Representing Justice: 
Stories of Law and Literature 
Part I 
Professor Susan Sage Heinzelman
Susan Sage Heinzelman, Ph.D.
Associate Professor of English and Women’s and Gender Studies,
The University of Texas at Austin

Susan Sage Heinzelman, an Associate Professor of English and Associate Director of the Center for Women’s and Gender Studies, has been teaching at the University of Texas since 1977 in the English Department and the School of Law. Her scholarship focuses on the representation of women in law and literature in both contemporary and historical contexts. She is co-editor (with Zipporah Batshaw Wiseman) of Representing Women: Law, Literature, and Feminism (1994) and author of many articles on the representation of women in law and literature, including most recently “‘Termes Queinte of Lawe’ and Literature’s Quaint Fantasies: Some Reflections on Law and the Liberal Arts,” in Legal Scholarship in the Liberal Arts, edited by Austin Sarat (Cornell University Press, 2004), and “Black Letters and Black Rams: Fictionalizing Law and Legalizing Literature in Enlightenment England,” in Law/Text/Culture (2002). She is President of the Association for the Study of Law, Culture, and the Humanities.

Professor Heinzelman teaches courses in law and culture, literary criticism, the 18th-century English novel, and feminist theory at the undergraduate and graduate level and has won many university teaching awards, most recently the President’s Associates Teaching Award (2003).
# Table of Contents

**Representing Justice:**
*Stories of Law and Literature*

**Part I**

<table>
<thead>
<tr>
<th>Lecture</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>One</td>
<td>Literature as Law, Literature of Law</td>
<td>3</td>
</tr>
<tr>
<td>Two</td>
<td>The Old Testament as Law and Literature</td>
<td>7</td>
</tr>
<tr>
<td>Three</td>
<td>Revenge and Justice in Aeschylus’s <em>Oresteia</em></td>
<td>11</td>
</tr>
<tr>
<td>Four</td>
<td>Community in Sophocles’s <em>Oedipus Tyrannus</em></td>
<td>15</td>
</tr>
<tr>
<td>Five</td>
<td>Ritual Order in Mystery and Morality Plays</td>
<td>19</td>
</tr>
<tr>
<td>Six</td>
<td>Chaucer’s Lawyers and Priests</td>
<td>22</td>
</tr>
<tr>
<td>Seven</td>
<td>Inns of Court, Royal Courts, and the Stage</td>
<td>26</td>
</tr>
<tr>
<td>Eight</td>
<td>Shakespeare’s <em>Merchant of Venice</em> (1596–97)</td>
<td>30</td>
</tr>
<tr>
<td>Nine</td>
<td>Shakespeare’s <em>Measure for Measure</em> (1603–04)</td>
<td>34</td>
</tr>
<tr>
<td>Ten</td>
<td>Shakespeare’s <em>The Winter’s Tale</em> (1609–11)</td>
<td>38</td>
</tr>
<tr>
<td>Eleven</td>
<td>An Epic Trial—Milton’s <em>Paradise Lost</em> (1667)</td>
<td>42</td>
</tr>
<tr>
<td>Twelve</td>
<td><em>Moll Flanders</em> (1722); <em>Beggar’s Opera</em> (1727)</td>
<td>46</td>
</tr>
</tbody>
</table>

**Note about the English Legal System** .......................................................... 50

<table>
<thead>
<tr>
<th>Timeline</th>
<th>51</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Glossary</strong></td>
<td>57</td>
</tr>
<tr>
<td><strong>Biographical Notes</strong></td>
<td>Part II</td>
</tr>
<tr>
<td><strong>Bibliography</strong></td>
<td>Part II</td>
</tr>
</tbody>
</table>
Representing Justice: Stories of Law and Literature

Scope:
This 24-lecture course offers a wide-ranging analysis of the relationship between law and literature by examining representative moments in the long history of these two subtly interwoven ways of ordering the world. I will term these two ways of ordering discourses—by which I mean the representation of culture through language, image, symbol systems, and action—and I discuss these two discourses both as reflections and constructions of our reality.

One of the points of the course is to break down the stereotypical definition of literature as “fictive and subjective” (and, therefore, primarily emotionally persuasive) and law as “factual and objective” (and, therefore, primarily intellectually persuasive). Aligned with these stereotypical expectations is the assumption that literature is the realm of the feminine, and law, that of the masculine. This course should unsettle those assumptions and suggest how deeply and inextricably intertwined these two discourses are.

The first lecture sets out some of the ways in which the generic conventions of literature and law have been defined and suggests how those definitions might be modified. Specifically, the lecture examines the way in which both literature and law construct and reflect our social and individual identities. The lecture also sketches out the way in which law and literature, at first deeply interconnected, moved gradually toward a separation so that, by the mid-18th century, one can argue for a distinct identity for each form of representation.

The second lecture begins by presenting a historical overview of the course. We will then explore the ancient roots of Western law and literature, beginning with the Judeo-Christian tradition and focusing on narratives of divine justice and the human struggle to comprehend the nature of law in the Bible. From this tradition, we will turn, in Lectures Three and Four, to Greek tragedies, the other ancient major source of wisdom about justice and the human struggle to act justly.

In Lectures Five through Eleven, we turn to medieval and early modern texts, illustrating how the religious grounding of literature and law gradually gave way to a more secular understanding. Lecture Five explores the essentially dramatic nature of medieval Church liturgy that produced mystery and morality plays, and Lecture Six examines Chaucer’s Canterbury Tales (1387-1400) to indicate the range of religio-juridical literary narratives available to medieval society.

In Lecture Seven, we step back to explore the institutional context in which Shakespeare’s plays were produced, and Lectures Eight through Ten examine three of his plays that are vitally concerned with the issue of justice and its moral and political authority: The Merchant of Venice (1596–97), Measure for Measure (1603–04), and The Winter’s Tale (1609–11). In Lecture Eleven, we turn to Milton’s Paradise Lost (1667), the last great English legal and literary text of the early modern period that is securely based on religious principles.

As we move into the 18th century, we recognize that the shift from sacred to secular ideology has produced a strange hybrid of religion and commerce, of spiritual and material providence, that threatens to destabilize the identity of the protagonists of early 18th-century fiction and produces a multitude of conflicting legal texts. Thus, in Lecture Twelve, where we consider Daniel Defoe’s Moll Flanders and John Gay’s The Beggar’s Opera, we will see how the whores and beggars are indistinguishable from the aristocrats and politicians, just as the standards by which virtue and truth are upheld are called into question.

Lecture Thirteen explores the mid-18th-century confusion of religious law and secular law through the novels of Henry Fielding and the narratives produced by the 1752 trial of Mary Blandy for the murder of her father. The range of these narratives reveals that the ideas of sin and crime were still inseparable in the popular imagination and that both functioned to promote political agendas.

Lecture Fourteen looks at the question of virtue and rank in its gendered and classed form and the relationship of those concepts to legal concerns. We will explore two of Jane Austen’s predecessors—novelists Maria Edgeworth and Frances Burney—before we turn to Austen herself to examine the role of law, specifically the law of inheritance and property, in Pride and Prejudice.

Lecture Fifteen examines Dickens’s radical attack in Bleak House on the poisoning power of law and morality in its manifestation in the Court of Chancery. In Lectures Sixteen and Seventeen, we turn to mid-19th-century American representations of this same relationship in Hawthorne’s The Scarlet Letter and Mark Twain’s Huckleberry Finn.
And in Lecture Eighteen, we return to 19th-century England with Thomas Hardy, who raises similar questions, specifically about women, in *Tess of the D’Urbervilles* and *Jude the Obscure*.

In the final six lectures, we examine issues of gender equality in the 20th century, as well as the growing fragmentation of a world where law and morality seem to have been wrenched apart. We begin, in Lecture Nineteen, with Susan Glaspell’s short story, “A Jury of Her Peers,” which comments explicitly on the gendered nature of legal judgment. In Lecture Twenty, we look at the work of Kafka and find that the powerless are not women but all modern individuals, dehumanized and alienated by an abstract system of bureaucratic rules and regulations.

In Lectures Twenty-One through Twenty-Three, we return to the ancient roots of our legal system by exploring contemporary renditions of ancient dilemmas. In Lecture Twenty-One, we analyze Nabokov’s *Lolita*; in Lecture Twenty-Two, we turn to Toni Morrison’s “re-memorizing” of slavery in *Beloved*; and in Lecture Twenty-Three, we return to a question of moral and legal judgment that reminds us of the classical dilemmas of ancient myths: the murder of a child by its parent. Finally, in Lecture Twenty-Four, we conclude this series with a discussion of the pervasive representation of law in popular culture and close with a question: What vision of justice can a culture mesmerized by media representations of law allow?
Lecture One

Literature as Law, Literature of Law

Scope: Law and literature is a scholarly field that has developed over the last two decades to explore the rhetorical and philosophical connections between literary and legal texts. In this first lecture, I have three main objectives: first, to define briefly how I understand the relationship between law and literature; second, to outline the approach to textual analysis that I will use in these lectures; and third, to introduce you to the overall concept of this 24-lecture course, which will explore the various ways in which law and literature interact in Western culture.

Outline

I. My first objective is to explain my understanding of the connection between the two terms—law and literature.
   A. Law and literature are two ways of understanding the world around us.
      1. The primary way in which we encounter both law and literature is through language, but legal space (e.g., a courtroom) can also be organized to reinforce the authority of the legal system.
      2. Likewise, with a banned book, such as Nabokov’s Lolita, its primary status as a literary representation is converted into a symbolic challenge to the law.
   B. The relationship between law and literature is a complex one: The two ways of representing reality are deeply and subtly interconnected.
      1. Legal and literary texts are embedded in their larger cultural contexts, which is made up of more than language.
      2. Discourse is a technical term for the assortment of words, images, signs, arrangements of urban space, laws, action, events, customs, rituals, and social organizations in which we express our identity and through which we understand the world around us.
   C. What do I mean by literature?
      1. We usually reserve that term for writing that moves us, emotionally and aesthetically.
      2. For the purpose of this series, I have confined myself to three major forms of literature—epic poetry, drama, and extended prose narrative, or the novel—because those forms contain elements we also find in law, that is, storytelling and dramatic performance.
   D. What do I mean by law?
      1. I do not intend to match every literary text with its legal equivalent—part of the point of this series is to argue that no direct relationship exists between a literary text and a legal text.
      2. Nevertheless, there is a powerful connection between the way a literary text both shapes and responds to our shared reality and the way a legal text also engages in this cultural activity.
      3. In this series, I sometimes define law as what marks a particular historical attitude but also as those often unwritten laws that regulate our social and moral relationships.

II. My second objective is to describe how I will approach the texts.
   A. I will not attempt to find specific legal examples of situations raised in the literary texts, nor will I use the literary texts to show how much more subtle literature is compared to law. Further, I will not argue that literature is a more ethically subtle way of addressing social problems than passing and enforcing laws.
   B. What I will do is suggest how these two ways of representing reality reflect and produce our individual and collective identities.
      1. To function in the world, we trust in our individual identities as unique and stable.
      2. Both literature and law are responsible for constructing this particular version of identity by presenting us with examples of the kind of self that reinforces our beliefs.
      3. But if law and literature create our sense of self, then they can also subvert that sense of self.
      4. For example, the laws that enfranchised women or emancipated those who had once been slaves required a radical rearrangement of both individual and collective consciousness.
C. This belief in a stable self that inhabits a coherent world is produced by the many ways in which we mark ourselves as different from or similar to those around us.
   1. Moreover, we consolidate these markers by the literature we read or ban, and we consolidate our identity by the laws we pass, the laws that fall into disuse, and the laws we look back on with shame.
   2. But if law and literature can stabilize our identity, they must also be able to subvert that identity—new stories or new laws can unsettle long-established traditions.

III. My third objective here is to outline the overall shape of the course.
   A. I have selected texts that I believe can enrich our understanding of the Western cultural tradition.
      1. We will proceed in a generally chronological fashion across 3,000 years of Western experience, beginning with the Hebrew Bible and ending with contemporary accounts of maternal infanticide.
      2. This journey across cultures and continents will reveal the different ways of representing reality in literary and legal texts.
   B. The purpose of representation changes with the purpose for writing.
      1. Scholars looking back to the origins of writing itself have found that its first function was to record contracts and laws.
      2. From this grew the recording of genealogies for keeping historical records, followed by the elaboration of individual lives.
      3. Through stories of individuals, these ancient texts inscribed laws, both divine and human. For example, in the Hebrew Bible, the narrative of individual lives is directly intertwined with the encoding of a legal system, all within a single text.
      4. Athenian drama modeled on the stage the kind of legal and political order it aspired to bring about in society.
      5. We will find this same double purpose present in several literary texts in this course: for example, in English, medieval literature that embodies stories about God’s intervention in human affairs in dramatic form.
   C. This tension between the religious and the secular forms of literature continues through the centuries, from Chaucer’s *Canterbury Tales* to the institutional mix of drama and law in the Elizabethan age and through the end of the 17th century.
      1. Playing out the rituals that embodied cultural values in the Inns of Court or the royal courts at Whitehall or Hampton reinforced the apparently natural relationship among these ways of imagining the world—the literary, the legal, and the political.
      2. In the 17th century, we will examine a literary text that returns us to the heroic struggles of the Hebrew Bible, Milton’s *Paradise Lost*.
   D. In the 18th century, many of the concepts and structures were laid down for our modern understanding of the self and society.
      1. First, a new form of literature developed—the novel. Second, there was an explosion in print culture, and third, the legal profession became vastly more organized.
      2. The possibility of imagining forms of social control that are not versions of God’s laws produces texts, such as Gay’s drama *The Beggar’s Opera*, in which human law and the legal system are the subject of entertainment.
      3. I would distinguish between this way of representing law in literature and the way in which Chaucer’s narrative assumes a moral foundation provided by divine laws reflected in human laws.
      4. I will explore a crucial moment in the history of the relationship between law and literature when I examine three different versions of the 1752 trial of Mary Blandy for the murder of her father—first, a jurisprudential version; second, a moral version; and third, an autobiographical account that relies on novelistic techniques.
   E. Another issue that will concern us more in the second half of the course is the relationship between law and specific characteristics, especially race and gender.
1. As the concept of the law-abiding subject expands to include women and non-Caucasians, both law and literature must also expand their categories of representation.

2. Law and women’s legal rights are issues in Jane Austen’s *Pride and Prejudice*. Elizabeth Bennet and her sisters cannot prevent their father’s estate from being entailed away to a male relative.

3. This positioning of women as without the necessary agency to either produce or change law was part of larger movement to separate the domestic space of women from the public space, wherein men practiced their professions, including law.

4. This distinction between the activities for women and men is maintained in Dickens’s *Bleak House*. The fog of law makes all citizens impotent before the law, but the domestic space provides a sanctuary from this disabling miasma.

**F.** As the fusion of law and religion gave way to a dysfunctional secular law, 19th-century writers reflected on the no-longer fused relationship between law and religion.


2. Hester Prynne refuses to recognize the legal authority of her community; at the same time, she privately acknowledges her moral failure and, thus, demonstrates that religious belief can be distinguished from legal authority.

3. Twain’s *Huckleberry Finn* asks how a legal system that claims a Christian moral and theological foundation can tolerate slavery.

4. In *Tess of the D’Urbervilles* and *Jude the Obscure*, Thomas Hardy addresses the consequences of a moral code, based on Judeo-Christian religious principles and reinforced by law, that is particularly harsh for women. Hardy also identifies one of the contradictions of the late Victorian age: a resistance to the authority and power of the Christian faith in secular affairs versus the Church’s still considerable authority in both law and morality.

**G.** Susan Glaspell’s short story “A Jury of Her Peers” addresses this conflict between the secular and religious law in marriage.

**H.** The perversion of law portrayed by Dickens takes on a more terrifying aspect in the work of the 20th-century writer Kafka, who converts his personal anguish into an account of a society bereft of moral guidance.

**I.** Vladimir Nabokov confronts the relationship between law and sexual morality in *Lolita*, a novel that also questions our response to representations of illegal or immoral behavior.

**J.** Toni Morrison’s *Beloved* addresses the devastating double burden of being enslaved and a woman in her retrospective exploration of slavery and infanticide.

**K.** The call to history and the power of the individual narrative is also explored in the penultimate lecture on judgment and maternal infanticide.

**L.** In the final lecture, we will return to many earlier questions, in particular, the nature and function of law in contemporary society.

**M.** We may seem a long way from the world of Aeschylus, in which divine forces influence the actions of humans, but Aeschylus associates justice with narrative.

1. We are still tied to this version of what constitutes justice: a story that is plausible and offers some resolution, however partial, to issues that plague civil society.

2. This need for stories to make sense of our world has produced the endless portrayals of crime, detection, and punishment that appear on TV, in films, and in the popular press.

3. Media-produced drama and its spinoffs in popular culture bind the community in a shared web of emotional and social relationships.

4. Both entertainment and ways of cementing a social consensus about our values, these dramas return us to the ritualized expression of social beliefs and values found in Greek literature and the Hebrew Bible.

**Essential Reading:**
James Boyd White, *When Words Lose Their Meaning.*

©2006 The Teaching Company Limited Partnership
Recommended Reading:
Richard Weisberg, *Poethics and Other Strategies of Law and Literature*.

Questions to Consider:
1. Does justice have any meaning as a moral category outside of the law? If so, how does it manifest itself in the informal exchanges of everyday life?
2. How do we know, that is, come to understand and act upon, the laws, both formal and informal, that govern our lives? How crucial is it to our belief in those laws that they are written down?
Lecture Two
The Old Testament as Law and Literature

Scope: In this lecture, we will explore the manner in which the ancient stories in the Old Testament that narrated the history of the Israelites, simultaneously legislated how the individual and the society should conduct its affairs in relationship to God and made myths out of those contracts. Those myths, from the Greek *mythos*, meaning “story,” try both to fix an origin for the human race and to give coherence to its subsequent history. In so doing, these stories endeavor to articulate the relationship between God and his chosen people in terms drawn from the political and legal structure under which these ancient peoples lived. I will focus particularly on the question of legality and justice as it is found in the social forms of contract, property, and inheritance articulated in the Genesis narrative, Abraham’s covenant with God, and the story of Moses and the Ten Commandments.

Outline

I. We begin the course with two sources that offer a picture of our Western cultural identity—the Hebrew Bible and tragic Greek drama.
   A. Other texts are not irrelevant, but a narrow focus on stories within these two traditions promotes one beginning to the human story.
      1. Within these Judeo-Christian and Greek narratives, considerable attention is given to the concept of beginnings and endings.
      2. The various manifestations of justice that we will examine all rely to some extent on this search for origins and a desire for endings.
   B. These founding texts are also examples of “law and literature.”
      1. Such ways of knowing the world as “literary” and “legal” have not always been with us, and the boundaries between these kinds of texts and the kinds of behavior they designate are porous.
      2. The Hebrew Bible, along with Aeschylus’s *Oresteia* and Sophocles’s *Oedipus*, represent instances in which the literary and the legal are so tightly intermingled that separation is impossible.

II. In this lecture, we will focus on Old Testament narratives in which the human struggle to comprehend the nature of divine justice is represented.
   A. Genesis is the first of the five books of Moses that constitute the Books of the Law, known in Hebrew as the Torah. The other four books are Exodus, Leviticus, Numbers, and Deuteronomy.
      1. These books had no individual titles in their original Hebrew but were assigned names in the earliest Greek translation.
      2. The Old Testament narrates retroactively a testament, or “confession,” of the Israelites’ response to God’s authority. The word *testament* is a Latin translation of the Greek word for “covenant.”
      3. The Genesis account of the creation of the world is part of what the five books of the Torah narrate. The creation myth is the prelude to the account of how humanity has managed that creation.
   B. The first five books narrate the story of the special protection given to a divinely chosen people and the direct connection between Adam and the line of Jacob and his offspring.
      1. The metaphor of this special relationship is the covenant, a formal agreement in which there are mutual obligations and expectations.
      2. This mutuality is vital to our tradition of justice: The authority of the law has no legitimate power if it ignores its obligation to promote the well-being of those over whom it passes judgment.
      3. Genesis chapters 1–3 give one answer to the question of what promotes our well-being. The first and best version of human society was created by God from the primeval disorder of chaos: an act of the imagination, as is the nature of justice.
   C. God’s justice is not based on any preexisting system or model. If God has created these concepts or realities *ex nihilo*, “out of nothing,” then humanity must re-imagine in every new beginning what God has already created.
III. What does this Hebraic creation story tell us about the nature of justice and its relationship to human affairs?

A. In six days, God creates the universe out of nothing.
   1. The myth asserts that one essential element of the world is order.
   2. Second, the narrative, which is itself an enactment of the act of the imagination it describes, tells us that law brings about hierarchy.
   3. Third, not all men are positioned equally with respect to God; by their own actions, some are exiled from God’s justice.
   4. Thus, law requires the recognition that not all the claims made by man are equal and not all those who stand before the magistrate in judgment have an equal claim to his mercy.
   5. The story of the creation tells us that Eden was the only place where law functioned in accord with the demands of human society and its obligations to God.

B. In the second and third chapters of Genesis, we encounter almost the same narrative of God’s creation of man as in chapter 1.
   1. In this narrative, God’s relationship to man is more immediate. God directs Adam both to enjoy and be responsible for paradise.
   2. Adam must be free to exercise his will over the garden but is obliged to remain obedient to God.

C. In Genesis chapter 3, Adam’s partner, Eve, is created from Adam.
   1. This alternative version of the creation of Eve—in the first version, she is created at the same moment as Adam, both in the image of God—reminds us that narratives resist fixity and single interpretation.
   2. It is perhaps significant that this instability should first become evident in the story of Eve.

D. The alternative version suggests that woman is under the authority of man: She is created after he is, and he defines her being as one that exists only in relationship to him.
   1. Moreover, Eve’s failure to control her desire causes Adam and Eve to fall from grace; we come to understand that excessive desire is an essential part of women’s nature.
   2. The further consequence to Adam and Eve for their sin, besides the loss of Eden, is the loss of sexual innocence.
   3. With the inevitable gendering of sin as inherently female comes the concept that female sexuality is the original cause of disobedience.
   4. In Hawthorne’s mid-19th-century novel The Scarlet Letter, the letter that Hester Prynne wears on her dress marks her specific transgression and the inherent potential of all women to transgress.
   5. In revisionist feminist readings of the creation myth, Eve is seen as a model of the heroic human desire for knowledge: She models the behavior of an Odysseus rather than being a figure of evil.

E. My reading of the Genesis narrative and its relationship to justice and law can be summarized as follows:
   1. The source of law and, therefore, of retribution and justice is one and the same as the being or force that created the universe.
   2. The nature of this law is that it brings order and hierarchy into the chaos of the uncreated universe.
   3. The law entails certain mutual obligations: At first, these obligations are perfectly balanced; then, after God’s law was broken, the covenant is a contract between unequal partners—a suzerain-vassal covenant.
   4. In this kind of covenant, the primary obligation of obedience rests with the vassal, with mankind.
   5. Thus, there can be no difference between the faith required to uphold God’s laws and that required to promote mankind’s laws.
   6. Both are derived from the same source. According to this logic, only a theocracy can manifest this perfect accord between God’s laws and mankind’s.

IV. This parallel between God’s laws and man’s laws is articulated in the repeated expressions of the covenant that occur in the Torah.

A. The first of these covenants is between Noah and God: The story of how the world is reborn from flood reenacts the original act of creation.
1. Repetition of the movement from chaos to order marks another aspect of the nature of law and justice: it must be constantly re-created.
2. This reiteration of the covenant with God occurs as a formal feature of the Genesis narrative when we turn to the story of Abraham, father of Jacob and the Israelites.

B. God promises Abraham that he will be both the father of a nation and the father of a son in exchange for Abraham’s willingness to search for the Promised Land.
   1. Abraham represents the absolute faith required in exchange for this blessing.
   2. Because he is human, Abraham’s absolute faith is always under pressure; thus, the covenant must be reestablished.
   3. Reiterating his promise of an heir and a nation, God answers Abraham’s complaints that he is without a son by telling him that his seed will be as numerous as the stars.
   4. This agreement between God and Abraham is a unilateral divine promise; thus, it announces another form of law and justice.
   5. In this construction of the juridical-religious arrangement between God and mankind, divine justice is not always distributed in response to righteous action but can be exercised out of mercy.

C. In the ritual of animal sacrifice that seals the bond between God and Abraham, God reiterates his promise to Abraham of land and a son.
   1. The fundamental aspect of this charter is that it is a deed of property, a land grant. It also ensures a legal and orderly transfer of property through Abraham’s son.
   2. The ritual of circumcision that accompanies this land grant reminds us that although God has given the promises willingly and without expectation of return, Abraham must still act in perfect obedience to God’s laws.
   3. The extent of that requirement becomes clear in God’s demands that Abraham sacrifice his son, Isaac.
   4. In this story, we see the perfect accord between the literary and the legal.

D. The story of the sacrifice remains one of the most often represented events from the Bible.
   1. Abraham is told by God to prepare a sacrifice of his son, and he and Isaac travel to the site of the sacrifice.
   2. The suspense builds as they draw closer to the site and Isaac says, “Where is the lamb for the burnt offering?” only to be told that he is the lamb that will die.
   3. The narrative is perfectly structured as it moves from Abraham’s relationship to God to his relationship with his son, Isaac, then back to Abraham and God, each father-and-son bond answering and balancing the other.
   4. These are literary forms and images, but at the same time, the narrative represents the exact nature of God’s legal—that is, juridical-religious—relationship with Abraham.
   5. We can compare this “sacrifice” of the child to other versions of infant sacrifice, such as that referred to in the Oresteia or the mother’s sacrifice of the child in Beloved.

V. The third covenant we will examine is between Moses and God.

A. The specific moral and religious laws that are to govern the life of the chosen people are announced.
   1. The laws are the consequence of the covenant rather than its condition.
   2. Accepting God’s special protection and blessings requires the acceptance of the laws that Moses brings down from Mt. Sinai.
   3. Thus, we have a return to the suzerain-vassal covenant that existed between God and Adam and Eve.

B. The suzerain-vassal covenant is emphasized by the absolute nature of the Ten Commandments, which recall the absolute nature of God’s commandment to Adam and Eve.
   1. These commandments are categorical imperatives, not conditional laws.
   2. They are also twofold in nature: One set regulates society’s relationship to a monotheistic God, and the second set regulates the relationships within that patriarchal society.

VI. The metaphors that control the narrative account of the relationship between God and his chosen people in the
The first five books of the Old Testament are drawn from the political and legal activities of human society.

A. The predominant metaphor of the covenant expresses a belief in the hierarchical arrangement of human society.
   1. Under the conditions of the covenant, the monarch attempts to bind his subjects to him with the bonds of affection but reserves the right to punish those who fail to observe their obligation.
   2. Thus, Israel’s obligation to God, as monarch, was to obey the Ten Commandments and to construct a society based on those laws.

B. The sacred nature of the bond between God and mankind is mediated through the metaphors of political and legal systems of order.
   1. The inseparability of the sacred and the secular is fundamental to the narrative of these early books of the Old Testament.
   2. God was the sovereign and magistrate; Israelites were his subjects.
   3. Repeatedly in these narratives, the Israelites are accused of breach of contract with God, an accusation that is articulated as a political, legal, moral, and religious failure.
   4. The law is conceptualized as a sacred trust between sovereign and subject, and that sacred quality infuses the political agreement between king and subject in the secular realm.

VII. Looking at the structure and nature of the law as represented in these early books of the Old Testament, we see that it is represented as part of God’s teaching and is always tied to specific historical situations.

A. Thus, the overall narrative of the prehistory and early history of mankind represents law as a product of experience.

B. Moreover, it is impossible to separate the literary expression of the covenant with God from its articulation in legal terms.

C. Law is not imposed upon or abstracted from human behavior but produced by and reflected in the multiple human interactions that make up our lives, as is literature.

D. Thus, neither law, understood as a system of customs and regulations, nor literature, understood as a humanizing of those customs and regulations, is fixed in the historic moment but can be constantly revisited and interpreted anew.

Essential Reading:
Bible, King James Version.

Recommended Reading:

Questions to Consider:
1. Can we recover the unity that characterized the relationship between law and literature in ancient texts, or is such unity possible only in a theocracy?
2. Do all acts of justice demand a measure of “imagination” on the part of the judge and, if so, how can we best select those we entrust with judgment?
Lecture Three

Revenge and Justice in Aeschylus’s *Oresteia*

**Scope:** Aeschylus’s trilogy the *Oresteia* explores the transformation of law from the ancient savagery of blood feuding to the reasoned examination of the disagreement before a neutral third party, the jury, and thereby celebrates the civilized legal system of 5th-century Greece. The plot relies on its audience’s recognition of ancient myths about the founding of Athens and the Greek political order, as well as allusions to contemporary events. Thus, we see how this replay of cultural myths serves to transform the society even as it strengthens that society’s ties with its own past. The jury trial and Athena’s compromise with the forces of revenge enact the move from private, family justice to public, social justice. Moreover, as we watch the dramatic resolution to this horrific family feud, we recognize that much that we call justice might more accurately be called *rhetoric* or *argument*, because reconciliation of the contending forces is achieved through persuasive language.

**Outline**

I. One tradition of the relationship between law and literature can be traced to the ancient world, specifically Greek drama and the mythic origins of law.
   A. In the *Oresteia*, Aeschylus (526–456 B.C.) associates the first trial for homicide with the intervention of the gods.
      1. Aeschylus portrays the trial as part of the mythic narrative of the origins of Greek society.
      2. He links the “drama” of the legal trial with the ritual “drama” of social life and locates the origins for both in the desire for justice.
   B. The only complete Aeschylean trilogy of tragedies that has survived is the *Oresteia*, first presented in 458 B.C. and composed of *Agamemnon*, *The Libation-Bearers*, and *The Furies*.
   C. Aeschylus uses myth to justify contemporary legal practice and the institution of democracy in Athens, identifying divine intervention as the source of the Greek judicial system.

II. The plot of the *Oresteia* follows the story of Agamemnon and Clytemnestra, condemned by history to enact bloody deeds against their own family.
   A. As background, recall that the house of Atreus was cursed by Thyestes after Atreus, Thyestes’s brother and Agamemnon’s father, had served Thyestes the cooked flesh of two of his sons at a banquet.
   B. The *Oresteia* begins much later, at a point when Agamemnon has been absent from Argos for 10 years, fighting in the Trojan War.

III. Aeschylus locates the play in Argos because the Athenians had just contracted an alliance with Argos for mutual defense against the Spartans.
   A. Thus, when Orestes, Agamemnon’s son, asserts his loyalty to Argos in the final scenes of the play, he is emphasizing the reliability and loyalty of the Athenian state.
   B. The central theme of the trilogy is the nature of justice (Dike in Greek); the play moves from representations of vendetta justice to trial by jury.

IV. The *Oresteia* depicts the death of Agamemnon on his return from the Trojan War at the hands of his wife, Clytemnestra, and her lover, Aegisthus.
   A. That Argos is ruled by a woman establishes the disorder under which the kingdom labors.
      1. Agamemnon returns from a war begun by Helen’s infidelity to Agamemnon’s brother, Menelaus, to a kingdom ruled by his wife, sister to Helen, and like her, guilty of betrayal.
      2. The proper form of government—the monarchy—has been corrupted by the infidelity of Clytemnestra with Aegisthus, the surviving son of Thyestes, and their tyrannical rule.
   B. Greek thought connected tyrannical government with the figure of the woman because both figures connoted unnatural limitations imposed on free men.
C. Both the tyrant and the woman were thought to be unreliable as speakers of the truth—manipulating and distorting language to seek their own ends, rather than employing rhetoric to seek the truth.

V. There is dramatic irony in Agamemnon’s fear that the gods will strike him down when his entrance into his house culminates in his death.
   A. Agamemnon lies enmeshed in a net with his mistress, Cassandra, daughter of King Priam of Troy, prophetess of Apollo, and a prisoner of war.
   B. Previously, Cassandra had failed to convince the chorus that Agamemnon was in danger and that she, too, would die.
      1. Although also a woman, Cassandra is sanctioned to speak the truth by her connection to the gods as a priestess of Apollo.
      2. The chorus struggles unsuccessfully to comprehend a version of the truth—and, therefore, of justice—that is more than mortal.

VI. Aeschylus suggests that the limits of human understanding prevent the transcendence of the blood feud.
   A. Such a limited and thoroughly human version of justice is represented in the “trial” of Clytemnestra before the chorus.
      1. Her justification for murder is that it satisfies the “ancient vendetta.”
      2. The sacrifice of her daughter is aligned for Clytemnestra, through her alliance with Aegisthus, with his grudge against Agamemnon’s father, Atreus, for the sacrifice of his two brothers.
   B. That the woman was the one to act is a major source of outrage to the chorus, which threatens her with exile.
      1. Clytemnestra asks the chorus what charges were bought against Agamemnon when he slaughtered his own child, Iphigeneia.
      2. Clytemnestra’s refusal to be treated as a “mere woman” culminates in her claim that she is not even Agamemnon’s wife but the “spirit of vengeance.”
      3. The chorus taunts Aegisthus with leaving the dirty work to a woman and invokes Orestes as the avenger.

VII. In the second play in the trilogy, The Libation Bearers, Orestes is prompted to commit matricide by the command of Apollo.
   A. Just as his father sacrificed Orestes’s sister to placate Artemis, so Orestes will kill his mother to fulfill the commands of Apollo.
      1. The overriding narrative of these three plays is that the gods have a sense of justice that cannot be understood by any individual.
      2. In the final play, The Furies, the narrative of retribution and revenge is closed off by the intervention of Apollo and Athena—no human is capable of ending the blood feuds.
      3. The concept of justice, personified in the figure of Dike, daughter of Zeus and Themis, is finally, a suprahuman concept.
   B. In The Libation Bearers, the vendetta continues, prompted by Apollo, who warns Orestes of the vengeance of the Furies if he leaves his father’s murder unpunished.
      1. Orestes faces a terrible dilemma, just as his father did when asked to sacrifice his daughter—“Both ways are full of evil.”
      2. To leave his father’s murder unrevenged is to be tormented by the Furies and experience the hatred of his fellow human beings.
      3. To murder his mother is likewise to invoke the punishment of both the nonhuman and human forces that monitor the community.
   C. Orestes has no hesitation in killing Aegisthus in retaliation for his father’s death.
      1. Faced with his mother’s pleas for her life, Orestes hesitates.
      2. The words of his companion, Pylades, remind him of the higher authority to which he owes allegiance.
3. Orestes discovers that his fate is to be hated both by every man and by the gods in the form of the Furies.
4. Even purification from Apollo cannot save Orestes from “the tainted victory” of murdering his mother to avenge his father.

VIII. The third play opens at Delphi, the site of the sanctuary of Apollo.

A. Orestes seeks the protection of Apollo, who has lulled the Furies to sleep and who directs Orestes to seek the city of Athena, that is, Athens.
   1. Apollo tells Orestes that his Athenian judges will be “charmed” by words into freeing Orestes from his ordeal.
   2. The concept of persuasion has undergone change through the plays—from the “persuasion” used by Clytemnestra to lure Agamemnon to his death and to talk Orestes out of killing her.
   3. Now, in the mouths of Apollo and Orestes, words are charms and can secure an end to Orestes’s torment and to the cycle of revenge.
   4. Gender plays a crucial role in determining the value of persuasion in this culture, reinforced at the level of the suprahuman, because Apollo’s words are more persuasive than the Furies’.

B. Apollo drives the Furies from his sanctuary, identifying them with the barbaric practices of those from the east.
   1. In turn, the Furies blame Apollo for the crime that has brought them to haunt Orestes.
   2. Apollo is called upon to defend himself, and in so doing, he prefigures the trial of Orestes before Athena.
   3. The Furies claim that ancient authority allows them the right to “drive mother-killers” into exile.
   4. Apollo responds by asking them how they would punish a wife who kills her husband: This, say the Furies, is not the same because it is not spilling kindred blood.
   5. Apollo rejects their argument, claiming that to leave the death of Agamemnon unrevenged is to dishonor marriage.
   6. The Furies are unconvinced by Apollo’s argument and chase Orestes to Athens.

IX. The Furies find Orestes clinging to the statue of Athena in her temple and chant an incantation that sends him to sleep.

A. In questioning the Furies, Athena establishes that the case precludes a clear-cut response of innocence or guilt.
   1. The Furies complain that Orestes will not swear an oath of innocence nor accept their oath of his guilt.
   2. Athena insists that simply declaring Orestes guilty by default would be to speak of justice rather than to act justly. Thus, justice is represented as something that exists beyond language.
   3. Acknowledging her wisdom, the Furies grant Athena the right to judge the case.

B. For the first time in the human history of vendetta justice, another form of justice is given voice.
   1. The Furies embody the unthinking vengeance of the past.
   2. A new version of justice, based on talk and evidence, is the only possible way out.
   3. When Athena bids Orestes present his case, his response is direct: “I killed the woman who bore me. I do not deny it.”

C. Athena is presented with another version of the impossible choice that has tormented the protagonists of the plays: Should she let the suppliant, Orestes, stay and thereby risk the resentment of the Furies or should she drive him away?
   1. In an act that signals the mythic origins of the Athenian jury system, Athena decides to place the responsibility for the decision in the hands of “exemplary men” of the city.
   2. The Furies argue for traditional vendetta justice based on the fear of retribution and the threat of patricide and matricide.
   3. They advocate a “middle way” between the life of anarchy and the rule of tyranny, one that they guard with their presence.
4. The Furies thus express the deep and inseparable connection between representations of justice and forms of social control.

D. Athena announces the establishment of the first court to try homicide.
   1. Apollo appears as a witness for Orestes.
   2. Athena directs the prosecution to make its case, and the Furies cross-examine Orestes.
   3. Why was Clytemnestra not tormented by the Furies after the murder of Agamemnon? She was not of his kin and, thus, did not share his blood.
   4. How can Orestes deny that he shares his mother’s blood?
   5. Apollo tries to divert attention away from this question by arguing that the death of Clytemnestra at her son’s hands was not the equivalent of the death of Agamemnon, the rightful king.
   6. The Furies counter this narrative with historical precedent: If Apollo believed the father to be more important than the mother, why did he overthrow his own father, Cronus?
   7. Refuted by his own history, Apollo returns to the question of kinship and argues that there can be a father without a mother—the proof is Athena, born from the head of her father, Zeus.

X. Athena then turns the case over to the jury.
   A. The jury casts its votes, followed by Athena, who announces her decision in favor of Orestes. Orestes is exonerated.
   B. Athena must use the enchanting power of language to persuade the Furies to give up their desire for revenge. They are transformed into the Kindly Ones, just as the law of retribution has been transformed into the law that promotes civic justice.
   C. The end of the play creates a new order for the polis, one founded on the rule of law and democracy.
      1. The gods must intervene in a human system of government that otherwise lurches from chaos to tyranny.
      2. The limitations of the manmade must be supplemented by the divine wisdom of the gods.
   D. Aeschylus’s reconstruction of the origins of his society’s legal system demonstrates that Greek law acknowledges the place of drama and emotion in the restitution of justice.
      1. The play recognizes, as did the Greek system of justice, that the trial must engage with general social issues.
      2. In the Oresteia, law and justice are social principles, rather than the outcome of individual desires and private interests.
      3. Moreover, the well-being of the state demands the separation of public and private interests, with the gendering of those domains as male and female, respectively.
      4. The private, domestic world is not exempt from the laws that the public, masculine realm produces.
      5. In this system, the female must be subordinate to the male.
      6. This deep-seated bias against women remains just one of the traces of this ancient system of justice.

Essential Reading:
Aeschylus, Oresteia, trans. by Peter Meineck.

Recommended Reading:
Simon Goldhill and Robin Osborne, eds., Performance, Culture and Athenian Democracy.

Questions to Consider:
1. Is there a contemporary equivalent of the Oresteia; that is, a narrative that transforms the cycle of revenge into a form of justice?
2. For the Greeks, the theatrical performance was also a political performance. Is there such a thing as an authentically “political theater” in contemporary society?
Lecture Four
Community in Sophocles’s *Oedipus Tyrannus*

**Scope:** In this lecture, we will examine how the genre—tragedy—and mythos, that is, the story, of Sophocles’s play represent a particular Greek view of the world and of man’s relationship to the divine. The influence of Greek literature and philosophy still resonates in our society in the way in which we articulate our sense of what is just retribution for wrong actions and how we associate the moral and the legal as two inextricably woven facets of culture. In this play about the harm done by Oedipus—unknowingly but nevertheless unredeemably—and the necessary punishment that he must suffer—a punishment he brings on himself by his own passion for justice—Sophocles articulates the tension between two sets of laws: those that govern individual behavior and those that bind the community through legal and moral obligations. When these two sets of laws clash, as they inevitably must from time to time, the individual must suffer physical exile and moral isolation in order to safeguard the community at large.

**Outline**

I. The Greek version of law and justice is intimately linked to the relationship between the human and divine worlds in which the Greeks believed.
   A. No expression of human law could be understood in isolation from its relationship to how the gods regulated human behavior.
   B. By extension, no individual human action could be understood in isolation from its relationship to society or to the cosmic reality within which human society flourished.
   C. Before we turn to the dramatic enactment of these relationships in *Oedipus Tyrannus*, we must establish the historical context for the play.
      1. Sophocles lived from about 495 to 406 B.C. He was born about 15 years after the last tyrant, Hippias, ruled in Athens (510 B.C.), and his early years were lived under Athenian democracy.
      2. Under the leadership of Cleisthenes, classical Athenian democracy was born and endured for the next two centuries.
      3. Cleisthenes’s reforms reshaped Athenian society by breaking up traditional allegiances and instituting the law of ostracism, by which those who were a danger to the state were forced into exile.
      4. Thus, political and social institutions were mutually reinforcing, and laws that governed the political exercise of citizenship were synonymous with social rights.
      5. Sophocles was a treasurer for Athens and a general, as well as one of those who led the city during its struggle against the Spartans.
      6. His plays reflect both the political and military tensions that were present during his lifetime.
   D. The probable date for the first production of *Oedipus Tyrannus* is 428–425 B.C. *Oedipus Tyrannus* is a more accurate title for this play than *Oedipus Rex*, because it marks a distinction between a legitimate king (*rex*) and a ruler who has ascended to the position because of his actions, a *tyrannus*.

II. In this play, Oedipus brings the curse on himself through actions that seem to be preordained yet are, nevertheless, the responsibility of Oedipus.
   A. Sophocles intensifies this focus on Oedipus as an individual who must bear the burden of his own fate by making him the prime investigator of his own crime.
      1. In this way, Sophocles tightens the tension between Oedipus’s passion for justice and the revelation of his own criminality.
      2. In thus stressing the individual’s response to fate and complex social laws, Sophocles articulates the tension between the demands of family life and the demands of the community.
   B. Oedipus never acts only for himself, even when he believes he is most isolated from his own family and homeland.
      1. One of the great ironies of the play is that Oedipus moves ever closer to his real home and his real family, even when he seems furthest from them.
2. The tragedy culminates when Oedipus recognizes that he is simultaneously both the most intimate with, yet the most exiled from, his natural home.

C. It is hard to interpret this play in the 21st century without Freud’s shadow.
   1. Before Freud recast the myth as a metaphor for male psychosexual anxiety, other philosophers, including Nietzsche, offered readings contextualized by Greek philosophy.
   2. Two terms are vital to reading the tragedy: *hybris* and *nemesis*.
   3. *Hybris* (*hubris*) is frequently translated as “pride,” but such a translation obscures the fact that the individual does possess virtues that single him out from ordinary men.
   4. He has been chosen by the gods to be more fortunate than others, but this singularity attracts the god’s envy and, thus, their *nemesis*, “retribution.”
   5. There is an essential irony to the nature of the tragic figure—desiring to be heroic, he more than any other human confronts the limitations of the human condition.
   6. Certain men, such as Oedipus or Orestes (or, in the Old Testament, Noah and Job), having been chosen, must suffer and, ultimately, transmit wisdom to ordinary men who are not heroic.
   7. The hero is, therefore, a scapegoat for all humanity, a victim of his own heroism.

D. In *Oedipus Tyrannus*, Sophocles teases out the implications of the hero’s suffering: Only in confronting the unimaginable—incest and parricide—can the hero completely taste the bitterness of what it means to be a man.
   1. That confrontation is, at one level, between the individual man and his society.
   2. The confrontation finally culminates in that ironic moment when the hero simultaneously transmits his knowledge to his community and exiles himself from it. In this moment, the full meaning of justice is revealed.

E. How does Sophocles craft this confrontation with the unimaginable and reveal the irresolvable tension between the fate of the individual and the needs of the state?
   1. As in the depiction of Adam and Eve’s disobedience, we are exposed to primitive emotions, but ones that are constrained by the generic demands of the tragic form.
   2. A hero must die or be utterly defeated; the plot must move inexorably to the disclosure of his tragic fate.
   3. The hero must bring that fate upon himself through some characteristic that is both his strength and his weakness; the chorus will reflect on the actions of the principal characters but cannot be said to actively guide the moral action of the play.
   4. Even with the form of the tragedy as a bulwark against the raw emotions that its plot raises, the audience will, nevertheless, both be tormented by and relish the suffering of Oedipus.
   5. This strange paradoxical response, which produces what Aristotle calls *catharsis*, or the release of fear and anxiety, constitutes one of the pleasures of representation.
   6. Such a paradox is also embodied in the structure of the myth, being metaphorically enacted once before the play begins and once during the course of the play: the two great “riddles” that Oedipus solves.
   7. The first, the riddle of the Sphinx, brings him the throne of Thebes and its queen, Jocasta, and the second, the riddle of his own paternity, brings the revelation of his parricide and incest and forces his self-ostracism from Thebes and his family.

III. What are the events that have taken place before the play begins?
   A. Oedipus’s father, Laius, king of Thebes, believes that his own son will kill him and, thus, has left his son to die on a mountainside.
      1. However, a shepherd rescues the child, giving him to a Corinthian, who takes him as a gift to Polybus and Merope, rulers of Corinth.
      2. The child is named Oedipus, which means “swollen foot,” a reference to Oedipus’s lameness.
      3. Oedipus grows up as the son and heir to the throne of Corinth, but as a grown man, he is taunted with being adopted and seeks out the oracle at Delphi to learn his true parentage.
   B. At Delphi, Oedipus learns that he is destined to kill his father and marry his mother; seeking to avoid this prophecy, he avoids Corinth and travels toward Thebes.
1. On his way, he encounters a man and his entourage at a crossroads who abuse him; enraged, Oedipus kills them all except one, who flees.
2. When Oedipus arrives at Thebes, he solves the riddle of the Sphinx and inherits both the kingdom and the queen, Jocasta.

IV. The opening of the action reminds us that Oedipus is distinct from other men: The city of Thebes is once again suffering under a plague, and the citizens turn to Oedipus to save them again.

A. His response to the citizens further reinforces the tension between Oedipus’s belief that he can manage human affairs and the destiny assigned to him by the gods.
   1. Oedipus has sent his brother-in-law, Creon, to the oracle at Delphi to seek guidance.
   2. Oedipus is eager to follow the commands that the oracle delivers to him through Creon: “Drive out defilement nurtured in your land.”
   3. The cause of the defilement, asserts Creon, is that Thebes harbors the murderer of Laius, its former king.

B. Oedipus vows to the chorus to be “the god’s true instrument of vengeance.”
   1. Oedipus stands, at this point in the play, as the human representative of divine justice, arguing for the law of retaliation: a life for a life.
   2. When Oedipus seeks further guidance from the prophet Tiresias, we see his limits.
   3. At first, the blind seer refuses to answer Oedipus’s questions about who is responsible for the death of Laius.
   4. He finally retorts in anger when Oedipus accuses him of being a traitor to Thebes and of being part of a plot to murder Laius.
   5. Not surprisingly, when Tiresias accuses Oedipus of being the land’s defiler, Oedipus refuses to believe it.
   6. In his speech accusing Tiresias, along with Creon, of plotting to bring him down, Oedipus reveals his belief that his heroic nature makes him an exception to universal laws.

V. Oedipus’s irreverence for Tiresias as the diviner of the gods’ will is reinforced when Jocasta also casts doubts on prophecy.

A. “You can’t rely on any merely human soothsayers.”
   1. Such disdain about seers is not to be confused with a rejection of the gods themselves.
   2. Oedipus’s refusal to listen to Tiresias suggests the limitations of Oedipus’s reliance on Apollo’s will.
   3. Given that the Greeks had no sacred books, no forms of revelation, no authorized and institutionalized priesthood, or doctrine, the importance placed on oracles and their interpreters, the seers, was paramount.

B. It is appropriate, as well as a painful irony, that Jocasta should inadvertently plant the suspicion that Tiresias might be right about Oedipus’s part in the death of Laius.
   1. Jocasta has interrupted a bitter argument between her brother, Creon, and her husband.
   2. She condemns Tiresias as a merely human diviner, citing as evidence the inaccuracy of the Delphic oracle’s prophecy about Laius’s death.
   3. Laius was not murdered by his own son, because the baby was cast out of Thebes.
   4. Laius was killed by strangers where three roads meet. It is that final detail that propels Oedipus irrevocably toward his own doom.

VI. To a 21st-century audience, Oedipus’s insistence that he must find out the truth of Laius’s death is heroic, the epitome of the self-questioning modern man.

A. To the original Greek audience, however, Oedipus’s pride in the power of his mind would have been like equating himself with the gods—that is, his hybris.
   1. When Oedipus responds to Jocasta’s insistence that the seers can be wrong by narrating his own story of the death at the crossroads, he challenges that truth even as, unbeknownst to himself, he confirms it.
   2. A single detail separates Jocasta’s version of the story from Oedipus’s: The eyewitness to the attack, a herdsman, claimed that several thieves killed Laius.
   3. If he is right, Oedipus cannot be guilty of Laius’s death.
B. While Jocasta and Oedipus await the arrival of the herdsman, the chorus proclaims that reverence for the law (nomos) of the gods is what orders the human world.
   1. The customs of men may change, but divine law is constant.
   2. This eternal law restrains those men who would aspire too high.

C. The chorus’s insistence that the oracles must be revered prepares the way for the disclosure of the truth about Oedipus’s identity.
   1. The Corinthian shepherd comes to Thebes to deliver news that appears to exonerate Oedipus from the charge of killing his father—Polybus (Oedipus’s apparent father) has died of old age.
   2. Interpreting Polybus’s death as another sign of the unreliability of prophecy, Oedipus turns to scorning the oracle itself.
   3. Further questioning of the herdsman reveals that he is the very one who received an abandoned baby from another shepherd.
   4. This news alerts Jocasta to the truth, and she begs Oedipus not to seek more information.

VII. The central irony of the play now becomes clear: The only knowledge worth knowing for Oedipus is about his own nature and his parentage, but at the same time, this knowledge will destroy him.

A. When the full calamity of Oedipus’s position becomes clear to him, it is the chorus that universalizes Oedipus’s suffering.
   1. As the horror grows, there is no end to his agony: Jocasta hangs herself, and Oedipus blinds himself.
   2. Even in this moment of his greatest despair, Oedipus cannot relinquish control of his destiny to the gods.
   3. When the chorus chides him, he responds, “I do not need advice.”

B. In the final scenes of the play, Oedipus is still commanding all those around him as he once did when tyrannus.
   1. Only Creon, now ruler of Thebes, resists his imperious commands and reminds Oedipus that his future will not be of his own choice.
   2. As Oedipus is led out of the city that once called him king, the audience would be reminded that even the most heroic of men cannot rise above the limitations of the human condition.

Essential Reading:
Sophocles, Oedipus Tyrannus, trans. by Peter Meineck and Paul Woodruff.

Recommended Reading:
Charles Segal, Oedipus Tyrannus: Tragic Heroism and the Limits of Knowledge, 2nd ed.

Questions to Consider:
1. Freud’s reading of the Oedipus story makes it a psychological drama; that is, an intensely individual tragedy. Looked at from the point of view of the citizens of Thebes, however, it is a collective tragedy. What literary resources do we have today to represent collective tragedies?

2. Oedipus’s forensic investigation of the plague in Thebes leads him to discover his own transgressions. How does this model of law and order prefigure contemporary representations of crime?
Lecture Five
Ritual Order in Mystery and Morality Plays

Scope: In this lecture, we will turn from the ancient biblical and Greek sources of law to analyze a form of dramatic performance that emerged in Europe in the Middle Ages and that draws on the juridico-religious concepts of law found in the Bible and the life of Christ. The emergence of mystery and morality plays was a response by the Church to accommodate the irrepressible desire of the laity to “play” out the stories that structured their lives and the natural passage of the seasons. In so doing, the Church was also able to instruct the laity in those lessons that, rendered as they were in Latin, would otherwise remain unintelligible. Mystery plays focus primarily on the story of man’s fall and redemption and the lives of the saints and martyrs. The importance of these plays lies not so much in their literary excellence but in the opportunity they provide for us to study how cultural uniformity and regulation are maintained across multiple national and local sites through the complex interactions of law and literature and, further, how the secular and professional drama of the Renaissance is prefigured in these amateur medieval religious performances.

Outline

I. An ancient and ongoing relationship exists between religion and drama.
   A. All cultures celebrate certain ritualistic moments in their existence, sometimes tied to natural events, such as the change of the seasons, and sometimes produced by mythic narratives of origin and growth that require re-commemoration.
   B. In the ancient world, dramatists reflected on divine intervention in human existence.
      1. Aeschylus’s Oresteia reflects the inseparability of the concept of justice and the concept of divinity.
      2. Sophocles’s Oedipus addresses the extent to which our lives are controlled by events beyond our control, which we try to understand but which sometimes seem unjust from a human perspective.
   C. As long as the community is homogenous, these ritual, dramatic moments proceed unopposed.
      1. When different customs or beliefs are imposed on the community, the drama often shows evidence of the accommodation of the past with the present.
      2. Thus, pre-Christian ceremonies celebrating spring were merged with the Church calendar, which celebrates the “rebirth” of Christ.
   D. Unable to suppress the popular celebration of spring or the harvest, the Christian Church encouraged the dramatic rendering of biblical stories.
      1. The laity “played” out the stories that structured their lives and the natural passage of the seasons.
      2. In this way, the Church was also able to instruct the laity in those lessons that, rendered as they were in Latin, would otherwise remain unintelligible. Both religious and secular laws were enforced through play.
      3. At first, only the priests took part in the reenactments. Eventually, as the plays became more elaborate, they moved from the church to the courtyards outside, and the laity played out the roles.
      4. In England, as the local people became responsible for acting these sacred plays, individual craftsmen guilds took charge of particular plays. Thus, drama moved out of the control of the Church and into the hands of the laity.

II. Mystery plays focus primarily on the story of man’s fall and redemption and the lives of the saints and martyrs.
   A. Originally presented as isolated incidents, mystery plays eventually became narratives of the history of man from creation to the Day of Judgment.
   B. Divided among the guilds, this complete history was known as a cycle and identified by the district in which it was performed.
      1. The most significant cycles were those of Chester, York, Wakefield, and Coventry.
      2. The cycles show no unity of treatment or form, being the result of many authors.
      3. These cycles reinforced the authority and power of the Church yet allowed some subversive, comedic elements to find expression.

©2006 The Teaching Company Limited Partnership
III. Morality plays developed at the same time as mystery plays and reflect the importance of shared understandings of law and morality.

A. These were sprawling, long-winded plays that relied on allegorical figures to carry the meaning—the moral.

B. Pitched to a popular audience, as the mystery cycles were, morality plays reinforced the message of the Catholic Church about the hardships of this life and the promise of the next.

C. Abstract qualities, embodied in living actors, made Church teachings real, relevant, and powerful.

D. The best-known morality play is *Everyman*, probably originally written by a Dutch author. Its title suggests its appeal to a society that was still linked across nations through its shared faith.

E. The morality plays prepared the way for Renaissance drama, which retained the marks of this earlier allegorical form; even as late as the 18th century, Sheridan used names for qualities in his dramas.

IV. The popular audience demanded more than religious representation to hold its attention; thus, the plays often present moments of comedy.

A. These comedic moments undermined the seriousness of the drama and came to threaten the authority of the Church.

B. In addition, the long cycles or morality plays were broken up by interludes (literally, “between the plays”), which were merely slapstick farces.
   1. These farces played on the indecent aspects of society; their subject matter often involved sex and digestion.
   2. The interludes eventually came to be acted independently of the mystery or morality plays.

C. The tension between the doctrinal purpose of the plays and the dramatic purpose—to entertain the audience—grew more intense as the plays became more professional from repeated performances.

D. Eventually, the Church, which had at first fostered the plays, became hostile to them. Church efforts to prohibit secular theater would continue until the late 17th century.

E. The cycles were eventually frowned upon by both Romanists and Protestants for their childishness and coarseness. Few performances took place after 1600.

F. Nevertheless, the cycles fostered a national love for the theater.

V. The secular and professional drama of the Renaissance is prefigured in these amateur medieval religious performances.

A. Throughout the 14th, 15th, and 16th centuries, mystery plays were in constant supply.
   1. More than 100 English towns, some of them very small, are known to have been provided with these entertainments, which in some places, were given every year.
   2. Thus, even small communities came to rely on the entertainment provided by these dramas.
   3. As the influence of the Church declined, other forms of drama were permitted to appear.

B. Coexistent with the mystery and morality plays were other kinds of drama that were secular rather than religious.
   1. Carnival plays and farces frequently mocked the authorities and introduced subversive and antisocial ideas to the popular audience, sometimes from the same stage on which the mystery plays had been performed.
   2. Fool companies consisted of bands of youths who played gross comedies and performed ribald travesties on the Mass. Remnants of pagan ceremonies seem to be embedded in their rites.

VI. The importance of these plays today lies in the opportunity they provide to study the construction and maintenance of cultural habits and values and challenges to those values.

A. We can see how cultural uniformity and regulation are maintained across multiple national and local sites.
   1. The power of linking literature with juridico-religious rituals and doctrine is evident.
   2. Religious and political unity is necessary for this effect.
B. The breakdown of that religious and political unity—the separation of the English Church from the Roman Catholic Church—and the development of nationalist sentiments broke up the monopoly of Church authority and its secular equivalent.

C. Like the Lollards, who insisted on their right to read the Bible in their native tongue, dramatic productions in England began to represent a nationalist agenda through their representation of religious doctrine.

D. The dramatic performance that at first advanced the religious and political agenda of the authorities eventually escaped that authority and began to assert itself as an autonomous secular site of resistance and subversion.

E. Literature is always suspect because it admits subversive elements and escapes easy control by the authorities. Law is always chasing literature; literature is always produced through its resistance to law.

Essential Reading:
*Everyman and Other Miracle and Morality Plays.*

Recommended Reading:
Glynne Wickham, *The Medieval Theater.*

Questions to Consider:
1. Is the fragmentation of contemporary life the inevitable result of the loss of those deep interactions of religion, law, and literature that once maintained cultural uniformity across multiple national and local sites?
2. Are the mystery and morality plays too distant as cultural artifacts to move us to a sense of the sacred?
Lecture Six
Chaucer’s Lawyers and Priests

Scope: In this lecture, we will turn to one of the most famous examples of medieval literary narrative, Chaucer’s Canterbury Tales, and focus on three tales that illustrate, once again, the profound importance of biblical narrative and exemplum to the construction of cultural values in the Middle Ages. Those three tales—the Man of Law’s, the Pardoner’s, and the Parson’s—might each be said to be a “confession” of sorts, suggesting to the audience the values that each teller holds most dear. These tales and their prologues also reveal the contemporary criticism leveled at the Roman Catholic Church, criticism that eventually led to the Reformation, with its insistence on the primacy of the individuals’ relationship to God unmediated by the priest or other Church officials.

Outline

I. The Canterbury Tales is a collection of stories, from moral tales to bawdy folk narratives, told by pilgrims on a fictional journey to the shrine of St. Thomas Becket in Canterbury Cathedral.
   A. A pilgrimage was one of the few occasions when people from different classes might have met and, for the duration of the journey, would have assumed a social equality.
      1. Chaucer uses the metaphor of the pilgrimage as a way of speaking about the world and about the soul’s journey through life.
      2. The selection of Canterbury Cathedral and the shrine of St. Thomas would confirm this metaphoric sense of the pilgrimage, because it recalls the ongoing conflict between earthly and spiritual matters.
      3. This conflict was played out in the contest between Crown and Church that resulted in the martyrdom of Thomas Becket.
   B. During the reign of Henry II (1154–1189), the ecclesiastical courts had developed a large body of canon law and claimed wide jurisdiction, but Henry resisted the imposition of Church law on secular affairs.
      1. Henry appointed his former close ally, Thomas Becket, to the archbishopric of Canterbury, hoping thereby to maintain control of the Church courts. Becket’s loyalty to Rome and canon law, however, drove the two men apart.
      2. This struggle between Church and Crown was finally resolved with the murder of Becket in Canterbury Cathedral in 1170, a murder ordered by Henry II. Becket was canonized in 1173.
   C. By the end of Henry’s reign, the Crown had effectively centralized the exercise of justice and law through the appointment of legal officials who reported directly to the Crown.
      1. Canon law remained important in Church institutions, but gradually, the area under its control outside of the specifically ecclesiastical was narrowed down to moral infractions.
      2. Church legislation of morality makes the immorality of the Church figures on the pilgrimage even more ironic.

II. Each of the 29 pilgrims on the journey from London to Canterbury Cathedral has agreed to tell a story to pass the time.
   A. There is considerable scholarly disagreement about the order in which the tellers would have told their stories, with the exception of the Parson, who is designated as the last storyteller. Thus, in the large arc of this framed narrative, Chaucer intended that the representative of divine law should provide closure.
   B. Many stories in The Canterbury Tales incorporate or reflect religious or secular law, but this lecture will concentrate on three tales to illustrate the inextricable nature of secular and religious law—a connection made more explicit by the professions of the storytellers—a lawyer, a pardoner, and a parson.

III. We begin with the Man of Law, the most obvious example of secular law.
   A. He is a sergeant of the law and, thus, one of the most important lawyers of Chaucer’s time. In rank, sergeants of law were equal to knights.
      1. All judges were chosen from this group, and their wealth frequently made them the subject of attacks for their greed.
Chaucer’s description of the Man of Law in the General Prologue is mildly satiric, commenting on his rather officious nature but making no charge of greed against him.

He is a walking encyclopedia, having memorized all the judgments since the days of William the Conqueror, all of which would reflect English common law’s concern with property. In this way, he is the embodiment of medieval legal ideology and practice.

In the introduction to his tale, the Man of Law praises Chaucer for the “thrifty” stories that he has written—tales that do not speak of incest. Incest is a threat to the patriarchal structure, disrupting the proper order of succession and undermining the law of the father.

The story the Man of Law tells is a tale that a merchant “goon…many a yeere” taught him.

1. We are reminded of the relationship between the law and commercial exchange and the way in which the family participates in exchanges—of property, of affection, of contracts.
2. The tale betrays its teller—it is saturated with legal concepts, which are drawn from customary and common law.
3. The story also has echoes both of ancient Greek tragedies and the Hebrew Bible with its forced exiles and intrafamilial tensions.

Constance, the beautiful Christian daughter of the emperor of Rome, is given in marriage to the Muslim sultan of Syria, on his promise to convert his entire kingdom to Christianity rather than lose her.

1. The sultan’s mother, outraged at his betrayal, kills her son and casts Constance adrift in a boat, bidding her sail back to her father.
2. After drifting for years, Constance finally lands in Northumbria, where she is again the instrument of conversion to Christianity, this time of the king of Northumbria, Alla, whom she marries.
3. Once again, however, Constance is the victim of the wicked mother-in-law, who tricks her son, Alla, into casting Constance and her child, Maurice, out of the kingdom and adrift on the ocean.
4. Finally, Constance returns by chance to Rome, where she is united with her father; her husband, Alla; and her son, Maurice, who thereafter becomes the emperor of Rome.

This is a story of Christian martyrdom and conversion.

1. In its repetitious structure and its focus on the subjection of the obedient female, the Man of Law’s tale is a parable.
2. The tale teaches that “Women are born to servitude and penance and to be under men’s governance.”
3. Given the repeated conversions of the heathen and the ascension of Constance’s son to the imperial throne, it also teaches that the “other,” the Muslim, is destined to be under Christian governance.
4. At the heart of this parable is the passive, pale body of the Christian woman, traded to the dark body of the nonbeliever, the Muslim.

Although Constance, the faithful and law-abiding daughter and wife, may be unable to act, her mothers-in-law, the infidels, the un-constant, plot to undermine Christian patriarchal governance.

1. Their deceit is merely the supreme example of all women’s feigning and is traced by the Man of Law to Eve, the first instrument of Satan’s guile.
2. The Man of Law uses literature, this parable of the martyred Christian woman, to reinforce the patriarchal nature of both law and religion.
3. His parable functions in the social world of the pilgrimage with the same kind of authority that the statutes, cases, and judgments that he has memorized possess in the world of the common law.

Moreover, just as the Man of Law relies on precedent to establish authority in law, so here, he calls up an earlier “sentence,” or judgment, of God against Eve and against the heathen.

In effect, he suggests that man’s social law and God’s divine law ought to be synonymous and, therefore, that his own authority is, in some ways, equivalent to the authority of a man of the Church.

Just as the Man of Law is possessed of all the opinions and decisions from secular law, so the Pardoner has a wallet full of pardons from Rome and a bag full of false relics.

1. But the Pardoner is not a fitting representative of Church law, as the Man of Law is of secular law.
2. The images used to describe him, of a hare, a goat, and a horse, are all symbols of lechery, yet he is described as a eunuch.
B. Are we being told that the Pardoner is actually a eunuch (a gelding) or perhaps homosexual (a mare), or is Chaucer implying something about his spiritual nature?
   1. He is spiritually a eunuch: Rather than actively choosing chastity as a sign of his commitment to God, he willfully turns away.
   2. Like all medieval authors, Chaucer would have relied on his audience’s awareness of the relationship between external reality and an inner spiritual reality—a form of scriptural interpretation identified with St. Augustine.
   3. From signs evident in the Book of Nature and the Bible (the Old and New Testaments), the interpreter sought to understand the will and law of God.
   4. Thus, we should see the Pardoner both as an individual unique to his age and as a type that reaches back to the Old Testament.

V. The Prologue to the Pardoner’s tale is in the form of an apologia, or literary confession.
   A. The Pardoner lists the tricks of his trade, relishing the skill with which he exploits naïve believers. He acts from the knowledge, rather than the ignorance, of sin and makes his impenitence his greatest asset.
   B. The theme of his sermon—greed is the root of all evil—is ironically the most appropriate.
      1. His covetousness is beyond bounds, and he boasts that he would take the last penny from a poor widow.
      2. The proper duty of a man of the church, such as the Parson, would be to distribute charity (caritas), which is the opposite of greed (cupiditas).
      3. Despite his bragging, the Pardoner proceeds to tell a moral tale—not surprisingly, because this is precisely how he makes money.
   C. The tale the Pardoner delivers is a sermon in the form of an exemplum, a brief story told to illustrate a moral point.
      1. Exempla were a popular form of literature and were widely disseminated. Such tales would be well suited to the Pardoner’s usual audience: the poor and the gullible.
      2. Before he begins, the Pardoner speaks at length, condemning gluttony and other vices, of which he is the prime example.
      3. The Pardoner links the vice of gluttony to Original Sin, arguing that Adam’s eating of the apple was provoked by cupiditas.
   D. The Pardoner tells the tale of three riotous young men who seek after Death, swearing that they can kill him.
      1. This was a well-known folk narrative, found in sources ancient and modern, and all involve a central act of mutual betrayal.
      2. The rioters are described as worshipping the devil through their gluttony and, thus, are aligned with the Pardoner.
      3. Moreover, for the medieval audience, the sense of spiritual order was closely aligned with the sense of social order.
      4. Meeting an old man who points the way to Death, the rioters discover a hoard of gold beneath a tree. The tree literalizes what should be a spiritual insight—the Pardoner’s maxim that cupidity is the root of all evil.
      5. The three men decide to keep their discovery of the gold secret. One man goes into town to bring back wine to sustain them until dark; in his absence, the other two plot to kill him.
      6. Upon his return, the first man is stabbed to death, and the two remaining rioters toast their success over his dead body, drinking the wine, which unknown to them, the dead man has poisoned.
      7. Thus, in a perverse reenactment of the sacrament of Mass, they are not reborn into eternal life but die the physical death that literalizes their spiritual death.
      8. The Pardoner concludes his tale by returning to the purpose of his exemplum—to persuade his audience to buy his pardons and relics so that they may be absolved of their sins.

VI. In direct contrast to the Pardoner is the Parson, whose tale ends The Canterbury Tales.
   A. The Parson, poor in material wealth but rich in the things of the spirit, insists that he will tell a tale in prose that will lead the pilgrims to their real destination—the celestial city.
      1. His tale is not a story, not even a sermon, but a direct exposition of the Seven Deadly Sins.
2. The Parson returns us to the world of the morality play but even that would seem too fanciful for this simple village parson.

3. His sermon seems to reproach the other pilgrims for their fanciful evasion of the inevitable.

4. The many versions of the Seven Deadly Sins recounted in the tract remind us of the many ways in which the pilgrims’ narratives have embodied these sins.

5. Only by relying on the direct language of the Church—not its corrupted version, as with the Pardoner—can the moral man hope to bring about a similar moral conversion in others.

B. The Parson addresses the need for the pilgrims to cast off their old ways and former judgments and find a “good way” in which to walk.

C. The Parson reminds them that old ways, like the ways of the old Adam, must be cast aside and replaced by the grace of the New Testament.

D. The form of this dissertation on sin suggests that, like the discourse of the law, religious discourse strives to distinguish itself from the “literary” narrative as much as it tries to separate itself from ordinary language.

   1. Both kinds of law—the secular and the divine—would insist that their words are inherently truthful and, thus, mean what they say.

   2. Setting this version of language against literature, we see the implications of falsity that shadow all literary productions.

   3. Literary texts by this measure are perilously akin to heresy. Literature leads the sinner away from God.

   4. It is such an understanding of the nature of The Canterbury Tales that produces the author’s own retraction of a lifetime of writing: Chaucer ends with an acknowledgement that salvation is more important than literature, and he revokes almost all his writings, including The Canterbury Tales, because they tend towards sin.

E. But how much can we rely on Chaucer’s retraction as the representation of what Chaucer himself felt?

   1. Chaucer is both a character in, and the author of, the Tales.

   2. We cannot finally know with certainty what the retraction means; we do not know what counts as the truth—a dilemma that Chaucer’s medieval audience would have identified as the sign of moral and spiritual insufficiency.

Essential Reading:

Recommended Reading:
Peter Ackroyd, Chaucer.

Questions to Consider:

1. In The Canterbury Tales, the pilgrims are asked to tell “tales of best significance (sentencia) and most solace,” that is, tales of wisdom and comfort. What stories would you select from the last 100 years to achieve that end?

2. Ian McEwan’s Amsterdam plays on the story the Pardoner tells about Death’s encounter with the three robbers. How much more or less dramatic is this contemporary “dealing with death,” and what have we lost when the sacred context is replaced with the superficial idiosyncrasies of contemporary characters?
Lecture Seven
Inns of Court, Royal Courts, and the Stage

Scope: This lecture will establish the context for the three Shakespearean plays that follow: *The Merchant of Venice*, *Measure for Measure*, and *The Winter’s Tale*. We will see how the cultural values of Elizabethan England—political, religious, and aesthetic—were both produced by and disseminated through three great social institutions of the period: the royal court system, the legal Inns of Court, and the playhouses. Given that the royal family would not attend plays in the playhouses, companies of players, including Shakespeare’s Chamberlain’s Men or the King’s Men, often performed at court, and the possibility that there might be such an audience must have influenced Shakespeare’s aesthetic practice. Plays were also performed in the Inns of Court, the collective name for the four societies that even today control admission to the bar and that date from before the 14th century. Moreover, many of the playwrights of the Elizabethan age were trained in the law; their plays reflect the Inns’ reliance on traditional values of loyalty to the Crown and fostered the growth of an English national identity. They were not, however, afraid to criticize political authority when necessary.

Outline

I. In *The Merchant of Venice*, *Measure for Measure*, and *The Winter’s Tale*, the cultural presence of the law as an institution that both directly and indirectly regulates social morality is keenly felt.
   
   A. Even though the plays are set in Venice, Vienna, and Sicily, respectively, each draws on a combination of legal, regal, and moral concepts that is identifiably English.
      
      1. The intersection of powerful ideas is common to all cultures, but there is something specifically English, or specific to London, about the way those ideas are bound to dramatic representations at this historical moment.
      
      2. In Elizabethan England, political, religious, and aesthetic philosophies flowed among the royal courts, the Inns of Court, and the playhouses.
   
   B. All three institutions—monarchal, legal, and theatrical—were intimately associated with the city of London.
   
   C. During the 16th century, the Thames was the major form of transportation in London and its suburbs, which included Southwark, where many of the theaters were located.
      
      1. That particular historical moment in London produced an intense intermingling of the law courts, the royal court, and the theater.
      
      2. One reason for this intense interconnectedness was the position and function of the law in Elizabethan society.

II. Legal institutions were vitally important to English culture.

   A. From the time of the Norman Conquest in 1066 until 1820, the three major English courts—that is, the Court of Common Pleas, the King’s Bench, and the Chancery Court—were all held in Westminster Hall.
   
   B. As in our contemporary world, the law in its many forms saturated the everyday world.
      
      1. For the gentry and the aristocracy, knowing the law was essential to their position.
      
      2. Many young men of the upper class studied law at the Inns of Court so that they could protect their property and inheritances from a highly litigious culture.
      
      3. For those who could not afford to attend the Inns of Court or study the law privately with a tutor, many legal self-help guides and guides for women were available.
      
      4. At no other time has legal training been so clearly recognized as the necessary complement of a university education for a man who was to play a part in public life.
   
   C. The Inns of Court are four law schools in London, namely the Inner Temple, the Middle Temple, Gray’s Inn, and Lincoln’s Inn.
      
      1. The Inns got their name from the site, the tavern or inn, where barristers had met to conduct business for centuries.
2. Sometime before the 14th century, these inns were formally recognized as the location for training lawyers who would eventually practice as barristers, that is, the class of lawyers who could plead before the Court of Common Pleas.

D. The Inns of Court were also one of the great social institutions of the Elizabethan and early Stuart period.
1. They did not simply educate young men in law, but they educated them in culture, in how to advance socially, and in how to improve one’s material standing.
2. Moreover, because of the close connections between the Inns of Court and the upper class, they fostered loyalty to the Crown, as well as an enthusiasm for literary and other intellectual interests.

E. English common law was a source of national pride and is often valorized in Shakespeare’s plays over other legal systems. It was valued for its reliance on precedent and its protection of individual liberties.

F. In his plays, Shakespeare often relies on a sense of national pride about the common law to distinguish between the English and their enemies.
1. The question of how the English could conquer and impose their system of government on another culture was a very real political issue for the Elizabetheans.
2. This question of the conflict between laws is one that is posed in The Merchant of Venice, in which both the duke of Venice and Portia find themselves bound by precedent and unable to resolve the contract dispute.

III. The Elizabetheans were a litigious culture, and even women went to law on their own behalf.
A. Shakespeare’s father, John, was intensely active in the courts.
1. As high bailiff of the twice-monthly court at Stratford-on-Avon, he presided over the court proceedings.
2. Moreover, John Shakespeare was constantly engaged himself in legal action—either as plaintiff or defendant.

B. William Shakespeare was almost as litigious as his father and must have drawn repeatedly on his memory of his father’s legal cases and his own experiences for his plays.
1. Both the rhythm and the language of the courtroom drama saturate many of Shakespeare’s plays.
2. In particular, the court scene in The Merchant of Venice is the culmination of many previous scenes between the Christians and Shylock that are structured as dramas of accusation and defense.
3. In many other plays, the emotional and intellectual energy of the play is both circumscribed by and channeled through the “trial”: Leontes’s charge against Hermione in The Winter’s Tale; Isabella’s “defense” of her brother, Claudio, in Measure for Measure.
4. Although Shakespeare’s plays are saturated with terms from the law, they are almost entirely terms applicable only to the common law, not the Court of Chancery.

IV. When Shakespeare came to London as a young man in the late 1580s, he would have found a world as filled with legal affairs as the one he had left behind.
A. Shakespeare mixed with young men who were passionate about the theater but had also studied law at one of the Inns of Court.

B. Contemporary with Shakespeare, there were 75 to 100 writers of plays. Among them were John Ford (1586–1640), who wrote ’Tis Pity She’s a Whore (1633) and who studied in the Middle Temple; Thomas Middleton (1570?–1627), a student at Gray’s Inn; and John Marston (1575–1634), a student at the Middle Temple who left for the theater and is known for his satire on aristocratic life, The Malcontent (1604).

C. Plays and masques were frequently performed at the Inns of Court, sometimes in Latin and nearly always written for the occasion.
1. For example, the earliest known English tragedy, Ferrex and Porrex, was performed in 1562 by gentlemen of the Inner Temple before the queen.
2. When The Misfortunes of Arthur was acted before the queen in 1588 at Gray’s Inn, Francis Bacon, who would become Lord Chancellor, devised the dumb shows that introduced the acts.
3. In 1594, The Comedy of Errors was presented at Grays Inn, and in 1601, Twelfth Night was staged at the Inner Temple.

D. In those days, the Inns of Court vied with each other in masques and pageants as much as in the records of chancellors and chief justices.

©2006 The Teaching Company Limited Partnership
The Inns of Court thus helped to revive the ancient connection between law and drama and nurtured the growth of a specifically Elizabethan drama.

Moreover, the Inns provided dramatists with powerful allies in the constant battle they waged with those authorities who feared the subversive and immoral potential of playwriting and acting.

In the mid- to late 16th century, and in this one respect, the space of the playhouse and the space of the legal court became interchangeable.

Despite the apparent ease with which actors and playwrights moved from one social space to the other, there were significant differences in the dramatic space.

A speech about the abuse of authority took on a different sense when voiced in the Inns of Court before the queen as opposed to the Globe Theater.

The performers’ relationship to their theatrical space, that relationship of the speaking body to a physical space that is itself structured to convey certain social, aesthetic, and political ideas, is crucial to understanding the play.

Imagine the scene in which Shylock walks into the court of Venice performed in the banquet hall of one of the Inns of Court, in a space that embodies the supposed timeless quality of a system of law that defeats Shylock.

Thus, when Shakespeare speaks of the world as a stage, he suggests more than the metaphoric meaning; he is insisting that any location can be converted into a stage.

It is, in part, because of the play’s ability to create these new realities that authority is suspicious of imaginative literature in general and the play in particular.

The Elizabethan stage was a site for the public display of emotional, as well as social, diversity and, thus, was always suspect to the authorities.

The theater stands as a place where illusion and tricks create a world of surprise and uncertainty.

This is precisely the opposite effect sought by the law, which strives for predictability and stability.

As the theatrical space becomes more clearly separated from the legal space and the royal space, the theater takes on more of a potentially subversive and dangerous aspect.

Even with this interchangeability of the legal stage and the theatrical stage during the Elizabethan period, Shakespeare’s Globe was not the social or political equivalent of Gray’s Inn.

Although gentlemen might be entertained or even perform themselves in selected plays in the Inns of Court, they would not consider doing the same thing on the stage of the Globe.

Moreover, the locations of the two cultural institutions attested to their power in the city: The Inns of Court are within the city walls, while the outdoor theaters were outside the walls and beyond the reach of city authorities.

Even those theaters that were located within the city were in districts known as the “liberties,” which fell under the control of the Crown, not the city authorities, who were generally more puritanical in outlook.

Playhouses were often forcefully closed during outbreaks of the plague and, thus, became associated with disease.

If the law courts were not the playhouses, even less so was the royal court.

Performance at the court would have conferred prestige on the theater companies and the authors of those plays chosen for performance.

Shakespeare and the Chamberlain’s Men performed before Queen Elizabeth in her palace at Greenwich twice during Christmas 1594.

During Christmas 1597, the Chamberlain’s Men performed Love’s Labour’s Lost before the queen in her palace at Whitehall.

In 1603, Shakespeare performed multiple times before King James I at Hampton Court.

An uneasy tension probably existed between aesthetic demands and political pressures.

Both Measure for Measure and The Winter’s Tale were written and performed after James I came to the throne.

Both show evidence of an effort to instruct a wise king in how to rule.
3. One has to wonder if Shakespeare “played” to the monarch and toned down criticism of royal abuses of power.

VII. The performance of plays at the royal court was an extension of an already well-established tradition of court entertainment in the form of masques—elaborate staged representations of mythic stories or cultural narratives.

A. These masques remind us of the way in which early Christian ceremonies co-opted preexisting native customs, because the masques relied on preexisting stories to represent the monarch.
   1. Masques were not confined to the courts at Whitehall or Hampton but were performed whenever Elizabeth traveled.
   2. These celebrations and festival-like performances established “points of contact” between the monarch and the people and linked to the traditions of morality plays.
   3. The queen and her people played out a myth of solidarity as part of the political ideology of national unity.
   4. Masques were an “offering to the prince,” combining a pastoral setting, mythological fable, and ethical and political debate.

B. Symbolic rituals in the masque affirmed social bonds and royal power; the play itself was an offering.
   1. Many of Shakespeare’s pastoral comedies, such as *A Midsummer Night’s Dream*, *As You Like It*, and *Twelfth Night*, were extensions of such celebrations.
   2. These plays incorporated traditional beliefs into a more sophisticated and courtly celebration of royal (and English) power.

C. One might say that the royal court collected together all the elements of authority, spectacle, and drama found in the theater and the law court.
   1. The queen or king was made to seem like the magician Prospero in *The Tempest*.
   2. Perhaps the monarch came to see herself or himself as similar to the playwright, who could conjure up the city of Venice or Vienna with a phrase and a gesture.

Essential Reading:

Recommended Reading:

Questions to Consider:
1. Has the pervasive reach of media lessened the intensity of the way in which we experience the world? Can media representations of the law and politics have the same moral and social weight as the real-life dramatic representation?

2. Shakespeare’s plays spoke to his audiences’ sense of a national identity, and this connection was especially acute when he addressed legal and political issues. Do we continue to see our national identity as created in part through our legal system?
Lecture Eight

Shakespeare’s *Merchant of Venice* (1596–97)

**Scope:** One of Shakespeare’s most controversial plays, *The Merchant of Venice*, even now provokes passionate discussion about the anti-Semitic values it seems to condone. In this lecture, we will examine the argument for and against this understanding of the play, as well as the laws covering the rights and limitations on the foreign citizen in England and the play’s rendering of the law of contract. We cannot, however, examine these historical circumstances as if they were sufficient to explain the power that the play conveys through its language and structure; for this reason, we will analyze several key speeches to guide our understanding of how the literary performance of juridical-religious values marks the difference between dogmatic adherence to moral precepts and their enactment in daily life.

**Outline**

I. Director of the recent *The Merchant of Venice* (2005), Michael Radford, made the film because the subject spoke directly to our modern situation.
   A. To speak of the play as a refusal to compromise because one’s adversary appears to be radically evil reminds us that the sacredness of religious beliefs finds its secular corollary in the sacredness of the law that springs from those beliefs.
   B. Shakespeare’s audience would have been acutely aware of the danger that lies in religious extremism. Within the half century before the play’s production in 1596, the country had witnessed a deadly battle between Roman Catholics and Protestants.
   C. If the Roman Catholics were considered potential traitors because of their allegiance to a higher authority than the monarch (the pope), then Jews were even more dubious because they appeared to owe no allegiance to any higher authority.
   D. The estrangement of Jews from the religious and secular cultures of Europe had led Pope Innocent III to decree in the Fourth Lateran Council (1215) that Jews should be forbidden from holding public office and should be forced to wear clothing that distinguished them from Christians.
   E. Jews were expelled from England in 1290 and were not officially readmitted until 1656.
   F. To enforce the monarch’s authority over her subjects, both Protestant and Catholic, Parliament had passed the Act Against Sectaries in 1593. Its intent was not merely to punish those who did not attend Anglican services but to insist that loyalty to the queen was synonymous with attendance at Church.

II. Shakespeare situates these issues of loyalty and religious affiliation in Venice, a place known for its moral and political tolerance.
   A. Despite its setting, the play can be seen as a commentary on Elizabethan culture.
   B. The state must balance two competing forces: the need for national security and a unified polity (figured in Queen Elizabeth as defender of the Protestant faith) against the traditional and much vaunted liberties of the individual English subject.
   C. Another set of competing impulses is evident in theological terms: the strict interpretation of the law that is made necessary by political conditions (and that is articulated in the Old Testament) versus the mercy that the New Testament recommends.
   D. Legally, the play represents the struggle to balance justice according to the strict letter of the law against equity—justice seasoned with mercy.

III. How does the merchant Antonio find himself at the mercy of Shylock? And what relationship does the romance plot of the play, between Bassanio and Portia, have to these issues of statecraft, law, and religion?
   A. One needs to return to the Old Testament and to the idea of covenant and its secular counterpart, the contract, to understand how Shakespeare weaves together the main plot and the marriage plot.
B. The play’s title, *The Merchant of Venice*, gives us a clue about the inevitable interconnection between Antonio’s life and Shylock’s. Both are merchants, but Antonio turns to Shylock for a loan because of a personal contract with his friend Bassanio, who needs money to support his courting of Portia.

C. From the start of the play, personal and public relationships are intermingled.

D. Marriage, a contract ideally based on love, and commercial exchange, a contract based on legal forms, are two ways of binding individuals into social arrangements.

IV. In this play, these two means of exchange—one personal; the other, the non-personal form of the contract—are constantly invoked as ways of determining who belongs to the society in Venice or Belmont.

A. The first scene brings these two forms of contractual agreement together when Bassanio asks Antonio for money to woo Portia.

B. This scene between Antonio and Bassanio, in which personal affection has been transformed into commercial transaction, is followed immediately by the conversation between Portia and her maid, Nerissa.
   1. The terms of Portia’s father’s will are explained.
   2. Just as Antonio has declared that he is “sad,” so Portia announces that she is “aweary of this great world.”
   3. Unlike Antonio, however, who cannot (or will not) give the reason for his sadness, Portia argues that she is wearied of following her father’s commands for her marriage.
   4. The will that binds Portia is representative of the Christian patriarchal economy that controls the world of both Belmont and Venice.

C. Both Portia and Jessica, Shylock’s daughter, long to “choose” for themselves, but such a demonstration of women’s capacity to contract herself in marriage is threatening to both the Christian and non-Christian worlds of the play.

V. Nerissa has described Portia’s father’s way of selecting her husband for her as a “lottery,” and the term reminds us that, like commercial transactions, the selection of a spouse can never be a perfectly rational decision.

A. Like a merchant who relies on luck as well as rational expectations, the man who seeks Portia as his wife must rely on some luck in “reading” the signs that the three caskets offer.

B. Before Bassanio can try his luck and skill at the lottery of marriage, he must appear before Portia as one who seems to have wealth and status.
   1. Shylock provides the necessary money to create this illusion by loaning Bassanio 3,000 ducats with Antonio’s word as bond.
   2. The scene among Shylock, Bassanio, and Antonio in which the bond is negotiated is central to how one reads Shylock’s character: as an abused man who breaks under his daughter’s elopement and theft or as a man determined from the beginning to have his revenge on Antonio.

VI. Bassanio negotiates the bond with Shylock and, in so doing, seems to welcome him into the company of Christians.

A. With the appearance of Antonio, however, we see the depth of rancor between this merchant and Shylock, each representative of his respective religion.
   1. Shylock gives several reasons for his hatred: Antonio is Christian; he brings down the interest rate on loans by lending money for free; and he hates Jews and speaks out against them.
   2. Antonio’s condemnation of usury, and of the practice of one of the few businesses legally permitted to Jews, is hypocritical because Antonio comes himself to take advantage of the practice.

B. Antonio’s religious and moral principles seem fungible. What value do we ascribe to the Christian faith when Antonio, its most outspoken representative, can jettison his convictions about the immorality of usury to satisfy the material needs of his friend?
   1. The extent of Antonio’s anti-Semitism is evident in Shylock’s description of Antonio’s behavior toward him.
   2. Unyielding even in the face of this account of his hypocrisy, Antonio invites Shylock to enter into a bond with him forged through mutual hatred, not love. This bond is the very opposite of the one that Antonio has forged with Bassanio and that Bassanio hopes to forge with Portia.
   3. But both of these contracts, founded in love and friendship, are sealed with Shylock’s money.
4. Is the “merry bond” that Shylock proposes—the money for a pound of flesh—the work of a man desiring revenge, or is it, as he claims, because he would be friends with Antonio?

VII. The action moves from Venice to Belmont, where we find another outsider: The prince of Morocco has arrived to try his luck with the “lottery” of the caskets.
   A. He, like Shylock, is an alien—marked by his complexion as Shylock is marked by his red cap and the Jewishness it signifies.
      1. Like Shylock, Morocco calls on our sympathy one minute and our ridicule the next.
      2. And like all the suitors who have gone before, he, too, cannot read the signs, the “language” of the caskets.
      3. It appears that no foreigner—neither prince of Morocco, nor prince of Arragon—can “speak” the language of love (and contractual engagement) that will secure Portia’s hand in marriage.
   B. These failed suitors thus place themselves in a position analogous to Antonio, who begins the play mysteriously “sad” and unmarried and finds himself alone at the end of the play, watching as several marriages are celebrated.

VIII. While Portia awaits Bassanio, Jessica elopes with Lorenzo; although Portia is content to follow her father’s will submissively, Jessica violently flouts the law of the father and not only “steals” from Shylock’s house but also steals his wealth.
   A. That this takes place while Shylock meets with Bassanio and Antonio to seal the bond only confirms for Shylock the deceit of the Christians.
   B. Antonio’s loss of Bassanio causes as much grief to his heart as Shylock’s loss of his daughter, but only Antonio’s feelings are recognized as worthy of pity.
   C. The double meaning of stones—both jewels and “the crown jewels,” as in testicles—confirms the link between Antonio and Shylock—both of whom are now without heirs.
      1. It is this triple insult to Shylock’s patriarchal authority—that his daughter has fled, has stolen his jewels, and has denied her heritage in marrying a Christian—that turns the “merry bond” into the demand for Antonio’s heart.
      2. The famous “if you prick us, do we not bleed” speech is a tense mixture of revenge and pity, of fierce hatred and forbearance.

IX. While Shylock plans revenge, Portia waits for Bassanio to choose the right casket.
   A. In immediately juxtaposed scenes, we witness two exchanges.
      1. In the case of Shylock and Antonio, the flesh must be given in exchange for the ducats that cannot be repaid; this is a bond based on hatred.
      2. In the case of Portia and Bassanio, both body and wealth pass into Bassanio’s possession, but this is a bond based on love.
   B. The joy of the courtship is interrupted by the news that Antonio is arrested for debt and Shylock refuses all entreaties to release him from his forfeiture. That such explicitly commercial transactions intrude into what should be a place of romance and private pleasure reminds us of the inextricability of these two worlds.

X. In the courtroom scene in Act IV, scene i, we see the principles of law in action against both the wealth of Bassanio and the authority of the state.
   A. Unable to resolve the dispute with money, Portia actively engages with the issue by disguising herself as Dr. Balthasar.
      1. She does not come to defend Antonio nor to accuse Shylock but to settle the question of how to interpret the contract.
      2. As an interpreter, she places herself in the same position as her suitors have been in “reading” the caskets.
   B. Critics have suggested that the debate in the courtroom is between the demands of justice (Shylock deserves his bond) and equity (justice must be tempered with mercy).
      1. Another source of tension is also at work in the courtroom—one between the demands of the community and those of the individual.
2. This tension is most clearly played out in the duke’s inability to act to accommodate Antonio’s distress; to do so would ruin the credit that Venice has as a society under the rule of established law.

3. The demand for consistent, reliable legal judgments, necessary in a mercantile economy, trumps the call for equity.

C. The debate between law and equity was one being fought out in both the law courts and the royal courts of England over the authority of the common law and the authority of the Court of Chancery, described as a court of conscience.

1. The struggle between these two courts reflected a struggle between the growing power of the merchant class and the power of the throne.

2. One can argue that the distinction between the merchant class and the supporters of royal prerogative was the distinction between those who saw the law as a way of protecting and advancing individual rights and those who saw it as part of the fabric that bound the society together under the sovereign.

XI. When Portia turns from the argument from equity to using the law to enforce Shylock’s demands, she has demonstrated that despite his position, the duke of Venice is powerless.

A. It is not within the duke’s power to grant mercy because to do so would, as Portia points out, call the established laws of Venice into dispute.

B. The Christian community is, for one brief moment, subject to Shylock, and it is his failure to realize his power under the laws of Venice, even as an outsider, that makes his defeat so much more painful.

C. Shylock stands in the court with a claim that he argues is more powerful than Venice’s laws: the Old Testament law that he invokes.

1. One understands that for a Jew in a Christian society, there is no recourse to the civil laws because the laws are made by and for the Christian community.

2. It is no surprise, then, that as a substitute for the death of Shylock, the “mercy” extended to him by the duke should comprise the loss of his wealth and his religion.

3. The equitable judgment rendered by the Christians on the Jew is, in the end, far less merciful than that which the duke of Venice would have had Shylock extend to Antonio.

Essential Reading:
William Shakespeare, The Merchant of Venice.

Recommended Reading:

Questions to Consider:
1. Can an aesthetic representation of an immoral attitude—say, anti-Semitism—ever be powerful enough to alter those attitudes in any permanent way?

2. If The Merchant of Venice is still relevant because of the implacable hatred between two groups with apparently incompatible beliefs, then this would suggest that art makes nothing happen. Would you agree?
Lecture Nine  
*Shakespeare’s Measure for Measure (1603–04)*

**Scope:** *Measure for Measure* reflects the deep interest of 17th-century audiences in the nature of moral and legal authority and the manner in which it was exercised. The play was performed at the court of the recently crowned King James I and may have been intended to suggest to James how he might best win over his English subjects: that is, with the proper exercise of regal and judicial authority and a recognition that purity of body and soul is rare, especially among those who most trumpet their own purity. The play’s title, *Measure for Measure*, suggests the nature of the moral problem at its heart: How does one calculate the proper punishment for those who transgress even as they punish others for the same sin? Such a question is entirely appropriate for a play before the king, one who is both a man and a figure of authority, the sinner and the representative of human law, the mortal man and the representative of divine judgment.

**Outline**

I. The play takes its title from Christ’s Sermon on the Mount, recorded in the Gospel of Matthew.
   A. In this sermon, Christ insists that the Mosaic Law must be tempered with mercy and generosity, and the mere adherence to the letter of the Law is insufficient to guarantee salvation. Thus, Christ argues for the essential difference between action and intentions.
   B. The common law of England also made this distinction between the act and the intent, termed *mens rea* ("guilty mind"), which is to be distinguished from motive.
      1. One judges, legally, the presence of the "guilty mind" by the result of the action performed by the individual.
      2. Performing an action does not, in and of itself, make an individual guilty; bad things happen by accident.
      3. The Latin phrase from which *mens rea* is taken makes this distinction clear; it is translated, “An act does not make a man guilty unless his mind be also guilty.”
   C. Within this general concern for the spirit of the law and the purity of mind of the individual, the Sermon on the Mount specifically addresses sexual codes and prohibitions.
      1. Invoking the Ten Commandments, Christ argues that adultery has occurred whenever a man lusts after a woman.
      2. This insistence on both the psychological and the material conditions of guilt is repeatedly invoked in *Measure for Measure*, in which the interrogation of the apparently guilty by the apparently innocent generates constant tension and irony.

II. The play also articulates the tension between law, as a set of rules imposed on society by a ruler, and morality, a consensus about appropriate behavior.
   A. That there might be a range of moral codes, depending on one’s position in society, as well as a range of theological positions, generates a potentially fraught and constantly evolving system of behavior.
   B. Further, we should not forget that material conditions have an impact on how one sees the legislated morality of one’s society.

III. The play opens in Vienna, a hub of Renaissance culture and commerce and a city seething with corruption that the duke of Vienna is powerless to control.
   A. The duke’s failure to keep order is the result of his own reluctance to apply the laws that would control the excesses of his subjects.
   B. Rather than exert himself to actively engage in ruling, he temporarily abdicates his responsibilities and appoints his deputy, Angelo, to clean up the city.
   C. The corruption that needs amending seems readily apparent in the scene in the brothel that follows Angelo’s assumption of authority.
IV. Pompey, the pimp, emphasizes the widespread sexual corruption in Vienna and the consequences of unenforced laws.

A. The ones who should help enforce those laws—the lawyers—are the ones, Pompey suggests, who keep the corruption bubbling.

B. Law is here represented as having no moral or religious authority but is merely the arbitrary imposition of authority by those who would curb men’s natural inclinations.

C. To emphasize that all men of whatever class are subject to nature’s demands, Claudio, a young gentlemen, passes on his way to prison—sentenced to death by Angelo for impregnating his fiancée, Julietta.
   1. Claudio and Julietta believe themselves to be “married,” although they have not formally exchanged their vows in church.
   2. In his reflection on his “crime” and its punishment, Claudio reveals that he, at least, takes his culpability to heart.

D. As the play proceeds, it becomes evident that the corruption in the city of Vienna reaches all the way to the top—even to the virtuous Angelo.
   1. If the judge is a sinner like the criminal, how can he render judgment?
   2. This fundamental moral conundrum complicates any simplistic or rudimentary definition of law and justice.
   3. The potential for abuse is always great given that laws are both the product of and the restraint on natural human impulses.

V. The question that Claudio asks—whether Angelo is naturally tyrannical or made so by his position—is one that the duke also wants answered.

A. When asked why he has left Vienna, the duke tells the friar that the laws have fallen into disuse.
   1. In describing the relationship between the lawgivers and those subject to the law, the duke identifies the patriarchal nature of the law and the imbalance between the ruler and the ruled.
   2. The analogy to the relationship between God the Father and the inherently sinful human is obvious.

B. The friar asks, why don’t you, as duke, enforce the laws?
   1. The duke answers that because he was guilty of not enforcing them earlier, to do so now would make him appear tyrannical in the eyes of his subjects.
   2. The duke’s answer may strike contemporary audiences as a rationalization of his unwillingness to be an active magistrate for his people. Moreover, when he argues that he is testing Angelo, the duke seems devious.
   3. Shakespeare’s audience, however, would recognize from medieval morality plays the figure of the wise man who observes and comments on the folly and wickedness of those around him.
   4. Many critics have argued that Measure for Measure is an allegorical, rather than a realistic, representation of the relationship between power and justice, between authority and judgment.

C. The duke will eventually have to act—and, in his actions, his wisdom will be revealed to his subjects.

VI. Just as the duke is too lenient, so Angelo is too harsh, although he does not go beyond what the law allows.

A. Claudio’s crime with Julietta is, as he himself puts it, “too much liberty,” rather than a “measured,” that is, moderate, approach to life.
   1. Moderation, as distinct from restraint or control, cannot be imposed from without but must come from the moral center of the self and, thus, is impossible to legislate.
   2. The distinction between behavior—which can be seen and, therefore, judged—and intent—which is invisible—is also the distinction between seeming and being—a distinction that is fully explored through the character of Angelo.

B. When Angelo sentences Claudio to death for promiscuity, he is applying the law as written—a law designed to impose restraint on human appetites and one that must be exercised in order to have effect.

C. Angelo will himself fall to temptation in the same way as Claudio. This locates one of the inevitable limitations of human justice—that those who pass judgment may themselves be guilty of the crimes that they condemn in others.
VII. To Shakespeare’s audience, Angelo’s claim that he has not fallen would have been enough to alert them to what must happen: Like Adam, Angelo must be tempted, he must fall, and because of the promise of redemption in Christ’s resurrection, he will be forgiven.

A. Angelo is tempted by the female version of his own lord’s disguise, by Isabella, sister to Claudio, and a novice in a convent.

B. Isabella comes to Angelo to plead for her brother’s life, despite her condemnation of vice and her desire that it be punished.

C. Isabella’s argument proposes a test of justice that sets up an ironic foreshadowing of the final scene in the play: How does the justice of the punishment hold up if the judge changes place with the condemned?

D. As is appropriate given her avocation as a nun, Isabella relies not on secular reasoning and logic but on the analogy between the human judge and his divine counterpart.

1. Isabella makes direct allusion to the Sermon on the Mount and the command “Judge not, that ye be not judged.”
2. Isabella’s insistence that Angelo is a faulty human being like her brother moves Angelo, ironically, to reenacting the crime for which Claudio has been sentenced to death: sexual promiscuity.
3. Shakespeare gives no motive or explanation for Angelo’s sudden change from “preciseness” to sexual harasser.
4. The play is not about character so much as it is about power and the symbiotic relationship of judging and judged.

E. When Isabella demands that Angelo think about his own sin, her sudden insight into his moral being causes him to become that which she had merely suggested he might be.

1. His “fall” occurs not when he thinks or speaks sensual thoughts about Isabella but when he falters, because of his desire for her, in his decision about Claudio and asks her to return the next day.
2. He thus implies that he is contemplating sparing her brother. In other words, it is his intent—the invisible motive that drives his actions—that condemns him.

VIII. When Isabella returns to Angelo, his seduction of her and, thus, his descent into lechery is wrapped, ironically, in the language of law and religion.

A. In a mockery of a religious catechism, as well as in imitation of a legal cross-examination, Angelo asks Isabella a series of questions to assess how far she will go to save her brother.

1. It is not until Angelo drops the “seeming” discourse of law and religion and gives his “sensual race the rein” that Isabella understands his intentions.
2. Outraged, she insists that she will expose him for the lecher he is, but such justice can only be imagined as long as Angelo holds power.

B. Compounding her misery at her powerlessness is Claudio’s reaction to the bargain of her body for his. He argues that the sin will be transformed into a virtue because of her intent in performing it.

C. Isabella sees the irony in Claudio’s appeal to nature to win her over when he is under a death sentence for being “too natural.”

D. Even though Claudio has seemed to be repentant for his adultery, his moral being is still corrupt.

1. Contemporary audiences are inclined to ask: Why doesn’t Isabella just sacrifice herself to save her brother’s life?
2. Shakespeare’s audience would be responsive to the moral dilemma in which Isabella finds herself and would understand from listening to sermons in their local churches that such casuistry was essential to the spiritual life.

IX. Shakespeare’s audiences would also understand that Angelo has no intention of sparing Claudio.

A. The only agent who can restore the imbalance now threatening to disrupt Vienna is the duke himself, now disguised as a friar.

B. The duke knows that Angelo is willing to condemn others for crimes his power allows him to commit. The duke must act at last to bring about justice.

C. He must, like all rulers, practice “craft against Vice,” but in doing so, he finds himself mired in a messy moral dilemma.
1. His solution to Isabella’s dilemma is to arrange for Angelo’s former fiancée, Mariana, to meet Angelo in place of Isabella and for their relationship to be consummated.
2. Angelo thus seems to commit exactly the same “crime” as Claudio.

D. The play, however, distinguishes between two kinds of marriage contracts. These contracts were also recognized by the Church and English common law.

1. In the first kind, praesenti, the parties exchanged promises that they would be man and wife from that moment on (presently). This was a legally binding agreement that did not require a church ceremony and could not be altered by any change in the couple’s circumstances.
2. In the second kind, de futuro, the couple exchanged promises that they would be man and wife in the future, a promise that had to be followed by sexual intercourse to make it legally binding.
3. Both kinds of marriage required public recognition of the promises.
4. Claudio and Julietta have met in secret, and they lack the public declaration; they are open to the charge of adultery.
5. Angelo and Mariana, however, have made the public declaration, and although she is without a dowry, the sexual consummation of their relationship will reinstate its legal validity.

E. The duke can finally restore some degree of moral order in Vienna when, in Act V, he unmasks himself and renders justice to Isabella and Angelo, but he has only been able to do this because he has overheard Isabella reveal to Claudio the awful bargain Angelo has offered her.

F. Without this secret (one might say illicit) knowledge, the duke would have ruled for Angelo and against Isabella’s demand for justice.

G. Finally, Claudio is revealed to be alive and reunited with Julietta, Angelo is unmasked for the villain that he is and joined to Mariana in marriage, and Isabella is exonerated.

1. But there is a final turn to the plot that unsettles this comedic ending: the duke’s proposal of marriage to Isabella—a parallel to the marriage between his deputy, Angelo, and Isabella’s substitute, Mariana.
2. Neither the stoical duke nor the noviate Isabella has shown any inclination for marriage to anyone.
3. Do the generic expectations of comedy force this ending?
4. And what do we do with the silence from Isabella? She provides no answer to his proposal, and the audience is left with a sense of the precariousness of human justice and morality in its unrelenting struggle with injustice and vice.

Essential Reading:
William Shakespeare, Measure for Measure.

Recommended Reading:

Questions to Consider:
1. Is the Duke merely the puppet master or does his character convey a set of distinct moral and political values?
2. Does Isabella’s dilemma over how to save her brother’s life still resonate with audiences today, or does she seem too self-righteous to demand sympathy?
Lecture Ten

Shakespeare’s The Winter’s Tale (1609–11)

Scope: This tragicomedy depicts the consequences of a husband’s irrational jealousy—a husband who is also a king and, therefore, has the power to exact the most terrible revenge on those whom he believes have betrayed him. Symmetrically divided between the courts of Sicilia and Bohemia and their two kings, the play moves from tragedy to romance, from the tyrannical imposition of a husband’s will to the tyrannical prohibitions of a father’s will. Just as King Leontes abuses his authority when he, without reason, charges his wife, Hermione, and his lifelong friend, King Polixenes, with adultery, so Polixenes will interpose the father’s word between his son, Florizel, and his choice as wife, Perdita (who is, in the best tradition of romances, the daughter of Leontes and Hermione). The Winter’s Tale illustrates the inextricable connections between the patriarchal regime at the state level and that same regime at the family level, reflecting on the potential for both order and chaos that such a complexly interwoven system of law and morality enables.

Outline

I. By the time Shakespeare wrote The Winter’s Tale, Elizabeth I was dead and James I of England and VI of Scotland was on the throne—and with his ascension came a new version of royal absolutism.
   A. James claimed a “free and absolute” authority over his subjects and their property and rights. This authority was total and godlike, and his subjects had no power to resist, only to endure.
   B. This lecture offers a reading of The Winter’s Tale that is situated in this political and jurisprudential climate, but it also acknowledges that this play is of a particular kind, a tragicomedy, or romance.

II. Before we turn to the play, we should note that over the course of the 17th century, the political and legislative power that resided with the king would shift to the Parliament and the Common Law courts.
   A. This shift began with the reign of James I, during which one of the most significant legal figures of the time—Sir Edward Coke—threw his weight behind the authority of the law to restrict the king’s power.
   B. The law, divine in its origin and sanction, was the basis on which civil society was built. It was supreme above king and people equally and was, in part, expressed in the statutes passed by Parliament, by the folk customs memorialized in customary law, and by positive law, which was common law as recorded in precedent.

III. We now turn to the plot and structure of The Winter’s Tale.
   A. The play is divided into two parts, the first separated from the second by a period of 16 years.
      1. In the first part, Leontes, king of Sicily, seized with apparently irrational jealousy of his wife, Hermione, attempts to murder his best friend, Polixenes, king of Bohemia, and condemns Hermione to death, despite the insistence of the oracle of Delphi that Hermione is innocent of adultery.
      2. Their newborn child, Perdita, believed by Leontes to be the offspring of Hermione’s affair with Polixenes, is abandoned on the “shores” of Bohemia.
      3. The critical focus of the first part of the play is the trial of Hermione, in which she pleads her case against the injustice of Leontes’s tyranny. The trial comes to an abrupt end when the death of Mamillius, son to Leontes and Hermione, is announced, a death caused by his father’s persecution of his mother.
      4. On hearing the news, Hermione faints and is carried offstage; Paulina, her confidant and strident defender, returns to announce her death to Leontes, now remorseful at his behavior.
   B. The second part of the play takes place 16 years later in Bohemia, where Perdita, raised by good country folk, is being wooed by Florizel, the son of Polixenes.
      1. After being denounced by his father, Florizel flees to Sicily with Perdita, where Perdita’s identity is discovered by Leontes.
      2. Paulina arranges to take both Leontes and Perdita to the unveiling of a statue of Hermione, which is, in fact, the living Hermione, concealed by Paulina for the last 16 years.
3. The critical focus of the second half of the play, which balances the trial scene of the first half, is the scene in which Paulina unveils the statue of Hermione: That which was perceived as fixed and cold and unchanging is transformed into a living, breathing being.

IV. We can readily identify the tragicomedic, or “romance,” conventions that govern the play, but how do these qualities fit with issues of legal and political import in the early years of James’s reign?

A. The romance genre is one that seems to bypass questions of truth and falsehood, to speak of magic and transformation. It does so to establish a connection between the fantastic and the real so that those concepts that cannot be directly and realistically represented might come alive.

B. *The Winter’s Tale* offers us a series of transformations provoked by the tyranny of the ruler, which disrupts both the king’s family and the entire kingdom. Thus, we understand the inseparable connection between the structure of the family and that of the larger society.

C. In the romance narrative, desire and power are intimately connected, but the romance genre reveals through magic something that is often occluded in the actual practice of politics and jurisprudence: the idea that questions of truth and justice can be understood only through representation.

D. In concluding the play with a magical performance, Shakespeare diverts us from questions of truth and falsity. Indeed, he implies that truth and falsity are not finally the determinants of what is just—they are, perhaps, in some way, irrelevant to justice.

1. Justice, like other forms of desire, is a “magical performance” and, thus, transformative.
2. That transformation is, however, necessarily transitory, which means that the performance of justice, like the play in which that justice is played out, must be endlessly repeated.

V. We might think of this play as both a “romance” of justice and a political allegory, a dramatic representation of the consequences of tyranny when there is no effective counterbalance in the form of laws or a legislative body that is superior to the tyrant.

A. First, let’s look at the “romance” elements and Shakespeare’s manipulation of these elements to create the sense that “truth” (and its corollary, “justice”) in its perfect form is elusive and transitory.

1. Shakespeare’s manipulation of the conventions of the romance genre become clear when we compare his play with the source text, a novel by Robert Green entitled *Pandosto; or, The Triumph of Time*, which was first published in 1588.

2. In *Pandosto*, the title character is compelled by passionate jealousy to drive away his friend and banish his infant daughter, which results in the deaths of Pandosto’s wife and young son. Eventually, Pandosto himself commits suicide when he realizes that the young woman he has tried to seduce is his long-lost daughter, Fawnia.

3. A difference between Shakespeare’s play and the source text is that Leontes’s jealousy is without apparent cause, whereas Pandosto is persuaded by circumstantial evidence to accuse his wife.

4. Leontes’s reaction to the sight of his wife with his best friend is typical of tyrants when doubt assails them about their invincibility or the validity of their power. What Leontes does to his wife is precisely how tyrannical rule manifests itself, without cause, without warning, and without mercy.

5. Tyrants also insist on absolute conformity to their beliefs, however illogical or unjust. In a later scene with another member of the court, Leontes articulates clearly his understanding of the relationship between magisterial authority and truth. This relationship is grounded in the king’s royal prerogative to assert what constitutes the truth against all counsel and advice.

B. The accusation of adultery by a king against his queen is merely a more elevated form of the countless charges of sexual infidelity that haunt the histories of women.

1. For the English audience, there would have been a special resonance in this sudden accusation, one that appeared to be motivated by a rupture in the intimate relationship between a husband and wife but was manifestly provoked by a political crisis.

2. Of course, the audience would have understood the reference to the charge of adultery advanced by Elizabeth I’s father, Henry VIII, against his wife and Elizabeth’s mother, Anne Boleyn.

3. Indeed, Shakespeare would go on in his last play, *Henry VIII, or All Is True* (1612–1613), to explore Henry’s politically motivated charges against his first wife. The play examines the nature of justice and its relationship to law in a polity struggling to balance the king’s claims to absolute authority and an emerging parliamentary prerogative.
4. We can see the connections between Henry’s machinations to secure an heir and the plot of The Winter’s Tale, in which the heir, Mamillius, the son of Leontes and Hermione, dies, and the king seems to be left with no heir until his daughter is restored to him.

5. The reunion of Perdita and Hermione with Leontes thus restores the dynastic family to its original wholeness and, with Perdita’s marriage to Florizel, the son of the king of Bohemia, represents the promise of future political stability through their male heirs.

C. The restoration of both the unjustly accused wife and the abandoned daughter is not the only major innovation in the play: Shakespeare also creates the character of Paulina, who conceals Hermione for 16 years, then reveals her as a statue to Leontes.

1. The statue scene, in which Leontes is required to “awake his faith” in order to understand what will transpire, redeems the trial scene in the first half of the play.

2. In both scenes, Paulina orchestrates such a dramatic transformation of what constitutes “truth” and, therefore, justice that the once tyrannical Leontes must acknowledge his errors and bow to the wisdom of this “mankind witch,” as Leontes has termed Paulina.

D. Before Paulina confronts Leontes with the charge that his tyranny has killed his son and wife, Hermione must withstand an assault on her character in a trial that articulates the nature of law as Leontes sees it.

1. Leontes’s insistence that his wife’s guilt is synonymous with his proper understanding of what constitutes her guilt indicates the interconnected nature of the sexual, the political, the legal, and the social in Shakespeare’s imagination. Domestic tyranny is only by degree less dangerous than public tyranny.

2. Both indicate an abuse of the authority that must be properly exercised by the king.magistrate/father to sustain the community. Leontes defends himself against this charge of tyranny by pointing to the open proceedings, which will follow the rule of law. Yet the verdict is, of course, a foregone conclusion, as Hermione knows, relying only on divine justice for support.

3. Even the message from the oracle at Delphi, to which Leontes has sent for advice, cannot dethrone his fixed idea that his wife is guilty. Leontes rejects the authority of the oracle.

4. As we know, it is dangerous to reject the divinities, and Leontes will pay the price for his excessive reliance on his own intuition and “reason.” Indeed, Leontes’s arrogance is immediately punished by the death of his son, Mamillius.

5. At the end of the play, the place of Mamillius as heir will be occupied by Florizel, the son of Polixenes, the man Leontes has accused of fathering Mamillius, and as quickly and arbitrarily as Leontes had jumped to the wrong conclusions about his wife, he reverts to a proper understanding of affairs.

6. Just as Leontes’s acts of tyranny needed no explanation, so his remorse needs no explanation. It is merely the other side of tyranny. Leontes is now as tyrannous—as excessive, that is—in his remorse as he has been in his wrong-headedness.

7. Thus, Leontes’s punishment for his tyrannous behavior is to emulate in his grief the very tyranny of thought that has produced this injustice in the first place. It is not until he can breathe life into that which is apparently dead—the body of his wife—that he will finally redeem his crimes and understand the work of justice.

8. That act, as we will see in the final scene, is an act of the imagination, a thing as far from the fixity and coldness of the statue as justice is from injustice.

E. Before we turn to the final scene, let’s briefly outline how the behavior of Polixenes toward his son mirrors the behavior of Leontes, although with far less disastrous consequences.

1. Discovering that his son is in love with a shepherdess, Polixenes threatens to disinherit him.

2. Polixenes’s threat to disinherit his son would, of course, leave him without an heir and, thus, abandon his kingdom to uncertainty and disorder. Once again, Shakespeare reminds us of how closely tied the individual regime is to the social regime.

F. In the final scenes of the play, Paulina affects her second transformation, this time turning what seems fixed and permanent into something that is living and, therefore, transient.

1. Unlike the trial scene, which was a public display (according to Leontes) of law in operation, the unveiling of Hermione’s statue takes place in an intimate setting in a chapel in Paulina’s house, and the figure stands “lonely, apart” and hidden by a curtain.
2. Just as in the trial scene, in which Paulina judges the truth of Hermione’s innocence and Leontes’s guilt, so here, she makes the truth reveal itself: that Hermione lives and Leontes can finally ask for forgiveness.

3. Witnessed by the daughter who was once the evidence of Hermione’s guilt and is now the proof of her innocence, justice is done. As Hermione “comes to life” and steps from her pedestal, justice is no longer merely an aspiration but a living thing.

4. As Leontes notes, such transformations are achieved by magic, but this is a magic that brings with it the promise of redemption.

5. The beauty of his wife’s human female form—once condemned—is now celebrated as the conjuror, the performer of a certain kind of justice, and it is a justice that is linked directly to God’s justice and mercy.

VI. The Winter’s Tale both rehearses the innumerable transformations of desire appropriate to the romance and models various forms of authority and subjection appropriate to Stuart England.

A. To turn to the play in its historical moment and see it as a representation of a debate between two primary forms of political authority—royal absolutism versus the power of Parliament—is not to ignore the literary conventions that shape the play’s structure and plot.

B. On the contrary, the performance that works its magic on the stage is intimately allied with the performance that works its magic in the court. The audience for both must believe in an illusion, in the possibility of transformations and conversions, even as it simultaneously recognizes the transient nature of those “ideal” moments.

Essential Reading:

Recommended Reading:
T. G. Bishop, Shakespeare and the Theatre of Wonder.

Questions to Consider:
1. This play reveals the intricate connections between the father’s law at the state level and at the family level. Do such connections still exist today, and how do they manifest themselves?

2. Can you imagine how you would produce a contemporary version of this play—one that “instructs” a leader how to moderate the tendency of power to corrupt judgment?
Lecture Eleven

An Epic Trial—Milton’s Paradise Lost (1667)

Scope: In this lecture, we turn to one of the great epics of English literature, Milton’s depiction of the Genesis story of Adam and Eve. We return to this story in its 17th-century version to understand the nature of the English Puritan state and the complicated web of connections between the theological, the legal, and the political that gave rise to the death of a king, Charles I, and the establishment of a commonwealth that drew its moral and political strength from a specific understanding of the Bible and God’s providence. Milton spent the English Civil Wars as a prominent politician and right-hand man to Oliver Cromwell, arguing for liberty, the power of the citizens over the power of the state, and divorce in cases of incompatibility. His great epic, Paradise Lost, published in 1667, seven years after the reestablishment of the monarchy, is both a celebration of the religious principles that caused a revolution and a lament for the loss of that glorious state.

Outline

I. Along with John Bunyan’s Pilgrim’s Progress (1678), Paradise Lost is one of two great English legal and literary texts of the early modern period that is securely based on religious principles. By the time Milton published his epic poem, however, the vision of a state securely grounded on divine law that had inspired his work was gone forever.

   A. During the Civil War (1642–1651) and the Interregnum (1652–1659), Milton was Cromwell’s Latin secretary. He had supported those parliamentarians who tried Charles I and sentenced him to death for treason against his people; after the king’s death, he wrote a pamphlet, arguing that the people had the right to depose and punish tyrants.

   B. After the failure of the revolution, Milton returned to poetry and his great task: “to justify the ways of God to man.” In Paradise Lost, he weaves together images and narratives from biblical and classical traditions, constructing a canvas that represents a divine plan, against which Adam and Eve are placed in all their human frailty and nobility.

II. To understand the magnitude of Milton’s creative genius, it is necessary to compare the Genesis account of the creation and the fall of Adam and Eve with Milton’s version in Paradise Lost.

   A. In the biblical creation story, Adam is responsible for Eden and must demonstrate his obedience to God by observing God’s single commandment: not to eat from the tree of the knowledge of good and evil. This version of the fall assigns primary guilt to the serpent who tempts Eve.

   B. Milton situates this crime against God in the context of other acts of disobedience, primarily that of Satan’s rebellion. Milton relies on centuries of biblical commentary to explicate the nature of man’s condition before and after the fall and to explore the nature of God’s justice and his relationship to his creation, but the particular rendering of the multiple crimes against God is Milton’s alone.

   C. The only plausible poetic form that could contain such a narrative scope and philosophical range was the epic.

      1. Milton’s poem was, like the traditional epic, a poem about both a nation and a hero, and for Milton, Adam and Eve’s fall from grace resembles the collapse of God’s kingdom, once thought to have been permanently established by Cromwell and the Puritans.

      2. The Puritan revolution was both a theological and a political event. Paradise Lost is as much a poem about the proper form of government and civic responsibility and, therefore, about law as it is about the proper form of Christian doctrine.

III. Milton begins his poem with an invocation that details the scope of the narrative, from the fall of man to Christ’s redemption and the Last Judgment.

   A. Book One offers us the image of the anti-hero: Satan among his cohorts on the burning lake of Hell. Satan might be anti-heroic in terms of his relationship to God, but his demeanor, language, and appearance simulate the traditional hero of the epic.
1. Satan’s audacity distracts us from his situation; he is at the furthest point from God, both spatially and spiritually, and his rebellion is not merely another version of disobedience. He simply does not recognize God’s authority.

2. His rebellion, then, is a denial of God’s essential nature as all-powerful and has been fueled by a rivalry with God. In its destructiveness, it is a parody of the divine act of creation.

B. Satan briefly expresses regret at the loss of his seat in heaven, but that regret does not last, and in his acceptance of his fate, Satan reveals that his logic, his reason, has also suffered a fall.

1. Note that Satan misperceives the nature of God’s power, ascribing God’s success in the battle merely to his superior strength. Likewise, he fails to understand that there is no place outside God’s provenance. Even hell is not outside God’s order, and being “free” to “reign” in hell is entirely dependent on God’s will.

2. Satan’s failure to comprehend his situation is rooted in his failure to grasp a central paradox: that God has granted the individual free will to act even though God knows in advance how that individual will choose.

3. This tension between free will—and its corollary, choice—and God’s omniscience cannot be resolved through philosophical reasoning, only by faith.

C. Satan’s perverse logic is also evident when he fails to understand the implications of his claim that his mind can make a hell out of heaven, a heaven out of hell; that is, his mind is not to be changed by place and time. As he will discover after he leaves hell and journeys to Earth to tempt man, a mind that cannot be changed is a mind that remains a hell.

D. A similarly perverse logic will overtake both Eve and Adam after they succumb to temptation. We see, as in the Oresteia, how the discourse of persuasion functions both to promote and to pervert law and justice.

E. In Book Three, God explains to Christ that man must fall precisely because he is free to do so. In his explanation, God distinguishes quite clearly between his version of freedom and Satan’s.

1. For Satan, freedom means that he is equal to God or, at the very least, not subordinate to God. For God, freedom is an act of willing submission. When man disobeys the single commandment God has ordained, his destruction is inevitable.

2. To elevate the demands of the senses over the will and reason is to make the flesh paramount and, thereby, to convert what had previously been immortal into something mortal. Further, if God is to remain true to his nature—as one whose decrees are absolute—then justice demands man’s death. Only the sacrifice of another—Christ—can redeem this punishment for man.

3. Just as Satan has volunteered to seek out man and corrupt him, so Christ volunteers to sacrifice his life to redeem man. We can see, then, that justice is always inseparably linked to mercy for Milton, just as evil is always inseparably linked to a failure of reason.

IV. In Milton’s ontological hierarchy, reason stands supreme, governing will, which in turn, governs the appetite, or the demands of the senses.

A. When Eve listens to Satan’s lies, she willingly relinquishes her reason and follows the demands of the flesh. Such a voluntary rejection of the reason with which God has endowed her is problematic, however, because Eve seems to be described as less able to reason than Adam.

B. Moreover, when Raphael visits Adam and Eve in Book Five to warn them of Satan’s plan, he speaks only to Adam, although Eve overhears much of what he says. The question of how fair it is to blame Eve for not being able to resist what she is not directly told is a reasonable one, but Milton answers it, even if the answer does not accord with our modern sense of gender equality.

1. It is precisely because she has to lean on Adam and follow his advice that she should not presume to know the enemy when she sees him or to be able to resist his temptations.

2. Both Adam and Eve are described as the children of their creator. In this, they are equal, and from this covenant comes their “authority,” their power over the rest of the created world.

3. The difference between the two comes in their relationship to God, which is direct in the case of Adam and indirect in the case of Eve. Because Eve must exercise her reason in compliance with Adam’s understanding of his relationship with God, her unwillingness to heed his warnings about the “enemy” is not excusable on the grounds that she is not directly informed about the danger.
C. Some critics argue that Eve has already fallen when she allows the snake to persuade her to eat the apple. In other words, the fall occurs earlier—in Book Four, for example, when Satan, disguised as a toad, whispers into Eve’s ear and she dreams of her temptation.

1. Perhaps the fall occurs when Eve suggests to Adam that they would achieve more in labor if they separated while tending the garden, because now their work is interrupted with smiles and caresses.

2. Eve’s argument that their state cannot be one of perfection if they can be being tempted reveals the limitations of her reason, both in its intellectual and in its larger spiritual sense, and indicates precisely why she should remain with Adam.

3. Her conclusion that Eden cannot be Eden if they are vulnerable to temptation also recalls God’s explanation in Book Three as to why he cannot change Adam and Eve’s punishment.

4. As he often does in *Paradise Lost*, Milton links the protagonists and antagonists through a series of rhetorical arguments that seem to reach valid conclusions but that, as we have seen with both Satan and Eve, rely upon knowingly or ignorantly perverting the logic of intellectual and moral discourse to corrupt truth.

5. Adam’s response to Eve specifically corrects her imperfect logic and reinforces the hierarchy that makes him superior in reason.

D. Can we say that Eve has, in a sense, already fallen? The answer is, no.

1. From a strictly theological point of view, Milton would have argued that there can be no sin before the single act of disobedience. There can be error, but error is blameless.

2. Indeed, if one sees the epic unfolding with the same relentless irony as Sophocles’s *Oedipus Tyrannus*, one can see the distinction that Milton wishes to maintain between thinking about sin and committing it. Just as Sophocles does no harm until he kills his father at the crossroads, however much he contests the divine order by leaving Corinth, so Eve does no harm until she bites the apple.

3. This distinction between intent and action is, as we have seen, not simply a legalistic distinction. Acting with guilty intent is what makes the criminal. Only then can he be said to be “fully responsible” for his crime.

E. When Eve leaves Adam to work alone, she does so without any intent to disobey either him or God. Indeed, at every stage of her seduction by Satan, she appears to be acting without guile.

1. Satan’s corruption of Eve follows the same rhetorical pattern that Satan has himself articulated in his complaint against God.

2. Just as Satan has redefined God as a tyrant and rationalized his own disobedience as justified resistance, so he is able to persuade Eve that a God who would punish his creatures because they wished to know the nature of goodness cannot be just, and if not just, says Satan, not God.

3. Eve’s fear of “death” is likewise dismissed as nothing more than the attempt by a jealous God to keep them in ignorance. Milton is not a feminist. Eve does not fall because she is heroically searching for knowledge; she falls because she cannot outwit Satan, which is precisely what Adam has warned her about.

4. Adam’s reaction to her sin is quite different. She does not have to persuade him to eat the apple. According to Milton’s representation, Adam is fully aware of the sin and its consequences.

V. The story does not end, however, with their loss of innocence and mutual accusation of fault.

A. In the last two books of the epic, Adam is shown by Raphael the future of mankind, with all its horrors, but he is also shown mankind’s redemption. In this Christian teleology, the hero is not cast out to suffer blindness and exile; as Oedipus is, but rather, leaves Eden to walk into human history.

B. Milton announced at the beginning of his epic that he wished to “justify the ways of God to man.” His best readers might indeed see in his justification precisely the just God that Milton believed was necessary to enable human beings to act and to choose freely.

Essential Reading:

Recommended Reading:
David Loewenstein, *Milton: Paradise Lost*. 
Questions to Consider:

1. How can one represent “evil” without making it attractive (or at least viable) and, therefore, diluting its power to horrify?

2. Choice, God says in *Paradise Lost*, is the only true freedom, and to choose is, by definition, to be able to choose wrong. How can choosing wrong be a function of freedom?
Lecture Twelve

*Moll Flanders* (1722); *Beggar’s Opera* (1727)

Scope: In these two texts, one a novel and the other an opera, we see how the moral influence of the Church in social and political matters is challenged by the secular values of a growing mercantile economy. In *Moll Flanders*, economic concerns transform the very sense of selfhood that the heroine narrates into being. Despite the confessional nature of her story, Moll Flanders returns again and again to an economic basis for valuing her self and her activities in the world. Likewise, in John Gay’s comic opera, we witness a world turned upside down, in which the highest value is attributed to the most devious of actions and the manipulations of the criminal underworld are a mirror image of the duplicity and deceit of the political and social elite. Thus, whores and beggars are indistinguishable from aristocrats and politicians, just as virtue and truth are indistinguishable from promiscuity and lies. Both authors seem to ask: To what universal standards of value can one turn under such circumstances?

Outline

I. Both *Moll Flanders* and *The Beggar’s Opera* were enormously popular in the early 18th century.

A. *Moll Flanders* is a novel about a woman who lies, cheats, and whores her way from England to the New World and back again, and *The Beggar’s Opera* is a comic or ballad opera that relies on the audience’s ability to identify the highwaymen and pickpockets as metaphors for a corrupt government.

B. The success of Defoe’s novel, published in 1722, indicated that something new was happening in the culture’s expectations about how their lives should be represented.

1. This change can generally be identified as a demand for a more “democratic,” and therefore less aristocratic, version of life.

2. The audience was no longer the elite and the powerful alone but the rapidly growing middling classes and their servants, who eagerly devoured tales about people much like them.

3. Moreover, this middling class was growing as wealthy, if not more so, than the aristocratic classes and desired a model of the self-made individual who rose through the ranks by virtue of his ingenuity and mercantile skills.

4. Despite Defoe’s apparent disapproval of this breakdown in traditional social categories, he specifically exploits this ability to trade places with the aristocrat in *Moll Flanders*, where Moll’s desire to “pass” as a lady drives the plot.

C. In addition to the model of the self-made man, the merchant class also projected a model of the best citizen in the form of the consumer. Success was produced by trading goods and taking risks with investments and was measured by how much material wealth one could accumulate.

D. But fortunes made from speculation could also be lost, and such social instability produced a religious narrative that argued for God’s active involvement in the life of the individual and could be used to explain or justify secular events.

E. Defoe’s fiction repeatedly represents these two apparently conflicting forces: the urge to acquire contending with the desire for salvation. Indeed, in Defoe’s work, one is often represented in terms of the other: the religious manifested as material wealth, and material wealth metaphorically described in religious terms.

II. *Moll Flanders* is structured as a spiritual autobiography, in which the individual struggles to remain true to God in a world of temptations.

A. Unlike the traditional spiritual autobiography, however, this novel displays an uneasy alliance between two narrative forms: the economic and the spiritual. It is both a record of Moll’s movement from innocence to corruption to redemption and a narrative of acquisition.

B. By the end of the novel, the two narrative strategies have collapsed into one.

1. It is precisely Moll’s wealth and success as a plantation owner in the New World that signal her redemption in God’s eyes.
2. One might argue that the strict code of prohibitions in the Ten Commandments and the codes of criminality that reflect Judeo-Christian religious principles have been compromised by worldly concerns that temporize the clarity of those ancient commands.

III. This tension between the two narrative strategies—the spiritual and the material—is also reflected in the tension between the explanations Moll offers for her criminality and promiscuity.

A. The clear sense of responsibility manifest in accounts of biblical sin is compromised by arguments that pitch “nature” against “nurture.”
   1. The confusion about the source of Moll’s criminality is not that of the heroine alone. Moll frequently wonders whether she was destined to be a thief and a whore, but the text gives no clue about how we should judge these speculations.
   2. At times, it seems that Defoe wishes us to see Moll as merely a victim of her circumstances and one who, in the best mercantile tradition, trades what she can for security. Must society, therefore, be held finally responsible for her crimes?
   3. At other times, Defoe seems to suggest that we should condemn Moll for her immorality.

B. Perhaps the clearest example of the confusion between the spiritual narrative and the economic narrative occurs in the descriptions of Moll’s amorous encounters.
   1. All of Moll’s erotic relationships are quantified in terms of how much they are worth from a financial perspective. Her first relationship foreshadows all future erotic encounters, in which Moll is “seduced” both sexually and financially.
   2. We are acutely aware of the value of everything in this novel, a value determined not by a moral calculus but by a commercial one.
   3. This distinction marks the separation between a society that understands wealth in terms of the stability of the family estate and a capitalist economy, in which wealth and its symbolic representations are fluid and mobile.

C. The interchangeability of the financial and the erotic in Moll’s narrative reflects the growing legalization of both private and public relationships, as well as the voicing of a critique of marriage as “legalized prostitution,” as represented, for example, in Hogarth’s satirical series of engravings *Marriage à la Mode*.

IV. At the same time, a recognizable criminal class came into being: one that could be disciplined by the law and chronicled by the novelist, as Defoe does with Moll and John Gay does with the narrative of the highwayman Macheath in his *Beggar’s Opera*.

A. The advent of a criminal class is, some critics have argued, the corollary of the development of the modern concept of individuality and the establishment of the right to own private property as a legal and moral principle.

B. It is the combination of individuality, property (and the desire for it), and anonymity that produces the idea of criminality—a concept that is different from the concept of sin.

C. We have moved from a society based on the absolutes of the Christian faith to a society whose definition of crime is no longer synonymous with its definition of sin.

V. The similarity between the moral values of the criminal class and those who claim moral superiority is the subject of John Gay’s *Beggar’s Opera*.

A. In this work, the denizens of London’s underworld manifest qualities and values that imitate those of the upper class, especially those politicians whose power extends to enforcing laws against criminals.

B. *The Beggar’s Opera* is a three-act comic farce, satirizing the political and social follies of the day.

C. Its heroes are anti-heroes: thieves and highwaymen and the fences who put stolen goods back into circulation, and its songs are not arias but recognizable melodies from the world of English folk ballads.

D. Despite its comic appeal, the play has a serious moral purpose, one that articles in political newspapers were quick to point out: The corruption of the establishment—the Whig party and its leader, Sir Robert Walpole—was no better than highway robbery. Thus, the prime minister was equated with the anti-hero of the play, Macheath, the highwayman.
VI. Audiences of the day devoured stories of the exploits of highwaymen, responding, paradoxically, with both admiration and disapproval.

A. The fact that there was one set of laws for the rich and one for the poor was evident to all who followed the accounts in the broadsheets of scandals and notorious criminal deeds.

B. This hypocritical and corrupt world is the subject of the opera’s first song, sung by Peachum, the original for whom was Jonathan Wild, a famous criminal in London during the 18th century. Peachum receives stolen goods and sells them back to their rightful owners, as well as turning in to the authorities thieves who have a price on their heads.

C. His wife, Mrs. Peachum, is a partner in the business, but she leaves all the difficult decisions of who should live and who should die to her husband because women are too sentimental for such affairs.

1. Her stereotypical characterization of women is, in fact, accurate—but of her daughter, Polly, who has secretly married the highwayman Macheath—not of Mrs. Peachum herself.

2. Part of the comedy in the opening scene is the representation of Peachum and Mrs. Peachum as morally upright middle-class merchants, who are horrified that their daughter should prefer one of the criminal class.

3. Their moral obtuseness is, as the opera suggests, not merely the result of their occupation and contact with criminals, but because they have confused moral value with material well-being.

4. The Peachums are outraged that Polly might marry Macheath because she has given up her virginity for nothing and because she has confused love with the real business of living—which is to make a profit.

5. In fact, the Peachums model the relationship they would prefer Polly to have adopted: a contractual relationship built on mutual business interests, rather than an affective bond built on love.

D. Gay makes clear that even though the elite would reject this characterization of marriage as one held only by the lower classes, it is precisely the men from that elite world who keep the whorehouses, the gambling dens, and the taverns going, and it is their wives who fuel the need for luxury goods and keep the Peachums in business.

VII. In what seems to be an ever-escalating series of dirty deeds and betrayals, the Peachums decide that they can still retrieve Polly’s fortune by turning Macheath into the authorities and collecting the reward for his capture.

A. Polly overhears their plans and warns Macheath who, rather than escaping to safety, retreats to a tavern, where he is pampered by prostitutes whose social manners rival those of the upper class.

B. Gay constantly keeps this double perspective before the audience: On the one hand, these are thieves and whores who have little in the way of moral standards; on the other hand, they are maintained in their moral degeneracy by those who claim to have the highest moral standards but whose behavior rivals that of the criminal class.

C. Turned in to the authorities by two of the whores with whom he plays, Macheath is taken to Newgate Prison, the center of the fictional world of the opera.

1. Newgate was a place where the criminal and the merely financially insolvent mingled without distinction.

2. Traditional class hierarchies were maintained by the ability of the more affluent to secure themselves special privileges, but at the same time, those class boundaries were dissolved by the “new society” that the prison created.

3. Thus, Newgate is a perfect metaphor for Gay’s moral message, in which the highwayman and the prime minister are connected through function and behavior, just as the whore and the respectable wife who has been “sold into marriage” are connected in their parallel worlds.

D. The entire social system, which depends on the faith of the governed in the moral authority of those who govern, comes under attack.

1. At Newgate, the system of justice and the role of the government in the life of the citizen should be unimpeachable.

2. What Gay argues, however, is that Newgate is, at its heart, the seat of corruption.
E. In Newgate Prison, Macheath reveals himself to be unworthy of Polly’s affection. He has also apparently promised to marry Lucy Lockit, the prison warden’s daughter, and has several other wives and children.

1. In a scene painted by Hogarth, Lucy and Polly plead with their fathers to spare Macheath’s life—an ironic reminder of who actually determined whether the sentence would be carried out and an indication of the radical corruption in the system.

2. Harassed by claims of love, rather than the legal authorities, Macheath declares himself ready for death.

F. If the opera is to remain comic Macheath must be saved, and marriage to Polly must ensue. Thus, the Beggar reappears to rewrite the ending of the play so that Macheath can be reprieved and return to Polly.

1. Polly’s love for Macheath is perhaps the only totally un-self-interested affective relationship in the play, but its triumph at the end of the opera is achieved by the same artificial means as the pardon that saves Macheath from the gallows.

2. The absurdity of this revision is embodied in the celebration of Macheath’s reprieve, in which the chained inhabitants of Newgate dance together. It also corresponds to the absurdity of having justice in the hands of the unjust and the criminal—a point made sardonically by the Beggar, who has the final word.

VIII. *The Beggar’s Opera* is not subversive because it poked fun at the authorities. That, after all, is the function of comedy and was certainly the expectation of the London theatergoer.

A. It is subversive because there is no space outside the totally ironic view of the play for any morally proper, public authority to exercise itself.

B. It is, then, a thoroughly cynical representation of the value and claims of those in authority—specifically those who would assert that they have the moral authority to execute punishment on the supposedly immoral and illegal.

**Essential Reading:**
Daniel Defoe, *Moll Flanders.*

John Gay, *The Beggar’s Opera.*

**Recommended Reading:**

**Questions to Consider:**

1. What difference does it make that the protagonist of Defoe’s moral/spiritual narrative is a woman rather than a man? What other issues does this gender choice allow Defoe to raise?

2. Compare Gay’s opera to Brecht and Weill’s *Threepenny Opera* (1928) and reflect on the continuing power of these satires against capitalism and its political consequences.
The English legal system has both solicitors and barristers. Traditionally, solicitors included all lawyers who engaged in non-litigious legal matters, and later came to include also attorneys, a term referring to lawyers who prepared lawsuits for trial. Barristers, on the other hand, are trial lawyers; in the past, only a barrister could come before the bar. However, recent judicial reforms have permitted solicitors to practice in certain—but not all—courts. Clients do not hire barristers directly; the client engages a solicitor, who engages a barrister if necessary. The educational paths for solicitors and barristers also differ. To practice as a barrister, one must be a member of one of the Inns of Court.

Barristers do not work in law firms as Americans know them. Barristers are self-employed; they are not permitted to go into partnership, although they share offices (chambers). The clerk of chambers is the channel through which cases (briefs) come from solicitors. A barrister must be a member of one of the Inns of Court, and he or she must also be accepted into particular chambers within that Inn of Court.

A would-be barrister with a degree in law must take an additional year of study, then one year of pupillage (in one of the Inns of Court); one with a degree in some other subject than law needs two years of study and one year of pupillage. Historically, from before the time of Chaucer, a barrister of the highest rank was known as a serjeant-at-law and it was from their ranks alone that judges were chosen. Until 1845, serjeants held the monopoly for practicing before the Court of Common Pleas and their monopoly on judicial appointments was abolished in 1873.

A present-day solicitor will most often earn a law degree plus serve what is typically a two-year apprenticeship; in the past, solicitors served a fiveyear apprenticeship (known as under articles) instead. Dozens of universities offer law degrees that serve as academic credentials for solicitors.

The Law Society is the solicitors’ umbrella organization: just as a barrister is a member of an Inn of Court, so a solicitor is a member of the Law Society. The Law Society was founded in 1825 (following an earlier organization founded in 1739) and adopted its current name in 1901. Before, and for a few decades after, the creation of the Law Society, solicitors were trained by various Inns of Chancery, which also provided preliminary training to barristers until the separation of barristers from solicitors hardened in the 18th century. The Inns of Chancery had virtually disappeared by the beginning of the 20th century.
Timeline

c. 1250–1000 B.C. Conquest of the land of Canaan begins before 1200. The tribes of Israel form a loose confederation. The histories of Abraham, Isaac, Jacob, Joseph, and Moses are told orally, handed down from generation to generation.

c. 1000–950 B.C.... The tribes are united under King David. Many of the stories are written down, describing the creation of the universe, the birth and history of the tribes, and their special relationship with God. No manuscripts survive.

c. 525 B.C. ........... Aeschylus born.
c. 497 B.C. ............ Sophocles born.
458 B.C................ Oresteia performed at Athens City Dionysia Festival.
c. 456 B.C. ............ Aeschylus dies.
c. 428–425 B.C..... Oedipus Tyrannus first performed.
406 B.C................ Sophocles dies.
1066.................. Norman Conquest.
1162................... Becket is appointed archbishop of Canterbury and at once quarrels with Henry II over the Church’s rights.
1164................... Constitutions of Clarendon; restatement of laws governing trial of ecclesiastics in England; Becket is forced to flee to France.
1170................... Becket is reconciled with Henry II, returns to Canterbury, and is murdered by four knights under Henry's orders.
1188................... London’s first Newgate Prison built; rebuilt in 1770 and 1782.
1215................... Pope Innocent III leads Fourth Lateran Council to forbid Jews from holding public office.
1290................... Jews expelled from England until 1655.
1300–1400............. Development of central royal courts and the English court of equity created under the authority of the Lord High Chancellor; the court was later known as the Court of Chancery, which offered legal remedies not obtainable in the courts of common law.

c. 1343 ................ Geoffrey Chaucer born.
1359–1360........... Chaucer serves in the war in France, is captured by the French, and is ransomed for 16 pounds.
1377–1399.......... Rule of King Richard II.
1380................... Cecily Chaumpaigne signs a document releasing Chaucer from all actions in the “case of my rape” (de raptu meo).
1382.................. The Bible is translated into English.
1387–1392.......... Chaucer begins The Canterbury Tales.
1392–1395......... Chaucer writes most of The Canterbury Tales.
1396–1400 ........... Chaucer writes the latest of the tales, including probably “The Nun’s Priest’s Tale,” “The Canon’s Yeoman’s Tale,” (though part is probably earlier), and “The Parson’s Tale.”
1399–1413.......... Rule of King Henry IV.
1400................... Geoffrey Chaucer dies.
1401.................. Persecution of the Lollards for revolting against the clergy.
1509–1547.......... Rule of King Henry VIII.
1535.................Trial of Sir Thomas More at Westminster Hall. Statute of Uses passed to guarantee to the king the benefit of taxes on land and estate transactions; increased the power of the Court of Common Pleas.

1536.................Ann Boleyn arrested and charged with adultery, incest, and treason.

1547–1553...........Rule of King Edward VI.

1553....................Rule of Lady Jane Grey.

1553–1558.............Rule of Queen Mary I.

1558–1603.............Rule of Queen Elizabeth I.

1562....................Earliest known English tragedy, Ferrex and Porrex, performed by gentlemen of the Inner Temple before the queen.

1564....................William Shakespeare born.

1566....................Jocasta and Suppose performed before the queen at Gray’s Inn.

1568....................Tancred and Gismonda played before the queen at the Inner Temple.

1570.................Playwright Thomas Middleton born, later a student at Gray’s Inn.

1575.................Playwright and satirist John Marston born, later a student at the Middle Temple.

1576.................First theater in London (Shoreditch).

1586.................Playwright John Ford (contemporary of Shakespeare) born.

1588....................The Misfortunes of Arthur acted before the queen at Gray’s Inn. Robert Green publishes Pandosto; or, The Triumph of Time.

1593.................Parliament passes the Act Against Sectaries, which states that all nonconformists who “deny…her majesty[’s] power and authority in causes ecclesiastical,…under colour or pretence of any exercise of religion contrary to her majesty’s said laws and statutes;… shall be committed to prison…until they shall conform.”

1594....................Shakespeare’s The Comedy of Errors presented at Gray’s Inn.

1596–1597....Shakespeare’s The Merchant of Venice.

1597.................The Chamberlain’s Men perform Love’s Labour’s Lost before the queen in her palace at Whitehall.

1598.................King James I publishes Trew Law of Free Monarchies.

1601–1602...........First known performance of Twelfth Night, in the Middle Temple.

1603–1625...........Rule of King James I.

1604.................John Marston’s The Malcontent.

1604–1605......Shakespeare’s Measure for Measure.

1606.................Sir Edward Coke (advocate of common law and of restricting the king) appointed Chief Justice of the Court of Common Pleas.

1608.................John Milton born.

1609–1611....Shakespeare’s The Winter’s Tale.

1611.................King James version of the Bible first published.

1612–1613.....Shakespeare’s Henry VIII, or All Is True.


1625–1649...........Rule of King Charles I.
1627...........Thomas Middleton dies.
1633...........John Ford’s ‘Tis Pity She’s a Whore.
1634...........John Marston dies.
1640...........John Ford dies.
1642–1651...English Civil War.
1642...........Milton writes pamphlets against episcopacy.
1643...........Milton writes pamphlets on divorce, including The Doctrine and Discipline of Divorce.
1644...........Milton writes pamphlets in defense of the liberty of the press, including Areopagitica.
1649...........Execution of King Charles I. Milton writes pamphlet, The Tenure of Kings and Magistrates.
1656...........Jews readmitted into England.
1660...........Daniel Defoe born. Restoration of Charles II to the English throne.
1666...........Great Fire of London.
1667...........Milton’s Paradise Lost published in 10 books.
1674...........Paradise Lost expanded to 12 books.
1675...........John Milton dies.
1678...........John Bunyan’s Pilgrim’s Progress.
1685...........John Gay born.
1688–1689...Glorious (Bloodless) Revolution (Britain).
1689...........William III ascends the throne.
1690...........Battle of Boyne in Ireland.
1692...........Salem witch trials.
1701...........Defoe publishes pamphlet, “The True-Born Englishman.”
1703...........Defoe imprisoned in Newgate Prison for authoring pamphlet.
1707...........Henry Fielding born.
1714–1727...Rule of King George I.
1714...........Walpole leads the Whig government.
1717...........Walpole resigns.
1719...........Defoe’s Robinson Crusoe.
1721...........Sir Robert Walpole returns to government as First Lord of the Treasury. He remains in office until 1742 and effectively becomes Britain’s first prime minister.
1722...........Defoe’s The Fortunes and Misfortunes of the Famous Moll Flanders.
1725...........Master criminal Jonathan Wild hanged in London.
1727–1760...Rule of King George II.
1727–1728...Gay’s The Beggar’s Opera.
1731...........Daniel Defoe dies.
1740...........Samuel Richardson’s Pamela: Virtue Rewarded.
1743..........Fielding writes *Jonathan Wild*.
1745..........Hogarth’s series of engravings *Marriage à la Mode* published.
1750..........John Cleland’s *Memoirs of a Woman of Pleasure*.
1752..........Fielding’s *Examples of the Interposition of Providence in the Detection and Punishment of Murder*. Mary Blandy’s *Miss Blandy’s Own Account of the Affair Between Her and Mr. Cranstoun* published just before Blandy hanged for murdering her father. Frances Burney born.
1754..........Henry Fielding dies.
1760–1820...Rule of King George III.
1765–1769...Blackstone publishes his *Commentaries on the Laws of England* (four vols.).
1767..........Maria Edgeworth born.
1775..........Jane Austen born.
1778..........Burney’s * Evelina*.
1790..........First census lists 697,897 slaves in the United States.
1800..........Edgeworth’s *Castle Rackrent*.
1801..........Union of Britain and Ireland; Catholics unable to vote.
1804..........Nathaniel Hawthorne born.
1807..........U.S. Congress passes an act to “prohibit the importation of slaves into any port or place within the jurisdiction of the United States… from any foreign kingdom, place, or country.” The Slave Trade Act becomes law, abolishing slavery in Great Britain
1812..........Charles Dickens born. Edgeworth’s *The Absentee*.
1813..........Austen’s *Pride and Prejudice*.
1817..........Jane Austen dies.
1820–1830...Rule of King George IV.
1829..........Parliament passes the Catholic Relief Act, ending most restrictions on Catholic civil rights in England and Ireland. Catholics allowed to own property and run for public office, including Parliament.
1830–1837...Rule of King William IV.
1832..........First Reform Bill. This climax of a period of English political reform extends the vote to 500,000 people and redistributes parliamentary seats on a more equitable basis.
1833..........Abolition of slavery throughout the British Empire.
1835..........Mark Twain born.
1837–1901...Rule of Queen Victoria.
1840..........Frances Burney dies. Thomas Hardy born.
1843..........Judges of the House of Lords (which is both a legislative and judicial body) formulate the M’Naghten rules, also known as McNaughten or Macnaughton rules, a set of guidelines for an insanity defense; used in England and Wales until the 1960s.
1846..........Petition presented to the New York constitutional assembly demanding equal rights for women.
1848..........First women’s rights meeting in the U.S. held at Seneca Falls, NY.
1849..........Maria Edgeworth dies.
1850.............Hawthorne’s *The Scarlet Letter*. Congress passes the Fugitive Slave Act.

1851–1852...Beecher Stowe’s *Uncle Tom’s Cabin*. Dickens publishes his journal *Household Words*. Matthew Arnold’s “Dover Beach.”

1852–1853...Dickens’s *Bleak House*.

1854.............Barbara Bodichon publishes *A Brief Summary, in Plain Language, of the Most Important Laws Concerning Women*.

1855.............Caroline Norton publishes *English Laws for Women*.

1856.............Margaret Garner arrested for the murder of her children.

1857.............Divorce and Matrimonial Causes Act (England).

1857.............U.S. Supreme Court’s Dred Scott decision opens federal territory to slavery, denies citizenship to American blacks.

1860.............Mystery writer Wilkie Collins’s *The Woman in White*.

1861.............Harriet Jacobs’s *Incident in the Life of a Slave Girl*.

1861–1865...U.S. Civil War.

1863.............Emancipation Proclamation frees almost 4 million slaves.

1864.............Nathaniel Hawthorne dies.

1865.............Congress passes the Thirteenth Amendment, abolishing slavery.

1867.............Second Reform Act gives the vote to many British workingmen.

1868.............Fourteenth Amendment to the Constitution declares that all persons born or naturalized in the United States are citizens and entitled to the equal protection of its laws.

1870.............Fifteenth Amendment to the Constitution declares that the right to vote cannot be denied because of race or previous condition of servitude. British Parliament passes the Women's Property Act, extending the rights of married women. Charles Dickens dies.

1873.............English Court of Chancery merges with the common law courts.

1882.............Susan Glaspell born.

1883.............Franz Kafka born.

1884–1885...Third Reform Act gives vote to British male agricultural workers.

1885.............Twain’s *Huckleberry Finn*.

1887.............Universal male suffrage (England).

1891.............Hardy’s *Tess of the D’Urbervilles*. Arthur Conan Doyle’s *The Adventures of Sherlock Holmes*.

1895.............Hardy’s *Jude the Obscure*.

1896.............Harriet Beecher Stowe dies.

1899.............Vladimir Nabokov born in St. Petersburg, Russia.

1910.............Mark Twain dies.

1913.............Kafka writes “The Judgment.” D. H. Lawrence’s *Sons and Lovers*.

1917.............Glaspell’s “A Jury of Her Peers.” Women over the age of 30 granted the right to vote in Great Britain.

1919.............Kafka’s *In the Penal Colony*, his short story “Before the Law,” and his unpublished *Letter to My Father*. 

©2006 The Teaching Company Limited Partnership
1921.............The 19th Amendment to the U.S. Constitution grants women the right to vote. In Great Britain, right to vote extended to all women over the age of 21.

1922.............The (English) Infanticide Act, creating a partial defense to murder for a woman who kills her newly born child while the balance of her mind was disturbed as a result of giving birth. In 1938, the law was extended to cover cases in which the mother was likely to be diagnosed as suffering from puerperal or lactational insanity.

1924.............Franz Kafka dies.

1925.............Kafka’s *The Trial* published posthumously.

1928.............Thomas Hardy dies.

1931.............Toni Morrison born.

1939.............Seamus Heaney born in County Derry, Northern Ireland.

1942.............Supreme Court case *Chaplinsky v. New Hampshire* establishes the legal category of “fighting words.”


1952.............Rule of Queen Elizabeth II.

1955.............Nabokov’s *Lolita* published.


1959.............D. H. Lawrence’s *Lady Chatterley’s Lover* judged not obscene.

1961.............Supreme Court case *Hoyt v. Florida* rules unanimously that an all-male jury does not violate a female defendant’s right to a jury of her peers.


1968.............Congress passes law ensuring that women can serve on juries in all states.

1977.............Vladimir Nabokov dies.

1987.............Morrison’s *Beloved*.

1993.............Toni Morrison awarded Nobel Prize for Literature.

1995.............Seamus Heaney awarded Nobel Prize for Literature.
Glossary

**apologia:** A literary confession.

**Aristotelian tragedy:** The structure of tragedy is determined by the combination of character and environment.

**bara:** Hebrew word for “creates.”

**black letter law:** Laws that have general acceptance and authority and are usually written down.

**casuistry:** The theoretical contemplation of hypothetical moral crises.

**common law:** The dominant English legal system, founded on precedent.

**Court of Chancery:** A court of equity that developed out of the Lord Chancellor’s jurisdiction during the reign of Richard II (1377-1399); abolished in 1873.

**covenant:** contract, agreement, compact, or promise; common translation for the bond between God and humanity, whether from Old Testament Hebrew (*berith*), New Testament Greek (*diatheke*), or the Latin word *testament*.

**crimen exemplum** (Latin): The definitive crime.

**deus ex machina** (Latin): A theatrical term that means “god out of the machine,” suggesting a divine intervention in the action of a play.

**discourse:** The assortment of words, images, signs, and symbol systems—also events, customs, rituals, social organizations, and urban spatial arrangements—through which we understand the world around us.

**entailment:** A feudal form of inheritance that persisted into the 19th century; frequently used to keep the estate intact and inherited by a male.

**epic:** Poetic form used to narrate the life and adventures of a hero.

**epistolary novel:** A novel structured through the exchange of letters.

**ex nihilo** (Latin): “Out of nothing.”

**Gray’s Inn:** Last of the Inns of Court to be established.

**House of Lords:** The upper house of Parliament is both a legislative and judicial body: it can both revise and initiate laws, and it serves as the Supreme Court of Appeal for the United Kingdom in both civil and criminal cases (except Scottish criminal cases). This work is carried out by the 12 Law Lords, who are life peers.

**Inns of Court:** The several sites for training lawyers in England: Lincoln’s Inn, Inner Temple, Middle Temple, and Gray’s Inn. Established from the late 13th to the 16th centuries, the Inns of Court formalized the study of English common law—although instruction was originally in Norman French, rather than Latin or English—and contributed to the end of clergy as lawyers in the royal courts.

**Jacobite:** A follower of James II (Jacobus = James [Latin]).

**La Llorona:** A Mexican myth about a weeping other who searches for her child.

**Lincoln’s Inn:** One of the Inns of Court. The red brick Lincoln’s Inn Old Hall (built 1490–92), where Dickens worked during his teens as a “writing clerk” for the solicitor Charles Molloy, was the primary setting for the case of *Jehnzyce v. Jarnyce* in Dickens’s *Bleak House*. For more about Dickens, see Part II, p. 19.

**mens rea** (Latin): Literally, “a guilty mind.” A legal term describing the “intent” of a criminal.

**Middle Temple:** One of the Inns of Court; derived its name from property taken over from the Knights Templar in the 13th century; separated from the Inner Temple during the 15th century. Fielding and Dickens were members.

**Miltonic reason:** Milton employs the term “reason,” or “right reason” when he wishes to invoke both the active and divine relationship between the individual and God, as well as the proper consequence of that relationship—which is “choice.”

**mimesis** (Greek): A representation of reality.
**monotheistic**: A single god.

**mythos** (Greek): A story.

**nomos** (Greek): A way of being in the law experienced by members of that community.

**ontology**: The study of being, of the nature of existence.

**rack-renting**: The charging of exorbitant rents.

**romance genre**: A type of literature defined by its magical transformations.

**separate spheres**: An ideology that defines the public space as male and the domestic space as female.

**sergeant at law**: An obsolete superior rank of English barristers (lawyers), from which judges were chosen.

**spiritual autobiography**: An autobiography, often fictional, that narrates the spiritual rather than the material life of the subject.

**sponsalia per verba de futuro** (Latin): A marriage contract formalized by the exchange of promises for a future ceremony but consummated by sexual relations at the moment.

**sponsalia per verba praesenti** (Latin): A marriage contract formalized by the exchange of promises.

**suzerain-vassal**: A contract between unequal partners.

**teleological**: The construction of a narrative with a sense of an ending.

**telos** (Greek): The concept of human nature as fundamentally grounded in a linear ontology.

**testament**: Latin translation of the Greek word *(diatheke)* for covenant; or a formal agreement in which there are mutual obligations and expectations.

**theocracy**: A state governed by priests.

**Torah**: The first five books of the Hebrew Bible (called the Pentateuch in Christianity); also known as the Books of the Law.

**verisimilitude**: The appearance of reality; the representation of the real.
Susan Sage Heinzelman, Ph.D.
Associate Professor of English and Women’s and Gender Studies,
The University of Texas at Austin

Susan Sage Heinzelman, an Associate Professor of English and Associate Director of the Center for Women’s and Gender Studies, has been teaching at the University of Texas since 1977 in the English Department and the School of Law. Her scholarship focuses on the representation of women in law and literature in both contemporary and historical contexts. She is co-editor (with Zipporah Batshaw Wiseman) of Representing Women: Law, Literature, and Feminism (1994) and author of many articles on the representation of women in law and literature, including most recently “‘Termes Queinte of Lawe’ and Literature’s Quaint Fantasies: Some Reflections on Law and the Liberal Arts,” in Legal Scholarship in the Liberal Arts, edited by Austin Sarat (Cornell University Press, 2004), and “Black Letters and Black Rams: Fictionalizing Law and Legalizing Literature in Enlightenment England,” in Law/Text/Culture (2002). She is President of the Association for the Study of Law, Culture, and the Humanities.

Professor Heinzelman teaches courses in Law and Culture, Literary Criticism, the Eighteenth-Century English Novel, and Feminist Theory at the undergraduate and graduate level and has won many university teaching awards, most recently the President’s Associates Teaching Award (2003).
# Table of Contents

**Representing Justice:**
**Stories of Law and Literature**

**Part II**

<table>
<thead>
<tr>
<th>Lecture</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thirteen</td>
<td>Trial Tales of Parricide Mary Blandy (1752)</td>
<td>3</td>
</tr>
<tr>
<td>Fourteen</td>
<td>Property and Self—Edgeworth, Burney, Austen</td>
<td>7</td>
</tr>
<tr>
<td>Fifteen</td>
<td>Law as Fog—Dickens’s <em>Bleak House</em> (1852−53)</td>
<td>10</td>
</tr>
<tr>
<td>Sixteen</td>
<td>Puritans Anew—<em>The Scarlet Letter</em> (1850)</td>
<td>14</td>
</tr>
<tr>
<td>Seventeen</td>
<td>Law as Fog—Dickens’s <em>Bleak House</em> (1852−53)</td>
<td>18</td>
</tr>
<tr>
<td>Eighteen</td>
<td>Victorian Limits—<em>Tess</em> and <em>Jude the Obscure</em></td>
<td>22</td>
</tr>
<tr>
<td>Nineteen</td>
<td>Susan Glaspell’s “Jury of Her Peers” (1917)</td>
<td>26</td>
</tr>
<tr>
<td>Twenty</td>
<td>Kafka and 20th-Century Anxiety about Law</td>
<td>30</td>
</tr>
<tr>
<td>Twenty-One</td>
<td><em>Lolita</em> (1958) and the Art of Confessing</td>
<td>34</td>
</tr>
<tr>
<td>Twenty-Two</td>
<td>“Witnessing” Slavery in <em>Beloved</em> (1987)</td>
<td>38</td>
</tr>
<tr>
<td>Twenty-Three</td>
<td>Maternal Infanticide—Myth and Judgment</td>
<td>42</td>
</tr>
<tr>
<td>Twenty-Four</td>
<td>Literature and Law—Past, Present, Future</td>
<td>46</td>
</tr>
</tbody>
</table>

**Note about the English Legal System** ......................................................... Part I

**Timeline** ........................................................................................................ Part I

**Glossary** ........................................................................................................ Part I

**Biographical Notes** ....................................................................................... 50

**Bibliography** .................................................................................................... 55
Representing Justice: Stories of Law and Literature

Scope:

This 24-lecture course offers a wide-ranging analysis of the relationship between law and literature by examining representative moments in the long history of these two subtly interwoven ways of ordering the world. I will term these two ways of ordering discourses—by which I mean the representation of culture through language, image, symbol systems, and action—and I discuss these two discourses both as reflections and constructions of our reality.

One of the points of the course is to break down the stereotypical definition of literature as “fictive and subjective” (and, therefore, primarily emotionally persuasive) and law as “factual and objective” (and, therefore, primarily intellectually persuasive). Aligned with these stereotypical expectations is the assumption that literature is the realm of the feminine, and law, that of the masculine. This course should unsettle those assumptions and suggest how deeply and inextricably intertwined these two discourses are.

The first lecture sets out some of the ways in which the generic conventions of literature and law have been defined and suggests how those definitions might be modified. Specifically, the lecture examines the way in which both literature and law construct and reflect our social and individual identities. The lecture also sketches out the way in which law and literature, at first deeply interconnected, moved gradually toward a separation so that, by the mid-18th century, one can argue for a distinct identity for each form of representation.

The second lecture begins by presenting a historical overview of the course. We will then explore the ancient roots of Western law and literature, beginning with the Judeo-Christian tradition and focusing on narratives of divine justice and the human struggle to comprehend the nature of law in the Bible. From this tradition, we will turn, in Lectures Three and Four, to Greek tragedies, the other ancient major source of wisdom about justice and the human struggle to act justly.

In Lectures Five through Eleven, we turn to medieval and early modern texts, illustrating how the religious grounding of literature and law gradually gave way to a more secular understanding. Lecture Five explores the essentially dramatic nature of medieval Church liturgy that produced mystery and morality plays, and Lecture Six examines Chaucer’s *Canterbury Tales* (1387-1400) to indicate the range of religio-juridical literary narratives available to medieval society.

In Lecture Seven, we step back to explore the institutional context in which Shakespeare’s plays were produced, and Lectures Eight through Ten examine three of his plays that are vitally concerned with the issue of justice and its moral and political authority: *The Merchant of Venice* (1596–97), *Measure for Measure* (1603–04), and *The Winter’s Tale* (1609–11). In Lecture Eleven, we turn to Milton’s *Paradise Lost* (1667), the last great English legal and literary text of the early modern period that is securely based on religious principles.

As we move into the 18th century, we recognize that the shift from sacred to secular ideology has produced a strange hybrid of religion and commerce, of spiritual and material providence, that threatens to destabilize the identity of the protagonists of early 18th-century fiction and produces a multitude of conflicting legal texts. Thus, in Lecture Twelve, where we consider Daniel Defoe’s *Moll Flanders* and John Gay’s *The Beggar’s Opera*, we will see how the whores and beggars are indistinguishable from the aristocrats and politicians, just as the standards by which virtue and truth are upheld are called into question.

Lecture Thirteen explores the mid-18th-century confusion of religious law and secular law through the novels of Henry Fielding and the narratives produced by the 1752 trial of Mary Blandy for the murder of her father. The range of these narratives reveals that the ideas of sin and crime were still inseparable in the popular imagination and that both functioned to promote political agendas.

Lecture Fourteen looks at the question of virtue and rank in its gendered and classed form and the relationship of those concepts to legal concerns. We will explore two of Jane Austen’s predecessors—novelists Maria Edgeworth and Frances Burney—before we turn to Austen herself to examine the role of law, specifically the law of inheritance and property, in *Pride and Prejudice*.

Lecture Fifteen examines Dickens’s radical attack in *Bleak House* on the poisoning power of law and morality in its manifestation in the Court of Chancery. In Lectures Sixteen and Seventeen, we turn to mid-19th-century American representations of this same relationship in Hawthorne’s *The Scarlet Letter* and Mark Twain’s *Huckleberry Finn*. 
And in Lecture Eighteen, we return to 19th-century England with Thomas Hardy, who raises similar questions in *Tess of the D'Urbervilles* and *Jude the Obscure*.

In the final six lectures, we examine issues of gender equality in the 20th century, as well as the growing fragmentation of a world where law and morality seem to have been wrenched apart. We begin, in Lecture Nineteen, with Susan Glaspell’s short story “A Jury of Her Peers,” which comments explicitly on the gendered nature of legal judgment. In Lecture Twenty, we look at the work of Kafka and find that the powerless are not women but all modern individuals, dehumanized and alienated by an abstract system of bureaucratic rules and regulations.

In Lectures Twenty-One through Twenty-Three, we return to the ancient roots of our legal system by exploring contemporary renditions of ancient dilemmas. In Lecture Twenty-One, we analyze Nabokov’s *Lolita*; in Lecture Twenty-Two, we turn to Toni Morrison’s “re-memorizing” of slavery in *Beloved*; and in Lecture Twenty-Three, we return to a question of moral and legal judgment that reminds us of the classical dilemmas of ancient myths: the murder of a child by its parent. Finally, in Lecture Twenty-Four, we conclude this series with a discussion of the pervasive representation of law in popular culture and close with a question: What vision of justice can a culture mesmerized by media representations of law allow?
Lecture Thirteen
Trial Tales of Parricide Mary Blandy (1752)

Scope: Novelist Henry Fielding, perhaps best known as the author of *Tom Jones*, was a member of the Middle Temple, a magistrate (as well as a dramatist) and, thus, master of several forms of storytelling. In this exploration of a mid-18th-century cause célèbre, the trial of Mary Blandy for the murder of her father, we will compare a legal narrative with its popular version, as articulated by Fielding. Each form articulates a different version of the story, but these versions were not simply different ways of telling the same story; rather, they are both mutually supportive and conflicting ways of articulating a set of values. The range of the legal and popular narratives—from the confessional to the prosecutorial to the providential to the journalistic—illustrates the manner in which the idea of sin and the idea of crime were still inseparable in the popular imagination, a point exploited by the prosecutor of Mary Blandy. Fielding’s commentary on the trial and its media coverage illustrate the growing power of the printed word in 18th-century society.

Outline

I. Since the 18th century, legal trials have been perceived as representing a true picture of reality. That definition of a trial can also describe another representation of reality, that is, the novel.
   A. The novel’s claim to be a “true account” of the world troubled critics, theologians, and moral philosophers, given the “fictionality” of the narrative. On the one hand, the novel insisted on its verisimilitude, yet on the other, it was clearly a *mimesis*, an imitation of reality.
   B. Up to the late 17th and early 18th centuries, the narratives of law, theology, natural philosophy, and literature were complexly interwoven, each borrowing from the other.
      1. Such interweaving produces the mixing of kinds that is one of the characteristics of early-18th-century discourse: fictions that claim to tell the truth; factually based biographies and autobiographies that borrow plot and character from French romances; scientific essays that are inseparable from theological treatises; and so on
      2. By the latter half of the 18th century, however, we can see the beginnings of a “modern” sensibility that represented law as objective, factually based, and enabled by logic and rules but considered literature to be subjective, located in the unreal world of the imagination, and enabled by emotion and image.
   C. In this lecture, we will examine the trial of Mary Blandy for parricide to illustrate the complex mixing of narrative forms that occurred in the management of legal events and their popular representation.
   D. We will focus on three versions of the case: the quasi-legal account in the form of the reported trial narrative, compiled from public records by 19th-century editor William Roughead; a theological-jurisprudential-literary account, in the form of a “history” authored by magistrate-novelist Henry Fielding; and an autobiographical account, in the form of an *apologia* by Mary Blandy, written in her Oxford jail cell immediately before her death.
   E. On April 6, 1752, Mary Blandy was hanged for murdering her father, a lawyer from Henley-upon-Thames in Oxfordshire. She was charged with poisoning him by feeding him a “love philtre” (actually arsenic) under the instructions of her lover, Mr. Cranstoun, who claimed he wished to encourage Mr. Blandy’s consent to their marriage.
      1. Cranstoun, who was already married and a father, courted Mary from 1746–1751. During that time, Mary and her family discovered his secret marriage, as well as liaisons with at least two other women.
      2. Mary was able to forgive her fiancé, but her father ordered her to tell him that she could not see him until he settled his marital difficulties.
      3. Some time in the spring of 1751, Cranstoun sent Mary a supply of a “love powder” that he claimed would soften Mr. Blandy’s rancor against him. In August, Francis Blandy ate some gruel prepared for him on Mary’s instructions and, within five days, was dead, after suffering horrible pain and bouts of vomiting.
4. One of the servants grew suspicious and secured the pan in which the gruel had been cooked because it held white powder in the bottom. By the time her father died, Mary had been confined to her room. The inquest found that Francis Blandy had been poisoned.

5. Mary was jailed at Oxford until her trial, and in March 1752, she appeared to answer the charges against her.

6. The trial lasted 13 hours; without retiring, the jury consulted for five minutes and returned a verdict of guilty. Mary was allowed six weeks to settle her affairs before her hanging.

7. Mary’s lover, Cranstoun, fled to France, where he stayed with a kinswoman, and published pamphlets that laid the blame for Blandy’s death on Mary. By December of 1752, Cranstoun was also dead.

II. Let’s now turn from that version of the events, collected for public consumption, to the trial record to show how the legal account borrowed from political, social, and mythical narratives to represent the theological implications of Mary’s crime.

A. In his opening statement, Henry Bathurst, Solicitor-General, suggested that the natural structures of affiliation—familial, theological, and jurisprudential—must be marshaled against the threat of Mary Blandy’s un-daughterly, unnatural, and finally, un-narratable behavior.

B. Emphasizing the social and political consequences of the crime, Mr. Sergeant Hayward, Crown prosecutor, directed his comments specifically to the future lawyers and political leaders in the courtroom.

1. In his argument, the prosecutor presented parental disobedience as the prime cause of social instability, invoking the crime of Eve against God and calling on the pervasive political threat to a stable society manifest in both internal and foreign unrest.

2. His rhetoric of disobedience and punishment moves in a widening circle outward from the familiar to encompass the network of personal, social, and political bonds: from parents to teachers to governors and magistrates and finally “all others” in authority.

III. In a paraphrase of the trial offered to the readers of Gentleman’s Magazine, God’s providential intervention in human affairs, by which the trace of arsenic was preserved, is juridically represented as circumstantial evidence; in fact, the trial of Mary Blandy is one of the first to use this term in its specifically modern legal sense.

A. Such a development is consistent with the increasing reliance on trial by jury. Moreover, the modern conception of the jury, unlike its medieval equivalents, relies on the juror’s ignorance of the facts of the crime. The role of the juror is to be persuaded of the guilt or innocence of the accused.

1. What cannot be seen in the courtroom must be inferred, and to begin that process, there must be at least one irrefutable fact that generates the chain of inference linking apparently unconnected circumstances into a causal sequence.

2. That one irrefutable fact or circumstance in the Blandy case was the site of God’s intervention; thus, that fact was the origin of the narrative that led inevitably to discovery, accusation, conviction, and punishment.

3. The relevant legal test is not the “likeliness” of an event but how well that event can be accommodated in a chain of events and how inevitable that chain of cause and effect seems to be. In other words, what counts as relevant circumstantial evidence is its plausibility as part of a narrative.

B. In the narrative of Mary Blandy’s criminality, circumstantial evidence takes on the power and conviction of providence. The jurisprudential narrative mirrors and sanctions the seemingly inevitable logic of the Judeo-Christian narrative: “[C]ircumstances that tally one with another are beyond human contrivance,” claims Mr. Sergeant Hayward.

1. This seeming inevitability and connected narrative, pervasive in juridical, theological, and historical narratives, was contrasted with the “absurd and unaccountable…actions” that occur in some romance novels, that is, novels authored by women.

2. Other novels, however, could imitate that natural and divine ordering of events on which 18th-century jurisprudence relied as its model for revealing the truth.
3. It is this capacity to imitate what appears to be the inevitable sequences of events presented in a court of law that caused so much cultural anxiety: If fiction can be made to seem like the truth, how will the uneducated and the ill-informed know the difference between the truth and an imitation of the truth?

C. The trial account insists again and again that the crime can be properly and truthfully narrated only within a jurisprudential-theological rhetoric and form to which, by definition, only those who can speak in court with authority (the lawyers and the judges) have access.
1. Having established the prime cause as filial disobedience, the prosecution repeatedly shapes the testimony of its witnesses to reflect this original sin.
2. The defense reinforces this narrative by bringing witnesses who dispute the reports of Mary’s disobedience; thus, the defense, in effect, confirms that there is no more powerful or more persuasive place than filial disobedience to begin the daughter’s story.

IV. Mary Blandy’s own account of the events leading up to her father’s death does not, however, follow the model proposed by the prosecution and defense, and it is, in part, precisely because she cannot displace that master narrative that she is unconvincing.
A. Mary is already condemned as guilty even before she details her defense because she adopts a form and rhetoric that cannot speak of innocence, the form of the romance novel.
B. Before moving to Mary Blandy’s apologia, however, we will look at a text that appears to position itself midway between the semi-official legal version and the fictional histories published by the popular press. This is Henry Fielding’s Examples of the Interposition of Providence in the Detection and Punishment of Murder.
C. Like the prosecutor, Fielding adopts a narrative structure that reaches back to the first familial slaughter of Abel by Cain and forward to the final Day of Judgment. Fielding’s exemplary history also assumes what appears to be a natural, rather than an invented or contrived, structure.
D. The stories of divine intervention are taken from classical and biblical narratives and popular sources. In all the stories, discovery of the crime is synonymous with conclusive evidence of the guilt of the accused.
1. In other words, divine revelation still constitutes the origin of the legal narrative, although other explanatory evidence is brought to bear on what would otherwise be only miraculous.
2. Theologically, we have both the medieval reliance on miracles and the modern reliance on evidence. Jurisprudentially, medieval conceptions of divine providence are gradually giving way to the modern concept of circumstantial evidence.
3. Taken together, however, Fielding’s exempla also assume the structural sequence of events and realistic detail of the novel. Despite his intent to represent an inevitable and divine uncovering of guilt, Fielding’s narrative nevertheless relies on novelistic techniques to generate an aura of authenticity and authority.
E. Fielding’s story of Mary Blandy perfectly illustrates the genre mixing produced by the struggle for supremacy between various forms of narrative and various theories of what constitutes evidence. In it, the fabulous competes with theological and jurisprudential narratives of innocence and guilt and of plausibility and implausibility.
1. Finding a cause for Blandy’s behavior is essential to restoring order to the familial and state body.
2. The search for adequate causation becomes the equivalent of identifying the moment of the narrative’s origin: The point at which providence intervenes in human affairs is synonymous with the discovery of that chain of inference that leads to an understanding of the adequacy of cause and effect.
3. Narrative, then, in its “true” form—that is, in its historical, theological, and jurisprudential form—renders the logic and site of God’s intervention in human affairs visible.

V. It is precisely Blandy’s failure to “render” the causes adequate to the effects they produce that marks her own narrative as untrue.
A. Miss Blandy’s Own Account of the Affair Between Her and Mr. Cranstoun, relying as it does on her memory of conversations and events and her reconstruction of motive and sentiment, contends with the apparently neutral, objective, jurisprudential discourse of the law and the exemplary narrative of Fielding’s history.
These authorized versions are replaced with the contrived, self-conscious narrative of the novel. Blandy’s account falls under the suspicion that shadows all individually authored texts: that is, that truth has succumbed to self-interest, that self-representation is inherently partial and not subject to any final proof.

Moreover, Mary Blandy had already had the opportunity to speak to the jury and the public in her trial and had clearly failed to convince them of her innocence. Properly speaking, Mary Blandy ought either to confess to parricide and, thus, satisfy her readers with closure or remain silent as a proper lady would.

The *apologia* was published after the trial in response to considerable popular support for Mary’s case. By adopting as her model the popular sentimental novels of women writers of the late 17th and early 18th centuries, Mary Blandy seemed to speak about herself as if she were a heroine in a fictional text.

Despite the appeal of Blandy’s story for the popular audience, the model of the sentimental novel only situated her more firmly against the jurisprudential and theological discourses that had condemned her.

1. Unlike other popular criminal autobiographies, Blandy’s *apologia* is not an account of her sin and a model for repentance. Blandy adopted a form particularly associated with women writers, who were frequently castigated as having abandoned the proper task of their sex and were, therefore, asserting sexual (and, thus, political) aggressiveness improper in ladies.

2. Moreover, Mary’s explanation of the apparently incriminating evidence against her did not merely have to counter the presumption of guilt but had to revise what the prosecution had argued was a divinely ordered narrative.

3. In attempting to substitute her own narrative in place of the version offered by the prosecution, Mary Blandy not only appeared to belie the truth of legal discourse, but she had also raised her voice against the voice of God: She had, thus, tempted providence.

**Essential Reading:**

Fielding, Henry. *An Enquiry into the Causes of the Late Increase of Robbers and Related Writings.*

**Recommended Reading:**

Lance Bertelsen, *Henry Fielding at Work: Magistrate, Businessman, Writer*

**Questions to Consider:**

1. The trial of Mary Blandy was cause célèbre in 1752. Sensational trials still dominate the news today. Do the news media alone determine what trials become famous, or are there certain crucial components of particular cases that propel them onto the national stage?

2. If there are multiple narratives in every case that comes to trial, how do we determine which one carries the kind of truth value that allows us to come to judgment?
Lecture Fourteen
Property and Self—Edgeworth, Burney, Austen

Scope: In this lecture we will examine the way in which social laws (specifically those constructing class and gender) are reflected in and produced by the law, understood as both black letter and common law. We will explore two of Jane Austen’s predecessors upon whom she relied in learning her own craft—Frances Burney and Maria Edgeworth. Both authors engage directly with the way in which legal standing impinges upon the most intimate of personal relationships—Burney’s case in England and in Edgeworth’s in Ireland. We will then turn to one of Austen’s own texts, *Pride and Prejudice*, in which the legal questions that ground the plot manifest themselves as questions of moral character and romance. In this way, we will explore how novels of the late 18th century and early 19th centuries embrace the inherently legal nature of the self in modern society, even as they represent that self as apparently indifferent to or unaffected by such “unromantic” concerns.

Outline

I. Issues of property and gender, and the relationship of both to class, had dominated the English novel since its first appearance in the late 17th and early 18th centuries.

A. Defoe, Fielding, and Richardson, traditionally referred to as the “fathers of the English novel,” all wrote novels in which the relationship between gender and property determined the plot.

B. Examples of this interest in how women and men differ in their assessment of the value of property range from Defoe’s *Moll Flanders*, a fictional criminal autobiography, to Richardson’s *Pamela*, a fictional middle-class success story.
   1. *Pamela* (1740) was an enormous success, attesting to the popular interest in stories of a woman’s virtue rewarded by marriage and rank.
   2. It is an epistolary novel that details the attempted seduction of its heroine, the servant Pamela, by her aristocratic master.
   3. The novel relies on the conventions of romance novels but ties the issue of female virtue to concerns about class and property.
   4. Richardson firmly links the moral and material values of the middle class, in contrast to the decadence of the aristocracy, to their increasing political power.

C. When we turn to the novels of Frances Burney, Marie Edgeworth and Jane Austen, all published in the late 18th century or early 19th century, we see that the boundaries between the middling classes and the gentry and aristocracy were dissolving and it was through marriage—primarily through the marriage of the middle class woman to the aristocrat—that such a change in social class was being achieved.
   1. This transformation was not achieved without considerable anxiety, however, on the part of those who had always considered their status to be secure in terms of its superior moral, as well as material, wealth.
   2. It is interesting to note in these three women-authored novels how the woman bears the burden of uniting the values of the middle class with those of the upper class.
   3. As we move from Frances Burney to Jane Austen, the character of that woman changes from the kind of virtuous female represented by Richardson in his novel *Pamela* to the still virtuous but delightfully witty and lively Elizabeth Bennet in Austen’s *Pride and Prejudice* (published in 1813).

II. Before we turn to these three women writers, I will briefly describe the class system in England during the late 18th and early 19th centuries.

A. Land was the major source of wealth in England until the late 19th century. The possession of considerable wealth in terms of moveable property would not place one in the upper classes.
   1. Generally speaking, the peerage, which constituted roughly 1 percent of the population, owned 20 percent of the land; at the next level, the gentry owned about 60 percent of the land. Thus, the top 3 percent of the population owned about 80 percent of the land.
2. Below the gentry came the middle class: the professional classes (such as lawyers), the clergy, ranked members of the navy and army, merchants, tradesmen, and farmers. The middle class accounted for about 40 percent of the population and some owned land, but many had their wealth tied up in their businesses.

3. Below the middle class came the laboring class, accounting also for about 40 percent, and below them the poor and destitute.

B. One can see then that possession of an estate—or the potential to inherit such a property—was the single most important determinant of one’s social standing and was intimately related to a complex set of moral values.

III. Frances Burney employs the trope of the property-less woman to address questions of female virtue and rank in late-18th-century England.

A. *Evelina* (1778) was subtitled *The History of a Young Lady’s Entrance to the World*.

B. The heroine must learn her place in the social world of the upper middle class given that she is, apparently, without property and the illegitimate daughter of an unchaste mother.

C. Being a “nobody,” she is vulnerable to physical and moral assaults that she is powerless to answer until she can claim her father’s protection and, thus, inherit his wealth.

D. Her inherent worth is recognized, however, by the man whose social standing she eventually equals and who becomes her husband.

E. The romance narrative is synonymous with the narrative of paternity and property. To find a husband is coincidental with finding one’s father and one’s material wealth.

IV. Maria Edgeworth’s Irish novels—*Castle Rackrent* (1800) and *The Absentee* (1812)—focus on the growing power of the middle class and its acquisition of property and specifically address the relationship between landowners and their tenants in 18th-century Ireland from a moral, religious, and practical viewpoint.

A. *Castle Rackrent* is a comic novel that satirizes the absentee English landlord, the reckless Anglo-Irish aristocracy, the avaricious Irish middle class, and the illiterate Irish peasantry.

1. Even though she claimed she was depicting only past abuses, Edgeworth was clearly attacking contemporary “rack-renting,” that is, the practice of charging exorbitant rents, and absenteeism.

2. The novel also satirizes the ongoing struggle between the politically powerless Irish Catholics, who had no vote, and the Protestant Anglo-Irish, who owned 95 percent of the land. This struggle came to a head in 1798 when the French threatened to invade Ireland to assist Irish rebels.

3. In both England and Ireland, ancient feudal customs were being displaced by laws passed by a Parliament controlled by landowners. Agrarian capitalism was promoted by a middle class trained in law and eager to serve the interests of the landowners.

4. The narrator, Thady Quirk, is an Irish Catholic whose son has gained possession of the Rackrent estate through his knowledge of the law. His father is, thus, torn between loyalty to the peasants and loyalty to the landowners.

5. The position of the narrator resembles that of the author, who as daughter of the landowner of the Edgeworth estate had a certain social status but as a woman possessed no power.

6. Edgeworth argues for an enlightened and economically sound system of governing the estate, which would then become a model for the government of the country.

B. In *The Absentee*, Edgeworth investigates the political and social consequences of the union between Great Britain and Ireland in 1801 through the romantic relationship of an English woman, Grace Nugent, and her cousin, the absentee landlord Colambre.

1. The action of the novel alternates between England and Ireland as it embodies the social and political consequences of the union.

2. The romantic relationship between Grace and Colambre enacts the complicated relationship between England and Ireland through which the national identity of each country is defined.

3. Moreover, the heroine’s illegitimacy, like that of Burney’s Evelina, marginalizes her in the social worlds of both England and Ireland.
4. The assertion of her mother’s virtue and, therefore, of her legitimacy is synonymous with her engagement to the man of property, Lord Colambre. Once again, for a woman, to come into possession of an estate requires that she first be in possession of a good name.

V. In *Pride and Prejudice* (1813), Jane Austen employs the conventions of the romance novel exhibited in Burney and Edgeworth to explore the gender contradictions of the laws of inheritance and property.

A. Laws that control the marketplace must also regulate personal and social relationships because in a capitalist economy the two are inextricably united.

1. Thus, the entailment that controls the inheritance of the Bennet estate in *Pride and Prejudice* also controls the personal and social lives of the inhabitants of the estate.

2. That control is exercised differently for the men than for the women—for example, Mr. Bennet can move freely through the social world because he still owns the estate, but his daughters are presumptively dispossessed by the entailment and, thus, are restricted, both literally and figuratively, in their movements.

3. Elizabeth Bennet, unlike her sister Jane, refuses to abide by these restrictions, exposing the inherent inequality in the laws of inheritance and property.

B. This novel also helps us understand the connection between the laws that controlled the distribution of property and the unwritten laws that regulated women’s behavior in the late 18th and early 19th centuries.

1. Laws that enforced the proper distribution of property and the transfer of estates also enforced, indirectly, the proper behavior of women.

2. Thus property and propriety were intimately connected.

3. The conversations between Lady Catherine de Burgh and Elizabeth Bennet most clearly demonstrate this connection.

4. We should ask whether Austen is implicitly advancing a feminist agenda when she converts the business of marriage into a romance between Elizabeth and Mr. Darcy.

5. Can the romance tradition, so often scorned for its conventional representations of women and men and its feeding of women’s fantasies, actually be turned into a subversive form?

**Essential Reading:**
Jane Austen, *Pride and Prejudice*.
Frances Burney, *Evelina*.
Maria Edgeworth, *Castle Rackrent* and *TheAbsentee*.

**Recommended Reading:**
Jan Cohn, *Romance and the Erotics of Property*.

**Questions to Consider:**
1. Why does Burney’s version of a young woman’s successful entry into society and consequent marriage to a handsome, wealthy husband seem so much less “realistic” than Austen’s version in *Pride and Prejudice*?

2. In what other novels by Jane Austen do the issues of property and romance drive the narrative?
Lecture Fifteen

Law as Fog—Dickens’s Bleak House (1852–53)

Scope: Charles Dickens, like fellow novelist Henry Fielding, was a member of the Middle Temple and witnessed first hand the corrupting power of law when it worked merely to enforce the *status quo* rather than using its considerable power to effect change. England’s Court of Chancery and its lawyers are the specific target of Dickens’s criticism, but his novel also addresses the flaws in the British legal system and uses that system as a metaphor for corruption, inhumanity, and gridlock in the social system. Such conditions are like a disease, infecting all institutions and communities with whom they come into contact. In his vision of the city of London and its inhabitants caught in a bureaucratic, legalistic nightmare, Dickens prefigures the work of Franz Kafka.

Outline

I. The work of Charles Dickens has generated interest in both literary critics and social theorists because of his ability to tell stories that reflect the relationship between the legal and social systems and the personal lives of his characters.
   A. Perhaps the novel most directly concerned with the law is *Bleak House*. At the center of the novel is the Court of Chancery, and at the center of the court is the case that epitomizes its workings—*Jarndyce v. Jarndyce*.
   B. The Court of Chancery was founded during the reign of Richard II (1377–1399) but, by Dickens’s time, was a model of inefficiency.
      1. Unlike the common law courts, which were rigidly based on precedent, the High Court of Chancery had jurisdiction to determine cases according to equity or fairness, rather than according to the strict letter of the law.
      2. The Court of Chancery was merged with the common law courts in 1873, and common law judges were given the power to administer equity.
      3. The court was presided over by the Lord Chancellor, and disputants in chancery cases used solicitors to state their cases to hired barristers, who presented them in court.
      4. In his preface, Dickens satirizes a chancery judge who claimed that the court was “almost immaculate.”

II. Briefly, the story of *Bleak House* revolves around the case of Jarndyce and Jarndyce, which has been immured within the walls of the High Court of Chancery for a long time.
   A. The current Jarndyce, John, owner of Bleak House, has little hope of gaining anything from it.
   B. On her aunt’s death, Esther Summerson is adopted by Jarndyce and becomes companion to his wards, Ada Clare and Richard Carstone. Carstone has hopes that the Chancery case will make his fortune.
   C. In the course of the novel, Esther, who is, like so many other heroines of 18th- and 19th-century novels, apparently without father or mother, discovers her parentage, contracts and recovers from smallpox, and marries happily.
   D. Richard Carstone dies of despair bred from pursing the case in Chancery, leaving his wife, Ada, and their child.
   E. The case is finally closed, having engrossed all the money on the estate.
   F. That summary, of course, does not do justice to the intricate narrative structure of this long novel, by which each character is connected in various degrees of separation to all the other characters.
      1. This interconnected narrative structure also suggests the pervasive effect of the law, embodied in the court—it is as if the court were a living, though moribund, thing.
      2. Like the fog that obscures the city of London, the effects of the court are everywhere. And, like the fog, the court, as representative of the law and the location of justice, is impossible to pin down.
   G. Likewise, the effects of the court’s action—or inaction—are felt everywhere, as in the particular case that concerns us in the novel—Jarndyce and Jarndyce:
1. Like the court at the heart of the fog, the case is everywhere and nowhere, means everything and means nothing—we do not get any details about why the case is being litigated or what the proper outcome might be.

2. Does this mean that the case itself is as encumbered by the legal machinery and bureaucracy as the court, or was there once a real issue that had to be adjudicated? We never know the answer to this question.

H. The Court of Chancery, which should advance justice and rectify past wrongs, is represented as an illness, as a cancer in the heart of the social body. Its failure to cure itself of the disease also indicates that it is failing in its duty to cure the social malaise that swirls around it.

III. The alternative to the Court of Chancery and its unhealthy aura is the other Bleak House, that is, the home of John Jarndyce.

A. The owner of Bleak House, John Jarndyce, is a model of compassion, and his interest in his wards, Ada and Richard, contrasts powerfully with the interest of the court in those two young people.

1. For the court, they represent an endless source of money, through the lawyers employed to plead their case, and an endless source of respect and validation for its own self-importance.

2. John Jarndyce’s concern, however, is entirely without self-interest, a judgment that is also true of his affection for Esther and his willingness to give her up to the man she loves.

B. What Dickens seems to be offering in this portrait of the uniformly generous and loving man is an alternative to the structures of relationship that are figured in a world left unattended—the world of Jo, the street sweeper, for example—and the law left to its own devices.

1. In the other Bleak House, there is a type of justice unimaginable to the law courts and the metropolitan enforcers of that law, the police, who can only push poor Jo from one miserable sleeping place to another.

2. Thus, Dickens seems to be arguing for a reliance on the individual and his or her small acts of compassion, such as Esther’s willingness to help Jo, though he is dying from smallpox, rather than the official machinery of the social system.

3. His views seem to argue for a conservative belief in the individual as the most significant producer of social change, rather than a radical belief in the possibility of social reform.

C. One support for this argument is to look at the way Dickens treats the question of Christianity as a reforming impulse in Victorian society.

1. The appeal for social justice and assistance for the poor frequently relies on an appeal to Christian principles, to charity.

2. In Bleak House, the evidence of Christianity at work is found in the household of Mrs. Jellaby, but her Christian charity is exercised as part business practice and part social engineering.

3. Although Mrs. Jellaby extends considerable time, effort, and presumably, income on important charitable projects, her own house is in state of disarray.

4. Charity obviously does not begin at home in this household, and neither, suggests Dickens, does it in any of the households and places of power that might bring about changes that would rectify the misery of the underclass.

D. Subject to harassment by the authorities and neglect by those who might act on their behalf, the poor are chased from one place to another and become, in their ubiquity, the corollary of the fog and the Court of Chancery. As the court and its influence is everywhere but never sufficiently embodied to resolve legal disputes, so the poor are everywhere and never sufficiently unified to change their condition.

E. Without overtly raising the question of how a Christian nation can indulge in practices that enslave its own citizens, Dickens asks how Christianity could answer the moral needs of 19th-century society.

F. The abuse of Christianity in its proper form might also be found in the way in which the Court of Chancery plays on the vulnerability and gullibility of its suitors by cloaking itself in the language and formalities of the Church. Adopting an elaborate appearance and formal rituals, the court must represent itself as dealing in transcendent concepts of truth and justice.

IV. Just as John Jarndyce’s house, Bleak House, represents an alternative to the bleakness at the heart of the Chancery court, so Bleak House also poses an alternative to the Christianity of Mrs. Jellaby and her circle, the
bleakness of the Christianity apparently practiced by the authorities on behalf of the citizens, and the mockery of the Church offered by the cruelty of the court.

A. In a world in which the religion of law has usurped the authority of the Christian religion, only affective bonds nourished in Bleak House offer resistance to the disease and misery of the city.

B. Dickens enforces the power of those bonds of affection by weaving several romances—both successful and failed—throughout the narrative. Once again, as in the novels of Defoe, Burney, Edgeworth and Austin, we see how the romance narrative, or the marriage plot, is linked inseparably to the question of property.

1. One version of this connection appears in the romance and marriage of Ada and Richard, the two wards of Chancery, who are the latest victims of the deadly Jarndyce versus Jarndyce virus.

2. It is, in part, for Ada and Richard that Esther turns John Jarndyce’s house into a home, but for Richard, this is ineffective.

C. One could say that the title of the lawsuit in Chancery—*Jarndyce v. Jarndyce*—describes the relationship between Ada and Richard: Richard’s desperate pursuit of his inheritance through the labyrinthine legal system eventually causes his death.

1. Even the evidence of others driven to madness and suicide by the delays and complexities of their cases cannot deter Richard.

2. Moreover, Richard’s suspicions of his guardian’s motives in trying to keep him apart from Ada also generates a hostile relationship—another Jarndyce against Jarndyce.

3. In these repetitions of the original lawsuit, we see not only the endless reach of the law but also the way in which the law’s description of legal issues—as someone against someone—seems to pervade all other relationships.

V. Not all those caught up in the chancery case are, however, adversely affected by the legal contest. For example, Esther Summerson and John Jarndyce seem totally resistant to the fog of law and its accompanying miasmic diseases.

A. In this relationship, we also see another version of the romance/property narrative.

1. Despite Esther’s impoverishment and illegitimacy, John Jarndyce recognizes her disinterested compassion, which stands in stark contrast to the pervasive self-interest of the law. So extensive is this compassion that Esther accepts John’s proposal of marriage despite her love for another man.

2. Her parentage is murky and she has been scarred by smallpox; perhaps more important, her only resources to support herself are those provided by Jarndyce. The romance heroine dispossessed of property and paternity must accept whomever she can find.

B. However, in a third and successful version of the romance narrative, Esther is released from her commitment to Jarndyce to marry the man she loves, which is coincidental with her discovery of her mother and father. Thus, the romance narrative trumps the legal narrative, as represented by the court, which never renders a verdict in the case of *Jarndyce v. Jarndyce*.

VI. In closing this lecture, we should note that *Bleak House* starts out as a novel about a civil suit and turns into a novel about an unsolved murder, in the course of which, Dickens introduces us to one of the first detectives in English literature, Inspector Bucket.

A. Inspector Bucket solves the murder of the lawyer Tulkinghorn; tracks down Lady Dedlock, who turns out to be Esther’s mother; and finds the will that finally resolves the Chancery case. He does, therefore, what the Court of Chancery is unable to do—he makes something happen.

B. In contrast to the story of the lawsuit, the murder mystery can be solved: it involves a story with identifiable characters and events that have a cause-and-effect relationship, rather than the arbitrary disposition of events that occurs in the chancery court.

C. In arguing that the murder mystery and the precise work of Inspector Bucket present a contrast to the amorphous and elusive power of the court, I am suggesting that the Court of Chancery makes a Detective Bucket necessary—that one legal system, in effect, produces the other.

1. Such a reading of the murder plot and the presence of Bucket in the narrative implies, paradoxically, that although the presence of Bucket gives a concrete form to the authority of the law, the figure of the detective is part of a larger narrative that subsumes both him and the Court of Chancery.
2. Indeed, if we follow Bucket as he makes his way through the passages and dark alleys that surround the court and its premises, we must wonder if we aren’t seeing another version of the court—one that provides us with the comfort of believing in a story that makes sense but that may, in effect, be as endless and bizarre as *Jarndyce v. Jarndyce.*

3. This raises the question of whether there is anything in this novel that can be relied upon, and that brings us back to Bleak House.

4. The fog that circulates through the city cannot penetrate that domestic space, and the marriage of Esther reiterates the belief that domestic happiness is the antidote, not just to the court, but to the whole world that requires the police to manage events.

5. Esther’s account of her domestic happiness closes the novel. As the angel in the house, she provides a defense against that world of sickness and poverty that her husband engages in everyday.

6. Esther’s emotional riches are offered as an alternative to the “riches” that Richard Carstone believed would be his when *Jarndyce v. Jarndyce* was finally settled.

VII. In his vision of the city of London and its inhabitants caught in a bureaucratic, legalistic nightmare, Dickens prefigures the work of Franz Kafka, although Dickens can still rely on a resolution figured as domestic happiness—something the 20th-century Kafka cannot do.

---

**Essential Reading:**
Charles Dickens, *Bleak House.*

**Recommended Reading:**

**Questions to Consider:**
1. Dickens suggests that the house of law (the law firm) contends with the domestic house, represented by Esther Summerson’s nurturing presence. How does the law, seen as a public institution, both protect and threaten the domestic hearth?

2. Can the condemnation of the Court of Chancery and the corruption of the law withstand Dickens’s tendency to caricature the characters in his novel, even those such as Esther?

---

**Dickens and Lincoln’s Inn**
The red brick Lincoln’s Inn Old Hall (built 1490–92) was the primary setting for the endless hearings of *Jarndyce v. Jarndyce* in Dickens’s *Bleak House* (although the novel’s final courtroom scene takes place in Westminster Hall, which served as an alternative venue for the Court of Chancery). In his teens, Charles Dickens worked as a “writing clerk” for the solicitor Charles Molloy, whose offices were in one of the buildings in Lincoln’s Inn New Square (built 1685), and before that for the solicitors’ firm of Ellis & Blackmore. In both offices, Dickens was responsible for making handwritten copies of handwritten documents and running errands to lawyers’ offices, the courts, and government offices (e.g., the Alienation Office, Sixpenny Receivers Office, Clerk of the Escheats, Dispensation Office, Affidavit Office, and the Six-Clerk’s Office). While working for these solicitors, Dickens also studied shorthand, and he later became a court reporter.

©2006 The Teaching Company Limited Partnership
Lecture Sixteen

Puritans Anew—*The Scarlet Letter* (1850)

Scope: In *The Scarlet Letter*, Nathaniel Hawthorne returns to America’s Puritan past. The protagonist of the novel, the one who wears the scarlet letter, is Hester Prynne, a woman whose life is determined by her relationship with a man not her husband. In this novel, Hester turns from her shame and the alienation of her community and becomes an independent thinker, a philosopher whose experiences eventually allow her to become a proto-feminist, a maternal figure to the women of her society whose lives are lived under the same authoritarian, patriarchal regime that has condemned her.

Outline

I. We begin by placing this novel in its 19th-century context to suggest how Hawthorne employs the historical perspective of the Puritans to reflect on the continuing subservience of American women under the law.
   
   A. Generally speaking, in the first third of the 19th century, women accepted that their role was to provide a moral and emotional center to the man’s public life. Women were supposed to cherish their differences from men and endeavor to attain an ideal condition.
   
   B. This “cult of true womanhood” valued four primary female virtues: piety, purity, submissiveness, and domesticity.
   
   C. Like their English counterparts, American women were seen as dependent and unequal under the law. Essentially, the wife was the property of her husband and could not herself own property, make a will, enter a contract, or sue in court without her husband’s consent.
   
   D. The four primary virtues that were advanced as vital to a woman’s spiritual and moral well-being in the 19th century were also considered paramount in the social and legal systems that operated in the Massachusetts colony in the 17th century, in which Hester Prynne lived.
   
   E. Hester Prynne’s sin—of which her child, Pearl, is the evidence—clearly violates all the expectations of female behavior in the Puritan colony. And, as we’ll see, almost nothing had changed between the 17th and the 19th century in women’s relationship to the male-dominated society.
      1. One wonders if this is the significance of Hawthorne’s declarative sentence in the middle of “The Custom House,” his long prefatory essay to the novel. That sentence reads: “But the past was not dead.”
      2. In one sense, Hawthorne is clearly referring to his own past, but perhaps he also refers to the ongoing presence of those 17th-century laws and moral customs that press upon the Hester Prynnes of 19th-century Salem with the same weight as they did 200 years before.
      3. In his novel, Hawthorne brings the past to life, and the “materiality of daily life” that he fears will oppress him in the custom house now becomes the material for his story of Hester Prynne.

II. What draws the author’s attention to the small package containing the manuscript is a “rag of scarlet cloth” in the shape of the letter A.

   A. In this image of the red cloth among the yellowing parchment, we recognize the tensions that Hawthorne will explore in the story: between a world of color and materiality and a gray world of spiritual abstraction; between the sensuality that makes life possible and the laws that restrain that energy; between Hester’s willing acknowledgement of sin and Dimmesdale’s anguished moral refusal.

   B. To accommodate these tensions, Hawthorne adopted the mode of the romance, which according to his own definition, is the world where the “Actual and the Imaginary may meet.”
      1. We should distinguish between romance as Hawthorne uses that term—which suggests a search for truth—and my use of the term to speak of narratives in which the plot produces the proper material and marital ordering of the world of the hero and heroine—and which are, therefore, often unrealistic.
2. The author claims to have found the story of the scarlet letter in an old manuscript and is merely the “editor” of the manuscript, distancing himself from the story and retaining a certain degree of moral authority over it.

3. Later, however, he confesses that he has taken license with the facts. This is an ambiguous world that we have entered, somewhere between fact and fiction, between the past and the present.

III. The custom house is a realm of solidly concrete realities, unlike the world of the imagination, in which Hawthorne has embellished on the “romance of the scarlet letter.”

A. Hawthorne positions the vast world of local and international commerce, with its laws of trade and nations, against the story of a single woman.

B. In this way, the story of Hester Prynne comes to represent the conflict between two versions of the law. One version comprehends the law as a human manifestation of God’s commandments; the other version argues for laws founded on a morality based on human compassion and understanding.

C. In her willingness to accept the first version of that law—that is, the Old Testament version—Hester converts the strict code into the second version. And Hester, it seems, is the only one in the novel who can bring about this transformation.

D. Hawthorne represents punishment as twofold. The visible kind, administered by the civil agents of the law, is symbolized in the novel by the prison, the pillory, and the scaffold. The invisible kind, administered by the guilty conscience of the sinner or the criminal, is more enduring and filled with remorse and relentless suffering.

IV. The story opens with Hester in the pillory and will return to that scene at the end, when Dimmesdale, the Puritan minister, delivers the Election Sermon and confesses his relationship with Hester.

A. In the course of the story, Hester Prynne transforms the sign of her disgrace into a sign of dignity and moral fortitude—the very opposite of what Dimmesdale does. He confesses his transgression knowing that it will not be received as such. He thereby “had spoken the very truth and transformed it into the veriest falsehood.”

B. This confusion of truth and falsehood mirrors the ambiguity of the scarlet letter—as both the sign of sin and as a commitment to a kind of selfhood that is pure.

1. By placing the scarlet letter on Hester’s breast, Hawthorne draws attention to what the punishment does not visibly address—the other partner in the crime.

2. Every sight of Hester with her lurid mark would remind the community that the other partner went unmarked, that the punishment had been reserved for the woman alone, while the man witnessed her shame every day yet appeared guiltless.

3. That Hester refuses to name her partner despite promises of a milder punishment and that Dimmesdale not only witnesses her shame but is required by his position to condemn her is one of the piercing ironies of the story.

C. Through the character of Hester, Hawthorne demonstrates that morality consists not in laws rigorously enforced and obeyed but in the continuous struggle of the individual conscience to understand her sin. Indeed, this relationship between the individual and God is at the heart of the Puritan religious sensibility but has been perverted into the mere outward show of repentance and faith.

D. The tension between these two forms of moral truth is symbolized, in part, by the banishment of Hester to the forest, where she lives outside of the community (and, thus, civilization) but where she works out her own—in the end redemptive—understanding of the guilt.

V. Hester’s husband, Chillingworth, from whom she has fled and who reappears to torment her, serves to emphasize the moral impoverishment of religion and law without compassion.

A. Chillingworth, whose name suggests the sensibility he imparts to the world, is at first, a sympathetic figure, but that sympathy is eroded when he turns his attention to seeking revenge on his rival, Dimmesdale.

1. In Chillingworth’s anticipation of feeding off of Dimmesdale’s suffering, he employs language that returns us to the custom house, converting the spiritual rewards of sin, confession, and remorse into the language of commerce, profit, and loss.
2. When Chillingworth undertakes to restore the health of Dimmesdale, the full irony of the situation is exploited: Dimmesdale’s decline is the direct result of the sin he cannot confess and the wrong he has done to the very man who, posing as his physician, torments him to death.

B. Chillingworth recognizes that Dimmesdale’s illness is psychosomatic—his disease is a guilty conscience and the cure is confession and purification, what Aristotle termed *catharsis*—but Dimmesdale is still enthralled by the horror of his sin, which is what makes him vulnerable to Chillingworth’s psychological inquisition.

VI. Unable to achieve the state of grace that Hester has, Dimmesdale can only imagine the letter A etched against the sky, not the sacredness of his relationship with Hester.

A. The crucial scene between Dimmesdale and Hester occurs when the two meet in the forest, outside the constraints and laws of their society, and the romance of the actual and the imaginary is converted into the romance narrative we are more familiar with.

B. Dimmesdale cannot accept, as Hester has, that what they did “has a consecration all its own.” To do so would be to accept a “natural” law, rather than one produced by culture. In this tension between nature and culture, we recognize a battle fought out repeatedly in the texts we have discussed.

C. More than their mutual desire ties Dimmesdale and Hester together—their child is both the fruit of their sin and the promise for the future. Pearl is both the daughter of the forest and the moderating influence of compassion in its most cultured form (like a pearl): This is the promise suggested when she kisses Dimmesdale as he lays dying in Hester’s arms and in her inheritance of Chillingworth’s money.

VII. In the final scenes of the novel, two ways of acting out repentance are represented: the private penitence undergone by Hester and the public act of confession by Dimmesdale.

A. This gendered distinction seems appropriate to the spaces women and men occupy in their lives.

B. The gendered nature of penance and confession is reinforced by the novel’s structure: The public shaming of the woman at the beginning is balanced by the public confession of the man at the end. At the mid-point comes Dimmesdale’s midnight vigil on the scaffold—a private moment in a public place.

C. Dimmesdale seems to seek public recognition of his guilt and, in so doing, makes clear his alliance with the community and against Hester. No private penance carries the weight of the public confession and punishment: private penance cannot afford the community the necessary reassurance that sin has been identified and conquered.

D. In Hester’s deliberate and exaggerated embellishment of the scarlet letter that she wears, we see her defiance of the community’s judgment, which is not the same as saying that she denies that she has sinned.

1. For Hester, sin is a private matter, part of the relationship between her conscience and God, according to Puritan theology.

2. For Dimmesdale, however, both sin and its secular equivalent, law, are social matters.

3. Hester’s quiet resistance continues after Dimmesdale’s death and Pearl’s departure, when she ministers to the women of the community, teaching them the subtle origins of their distress and how they might rise above it.

4. In thus concluding a narrative about a woman’s sin and punishment, Hawthorne invokes the image of the healer, a Christ figure, along with a penitent sinner, one who has both refused and complied with human judgment, one whose story is both past and present, both history and romance, both actual and imagined.

**Essential Reading:**

**Recommended Reading:**
Larry J. Reynolds, ed. *A Historical Guide Nathaniel Hawthorne.*
Questions to Consider:

1. What is the relationship between Hawthorne’s introductory essay about the manners of the Customs House and the narrative of Hester Prynne?

2. How does Hawthorne reflect on the problem of judgment as it manifests itself in the human capacity to seek revenge on others and in the punishment of those whose vulnerability has already made them victims?
Lecture Seventeen
Slavery and *Huckleberry Finn* (1885)

**Scope:** In this lecture, we will examine a controversial book that engages the subject of slavery, one published 20 years after the Civil War but set in an era of slavery. Mark Twain’s *Huckleberry Finn* recalls the contorted moral philosophy that enabled those who believed themselves Christians to enslave other humans. The philosophical contortions are reflected in the endless games and duplicities that the hero, Huck, has to play to keep himself and his companion, the runaway slave Jim, alive.

**Outline**

I. Mark Twain’s *Huckleberry Finn* has been censored—causing outrage at the time of publication and today. In this lecture, we’ll explore why this novel still causes so much controversy before examining two crucial scenes in the depiction of the relationship between Huck and Jim.

A. As a child, Samuel Clemens accepted without question, as Huck did, the idea that slaves were property. By 1885, however, when *Huck Finn* was published, Twain’s views had changed, and he certainly did not share the perceptions of Huck.

B. Of course, not everyone agreed with Twain in his condemnation of slavery, and even those who might have were offended by Twain’s representation of Huck’s tendency to lie and steal. Critics accused Twain of threatening public morality, childhood innocence, and the purity of the English language.

C. Surprisingly, many critics failed to mention, either positively or negatively, the issue of race in the novel. Perhaps the trauma of the Civil War was still so deeply felt that readers refused to open that wound, but it does seem surprising that few contemporary reviewers responded—unlike with *Uncle Tom’s Cabin* (1851)—to the cultural significance of a white author creating a white narrator who comes to care for a runaway slave and worry about the abuses of slavery.

D. Today, Twain’s work, like that of Stowe, often provokes diametrically opposed responses. Some readers claim that Twain’s novel promotes racism by its use of derogatory language and stereotypes, and others insist that the irony of the book requires us to reject just such a reading.

1. What these contradictory responses suggest, perhaps, is the difficulty of trying to make art out of the horror of slavery.

2. How do we balance aesthetic demands against moral demands? Is it morally appropriate to exploit the horror of slavery for entertainment?

E. When we think about judging a work of art, we must consider whether it is possible to separate our aesthetic response from our moral response.

1. Is it possible to recognize that a piece of literature might have artistic value, despite its representation of circumstances or characters that we find morally reprehensible?

2. This question has been asked repeatedly about representations of the Holocaust, for example, which remains for some people, an impossible event to represent in artistic terms.

3. This issue becomes most pointed when the judgment is not simply a personal decision about whether to read a certain book, but one that carries real consequences, as when, for example, a community tries to censor a work of art because it does not accept the work’s moral values.

4. In recent years, critics from both the left and the right have protested that *Huck Finn* encourages antisocial attitudes, and it is still the target of groups insisting that it be removed from library shelves. Most arguments about the book focus on two issues: first, how to interpret the narrative point of view, and second, how to respond to language that many find offensive.

II. We begin with the argument from irony—that is, the defense of the novel with the assertion that the story of Huck and Jim is filtered through an ironic perspective.

A. In this reading, Huck doesn’t realize that when he thinks he’s doing something wrong, he is actually doing something morally right, and when he treats Jim the way the adults in his world treat Jim, he (Huck) is doing wrong.
B. This argument will not convince those who think that the text is a racist representation: irony functions only if there is some moral distance from the text. By definition, those who are outraged by what they see as racism do not want that kind of detachment.

C. As many critics have argued, *Huck Finn* signals the arrival of a genuinely American voice, expressed in the tone of the novel, its vernacular language, its colloquialisms, its energetic pace, and perhaps particularly, by the way in which Twain acknowledged his European predecessors without adopting their style or imitating their content.

1. In *Huck Finn*, riverboats are called *Sir Walter Scott*, Jim is dressed up in Lear’s costume, and the romance narrative is transformed into a story that depicts genuine affection between a white boy and a black man.

2. To make this work, Twain had to incorporate the voice of the black man and his linguistic rhythms. No other voice would do, and thus, in writing his fictional character Jim into being, one could argue that Twain makes some kind of reparation for all those years of silencing. But is it enough to compensate for the depiction of Jim’s repeated humiliation?

III. The second problem is the use of derogatory language. For many readers, the use of the word *nigger* is so deeply offensive that it makes any assessment of the strictly literary value of the book impossible.

A. To reduce this complicated issue to a brief statement, the central question about language that appears to provoke a hateful attitude toward a specified group is whether that speech is protected by the First Amendment.

B. A 1942 Supreme Court case, *Chaplinsky v. New Hampshire*, established the category of face-to-face epithets, or “fighting words,” that were outside the protection of the First Amendment. Those words, by their very utterance, inflict injury and are no essential part of any exposition of ideas.

C. Over the last 10 years, the court has questioned where fighting words fall outside the protection of the Constitution and, thus, has delimited the occasions and circumstances in which language or other actions designed to provoke hatred can be regulated.

IV. With these considerations in mind, we turn now to two specific scenes in the novel. In the first, Huck fools Jim into believing that Huck’s overnight disappearance from the raft was a dream, and in the second, the two con men, the Duke and the King, dress Jim up in a Lear costume so that he can be left on the raft without being suspected as a runaway slave.

A. The first scene occurs in chapter 15, when Huck and Jim are almost at the bottom of Illinois, near the city of Cairo. They want to stop there, sell the raft, and make their way up the Ohio River into the free states. This, then, is a critical moment in Jim’s search for freedom. As it turns out, the raft drifts past the intersection of the Mississippi and Ohio Rivers, and Jim finds himself traveling ever deeper into the slave states.

B. Huck has spent the night drifting in a canoe, separated from Jim by the current and the fog, but he is finally able to make his way back to the raft. Jim is sleeping and Huck climbs on board and pretends that he has been there all night.

1. Jim’s affectionate reception provokes Huck to ask him if he has been drinking, to which Jim replies, “Well, looky here, boss, dey’s sumf’n wrong, dey is. Is I me, or who is I? Is I heah, or whah is I? Now dat’s what I wants to know.”

2. In his bewilderment, Jim articulates his confusion over the events of the previous night and his anxiety about who and where he is.

C. In running away from Miss Watson and from civilization with Jim, Huck has provoked a crisis of identity for both of them.

1. When he is not on the river, running away from his father and others, Huck has some sense of who he is, but Jim has none. His condition as a slave meant that he had no legal, social, moral, or political identity.

2. When Jim and Huck travel down the river together, they are in a liminal space—that is, a space between two spaces, between the white community and the slave community, between the slave states
and the free states, and in terms of their gradual understanding of each other, between ignorance and knowledge.

3. The knowledge they acquire of each other also teaches them something about themselves. Thus, Huck learns what kind of man Jim is, but so does Jim. They both discover, separately and together, that Jim is a father, a husband, a loyal friend—and that those conditions are not the exclusive property of one race.

D. To return to the scene on the raft, Huck convinces Jim that he must have dreamed the whole thing, and Jim admits that Huck must be right.

1. In treating Jim as one treats a slave—that is, as one who has neither the sense nor the desire to have a separate existence—Huck controls the moment. But then, Jim asserts ownership over the dream. It is no longer Huck’s fantasy; now, it belongs to Jim.

2. Jim attempts to interpret the dream. He seems to have a sense that the world is filled with things that speak and that knowing how to read those things makes one master of them. Determined to regain control of the moment and the power of interpreting dreams and reality, Huck points to the evidence of the night’s events.

3. When Jim shames Huck for trying to make a fool of him, Huck says, “It made me feel so mean I could almost kissed his foot to get him to take it back.” We must put this narrative in its historical context to realize the significance of Huck’s acknowledgment that Jim is a man, a human being whose foot he could almost kiss.

4. Jim’s desire to kiss Huck’s foot is part joy at his return, part the consequence of his learned submission, but Huck’s is an unadulterated expression of respect and affection for the man Jim is learning to claim as his own self.

V. The second scene we will discuss comes in chapter 24, when the two con men, the Duke and the King, plan to return to town in the hopes of making money out of the gullible townsfolk when they perform their “Royal Nonesuch” for the second night.

A. Jim is asked for some alternative to being tied up all day while they are gone and Huck explains, “Because if anybody happened on him all by himself and not tied up he wouldn’t look much like a runaway nigger you know.”

B. Of course, those who read ironically understand the grim humor in having Jim perform his role as a runaway slave to avoid being mistaken for something else—a free man, perhaps. The Duke ciphers out a plan, dressing Jim up in King Lear’s costume, painting his face blue, and hanging a sign on him that reads, “Sick Arab—but harmless when not out of his head.”

C. The image of Jim as King Lear recalls the scene earlier when Jim told Huck about striking his daughter because he thought she was disobeying him, when in fact, she was deaf and dumb.

1. When Jim assumes the identity of King Lear, he invokes the relationship between Lear and Cordelia, which is symbolized by Cordelia’s refusal to speak when her father commands her to do so.

2. Eventually, though tragically, Lear and his daughter are reconciled, and in the process, both are ennobled. Likewise, assuming the costume of Lear marks another stage in the ennoblement of Jim.

VI. In creating a story about a white boy and a black man, Twain has created a crisis of representation.

A. He demands that his readers take seriously the idea that a runaway slave can be a major character in a paradigmatic American romance—defined as Hawthorne did, as the meeting of the actual and the imaginary.

B. It might have occurred to Twain that he was making the same kind of decision vis-à-vis his literary reputation that Huck did when he decided to tear up the letter to Miss Watson telling her where her runaway slave was: “All right, then. I’ll go to hell.”

Essential Reading:
Mark Twain, The Adventures of Huckleberry Finn.
Harriet Beecher Stowe, Uncle Tom’s Cabin.
**Recommended Reading:**
Harold Bloom, *Mark Twain’s Adventures of Huckleberry Finn.*

**Questions to Consider:**
1. Some critics have suggested that for the full effect of Twain’s ironic treatment of slavery to be felt, Huck would have to make some acknowledgment of slavery’s horror. Does this seem a just criticism?
2. If there is no character in the novel who is also appalled by slavery and with whom the reader can identify, how can we be secure in our reading of the narrative as against slavery?
Lecture Eighteen

Victorian Limits—Tess and Jude the Obscure

Scope: Hardy characterized both *Tess of the D’Urbervilles* and *Jude the Obscure* as “novels of character and environment.” The environment in which the title characters suffer their tragic fates consisted not only of the physical environment of Dorset and Oxford, respectively, but the strict Victorian moral environment that, for both Tess and Jude, compounded the limitations of their own natures. Hardy draws on the classical Aristotelian definition of tragedy as a fateful and fatal combination of character and circumstances to script two stories in which he examines the social power of law and morality to shape individual lives. Both novels raise the question of how law relates to morality—a question that had become increasingly important to the Victorians, as the religious assumptions that once grounded jurisprudential philosophy were questioned by political and social reformers.

Outline

I. The Victorian age has been described variously as an age of faith and an age of doubt. The paradoxical quality of these accounts is perhaps explained by the nature of faith itself—that it never seems more intensely present than when under attack.
   A. In Hardy’s novels, both Tess and Jude suffer from the slow withdrawing of that faith and joy necessary to sustain a belief in the goodness of life. Their faith is not, in either case, described as a formal religious doctrine but, rather, an innocent, idealized faith in their fellow human beings.
   B. The lives of both Tess and Jude are riven with conflicts produced by the clash of this essentially innocent faith in human goodness and the fixed, restrictive codes of morality and legality produced by those who relied on the Bible and traditional Church doctrine. And neither novel offers an optimistic solution to what would replace that faith once lost.
   C. These two novels document an age caught between the conventions and traditions of the 19th century and the new age that was coming into being, accompanied by what Hardy calls “the ache of Modernism.”

II. Hardy’s is an essentially tragic perspective on the way individual lives are determined by social and legal restraints.
   A. This combination of character and environment—of the individual and the social—structures both novels.
   B. Hardy’s definition of tragedy is Aristotelian: tragedy is produced by a combination of a character’s flaws and the inevitable passage of time that carries with it certain historical determinants—what we might otherwise call a character’s fate.
      1. Thus Tess determines her own destiny to the extent that she accepts Angel’s definition of what it means to be “pure” but at the same time she cannot avoid her fate because history has already determined that she will, as a woman of a certain class, be victimized by men of a higher class.
      2. Similarly, Jude determines his destiny to the extent that he longs for a life of the mind, but he cannot avoid his tragic destiny; history has determined that a man of his social class must tread a limited path.

III. In both novels, the middle-class system of morality—enforced by laws and social conventions—poisons the lives of the protagonists.
   A. Hardy, like many contemporary Victorian writers and philosophers, recognized the crushing weight of systems of dogma, rules, customs, and institutions that prevailed but no longer seemed to speak to the needs of the late 19th century.
   B. In a century that had witnessed more rapid industrialization than at any previous time, as well as an accompanying reform of political practice, the laws that governed individual social relations, such as marriage and divorce, still reflected the moral determination of the Church to control sexual practices both before and after marriage.
   C. In the stories of Tess and Jude, Hardy makes the case for further reform of the law, especially in its relationship to sexual morality.
IV. In *Tess of the D’Urbervilles*, Hardy explores this late Victorian dispute about the relative importance of Christian theology in the framing and execution of law.

A. In particular, Hardy focuses on the double standard, by which men were generally encouraged to have sexual relations before marriage, while women were expected to remain chaste.

B. The double standard is exacerbated by the control men exercise over women’s sexuality, in part by limiting their opportunities to live independently.

C. In Hardy’s reading of the tragedy of Tess, her unquestioning acceptance of the male prerogative and the historical circumstances of her birth determines her fate. She is, as she herself proclaims, just one in a long line of women who had been abused.

D. The narrator underscores the historical determination of women’s lives when he suggests that perhaps Tess’s rape by Alec D’Urberville is retribution for a rape committed against a peasant girl by one of her ancestors from the ancient family of the D’Urbervilles.

1. This historical determinism situates Tess between two epochs. One is embodied in the rural world, with its ancient customs and natural moralities. The other is embodied in the modern world, of railway trains and threshing machines, with its mercantile interests and conventional moralities.

2. Both men who victimize Tess—Alec D’Urberville and Angel Clare—are, by birth and education, alien to the natural world, but their dominance of Tess suggests the gradual incursion of their middle-class values and morality into her world.

3. Those values produce a relentless transformation of Tess’s innate sense of what is good and what is right. Thus, when she returns home pregnant with Alec’s child, she hides herself from the eyes of the world, believing herself to be a figure of guilt and shame.

E. Hardy’s rendering of Tess’s grief and sense of guilt recalls Hawthorne’s descriptions of Hester struggling to come to terms with her own sense of shame as distinct from that imposed upon her.

1. Walking in the landscape, Tess feels herself “a figure of Guilt intruding into the haunts of Innocence.”

2. But the narrator insists on drawing a distinction between the accepted social law and Tess’s innate sense of value: “Most of the misery had been generated by her conventional aspect, and not by her innate sensations.”

F. This “conventional aspect” is at first linked to Alec D’Urberville, the father of her child, a man who bears the same name as Tess but who has no natural claim to the rural world he inhabits.

1. Alec is, in fact, the son of Simon Stoke, who had made his fortune as an honest merchant. Alec is, like Bingley in *Pride and Prejudice*, the son of a man who had made his money in trade and now wishes to advance his class.

2. One notices again how the concern about class standing is linked intimately to questions of the moral value of women. Alec proves to be a perfect example of the conventional and hypocritical middle-class morality.

3. His seduction of Tess is heartless and without sentiment, as befits a man who looks with disdain on the local inhabitants.

G. Tess’s second encounter with that middle-class morality comes on her wedding night, when she discloses to her husband, Angel Clare, that she has had a child.

1. Angel’s sense of Tess has very little to do with who she really is, but a great deal to do with his own idealized model of the rural world and marriage, a model that relies on a thoroughly conventional understanding of women’s roles.

2. Despite Angel’s belief that he is a radical free thinker, his strict Protestant moral code condemns Tess for the very same sin he has committed.

H. Although Angel and Alec seem completely unlike each other in terms of their attachment to Tess, these two men are mirror images, each advancing different aspects of a deadening middle-class morality that threatens not just Tess but her whole way of life.

1. After she has been abandoned by Angel, Tess is forced to labor in the fields to support herself, and Hardy specifically links the loss of a rural world, with its spontaneous and joyful natural morality, to the gradual erosion of this traditional life by the growing power of the mercantile class and its technological advances.
2. In this world caught on the cusp between traditional morality and modern skepticism, the middle class, embodied in Alec and Angel, wrestles over the body of Tess to articulate a new morality.

I. Despite Tess’s fall from conventional purity, she eventually becomes Alec’s mistress, then kills him after Angel returns to claim her. Hardy calls her a pure woman, and once again, we are reminded of Hawthorne’s characterization of Hester Prynne and her hard-won moral redemption.

1. In this novel, however, the redemptive narrative has been converted into a tragedy of lost innocence, and it is a martyrdom that brings no solace to anyone.

2. After Tess’s execution for the murder of Alec, the narrator concludes the novel with the statement: “Justice was done, and the president of the immortals, in Aeschylian phrase, had ended his sport with Tess.”

3. The “Aeschylian phrase” refers to the punishment of Prometheus for stealing fire from the gods and indicates that Aeschylus viewed that divine justice ironically. Prometheus’s crime was heroic and ennobling; Tess’s crime, however, seems to be to have been born at the wrong time and into the wrong class.

V. *Jude the Obscure* was Hardy’s last novel, and the severity of the attack on the book caused him to abandon novel writing forever.

A. The critics labeled the book “Jude the Obscene” and were horrified by what they perceived as an attack on public morality—specifically, its criticism of laws of marriage and divorce and its frank treatment of sexual relationships.

B. Hardy claimed that he was writing “as a man to men and women,” thus insisting that his readers respond as mature human beings.

C. He argued that he was trying to tell a story “without mincing words of a deadly war between flesh and spirit.”

D. In his postscript to the novel, written in 1912, Hardy insists that the marriage laws depicted in his novel are used to “show that, in Diderot’s words, the civil law should only be the enunciation of the law of nature.”

VI. The plot of the novel is constructed around the relationships of the four principal characters: Jude; his wife, Arable; Sue Bridehead, Jude’s cousin; and Phillotson, Sue’s husband and Jude’s former teacher.

A. In a dance of the flesh and the spirit, to use Hardy’s terms, Jude and Sue both marry someone unsuited to them, leave their partners to live with each other, have children whose lives are shortened by the child of Arabella and Jude, then return to their original partners to live out their remaining lives in suffering.

B. Both Sue Brideshead and Jude aspire to live outside the reach of that spirit-deadening morality that has already trapped them in marriage. For Sue, this means throwing off the social conventions that define her as a woman.

1. The “new woman,” as she was called, appeared in the late 19th century as a natural development of the reform campaigns of the mid-19th century.

2. The model for Sue Brideshead is generally accepted to be Barbara Bodichon (1827-1891), author of *A Brief Summary in Plain Language of the Most Important Laws Concerning Women* (1854).

3. This remarkable document listed for the first time the legal disabilities and restrictions under which women lived. It was a thin pamphlet but a powerful wedge in overturning the established system of laws governing women, especially married women.

VII. Even though the question of how conventional morality restricted women’s sexuality is clearly a crucial part of what the book explores, the novel’s focus is, as the title suggests, Jude—one who is born into the working class, but aspires to become part of a larger, intellectual community, which he has idealized.

A. Jude’s desire for education is not a wish for material success. Such ambition could be recognized and, therefore, contained as a version of those middle-class values that were prized.

B. Hardy, however, represents Jude’s longing for some world larger than that circumscribed by his labor as a stonemason as both a spiritual and sexual longing, and it is the intermingling of the two desires that provoked cultural anxiety in Hardy’s critics.
C. Jude, of course, cannot attend university, not because of his intelligence, but because of his class. His bitterness at being excluded from the world that had promised to satisfy his intellectual and spiritual ambitions converts those spiritual desires into physical ones.
   1. He abandons himself to the world of the flesh, symbolized in his marriage to Arabella.
   2. In a parallel move, Sue converts her sexual desire for Jude into a spiritual relationship with Jude’s former teacher, Phillotson.
   3. One sees in this exchange of desires—the spirit for the flesh in Jude’s case, the flesh for the spirit in Sue’s case—the confirmation of conventional representations of gender.
   4. However, what is also clear from the way that Hardy characterizes Jude and Sue’s continuing longing for each other is that such limitations on the full expression of the self are doomed. Even when they leave their partners and live together, believing that their mutual desire sanctifies their relationship, they find that culture’s laws are too powerfully a part of what they are as social beings.
   5. They seek refuge in the natural world, just as Tess does when she flees from Alec, but Jude and Sue discover that the natural world is inevitably compromised by the world of social convention.

D. The novel seems to suggest that all laws, either natural or civil, are constructs of the human imagination and thus subject to the distortions and perversions of the human will.
   1. There is no satisfying resolution to the dilemma of Jude and Sue’s search for a “law” that justifies their relationship.
   2. The novel marks a moment when the culture it represented could no longer claim to know or represent the truth—and nowhere was this more destabilizing than in the discourses of law and religion.
   3. Thus the concept of a transcendent signifier of truth and order—call it God, call it the Law, call it the Father—loses its power to control representation.
   4. Hardy prepares the way for the radical de-centering of aesthetic and cultural forms known as modernism.

Essential Reading:
Thomas Hardy, *Tess of the D’Urbervilles, Jude the Obscure*.

Recommended Reading:
Michael Millgate, *Thomas Hardy: His Career as a Novelist*.

Questions to Consider:
1. In both novels, the woman’s body, through no fault of her own, causes disruption in the social world. Does contemporary law still reflect this belief that women’s bodies contain the potential for disrupting the social order?
2. Hardy’s novels mark a moment when the religious foundation of sexual morality was beginning to lose its hold over the social imagination. What, if anything, has replaced religious constraints on sexual behavior?
Lecture Nineteen
Susan Glaspell’s “A Jury of Her Peers” (1917)

Scope: In this lecture, we turn to perhaps the most contested issue of the 19th century besides slavery: votes for women. From the first women’s rights meeting in the United States, held in 1848, more than 70 years would pass before women were granted the right to vote in 1920. The question of suffrage for women was not limited, of course, to the right to cast a vote but opened up a Pandora’s box of rights and responsibilities associated with full citizenship. One of the most pressing of such rights was service on juries. The consequences of all-male juries sitting in judgment on women are explored in Susan Glaspell’s 1917 story “A Jury of Her Peers,” which is based on a trial Glaspell covered as a reporter in Des Moines, Iowa. Originally written as a play (Trifles) that depicts the loneliness and isolation of a woman trapped in a brutal marriage, the narrative engages with the role of gender in ordinary life, as well as in the heightened world of crime and punishment.

Outline

I. Different cultures in the Western world across time have articulated a consistent picture of legal subjecthood for women: that is, that women did not merit the same treatment as men under the law.
   A. The sources of women’s subordinate status under the law are various: Judeo-Christian theology, English common law, and in America, the conditions of early colonial life and plantation life under slavery.
   B. The difference in their treatment is directly related to the difference in their bodies. As Adam and Eve’s response after the fall reminds us, sexual difference is the first sign that the pure relationship with God has been corrupted. The biblical story seems to sanction a natural inferiority in women and one that is specifically located in their sexuality.
   C. Women’s inferiority in secular status must, however, be reconciled with the equality of men and women before God. That reconciliation is managed because women’s spiritual equality is tied, first, to a condition that they were supposed to abjure voluntarily—single womanhood—and, second, to the conditions of a woman’s sexuality in marriage.
   D. The legal contract between men and women, which is marriage, is the secular version of the spiritual contract between God and the human soul, and the subordination of women to men, socially and sexually, is thus sanctioned and strengthened by an appeal to divine order.
   E. The sexual difference of women from men is perceived not as the grounds for negotiating a new version of sexual equality under the law but as the fundamental opposition that secures the range of social and spiritual relationships between women and men and women and God.
      1. Just as women must mediate their contact with God through men, so they must mediate their relationship to the secular law through their male relatives.
      2. Moreover, the assumption that women were both physically and mentally inferior to men disbarred them from civil and public offices, nor could they vote or sit on juries.
      3. It was not until 1968 that Congress passed a law ensuring that women would serve on juries in all states, but even then, women’s law existed not to carve out rights for women but to define them as women according to their relationship to men.
      4. The powerful social ideology that grounds this legal subordination is the concept of separate spheres, by which the male sphere is public and the female sphere is private, the domestic space, which, of course, is unregulated and yields no direct economic benefits.
   F. The struggle for women’s suffrage ended with the passage of the 19th Amendment in 1920, but that Amendment did not guarantee women their rights as full citizens of the nation. Still hovering over the status of women under the law was the shadow cast by prior laws and customs that had excluded women from participating in the public space.
      1. Those who contended that giving women the right to vote had effectively also endowed women with full civil and political rights continued to insist that a jury that did not contain representatives of her peers could not try a woman.
2. The definition of what constitutes a peer is contested, but for women’s rights advocates, legal peerage was necessary precisely because women were perceived by men as inferior. If there were two legal ranks, one male and one female, then laws made by and for men could not apply to women.

3. If men were to respond that laws were neutral and not gendered, then by that argument, legal status must also be neutral, and women could not be denied the opportunity to sit on juries.

II. Susan Glaspell’s story “A Jury of Her Peers” grew out of a criminal trial Glaspell covered as a reporter for a Des Moines, Iowa, newspaper. Margaret Hossack, a mother of nine children and married for 33 years, was charged and convicted of the murder of her husband, who was found dead from two ax strokes in his head.

A. Unlike Margaret Hossack, who was permitted to speak in court in her own defense, the accused woman in Glaspell’s story, Minnie Wright, is never present in the story, only referred to by other characters. Such an absence suitably literalizes the absence of women in the courtroom, other than in their capacity as wrongdoers.

B. The story begins when Martha Hale is asked to accompany Mrs. Peters to the Wright farm, where they are to collect some personal items for Minnie Wright. Minnie is being held in the county jail on the charge of strangling her husband. Also with the women are Mr. Hale, who found the dead man; Mr. Peters, the county sheriff; and the young county attorney, Mr. Henderson.

C. The Wright farm is a cold and lonely place; once there, the men being their search for clues as to Minnie’s motive, leaving the women to collect Minnie’s clothes. It is immediately clear that the men, who are already convinced of Minnie’s guilt, have a quite different perception of the home from that of the women.

1. This divided reality is reinforced, for example, when the county attorney comments on the dirty towels at the sink and suggests that Minnie was not much of a housekeeper. Mrs. Hale responds sharply by remarking, “Men’s hands aren’t always as clean as they might be,” a hint, perhaps, of the abuse that Minnie has suffered.

2. In the foreshadowing of the tensions and distribution of authority in the courtroom, Mrs. Hale and the county attorney engage in a subtle battle over the social conventions that marginalize the values of women, while men’s opinions and values are taken seriously.

D. The arrogance of the men of law is articulated in the attorney’s joke to the men that the women wouldn’t know a clue if they came across it.

1. Not only, it appears, can the women recognize a clue when they see it, but they can do more. They can construct a narrative that makes sense out of what is otherwise a “senseless murder.”

2. The women’s narrative would not stand up in court, however. What Mrs. Hale and Mrs. Peters uncover as they set the kitchen to order is a life deprived of all joy—shabby clothes, a broken stove, a sagging rocking chair, and a husband too mean to install a telephone to relieve his wife’s loneliness.

3. None of these by itself is a motive for murder, but Mrs. Hale sees how the house can made to turn against Minnie. Mrs. Peters defensively says, “But, but, Mrs. Hale, the law is the law.” To which Mrs. Hale retorts: “And a bad stove is a bad stove.”

4. These two declarative statements announce the two realities that contend in this story: one, a public and male world of authority; the other, a domestic and female world that seems to bear no relationship to that public world.

5. Mrs. Hale understands that the bad stove needs interpretation; that is, it doesn’t automatically stand for something else in a way that, say, the sheriff stands for the authority of the law.

6. What this moment suggests is that if the men are not able to interpret the signs that the kitchen offers, which would explain Minnie’s actions, then one might wonder whether they were the proper representatives of the law, and what’s more, whether the law itself might not stand in need of interpretation.

E. Looking from stove to sink, the sheriff’s wife, too, finally recognizes the need to see into things, to see through a thing to something else. The two women begin to piece together the circumstantial evidence to account for that moment when Minnie was provoked to show anger.

1. As they move quietly to put the kitchen back in order so that it will no longer turn against Minnie and incriminate her, they pull together the threads of a narrative about Minnie.

2. A quilt piece that draws their admiration also shows a moment when the stitching went awry. Something about the fabric alerts Mrs. Hale that some act of violence or trauma is caught in the
threads of the quilt, and despite Mrs. Peters’s protest, she rips out the threads and re-sews the quilt piece.

3. Mrs. Peters finds an empty birdcage with a hinge torn apart, prompting Mrs. Hale to recall that Minnie used to “sing real pretty” herself; both women are curious about where the bird is now.

4. As we are pulled further and further into this domestic confession, we slowly move from the position of the curious bystander to that of active investigator of the scene, and as the narrative unfolds, we will find ourselves moving ever closer to passing judgment on Minnie—in other words, to serving on her jury.

F. As Mrs. Peters and Mrs. Hale begin to acknowledge that they share certain experiences and, thus, that they must also share those experiences with Minnie, the two women also move from being intruders to becoming Minnie’s intimates, coming to understand and know her through her shabby clothes, her broken stove, her quilt, and her broken birdcage.

1. Their greatest moment of intimacy comes when they search through Minnie’s sewing box to find her thread and scissors to take to her in jail. The two women discover a wooden box and inside, wrapped in silk, a dead canary. Their eyes meet in recognition of the violence that has occurred on the farm.

2. After this discovery, Mrs. Peters and Mrs. Hale identify the ways in which they, as women, have shared in the suffering that Minnie has experienced. At the same time, they also acknowledge their complicity, in the form of social abuse that Minnie has suffered.

3. This sense of shared suffering and shared guilt provides them with a way of rationalizing their willingness to obstruct justice by hiding the box with the bird when the men come back into the kitchen.

G. Mrs. Hale has the last words of the story. In her response to Mr. Henderson’s belittling question about whether Minnie was planning to quilt or knot the fabric, she describes the relationship now established among herself, Mrs. Peters, and Minnie: They are “knotted”—bonded together.

III. Despite being married to the law, Mrs. Peters is willing to conceal the evidence that would certainly convict Minnie. Thus, Glaspell narrates a different story of guilt and innocence and the nature of violence from the one that the law could neither recognize nor tolerate.

A. The men’s version of Minnie’s life would report on her poor skills as a homemaker, while her husband would be described as an honest, sober man who paid his debts and kept his word.

B. The dead bird would be used by a jury of 12 men to convict Minnie, whereas a jury of her peers—Mrs. Hale and Mrs. Peters, as well as the readers—have judged her differently.

C. The story also suggests that women’s facts are not facts in the way that the law understands them, at least not until they are pieced together, like a quilt, into a recognizable shape that the law can apprehend.

D. Similarly, women cannot always articulate what they know within the strict conventions of what counts as evidence in a court of law. As we know, the complicated story of domestic abuse remained untold until recently because it could not be contained in any of the preexisting narratives of what constituted assault.

E. This story also raises questions, however, about the limits of what the law can tolerate. Can we allow a system of law that permits gendered narratives and, as a consequence, gendered judgments? And if not, how can we call that justice?

Essential Reading:
Susan Glaspell, A Jury of Her Peers.

Recommended Reading:
Questions to Consider:
1. If gender and race must be considered in the selection of a jury, what other identifying characteristics ought to be taken into account? Religion, sexual preference, ethnicity, political affiliations?
2. Glaspell suggests that there are distinctly gendered ways of apprehending reality. Are these the result of cultural conditioning, or is there something inherently different about women’s ways of seeing?
**Lecture Twenty**  
**Kafka and 20th-Century Anxiety about Law**

**Scope:** In this lecture, we examine the work of one of the most influential writers of the 20th century—the Jewish German-language writer Franz Kafka. In his novels and short stories, specifically *The Trial* (1925), “Before the Law” (1919), “The Judgment” (1913), and “The Penal Colony” (1919), Kafka portrays a world both real and dreamlike, in which individuals confront a sense that they are guilty and deserve punishment yet can find no reason for their suffering. His protagonists live in a dehumanized, totalitarian bureaucracy, and his work asks, without the comfort of religious salvation, how does the individual find solace for his inevitable transgressions? And if all are equally guilty, who can render a sentence? Kafka’s work prefigures the Holocaust and Hiroshima and engages with the questions that have tormented moralists and philosophers of the 20th century: What good is law if it cannot restrain the murderous impulses of a Hitler but, rather, sanctions them? How can law claim a superior role in constituting our society if it can also be used to legislate genocide? Is law nothing more than force disguised as policy?

**Outline**

I. Franz Kafka was born into a middle-class German-speaking Jewish family in Prague, and despite identifying early on with his ancestors, who had been rabbis and intellectuals, he remained overwhelmed his entire life by his domineering shopkeeper father.
   A. That patriarch appears everywhere in his work, identifiable as fathers who torment their sons and spectral figures who haunt the corridors, offices, and courtrooms of such novels as *The Trial* and *The Castle*.
   B. In his autobiographical “Letter to Father,” written in 1919 but never sent, Kafka blamed his failure to have a full and satisfying life on the impotence caused by yielding in all things to his father’s will, a scenario articulated directly in Kafka’s story “The Judgment,” written in 1913.
   C. The same desperate struggle to assert the self and refuse the power of another is pervasive throughout his works, from the portrayal of abject victimization in *The Trial* to the endless search for approval and validation represented in *The Castle*.

II. Kafka’s relationship with his father certainly offers some explanation for the nature of his work, but we can also look to the culture into which he was born for further evidence of the radical alienation depicted in his writing.
   A. Like so many citizens of the modern world, Kafka did not belong, neither to the religion of which he was nominally a member, nor to the country that claimed him; nor could he find an outlet for his intellectual energies.
   B. Kafka’s vision of a world in which the individual is powerless to resist the totalizing forces of bureaucracy is a nightmare version of Dickens’s *Bleak House*. Unlike Dickens, however, Kafka offers us no safe haven to which the individual might return after his struggle with officialdom.

III. *Bleak House* offers its readers what anthropologist Clifford Geertz called “thick description” [note: paraphrased in lecture as “thick reality”]. By this, Geertz means that all human behavior must be understood within the practices, language, images, and symbol systems that constitute a society.
   A. To understand what something means, it must be placed in context, and as the context changes, so the meaning of an action, an event, or a sign changes.
   B. We might think here of how the officer in charge of the harrow, the instrument of torture in “The Penal Colony,” fails in his attempt to explain the philosophical function of punishment to the explorer who is visiting and must resort to placing himself in the machine to demonstrate its brilliance as both punishment and revelation.
   C. In *Bleak House*, we have a “thick” description of the fictional universe.
      1. Even if events, characters, and connections are not at first clear to us, we discover that they have all been placed in a context that helps us to read their meaning.
Moreover, we read that text as “thick” in the sense that it has depth. It has a surface meaning, but it also has a layer of meaning that reaches below the surface to generate further interpretations.

IV. If we compare Dickens’s way of representing reality with Kafka’s, it becomes clear that Kafka’s approach is different, as we see in *The Trial*, a text that most closely resembles *Bleak House* in terms of its representation of law and legalism.

A. *The Trial* opens with the following sentence: “Someone must have traduced Joseph K., for without having done anything wrong, he was arrested one fine morning.”

B. The reader expects to discover, in the course of the story, what Joseph K. has done. This doesn’t happen, but we could also say that we don’t find out the origin or nature of the court case in *Bleak House*.

C. So far, Dickens and Kafka don’t seem so far apart, but it’s how, in terms of technique, these two novelists represent what doesn’t happen, as well as the implications of those differences, that signals the shift from the world of 19th-century England to 20th-century Eastern Europe.

D. As noted, in Dickens’s representation, one understands that below the surface of the narrative, there lies a deeper reality that gives significance to the events and relationships being described. But this sense of a deeper significance is missing in *The Trial*.

E. In the world that Kafka represents and in the so-called real world on which he models his representations, the surface is all there is.

1. Things are what they seem to be, and when Joseph K. seeks a reason for his arrest, he relies on a way of understanding the world and his place in it that no longer has meaning.

2. Although the suitors before the High Court of Chancery are driven to madness and suicide by the court’s failure to resolve their cases, there is a world outside the court that brings riches and happiness.

3. For Joseph K., there is no world outside the court. The protagonist is told that the court is in session when he comes before it, and the court is out of session when he leaves it.

4. Under the normal rules of interpretation, we would say that this means that the court depends on Joseph K.’s presence for its meaning: No accused, no court. But if there is no other world besides that of the court, then Joseph K. is always in front of the court and the only way he can leave it is through death.

F. Joseph K.’s nightmarish journey through the court bureaucracy is his effort to account in some rational way for the charge against him and to reclaim an identity that now appears to have been swallowed up by the only identity that makes sense, as one accused before the law.

1. This sense that he has no identity is confirmed by the way in which the narrator of the story of Joseph K. speaks about himself. He never inserts himself into the text to comment but simply follows Joseph K.’s actions and conversations.

2. Yet the sense of judgment is so pervasive in the novel that we must believe that the narrator knows something we don’t and that if he told us what he knew, we could sort everything out.

V. The final act of the narrative, which conceals as much as it discloses, is the death of Joseph K. on his birthday.

A. The executioners lead Joseph K. to an abandoned quarry, pass a butcher knife over his body, then stab him in the heart, turning the knife twice—just as Joseph K. and others have turned repeatedly in their search for answers.

B. Only in the moment of death—and not to the dying man—is the verdict made clear. What was the crime? What were the circumstances, the motive—and what were the clues? In the case of Joseph K., the only one who knows is the circumspect narrator, who is never identified.

C. In this metaphor of a reality, in which meaning is endlessly deferred until it is too late, Kafka calls on the memory of those Greek tragedies in which the hero struggles to avoid his fate, only to bring himself, with every step, closer to that which he would avoid.

D. What has changed in Kafka’s rendering of this tragic narrative is the tragedy. There is no more transcendent reality that the story of Joseph K. refers us to—the law or God or the father. Authorities exert their power simply because that is what authority does.

VI. Kafka’s is a world of pure instrumentalism, and the instrument of that instrumentalism is perfectly represented by the fantastic apparatus in “The Penal Colony.”

©2006 The Teaching Company Limited Partnership
A. In the story, an explorer visits a penal colony, where an officer demonstrates to him the harrow, an elegant and complex machine used to inflict capital punishment.
   1. The prisoner lies face down on the bed of the machine, which then inscribes on his body, through a complex series of needles, the commandment he has broken, for example, “honor thy superiors.”
   2. The needles press deeper and deeper until the man dies, but in the moment of death, he finally understands both the nature of justice and his punishment—a revelation that transfigures the prisoner’s face and instructs all those who come to watch.
   3. To convince the explorer of the worth of this machine, the officer removes the prisoner from the bed and takes his place. He adjusts the machine to inscribe “be just.” The machine malfunctions, however, and goes to pieces, but not before the officer dies.

B. The world of “The Penal Colony” is a nightmare version of the world we know and thus represents things with which we are familiar that become strange. By their strangeness, we see them as they really are.
   1. In “The Penal Colony,” the explorer encounters both the instrument of punishment and the one who is responsible for its operation.
   2. The officer is disconnected from the moral purpose of the punishment, but only because he cares and services the machine does it deliver the kind of punishment that the state has ordered.
   3. The officer knows that the explorer will report back to the new commandant of the colony that the harrow is a barbaric instrument, which is why he is so determined that the explorer witness a death.
   4. The officer is desperate to point out the contradictions in the new commandant’s policy: How can we expect the laws to be obeyed if the punishment for breaking those laws is stripped away?
   5. On the other hand, one recognizes that the officer’s fanatical devotion to duty bespeaks a madness that would soon overrun Kafka’s Europe.

C. The unquestioning application of laws without the necessary moral restraints turns the whole world into a penal colony.

D. The need for punishment is also connected in this story with the desire for truth. In a world where the belief in a transcendent value—truth value—is compromised, some system of order must secure society against fragmentation and chaos. In the penal colony, that system must be felt along the bones and in the blood in order to have its effect.

E. Such naturalized versions of law can exist only when there is no alternative that might give a vision of something that is not consumed by the system. Thus, only in a penal colony can such a legal system operate efficiently, but once that world is opened to outsiders, the cracks in the machine begin to appear and it soon falls apart.

VII. We turn now to one of Kafka’s best known parables, “Before the Law,” which was later incorporated into The Trial and presents both the inaccessibility of law and man’s tenacious longing for it.

A. A man from the country comes before the law, described as a door guarded by a doorkeeper.
   1. The man asks if he can enter, but the doorkeeper says no, suggesting that entry might be possible in the future.
   2. The man takes a seat to wait and sits, occasionally engaging in conversation with the doorkeeper, until he grows very old.
   3. Just before his death, he asks, “Everyone wants to attain the law. How is it that in all these years no one but me has come asking to be admitted?” The doorkeeper responds, “No one but you could gain admission through the door since the door was intended just for you. I am now going to shut it.”

B. Because the story is a parable, it demands interpretation, but seeking meaning below the surface of the text is a fruitless task with Kafka.
   1. Kafka constantly torments his readers with texts that demand interpretation, but his language gives no clue to the texts’ meaning, and without such clues, the stories seem meaningless.
   2. This is precisely how we are intended to feel—wanting constantly to make meaning but constantly unable to do so. And this is also what the parable tells: The man wants to believe that there is a reason he can’t go through the door, but the only reason he was waiting at the door was because he decided to.

C. What is the analogy to the law? Perhaps law is not a human thing; that is, law does not have agency—only humans have agency.
D. We can see how this parable fits into the overall pattern of the story of *The Trial*. When the priest recites the parable, Joseph K. expects the priest to provide its meaning. But Joseph K. will be disappointed, just as he will be disappointed in his search for the meaning of his arrest, because he insists on believing that the law will provide the answer.

E. Joseph K. transfers the meaning-making activity to the law or the court, but law does not decide innocence or guilt; those who read and interpret the law do. Humans judge in those terms, but if they wanted to, they could find another set of terms on which to make their judgments.

VIII. Finally, let’s return to “The Judgment,” which focuses the issues raised in this lecture—that is, the nature of punishment and justice, the source of law, and the human capacity to make meaning.

A. “The Judgment” is the story of young merchant named George Bendorman, who has recently been engaged. As the story opens, George has finished writing a letter to a friend. He is trying to decide if he should write of his recent engagement and his success in business.

B. He is unsure of what to do and goes to consult his father, who is bedridden. His father reveals that he has been writing to his son’s friend, telling him all the things that George has withheld. Then his father claims that the friend would make a better son than George.

C. The father charges George with writing false letters and pronounces the verdict, death by drowning, upon which George—ever obedient and submissive—leaps to his death off a nearby bridge.

D. One recognizes in this terrifying response to paternal authority the seeds of many of Kafka’s later stories. Again and again, he will return to the question of where authority derives its power and why, once that power is given, it is so hard to reclaim.

E. We could, of course, look to Kafka’s life to see where many of these questions arose, but relying on Kafka’s autobiography to explain the power of his stories does not allow for the way in which he transformed his personal experience into an account of the pathology of modern life, perhaps most brutally represented by the totalitarian regimes that Kafka never lived to see.

**Essential Reading:**
Franz Kafka, *The Complete Stories* and *The Trial*.

**Recommended Reading:**
Max Brod. *Franz Kafka: A Biography*

**Questions to Consider:**
1. Only the refusal of his friend Max Brod to destroy his writing has saved Kafka’s work for the world. What would we have lost if Brod had followed Kafka’s instructions?
2. Does Kafka distinguish between the responsibility of the individual for his transgressions and the corruptions of the social world that constantly threaten the individual with punishment, or does he see the personal and the public as indistinguishable in modern society?
Lecture Twenty-One

Lolita (1958) and the Art of Confessing

Scope: Lolita has become part of the American cultural landscape, despite (or, perhaps, because of) its apparently unsavory subject matter. The ambivalent way in which critics and readers respond to this text is a metaphor, it would seem, for America’s fascination with, yet overtly moralistic aversion to, criminal behavior and sexual perversities. What happens in the book is well known—a 40-something man, Humbert Humbert, kidnaps and rapes his 13-year-old stepdaughter, isolates her from family and friends, and commits murder. But we are somehow entranced by his confession, delivered by Humbert from his prison cell. Although we are horrified by his actions, we nevertheless wish to understand his motives. The perversity of Humbert’s crimes is matched by the perversity and duplicity of his narrative—nothing that he says can be trusted, yet we insist that we can make sense of him. Lolita is a paradigm of our culture’s fascination with what most disturbs us and our insistence that we can understand that which is beyond reason.

Outline

I. Although it is set in mid-century America, Nabokov’s Lolita resonates with ancient mythic, familial dramas.
   A. The novel has come to occupy a disturbingly representative place in the landscape of American culture. Lolita, its prepubescent heroine, has generally become a name for a kind of adolescent sexual knowingness that we associate with 21st-century Western culture.
   B. When Nabokov first approached his publisher with Lolita, he was told that publishing the book would put both of them in jail. After several refusals from American publishers, Olympia Press, a Parisian publisher of avant-garde writers and cheap sex novels, finally agreed to publish it.
   C. Novelist Graham Greene first drew attention to the literary value of the novel in an article published in England in 1955, but the British Home Office nonetheless ordered customs officials to seize all copies entering the United Kingdom. Lolita was distributed in America, however, without any legal battle.
   D. It is surprising that U.S. Customs agents were willing to allow Lolita to be distributed in America in 1958, because the end of censorship on the grounds that a work’s representation of sexuality might offend did not come until 1966, in the case of Memoirs v. Massachusetts.

II. Nabokov anticipated criticism of his work in the novel’s foreword, in which the fictional editor John Ray, Jr., Ph.D., explains the inclusion—or rather his unwillingness to exclude—certain scenes that might be called “aphrodisiac.” This leads the editor to allude to another “considerably more outspoken book,” by which he means James Joyce’s Ulysses.
   A. Lolita has often been compared to Ulysses: Both Joyce and Nabokov are wordsmiths, constantly teasing and deluding the reader about the nature of language and its capacity to represent a stable reality.
   B. Both authors also employ the metaphor of the journey—for Leopold Bloom, an Irish Jew, the circuit of his desire is mapped onto the city of Dublin; for Humbert Humbert, desire is an extended road trip, crossing and crisscrossing the American landscape over the course of two years.
   C. Part of the function of John Ray’s foreword is to seduce the reader into accepting the narrative that follows as a “true confession.” For that seduction to work, we must have some trust in Dr. Ray—that he is who he says he is—the author of a book, a friend and relation of H.H.’s lawyer, and a resident of Widworth, Massachusetts.
      1. This elaborate construction of verisimilitude was apparently so convincing to an English publishing company that the decision was made to separate the foreword from the novel, discarding it in favor of one written by Martin Amis, the English novelist.
      2. Perhaps one reason the original foreword was replaced was that it spoils the ending, recording the fate of the two major characters: Lolita dies in childbirth; Humbert Humbert dies of a heart attack.
      3. To be told the story’s end before one begins suggests that we are moving into a world where readers’ expectations will be constantly disappointed or, rather, fulfilled in ways they could not imagine.
   D. The foreword contains hints about how this “game” will play itself out.
1. For example, we might be alerted to this quality of play by the way the editor’s initials double his “junior” relationship to the world—that is, John Ray is J.R. who is also a junior, Jr. This reminds us of another bizarre double name, Humbert Humbert.

2. Or we might question the statistic offered by the expert sexologist, who informs John Ray that perhaps 12 percent of American adult males enjoy the “special experience” of H.H. The name of this expert, Dr. Blanche Schwarzmann, translates as White Blackman. Is this a subtle reference to the game of chess, perhaps, or to the way that statistics reduce the world to black and white?

E. We come to understand the character of John Ray, Jr., Ph.D., as pompous, self-important, moralizing, and able to imagine only a Freudian model of behavior to explain Humbert’s perversity.
   1. Recalling what Nabokov himself said about Freud—“I think he’s crude, I think he’s medieval, and I don’t want an elderly gentleman from Vienna with an umbrella inflicting his dreams on me”—we might reject the editor’s authority to explain Humbert’s confession.
   2. If this is so, then it means we cannot trust the foreword to give us any insight into the meaning of the confession. If the foreword is fictional, then its relationship to the confession is that of a double lie—it lies about the lies in the confession.

F. We are now in danger of losing all hold on our sense of what is real and what is imagined, what is to be trusted and what is suspect.
   1. This unsettling sense that we cannot identify the “truth” of the world we have entered is perhaps linked to our sense that we need to know exactly what is morally acceptable and what is immoral.
   2. This is, of course, precisely the world that H.H. spends his considerable skill in rejecting as an accurate description of the place he once inhabited with Lolita or, indeed, the world he inhabits even when he is prison charged with a murder of which he is obviously guilty.

G. If we respond to the text on its own terms, that is, as “play,” then we do not have to accept the authenticity of the editor or repudiate it, any more than we have to exonerate Humbert Humbert or condemn him.

III. If we accept, then, that the foreword can be both a lie and speak the truth, perhaps we can retrieve from its elaborate subterfuge some hints about the nature of this narrative.
   A. The editor himself makes a confession by acknowledging that Humbert’s story is seductive, even to one such as he who has all the scientific training necessary to maintain an objective distance from the enchanted web of words that the protagonist weaves.
   B. John Ray insists that this “tragic tale” moves “unswervingly to nothing less than a moral apotheosis” and that, as readers, we can recognize that H.H. is both a “shining example of moral leprosy” and a writer who can “conjure up a tendresse, a compassion for Lolita that makes us entranced with the book while abhorring its author.”
   C. The American critic Lionel Trilling went even further than Dr. Ray in his assessment of the powerful seduction the book exercises on its reader. Writing in 1958, he said, “We find ourselves the more shocked when we realize that, in the course of reading the novel, we have come virtually to condone the violation it presents…."
   D. Not all readers agree. Many continue to regard the book as a defense of perversion elaborately concealed by baroque linguistic flourishes. Even for those who see the “moral apotheosis,” there is still the question of how one responds to this celebratory depiction of pedophilia.
      1. Nabokov was quite clear that no one would confuse his book with pornography—its style and structure, he said, do not provide the necessary “rising succession of erotic scenes.” He demanded a direct and adult response to the subject matter.
      2. The author was likewise clear that the subject of the book was what prevented its acceptance by American publishers. According to Nabokov, there were, in the mid-1950s, three subjects that were utterly taboo: sexual perversity, a happy and reproductively fruitful mixed marriage, and a long and useful life lived by an atheist. Nabokov thus ably identified the three American obsessions then, as now: sex, race, and religion.
      3. Unlike John Ray, Jr., who insists that there is a moral to the story of Humbert and Lolita, Nabokov’s own defense of his novel makes no moral claims but rests on aesthetic ones. He argues that Lolita affords “aesthetic bliss…a sense of being somehow, somewhere, connected with other states of being where art…is the norm.”
4. Of course, such a defense is not likely to convince the reader who insists that aesthetic bliss cannot be produced by a morally repugnant subject. There is a further claim made by Nabokov’s assertion, however, that is perhaps even more unsettling.

5. Nabokov implies that his novel must afford the same kind of bliss to the reader that Humbert’s desire for Lolita affords him—that art produces curiosity and ecstasy and bliss and tenderness.

E. Indeed, more than one reader has, like the editor Dr. Ray, been seduced into developing some complicity with Humbert. For Dr. Ray, the moral apotheosis that Humbert experiences redeems the book, but for others, the redeeming feature might be Humbert’s rejection of the deadening bourgeois habits of the American middle class.

IV. The reader plays many roles in this novel, but two seem primary: First, the reader is seduced by Humbert into “playing the game” of turning a perversity into a tendresse. Second, the reader must follow the clues left by Humbert to make sense of his confession, to decide whether he is mad or only pretending to be mad.

A. We might also ask whether the conventional distinctions between madness and sanity—and, thus, between perverse and normal sexuality—are themselves unreliable categories through which to make sense of the world. How does Nabokov craft the narrative and the character of Humbert to draw the reader into these games?

B. First, we are enticed into the story of Humbert’s perverse desire for the “nymphet” Lolita through the double portals of convention and myth.

1. Humbert’s direct confessions of his early sexual adventures with Annabel Leigh metamorphose imperceptibly into a narrative of mythic enchantment.

2. Lolita is unfathomable, claims Humbert, in the conventional terms that one uses to describe her nature. She is halfway between a woman and a child—she embodies what Humbert calls “the perilous magic of nymphets.”

3. Humbert’s narrative constantly refers to mythological tales and the capacity of the aesthete to transform the ordinary into the magical. Indeed, one of the ways in which Humbert seduces the reader is to suggest that only artists like him—and us—can understand what he means when he speaks of Lolita’s fragile beauty.

4. This uncanny ability to transform the apparently conventional into the mythic is also achieved by introducing the names and narratives of literary figures who add their own glamour to his story. Thus, Annabel Leigh, Humbert’s unconsummated first love, invokes Edgar Allan Poe, who at the age of 27, married his 13-year-old cousin.

5. In refining his perverse desire for Lolita through the screen of myth and culture, Humbert convinces himself that he is an artist searching for the elusive language that will capture the quality of the nymphet.

6. Despite his much vaunted sensitivity and artistic soul, however, he fails to see until it is too late that he has brutalized Lolita and destroyed her childhood, abandoning her to a man whose abuse is only less horrible because it is more honest.

C. Humbert also draws us into his narrative by asking us to play detective—he is in jail, he has committed a murder, he has seduced and sexually tormented his stepdaughter, but what, exactly, is he guilty of?

1. He offers us hints, half-truths, and sometimes, even straightforward plot summary—he seems genuinely remorseful, but for what?

2. This tormenting quality of verisimilitude versus aesthetic fabrication draws us in as readers, but as in all good detective stories, we will have to wait until the last pages of the book to learn what the criminal is guilty of.

Essential Reading:
Questions to Consider:

1. Is it possible to make beauty out of appalling human behavior? If the answer is yes, how do we come to judgment about the offender; if the answer is no, how do we bring attention to those things that we find appalling through art?

2. Is it only possible to depict evil in the context of a religious representation, as Milton does in *Paradise Lost*? In other words, do we lose all sense of the moral resistance to evil if we have no religious, or sacred, foundation on which to build our judgments?
Lecture Twenty-Two
“Witnessing” Slavery in Beloved (1987)

Scope: In this lecture, we turn to Toni Morrison’s “witnessing” and “re-memorizing” of slavery in Beloved, a novel that examines the spiritual, physical, and political consequences of slavery. Morrison also engages with the crucial question of how history and memory create a community that can help relieve the nightmare of the past but also, inevitably, keep its pain alive. Morrison’s book is based on an actual case, that of Margaret Garner, who was charged with the murder of her infant, whom she had refused to allow to be taken into captivity. We will also examine the specific laws that enforced the regime of slavery, particularly the Fugitive Slave Act of 1850, and situate this novel in the tradition of other female slave narratives.

Outline

I. Beloved, which is the name of a murdered child, tells the story of Sethe, a slave whose escape is violently interrupted when her former owners try to recapture her and her children.
   A. This novel explores American slavery from the perspective of those who lived through that vicious period in history. In particular, we see the consequences of slavery on the institution of the family.
   B. Sethe’s story is based on the 1856 case of Margaret Garner, who killed her child when slave catchers tried to arrest her under the Fugitive Slave Law.
   C. The Margaret Garner case illustrates the central paradox of slavery—that one cannot enforce laws that control the behavior of those whom the law does not recognize as responsible for their own actions.

II. A central scene in the novel occurs when the nephews of Sethe’s owner, in a grotesque parody of infant need, engage in a traumatic rape of Sethe’s breast milk and, thus, preemptively steal from her newborn child, Beloved.
   A. This scene, in which Sethe is raped of her milk, and the one that follows, in which she is beaten mercilessly by one of the nephews, repeat one of the dominant themes of the story: that is, the tension between instinctive and animal behavior, which contends with the rational and human consideration of action and response.
   B. Of course, Morrison’s sympathy is with the slaves and their response to the brutality they have endured, but she also indicates that the institution of slavery made beasts out of those who condoned and profited from it.

III. One of the ways in which slaves, as well as free blacks, were able to endure their suffering was through the promise of salvation, and one of the great ironies of the age of slavery was that the Bible sustained both the slave and the slave owner, although not all slaves accepted Christianity as their faith.
   A. Those who endorsed slavery frequently relied on biblical passages that suggested that people of color were inherently inferior. Specifically, they relied on the passage in chapter 4 of Genesis, in which God curses Cain for killing Abel and marks him to set him apart from his kin.
   B. In 18th-century America and Europe, it was commonly assumed that Cain’s “mark” was black skin and that his descendants were still under God’s curse. Forbidden to read, most slaves had no way of contesting prejudicial biblical interpretations.
   C. Unlike Margaret Garner, who saw Christianity as a “religion of slavery,” many slaves adopted the master’s religion, mixing their own customs and rituals with the Christian Church and its doctrine and revising biblical narratives to accommodate their own histories.
      1. Morrison places an epigraph before the novel from St. Paul’s Epistle to the Romans, 9:25, emphasizing the inclusiveness of Christianity as conceived by the early Church fathers.
      2. The irony of this reference, of course, is that it is precisely those who would claim to be Christian who deny slaves the most basic freedoms of the human condition, including the right to learn how to read the word of God.
3. Despite the unavailability of the written text, the slaves know the narratives of the Bible as models of a physical and spiritual journey from enslavement to freedom, especially the journey of the Israelites. The slaves adopted the account of the Israelites to narrate their own oppression and, thus, “preached” a different kind of justice from the one they themselves experienced.

D. Situating the story of the African American slave in a biblical narrative also emphasizes the history of the slaves, one that is far more ancient than that of their American owners.

IV. It has become a commonplace in discussions of slavery to speak about the loss of individual identity on the part of slaves, to talk about slavery as the successful replacement of a distinct human identity with a kind of bovine submissiveness more appropriate to work animals.

A. Such an effort, of course, explains the brand that marked the slaves as the property of a particular owner and further dehumanized them.

B. Sethe’s mother reclaims her individual identity, however, precisely through that brand—it marks her not as a slave but as Sethe’s mother—the one who “threw away” the children conceived after she was raped by white men and kept only Sethe, the fruit of a relationship with a black man chosen by her.

C. Her mother was hanged, but for what crime, Sethe does not know. She remembers who her mother was and that she spoke a different language, and Sethe must eventually accommodate this knowledge within her own narrative of pain and suffering to make sense of her life.

D. In reminding us of the origins of these slaves—that they had a language, a tradition, and a culture before they became slaves—Morrison asserts that their identities remain, to some extent, unassimilated by the white, Anglo-American Christian world.

V. Remembering is the source of identity, but remembering is also, for the slaves, the constant re-inscription of their physical and spiritual torment, as well as a reminder of how their identities were erased under slavery.

A. In this novel, individual and racial memories are the source of both inspiration and agony. Those memories are embodied in the arrival of Paul D., one of the many slaves who lived at the Garner plantation.

B. Paul D.’s arrival at Sethe’s house begins the painful process whereby Sethe confronts her memories and her responsibility for the murder of her child. Only one who has experienced the same pain as Sethe can help her relive those agonies; thus, Sethe and Paul enact a mutual restoration of those selves that have endured the horrors of slavery.

C. The memories that Sethe beats back every day must be confronted if they are to be surpassed and she is to reclaim that “best thing”—herself—with all its memories of horror, as well as moments of tenderness.

D. Morrison indicates that there is no single, homogenous record of slavery—that to see it as one misery endured by all slaves in the same way is to repeat what the slave owners had attempted—that is, the erasure of individual identities.

VI. Sethe is also literally and figuratively haunted by the ghost of the child she had murdered 18 years before in a desperate attempt to avoid the infant’s enslavement. The consequences of Sethe’s murder of her baby are felt not just in the immediate family but in the entire community.

A. Sethe’s crime pales, of course, to the brutality of the slave regime, yet for Sethe to claim her full humanity and be reintegrated in the community, she must accept responsibility for what she has done: She must “remember” how she slit her two-year-old daughter’s throat.

B. At first, with the embodiment of Beloved as a young woman who appears mysteriously at Sethe’s house, Sethe can only respond as the nurturing mother she once was and whom slavery threatened to eradicate.

C. Although Sethe sees the murder of her child as an act of salvation, she is forced to reconsider when Beloved begins to demand an explanation for her mother’s cruelty. It is not, however, until Paul D. confronts Sethe with a newspaper clipping that describes her crime that she must face the truth and begin the painful journey toward redemption.

1. When Paul D. asks her if she is the one described in the newspaper report, Sethe will not answer directly; instead, she recalls the difficulty of being the only woman on the plantation, of caring for her children, and of finally liberating them from slavery and being able to love them freely.
2. For the reader, Sethe’s explanation also emphasizes the particular suffering of women, especially mothers, under slavery. Expected to breed to increase her owner’s wealth, the woman slave was often raped by her master or overseer yet constantly under suspicion from the white mistress.

3. The difficulty of explaining to a man, even one like Paul D. who has experienced slavery, what it means to nurture a child who is then taken away from you, prevents Sethe from finding the right words.

4. To her, the solution was simple: When the slave catchers came into Baby Suggs’s garden, she “collected every bit of life she had made, all the parts of her that were precious and fine and beautiful and carried, pushed, dragged them through the veil, out, away, over there where no one could hurt them.”

5. Paul D.’s response to her confession is to describe her love as “too thick” and to remind her that her attempt to save her children didn’t work. Paul D. insists that there could have been another way and that what Sethe did was wrong.

D. In his disapproval of her behavior, Paul D. voices two important principles: The first is that Sethe cannot claim “ownership” of her children, and the second is that killing her child was the result of an instinctive but dangerously irrational human reaction.

1. The range of responses to Sethe’s action testifies to the difficulty of arriving at an appropriate verdict for her. In the course of the novel, we hear about Paul D’s reaction, as well as that of Baby Suggs, the free black community, the white community, and finally, the law.

2. The narrator withholds either approval or disapproval, allowing the multiple responses to produce a multifaceted reading of the crime.

3. Likewise, Morrison herself offers, in an interview, a nuanced reading: “It was absolutely the right thing to do, but she had no right to do it.”

E. This nuanced moral position is represented in the narrative shape of the text, with its fragmented and nonlinear form, which suggests the difficulty of telling a story that relies on the cause and effect of a sane world in the insane world of slavery. The fragmented structure also suggests the impossibility for the freed slaves of recapturing a past by which they might understand the present.

VII. The moral complexity of Sethe’s case must be placed in the context of other acts of violence against children, especially acts engendered by slavery.

A. How can a morally corrupt system render legal judgment on someone like Sethe? Moreover, how can one reconcile the violence of the Old Testament God with the Christian call for nonviolence?

B. Besides suggesting the fragmented life of those enslaved and the moral complexity of Sethe’s answer to the Fugitive Slave Law, the seemingly random sequence of events in the narrative also suggests the difficulty of accounting for all the victims of slavery—those 60 million and more, as well as the ones that suffered even after the Emancipation Proclamation in 1865. These individuals’ stories remain untold, “disremembered and unaccounted for,” as the narrative says.

C. Even if, however, they are disremembered, their memories can be honored through the story of Sethe and Paul D.

1. Despite the horrors they have witnessed and experienced, Sethe and Paul D. must, for the sake of their own future and that of their race, continue to witness their past—in a spiritual and aesthetic sense, through stories and prayer.

2. “It was not a story to pass on,” concludes the novel, invoking both the impossibility of telling the full story of slavery and the absolute necessity of telling it. One must not pass—that is, pass by, or disregard—these stories, however painful they are to tell or read.

Essential Reading:
Toni Morrison, Beloved.

Recommended Reading:
Questions to Consider:

1. Some critics have argued that Morrison has “sentimentalized” the murder of a child by having Beloved return as a ghost to her mother. Is Morrison deliberately preventing the reader from coming to an easy judgment about Sethe’s actions, or is she obscuring the issue of judgment itself?

2. Is this a novel about slavery or about the present enslavement of a nation in its refusal to accept and make reparations (not necessarily economic) for the past?
Lecture Twenty-Three
Maternal Infanticide—Myth and Judgment

Scope: In this lecture, we examine the representation of maternal infanticide—the *crimen exemplum*—in literature and law, drawing on ancient and modern texts to explore the way in which we come to judgment about a crime that has been depicted as the most “unnatural” of all crimes. From Medea to Andrea Yates, from ancient Greece to contemporary America, the struggle to assess the appropriate punishment for the woman who kills her children is intimately tied to the assumptions about women and mothering that the culture holds and to the value of the rule of law in that culture. It is easy in the abstract to condemn the mother who kills, but it is not so easy to assess the proper punishment for the deranged mother who believes that her actions are protective rather than destructive. By looking at the mythological manifestations of the murdering mother, as well as actual case studies, we will try to understand the complex pathways by which we arrive at judgment.

Outline

I. In this lecture, we return to the question of moral and legal judgment that recalls one of the classical dilemmas of ancient myths: the murder of a child by its parent—the obvious example being Medea’s murder of her children to revenge herself on her husband, Jason.
   A. We will compare how we assess responsibility and decide on appropriate punishment in two different circumstances—two actual cases and a literary version of infanticide, a poem by Seamus Heaney.
   B. Approaching the terrible scene of child murder from the fictional perspective allows us to think about that crime and its moral repercussions in ways that would otherwise be impossible.
      1. There are, to put it reductively, two popular versions of the mother who kills her children. She must either be mad or bad.
      2. As a corollary to these stereotypes, one might say that the mother must be perceived either as a victim of society—it’s society that makes her mad—or as a fully responsible moral agent and, therefore, deserving of the title bad.
   C. Maternal infanticide has always been represented as a crime so unnatural that it seems beyond comprehension. It is also frequently used to suggest a moral sickness pervasive in society. This lecture analyzes this myth of motherhood on which the charges of madness or evil are predicated through several narratives.
   D. Before we turn to these narratives, however, let’s sketch out that contemporary myth of motherhood.
      1. Motherhood is inevitably represented in the media and in our cultural narratives as synonymous with nurture and affection. To be other than caring for your children is to be “unmotherly” and, therefore, both “unnatural” and “unfeminine.”
      2. The mother who kills loses both her status as a mother and her status as a woman, leaving her in a non-gendered and nonhuman space. That the mother is always a caring and nurturing figure and that failure is not an option are universally held Western beliefs, despite considerable empirical evidence to the contrary.

II. We begin with the case of Susan Bienek, convicted of murder in the death of her newborn son. Both the prosecution and the defense in this case crafted their strategies around the myth of the perfect mother.
   A. In 1993, Susan Bienek was accused of abandoning her infant son, Daniel, in a garbage bag, which ended up in a county dump and was traced to Bienek through the mail it contained. Bienek claimed that her baby had been born dead and that she had disposed of him by leaving him in a roadside bin because she couldn’t afford funeral expenses.
   B. Bienek’s lawyer argued that his client was a good mother who had made a terrible, but not feloniously criminal, mistake. In contrast, the prosecution asserted that Susan was, despite the evidence of 14 years of good mothering, a force of evil in the community.
C. The confrontation of these two versions of the maternal myth occurred most prominently in the presentation of the forensic evidence and in the lawyers’ closing statements.

1. The forensic evidence produced by the prosecution suggested that the child had been alive and could have been saved by medical intervention. Arguing that no natural mother would abandon her newborn infant without seeking assistance, the prosecutor insisted that Bienek’s failure to call for help confirmed her secretive behavior and cold-hearted cruelty.

2. In contrast, a county pathologist argued for the defense that the air in the child’s lungs and stomach could have been caused by decomposition, not because he was born alive. Under this narrative, Bienek had acted in a state of shock when she placed the body of her child in a garbage bag. As the epitome of the good mother, Susan was momentarily deranged by the death of her son.

D. What both advocates lacked, however, was a motive for Bienek’s secrecy. Both agreed that Bienek’s behavior was unnatural, but they disagreed about the significance of that unnaturalness. From one point of view, Bienek was the scapegoat for all that is evil and disruptive in society. In another version, she was the scapegoat for the frailty and instability of women, especially reproducing women. These are both mythic narratives, which cloak Bienek’s specific identity and story.

E. In both narratives, the power of the mother myth to compel assent to a certain kind of judgment overwhelms any opportunity for an alternative narrative that might come closer to Bienek’s individual story—one that appeared after the trial and told of spousal abuse and intimidation.

III. Let us turn now to another case that invokes a myth of motherhood, but in this case, the myth is one that was not familiar to the court or the culture in which the acts of infanticide occurred.

A. Juana Flores was a 16-year-old girl when she first met 20-year-old Jose Luis Léija in Matamoros, Mexico. One day, Jose Luis picked her up from school, offering to take her home, but he raped her. Unable to face the shame, she dropped out of school and married him in 1973. Soon after, they entered the States illegally, heading for Houston.

B. Between 1975 and 1987, Juana had seven children. In 1983, Jose Luis lost his job and essentially stopped looking for another. Juana says, “Every day, it was the same. He would leave the house, he would stay gone all day, and he would come home in the evening very drunk and very angry. And every night, there were beatings.”

C. After years of abuse, 29-year-old Juana Léija took her children to the edge of Buffalo Bayou in Houston in 1986, and threw them in the water, intending afterward to drown herself. All but two of the children were rescued, and Juana Léija was charged with two counts of capital murder. Her lawyer faced an extraordinarily difficult task: to defend a mother and an illegal Mexican immigrant against charges of infanticide.

D. Juana’s case never went to a jury. She eventually pleaded no contest to murder and attempted capital murder charges and received a 10-year, probated sentence.

1. To bring about the probated sentence, Juana Léija’s lawyer presented her case as a version of a widespread Mexican myth about mothers, the story of La Llorona.

2. The central components of the legend of La Llorona are that she appears “weeping, and…as a ghost in the form of a woman. Closely associated additional elements include white clothing, walking at night, appearance near water, continuous searching, betrayal…and, what is the most emotionally impressive attribute, the loss or murder of the child who is the object of the search.”

3. Under pressure from these cultural narratives, the legal narrative discloses the complexity of an individual woman’s life and generates, I believe, the appropriate ethical and legal judgment.

IV. It might be useful, at this point, to look at a specific critical response to a literary text to illustrate this ethical act of interpretation that I am suggesting. The text is a poem by Seamus Heaney about infanticide, called “Limbo.”

A. The poem is about a child drowned by its mother in the Irish Sea. What judgment might we render if faced with the facts unmediated by this poem? The poem does not excuse us from judgment; indeed, it forces us to comply with its own reasoning, articulated through the imagery of Christian sacrifice and theology, or to take a stand against its ethical position.
B. We cannot simply condemn the mother as the epitome of evil or sympathize with her as a passive victim of a harsh patriarchal world. What the poem insists on is the complexity of the narrative through which this incident must be viewed.

C. The mother who ducks her child “tenderly” in the water is both the specific woman trapped, like the spawning salmon, in the nets of men and the representative Irish woman who lives in a culture that prevents her from controlling that “spawning”—that is, her reproductive body.

D. However, the mother is not just the passive victim of her culture—she “wades in under the sign of her cross,” and in that moment, she becomes both the sacrificer and the sacrificed, identified with Christ.

E. What happens to us, the readers, when we enter into the experience of this poem? I think we are moved by its narrative, moved beyond the first horror at the thought of a mother drowning her child; we see that mother as neither evil nor innocent.

F. Her terrible deed recapitulates the actions of others who have been driven to kill their children, like Sethe, and thus situates her in human history. Throwing back the “small one,” she becomes one with the community of fishermen who have netted her baby, but as the “spawning” salmon, she is netted herself by the men who fish and by that most charitable fisher of men, Christ.

G. Set against this redemptive reading, however, is the image of the “cold glitter” of limbo, where the baby’s unbaptized soul must linger forever. Even Christ “cannot fish there.” Thus, the mother, who seems redeemed by the promise of Christ’s forgiveness, is nevertheless sentenced to remember her crime forever. She, too, must dwell in limbo.

H. The judgment rendered by the poem on the mother, then, is ambivalent and fraught with irresolution. But it is, for these very reasons, more ethically just than condemnation or exoneration would be.

I. The poem demands that we respond as members, albeit temporary ones, of the same culture that has produced the crime and that we put aside our habitual responses, enter into the symbol system of the poem, and thereby, address fully the question of the mother’s guilt. The point is not to avoid judgment or punishment, but to make that judgment consonant in its complexity with the crime.

J. I am not suggesting that we equate the poetic representation of infanticide with the real death of children, but I do believe that our response to literature can teach us something about how we might respond to the same event in the real world. In cases of maternal infanticide, we must will ourselves into a place where judgment is deferred until we can understand both the individual circumstances that motivated such a crime and the larger cultural narratives within which the individual narrative must be accommodated.

K. This way of understanding the nature of moral judgment—that is, through narratives of individual and collective responsibility—is closely allied to what Aristotle meant by catharsis. Catharsis, or “purgation,” describes the experience of those who witnessed the dramatic representation of a tragic event

1. Catharsis is enabled by both compassion and judgment and guarantees the health of the state by enabling a reconciliation between the offender and the offended. Such reconciliation, and the consequent reintegration of the offender back into community, is the goal of justice.

2. These are difficult cases to discuss. But the difficulty only makes the need for a balanced ethical and moral response the more pressing. And as we will see in the next lecture, the more sensational the media version becomes, the more difficult it is to resist the impulse to rely on ill-considered judgments.

Essential Reading:
Susan Sage Heinzelman. “‘Going Somewhere’: Maternal Infanticide and the Ethics of Judgment.”

Recommended Reading:

Questions to Consider:
1. Should the United States pass a law that is modeled on the infanticide law in the United Kingdom and Canada, whereby women who kill within one year of the birth of a child and who have suffered psychological
impairment are judged differently from other women who kill their children? What social, psychological, and medical conditions does this authorize as a defense against murder?

2. What is the relationship between the way we respond to a fictional account of a crime and the way we respond to its real-life occurrence? How do TV and movie representations of crime take advantage of the thin line between the real and the fictional?
Lecture Twenty-Four
Literature and Law—Past, Present, Future

Scope: In this final lecture, we will reflect on the journey we have taken from the ancient texts of the Hebrews and Greeks to contemporary representations of crime, sin, justice, and injustice. As I suggested in the first lecture, it is possible to trace an overall trajectory that begins with the interconnection between law and literature in ancient texts and moves toward a gradual separation of these two ways of representing the world after the early 18th century. The contemporary relationship between literature and law is, in some ways, similar to the situation in ancient Greece, whereby law was not an abstract system of rules but a live performance. From the enormous success of crime novels to the representation of trials on TV, we are inundated with law and legal issues in the media. What does the saturation of our media with law-related topics say about our culture, and what force does law have when its representation is no longer confined to certain authorized spaces and texts? Is this popularizing of law a healthy demystification of what was once an elite and hermetic enterprise and, therefore, something we should value as essentially American? Can law survive its popularity?

Outline

I. We begin this reflection on the current state of the relationship between literature and law by considering the ways in which these two forms construct and critique the cultures of which they are a part. We then turn to popular, contemporary versions of the interaction between law and literature to assess the value of legal and literary texts.
   A. Both legal and literary texts have a powerful effect on the construction of certain kinds of cultural identities. Both forms of representation are products of culture, of a certain historical moment, although certain authoritative texts are described as if they were permanent and sacred repositories of human law and emotion—for example, the U.S. Constitution or the Bible.
   B. One purpose of these central cultural texts is to produce a common identity among those who acknowledge their significance; that common identity is usually defined by the most powerful in the culture.
   C. At first, then, both ways of representing reality would be controlled by the same powerful figures, and their representations would reinforce their view of the proper way to sustain individual and social relationships. This interconnectedness between the laws that regulate and produce a certain kind behavior and the literature that represents that behavior depends on a single basis—religion.
   D. As long as commonly held religious beliefs unified the culture and produced the foundational philosophical assumptions that generated both legal and literary texts, the culture acknowledged the inseparability of these two forms of imitation. Thus, we can understand classical Greek drama as a way of investigating legal procedures and their validity for the state; what was performed on stage was a model of what the state recognized as vital for the success of its new democracy.
   E. In the 21st century, however, the audience for theatrical performances does not have the same kind of shared religious beliefs as those who watched the performance of the Oresteia, for example. The challenge of “performing justice” on the stage becomes increasingly difficult in a world where shared assumptions are rare.
   F. Once a single unifying set of assumptions could no longer control a collectively held sense of what law and literature should regulate and imitate, then definitions of both communal and individual identities were no longer determined by the elite.
      1. We saw the beginning of this shift in the mystery and morality plays that spawned the secular drama of the Renaissance. Once the Church lost control of both the subject matter and the production of these plays, different versions of what might pass for justice, selfhood, and community interests began to appear.
      2. By the time we reach the late 17th century, the influence of scientific, rather than religious, assumptions on the construction of the natural and human world radically undermined the traditional representation of the individual, now no longer a fundamentally religious being but a fundamentally political and economic one.
3. Indeed, our modern understanding of identity depends, in large part, on two legal concepts: the possession of property and the possession of civil and legal rights.

II. As this review of the transformation of classical concepts of identity suggests, one of the most significant aspects of the way legal and literary texts construct and critique individual and social identities is in their consideration of race and gender.

A. As we saw in the lectures on *Huck Finn* and *Beloved*, what is possible in terms of literary representation is, to some extent, conditioned by what the law can recognize and vice versa.

B. Laws do not simply regulate existing behavior; they can also both suppress and generate certain identities. For example, if there were no laws regulating the conduct of same-sex couples, then one can say that in the eyes of the law, they do not exist. But literature can bring them into being, and once represented in literature, such couples might become the target of laws designed to make their behavior illegal.

C. Conversely, the law recognized slaves only by virtue of what they were not—that is, unable to possess property, unable to possess themselves as free individuals. The absence of the slave in the law produced their absence as subjects for mainstream literary representations.

D. One could follow a similar trajectory in the case of gender. As long as religious beliefs, specifically Christian ones, determined the way morality was reflected in law and regulated the representation of women in literature, women had limited personal and social agency.

III. In addition to the ways in which previously ignored identities have been recognized as worthy of representation in legal and literary texts, we have also seen the disintegration of a previously unified sense of identity, with the result that legal and literary texts were no longer reliable as imitations of a coherent worldview: After the early 18th century, the stability of a world that was established on religious principles was in question.

A. The loss of shared religious beliefs produces legal and literary texts that begin to assume different purposes in the culture. They are still, of course, engaged in regulating and representing various kinds of behavior, but they are no longer driven by the need to encode social laws through stories of culturally significant figures.

B. Gradually, the desire to entertain began to exert a stronger influence over the production of literature, and this conversion of law into the stuff of popular culture seems to have continued relentlessly into the 21st century.

C. Indeed, we have arrived at a point where the law hardly seems to exist outside of its representation in popular culture; this condition is the result of both the gradual diminution in the status of the law and the proliferation of the media outlets available for representation.

IV. Before we close, let’s examine some contemporary representations of the law and literature relationship.

A. The most accessible version of this study of the two disciplines is probably the characterization of law as akin to literature in being an aesthetic enterprise—that is, both ways of shaping reality use specific aesthetic techniques, such as narrative plots and rhetorical devices.

B. Some academic practitioners of law and literature scholarship argue that law is not simply a technique but a distinctive way of creating reality and is, therefore, like literature, a creative enterprise.

C. The fact that both law and literature are primarily linguistic constructs makes some of these claims inevitable. But the more recent insistence that law should be treated as a poetic, rather than a scientific, enterprise pushes the debate back into areas of morality and ethics and reminds us of ancient representations of the connection between law and literature.

D. Some of this redefinition of law seems to be the result of a cultural uncertainty about how to respond to its pervasive presence in American popular culture.

1. Does this diversity of representations reflect the variety of our responses to law and indicate that we no longer have a set of shared assumptions about the role of law in our society? Or is it simply the result of the number of media outlets available today?

2. Some legal and cultural observers argue that the overwhelming number of representations of law has weakened the power of law and altered its function in our society.
3. Unlike earlier cultures, in which law and aesthetic representations united to present law as a symbol of transcendent values, our culture seems to represent law as a series of contending values.

4. Of course, one could argue that this variety in the representation of law is an expression of a democratic sensibility and that the appeal to transcendent values in the past was nothing more than a way of keeping the elite in power and excluding those who might require a change in the way culture thought about law and its function.

E. In our contemporary version of the law’s significance, critics have suggested that we have lost sight of any meaning that the law might have in our lives other than as a source of entertainment. Some scholars critical of contemporary culture argue that the values that are now privileged are those that most nearly fit the expectations of the uncritical reader or viewer: sensationalism, spectacle, and the reduction of complexity to formulaic response.

F. Nowhere, perhaps, is this valorizing of spectacle and sensationalism more likely to be found than in the “true crime” genre of literature.
   1. The most recent wave of bestselling true crime novels can probably be traced to Truman Capote’s 1966 *In Cold Blood*. The novel details the murders of a wealthy farmer in Kansas and his family by two ex-convicts who were eventually executed for their crimes.
   2. Capote claimed that he had created a new type of book, the nonfiction novel, by using traditional literary conventions in crime reporting. Capote’s reliance on real-life stories for a narrative suggests that as a culture, we crave both the shock of the sensational criminal act and the comfort that comes with knowing that it might not “really” be true.
   3. This confusion of reality with fiction seems quite different from the merging of real characters and events with fictional circumstances that we saw in 18th-century writers. Our contemporary culture often appears to be genuinely bewildered by what constitutes reality and what constitutes the fictional universe generated by the media.

G. We seem to live in a culture of anxiety—with a sense that both the random world of crime and the protective world of law and order are outside of our control: Only those who can manipulate the tools of technology can keep the predators at bay, yet even then, the fallibility of the human investigator reminds us of the vulnerability of our condition.

V. This sense of our vulnerability and the limitations of a strictly human enterprise returns us to the ancient world of the Hebrew Bible and the lives of Oedipus, Agamemnon, and Orestes.
   A. In those ancient texts, we glimpsed the belief in some force beyond the human condition. That reliance on a metaphysic of transcendence can no longer sustain us. Our desire persists, however, for ways of representing ourselves that can be inspirational rather than merely entertaining.
   B. The question with which we end this series is this: If the connection between law and literature is one way of measuring civilization, what contemporary literature reflects our ongoing struggle toward justice? What literary texts will demand that same kind of active engagement with law that we witnessed most vigorously in the ancient texts—an engagement that is defined by its resistance to the failings of human law and its reverence for what that same law might be?

**Essential Reading:**
Truman Capote, *In Cold Blood*.

**Recommended Reading:**

Research Guide on Law and Literature.
  law.vanderbilt.edu/library/research/ law_and_literature.html

Law in Popular Culture.
  tarlton.law.utexas.edu/lpop/index.html.
Questions to Consider:

1. Truman Capote’s fictionalized “true crime” novel was published in 1966; in 2005, a movie about the writing of the book was released, *Capote*. Are we moving into a time when everything that was once experienced directly must be mediated through another media (TV, movie, book) to have any reality? If so, how can we be responsible for and to our legal (or political, or moral) system?

2. Does the interpenetration of media representations of legal events, most noticeably forensic investigations and trial scenes, with those same activities in reality make it impossible to reach the kind of objective judgments the law demands for justice to be served?
Biographical Notes

Aeschylus (c. 525–456 B.C.). The “father of tragedy,” Aeschylus was born in the city of Eleusis. Immersed early in the mystic rites of the city and in the worship of the mother and Earth goddess Demeter, he was once sent as a child to watch grapes ripening in the countryside. According to Aeschylus, when he dozed off, Dionysus appeared to him in a dream and ordered him to write tragedies. Aeschylus was the first dramatist to give dignity and meaning to tragedy. Also, as his own producer and stage manager, he designed special costumes for his actors, pioneered in the use of masks, enlarged the stage, and was the first dramatist to have any sort of setting for his plays. Altogether, it is probable that few men in the history of the theater have had such far-reaching effect on their chosen profession.

Austen, Jane (1775–1817). A prominent English novelist whose work is considered part of the Western canon. Despite living the sheltered life of a spinster, her insights into women’s lives and her mastery of form and irony made her one of the best authors of her era. She was born at the rectory in Steventon, Hampshire, to the Rev. George Austen and Cassandra Leigh. She lived for most of her life in the area and had six brothers and an elder sister, Cassandra, to whom she was very close. She was educated briefly by a relative in Oxford, then Southampton, then later at the Reading Ladies Boarding School in the Abbey gatehouse in Reading, Berkshire. In general, her education was superior to that generally given to girls of her time, and she took early to writing, beginning her first tale in 1798. Her life was an uneventful one and, but for a disappointment in love, tranquil and happy. Austen never married; she was once engaged to a younger man, Harris Bigg-Wither, but changed her mind overnight. Having established herself as a novelist, she continued to live in relative seclusion and began to suffer ill health. She was buried in the cathedral at Winchester.

Burney, Frances (1752–1840). Burney, an English novelist and diarist, published her first novel, Evelina, anonymously in 1778. The revelation of its authorship brought her nearly immediate fame by its narrative and comic power. She published Cecilia in 1782 and Camilla in 1796. Her three major novels, much admired by Jane Austen, are about the entry into the world of a young, beautiful, and intelligent but inexperienced girl. Burney’s father was Dr. Charles Burney, a musician of some distinction at King’s Lynn, Norfolk. Her mother, Esther, was granddaughter of a French refugee named Dubois. Frances was the fourth child in a family of six. Of her brothers, James became an admiral and sailed with Captain James Cook and Charles Burney was a well-known classical scholar. Mrs. Burney died in 1761, when Frances was only nine years old, and her father was too busy to give her any attention. Her sisters Esther (Hetty) and Susanna were sent to school in Paris, but Burney was largely self-educated.

Chaucer, Geoffrey (c. 1343–1400). An English author, poet, philosoper, bureaucrat (courtier), and diplomat, Chaucer is best known as the author of The Canterbury Tales. He is sometimes credited with being the first author to demonstrate the artistic legitimacy of the vernacular English language, rather than French or Latin. Chaucer was born around 1343, probably in London. His father and grandfather were both London wine merchants, and before that, for several generations, the family was engaged as merchants in Ipswich. By 1366, Chaucer had married Philippa Roet, who was probably the sister of John of Gaunt’s third wife; she was a lady-in-waiting to Edward III’s queen. During the years 1370 to 1378, Chaucer was frequently employed on diplomatic missions to the Continent, visiting Italy in 1372–1373 and in 1378. From 1374 on, he held a number of official positions, among them comptroller of customs on furs, skins, and hides for the port of London (1374–1386) and clerk of the king’s works (1389–1391). The official date of Chaucer’s death is Oct. 25, 1400. He was buried in Westminster Abbey.

Defoe, Daniel (1660–1731). An English spy, writer, and journalist, who first gained fame for his novel Robinson Crusoe. Defoe is also notable for being arguably the earliest constant practitioner of the novel form. Born Daniel Foe, the son of James Foe, a butcher, he later added the aristocratic sounding De to his name as a non de plume. He became a famous pamphleteer, journalist, and novelist at the time of the birth of the novel in the English language. His parents were Presbyterian dissenters, and he was educated in a dissenting academy at Stoke Newington. Defoe’s pamphleteering and political activities resulted in his arrest and placement in a pillory in 1703, principally on account of a pamphlet entitled “The Shortest Way with Dissenters,” in which he ruthlessly satirized the High Church Tories. Defoe’s Robinson Crusoe tells of a man’s shipwreck on a desert island and his subsequent adventures. Defoe wrote an account of the Great Plague of 1665, A Journal of the Plague Year, and Moll Flanders, a picaresque first-person narration of the fall and eventual redemption of a lone woman in 17th-century England.

Dickens, Charles (1812–1870). Regarded as the most important English writer of the Victorian era, Dickens’s popularity is demonstrated by the fact that none of his novels has ever gone out of print. He was born in
Portsmouth, England, to John Dickens, a naval pay clerk, and Elizabeth Barrow. Dickens’s writing style is florid and poetic, with a strong comic touch. His satires of British aristocratic snobbery—he calls one character the “Noble Refrigerator”—are wickedly funny. Comparing orphans to stocks and shares, people to tugboats, or dinner-party guests to furniture are just some of Dickens’s flights of fancy that sum up situations better than any simple description could. The characters themselves are among some of the most memorable in English literature. One character most vividly drawn throughout his novels is London itself. From the coaching inns on the outskirts of the city to the lower reaches of the Thames, all aspects of the capital are described by someone who truly knew and loved London.

**Edgeworth, Maria** (1767–1849). Irish novelist Maria Edgeworth was born in Oxfordshire, at the home of her grandparents, but spent most of her life in Ireland on her father’s estate. Her early efforts at fiction were melodramatic: One of her schoolgirl novels featured a villain who wore a mask made from the skin of a dead man’s face. She grew up in the landed gentry of Ireland, with the families of Kitty Pakenham (later Wellington’s wife), Lady Moira, and her aunt Margaret Ruston at Black Castle for company. She acted as manager of her father’s estate, later drawing on this experience for her novels about the Irish. In 1802, the Edgeworths went abroad, first to Brussels, then to France (during the Peace of Amiens, that brief lull in the Napoleonic Wars). They met all the notables, and Maria received a marriage proposal from a Swedish count. The family returned to Ireland, and Maria returned to writing. After her father’s death in 1817, she edited his memoirs and extended them with her biographical comments. She was an active writer to the last and worked strenuously for the relief of the famine-stricken Irish peasants in 1845.

**Fielding, Henry** (1707–1754). An English novelist, dramatist, and barrister known for his rich, earthy humor and satirical prowess and as the author of *Tom Jones*. Born near Glastonbury in Somerset in 1707, Fielding was educated at Eton College. In 1728, he traveled to Leiden to study. On his return, he began writing for the theater, some of his work being savagely critical of the contemporary government under Sir Robert Walpole. The Theatrical Licensing Act of 1737 is alleged to be a direct result of his activities. Fielding never stopped writing political satire and satires of current arts and letters, and he contributed a number of works to journals of the day. In 1743, his first novel, *The History of the Life of the Late Mr Jonathan Wild the Great*, appeared in the *Miscellanies*, volume III. This satire draws a parallel between Walpole and Jonathan Wild, the infamous gang leader and highwayman. Fielding’s greatest work was *Tom Jones*, a meticulously constructed picaresque novel telling the convoluted and hilarious tale of how a foundling came into a fortune. He became London’s Chief Magistrate in 1748, and he died in Lisbon in 1754.

**Gay, John** (1685–1732). An English poet and dramatist, he is best remembered for *The Beggar’s Opera*, set to music by Johann Christoph Pepusch. The characters, including Captain Macheath (a satire on Robert Walpole) and Polly Peachum, became household names. Gay was born in Barnstaple, England, and was educated at the town’s grammar school. The dedication of his *Rural Sports* to Alexander Pope was the beginning of a lasting friendship. In 1715, probably with some help from Pope, he produced *What d’ye call it?*, a dramatic skit on contemporary tragedy, with special reference to Thomas Otway’s *Venice Preserved*. He wrote a sequel to *The Beggar’s Opera*, *Polly*, relating the adventures of Polly Peachum in the West Indies; its production was forbidden by the Lord Chamberlain, no doubt through the influence of Walpole. This act of “oppression” caused no loss to Gay. It proved an excellent advertisement for *Polly*, which was published by subscription in 1729, and brought its author several thousand pounds. He was buried in Westminster Abbey. The epitaph on his tomb is by Pope and is followed by Gay’s own mocking couplet: “Life is a jest, and all things show it,/I thought so once, and now I know it.”

**Glaspell, Susan** (1882–1948). American dramatist, theater owner/operator and producer, and novelist, Glaspell was born in Davenport, Iowa, in 1876. She earned a doctorate from Drake University in 1899 and worked as a reporter in Des Moines. She sold her first short stories to women’s magazines and published her first novel, *The Glory of the Conquered*. After marrying fellow novelist and playwright George Cram Cook, Glaspell moved to Provincetown, Mass., where the couple founded the influential Provincetown Players theater group in 1915. The group produced plays by both Cook and Glaspell and helped launch the career of Eugene O’Neill. Glaspell died in Provincetown in 1948. Her popularity decreased after her death, but she is still highly regarded for her experimental plays and her widely anthologized short story “A Jury of Her Peers.”

**Hardy, Thomas** (1840–1928). English poet and novelist, Hardy is famous for his depictions of the imaginary county Wessex. Hardy’s work reflected his stoical pessimism and sense of tragedy in human life. He was born on Egdon Heath, in Dorset, near Dorchester. His father was a master mason and building contractor. Hardy’s mother,
whose tastes included Latin poets and French romances, provided for his education. After schooling in Dorchester, Hardy was apprenticed to an architect. He worked in an office that specialized in the restoration of churches. In 1874, Hardy married Emma Lavinia Gifford. Unable to find a public for his poetry, Hardy turned to fiction. "Tess of the D'Urbervilles" (1891) came into conflict with Victorian morality. Hardy’s next novel, "Jude the Obscure" (1895) aroused even more debate. In 1896, disturbed by the public uproar over the unconventional subjects of two of his greatest novels, "Tess" and "Jude," Hardy announced that he would never write fiction again. He died in Dorchester, Dorset, and his ashes were cremated in Dorchester and buried with impressive ceremonies in the Poet’s Corner in Westminster Abbey.

Hawthorne, Nathaniel (1804–1864). Hawthorne grew up in Maine, on the shores of Sebago Lake, and spent four years at Bowdoin College. His first work was the amateurish novel "Fanshawe," which he published in 1828 at his own expense, only to decide that it was unworthy of him and to try to destroy all copies. He soon found his own voice, style, and subjects in such impressive and distinctive stories as “The Hollow of the Three Hills” and “An Old Woman’s Tale.” When his first signed book, "Twice-Told Tales," was published in 1837, it brought him little financial reward. By 1842, however, his writing was producing a sufficient income to allow him to marry Sophia Peabody; the couple rented the Old Manse in Concord and began a happy three-year period that he would later record in his essay “The Old Manse.” Hawthorne welcomed the companionship of his transcendentalist neighbors—Emerson, Thoreau, Alcott—but in general, he had little confidence in artists and intellectuals. His dark, brooding, richly symbolic works, reflecting his Puritan heritage, achieve a depth and power that make them one of the greatest legacies in American literature.

Heaney, Seamus (1939– ) Heaney was born on a small farm in County Derry in Northern Ireland, the eldest member of a family of nine children. Even though his family left the farm in 1953, rural County Derry is his “country of the mind,” where much of Heaney’s poetry is still grounded. When he was 12, Heaney won a scholarship to St. Columb’s College, a Catholic boarding school in Derry, 40 miles away from the home farm; there, he learned Latin and Irish. Later, he studied Anglo-Saxon as a student at Queen’s University, Belfast. Heaney’s poems first came to public attention in the mid-1960s. He shared with other writers of his own and the next generation the burden of having been born into a society deeply divided along religious and political lines. Heaney has always considered the question of poetry’s responsibilities and prerogatives in the world as those issues are balanced against the need for personal self-expression. Heaney is a member of Aosdana, the Irish academy of artists and writers, and a Foreign Member of the American Academy of Arts and Letters. In 1996, subsequent to his winning the Nobel Prize in Literature in 1995, he was made a Commandeur de L’Ordre des Arts et Lettres by the French Ministry of Culture.

Kafka, Franz (1883–1924). Kafka was one of the major German-language novelists and short story writers of the 20th century, although most of his works were published posthumously. Born in Prague of Jewish descent, his unique body of writing continues to challenge critics and readers alike, and attempts to classify his works are generally inadequate. Kafka was born in 1883, into a middle-class, German-speaking Jewish family in Prague. His father was the retailer Hermann Kafka and his mother was Julia. Although his native language was German, he also learned Czech and had some knowledge of French language and culture; one of his favorite authors was Flaubert, and he had a sentimental fondness for Napoleon. Gilles Deleuze and Felix Guattari argued that there was much more to Kafka than the stereotype of a lonely figure writing out of anguish and that his work was more deliberate and subversive yet “joyful” than it appears to be. Milan Kundera refers to the essentially surrealist humor of Kafka as a main predecessor of later artists, such as Federico Fellini, Gabriel García Márquez, Carlos Fuentes, and Salman Rushdie.

Milton, John (1608–1674). An English poet, most famous for his blank verse epic "Paradise Lost," Milton is also remembered for authoring the brief epic "Paradise Regained." Given the extensive linguistic expertise and wide range of interests pursued by Milton, literary scholars have unearthed a formidable array of probable influences on his literary work. However, it can be said with some confidence that Milton’s knowledge of the Bible, early Church fathers, Reformation theological controversies, and the classical tradition was unsurpassed by any other recognized literary figure of his age. Despite the comprehensive scope of Milton’s intellectual inquiry, crucial influences on his literary work can be easily found and include the biblical books, Homer, Virgil, and Lucan. Milton’s favorite historian was Sallust; however, though his work often betrays his classical and biblical influences, allusions to Spenser, Sidney, Donne, and Shakespeare are also detectable. Some commentators have suggested that Milton also sought to undermine the tropes and style of cavalier poets, such as John Wilmot, earl of Rochester, and Sir John Suckling.
Morrison, Toni (1931– ). One of the most prominent authors in world literature, having won the Nobel Prize in Literature in 1993, Morrison was also instrumental in bringing recognition to the genre of African American literature. Several of her novels are included among the canon of American literature, including The Bluest Eye, Beloved (winner of the Pulitzer Prize for Fiction), and Song of Solomon. Her writings are known for epic themes, for the author’s handling of dialogue, and for detailed depictions of African Americans. In recent years, Morrison has published a number of children’s books with her son, Slade Morrison. Born as Chloe Anthony Wofford in 1931 in Ohio, Morrison was the second of four children in a working-class African American family. As a child, she read constantly (particularly Austen and Tolstoy). Morrison’s father, George Wofford, a welder by trade, told her numerous folktales of the black community—a method of storytelling that would later work its way into Morrison’s writings. She was educated at Howard and Cornell universities.

Nabokov, Vladimir (1899–1977). Nabokov, a Russian-American author, wrote his first literary works in Russian but rose to international prominence as a masterly prose stylist for the novels he composed in English. Nabokov’s best-known work in English is undoubtedly Lolita, frequently cited as one of the most important novels of the 20th century, probably followed by the singularly structured Pale Fire. Both of these works exhibit Nabokov’s love of word play and descriptive detail. The author was born to a prominent and aristocratic family in St. Petersburg, where he also spent his childhood and youth. The family spoke Russian, English, and French in the household; thus, Nabokov was trilingual from an early age, and this aspect of his upbringing had a profound influence on his artistry. He has metaphorically described the transition from one language to another as the slow journey at night from one village to another with only a candle for illumination. Nabokov is noted for his complex plots, clever word play, and use of alliteration.

Shakespeare, William (1564–1616). English poet and playwright who has a reputation as the greatest of all writers in the English language and in Western literature, as well as one of the world’s preeminent dramatists. Shakespeare’s literary achievement is not confined to his mastery of the poetic and dramatic form; his ability to capture and convey the most profound aspects of human nature is considered by many scholars to be unequalled because of his understanding of the range and depth of human emotions. A colossal figure in world literature, Shakespeare’s legacy and influence continue to be felt in all parts of the globe. He has been translated into every major living language, and his plays are continually performed around the world. Shakespeare is among the very few playwrights who have excelled in both tragedy and comedy. He wrote his works between 1588 and 1616, although the exact dates and chronology of the plays attributed to him are often uncertain. His prolific output is especially impressive in light of the fact that he lived only 52 years.

Sophocles (c. 497–406 B.C.). Sophocles’s father, Sophillus, was not a member of the Athenian aristocracy, but he was a rich man through the efforts of his slaves, who were employed in various sorts of manufacturing. Consequently, the boy was educated as was customary for youths of the aristocracy, in dancing and music, coupled with gymnastic instruction. In fact, he was so conspicuous for his beauty of form and for his skill in dancing and music that he was chosen to lead the chorus of boys in the public celebration of the defeat of the Persians at Salamis. Sophocles made his first appearance as a contending dramatist at the City Dionysia in 486 B.C. when he was 28 years old, winning a victory over Aeschylus. From that time on, he generally exhibited every other year and won 18 victories in all at the City Dionysia besides those won at Lenaea.

Stowe, Harriet Beecher (1811–1896). The seventh child of a famous Protestant preacher, Harriet worked as a teacher with her older sister, Catharine. Her earliest publication was a geography for children, issued under her sister’s name in 1833. She married in 1836. Stowe helped to support her family financially by writing for local and religious periodicals. During her life, she wrote poems, travel books, biographical sketches, and children’s books, as well as adult novels. Although she wrote at least 10 adult novels, she is predominantly known for her first, Uncle Tom’s Cabin (1852). Begun as a serial for a Washington antislavery weekly, the National Era, it focused public interest on the issue of slavery and was deeply controversial. The historical significance of Stowe’s antislavery writing has tended to draw attention away from her other work and its literary significance. Her work is admittedly uneven. At its worst, it indulges in a romanticized Christian sensibility that was much in favor with the audience of her time. At her best, Stowe was an early and effective realist. Her settings are often accurately described. Her portraits of local social life reflect an awareness of the complexity of the culture in which she lived.

Twain, Mark (1835–1910). Samuel Clemens, better known by his pen name Mark Twain, was a famous American humorist, writer, and lecturer. At his peak, he was probably the most popular American celebrity of his time. William Faulkner wrote that Twain was “the first truly American writer, and all of us since are his heirs.” Twain’s
greatest contribution to American literature is generally considered to be *The Adventures of Huckleberry Finn*. Also popular are *The Adventures of Tom Sawyer*, *The Prince and the Pauper*, *A Connecticut Yankee in King Arthur’s Court*, and the nonfictional *Life on the Mississippi*. Twain began as a writer of light, humorous verse; he ended as a grim, almost profane chronicler of the vanities, hypocrisies, and acts of violence committed by mankind. At mid-career, with *Huckleberry Finn*, he combined rich humor, sturdy narrative, and social criticism in a way almost unrivaled in world literature. Twain was a master at rendering colloquial speech and helped to create and popularize a distinctive American literature, built on American themes and language.
Bibliography

Essential Reading:


Hirsch of the New York Times Book Review called it “A binding religious text, a historical document of the first importance, and a work of great literary imagination.”


Morrison, Toni. *Beloved*. Plume, 1998. ISBN: 0452264464 or ISBN 0452261368. A dense and complex novel that, through the death of a single child, slowly reveals the horror of slavery and the permanent scars that the institution has left—on both the bodies of the ex-slaves and the nation that tolerated their abuse.


———. *Measure for Measure*. Signet Classics, 1998. ISBN: 0451527151. This volume includes facing-page text and notes, a chronology of Shakespeare’s life and times, and a rich selection of critical and theatrical responses to each play over the centuries.

———. *The Winter’s Tale*. Arden Editions, 1966. ISBN: 1903436001. The Arden Shakespeare is justly celebrated for its authoritative scholarship and invaluable commentary. This edition provides a clear and authoritative text, detailed notes and commentary on the same page as the text, a full introduction discussing the critical and historical background to the play, and appendices presenting sources and relevant extracts.


literary criticism to offer a fresh reading of canonical texts, such as Homer’s *Iliad*, Austen’s *Emma*, and the U.S. Constitution, with an eye to the liberating potential of both law and literature.

**Supplementary Reading:**

Ackroyd, Peter. *Chaucer: Ackroyd’s Brief Lives*. Talese, 2005. An excellent introduction to the life and times of Chaucer, specifically focusing on his role in shaping England’s national identity. Literary analysis explicates Chaucer’s innovations while acknowledging the influence of other poets. The work serves as an effective introduction both to Chaucer’s work and to the world of London and the royal court in which Chaucer lived.

Allan, Janice M. *Routledge Literary Sourcebook on Charles Dickens’ Bleak House*. Routledge, 2004. Allan offers a starting point for those new to Dickens’s text. This sourcebook provides a comprehensive survey of the criticism of *Bleak House* from publication to the present and discusses key passages of the text, which are reprinted and fully annotated for ease of use. The study also offers suggestions for further reading.


Bishop, T. G. *Shakespeare and the Theatre of Wonder*. Cambridge University Press, 1996. In this study, Bishop examines ways in which wonder has been used by playwrights as an integral part of theater in classical and medieval drama and explores wonder in Shakespeare’s work through extended readings of *The Comedy of Errors*, *Pericles*, and *The Winter’s Tale*. By focusing on how characters feel and how the story of those feelings is told and evaluated, this study offers a new approach to understanding the plays.

Bloom, Harold. *Mark Twain’s Adventures of Huckleberry Finn*. 1995. Along with a collection of some of the best criticism available on his work, this text includes a brief biography of the author, structural and thematic analysis, an index of themes and ideas, and more.

Brod, Max. *Franz Kafka: A Biography*. Da Capo Press, 1995. This famous biography was written in 1937 by Kafka’s close friend and the man who ensured that Kafka’s work was made known to the world. It is not an objective account of Kafka’s life. It is, however, an account, especially of Kafka’s last years, that is filled with insight and detail. Recommended as a supplement to Kafka’s writings.

Chadwick-Joshua, Jocelyn. *The Jim Dilemma: Reading Race in Huckleberry Finn*. University of Mississippi Press, 1998. This study argues that *Huckleberry Finn* is not the work of a racist writer but, rather, a masterfully controlled and devastating attack on racism and slavery. The author supports her argument with impressive historical research and ably reconstructs the mindset of 19th-century readers.

Cohn, Jan. *Romance and the Erotics of Property: Mass-Market Fiction for Women*. Duke University Press, 1988. This study discusses the romance novel in a distinctly non-romantic context; that is, the desire to own property. Covers the romance in both its canonical form—for example, *Pride and Prejudice*—and its mass-market version

Falk, Ze’ev W. *Hebrew Law in Biblical Times: An Introduction*. 2nd ed. Brigham Young University Press, 2001. This book presents the scholar, historian, lawyer, and general student of the Bible with a highly readable and useful handbook. This concise yet knowledgeable treatise makes it the most accessible of all introductions to biblical law.

Fielding, Henry. *The Life of Mr. Jonathan Wild, the Great*. Oxford World’s Classics, 2004. Published in 1743, Fielding’s novel purports to offer a biography of the highwayman Jonathan Wild, but it is also brilliant satire on the political establishment, as well as a profound exploration of the nature of “greatness” and its multiple disguises.


Goldhill, Simon, and Robin Osborne, eds. *Performance, Culture and Athenian Democracy*. Cambridge University Press, 2004. From theater to law court to gymnasion to symposium, performance is a basic part of Athenian society. This collection of essays discusses the ways in which performance is central to the practice and ideology of democracy in classical Athens.

Hillman, Richard. *William Shakespeare: The Problem Plays*. Twayne, 1993. Hillman examines Shakespeare’s three problem plays, *All’s Well That Ends Well*, *Troilus and Cressida*, and *Measure for Measure*, identifying the common themes that bind these three plays together and offering a definition of *tragicomedy* that is appropriate to the problem plays. The work also provides bibliographic references for further study.

Loewenstein, David. *Milton: Paradise Lost*. Cambridge University Press, 2003. Lowenstein offers a stimulating introduction to one of the most influential texts of Western literature. The study considers the heretical dimensions of *Paradise Lost* and its theology. It situates Milton’s great poem in its literary, religious, and political contexts and includes a useful and updated guide to further reading.

Mahon, John, and Ellen Mahon. *The Merchant of Venice: New Critical Essays*. Routledge, 2002. This volume is a collection of original essays covering everything from feminist to postcolonial readings of the play, as well as source queries and analyses of historical performances of the play.


McKay, Nellie Y., and William L. Andrews. *Toni Morrison's Beloved: A Casebook*. Oxford University Press, 1999. This casebook presents seven contemporary essays, as well as a poem and an abolitionist’s tract published after a slave named Margaret Garner killed her child to save her from slavery—the incident Morrison draws on for her account of maternal infanticide in *Beloved*.


Millgate, Michael. *Thomas Hardy: His Career as a Novelist*. Palgrave, 1994. Originally published in 1971, Millgate’s biography is a major work of scholarship and criticism. His readings of Hardy’s novels are contextualized within the personal and intellectual evolution of Hardy’s life as a writer.

Nabokov, Vladimir. *Speak, Memory*. Vintage, 1989. If you know Nabokov, you know better than to seek an ordered and chronologically reliable account of his life: *Speak, Memory* is a succession of discrete episodes, in which the narrative is driven, not by facts, but by the development of Nabokov’s sensibility.

Pifer, Ellen, ed. *Vladimir Nabokov’s Lolita: A Casebook*. Oxford University Press, 2002. This casebook gathers an interview with Nabokov together with nine critical essays. The essays follow a progression, focusing first on textual and thematic features, then proceeding to broader issues and cultural implications, including the novel’s relations to other works of literature and art and the movies adapted from it.


Reynolds, Larry J. ed. *A Historical Guide to Nathaniel Hawthorne*. Oxford University Press, 2001. An interdisciplinary study that combines material on the individual writer with the intellectual, cultural, and social context in which Hawthorne wrote. The text also offers a brief biography, as well as illustrations and daguerreotypes (early photographs) from the period.


Sherwin, Richard K. *When Law Goes Pop: The Vanishing Line Between Law and Popular Culture.* University of Chicago Press, 2002. In an analysis of the jury system in our media-saturated age, Sherwin, a former New York City prosecutor and a professor at New York Law School, expertly examines the role of vivid storytelling in successful litigation, while cautioning against misusing that opportunity to seduce or “illicitly persuade” juries.

Smith, David L., Richard Strier, and David Bevington. *The Theatrical City: Culture, Theatre and Politics in London, 1576–1649.* Cambridge University Press, 1995. This collection of essays discusses a diverse group of texts (historical accounts, political documents, and polemical works, as well as plays) composed in London during the Renaissance. *Theatrical* is applied to the civic rituals and public spectacles of the capital (for example, the execution of King Charles I), as well as to the elite and popular theater.

Spinelli, Margaret G. *Infanticide: Psychosocial and Legal Perspectives on Mothers Who Kill.* American Psychiatry Association, 2002. Margaret Spinelli has gathered a group of experts to examine the subject of maternal infanticide from biological, psychosocial, legal, and cultural perspectives. The book also serves as a compendium of knowledge to aid mental health providers in diagnosing and treating psychiatric disorders related to infanticide, while assisting experts involved in the legal defense of women charged with the crime.

Thaddeus, Janice Farr. *Frances Burney: A Literary Life.* Palgrave, 2000. A scholarly biography focusing on the literary career of France Burney. Thaddeus provides an important service by summarizing and analyzing Burney’s little-known works, and her meticulous research and sound argument will secure a more prominent place for Burney among 18th-century novelists.


Weisberg, Richard. *Poethics and Other Strategies of Law and Literature.* Columbia University Press, 1992. Weisberg argues that his subject, “poetic ethics, or…poethics…endeavors nothing less than to fill the ethical void in which legal thought and practice now exist.” He explores “the storyteller’s legalistic obsession” in essays on Dickens, Faulkner, and Shakespeare.

Wickham, Glynne. *The Medieval Theater.* Cambridge University Press, 1987. Professor Wickham describes three major influences on medieval drama: religion, recreation, and commerce. The book charts a coherent pattern through a complicated subject and is an excellent introduction to medieval theater. The volume also contains a pictorial version of the story, using photographs of contemporary manuscript illuminations, mosaics, frescoes, paintings, and sculptures.


Winton, Calhoun. *John Gay and the London Theatre.* University of Kentucky Press, 1993. An intelligent introduction to the London theater scene at the time John Gay’s *The Beggar’s Opera* was produced. The study also provides considerable detail about the public’s desire for narratives of outlaws and beggars and the frequent connection between the lowlife and highlife of London society.

**Internet Resources:**


*Law in Popular Culture.*

[tarlton.law.utexas.edu/lpop/index.html](http://tarlton.law.utexas.edu/lpop/index.html). An extensive collection of texts, movies, quotations, movie posters, and electronic stories, poems, and over 300 scholarly articles about the law and lawyers in popular culture, both current and historical. The site is constantly updated and contains a number of related links.


[www.oldbaileyonline.org/](http://www.oldbaileyonline.org/). A fascinating and fully searchable online edition of the largest body of texts detailing the lives of non-elite people ever published; contains accounts of more than 100,000 criminal trials held at London’s central criminal court.
Voice of the Shuttle/Legal Studies.
vos.ucsb.edu/browse-netscape.asp?id=2716. One of the earliest of the academic Web sites, this one continues to provide excellent resources for the scholar and the curious, with links to major legal resources in the United States and abroad, as well as to more specialized sites related to law and ethics.

Religion and Law Research Consortium.
www.religlaw.org/about.php. An extensive Web site with links to all the major documents relating to law and religion and the freedom of religion and belief, as well as archived material from contemporary news sources.

The Avalon Project at Yale Law School: Documents in Law, History and Diplomacy.
www.yale.edu/lawweb/avalon/avalon.htm. Extensive collection of documents (from pre-18th century to 21st century) relevant to the fields of law, history, economics, politics, diplomacy, and government, with links to supporting documents referred to in the body of the text.