

## FRAMEWORK FOR ANALYSIS OF LEGAL REASONING

FACTOR/ STAGE	1. COURT: DISPUTE BEFORE DUKE	2. PRIVATE LAW (WITH PORTIA)	3. PRIVATE LAW (WITH PORTIA)	4. PUBLIC LAW (WITH PORTIA)
2. Is there a forum for legal reasoning?	Matters may be heard by the State e.g. before the Duke (4.1.0-10).	“Of a strange nature is the suit you follow, Yet in such rule that the Venetian law Cannot impugn you as you do proceed” (4.1.174-176)	“Tarry a little... This bond doth give thee here not a jot of blood;” (4.1.300).	“Tarry, Jew, The Law hath yet another hold on you” (4.1.343)
3. Is the legal claim and its source clear?	The Duke says to Antonio: “I am sorry for thee Thou art come to answer a Stony adversary, an inhuman wretch...” (4.1.2-3).	The private law dispute. References to the bond appear later.  “lawfully by this the Jew may claim A pound of flesh, to be by him cut off Nearest the merchant’s heart” (4.1.227-4.1.230)  “For the intent and purpose of the law Hath full relation to the penalty Which here appeareth due upon the bond.” (4.1.244-246)	The private law dispute	The new charge is raised during the first trial. (“It is enacted in the laws of Venice”) (4.1.343-350)
4. Is the legal reasoning adequate?	No. The Duke starts by saying that he expects Shylock to show mercy (4.1.15-4.1.35).	Portia speaks of the bargain, the ‘flesh’ and mostly refers to Shylock by name . For some reason, asks about a surgeon (4.1.254-255).	Portia mainly refers to Shylock as ‘Jew’.  Portia unilaterally creates the ‘flesh’ and ‘blood’ distinction.	“In which predicament I say thou stand’st; For it appears by manifest proceeding That indirectly, and directly too, Thou has contrived against the very life Of the defendant, and thou hast incurred The danger formely by me reheased. Down, therefore, and beg mercy of the Duke” (4.1.353-359).
4.1 Does it identify the world view?		Parties to a private agreement (bond). Lender, Borrower, Security.	Parties to a private agreement (bond). Lender, Borrower, Security.	Position of aliens, citizens (and presumably slaves too) is not explained in detail.
4.2 Have the rule elements been identified?		“A pound of flesh”/ “Nearest his heart” (4.1.250).  “And you must cut this flesh from off his breast. The law allows it, and the court awards it” (4.1.300)	Barely. The difference between flesh and blood is hardly explained.	It is not clear upon what facts Portia relies – whether those facts include attempts to rely on lawful rights.
4.3 Rule elements explored in depth?		Literal descriptions.	No further than before.	No.
(a) Have events been described in time/space?		The non-payment of the bond is accepted at the start of the case, and not contested.	No. No details of how the parties would have come to such a distinction.	The precise events relied on are not described.
(b) Parties able to explain events in their own words/view?	Shylock is merely asked for mercy, he responds to that suggestion.	Antonio confesses the bond (4.1.179). Bassanio offers the money, tendering it to court (4.1.206).	No. All Shylock can say is: “Is that the law?” (4.1.312).	No. Shylock is convicted without an opportunity to answer, as if it is self-evident.
(c) Have deeper concepts been explored (property, mercy)?	Shylock argues that he owns the flesh as the people of Venice may own slaves (4.1.85-4.1.91).	Shylock is asked to be merciful, and when he asks why, Portia informs him “the quality of mercy is not strained” - that it is above kings; an attribute of the Gods (4.1.181-4.1.202).		
(d) Is reasoning & conclusion clear?		Portia says that the bond is forfeited and the flesh may be cut off (4.1.227-4.1.230).	Portia directs Shylock to take the penalty there and then (3.1.320-325), but not the principal (4.1.34), but at penalty of his own life if the blood is spilt (the implication is that the bond will no longer help him if he does).	The conclusion is clear, but the reasoning is not.