that by entrusting the release of prisoners to experts, the parole system serves society better than the Ticket of Leave process.

Book Chat

1. Why is the modern-day parole system designed so that a panel of experts determine suitability for parole, instead of leaving it up to the whims of politicians of the day such as Senator Maclean?
2. Could Callaghan's book cause misconceptions for the modern-day reader about the parole system?



Personal and Societal: *Sunshine Sketches of a Little Town*

In a democracy, statutory laws are created by the people through their elected representatives. But do we vote for these representatives on the basis of public interest, or on the basis of self-interest? This is one of the questions raised in Stephen Leacock's *Sunshine Sketches of a Little Town*.

In Leacock's classic 1912 satire of small-town Canada, local businessman Josh Smith runs for a seat in Parliament under the Conservative banner. He competes against incumbent Liberal Henry Bagshaw and Independent candidate Edward Drone. In a story that historian Jack Granatstein described as the definitive account of Canada's 1911 federal election, wilful ignorance and self-interest on behalf of almost everybody leads to Josh Smith's victory.

Smith's campaign was built around a fourfold strategy: taking whatever position was to the liking of the audience at the time; providing townsfolk with meaningless statistics that merely one-upped any (already suspect) Liberal claim; having his supporters "vote and keep on voting until they make you quit"; and sending fraudulent telegrams throughout the riding on voting day that suggested Smith was carrying other polls, causing a bandwagon effect for people who wished to vote with the winning side and thus have their community on the receiving end of any future patronage.

Even though Smith did not campaign with a great deal of virtue or honesty, the public voted him into power. So was Leacock satirising politicians? Was he satirising the electorate? Or was he satirising everybody?

The self-interested voter

The strongest suggestion that Leacock was satirising everyone—both politicians and the electorate—comes from the portrayal of Edward Drone, the Independent candidate. Drone's campaign slogan was "Drone and Honesty." His only campaign promise was honest governance and a pledge not to buy the voters with patronage. Going door-to-door with this promise, voters "gripped him warmly by the hand and showed him the way to the next farm." The allure of patronage promises by the other candidates made Drone the least-acceptable candidate.

This portrayal is consistent with Stephen Leacock's views on democracy. Though a staunch proponent of democracy, in a 1921 book on social justice, Leacock pointed out that at its worst, democracy produced the election "of genial incompetents popular as spendthrifts; of crooked partisans warm to their friends and bitter to their enemies; of administration by a party for a party; and of the insidious poison of commercial greed defiling the wells of public honesty." Democracy, according to Leacock, was far from perfect.

With his patronage-laced campaign focussed on telling the voters what they wanted to hear, Smith rode to victory. This was despite the option of a third candidate, Edward Drone, whose only promise was to work towards delivering good government. In this sense, the voters' rejection of Edward Drone in favour of Josh Smith was not just an indictment of politicians: it was an indictment of all of us.

Book Chat

1. In his book *Democratic Schools* educational philosopher Michael W. Apple proposed that "democracy is not simply a theory of self-interest that gives people licence to pursue their own goals at the expense of others; the common good is a central feature of democracy."
 - a) Why would the common good be a central feature of democracy?
 - b) Is this always how democracy works out in practice?
2. How do we, as a society, balance self-preservation with concern for others?



More Reading

These pages have only introduced a few ways to consider how the law intersects with literature, how some books approach these concepts, and how everyone can become a more fair-minded person through reading literature. Undoubtedly, your local library will have many more books that apply to law and literature. Ask your librarian for recommendations!

Teachers: Check out these great resources for English Language Arts and Social Sciences classrooms. Each features pre-reading and post-reading activities, chapter questions, and discussion and writing topics. Use them in your classroom, or as a cross-curricular unit of study! Find them at plea.org.

LORD OF THE FLIES: THE NOVEL STUDY
Suitable for ELA B30 and Law 30 classes, this novel study provides opportunities to examine the rule of law and governance.

MORE JOY IN HEAVEN: THE NOVEL STUDY
Suitable for ELA A30 and Law 30 classes, this novel study provides opportunities to reflect upon how we re-integrate offenders into society.

TOUCHING SPIRIT BEAR: THE NOVEL STUDY
Suitable for middle-years English Language Arts, this novel study provides opportunities to learn about traditional Aboriginal justice concepts.



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