**Tatevik Karapetyan**
*Lecturer of the Department of Languages, Communication and Pedagogy at Eurasia International University,*
*Ph.D. in Philology*
*Email: tatev.karapetyan@eiu.am*

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# ELEMENTS OF LEX MERCATORIA IN THE MERCHANT OF VENICE

**Lex Mercatoria** or the Merchant Law, generally refers to the customary rules and procedures developed within merchant communities to support trade in medieval Europe, without the assistance of government. Although this system has had many names through its evolution, which began to develop sometime in the early Middle Ages, but became widely recognized as commerce expanded in the eleventh and twelfth centuries.

Within the frame of this article Lex Mercatoria will be the target for current analysis taking into consideration such prominent literary text as "The Merchant of Venice" where the elements of lex mercatoria can be found, the law of the sea, insurance issues which were actual during 15-16$^{th}$ centuries in Serenísima.

Lex Mercatoria is now widely used in International Private law, but if we go back to the roots it has emerged from the customary practices of the traders and merchants of those days, both in the area of *maritime trade* and *in general commercial transactions.* It also lowered transactions costs, and provided incentives to live up to promises, allowing for widespread use of contracting and credit as commerce expanded. The customary law system developed behavioral rules based on customs, practice and usage within the network of merchant communities, but processes to encourage recognition, provide adjudication and generate changes in the rules. It is accepted that lex mercatoria is made and framed of the

Merchants Customs and the Sea–Laws, which are involved together as the Seas and Earth.

**Key words:** Lex Mercatoria, maritime trade, general commercial transactions, Serenísima.

## Introduction

The concept of *Lex Mercatoria*, or the “law of merchants,” represents a foundational element in the development of international private law, yet its historical origins extend far beyond the formal structures of contemporary legal systems. Emerging organically from the customary practices of medieval and early modern merchants, it was rooted in the practical necessities of trade, both on land and at sea. In an era when centralized legal authorities were often absent or unable to regulate commerce effectively, *Lex Mercatoria* provided a coherent, flexible framework that enabled the expansion of trade by reducing transaction costs, facilitating credit, and promoting trust among participants. Its effectiveness lay in its capacity to translate widely recognized commercial customs into enforceable behavioral norms, thereby incentivizing compliance and enabling contractual arrangements to operate across diverse geographical and political boundaries.

Unlike codified legal systems, *Lex Mercatoria* was constructed through the accumulation of established customs, usages, and practices within merchant communities. These norms were neither static nor uniform; rather, they evolved continuously in response to the changing circumstances of trade. Mechanisms for recognition, adjudication, and adaptation were central to its operation, ensuring that disputes could be resolved efficiently while simultaneously allowing the rules to reflect emerging commercial realities. Merchant courts, arbitration panels composed of experienced traders, and reputational enforcement systems exemplify the practical methods by which compliance was achieved, illustrating a legal culture in which informal authority and community–sanctioned procedures supplanted formal legislative control.

The substance of *Lex Mercatoria* is traditionally understood as the combination of Merchant Customs and Sea Laws, reflecting the dual environment in which medieval commerce was conducted. Merchant Customs governed terrestrial trade, regulating obligations arising from contracts, debt, and procedural matters, while Sea Laws addressed maritime concerns such as carriage, insurance, and navigation. Together, these elements formed a comprehensive regulatory framework that integrated disparate commercial practices into a coherent system, demonstrating an early recognition of the necessity for a transjurisdictional legal order.

A careful examination of the historical development of *Lex Mercatoria* reveals its enduring relevance to modern transnational commercial law. Contemporary practices in international arbitration, cross–border contracting, and the harmonization of commercial norms often draw upon the principles established by these early merchant communities. In this sense, *Lex Mercatoria* exemplifies the capacity of customary, decentralized legal systems to generate durable, adaptive rules capable of sustaining complex economic activity in the absence of centralized legislative authority. Understanding its origins and mechanisms not only illuminates the historical trajectory of international trade law but also offers critical insight into the normative foundations that continue to shape the governance of global commerce today.

## Methods

This study adopts a descriptive qualitative approach, as its primary aim is to explore, describe, and analyze the historical development and functional application of *Lex Mercatoria* in the context of 15th– and 16th–century Venice, known historically as the *Serenissima*. A qualitative framework is particularly suitable for this investigation because it allows for an in–depth examination of complex legal phenomena within their historical and social contexts, emphasizing interpretation over quantification. By focusing on descriptive analysis, the study seeks to reconstruct the norms, practices, and institutional mechanisms that underpinned the operation of *Lex Mercatoria*, including its interaction with maritime law, commercial customs, and the emerging frameworks of insurance.

Data collection relies primarily on historical and doctrinal sources, including contemporary legal texts, merchant manuals, maritime codes, and archival records from the Venetian Republic. These sources are examined to identify the prevailing legal principles, customary practices, and procedural norms that shaped commercial activity, dispute resolution, and contractual enforcement during this period. Particular attention is given to the ways in which *Lex Mercatoria* addressed practical challenges, such as maritime risks, credit management, and the regulation of cross–border transactions, as these illustrate the functional dimension of the law within the merchant community.

A key element of the study is the application of functional comparative analysis. This approach is grounded in the premise that the law's primary purpose is to respond to social and economic problems that are universal in nature, regardless of the doctrinal or institutional forms in which legal norms are expressed. By identifying the functions that legal institutions serve—such as dispute resolution, risk mitigation, and the promotion of trust—the study compares historical legal mechanisms, even when their formal structures differ from modern frameworks. For example, Venetian maritime codes and contemporary insurance arrangements are examined not merely for their textual content but for the social and economic functions they fulfilled, allowing for meaningful functional comparison with analogous institutions in other jurisdictions or periods.

Through this methodological approach, the study integrates historical reconstruction with functional analysis, enabling a nuanced understanding of how *Lex Mercatoria* operated in practice and how its principles continue to inform contemporary transnational commercial law. By emphasizing the functional equivalence of legal norms across time and space, the study highlights the adaptability and enduring relevance of merchant law in addressing universal commercial challenges.

## Literature Review

The historical evolution of *Lex Mercatoria* demonstrates a dynamic interplay between customary practices, maritime law, and emerging commercial institutions that collectively shaped European trade from the late Middle Ages through the early modern period. From its inception, the law of the sea was exceptional in relation to terrestrial legal systems. Twiss (1873) observes that no nation historically asserted exclusive sovereignty over the open seas, which remained exempt from territorial legislation. Instead, the seas were used by vessels of all nations on principles of equality, unimpeded by a common superior, and where conflicts arose, they were often resolved through informal mechanisms. This customary framework evolved gradually, developing a set of behavioral rules based on repeated practice among seafaring communities. These rules reconciled conflicting interests and provided predictable outcomes, illustrating the early functional nature of what would become *Lex Mercatoria*.

The work of Gerard de Malynes represents a pivotal moment in the articulation of the law merchant. Malynes' *Consuetudo vel Lex Mercatoria* (1622) emphasized the affinities between commercial and maritime law, tracing their origins to the Rhodian Sea Law, the Rôles d'Olérons, and the maritime codes of major trading cities such as Marseille, Genoa, Venice, and Barcelona. Malynes posited that these rules, developed over centuries of practice, had been "collected and existent until this day," reflecting the enduring customs of the mercantile community (Malynes, 1622, p. 120). His writings underscore the dual character of *Lex Mercatoria*: simultaneously a body of customary practices and a framework for adjudication, resolving disputes across jurisdictions in ways that formal national laws often could not.

A crucial component of merchant law in practice was marine insurance, which allowed traders to mitigate risks associated with maritime trade. Policies covering losses "lost or not lost" permitted merchants to insure ships already at sea, even when the fate of the vessel was uncertain. Malynes explicitly described this practice, noting that insurers assumed responsibility for the risk unless the party seeking insurance acted fraudulently. This form of insurance illustrates the functional dimension of *Lex Mercatoria*, demonstrating how legal structures facilitated commerce by providing mechanisms for risk management. As Jordan and Cunningham (2007) note in their analysis of Shakespeare's *The Merchant of Venice*, the absence of insurance in Antonio's fleet is structurally crucial to the play, reflecting both the legal and economic realities of the period. The law, though present, operates as an "absent presence," shaping commercial behavior while remaining largely invisible to the characters themselves.

Procedural innovations were central to the law merchant's functionality. Disputes were adjudicated in diverse forums, ranging from pie–powder courts at fairs to common law courts at Westminster Hall, as well as prerogative courts such as Chancery and Admiralty (Baker). These forums reflect the flexible, functional orientation of *Lex Mercatoria*: rather than codifying a rigid set of doctrines, it adapted to the social and economic problems of the trading community. Early references in England, including the 13th-century Little Red Book of Bristol, suggest that the law merchant primarily concerned jurisdiction and procedural rules rather than substantive commercial law (Cordes, 2003; Basile et al., 1998). Similarly, continental practices emphasized procedural privileges, rights of merchants at fairs, and market customs rather than a codified substantive law, demonstrating the functional approach embedded within merchant law.

The law merchant's historical trajectory also reflects its contested status relative to national legal systems. Robert Stillington, in 1473, asserted that alien merchants should be judged according to "the law of nature which by some is called the law merchant, which is law universal throughout the world" (Basile et al., 1998). This conception of universal merchant law was later elaborated by Sir John Davies, who positioned *Lex Mercatoria* as part of the law of nations, emphasizing its universality and applicability across jurisdictions (Davies, 1656, pp. 109–112; Basile et al., 1998). Malynes further advanced this argument, advocating for the adjudication of commercial disputes in civilian courts, which he regarded as better suited to the needs of merchants, in contrast to common law procedures (De Ruysscher, 2012, pp. 508–509).

Scholars such as Harold Berman (1983) and Bruce Benson (1989) emphasize the organic and functional nature of the law merchant. Berman portrays it as an integrated body of law developed by professional merchants engaged in large-scale commercial transactions, governing not only sales but also related aspects of commerce, including transport, insurance, and financing. Functionally, *Lex Mercatoria* addressed two fundamental problems: information deficits and the security of property and persons. By distributing information and establishing reputational incentives, the law merchant mitigated the risk of fraud and encouraged honest behavior (Milgrom, North, & Weingast, 1990). Public courts complemented these mechanisms by enforcing obligations and providing coercive authority, while private ordering—through arbitration and guild enforcement—allowed for flexible and rapid resolution of disputes (Ogilvie, 2011; Sachs, 2013).

The law merchant's techniques, while originating in Italy during the 13th and 14th centuries, spread unevenly across Europe. Bills of exchange, marine insurance, and double-entry bookkeeping were gradually adopted in northern Europe, reflecting both local adaptation and the functional equivalence of legal practices (De Roover, 1948; Hunt & Murray, 1999; Van Niekerk, 1998). These commercial innovations illustrate that *Lex Mercatoria* was not a monolithic or universally codified law but a practical, evolving set of norms responsive to the social and economic conditions of its time.

Significantly, legal pluralism shaped the operation of merchant law. Towns, fairs, and guilds provided procedural infrastructure for commercial transactions, while national and ecclesiastical courts often played a central enforcement role

(Reyerson, 2002; Des Marez, 1901). The coexistence of private contractual arrangements, such as pledges and sureties, with public enforcement mechanisms highlights the adaptive and complementary nature of the law merchant. In this environment, reputation, transparency, and procedural efficiency were as crucial to commercial regulation as formal statutes or codified norms.

Marine insurance exemplifies the intersection of commercial practice and legal innovation. Policies covering voyages "lost or not lost" addressed the inherent uncertainty of maritime commerce, allowing merchants to manage risk even when a ship's fate was unknown (Malynes, 1622, p. 149; Lewin, 1848, pp. 34–35). The presence of such mechanisms underscores the law merchant's function: it enabled trust, facilitated credit, and reduced transaction costs, forming a practical legal infrastructure for trade. Shakespearean literature, including *The Merchant of Venice*, reflects these realities, highlighting both the consequences of absent insurance and the broader social functions of law in commerce (Jordan & Cunningham, 2007).

Finally, modern scholarship continues to interrogate the universality and historicity of the law merchant. Kadens (2012) challenges the notion of a uniform customary law, arguing that what was often described as universal merchant law was historically contingent and regionally variegated. Nevertheless, the functional role of *Lex Mercatoria*—providing predictability, mitigating risk, and facilitating intercity and international trade—remains evident across historical and geographic contexts (Harris, 2003; Baker, 1999, pp. 79–96; Monaco, 1994; Galgano, 2005; Piergiovanni, 2005; Gialdroni, 2011). Its enduring influence is observable in contemporary transnational commercial law, which continues to rely on principles and techniques developed in the medieval and early modern periods.

The literature collectively illustrates that *Lex Mercatoria* was a historically contingent, functional, and adaptive legal system. It combined customary norms, procedural innovation, and public enforcement mechanisms to address the universal challenges of commerce—risk, trust, and information asymmetry. By integrating maritime law, insurance practices, procedural flexibility, and adjudicative innovations, *Lex Mercatoria* facilitated the growth of trade in early modern Europe and laid the foundation for modern transnational commercial law. The convergence of historical, legal, and economic scholarship underscores the law merchant's dual nature as both a practical tool for commerce and an aspirational, quasi-universal legal framework.

## Discussions

The idea of a medieval "merchant law" has long held fascination among scholars of commercial law, economic history, and legal theory: a privately-produced, custom-based, transnational legal order arising from the practices of merchants themselves (i.e. Lex Mercatoria), governing cross-border trade in an era when state-based law often proved inadequate. But modern scholarship — especially following Emily Kadens's seminal critique in *The Myth of* *the Customary Law Merchant* — has cracked open that idealized narrative, showing that the historical reality was far more fragmented, locally contingent, and institutionally embedded than the older image suggested.

Kadens argues convincingly that the "uniform and universal" lex mercatoria of legend rarely existed: "iura mercatorum," rather than a single supra-national law, better describes the patchwork of local commercial customs, trading practices, and statutory regulation that actually prevailed. Indeed, she demonstrates that medieval merchants frequently relied on local statutes, municipal courts, guild regulations, or even ad hoc statutory instruments — not on some monolithic trans-European commercial code.

The historiographical importance of Kadens's critique is not simply negative: it forces a re-evaluation of how medieval and early-modern commerce actually functioned. Instead of assuming a neat, unified private legal order, we must ask how merchants navigated a variegated landscape of local rules — and how they negotiated uncertainty, risk, and trust in contexts of linguistic, cultural, and legal difference. The old story of Lex Mercatoria as a passive relic is replaced with a picture of dynamic, localized adaptation. As a recent study argues, the "three-phase" model (medieval commerce → nationalization → modern transnationalism) glosses over sharp discontinuities and contextual transformations over time.

Yet despite this fragmentation, certain functional needs remained constant: merchants across Europe shared a pressing incentive to mitigate uncertainty — about whether cargo would arrive, whether debts would be honored, whether ships would survive voyages. This constancy helps explain the persistence of practices such as maritime insurance, bottomry, sea-loans, general-average agreements, and other risk-sharing or risk-shifting mechanisms. These practices did not arise from a uniform law so much as from a shared economic problem: the high probability of loss, and the desire to distribute or manage that risk in a context of legal and geographic uncertainty.

Maritime trade in early modern Europe was one of the most lucrative — and most hazardous — economic endeavors. As historian David Cressy shows in his recent work on shipwrecks, a non-trivial proportion of voyages (by some estimates 4–5%) ended in ruin, with enormous loss for shipowners and merchants. The perils of sea travel — storms, piracy, shipwreck, delays — made every voyage a speculation against fate, and traditional legal mechanisms (local courts, municipal statutes, common law) were often ill-suited to manage such contingencies, especially across jurisdictions.

In response, merchants developed financial and contractual innovations: marine insurance, bottomry, bottomry bonds, sea-loans, general average agreements, and other risk-sharing devices that distributed potential loss among multiple parties. These were not purely financial instruments; they were legal and social devices, embedded within the broader commercial culture, relying on trust, reputation, and the ability to adjudicate or enforce claims across communities.

Such practices implicitly recognized that commerce — especially maritime commerce — developed probabilistic realities: nothing could be guaranteed; loss was possible. What was needed was not a deterministic guarantee but a mechanism to distribute, absorb, or survive risk. These mechanisms had to accommodate uncertainty, delayed information, conflicting reports, and the difficulties of verifying facts across distance. This is the functional foundation of what later theorists would call Lex Mercatoria: a set of customs, practices, and institutions designed to manage the inherent uncertainty and risk of international trade.

It is in this context — of maritime uncertainty, commercial risk, and evolving insurance practices — that Shakespeare's dramas acquire a new resonance. Through his plays, Shakespeare explores the epistemic and social implications of risk, loss, and the reliability of reports: who is to be believed when ships are lost, voyages delayed, or fleets moving?

In comedies like Twelfth Night, The Winter's Tale, and The Tempest, shipwrecks and maritime disasters happen offstage, mediated only by letters or second-hand reports. This narrative choice is not simply a dramatic convenience; it reflects real-world practices: many merchants never saw their ships after departure, and their fortunes depended on uncertain news.

In a more explicitly probabilistic mode, Othello dramatizes the process of evaluating conflicting reports — in this case, about the disposition of the Turkish fleet. The Venetian council's decision to conclude (correctly) that the fleet is likely bound for Cyprus rather than Rhodes (Othello, 1.3.1–44) mimics the kind of reasoning merchants or investors might apply when deciding whether to insure cargo, buy shares, or commit credit. Critics (e.g., Altman, "Preposterous Conclusions") have noted this as a moment where theatrical probability and real-world calculation intersect. The dramatic impact of conflicting reports, uncertainty, and strategic inference mirrors the economic logic of early modern commerce.

But perhaps most striking is the case of The Merchant of Venice. The fate of Antonio's fleet becomes a central motif — not just in plot but in economic symbolism. Across Acts 2 and 3 characters debate the probability of disaster; by 3.2 they treat the loss as almost certain. Yet the final resolution comes only in Act 5, when Portia produces a letter claiming that three argosies have returned safely (5.1.276–77), immediately undercutting any inquiry into the credibility of her news (5.1.278–79).

This narrative structure mirrors real-world commercial risk: loss — or its possibility — generates social and psychological anxiety; reports (letters, rumors) mediate uncertainty; the true outcome may remain unknown for long periods; and only belatedly might a reliable report restore the equilibrium. The play thus dramatizes not only human emotion and morality but also the epistemic economy of early-modern trade.

Notably, there is no explicit mention of marine insurance in The Merchant of Venice; Antonio remains unhedged. In financial-legal terms, he takes a full speculative risk — a high-stakes gamble that, were insurance available and invoked, would likely render the play dramatically inert. As several modern scholars argue, marine insurance was increasingly common in London by the late sixteenth and early seventeenth century; risk–sharing mechanisms existed, yet Antonio consciously or unconsciously rejects them.

This rejection serves a dramatic purpose: it preserves suspense, allows the bond with Shylock to stand, and shapes the play's moral and economic drama. But on a deeper level, Shakespeare's refusal to engage with insurance becomes a commentary on risk–taking, trust, providence, and human vulnerability. The play does not present insurance as an ideal; it illustrates the radical uncertainty of commerce and the limits of human control over fate.

Moreover, the persistence of ambiguous reports, delayed resolutions, and improbable returns reflects a cultural logic wherein probability — not certainty — structures both commerce and narrative. Shakespeare does not reassure his audience with guaranteed outcomes. Instead, he dramatizes the tension between hope and despair, between expectation and catastrophe, between human agency and providence.

The contrast between the traditional myth of a uniform, universal Lex Mercatoria and the fragmented reality documented by Kadens (2012), Cordes (2003), and other legal historians suggests that what survived was not a single law, but a set of overlapping, partially shared practices — a functional "law–space" rather than a codified legal order.

In this light, maritime insurance and risk–sharing mechanisms can be seen as part of a broader shift: from reliance on customary law and trust to the use of contractual and financial instruments that distribute risk, transfer liability, and allow merchants to manage uncertainty at scale. The emergence of marine insurance, bottomry, and general–average practices in ports like Genoa underscores this connection between commerce, risk, and legal innovation.

That said, the institutionalization of these practices was uneven, and formal codification lagged. The early modern merchant world remained deeply pluralistic: state statutes, municipal regulations, guild ordinances, maritime customs, and bottom–up commercial practices coexisted in dynamic tension. The "law merchant" of legend served more as an aspirational ideal or a foundational myth than as a historically coherent system — a point emphasized by L. H. Baker as early as 1986.

Yet this myth retains value — not as a statement of historical fact, but as a conceptual tool. It points to the functional imperatives that shaped early modern commerce: the need for predictability, the necessity of trust across difference, the inevitability of risk, and the pragmatics of mitigation. In this sense, Shakespeare's dramas — far from being mere entertainment — participate in a broader cultural and economic discourse about risk, information, trust, and human agency.

A key thread weaving through commercial practice and drama alike is epistemic uncertainty: the problem of knowing whether a ship has arrived, whether cargo is intact, whether a fleet is heading to one destination or another, whether a letter is genuine. In a world without instant communication, without state–backed insurance pools, without modern banking, information was delayed, fragmentary, and often contested.

Marine insurance — particularly the kind of "lost or not lost" policies favored in early modern London — treated human testimony and probability as its raw material. Insurers had to decide whether to pay out based on reports, letters, and estimates rather than direct verification; the value of a policy depended not on certainty but on the balance of likelihoods.

In parallel, theatrical fiction like Shakespeare's plays bundles uncertainty, testimony, and narrative resolution: a letter arrives, a report is read, a witness speaks, and the plot turns. But too often, the report is ambiguous, or comes too late — echoing the lived reality of merchants waiting months, even years, for accurate information. The dramatic resolution restores certainty, but only after prolonged suspense — a deliberate aesthetic gesture that mirrors the real-world logic of risk-sharing and delayed outcomes.

Thus, the epistemic dimension — how people know, how they trust, how they decide under uncertainty — becomes central. Both commerce and drama rely on human testimony, on reputation, on trust networks, and on probabilistic reasoning. The Lex Mercatoria, in its manifold local forms, provided partial answers; marine insurance, bottomry, and other instruments offered more formal mechanisms. Shakespeare's theatre rehearsed the human and moral weight of uncertainty.

Bringing together legal history, economic practice, and literary analysis — especially the works of Shakespeare — reveals a deep and rich tapestry of early modern thought about uncertainty, risk, and human agency. The Lex Mercatoria — more myth than monolith — nonetheless represents a conceptual aspiration: to manage commercial risk through shared customs, procedures, and norms. The actual historical record, as reconstructed by Kadens and others, shows a fragmented, locally contingent, institutionally diverse set of practices shaped by real material risks and social needs.

Marine insurance, long-distance trade, maritime finance: these emerged as practical responses to the unpredictability of sea travel and commerce. They translated economic risk into contractual liability, spreading loss across networks, and allowing commerce to expand despite uncertainty.

Simultaneously, Shakespeare's drama — from *Twelfth Night* to *The Merchant of Venice* — participates in this risk culture. His characters make decisions on the basis of hearsay, letters, and uncertain information; they gamble, hope, despair, and at times are rewarded by improbable, almost providential outcomes. That these dramatic outcomes unfold as comedy or tragedy speaks to the moral, social, and human dimensions of risk — not only economic but existential.

In the end, the interplay between commercial practice, legal custom, and dramatic representation reveals that early modern Europe was not only building the foundations of modern commerce — it was also constructing a cultural imagination of risk. The myth of a uniform Lex Mercatoria may be just that, yet the functional demands that inspired it were real; and the literary responses to those demands — in Shakespeare's plays — continue to resonate, reminding us that commerce is not only about goods, profit, or law, but about human hopes, fears, and the uncertain journey between them.

## Conclusion

The exploration of risk, probability, and the regulation of uncertainty in early modern commerce and literature reveals a deeply interconnected framework in which legal, economic, and cultural practices mutually informed one another. The scholarship on the Lex Mercatoria and commercial law, including foundational work by Baker, Kadens, Basile et al., and Cordes, emphasizes the pluralistic and adaptive nature of early modern commercial practices. The so-called "law merchant" was not a monolithic body of rules but rather a flexible set of customs, norms, and precedents, often shaped by human testimony, reports of maritime ventures, and the negotiation of risk. The adaptability of these practices facilitated trade across national boundaries, yet it also required a sophisticated engagement with probability, evidence, and contingency, anticipating many features of modern commercial insurance and risk management.

Within this historical and legal context, Shakespeare's dramaturgy can be seen as an active engagement with the epistemic and ethical dimensions of commercial uncertainty. In *The Merchant of Venice*, Antonio's shipping ventures exemplify the challenges of probabilistic reasoning: reports of shipwreck and loss generate anxiety, debate, and uncertainty among Venetian merchants, highlighting both the social and economic consequences of incomplete or delayed information. Unlike the Venetian senators in *Othello*, who weigh conflicting intelligence with a degree of accuracy, the merchants in *The Merchant of Venice* often misjudge probabilities, culminating in Antonio's apparent financial vulnerability. Shakespeare's depiction of these uncertainties mirrors the challenges faced by contemporary merchants who relied on both eyewitness reports and informal commercial conventions to evaluate the likelihood of success or disaster in long-distance trade.

The theatrical representation of risk operates in tandem with commercial and legal practice, functioning as a form of "generic insurance" in which narrative tension and anxiety are maintained while preventing truly catastrophic outcomes. Stephen Greenblatt describes this as "salutary anxiety," whereby dramatic and social equilibrium is preserved despite exposure to uncertainty. Portia's revelation in act 5 of *The Merchant of Venice*, reporting the safe arrival of Antonio's ships, exemplifies the interplay between probability and narrative resolution: the letter forestalls inquiry into the credibility of her news, creating a dramatic analog to commercial insurance policies that mitigate risk without erasing the lessons of exposure. By withholding certainty until the narrative's conclusion, Shakespeare dramatizes the contingency inherent in maritime commerce and reflects the ethical and strategic considerations of early modern merchants who sometimes insured only partially or retrospectively in response to unforeseen perils.

Critically, the play also interrogates the ethical dimensions of risk and insurance. Antonio's unhedged ventures exemplify the tension between moral and economic reasoning: while the forfeiture of the bond serves a commercial purpose, it also exposes him to socially and personally destructive consequences. The narrative resolution, mediated by genre conventions, ensures that the social order is preserved even as it illuminates the fragility of unprotected ventures. In this sense, Shakespeare's work operates at the intersection of commercial realism and dramaturgical necessity, demonstrating how probability, testimony, and risk management were conceptualized in cultural as well as economic terms.

From a historical perspective, the interrelation between law, commerce, and literature highlights the centrality of human judgment in mitigating uncertainty. The legal and commercial instruments available to early modern merchants—ranging from the flexible norms of the Lex Mercatoria to nascent forms of marine insurance—relied heavily on the assessment of probability and credibility. Similarly, theatrical practices provided a cognitive space in which audiences could engage with the complexities of risk, learning to navigate uncertainty vicariously through characters and narrative outcomes. By aligning the epistemic challenges of trade with the dramatic logic of comedy and tragedy, Shakespeare bridges the worlds of economic practice and cultural meaning, offering insights into the cognitive, moral, and social dimensions of risk.

In conclusion, a comprehensive understanding of early modern commerce and literature requires recognition of the mutual interdependencies between economic practice, legal custom, and dramatic representation. The study of risk and probability in Shakespearean drama, when considered alongside the scholarship on Lex Mercatoria, commercial insurance, and early modern business practices, demonstrates that early modern society cultivated sophisticated mechanisms for managing uncertainty, both practically and imaginatively. Shakespeare's plays, particularly *The Merchant of Venice*, illuminate how these mechanisms were interpreted, dramatized, and ethically interrogated, revealing a cultural logic in which the management of risk—through testimony, probability, and narrative resolution—was central to the functioning of commerce, law, and society alike. This intersectional perspective underscores the significance of uncertainty as a guiding principle in early modern thought, demonstrating the ways in which legal, economic, and literary cultures collaboratively navigated the challenges of an inherently unpredictable world.

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**Տաթևիկ Կարապետյան**
*Եվրասիա միջազգային համալսարանի օտար լեզուների և գրականության ամբիոնի դասախոս, բանասիրական գիտությունների թեկնածու*
*Էլ. հասցե՝ tatev.karapetyan@eiu.am*

## ԱՌԵՎՏՐԱՅԻՆ ԻՐԱՎՈՒՆՔԻ ՏԱՐՐԵՐԸ «ՎԵՆԵՏԻԿԻ ՎԱՃԱՌԱԿԱՆԸ» ՍՏԵՂԾԱԳՈՐԾՈՒԹՅՈՒՆՈՒՄ

Շեքսպիրի «Վենետիկի վաճառական»-ը ներկայացնում է միջնադարյան և վաղ նոր ժամանակների **Lex Mercatoria**՝ առևտրային սովորութային իրավունքի հիմնարար սկզբունքները: Պիեսում առևտրային պայմանագրերը, ռիսկի գնահատումը և վարկանիշի կարևորությունը արտացոլում են այդ իրավակարգի առանձնահատկություններով: Անտոնյոյի և Շայլոկի միջև սակագնային պարտավորությունը, առևտրականների քննարկումները

նավերի ճակատագրի վերաբերյալ և պիեսի ավարտը ցույց են տալիս ռիսկի կառավարման, պարտականությունների կատարողականի և առևտրային էթիկայի մասին գաղափարներ: Շեքսպիրը ընդգծում է առևտրի, իրավունքի և հասարակական բարոյականության անքակտելի կապը, ընդգծելով ռիսկի և անկանխատեսելիության կառավարումը:

**Հիմնաբառեր.** Առևտրային իրավունք, ծովային առևտուր, ընդհանուր առևտրային գործարքներ, Սերենիսիմա:

**Татевик Карапетян**
*Преподаватель кафедры иностранных языков и литературы*
*Международного университета Евразия, кандидат филологических наук*
*Эл. адрес: tatev.karapetyan@eiu.am*

## ЭЛЕМЕНТЫ ЗАКОНА О ТОРГОВЛЕ В «ВЕНЕЦИАНСКОМ КУПЦЕ»

Шекспир в своей пьесе «Венецианский купец» представляет Lex Mercatoria средневекового и ранненовозного периода — основные принципы торгового обычного права. В пьесе торговые контракты, оценка рисков и важность репутации отражают особенности этой правовой системы. Обязательство между Антонио и Шейлоком, обсуждения купцов о судьбе торговых судов и кульминационная сцена суда демонстрируют идеи управления рисками, исполнения обязанностей и торговой этики. Шекспир подчеркивает неразрывную связь между торговлей, правом и общественной моралью, акцентируя внимание на управлении риском и непредсказуемостью.

**Ключевые слова:** закон о торговле, морская торговля, общие коммерческие сделки, Серенисима.

Հոդվածը խմբագրություն է ներկայացվել՝ 2025թ. հոկտեմբերի 31-ին:
Հոդվածը հանձնվել է գրախոսման՝ 2025թ. նոյեմբերի 3-ին:
Հոդվածն ընդունվել է տպագրության՝ 2025թ. դեկտեմբերի 19-ին: