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The Influence of the Law in American Literature and Culture

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A blank paper, an empty courtroom, a dark studio set, the possible scenarios, endless, the outcomes, varying greatly. Literature, written language and the basis for communication was spoken before it was ever written. However, with time and technology came the advancement of recording and the ability to write down exact accounts of narratives, or even narratives of a different kind, fictional ones. Likewise, before there was order, chaos ruled and bloodshed was not only encouraged, but recommended as an avenue to gain power and status. Yet how much is too much of the unruly? With civilizations came the establishment of ruling bodies, or governments, whose sole purpose was to see that the people over which it bodied played by the rules in the sandbox of a society. Literature, for pleasure and purpose, is vastly tied to government, to the laws governing (or attempting to govern) constituents.

In this paper, I set to find the link between law and literature. I will highlight the influences of the law in works of literature, like novels, plays, memoirs, etc., while also looking at the bigger picture of American culture, and how media works, such as film, influence the overall awareness of the American legal field. As stated by Robert Ferguson, in the novel *Law and Letters in American Culture*, “The study of the law in American Literature is long overdue”, and I agree (8). I aim to uncover even if just a tiny portion of the law’s influence in American literature and culture.

Trailblazers and Women Before Their Time

Prior to the establishment of the United States of America, colonies were the original areas in which European colonists settled. In 17th Century America, the rules and laws by which the United States abides by today had yet to be established. Men, particularly white, Christian, male landowners, held the power, and women were secondary to them. In Massachusetts Bay,

Puritan colonists began to settle, but were challenged by the teachings of John Cotton when his followers started to arrive in New England (qtd. in Hall *Prologue*). In particular, the Puritans did not agree with the theological views of Cotton, which argued that by having faith you would one day make it to heaven, being less need for good works. Anne Hutchinson, a strong, confident homemaker and mother, believed in the teachings of Cotton and started to hold meetings in her home, with other women from the Massachusetts Bay Colony in the 17th century, in which she openly discussed the theological views she possessed. When the Puritan men of the colony caught word of her meetings, they charged her with “heresy”, believing she was falsifying the teachings of God and the Puritan Ministers.

Here, I will focus on the 1637 “examination”, also referred to as transcript, of Hutchinson’s trial, as it illustrates how court proceedings were biased and heavily reliant on personal opinion and interpretation of religion. The governor of the Massachusetts Bay Colony, John Winthrop, who is significant for establishing “the city of the hill”, was one of the judges presiding over Hutchinson’s case. Winthrop opens the proceedings by informing Hutchinson of why she has been called upon by the court, informing her of her wrongdoing, stating, “You have spoken divers things, very prejudicial to the honour of the churches and ministers... a thing not tolerable nor comely in the sight of God nor fitting for your sex” (1). In the court, composed of all males, Hutchinson represents herself, as the right to an attorney has yet to be established. Hutchinson replies to Winthrop, stating, “I hear no things laid to my charge. What have I said or done?” (2). Winthrop continues on the idea of consciousness, and how if one has a guilty conscious they are just as guilty as one who does not report a crime, to which Hutchinson asks, “What law do they transgress?”. She wishes to hear of an exact example in which she has disobeyed the law, but Winthrop simply replies, “The law of God and the state” (3).

Winthrop, being a believer and teacher of Puritan values, brings God, or his rendition of one, into the discussion. With this knowledge, I'd argue that he has interjected the word of God, and thus God should be the ultimate judge of sin, especially when Winthrop refers to Hutchinson breaking "the fifth commandment" as a law (3). Yet when Hutchinson later asks if the judges can point to "a rule for it from God's word" for not holding religious discussions in her home, Winthrop rebuts, "we are your judges, and not you ours and we must compel you to it" (6). The irony in Winthrop's reply is undeniable. If he believed strongly that Hutchinson was breaking the laws of God and his testaments, then why was he, and not God, the ultimate decider? Also, to Hutchinson, she was practicing and interpreting the teachings of God in the manner that made most sense to her, but was condemned for doing so by another who was interpreting the teachings differently and using the differing interpretation to do said condemning, when in reality his thoughts could be considered just as arbitrary.

This trial is an example of why the First Amendment to The Constitution, freedom of religion, was established. The Puritan's and their believers escaped the persecution of religion in England, but continued to condemn those in the colonies who did not share similar beliefs as them. Hutchinson was a prime target for Winthrop and the Puritans because she was a strong, influential woman who, at the time, was defying the societal norms and constraints placed upon all genders.

Prior to sentencing Hutchinson, Winthrop called upon seven different witnesses to recount the words of Hutchinson regarding what she had said about her teachings vs. Puritan ones (9). Yet, many of those called to witness were recounting what they heard in passing from their wives, not directly from Hutchinson, who defends herself saying, "many things are not so

as is reported”. The most shocking part of this witness tactic is that those who had testified had not been sworn in, as the day after the testimonies the judges discussed whether to have the men return and be “made to swear an oath, as Mr. Hutchinson desired” (11). Again, the irony, the witnesses who testified had not sworn an oath before the court or God, and could have been falsifying their accounts in defense of a religious based case.

Hutchinson was banished from the jurisdiction of the colony, “as being a woman not fit for our society” (17). The transcript of Anne Hutchinson’s trial is groundbreaking because she was a woman standing up against a group of men, in defense of her own actions, which she presumed to be acceptable due to her religious beliefs. Hutchinson demanded that the court use evidence to reinforce the claims against her, “Prove that I said so” (10). Being a woman, as well as possessing a different religious belief than the majority, Hutchinson had the odds stacked against her. But, despite it all, she stood her ground in defense of her actions, embodying the true spirit of a trailblazer. Hutchinson paved the way for future women, as well as courts, in the establishment of better judicial rights for those facing legal action against them.

Like Hutchinson, Margaret Fuller, an activist, was a woman who did not follow the conventional guidelines set for her gender by society. In 1843, Fuller wrote “The Great Lawsuit. Man versus Men. Woman versus Women” in defense of the equal treatment of women, in relation to men, in order to achieve full enlightenment. Fuller begins her argument by comparing women to slaves, those that have less rights than white men in the 19th century. “In the world of men, a tone of feeling towards women as towards slaves...” (Fuller 4). Yet, she goes on to argue, women have as much free thinking and will as men, stating to a fictional depiction of a husband, “You are not the head of your wife. God has given her a mind of her own” (3). She continues to

say that if men believe women to be lesser than, that women as “the weaker party, ought to have legal protection” (4). In Fuller’s time, a woman had fewer rights than her husband, which is a given, but shockingly fewer rights than her son too, making her susceptible and vulnerable to the dominance of males (5). She argues that women have intellect and are underestimated by men, saying, “such women as these, rich in genius, of most tender sympathies and capable of high virtue and chastened harmony, ought not to find themselves by birth in a place so narrow, that in breaking bonds they become outlaws” (9). Fuller notes that if it was the will of God, women would in fact be willing to be silenced “from divine command” but not that “from man’s tradition” (10).

Fuller is a trailblazer and a feminist before such a term or movement was ever generated. She recognized that women’s rights should be protected under the law before others even considered allowing a woman to do more than produce children. Her beliefs, though radical at the time, have progressed over the last 150 years thanks to the work of countless feminists. “Male and female represent the two sides of the great radical dualism. But, in fact, they are perpetually passing into one another... There is no wholly masculine man, no purely feminine woman” (13). Fuller saw the greater value in women, and knew that they deserved equal rights under the law, equal rights like their male counterparts even if she was unaware of how such equality should come about.

It’s important to note that the courage of the two women above set off a domino effect in the American judicial system. Hutchinson was just a homemaker, a woman who cared for her children and husband before herself. She never set out to make a political statement, her religious views and theories were her own. She simply wanted the right to hold discussions in her house as

she saw fit. During the trial, Hutchinson wished to be made aware of what rule or law she was breaking, but never received a direct answer. This woman was put on the spot without ever being made aware of the wrong she had committed against a particular law. Her early actions, and the actions of those after her prior to the establishment of a fair trial, unknowingly paved the way for defendants' rights in the future.

Fuller is similar in the fact that she was just speaking her truth, and what she felt inclined to say regarding the rights of women. She was not a feminist, no such thing existed in her time, but she was a theorist with strong opinions on the intellect of women. What she wrote was not for some women's rights march or groundbreaking litigation, she just felt inclined for herself to write why women were equal to men, regardless of societal constructs.

A Contribution to the Cause

A fictionalized account, like *Pudd'nhead Wilson* by Mark Twain, could also be considered a trailblazer in its time, due to the groundbreaking use of fingerprint evidence in the courtroom. Written at the very end of the 19th century, the novel, which follows three major plotlines, leads to the converging of the varying plots with the murder of the town judge, Judge Driscoll. The story begins when a quirky new lawyer, nicknamed Pudd'nhead Wilson, moves to Dawson's Landing, followed by the arrival of two sideshow performer brothers (twins), Luigi and Angelo (Twain 24, 51). The brothers gain a reputation of murdering over an artifact of sorts, an Indian knife, after confessing so to Wilson during a palm reading, who has taken up odd jobs following a lack of clients wanting his legal guidance in town (84-86). The third plotline deals with the overlapping lives of "Tom" and "Chambers", two babies born on the same day and switched at birth by the slave and mother of one of the boys, Roxana, or Roxy (35, 36). Fearing

for the life of her son, Roxy, who can pass as white, switches her infant son Chambers, with her white master's son, Tom, in an attempt to produce a better life for her child. Unfortunately, her efforts are for not because "Tom", her biological son, grows up to be a wicked man who steals, cheats, and murders his way to the top.

The stories of Wilson, the twin sideshow brothers, and Tom converge when Tom sneaks into Judge Driscoll's bedroom in the night to loot and murder him (140, 141). Tom got himself into quite some trouble after tarnishing Luigi's reputation, causing Wilson to win a public election for mayor, while also procuring debt for falsifying the sale of Roxy (now freed) to the slave master who purchased her. With a plan to steal from Judge Driscoll, who is actually his "uncle", Tom murders the man in the process with Luigi and Angelo's stolen knife, stowing away in the dark of night dressed as a woman (141, 142). Following the murder, Tom flees, and "the grand jury presently indicted Luigi for murder in the first degree, and Angelo as accessory before the fact" (144).

Because it is necessary for clarity, I will focus on the evidence presented in court in this specific piece. Moving beyond the overview to the trial, Wilson vows to defend the twins, as they simply answered the plea of Judge Driscoll when he screamed for "help" and did not have blood on their clothing (145). Thinking fast, Wilson collects fingerprints from the Judge's room, as well as from the knife, which Tom left at the crime scene (144). Wilson, trying to construct a case in defense of the twins, does not even suspect Tom as a potential murderer, as he "was in St. Louis" at the time (145). "Wilson would have laughed at the idea of seriously connecting Tom with the murder" (145, 146).

As the trial opens, Tom comes back and visits Wilson (151). While discussing the fingerprints of Roxy that Wilson has been reviewing due to the strange women seen leaving Judge Driscoll's house the night of the murder, Tom makes note of a slash through her print (152). Tom also jokes how Roxy nursed him and "Chambers" at the same time. Wilson has reviewed the prints of Chambers and Tom previously, but suddenly has a breakthrough after hearing Tom's comment. "Tom" has a similar slash through his print like Roxy, similar to the bloody one's found on the murder weapon. Wilson goes ghostly, frightening Tom, causing him to leave. Wilson reviews the infant prints of "Chambers" once more to those of adult "Tom", concluding "'It's so! Heavens, what a revelation! And for twenty-three years no man has ever suspected it!'" (154).

When the trial proceeds, Wilson asks to be granted permission to state a case against "the person whose hand left the bloodstained fingerprints upon the handle of the Indian knife", as "the person who committed the murder" (155). To his surprise, he is allowed to present the "new" fingerprint evidence. Wilson describes how the murderer dressed as a woman and knew the judge well enough to know that he kept cash in a box and not the safe, but had to murder him and flee without the money after creating too much noise (158). After a buzzing in the courtroom, Wilson asks everyone press their fingers against the nearest window (161). He then identifies the majority of the prints by sight, and hopes Tom's print is among them. Wilson also presents the fingerprint evidence of both Luigi and Angelo, neither of which matches the bloody prints, but are identical to each other (162). The jury concludes, "We find them to be exactly identical, your honor". Wilson turns to the twins and says, "These men are innocent – I have no further concern with them" (163). Next, he presents the finger prints of two babies, A and B, comparing them to five month and eight month prints of "the same babies", which the jury concludes actually,

“differ widely”. This groundbreaking fingerprint evidence allows Wilson to uncover not only the truth about Tom and Chambers and their true identities, but also identify the real murderer of Judge Driscoll, “Tom” (164).

The complexity of the plots and the varying plights of the characters who call Dawson’s Landing home lend greatly to the success of Twain’s novel. Fingerprint evidence was rarely used and almost unheard of in Wilson’s time, causing the townies to believe he was a quack, “the overworked lawyer had lost his mind” (156). However, because of Wilson’s curiosity and skill, the fingerprint records, which he examined and knew well, allowed him to win the case for the twins, uncover Roxana’s dubious secret, as well as identify “Tom” as the real murderer of his innocent uncle, Judge Driscoll.

The influence of the law in this piece is strong throughout. Beginning with Wilson as a leading character as a lawyer, to Judge Driscoll as a supporting one, to the pettiness of Tom’s shenanigans and abuse of power/status against the twins, to the illegal act of Roxana, and of course, not to mention the murder case that makes it to trial, intertwining all three of the plotlines. Without Wilson and Judge Driscoll’s career choice, or the illegal acts of Roxana, the twins, and Tom, this piece would lack the dramatic weight that it currently holds. I think the ease of reading, along with the complexity, helps the everyday individual, who is not an expert, glimpse into the legal world, creating insight on a subject that may otherwise be unknown, while also blazing a new path for fingerprint evidence in court.

Legal Dramas: On and Off the Screen

Legal dramas encompass a large portion of on and off screen media regarding the law. Technically speaking, *Pudd’nhead Wilson* is in fact a novel with a courtroom drama intertwined,

as it fictionalizes and dramatizes the lives of Dawson's Landing's citizens simultaneously. But, looking to other legal dramas, there are multiple on and off screen narratives that lend to the pop culture frenzy surrounding the American judicial system.

The theme of corruption runs through all three of the legal dramas/thrillers I will be discussing. In the movie *Michael Clayton*, written by Tony Gilroy, starring George Clooney, a high powered attorney attempts to help his colleague, Arthur, a corporate attorney, after he has a manic episode in court while up against U North, a large corporation facing a class-action lawsuit over toxic weed killer. The job is depressing, and draining, as Arthur dedicates over five years of his life to building the case and talking to the farmers/families affected. Clayton is tasked with talking Arthur off the ledge after his boss promises to forward him a large loan that he is in collections for. However, in the process, U North hires hitmen to murder Arthur and stage it as a suicide, stalling the case against them. But Clayton catches on to U-North, collecting evidence from Arthur's apartment with the help of a police officer friend, ultimately leading to the dramatic takedown of U-North and their leading counselor, Karen, via a wire-taped, hush-money confession.

Another legal thriller, *The Firm*, is not only a film, but also a novel. The novel, written in 1991, by John Grisham, details the life of Mitch McDeere, a young attorney fresh out of Harvard Law, who is hired on at an all-male firm, Lambert & Lock, in Memphis, Tennessee. However, things are not as they seem, and the big house, nice car, large paychecks, and utopia façade of Mitch's coworkers and their families quickly lends itself to corruption. While on a business trip to St. Martin, Mitch learns that the firm is actually a money-laundering front for the Chicago Mafia, but is trapped, as his company has tapped and wired his entire life. Forced with the

decision of becoming an informant for the FBI, but losing his right to practice law, continuing his job as if there is nothing wrong, or evading the law and the firm, Mitch eventually collects enough file evidence to take down the firm, while also evading persecution by the law, keeping his right to practice law.

Finally, *The Crucible*, the 1952 play written in four acts by Arthur Miller, is a classic in the world of legal dramas. This short play not only hits the marks for those craving drama, but also for those interested in historical influences of the law, as it takes place in 17th century Massachusetts. The play chronicles a fictional rendition of the Salem Witch Trials, and what happened to one small town after a group of young girls danced naked in the woods (one of them drinking blood and placing charm on a local farmer's wife). Abigail, the ringleader and charm maker of the group, manages to "cry wolf" and have the entire town believe her. Many of the girls from the original group follow her lead in accusing town's people of witchcraft, leading to their detainment until confession, while others fall sick from the night in the woods. Not only is Abigail's original target affected, the farmer's wife whom she wanted gone, but the farmer himself, her ex-lover, John Proctor, is ultimately forced to confess to witchcraft, leading to his, and many others, wrongful hangings.

What's interesting about this theme of corruption is that the corruption is either continuous or comes to an end. In *Michael Clayton*, as well as both formats of *The Firm*, the corruption is recognized and scuffed out before the conclusion of the narrative. I think it's fascinating that as a culture, we as American's crave drama, but also resolution. We hate not knowing, or feeling dissatisfied at the end of a narrative. U North and Lambert & Locke are both taken down, and the story of both of the movies (and one novel) is wrapped up with a bow,

nothing is left to the imagination. However, in *The Crucible* an entire town is ruined and lays in shambles at the conclusion of ACT IV because of an initial lie from an orphaned teenage girl. It is something worth pondering. Why is it that Miller left the reader feeling helpless and empty? Is it his own form of symbolism, a signal to the reader to embody the desolate, abandoned farms of those that were hung? Or, was he simply creating his own interpretation of historical fiction, with a more realistic ending than most legal dramas/thrillers?

The law is sometimes corrupt, and often messy. Personal biases play into court proceedings, jury verdicts, and sentencings frequently, regardless of how much the American judicial system tries to separate them and create a fair trial. Most legal dramas recognize this fact, but often glamorize it in the process by delivering a resolution to the viewer/reader, in the form of a neat conclusion, at the end of it all. This unrealistic ideal, this desire to make things right, can give the public an impractical view of the judicial system and its court proceedings. Legal dramas/thrillers gloss over the fact that corruption still exists after the credits roll, and in terms of this thesis, can come in the form of discrimination in the courtroom.

Discrimination Turned Disadvantage in the Courtroom

Just Mercy: A Story of Justice and Redemption, the 2014 memoir by Bryan Stevenson, recounts actual instances in which Stevenson, a political activist and lawyer, has helped those who were convicted of crimes, but whose convictions were possibly unjust due to prior life circumstances that lead them to a life of crime. From children tried as adults, to individuals who grew up below the poverty line, to racial minorities, and to specifically, individuals on death row, *Just Mercy* outlines how Stevenson worked to help people who the system had forgotten, and those who the courts discriminated against.

In the introduction, “Higher Ground”, Stevenson, a young law student at the beginning of his L2 year, outlines his “why” for studying law in the first place (Stevenson 5). In 1983, Stevenson took a “one-month intensive course on race and poverty litigation”, in Atlanta, Georgia, with the Southern Prisoners Defense Committee. The SPDC was quite understaffed at the time, so Stevenson was soon tasked with going to visit a man on death row who no one else had time to visit (7). After the initial nerves wore off, and notifying the death row prisoner, Henry, that he was not at risk of execution anytime soon, Stevenson and him talked forever (10). After well overstaying the allotted hour, the angry prison guard tightly shackled Henry and forcefully began to remove him, but in the process, Henry began to sing an old church hymn, shocking Stevenson (11). This instance, and working with the SPDC, caused Stevenson to realize he “had been struggling his whole life with the question of how and why people are judged unfairly”, particularly because he saw firsthand the humanity in someone, and not just the crime they had committed (13).

Not only did Stevenson focus on those who were on death row, he did outline multiple instances in which he re-reviewed the cases of children who were unfairly tried due to circumstance. In the case of a young fourteen-year-old boy in Alabama, who took matters into his own hands in defense of his mom, he was tried as an adult for first-degree murder. Young Charlie shot and murdered his mother’s live-in boyfriend, while the man was in a drunken stupor, after having witnessed him brutally beat his mother so viscously that it lead him to believe she was dead. Because the boyfriend had legal ties to the community, the prosecutor successfully convicted Charlie, who was sentenced to life without parole. Though a student who received good grades and had perfect attendance at school, Charlie was locked up as an adult before he legal became one. After taking on his case, Stevenson connected the detached teenager

to a family who had heard of his story in church and wanted to support him through any means possible. After Stevenson helped Charlie get released from prison, having reargued his case in juvenile court, the generous family financed his college degree.

Many were not as lucky as Charlie, however. Though Charlie was a minority and of poor economic status, there were other children, young adults with mental illness, who were tried and convicted as adults. Trina, a sixteen-year-old Pennsylvania girl who “was the youngest of twelve children living in the poorest section of Chester”, was convicted of second-degree murder (148). Trina’s mother passed away, leaving her father to care for the children. However, Trina’s father sexually abused and raped her and her sisters. Not only was Trina dealt the hand of poverty and abuse, she was also born with “intellectual disabilities”. One day, in the summer of 1976, Trina and a friend snuck into a neighbor’s house, wanting to play with the two young sons whom they were not allowed to associate with due to the boy’s mother. It was night, so she lit matches to aluminate their way through the old home, but unfortunately the house caught fire, and the two sleeping boys died as a result. The fact that she possessed a mental disability was not taken into account by Trina’s appointed lawyer, though she was not fit to stand trial, which ultimately lead to her conviction after the friend, who was also in the house at the time of the fire, testified to save herself. Trina was sent to an adult women’s facility, where she was raped by a prison guard and forced to give birth to his son while incarcerated. Trina never received any compensation for the crimes committed against her by the guard, and has been in prison since she was convicted back in the 1970s.

According to Stevenson, Trina is “one of nearly five hundred people in Pennsylvania who have been condemned to mandatory life imprisonment without parole for crimes they were

accused of committing when they were between the ages of thirteen and seventeen” (151). This is the largest known population of child offenders sentenced to die as incarcerated inmates in a single jurisdiction on earth. But why does discrimination in court truly matter in the grand scheme of things? Why does it matter that individuals like Henry, Charlie, and Trina are dealt life sentences, death sentences, for their crimes? Simply stated, because the United States has “the highest rate of incarceration in the world” today (15). Stevenson notes in his introduction, “One in every fifteen people born in the United States in 2001 is expected to go to jail or prison”. Even more shocking however, “One in every three black male babies born in this century is expected to be incarcerated” in their lifetime. This number is appalling – those with odds already against them are those that face greater persecution. Like Charlie and Henry, the color of their skin, even if not admittedly, played a role in their conviction. And Trina, an impoverished, mentally ill girl, who no one advocated for when she couldn’t consciously do so herself, she has been in prison for the majority of her life. The courts are failing these people. A crime is a crime, and should not be taken lightly or glossed over with excuses, however, all factors need to be taken into consideration. Age, race, health, class, circumstance, should be looked at during criminal proceedings, especially when a child is the one who committed a crime, or someone’s life is at stake. Henry, Charlie, and Trina deserved more from those representing them before they were convicted. As U.S. citizens we are all entitled to representation by law, but maybe the level at which we are should be reconsidered in order to give children and minorities a better chance.

An American Tragedy, the 1925, novel by Theodore Dreiser, based on a true crime, has similar themes of poverty and class, contributing to discrimination in court. The main character, who is convicted of murder and sentenced to death for the killing of his pregnant lover, first

faces issues of class and being from a lower status than desired. Clyde Griffiths, the son of religious parents who have devoted their lives to missionary work, gets a job as a bellhop at a swanky hotel in Kansas City (Dreiser *Book One*). While at this job, where he is supposed to make money to support his family, Clyde, a young teen, is introduced to a life of gambling, prostitution, and partying. However, when a colleague commits manslaughter, Clyde flees town for Chicago, where he meets his wealthy uncle, who offers him a job at his factory in New York. Clyde is eventually promoted to a managerial position, where he meets Roberta Alden, a poor farm girl (*Book Two*). Clyde and Roberta secretly date, until Roberta becomes pregnant, which is problematic because Clyde simultaneously took-up a relationship with another woman in town, the wealthy daughter of another factory owner, Sondra Finchley. Clyde, wanting to be with Sondra, plots to kill Roberta, as she is insistent that they get married. Promising her a trip and elopement of sorts, Clyde and Roberta travel to upstate New York. While canoeing on a scenic lake, Clyde freezes in his plan to drown Roberta, but when she moves toward him, he accidentally strikes her with the camera in his hands, throwing her off balance, capsizing the canoe. Roberta drowns, while Clyde, unwilling to save her, swims to shore.

Because Clyde had plotted to murder Roberta, the evidence against him, including letters from Roberta, a trunk, and unlikely witnesses, stacks against him in court. The trial is of particular importance, because Roberta's death was in fact an accident, and Clyde, still just a teen, is painted as a malicious, cold-blooded, murderer. In the prosecutor's opening statement, Clyde is described as a well-to-do man:

He is not a boy. He is a bearded man. He has had more social and educational advantages than any one of you in the jury box. He has traveled. In hotels and clubs and the society

with which he so intimately connected in New York, he has been in contact with decent, respectable, and even able and distinguished people... His mind is a mature, not an immature one. It is fully developed and balanced perfectly (675).

The irony is that Clyde, though surrounded by affluence, is himself not affluent, though well versed.

After painting a picture of Clyde as a man, the prosecutor, Mason, tells the jury, "Gentlemen, Clyde Griffiths killed Roberta Alden before he put her in the lake. He beat her on the head and face, and he believed no eye saw him. But, as her last death cry rant out over the water of Big Bittern, there was a witness" (680). This secret witness, one of "one hundred and twenty-seven" witnesses testifying against Clyde, recounted hearing the young woman cry out as she drowned in the desolate lake (681). Beyond the witnesses, Mason brings in Roberta's father to testify in his daughters honor. Mr. Alden identifies a trunk that Roberta had brought on her last trip alive, which contained, "the dresses made by Roberta some underclothing, shoes, hats, the toilet set given her by Clyde. Picture of her mother and father and sister and brothers, and old family cookbook, some spoons forks and knives" (683). Mason uses the trunk and its contents to argue that Roberta and Clyde had fled to get secretly married, that the objects she brought with her were to begin her new married life.

Mason also used a slew of letters written by Roberta, detailing her and Clyde's relationship, its trials and tribulations, and future plans, which he read aloud in court. By the end of the readings, "the moist eyes and handkerchiefs and the coughs in the audience and among the jurors attested their import" (694). The letters, being a nail in Clyde's coffin, lead to his conviction and sentencing. "For the murder in the first degree of one, Roberta Alden, whereof

you are convicted, be, and you are hereby sentenced to the punishment of death... the State Prison of the State of New York at Auburn is commended to do execution upon you” (792).

The significance of the circumstantial evidence against Clyde is major, as the stars aligned perfectly to lead to his unfortunate downfall. An American tragedy it is, not only were the lives of an innocent woman and her unborn child cut short, the life of a young man with so much left to experience was taken when the odds turned against him. It was wrong of Clyde to plot to kill Roberta, and it was wrong of him to not attempt to save her as she helplessly drowned, but how sad it is that he had to pay for it in the form of his life. This novel is significant, as the trial meticulously details how, with the proper evidence, an innocent until proven guilty individual can so easily be persecuted. *An American Tragedy* is a perfect example of poverty leading to lustful greed, resulting in the American judicial system subsequently stepping in to finish the job.

Of course, the ugly face of discrimination in court does not simply lend itself to literature alone, it also stretches to other media sources, like film. In the 1979, movie, *Kramer vs. Kramer*, written by Robert Benton, a mother and wife, Joanna (played by Meryl Streep) is at her wits end with her workaholic husband, Ted (played by Dustin Hoffman), and flees her NYC life with her family in search of something different in Southern California. For fifteen months, Ted struggles to find the balance as a single, working father to young son Billy (Justin Henry). Ted takes a lower paying, less demanding job in order to be more available for Billy. But, a little over a year after she left, Joanna returns to New York, informing Ted that she is very happy, is seeking help via counseling, has a well-paying job, and that she “wants her son”. This sets off the custody battle, *Kramer vs. Kramer*, which ultimately leads to discrimination against Ted.

Joanna's counsel argues that a child needs their mother, and that Ted is less fit than Joanna to raise Billy. In an effort to make Ted look reckless, the counselor introduces an incident in which Billy got a gash on his face playing on the playground, while Ted was talking to a friend. He argued this was negligent on Ted's part and not in the best interest of the child. It is also brought up that Joanna's new job makes significantly more money than Ted's, and that Ted was let go by his original job for forgetting about a significant account, losing money for the company. With such evidence out for the judge to consider, Ted pleads his case on the stand:

What means the most here is what's best for our son, what's best for Billy. My wife used to always say to me 'why can't a woman have the same ambitions as a man', I think you're right, and maybe I learned that much, but by the same token, I'd like to know what law is it that says a woman is a better parent simply by virtue of her sex. Billy has a home with me, I've made it the best I could, it's not perfect, I'm not a perfect parent, sometimes I don't have enough patience, I forget that he's a little kid, but I'm there. We built a life together, and we love each other. If you destroy that, it may be irreparable.

Regardless of his plea, the judge sides with Joanna, and Ted does not have the heart to appeal the case because Billy would have to stand witness during the trial".

Although this story, like many feel-good movies, ends with Joanna having a change of heart, resulting in her son not having to uproot his life with his father, many parents are discriminated against on the basis of sex alone. Sure, Billy got hurt on the playground, but all kids get hurt. Sure, Ted lost his high paying job, but got another one that still allowed him to afford a home for him and his child, along with allotting more time to spend with the child. In family court, most often, women are favored over men, simply because they were the ones who

birthed the child(ren) and are biologically considered to be more “nurturing” than a man. But like Ted wondered, where in the law is this supposed fact stated? Is it fact, or is it opinion based on biases placed upon genders due to social constructs? I would argue for the latter, making *Kramer vs. Kramer* a mainstream example that can help bring awareness to such biases and discrimination within the legal system.

Conclusion

As this study concludes, I think it is important to say how much these works have personally influenced some of my own opinions. Works like *Just Mercy*, containing true stories of the trials and tribulations of those who have been unjustly treated and discriminated against by the system, make you question what is right and what is not. Novels like *An American Tragedy*, based on an actual crime, cause you to consider how influential and telling evidence is, though it does not always depict the whole truth. Films like *The Firm* make you think, “what if the ones who work to advocate for the law are in fact committing crimes against it?” I knew this study would uncover influences of the law in American Literature, in turn reflecting on our culture, but I never consider the bigger implications of it, the lives at stake.

When we read a legal thriller, or watch one on TV, we leave the law and the unfortunate situations of those it’s impacted at the end of the final page or credits. We forget to recognize the humanity of it all. Lending back to Ferguson, “Neither interest in the natural world nor general philosophical acceptance of nature’s blueprint for man can compensate the author of *Notes* for his own lack of information” (41). Though discussing Thomas Jefferson’s 1781, legal work *Notes on the State of Virginia*, I think what Ferguson states is also applicable to the common consumer of American legal works. We just don’t know enough. The average, non-expert

consumer is ignorant to the reality of the law and courtroom proceedings, regardless of how much they think they know. They also have unrealistic expectations and timelines, due to the “quick fix” or wrap-up conclusions of some legal films and written works.

Because of the great influence of the law in American literature and culture, it’s apparent that we, as a society, need to make more of an effort to remember the reasoning behind our judicial system. We need to remember that a quick fix is not always possible, and that condemning individuals for a single act in their life may not always be what is best for our society. Reflecting on the words of Bryan Stevenson once more:

We are all implicated when we allow other people to be mistreated. An absence of compassion can corrupt the decency of a community, a state, a nation... The closer we get to mass incarceration and extreme levels of punishment, the more I believe it’s necessary to recognize that we all need mercy, we all need justice, and perhaps, we all need some measure of unmerited grace (18).

Though we consume American literature and media pertaining to the law without pausing to reflect, it’s time to consider how our understanding and perceptions of it can influence change. Maybe someone reads *Pudd’nhead Wilson* and feels compassion for the wrongly accused twins and “Chambers”, who’s life was unfairly set into action. Or someone watches *Kramer vs. Kramer* and doesn’t understand how the judge could discriminate against Ted based on his gender alone. These American works could spark our advocacy for change, bridging beyond our simple pleasure of consuming them. We could mold our own narrative and use these stories to our advantage, making the non-expert an unwavering advocate for those in peril. At the end of

this study, I have realized not only does the law influence American literature and culture, but also American literature influences our perception of the law, and how choose to interpret its use.

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