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Law, Culture and Visual Studies

 Springer



Fig. 32.3 The dissolve in *REVERSAL OF FORTUNE* defies temporal reality, moving from the stark present to the more animated past

Reversal of Fortune especially, is heightened when spoken language is further complicated by differing versions of events filtered through varied voices and perceptual experiences—and perhaps manufactured in the form of lies. While the legal process stages testimony involving various voices, perceptions, and versions of events, it naturalizes the idea of both the staging process and conflicting accounts by linking it to the idea that there is a single truth or series of connected truths that will emerge, and it is up to the (supremely qualified) jury to determine what that (pattern of) truth is.

In a certain counter-reflexive sense, the jury is cast as a panel of (film or literary) critics, required to make determinations about the reliability of the witnesses (“characters”) brought onto the courtroom stage in a predetermined, narratively functional order and with at least a partially predetermined script, as well as, perhaps, a bit of “directorial” coaching. The jury (critic) also determines the plausibility of witness accounts, based primarily on how effectively those stories are told, as Bennett and Feldman point out, explaining that “the key variables in justice processes involve facility with language, the ability to manipulate concrete facts within abstract categories and the manner in which interpretive contexts that represent social reality are structured” (1981, 144). Because Sunny is given a voice, equally articulate as that of Claus, and with greater implied knowledge, *Reversal of Fortune* denaturalizes the notion that somehow a single truth lies at the core of conflicting or differing accounts. Yet because the voices of Sunny (with her ethereal, detached air) and Claus (with his droll incongruities) are so removed from those heard in the everyday experiences of most film viewers (and jurors), the film also foregrounds “the discrepancies in language skills, patterns of language usage, and cognitive styles characteristic of different groups in society,” that Bennett and Feldman conclude are

factors influencing judgments about witness reliability (1981, 144). The film cleverly presents this situation in reverse, for it is typically those inarticulate witnesses who are judged as less plausible in courtroom proceedings. Here, the verbally sophisticated Claus and the adroitly measured Sunny are placed in juxtaposition with the articulate but down-to-earth Dershowitz. The earnest Dershowitz in the film—with his trust in the law, even if tempered by a healthy though less fully articulated skepticism than that expressed by his counterpart in the book—works as a foil, allowing viewers greater access to the world of contingency as defined by Sunny and Claus and vice versa. In the end, the power to engage viewers lies more strongly with Sunny and Claus than with “the blunt instrument of the law.” The emotion-driven relationship narrative trumps the point-driven legal narrative, just as the unconventional approach to cinematic narrative structure trumps the classical Hollywood approach for Schroeder in this film.

Upon Claus’s declaration that Christmas was Sunny’s “favorite season, really” and that “she loved giving more than anything else,” the cut to the Newport foyer and the dissolving-in of the Christmas tree, along with both the diegetic singing and the non-diegetic musical score, all seem to corroborate his words. The next image, however, is clearly contradictory: Sunny, shot from behind, sits on a couch nearly motionless and isolated on the left side of the frame, with Alex and Cosima, together on a piano bench, facing the camera and occupying the right side of the frame. The camera gradually tracks closer to Sunny as Claus explains that “each year she always made a big bowl of fresh eggnog” and “on that year she drank a lot of it.” As the image of Sunny remains onscreen, one of Alan’s assistants, in voice-over, asks, “How much?” to which Claus answers, casually, “Oh, ten or twelve glasses,” prompting an overhead shot of Claus ladling out a cup from a silver punch bowl in the foyer. As he does so, the singing voices fade and the camera follows him into the parlor where Sunny remains sitting—a masterful cinematic time warp that jumps to a point somewhat before or somewhat after Alex and Cosima sing together; we can’t be sure. What this sleight-of-editing achieves is to place us more palpably within the temporal rhythm of what would have been a drawn out afternoon during which, Claus tells us, he and Sunny had been discussing divorce. Costumed in a slate gray skirt and light blue-gray sweater, colors that quietly evoke the ethereal blue used to represent her eventual comatose state, Close as Sunny is further evocative through her stillness on the couch, suggesting a near-catatonic state. She barely opens her mouth as she speaks, asking Claus whether the “subject of his work” is a “pretext” when the real subject prompting their discussion of divorce “is her”—referring to Alexandra Isles, Claus’s mistress whom prosecutors cast as a primary motive (along with the fortune he would inherit) prompting Claus’s attempted murder of his wife. In his version of events (and nowhere present in the Dershowitz book), Claus locates the main source of tension in the marriage, not in his affair with Alexandra but in his own desire to work and Sunny’s adamant refusal to accept it. “You marry me for my money, then you demand to work. You are the prince of perversion.... Are you trying to destroy our whole family?” she asks later that evening before the first coma, as the couple lie awake in bed. Blue tones and light in the bedroom not only anticipate the final irreversible coma but also propose this as

one emotional source. In earlier portions of the flashback, Sunny has consumed so much eggnog that she nearly collapses at the dinner table; whereas now she seems implausibly animated as she argues with Claus. A careful viewer will notice this disjuncture—but what we also begin to realize is that viewers, like jurors, are not always so careful. Claus's vision (and version) of Sunny in this and other flashbacks presents her costumed in cool colors and, variously, in a drunken, drugged-out haze, or actively approaching hysteria whether when arguing about their relationship or, as in one scene, frantically searching for drugs hidden from her after her first coma—all underscoring her drive toward self-destruction. Schroeder, however, continually inserts visual qualifiers that complicate Claus's version of events, thus suggesting that fiction trumps nonfiction and cinema trumps law when attempting to approach truth—or, in this case, the truth about the nature of truth.

Nested within the extended flashback, which is set on the day and evening before the first coma in December 1979, is a second flashback to a party held the previous August, when Claus casually informs Sunny about his affair: "Oh, I've been meaning to mention—our understanding about my [pause] extracurricular activities. I've been involved with someone who falls outside the parameters of our agreement—someone peripherally in our circle: Billy Bodsky's daughter, Alexandra Isles." (The real Alexandra Isles is daughter of the Danish Count Moltke who helped smuggle Claus, as a boy, out of Denmark when the Nazi's invaded [Dershowitz 1986, 30]) In this scene, Sunny appears, uncharacteristically, in a long white and gold evening gown, and while beautiful, she continues to be so measured in her words and reactions as to lend her an otherworldly quality while also providing grounds for and adding texture to her later pronouncement of Claus as "the prince of perversion." The news he delivers has, as the *mise-en-scene* suggests, pushed her into a downward spiral of depression, drug and alcohol abuse—in a sense, this is the moment when things have tipped decisively in that fatal direction. And if not guilty of later injecting her with insulin (which he may possibly have done), Claus is nevertheless guilty of pushing Sunny dramatically further along the course of self-destruction. Through costuming, subtle shot composition and editing, Schroeder most certainly implies these variations—she was a more balanced, if not happier, person at this party 4 months before falling into the first coma. The film implies the possibilities: Did Claus drive Sunny further along the path to self-destruction, even though it may have been a path she already had chosen (as mildly suggested by her demeanor) through his affair with Alexandra? Did he aid her and perhaps prompt her through his own indifference and passive acquiescence? Or was he actively engaged in destroying her through a calculated "performance" of indifference or through an injection of insulin? Though somewhat contradictory, all possibilities potentially coexist as truths.

Sunny reacts to Claus's announcement by saying, simply yet pointedly, "Well, that must be better for you than what you've had to put up with," to which Claus responds, "You're referring to the call girls?" Polite yet mildly spiteful, the two continue as Sunny asks, "Yes... And isn't this better? Or is Billy Bodsky's daughter a call girl, too?" With the hint of a flickering smile and the flick of his cigarette ash Claus replies, "This is much better." The final lingering close-up of Sunny, as she

holds her own cigarette, much as she does the following December when sitting on the couch, conveys repressed anguish and works to qualify Claus's offhanded reference to the "parameters" of their agreement and their marriage, something that lends significance to his choice of words when, during the discussion of his desire to work, he claims, "I simply want some [pause] intercourse with the world." Kazan's precision of word choice and Schroeder's careful attention to mise-en-scene and editing rhythms continually build emotional contingencies around the notion of language as a source of uncomplicated truth.

Narrative structure does much the same. In placing Claus's narration concerning the details of Sunny's aspirin overdose *before* the story of the first coma, for instance, even though the overdose occurred nearly a year *after* the first coma and 3 weeks before the second coma, Schroeder and Kazan powerfully imply Claus's complicity through passivity while at the same time presenting Sunny's deeply distressed and consummately unhappy state. After Sunny falls to the bathroom floor, this time in the New York apartment, and Claus drags her back to bed, she repeats, in a foggy haze, "I just want to be left alone. I want to be left alone with all of those beautiful letters. Why did you write those letters?" Her words are in response to Claus's question about whether or not he should call a doctor. The camera lingers on him, alert, and motionless, as he stands over Sunny's bed. The duration of the shot and Claus's watchful yet rather impenetrable gaze is infused with an ambiguity that complicates his simple question to her, thus inviting viewer discomfort and speculation (a strategy repeated at several other key moments in the film): Why didn't he simply call a doctor regardless of her wishes, given her clearly impaired state? What motivated him to ask Sunny first? The placement of this image, *before* discussion of the first coma, adds a haunting tinge of doubt when Claus answers a similar question concerning the hours he waited, a year earlier, to call a doctor when Sunny had fallen into her first coma. He proclaims, "Because Sunny detested doctors!"—a seemingly self-evident fact that may reflect his own understanding of his role in Sunny's life as part husband-part servant, but a reply that also is performed and seems designed to foreclose all further questions.

Moments like these cleverly complicate the question of legal innocence by introducing the emotional, moral, and ethical dimensions at play. As based on the Dershowitz book, the film also manages to suggest Claus's legal innocence, somewhat ironically, on the very basis of his impenetrable passivity. Would a man so apparently passive be capable of injecting his wife with insulin—even though he and Sunny did give each other vitamin injections when it was a fad in the 1960s, as Claus points out? At the same time, his question to Sunny in the overdose scene, when considered in retrospect, seems charged with the expectation that she will refuse medical aid. Perhaps Claus asks the question in anticipated defense of his own inaction—knowing that a year earlier, after the first coma, family members accused him of having waited far too long to summon a doctor. Is he motivated to speed her along to what he understands as her inevitable, self-destructive demise? As we read into the lingering close-up, we can perhaps imagine Claus asking himself, "*Is this it? Is this the final, the fatal moment?*" That irreversible moment would occur, of course, only 3 weeks later.

Likewise, when asked why, on Sunny's request, he got her a glass of scotch when she had nearly passed out after drinking so much eggnog on the evening of the first coma, Claus replies simply with the words, "Sunny got what Sunny wanted." According to Kazan, this was a line Claus von Bülow actually uttered, though in a different context. Here, his words reverberate with the idea that "she no longer wanted to be conscious" (Kazan 2000, DVD). But they also imply Claus's possible maneuvering and taking full advantage of this knowledge. The visual cues echoing those from the aspirin overdose scene—again, given resonance by the narrative structure departing from chronology—suggest that Claus may very much have shaped and controlled what Sunny wanted or thought she wanted through his very "performance" of indifferent compliance with her immediate wishes while ignoring her larger psychological needs and emotional desires. A moment set in the hospital after the first coma poignantly captures this duality of need, motive, and desire on both their parts. On the one hand, Sunny admonishes Claus in hushed tones for having called a doctor—however belatedly—saying, "I would have been better off. You would have been better off." On the other hand, as she turns away from him, in a barely audible voice, she pleads, "Claus, what am I going to do with myself?" Although it's clear that he hears these words, Claus continues on his way through the door, exiting her hospital room.

The meaning of Sunny's lines concerning the "beautiful letters" spoken during the aspirin overdose remains unclear until much later in the film when the same scene is repeated and we learn from Claus that the letters are love letters he had written to Alexandra, which Alexandra had returned, in anger, and Sunny intercepted. This, again, is a strategic structural choice that places us in a position of skepticism concerning Sunny's general lucidity and state of mind, perhaps stacking the deck in Claus's favor, as Dershowitz does in his book. The repetition of this moment near the end of the film, however, repositions us and invites rereadings of the earlier scene. In his book, Dershowitz discusses speculation that Claus and Alexandra orchestrated this love-letter scenario and others like it in order to push Sunny more rapidly and determinedly toward acts of self-destruction (1986, 251). Although only briefly voicing this theory, the film does, through repetition, require the viewer to reexamine and revise initial impressions of Sunny, suggesting the emotional truth of betrayal as the source of her seemingly incoherent words and manner.

The very rhythm and design of the flashbacks Claus narrates confer them with greater visual and emotional resonance through their juxtaposition with the more "two-dimensional" present-day sequences, in which Alan and his team pose their questions and carry out their legal work. The narration concerning the first coma takes us from the very casual, lived-in space of the Dershowitz house with its high key lighting, sharply defined lines, and slightly hollow sound design, to the highly stylized elegance of the Newport mansion which, in her opening voice-over, Sunny refers to as her "cottage"—a word that elicits more than a few snickers from the audience. In the same way, the narration concerning Sunny's aspirin overdose takes us from an inelegant Chinese restaurant where the defense team interviews Claus to the ornate Fifth Avenue apartment where the overdose occurred. It's no accident, of

course, that when Dershowitz enters this apartment for his first meeting with Claus in the present-time, law-centered story, he is greeted with imposing, elegantly appointed rooms—devoid of human presence—as Wagner’s *Tristan and Isolde* plays at high volume, a piece slyly hinting at Claus’s possible necrophilic tendencies and one that calls attention to the racial chasm between them (Is Dershowitz, as a Jew, offended or intimidated by the music of Hitler’s favorite composer?). While the stylization of the von Bülow world does display the heightened *mise-en-scène* of melodrama and the world of Dershowitz appears familiar and commonplace by contrast, the surface stylization of the von Bülow world nevertheless conveys the psychological and emotional entanglements just beneath its lavish surface. The Dershowitz law-driven world implies that little exists beyond what meets the eye—an impression that carries over to conceptions of truth as shaped by each world.

Following the “nested” flashback narration centered on the first coma, Claus, the “prince of perversion,” continues with his story, unprompted, stating that the second coma, “of course, was much more theatrical.” “Saint Alan,” predictably, bristles with a self-righteous rejoinder: “Theatrical? What is this, a fuckin’ game? This is life and death. Your wife is laying in a coma. You don’t even make a pretense of caring, do you?” Claus’s response articulates the “prince/saint” dichotomy: “Of course I care, Alan. I just don’t wear my heart on my sleeve . . . We can’t all be *you*, Alan.” The fact that Claus, so clever and nuanced in his use of language, would resort to a well-worn cliché insinuates that, when in Alan’s world, playing by rules governed by the “appearance” of sincerity or truth, only the most banal of language will do. Claus’s unflustered demeanor draws further attention to the duality of language when the legal and human contexts collide as happens earlier when, based on a study of the Rhode Island Supreme Court’s precedent in reversal cases, Alan says to Claus, “True or not, now I do want to hear your side of the story.” Without missing a beat as he stirs his coffee, Claus proclaims, “With pleasure. Innocence has always been my position.” This densely and deliciously equivocal line raises a few eyebrows in the room, as it elicits a few giggles in the movie theater.

Narrating the story of Sunny’s second coma later in the film, Claus presents details that echo those of the first coma. This time instead of eggnog—or in addition to it—Sunny consumes only an ice cream sundae for dinner, despite her hypoglycemia, a factor contributing to her another near-collapse. We can only speculate why she wears an oversized pair of sunglasses at the dinner table—to protect, or hide, her eyes made overly sensitive or unattractive from drugs consumed or tears shed? A brief shot set earlier in the afternoon reveals Claus and Sunny, silent, positioned at a distance from each other in their Newport bedroom with curtains drawn, as Claus, in voice-over, explains that the continued and more serious discussion of divorce prompted him to talk with the children. *Mise-en-scène*, editing rhythms, and repetition of details make palpable the same cloying atmosphere as the previous year, the enormous space lending a mausoleum-like pall. This atmosphere and repetition of visual and narrative detail imply the depths of lived experience that perhaps escape conscious awareness through the sheer force of habit and routine. Drawing attention to the strangeness of Sunny and Claus as defined, in part, by their excessive wealth,

the film manages to immerse us in their world while simultaneously distancing us—allowing us to recognize behaviors and patterns that defy cause-and-effect definition and that the law, therefore, cannot fully account for.

As they sit transfixed by an old movie on TV, Alex and Cosima barely acknowledge Claus when he announces that he and “mommy” will be separating for a time while he goes abroad to work, since the idea of his working is something she simply cannot not “tolerate.” The oddly muted response of the children adds to the feeling of a hermetically sealed world in which Sunny’s seemingly inescapable fate also is sealed. Costuming contributes to this feeling of inevitability, with Sunny wearing a similar gray skirt and blue-gray sweater as the previous year and when she and Claus discuss their situation later that evening in bed—this time at Claus’s prompting, while in the previous year Sunny prompted the discussion. The blue lens filter and subtle play of shadows, cast by a crocheted bed sheet, all but enshroud Sunny.

32.3 Body of Evidence

Impervious to the point-driven function of legal narrative and the resolution-seeking function of conventional film narrative, Sunny’s inert body and ethereal voice present the film’s most explicit critique of the law—and its implicit critique of classical narrative cinema. Framing the main narrative (a final, darkly comic vignette features Claus)³ and interrupting its forward, linear flow at key moments throughout, Sunny’s narration implies knowledge of what *really* happened, but her refusal to tell draws attention to the limitations of law and of cinema—neither of which can gain access to complete knowledge. Although Kazan uses her opening narration to fill in the facts of the case, Sunny’s narration is largely reflective rather than factual, often raising deeply unanswerable questions.

Following the credit sequence surveying the beachfront mansions of Newport, RI, the floating Steadicam makes its way down a hospital corridor in upper Manhattan (the real Sunny spent many years at Columbia Presbyterian) as a door to one room opens magically, never drawing the attention of a police officer stationed outside. The camera, clearly purposeful in its movements, adopts a ghostly subjectivity, as it pauses for a moment to contemplate the immobile Sunny bathed in blue-filtered light (Fig. 32.4).

After cutting to close-ups of the IV drip and tracheal tube that keep her alive and the bedside bag collecting her urine, the camera slowly floats out to a full shot as we hear the first dispassionate words: “This was my body.” A dissolve immediately places us in the Newport bedroom of the von Bülow mansion, as Sunny and Claus

³ Following the reversal decision, Claus enters a drugstore for cigarettes—Vantage, no less—as the prominently displayed *New York Post* headline screams, “Lawyer: Claus will Win!” Claus notices that the clerk has suddenly realized that the man pictured on the front page is standing before her. When she asks if he’d like anything else, he replies, “Yes, a vial of insulin.” Her timid yet shocked response prompts his impish grin, “Just kidding,” he says. The last, darkly comic word belongs to Claus.



Fig. 32.4 Repeated shots of Sunny's inert body in *REVERSAL OF FORTUNE* foreground resistance to unambiguous truth

materialize on the bed. In a composed voice, Sunny summarizes the events leading to her present condition. She deems emergency room activity after the second coma “pointless,” and with understated obstinacy proclaims, “I never woke from this coma and I never will. I am what doctors call ‘persistent vegetative’—a vegetable. According to medical experts I could stay this way for a very long time” With these words, we return to the present-time hospital room to survey Sunny for a brief moment until her words, “Enter Robert Brillhoffer,” prompt an image of the attorney based on former Manhattan District Attorney Robert Kuh, hired by Sunny’s eldest children, Alex and Ala, and her mother to conduct a private investigation in response to the second coma. Alex and a private investigator are shown combing Claus’s Newport closet where they discover a black bag filled with drugs. “On top of that,” Sunny mildly states, “the hospital lab reported that my blood insulin on admission was fourteen times normal, a level almost surely caused by injection. Insulin injection could readily cause coma—or death.”

Although we are never shown a vial of insulin and in voice-over we never hear of its presence among the confiscated drugs, a close-up of a needle reveals a white encrustation at its tip as Sunny explains, “This encrusted needle tested positive for insulin.” Her ironically distant tone immediately casts doubt on the status of this key piece of physical, “visible” evidence as central to the prosecution’s evolving narrative. Particularly telling is the line that follows: “Now they felt they had the murder weapon. All they lacked was the motive.” By drawing reflexive attention to what narratologists call backward story construction, Sunny’s voice-over foregrounds story construction as an activity central to the law and the film. Her tone hints that the game or contest between adversaries is, if not silly or childish, then at least spectator-centered rather than a genuine effort to arrive at truth(s) or a deeper understanding—a point given further resonance with the abrupt cut to Alan dribbling his basketball. Here, an investigation is centered on constructing a story to prove that

the irreversible coma is in itself proof that a crime has been committed and that Claus, alone, is the guilty party.

With more than a trace of irony, Sunny draws attention to a simplistic process of cause-and-effect construction, divulging, after pointing out the need to establish a motive that, “my husband was vacationing with his mistress.” A cut from Brillhoffer’s office takes us aboard a lavish sailing yacht with Claus at the wheel as Alexandra plays a prank. Though they kiss, Claus and Alexandra seem to play at passion rather than embody it. Perhaps this is what Schroeder means by the “fictional” effect he was aiming for in the flashbacks, as influenced by Sirkian melodrama. Like those melodramas, in which heightened stylization both presents and critically interrogates the social milieu that is their subject, *Reversal* uses heightened stylization to both present and interrogate the rarified milieu of the von Bülowes, albeit leavened with dark humor. The most serious critique, however, is reserved for the law—something with which all viewers have a connection—and the “point-driven” simplicity of legal narrative. As we watch this scene on the yacht that displays both a *show* of passion and a clear constraint (Claus never kisses Alexandra fully on the lips), Sunny discloses a second motive with emphasis on gamelike expedience: “Brillhoffer also discovered that at my death, Claus, whose own net worth was only a million dollars, stood to inherit fourteen million from me. Alexandra later testified that Claus showed her a legal analysis of my will.” A cut to the courtroom of the first trial reveals Claus’s controlled response as he hears the guilty verdict. As the camera cranes across the crowded courtroom, it rests on Maria, Alex, and Ala, with Alexandra seated behind them, as Sunny smugly confides, “Even Alexandra Isles testified against him.”

While this moment would be the end of a conventional courtroom drama or an actual courtroom proceeding, it is just the beginning of the narrative here—as if to point out that verdicts are hardly proclamations of truth or satisfactory forms of closure. As we see Claus’s response, Sunny calmly addresses the film viewer: “You are about to see how Claus von Bülow sought to reverse or escape from that jury’s verdict.” At this moment, we return to the blue-filtered hospital room, as Sunny probingly challenges, “You tell me”—paradoxically pulling us into the adversarial game, while also distancing and inviting us to examine our own interpellation within a system that normalizes this game and perpetuates the idealized correspondence of law with truth and justice. Just as Dershowitz’s conversational informality in the book establishes a bond with the reader, Sunny’s intimately collusive narration in the film, measured and otherworldly as it is, invites the viewer to conspire in questioning the reductive mission of the law—and the entire conceptual history of crime and punishment, for that matter—when attempting to account for events that remain shrouded in uncertainty.

Through its strategic positioning of Sunny’s second narrational sequence, *Reversal of Fortune* foregrounds incertitude as a dimension of human emotion and behavior—and the degree to which legal and conventional film narrative seem ill equipped to address or represent it. When Alan, during his second meeting with Claus at the Fifth Avenue apartment, wonders who Claus “really” is, Claus’s retort, “Who would you like me to be?” speaks of both his own amoral complacency and of narrative contingency, drawing attention to character construction as an element as central to

legal narrative as to fictional narrative. Later interrupting this law-centered exchange is a striking overhead shot of Sunny as nurses' hands massage her inert fingers and exercise her limbs, all presented, once again, in an ethereal blue-filtered light. In voice-over, Sunny echoes the incertitude of Claus with her own unanswerable question, but this one more direct and candid: "Did Claus drive me crazy? Even I don't know." As if to answer the question, she catalogues her daily ritual of pill taking and consumption of sweets (despite her hypoglycemia, she is careful to add), the numbers of cigarettes she smoked, and her "'problem' with alcohol"—clearly asserting a self-destructive, if not suicidal, tendency. In hauntingly humorous terms, she goes on to detail her daily schedule, which involved waking at 9:30, doing "a little exercise and shopping" and returning to bed at 3:00, "for the remainder of the afternoon," she explains, as the nurses sponge her upper thigh and buttock cheek. She savors the next lines: "I *liked* to be in bed. I didn't much like anything else." Although she expresses her desire to escape consciousness, the positioning of this narration so near to Claus's cryptic question heightens its resistance to simple categorization as evidence of Claus's innocence. Immediately following this line, editing places us somewhat abruptly in the present-time world of the law, as Claus arrives in Alan's driveway for their Chinese restaurant dinner. The hard-edged glare of the late afternoon sun as it strikes the windshield and black body of Claus's limousine and his earthbound words to the driver, "Hold on here, will you?" are jarring reminders of the equally earthbound measures by which law can (and must) decide.

This contrast between the world of the living and the comatose in-between state that Sunny occupies lends a certain authority to her most explicit critique of the law in two narrational sequences to follow. In a yacht club restaurant with Claus, Alan adopts a law-driven and self-serving position when stating that, in proclaiming Claus's innocence should Claus again be found guilty, "my reputation, my credibility, my career, [will be] destroyed." Alan's next several "Fuck you's," in too loud a voice for the yacht club regulars, gradually morph into a begrudging smile, as he says, "I'm glad we understand one another." This moment of law-centered sport is juxtaposed with Sunny's narration as she says, "It's easy to forget all this is about me, lying here." We return to the hospital room as the floating camera gazes at her and then pans to reveal Cosima, now a teenager, at her bedside. "To many of you, my name means 'coma.' My second marriage means 'attempted murder.' Everything that came before—everything beautiful—does not exist in the public mind. No one thinks of how I loved my children. Look at Cosima—and Alex, of course, and Ala." With these words, her usual irony is replaced by a genuinely moving tone, expressing Schroeder's idea that "the voice-over was also a way to be as close as possible to Sunny, because she was somebody who was always forgotten in whatever was said about the trial or the affair What was important was the failure and disaster of a marriage that maybe had lasted a little longer because there was money, and the money was adding an extra element of tragedy" (Sklar 6–7).

To reinforce this idea, Sunny's narration continues as the scene shifts to a hillside castle bathed in the orange glow of sunset, a warm color scheme that exists nowhere else in the film. The heightened, fairy-tale effect also hints at elements of dark gothic romance, as Sunny narrates the dissolution of her first marriage to



Fig. 32.5 On her wedding day to Claus, a joyful and animated Sunny presents a picture at odds with the version Claus offers in *REVERSAL OF FORTUNE*

“Prince Alfred Edward Frederick Vincenz Maria von Auersberg”—with a hint of her usual irony returning for just a moment—and her falling in love with Claus. As Sunny brushes her hand invitingly against Claus’s upon witnessing “Alfie’s” flirtatious infidelities at a 1964 dinner party, the floating camera moves in to get a closer look at a beautiful, receptive Sunny as she and Claus lock eyes. With a split-second cut, we are in an ornate bedroom, where Sunny and Claus rendezvous with gestures of heightened passion that are tempered, significantly, by blue-filtered light, deeper and more intense than that reserved for the hospital room, registering this moment of passion as the first step toward Sunny’s demise, her irreversible fate apparently initiated by both the tentative and perhaps self-serving passion *of* Claus (his hands remain slightly clenched as they embrace) and by her retaliatory and perhaps self-destructive passion *for* Claus. Stylized soft focus, overexposed images of their garden wedding follow, as Sunny explains, “It’s not the passion I remember most. It’s the tenderness.” The two again gaze at each other as a pet tiger cub runs to their table and Sunny feeds it continuing, “I never liked people much, not as a rule. But Claus was somehow different—not a normal person, I guess.” (Fig. 32.5)

Those final words become even more evocative when juxtaposed with the image that follows, set in the Fifth Avenue apartment bedroom, where Claus and his new girlfriend Andrea sleep—once again in blue-filtered light—perhaps to suggest something about the deadening, heart-rending, if not injurious potential of Claus’s involvements with the various women in his life. “Of course, now he lives in my apartment. My bedroom. My bed,” Sunny explains, with a tone of ironic resignation. “Cold, isn’t it? Cold and brutish and the way of the world.” The ethereal camera hovers over the couple and moves in for a closer glimpse. Sunny again poses an unanswerable, though deceptively simple, question: “Looking at him now the issues seem simple. Is he the devil? If so, can the devil get justice?” The camera now floats outside Alan’s house in the dark of night as Sunny continues to narrate: “And all this

legal activity—is it in Satan’s service?” At this moment the voice of Alan’s assistant bleeds in before a cut to the interior of the house. He reads what is most likely trial transcript testimony: “Sunny von Bülow was totally vulnerable to Claus von Bülow.” When Alan says, “Can’t argue with that,” the assistant retorts, “But its speculation, exaggeration... totally inflammatory.” This dialogue, crucially placed, almost as if in answer to Sunny’s question, provides a clear commentary on the inflexibility of the law, as represented by the assistant while slightly tempered by Alan, who nevertheless orders the assistant to “keep working on it,” perhaps implying that, although Sunny’s vulnerability is inarguable, it can be remolded into a new legal narrative that will mesh more closely with Claus’s version of events *and* his version of Sunny.

In flashbacks prompted by Claus’s narration, Sunny appears near-catatonic or near-hysterical, at turns—a sharp contrast to Sunny’s version of the “happy memories” of their early days together where she appears vibrant, even when faced with Alfie’s hurtful infidelities. In playing these two very different versions of Sunny and the relationship against one another (admittedly with wide gaps of time and experience in between), the film positions its viewers as highly self-conscious jurors, much as Sunny’s narration calls attention to our role as objects of the storytelling process, whether for the sake of entertainment or the duty of deciding where truth resides. The competing narrative constructions required by an adversarial legal system further are shown to mold nuanced and multitrack human behavior into single-track narratives that often are both “exaggerated” and “inflammatory,” to quote Alan’s assistant, and, as a result, less than fully truthful.

Sunny’s next brief narration explicates this idea. Prompted by Alan’s continued questions concerning Alexandra Isles and the love letters she returned that may have prompted Sunny’s aspirin overdose—and whether Claus may indeed still love Alexandra—Claus responds, “Of course I still love her. And hate her. Alexandra, Sunny, Andrea—I love them all.” To this sentiment, Sunny seems to respond as we see her in close-up, curled on her side in the hospital bed: “Being a human being is very literal. You’re trapped. Time moves in only one direction, forward. It’s stupid and boring and results in a lot of silliness.” At this point, we are taken outside the Providence, RI, courthouse on the day Alan will argue for the appeal. As Alan approaches the entrance with mobs of reporters surrounding him, Sunny narrates: “Example, the legal process. In this particular case, a vast amount of time, effort and money were spent trying to determine precisely what happened on those two nights so close to Christmas...” At this moment, as if by magic, we return to the Newport bedroom—to the same neatly made bed we saw in Sunny’s first narration, yet without the earlier dissolve that magically brought the past into present life. “It happened right here. Even now, it all looks the same, feels the same, smells the same. If you could just go back in time and take a peek, you’d know. And all this would be unnecessary.” Now inside as the court is called to order, Sunny with mild mockery adds, “Then again, everyone enjoys a circus.” The film here most explicitly comments on the limitations of story construction in both the legal and conventional cinema contexts. The inability of reality-governed law and the refusal of formula-governed cinema to go back in time, to juggle time and place, to shift and change and follow a pattern dictated, not by cause-and-effect relations but by the associations

of the human heart and mind, results in both “silliness” and in the “circus” that provides entertainment for the public and fodder for the media—whether in the courtroom or the movie theater.

32.4 A Brief on *Reversal's* Feminist Reversal

Beyond its critique of the law through a narrative structure creating parallel law-centered and relationship-centered strands and through its giving voice to the comatose Sunny, *Reversal of Fortune* offers a poignant commentary, from a feminist perspective, on various institutional uses of the female body. Midway through her second narrational passage, nurses turn Sunny over and massage her limbs. “As for my state of mind,” Sunny sardonically giggles, “I had not had sex with my husband for years.” Resistant to definitive medical or psychoanalytic diagnoses, to legal point-driven, cause-and-effect narratives or to conventional cinema’s attempt to “fix” the female body as spectacle, Sunny’s body remains “unreadable” and in many ways reverses the institutional patterns centered on containing and controlling the female body, even if in rather paradoxical terms.

The very title of the book and of the film (which, tellingly, was originally to be called *Devil's Advocate*, according to Kazan [2000, DVD Commentary])⁴ would seem to juxtapose Sunny’s irreversible state with Claus’s continually reversible one—not only in the most obvious sense but also in acknowledging the irreversible position to which Sunny’s wealth and gender consigned her. Could she believe that any man would marry her for reasons completely apart from or more fundamental than her money—no matter how wealthy or well-situated he also might be? Could she be cast as anything other than a victim in legal or cinematic narratives, both of which draw upon long histories of relegating women to the margins of their own stories, of positioning their bodies as sexualized objects of the male gaze, or as aberrant, diseased objects of institutionalized interrogation? Claus can admit to loving *and* hating all of the women in his life, with the expectation of many more to come. When Dershowitz says to Claus during their first meeting, “From what I’ve seen of the rich, you can have them,” Claus retorts with a knowing smile, “I do.” He is granted an appeal, a second trial, and continued life as a free and officially innocent man. Sunny’s position, on the other hand, remains static in much the sense that the female character and body occupy a static position as specular objects in conventional cinema. Yet, in foregrounding this body and giving voice to Sunny’s imagined higher knowledge, *Reversal of Fortune* recuperates, though not without compromise, the position of the female victim—whether in the context of the cinema or the law—thus performing its own modest reversal, insofar as Sunny von Bülow is concerned.

This reversal is especially interesting to consider in relationship to the traditional woman’s films of the 1940s that position the female as active and in possession of the

⁴ *Devil's Advocate* later became the title of a 1997 film directed by Taylor Hackford and starring Al Pacino and Keanu Reeves, based on the Andrew Neiderman novel, *The Devil's Advocate*.

gaze rather than simply as object of the gaze. Yet, as feminist film scholar Mary Ann Doane points out, while offering a degree of resistance, the woman's film nevertheless implies that "the woman's exercise of an active investigating gaze can only be simultaneous with her own victimization" and is "designed to unveil an aggression against itself" (Doane 1984, 72). In the woman's film "the erotic gaze becomes the medical gaze" with the female body as "a manuscript to be read for the symptoms which betray her story, her identity" (Doane 1984, 74). In these films, women are often blind, mute, or psychologically traumatized, "trapped within the medical discourse" (Doane 1984, 75). And, as Doane argues, though these films "purportedly represent[s] a female subjectivity," the presence of the medical discourse, functioning much as the legal discourse does in other genres, "makes it possible once again to confine female discourse to the body" which is ultimately "interpretable, knowable, subject to a control." She incisively concludes that "what the body no longer supports, without the doctor's active reading is an identity" (Doane 1984, 76–77).

Reversal of Fortune foregrounds the confused empowerment thrust upon Sunny by her wealth that does, to a degree, claim her as a victim of gendered cultural codes her position could be seen to reverse. The addition in the film of Claus's desire to work as a chief cause for discussions of divorce, in its own way, implies the untenable position of a woman of enormous wealth. That her body should become the subject of intensive medical, legal, psychoanalytic, and cinematic interrogation seems in line with the conventions of the woman's film, while at the same time, her body remains uninterpretable, unknowable, and beyond medical or legal discourse, to reverse Doane's conclusions in regard to the woman's film. And while, in the public mind, the identity of that body has been subsumed by medical interrogation ("To many of you, my name means 'coma.'") or legal interrogation ("My second marriage means 'attempted murder.'"), in reality that body remains resistant and the full truth remains in possession of that body/identity/consciousness alone. In giving voice to Sunny who draws attention to the failure of these (patriarchal) institutional efforts to contain and control "the truth," *Reversal of Fortune* does manage to reverse, to some degree, the patterns of representation employed by the law, medicine, and *the cinema*.

Although in "real" terms of the narrative, both men *do* ultimately win—Alan and Claus win in the legal narrative and Claus wins, though presumably not unscathed, the ability to go on with his life. Sunny, even if trapped in an irreversible coma, does reverse or loosen the hold of seemingly irreversible patterns used to consign women, at least in the context of this movie. But of course, herein lies the paradox—cinematically and in every other way, she remains unable to act.

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Chapter 33

Hollywood's Hero-Lawyer: A Liminal Character and Champion of Equal Liberty

Orit Kamir

Abstract Hollywood's hero-lawyer movies are a distinct group of American feature films. Typically, they each depict a lawyer who unwittingly finds himself at the heart of a moral drama involving a client and/or a community in distress, gross injustice, the rule of law and powerful, obstructive forces that must be overcome. Alone with nothing at his side but his professional legal skills, courage, and integrity (and sometimes a good friend and a good woman), the lawyer reluctantly comes to the rescue, often at great personal sacrifice. In the process, he must balance individuality and social commitment, and loyalty to friends, to the law, to the spirit of the law, to the legal community, to justice, and to himself. This chapter argues that Hollywood's hero-lawyer is the symbolic "champion of equal liberty" as well as a liminal character on the frontier edge of society. This chapter claims that the hero-lawyer's frontier-based liminality is inseparable from the moral-legal principle of equal liberty that he personifies. This chapter considers the ways in which Hollywood's hero-lawyer's liminality is linked with the character's role as champion of equal liberty. This chapter follows the nuances of the hero-lawyer's liminality and moral heroism in 15 films, focusing on the classic cinematic formulations of these points and tracing their variations in contemporary film. Presenting the classic Hollywood hero-lawyer films, this chapter demonstrates how contemporary cinematic hero-lawyers (such as Michael Clayton, from 2007) are modeled on their classic predecessors. Yet, in contradistinction to their mythological forerunners, they seem to encounter growing difficulty when coming to the rescue out of the liminal space on the outskirts of society. Contemporary hero-lawyer films present a world in which personal identity

I am grateful to Talia Trainin for language editing this chapter. This chapter is dedicated to my father, Amior Kamir.

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is acquired through membership in and identification with a professional elite group such as a corporation or a big law firm. The social world, according to these films, is no longer made up of individuals and their relationships with society but of closed elite groups that supply their members with their social needs. In return, these elite groups exact their members' absolute adherence and loyalty. Further, despite their liminal personas, the new hero-lawyers often lack a frontier. They are trapped on the edge of an "inside" with no recourse to an "outside," a Sartrean no-exit hell, if you like. This predicament undercuts the classic construction of the "liminally situated champion of equal liberty," questioning both the significance of equal liberty and the meaning of liminality.

33.1 Part I: Introduction

33.1.1 *Layout of the Argument*

Law-and-film scholarship has always been enamored with Hollywood's celluloid hero-lawyer. Professors of law, as well as scholars of cinema, have bestowed ample attention on this iconic character.¹ This chapter does not veer from this honorable tradition. It contributes to the genre by highlighting two attributes that I believe to be fundamental to the venerated fictional character and by suggesting an association between them. Simply put, this chapter argues that Hollywood's hero-lawyer is the symbolic "champion of equal liberty" as well as a liminal character on the frontier edge of society. This chapter claims that the hero-lawyer's frontier-based liminality is inseparable from the moral-legal principle of equal liberty that he personifies.² This chapter considers the ways in which Hollywood's hero-lawyer's liminality is linked with the character's role as champion of equal liberty. This chapter follows

¹ Speaking of "Hollywood's hero-lawyer," I do not refer to any and every image of a lawyer that appears on the screen in a Hollywood film. As in previous articles and chapters (see Kamir 2005, 2006a, b, 2009a, b), I specifically apply the term to the lawyer that stands up to overwhelming power and at significant personal risk, against all odds, does his best to defend the equal liberty of the weak and downtrodden. In other words, as I explain shortly, the term refers to the cinematic successor of the "hero cowboy" of the "classical plot western," the subgenre that "revolves around a lone gunfighter hero who saves the town, or the farmers, from the gamblers, or the ranchers" (Wright 1975, 15). Many cinematic lawyers and most of those featuring in television series do not belong in this category. As I argue elsewhere (Kamir 2005), these lawyers can be regarded as successors of the hero of the "professional plot western," the subgenre that portrays "a group of heroes who are professional fighters taking jobs for money" (Wright 1975, 15).

² Due to length considerations, this chapter focuses solely on these two thematic elements of the hero-lawyer film and will be followed by a future project focusing on cinematic motifs.

the nuances of the hero-lawyer's liminality and moral heroism in 15 films, focusing on the classic cinematic formulations of these points and tracing their variations in contemporary film.³

The moral principle I have titled "equal liberty" is the notion that every individual has an equal right to civil liberties and social recognition of his life choices. Equal liberty is arguably the spirit of the American constitution and the core of the value system cherished by many law films. As Edward J. Eberle states in his comparative analysis of the American Constitution, "Americans believe in individual liberty more than any other value. For Americans, this means freedom to do what you choose" (Eberle 2002, 6). But Americans are similarly devoted to the concept of equality and value it above anything other than liberty. The result is a deep commitment to an egalitarian concept of individual liberty which can best be titled "equal liberty." Equal liberty refers to everyone's identical right to personal freedom. It refers above all else to every individual's civil liberties, that is, freedom from state restriction, but takes on a wider range of meaning. The American commitment to equal liberty is the spirit of the American constitution, both as interpreted by the legal system and as popularly understood. It is the moral core of the American value system: the popular meaning of "justice," "right," and "good." In this sense, it is at the heart of the American vision or "natural law." This American worldview becomes most evident when the American constitution is compared to other constitutions that cherish human dignity—the notion of personality—above all else (Eberle 2002). This chapter argues that Hollywood's hero-lawyer personifies the moral principle of equal liberty.

The symbolic personification of equal liberty casts the hero-lawyer as "champion" or "priest" of the American "civil religion" of legalism and constitutionalism. To rightly embody the core of the American value system, he must resist, transcend, and transform prevailing social norms and do so at great personal cost. Further, I suggest that in addition to this central attribute, Hollywood's hero-lawyer is also typically fashioned as a liminal character, positioned on the outskirts of the community he serves. He is both close to and distant from the individuals and families he attempts to rescue, both like them, and uniquely different. There are different types of liminality. Liminality can be related to a character's ethnicity, gender, age, economic status, or situation in life. That of the hero-lawyer is usually associated with some kind of "frontier." I further suggest that his liminality is inherently linked with the hero-lawyer's personification of the equal-liberty principle.

³ These include the four classics—*Anatomy of a Murder* (1959), *Inherit the Wind* (1960), *The Man Who Shot Liberty Valance* (1962), and *To Kill a Mockingbird* (1962)—...and *Justice for All* (1979) and *The Verdict* (1982), which are discussed in Part IV, and the 1990s films, introduced in Part V: *Class Action* (1990), *A Few Good Men* (1992), *Philadelphia* (1993), *The Firm* (1993), *The Client* (1994), *Time to Kill* (1996), *Devil's Advocate* (1997), and *Civil Action* (1998). *Michael Clayton* (2007) is briefly presented in the conclusion to this section. I believe these to be the most outstanding, significant, and influential among Hollywood's hero-lawyer films. Personal preferences undoubtedly interfered with the selection and choice of films, and I apologize to readers whose favorite hero-lawyer was left out. I hope to expand this discussion in the future and perhaps include additional hero-lawyer films.

Such a fashioning of the cinematic character dominates the classic hero-lawyer films—*Anatomy of a Murder* (1959), *Inherit the Wind* (1960), *The Man Who Shot Liberty Valance* (1962), and *To Kill a Mockingbird* (1962). These classics have become the models for the hero-lawyer films produced ever since. Yet, “the liminally situated champion of civil religion” had its forerunner. Cinematic context reveals that the classic hero-lawyer films merely refurbished Hollywood’s vastly popular gunfighter/ sheriff/ deputy hero of the western genre.⁴ For convenience, I will refer to him as the “hero cowboy.” That mythological character, who rode the American screen and popular imagination for half a century, dwelled on the border between society and wilderness. At the same time, he embodied the “natural law” of manly honor, fairness, and integrity as the popular predecessor of the more legalistic “spirit of the constitution,” the hero-lawyer. The classic hero-lawyer is thus a variation on the archetypical “hero cowboy.”⁵

Contemporary cinematic hero-lawyers are modeled on their classic predecessors. Yet, in contradistinction to their mythological forerunners, they seem to encounter growing difficulty when coming to the rescue out of the liminal space on the outskirts of society. Contemporary hero-lawyer films present a world in which personal identity is acquired through membership in and identification with a professional elite group such as a corporation or a big law firm. The social world, according to these films, is no longer made up of individuals and their relationships with society but of closed elite groups that supply their members with their social needs. In return, these elite groups exact their members’ absolute adherence and loyalty. Further, despite their liminal personas, the new hero-lawyers often lack a frontier. They are trapped on the edge of an “inside” with no recourse to an “outside,” a Sartrean no-exit hell, if you like. This predicament undercuts the classic construction of the “liminally situated champion of equal liberty,” questioning both the significance of equal liberty and the meaning of liminality.

Further, the latest of these films, *Michael Clayton* (2007), presents a world in which status, identity, and even social existence itself depend upon one’s credit card, cellular phone, frequent flyer miles, and Facebook address, a world nauseously reminiscent of *The Matrix* (1999). Life “on the borderline” becomes all but impossible in the World Wide Web this hero-lawyer film suggests that we now inhabit. Here not just equality but liberty too seems to be inconceivable. Such contemporary portrayal of the human condition is hard to reconcile with the one represented by the classic hero-lawyer’s individualistic position on the edge of social order, championing equal liberty. Thus, social reality as depicted in contemporary hero-lawyer films gives rise to fundamental doubts regarding the prospect and life span of the

⁴ More accurately, as will be explained, the hero of the “classical plot” western, as defined by Wright (1975).

⁵ My argument complements F. M. Nevins’ (1996). Nevins suggests that westerns were the predecessors of law films, that is, that westerns feature legal themes. I argue that hero-lawyer films are descendants of westerns, that is, that they emulate the western preoccupation with frontier and liminality as inherent to justice and morality.

hero-lawyer and his personification of the spirit of the constitution. It may be no coincidence that far fewer significant hero-lawyer films were produced in the first decade of the twenty-first century than in the last decade of the twentieth.

Following the introductory section that unfolds, the second part briefly presents the “hero cowboy” of the western genre, emphasizing his role as “champion/ priest of natural law” as well as his liminal status. Part Three examines in some detail the classic hero-lawyer films, *Anatomy of a Murder*, *The Man Who Shot Liberty Valance*, *To Kill a Mockingbird*, and *Inherit the Wind*. The discussion in this section highlights the analogies between the western genre’s “hero cowboy” and the hero-lawyer while also stressing the distinction between natural law and equal liberty. The fourth part presents two films that constitute a “transitional phase” between the classic hero-lawyer films and the contemporary ones. These films introduce new themes that became central to their successors. Part Five briefly follows the hero-lawyer into the 1990s and the twenty-first century, questioning the possibility of liminality in Hollywood’s portrayal of contemporary America and reflecting on its possible implications.

33.2 Part II The “Hero Cowboy” of the Western Genre: Liminality and Natural Law

33.2.1 Tall in the Saddle

Decades after his disappearance from the screen, the mythological “cowboy hero” of the western genre is still vivid in our collective memory. Westerns “became less prominent in movies and television beginning in the 1970s, but the image of the cowboy, the model of individualism, still permeates our consciousness” (Wright 2001, 9). We still revere the laconic man who emerges from nowhere and never thinks twice before rising to the all-demanding challenge that leaves everyone else dumbfounded—the man who rides through the open, monumental landscape, unbound by relationships, commitments, promises, or fears, devoid of family, property, past, or future, as free and silent as the horse he rides. Yet when the homesteaders or the townspeople are at their wits’ end, he appears to face the strong, evil ranchers or gamblers, fights the ultimate battle, and saves the day—only to ride back into the wilderness, the open, endless frontier, silent and tall in his lonely saddle, never looking back.

33.2.2 Shane: Plot Summary

In his structuralist study of the western genre, Will Wright defines the western plot sketched above as “classical” and states that it is “the prototype of all Westerns, the one people think of when they say ‘All Westerns are alike.’ It is the story of the

lone stranger who rides into a troubled town and cleans it up, winning the respect of the townsfolk and the love of the schoolmarm” (Wright 1975, 32). *Shane* (1953), Wright declares, “is the classic of the classic Westerns” (34). It features the lone gunman, Shane (Alan Ladd), who rides out of the mountains into a newly settled valley. Taken with Starrett (Van Heflin), Marion (Jean Arthur), and their little Joey (Brandon de Wilde), he agrees to stay as their hired hand, and together the two men manage to uproot a tree stump that Starrett had struggled with for 2 years.

The homesteaders in the valley are threatened by the Riker brothers, ranchers who want to seize all the land to themselves and their ever-growing herds. They bully the settlers and burn down their farms to drive them off the land. Starrett, the unofficial leader of the community, feels that he must confront the Rikers. When they send to invite him to a meeting, he decides to go and plans to confront and kill them. If he fails, the other homesteaders will leave, the community will wither away, and he will not feel man enough to face his wife and son. Shane learns that Starrett is about to walk into a trap. He also understands that Starrett is offering to sacrifice himself, knowing that Marion and Joey will be safer—and perhaps happier—with Shane, rather than Starrett, as the man of the house. To prevent Starrett’s altruistic suicide, Shane fights him, knocks him down, hides his gun, and rides into town in his place. In the final showdown, he proves his professional superiority by killing the Riker brothers as well as the professional hired gun they had commissioned. Then he advises Joey to grow to be strong and honest and rides into the mountains never looking back, as Joey cries and begs him not to leave.

33.2.3 Shane: Champion of Honor and Natural Law

In their fairness, generosity, hospitality, loyalty, sense of obligation, and altruism, both Starrett and Shane rank as upstanding men of honor and both uphold the norms of natural law. But only Shane is the champion of these values; he alone can uphold them by fighting and defeating the Rikers. Starrett is strong and noble—but unable to protect the community and its value system from the brutal, bullying enemies. He is not a trained warrior and is not likely to overpower the Rikers or even to survive the encounter with them. Additionally, his death would be detrimental to his family and to the whole community. Shane, on the other hand, can confront them because he is an excellent professional gunfighter and because he is unattached. Neither a family man nor a pillar of the community, he is dispensable. Having nothing to lose, he can afford to be fearless. Shane is free of the ties that hold Starrett back.

Starrett’s determination to confront the Rikers can be regarded as an attempt on his part to claim the status of the film’s champion of honor and natural law. This move challenges Shane to prevent Starrett’s heroic attempt and to fill the role that he, Shane, was reluctant to assume. Had Shane stayed and allowed Starrett to sacrifice himself, he would have taken another man’s home—his land, property, and family. He would have accepted more than he deserves, received more than he

had given. As a man of honor, Shane must decline such an offer and stop Starrett. Phrased differently, the acceptance of Starrett's offer would contradict the norms of fairness, masculinity, and natural law that Shane cherishes. To secure the natural order of things, he must prevent Starrett from confronting the Rikers. He must, therefore, undertake the battle himself and then leave Starrett's home. He must be the liminal champion of honor and natural law. Marion confirms this by explaining to little Joey that Shane does what he has to do.

Let me clarify that "natural law" in this chapter does not refer to any specific jurisprudential school of thought or philosophical treatise. I use the term loosely to refer to the popular set of notions of fairness, personal integrity, decency, adherence to reciprocity, and respect for others. In this sense, natural law is akin to significant parts of what was popularly known as "the honor code" of "true men." The honor code underlies the world of the western genre, whose heroes are usually "men of honor." I have analyzed this value system as well as its connection to natural law in detail in other law-and-film articles.⁶

33.2.4 *Shane: A Liminal, Open Frontier Character*

Shane features a community of hardworking men and women trying to settle the west and build a civilized society. Having emerged from the wilderness, title character Shane, the unfettered outsider, attempts to take on a minor role in the life of the community as a hired laborer. He buys work clothes, shuns fighting and drinking, and dances (with Marion) at the farmers' picnic. But he sleeps in Starrett's barn, his head on his saddle, while Marion warns Joey not to grow too fond of him, because one day he will move on and be gone. Shane is literally on the threshold of society. His liminality is inseparable from his deep, inherent connection to the wilderness. It is a feature of his "cowboy hero's" fundamental persona as a man of the open frontier. In Will Wright's words, "[t]he frontier defines the cowboy" (Wright 2001, 7).

Further still, Shane's heroic battle to save the community from the evil ranchers seals his liminality, barring him from entering the community and plucking the fruit of his triumph. I suggest that this aspect of Shane's liminality is "Moses-like." Moses led the Hebrews out of Egypt and through the desert for 40 years. He dedicated his life to bringing them into the Promised Land. But he could not enter that land. A man of the desert, he died on Mt. Nevo, literally on the threshold of the land. There he stood, seeing it but unable to enter. He did not belong in the phase of settlement and statehood. His liminality meant that he was doomed not to be part of the world that he dedicated his life to make possible.

Interestingly, both his unlimited freedom and his professional warring, the qualities that make Shane suitable to play the role of champion of honor and natural law,

⁶See Kamir (2000, 2005, 2006a).

are inherently associated, in the world of the western, with his liminal status, with his inherent attachment to the open frontier. For in the world of the western, unbridled freedom precludes playing a central role in communal life. A man who does not own land, work it or raise a family is not a pillar of the community and is hence dispensable. Similarly, in this world, professional fighting is not performed by members of the community. Farmers, shopkeepers, or even most cowboys or sheriffs are not professional gunmen, but wilderness “cowboy heroes” are. The frontier man “has a special skill at violence, and this is also a wilderness skill. Violence is necessary in the dangerous wilderness where law and government are absent” (Wright 2001, 38). Outstanding, professional fighters are outsiders, wanderers. They arrive on the scene when hired to perform a violent job and ride out upon completion. They do not belong in the community. *The qualities that make Shane the champion of honor and natural law are, thus, also the features of his frontier-based liminality.*⁷

33.3 Part III: Hollywood’s Classical Hero-Lawyer

33.3.1 *The Man Who Shot Liberty Valance: Plot*

Shane’s most obvious successor among the classical hero-lawyers is the protagonist of *The Man Who Shot Liberty Valance*. *Liberty Valance* lends itself so well to the analogy because in addition to being a hero-lawyer film, it is also a western. It features a young lawyer, James Stewart’s Ranse Stoddard, who, in the opening scene, is making his way west by stage coach. Riding through the wilderness, the stage coach is held up by the notorious gunman Liberty Valance (Lee Marvin). Ranse attempts to protect a female fellow passenger and is whipped by Liberty to unconsciousness. Arriving in Shinbone, Ranse receives compassionate nursing from Hallie (Vera Miles), who works in her parents’ restaurant. At the restaurant, Ranse encounters John Wayne’s Tom Doniphon. Ranse is chivalrous, proud, courageous, honest, and loyal. But Tom is the western’s uncontested “hero cowboy.” Strong, fearless, independent, and decent, he is a “true man.” The best shot in the territory, he is the charismatic, unofficial representative of natural law, and Shinbone obeys him out of fear and respect. Tom is in the process of building a house, and Hallie is the girl he plans to marry.

Ranse works at the restaurant, where he and Hallie form a romantic attachment. He writes for the local newspaper, organizes a school for the town’s children and

⁷ Will Wright suggests that the close affinity to wilderness is the source of the “hero cowboy’s” dedication to equality and freedom, as well as the source of his expertise in violence and commitment to honor (Wright 2001, 46). Wright’s “wilderness” is the “outside” liminality that I associate with the character’s inner one. In other words, his inherent connection with the “outside”/“wilderness,” that is, his innate liminality is what makes the “hero cowboy’s” champion of natural law.

illiterate adults (including black ones), and dreams of starting his law practice. He teaches townspeople the merits of democracy, citizenship, and equality and encourages them to vote for statehood. But the big land and cattle barons oppose statehood, preferring to keep the territory lawless and their own power intact. They hire Liberty and his gang of thugs to intimidate the townspeople into voting against statehood. At a town meeting, Ranse and his friend, the newspaper editor, are elected to be the delegates who will represent Shinbone in the vote on statehood. Liberty fails to get elected, and in a violent act of vandalism, he and his gang burn down the local newspaper and nearly kill its editor. This leads to the ultimate, unavoidable showdown between Ranse and Liberty. Liberty challenges Ranse, who feels compelled to confront him. Fearing for his life, Hallie sends for Tom, who appears at the last moment and unnoticed, and shoots Liberty from a nearby alley.

Ranse is credited with winning the duel and is titled "the man who shot Liberty Valance." He is elected to represent the territory in the discussion of statehood at Washington D.C. and marries Hallie. Later he is elected governor of the new state and finally serves as a Washington D.C. state senator. Having lost Hallie, Tom burns down the house he was building and leads the lonely life of a drunkard. When he dies, years later, Ranse and Hallie come from Washington to pay their respects. They hardly recognize the altered town. In a newspaper interview, Ranse confesses that he did not kill Liberty Valance, but the newspaper editor declines to publish his confession, preferring the legend to historical facts. Ranse and Hallie return to Washington, leaving Shinbone behind.

33.3.2 *Tom: Champion of Honor and Natural Law*

Unlike Shane, Ranse does not leave Shinbone alone: He allows Tom to sacrifice himself for his sake and then takes away Tom's girl in return. Ranse accepts from Tom the chivalrous gift that Shane refused to accept from Starrett. There can be little doubt: Ranse, the hero of this hero-lawyer film, is not its most honorable man. This causes great frustration to the western lover, marking *Liberty Valance* as a transitional film that shifts from following western conventions to establishing new ones—those of the classic hero-lawyer movie. It is a film that discards its ultimate John Wayne man of honor and transfers his girl and glory to the emerging hero-lawyer. In so doing, *Liberty Valance* defines a new criterion for cinematic heroism. The new hero is not the man of honor and natural law but the champion of law and equal liberty.

33.3.3 *Ranse: Priest of Equal Liberty*

Tom Doniphon clearly epitomizes honor and natural law. But *Liberty Valance* favors the rhetoric of equal liberty. In a telling, self-conscious move, the film names its villain "Liberty." Liberty represents a complete, selfish commitment to personal

liberty that is devoid of any respect for equality. A ruthless outlaw and a hired gun in the service of the land and cattle barons, Liberty is much like *Shane's* Riker brothers and their professional gunfighter. Like them, he stands for brute, uncurbed freedom that comes at the expense of other community members. Tom Doniphon offers to impede Liberty through the traditional western ethics of honor and natural law. He does everything that Shane did a decade earlier. But *Liberty Valance* prefers the ideals represented by Ransome and opts to declare him “the man who shot Liberty Valance”—the man whose egalitarian worldview defeats the threat of unrestricted liberty. In this film, the man who represents commitment to literacy, democracy, free speech, and the rule of law is the hero because he constitutes the alternative to Liberty’s reign of terror. Tom could eradicate Liberty Valance but not lay the foundations of a stable alternative. It is the hero-lawyer’s vision that liberates Shinbone’s community by introducing the spirit of the American Constitution. *Liberty Valance* votes for him.

Let me reiterate Cheney Ryan’s take on this point. Ryan maintains that

At the deepest level, what opposes Valance’s law, the rule of “anything goes,” is what might be termed the natural law of honorable violence – the law that the film identifies with the beliefs and actions of Tom Doniphon. This is the law of the *fair fight*, the law that says: don’t hurt women, don’t shoot people in the back, don’t gang up on people and so on. [...] I have said that Liberty Valance plays the savage in this film. He actually plays the *ignoble* savage to Doniphon’s *noble* savage. (But both, significantly, end up drunk and dead). Where does this leave Stoddard and “civilization”? (Ryan 1996, 37)

What Ryan plays down is the fact that Ransome brings to Shinbone a new, enabling discourse. Yes, Tom is honorable and loveable. But his natural law includes the tenet “out here we fight our own fights.” This conservative principle upholds the rule of the mighty; they are the ones who can best fight their own fights and win them. Ransome teaches that every person’s liberty is as valuable as everyone else’s. This means that if an individual is unable to protect his equal right to liberty, the community must do so for him. It must constitute civil liberties and enforce them for everyone’s equal benefit. In *Liberty Valance*, this is the only coherent way to overcome Liberty Valance. This stance casts the film more in the hero-lawyer genre than in the western.

Of all the hero-lawyers, Ransome may be the keenest “priest” of the legal culture. Other hero-lawyers practice it; Ransome teaches it, fights for it, represents it, and preaches it.

33.3.4 *Ransome: A Liminal Character*

Reading *Liberty Valance* against the western *High Noon* (1952), Cheney Ryan stresses the similarity between Ransome and Kane, *High Noon's* sheriff hero: “Both Kane and Ransome, for example, are figures of detachment, indeed isolation. They are ‘in’ but not ‘of’ the communities they inhabit. [...] Though the film twice depicts [Ransome] arriving in Shinbone [...], he never really arrives...” (Ryan 1996, 28).

In other words, Ranse is always on the threshold of Shinbone; he is a liminal character. As Ryan rightly points out, even as Ranse becomes teacher, reporter, representative, and Hallie's husband, he is never an insider. In the film's opening scene, he arrives in Shinbone, and in the closing scene he leaves it. Just like Shane. Interestingly, as he represents the town in the capital of the territory and then the state at Washington D.C., Ranse remains liminal in a Moses-like manner: he leads his people to the Promised Land but always remains outside it. Furthermore, in *Liberty Valance*, Tom Doniphon is liminal in an analogous fashion. He too leads his community to a new future, and he too is doomed to remain outside of it. The two men, the hero-cowboy and the hero-lawyer, share in this Moses-like liminality.

33.3.5 Ranse: Both Liminal and Priest of the Constitution

Like Shane, Tom is both liminal and the champion of honor. Ranse's liminality, on the other hand, is not intertwined with honor but with his legalistic commitment to equal liberty.

Complete devotion to equality requires some detachment both from oneself and from one's peers. Deep engagement with oneself or with others is likely to yield favoritism. It is hard to be deeply passionate about your life or strongly invested in the lives of others, yet treat these lives exactly as you would treat everyone else's. It is hard to love your daughter and not believe that she is smarter, better, and deserving of more attention, patience, understanding, and support than anyone else's daughter. It is hard to limit her liberty (to succeed, to spend, to compete) just as you would limit anyone else's. Ryan points out that Ranse "hardly knows anyone, and those whom he does remember he treats like strangers" (Ryan 1996, 28). This detachment is crucial for his full commitment to their equality. Ranse represents the spirit of the legal frame of mind. Legal equal liberty requires what is often referred to as neutrality. Such neutrality necessitates emotional disinterestedness. It necessitates emotional freedom that comes from being, existentially, at a distance, on the threshold. It is no coincidence that Ranse, like most western heroes and hero-lawyers, has no progeny. His type of liminality precludes it.

33.3.6 Inherit the Wind: Defending Equal Liberty from the State

Like Shane and Ranse, Spencer Tracy's Henry Drummond arrives in Hillsboro at the beginning of the movie and leaves it at its end. Like Shane and Ranse, he arrives and leaves alone,⁸ and throughout his stay, as he fights the film's villains in an attempt to save the community, we learn nothing of his past or of his family. His liminal

⁸Historically inaccurate, this depiction is a dramatic device. See Moran (2002, 29).

position vis-à-vis the film's community complements his declared status as high priest of civil liberties at large and freedom of speech in particular. Drummond, the fictionalized image of Clarence Darrow, is renowned worldwide for his commitment to civil rights. He has traveled a very long way (by bus) to fight for the constitutional right of Bertram Cates (Dick York) to teach the theory of evolution and thus practice his freedom of speech. Drummond comes to town in order to fight the religious fundamentalists who managed to limit evolutionists' freedom of speech.

Cates, a teacher at the local school and engaged to be married to the daughter of the town's charismatic, fundamentalist reverend Brown, is deeply rooted in his community.⁹ He is strong, decent, and committed to his ideals, including Darwinism and the equal freedom of speech. But he cannot successfully fight the community, which attempts to curtail his liberty. He cannot undertake his own battle both because he is not a "professional fighter" and cannot conduct his own legal defense and because he is too involved with the community to fight it effectively. It is Reverend Brown, his father-in-law-to-be, who leads the fundamentalists in their crusade against him. Drummond is both a professional legal warrior and an outsider to the community. He is the man for the job. Accordingly, the film portrays him as fighting the duel, winning the argument, and bringing about his opponents' death in the course of the trial.¹⁰

Drummond's characterization as "the liminal high priest of equal liberty" is highlighted by the film's contrasting treatment of Fredric March's Matthew Harrison Brady, the fictionalized image of William Jennings Bryan. Brady, who conducts the case for the prosecution, is portrayed as both the high priest of fundamentalist religion and an existential "insider." Brady fervently stands for equality devoid of freedom. According to his firm belief, everyone must study the Bible, and no one should study evolution, regardless of their beliefs or desires. Brady arrives in Hillsboro with his wife and is paraded into town by a crowd of devotees and admirers who sing "what's good enough for Brady is good enough for me." He eats his meals with his followers and participates in their church meeting. Rachel, Cates' fiancé and the reverend's daughter, comes to confide in him and ask for his advice and help. Never having set foot in Hillsboro before, he is completely immersed in its community.

Drummond is poised not just in opposition to Brady but also between Brady and Gene Kelly's Hornbeck, the fictionalized character of reporter H.L. Mencken. If Brady stands for equality with very limited freedom, Hornbeck, representing the press, stands for complete and unlimited freedom of speech. There seems to be no other value in his worldview. If Brady is completely immersed in Hillsboro's community, Hornbeck is the ultimate loner, devoid of compassion, warmth, or

⁹This Starrett-like cinematic depiction is purely fictional. The real John Scopes was not native to Dayton, Tennessee, was not engaged to be married there, and was not deeply rooted in the community (Moran 2002, 25; Garber 2000, 140).

¹⁰In fact, Clarence Darrow lost the case and appealed the decision. Jennings died several weeks after the trial.

human connections. He does not care enough about people to worry about their equality. Elitist social Darwinism may sit well with his biting cynicism. Against these two extremes, Drummond is portrayed as the commonsensical, middle-of-the-road, reasonable American, who is naturally committed to freedom as well as to equality. Like Brady, he believes in an egalitarian community, and like Hornbeck, he is committed to liberty. Leaving the courtroom, he holds both the Bible and Darwin with equal respect.

Inherit the Wind contains an important feature that is absent from *Liberty Valance*. In his battle for equal liberty, the hero-lawyer fights against the state that tries to curtail some people's liberty. He does so in the context of criminal law.

In a liberal context, constitutional protection of every person's liberty is meant, above all else, to prevent the state from restricting some people's liberty. Equal liberty aims to provide all persons with similar protection from the state's potential attempts to limit their freedom. *Liberty Valance* is situated in a prestate era and associates the fight for equal liberty with the struggle for statehood. In *Inherit the Wind*, it is the state that prosecutes Bertram Cates and the state that deprives him of the freedom of speech that it awards his antievolutionist opponents. State power is abused by a fundamentalist majority to curtail some people's civil liberties. State apparatus is used to censure some types of speech and to prosecute certain individuals for their speech. Championing the spirit of the constitution, *Inherit the Wind*'s hero-lawyer is a criminal lawyer defending the hapless defendant from the state.

33.3.7 *Anatomy of a Murder and to Kill a Mockingbird*

Anatomy of a Murder, produced a year prior to *Inherit the Wind*, and *To Kill a Mockingbird*, produced 2 years later, both present a similar situation. In each of these classic hero-lawyer films, the hero-lawyer is a criminal lawyer fighting for the civil rights of an unpopular defendant.¹¹ In *Mockingbird*, Gregory Peck's legendary Atticus Finch fights to exonerate a black man falsely accused of raping a white woman. Like the religious fundamentalists in *Inherit the Wind*, who abuse the law to discriminate against an evolutionist and deprive him of his civil liberty of speech, here southern bigots abuse the law to discriminate against a black man and deprive him of his civil liberties. The film's community, dominated by racist elements, locks Tom Robinson up and attempts to deprive him of the equal protection of the law. Atticus Finch takes on the ungrateful task of providing the black defendant with adequate legal representation in an attempt to restore his freedom. Despite his painful failure to save Tom's life, the film presents Atticus as having succeeded to confront state power and bigotry.¹²

¹¹ For detailed analyses of these films, see Kamir (2005, 2009a).

¹² Many writers admire the character and the film, hailing them both as classics at its best. See Asimow (1996), Osborn (1996), and Strickland (1997). For an incisive criticism of both character and film, see Banks (2006).

Similarly, *Anatomy of a Murder* features James Stewart's Paul Biegler defending a man who practiced what the film presents as his traditional, honor-based right to kill the man who had tried to rape his wife. *Anatomy* construes the husband's "unwritten right" as a fundamental liberty that must be protected from the power-hungry state and from the prosecution's legalistic attempt to curb it.¹³ The prosecution is portrayed as a sleek, powerful, threatening Goliath, challenging the film's righteous David-like hero-lawyer.

Paul Biegler and Atticus Finch are not liminal characters in a Shane-like fashion: they do not ride into town at the beginning of the film and into the wilderness at its end. In fact, they are both deeply rooted in their small-town communities. Biegler was at one time elected district attorney, and Atticus brings up his children in the little southern town that seems to be his lifelong home. Nevertheless, his status as reclusive widower who raises his children alone sets Atticus apart from the rest of the community. Despite the courtesy he displays, he does not mix much with his neighbors. His willingness to represent Tom Robinson and the interest he takes in Tom's black family marginalize him even further. In fact, Atticus' antiracist legal activity endows him with a Moses-like liminality. He fights for a future that he does not live to see.

Similarly, despite his respectable status, Paul Biegler is a slightly eccentric loner with no family ties, living on the fringe of his small-town community in Michigan's Upper Peninsula. Having lost his position as the district attorney, Biegler has withdrawn and resorted to frequent, long, secluded fishing trips and piano jazz playing, neglecting his private legal practice (Kamir 2005). As his good friend, Parnell (Arthur O'Connell), an older lawyer-turned-drunk warns him, he is on the road to complete seclusion. Interestingly, unlike Atticus, at the end of the film, Biegler is less marginal than before and more likely to go back to his private practice and to spend less time sidetracking. His heroic legal performance has not marginalized him.

In conclusion, both these classic hero-lawyers are loners on the outskirts of their small, frontier-like, marginal towns. Neither is married or otherwise emotionally attached. Each has suffered a great loss (Atticus lost his wife and Biegler—his career), and they are both "outsiders within" at the edge of their communities. Atticus Finch's professional activity as a hero-lawyer estranges him further from his community. Paul Biegler's marginality is associated with the loss of a central position in the legal world and with his deep friendship with an older, failed lawyer. Yet at the end of the film, he is less marginal than he was before he fought his heroic battle. All these elements were embraced by subsequent hero-lawyer films to become the genre's building blocks.

All four classical hero-lawyers are enthusiastic champions of equal liberty. Additionally, they are all liminal characters in frontier-like communities, in the Wild West (*Liberty Valance*), in the Deep South (*Inherit and Mockingbird*), or in

¹³ For a full analysis of the film of Biegler as a hero-lawyer and of the film's complex treatment of honor rights, see Kamir (2005).

the uppermost North (*Anatomy*). They are also “frontier men” professionally: Ransie struggles to bring the law to Shinbone, to create the rule of law, and to establish a state. The law is his professional frontier. The other three classical hero-lawyers fight for unpopular defendants’ civil liberties. Their professional frontier is the legal realm of civil rights.

33.4 Part IV Transitional Phase: Old and New Elements in ...*And Justice for All* and *The Verdict*

The classic hero-lawyer movies were produced between 1959 and 1962. The next big wave of hero-lawyer films took place in the 1990s. Two hero-lawyer films that were released around 1980 can be regarded as marking a “transitional phase” in the history of hero-lawyer films. Both these films, ...*And Justice for All* (1979) and *The Verdict* (1982),¹⁴ feature many of the classic hero-lawyer characteristics, bringing them up-to-date.

...*And Justice for All* stars Al Pacino as Arthur Kirkland, a small criminal lawyer fighting not merely the state prosecution but also a depraved, sadistic judge and a vengeful ethics committee that conspire to blackmail and silence Arthur. In his heroic—yet unsuccessful—attempt to save his downtrodden clients from unjust and inhumane imprisonment, this hero-lawyer encounters a deeply corrupt and uncaring system. The legal world that he faces is a nine-headed monster, and his struggle with this Hydra is not merely against all odds but plainly hopeless. At the end of the film, he betrays a client, the depraved judge, who blackmailed Arthur to represent him in a rape charge. Arthur announces his own client’s guilt in court, demanding that he be convicted. Arousing a scandal, Arthur is thrown out of the courthouse and left on the imposing building’s outer steps. He is likely to lose his license and never enter a courthouse again.

Like three of the four classic hero-lawyers, Arthur Kirkland resorts to criminal defense to fight the state. The state is represented by both prosecutors and judges, who threaten and unjustly curtail the liberty of Arthur’s clients, the weakest social elements in the food chain. Further, Arthur challenges the unlimited liberty of a sadistic judge to abuse his judicial power while himself breaking the law and tampering with evidence. In fact, Arthur commits professional suicide by exerting himself to ensure that the judge’s liberty to continue raping is indeed denied. Arthur is clearly the priest of equal liberty for all, at a very high personal cost.

At first, Arthur seems less liminal and certainly is far less laconic than the classic hero-lawyers. True, he is a small-time, divorced, criminal lawyer, estranged from both his children and his parents. Yet he practices law in the metropolis of Baltimore rather than in a small frontier town and is surrounded by colleagues, friends, his

¹⁴ In some respects, *Jagged Edge*, made in 1985, can also be considered to belong to this category, though I hesitate to define its protagonist a “hero-lawyer.”

grandfather, and even admirers who cheer as he exposes the sadistic judge. Arthur's lover is a member of the ethics committee and supplies him with inside information. Yet what gradually marginalizes Arthur is his devotion to his hero-lawyer role, his insistent refusal to play along with the corrupt system. Like Atticus Finch's, Arthur's commitment to the civil liberties of his indigent clients hampers his professional advancement and alienates him from the legal system. His refusal to "make a deal" with the prosecution and to silently adhere to the whims of the sadistic judge estranges him from the legal community. His ultimate insistence on curtailing the judge's unlimited liberty exacts from Arthur a far greater price than that paid by Atticus. Whereas Atticus is marginalized by his community, Arthur, playing the hero-lawyer role, loses his license and is finally consigned to the literally liminal place on the threshold of the courthouse.

Three years later, Paul Newman starred in *The Verdict* as Frank Galvin, a once promising young lawyer who takes the rap for a senior lawyer in his law firm, loses his job as well as his wife, and deteriorates into a drunkard ambulance chaser. Frank's loyal friend and mentor offers him a last chance in the form of a big tort malpractice case that would involve confronting a doctor and his supporting peers, the hospital, the church that owns the hospital, and their big law firm. The client is a young woman who was given the wrong anesthetic and has been comatose ever since. The hospital and its doctors, the church, the law firm, and a hostile judge all conspire to undermine Frank's case, but with the help of his good friend, he overcomes all the hurdles and convinces the jury to compensate his client for the life that was taken away from her.

Frank is clearly a marginal character on the very fringe of both the legal world and society at large. Handing his card to bereaved widows at funeral homes, he seems to have reached the rock bottom of ambulance chasing. Not surprisingly, at the opening of the film, Frank is hardly a hero of any kind. It is only in the course of preparing his case and sobering up that he gradually evolves and grows into a true warrior for his client's right to equal acknowledgment as a worthy human being. He fights to limit the enormous liberties usurped by the doctors, the church, and the lawyers and to free his client at least from the economic hardship imposed on her and on her family. For Frank, the legal battle that constitutes him as a hero-lawyer is also an act of redemption and salvation. His professional hero-lawyer's pursuit of equal liberty awakens him to a new existence, true to his deeper, most gallant nature.

This "redemption motif" recurred in many hero-lawyer films ever since. Most hero-lawyers do not start out as Atticus Finch characters; they grow into the hero-lawyer role through a professional conduct that also entails personal redemption and salvation.

Unlike his predecessors, Frank Galvin does not practice criminal law and does not fight to restrict the all-powerful state and its legal institutions. Frank is a tort lawyer, and the powerful systems he tries to contend are private social organizations: a hospital and its medical guild of doctors, a church, and a big law firm.

Traditionally, the state is the power suspected of usurping too much liberty at the expense of some individuals'. But in *The Verdict*, the state is represented by a

spineless judge who is only eager to please the mighty respondents. The real power is in the hands of the big institutions, including their law firm. This reflects the film's worldview. In *The Verdict*, society is no longer made up of individuals, community, the state, and the law; it is ruled by powerful elite groups.¹⁵ These groups are professional enclaves, each motivated by its members' collective best interests in terms of power, status, and wealth. In this movie, the hospital is such an elite group, as are church and law firm. They each offer their members identity, meaning, purpose, status, stability, and income. In return, each of them demands these/its members' complete loyalty. Each elite group places its members' collective interests above all else and exacts their full adherence to this principle. This, of course, comes at the expense of individuality, society, and community: the institutions/elite groups collaborate to supersede the liberal state, its democratic principles, and its philosophy of civil rights.

In this context, Frank's case can be seen as a battle lodged in the name of liberal democracy and its doctrine of equal liberty against oligarchy, the social structure of elitism. This is why Frank's threat to expose one elite group (the hospital) and hold it accountable for its wrongdoings prompts the collaboration of several ruling elite groups in a struggle to protect their collective hegemony. In this dramatic, ideological battle, the law firm takes center stage. In *The Verdict*'s brave new world, the law firm has become an elite group. Law firms have taken over the legal world, abusing their professional skill to serve their own interests, their clients' wishes, and oligarchy's whims.

This worldview deeply impacts the symbolic meaning of the hero-lawyer. In *The Verdict*, the hero-lawyer's role is to represent the individual, who was harmed by an elite group and demands acknowledgment as an equal and autonomous citizen of a liberal democracy. On behalf of his client, the hero-lawyer challenges a particular institution, as well as the rule of the elites. In the process, he challenges a big law firm, itself an elite group in the service of other elite groups and the new, rising oligarchy. This hero-lawyer is a democratic David fighting an elitist Goliath law firm. He plays a central role in the "cultural clash" between democracy and the new oligarchy that is rapidly superseding it. It is no coincidence that Frank's triumph is facilitated and declared by the jury, which stands for the community. The community takes the side of liberal democracy, while the law firm represents the respondent elite group and the new social order.

The Verdict's view of social reality, the legal world and the big law firms, and its reconceptualization of the hero-lawyer's role in this context have all become trademarks of many hero-lawyer films of the 1990s.

Let me ground this in reference to the western genre discussed earlier. *The Verdict*'s villains, the large, strong institutions, bring to mind the powerful ranchers and gamblers of the western genre. The western's portrayal of social reality in the Wild West seems to be mirrored by *The Verdict*'s portrayal of the early 1980s. It is as if the antistate forces of the prestate era had evolved into the big institutions of the "post state" condition of the Reagan age.

¹⁵I use this particular term following Wright (1975); see below.

In his analysis of the western genre, Will Wright shows that the “classical plot western” was replaced by what he calls “the professional plot western” (Wright 1975, 85–123, 164–184). In this subgenre that emerged in the 1950s and peaked in the 1970s, the place of the lone warrior who fights for the downtrodden and embodies honor and natural law was taken by the group of mercenaries who form an elite group and fight for the thrill of the fight, and, of course, for money. Society and its values not merely become irrelevant but are completely rejected: “[T]he group of elite, specialized men in the professional Western relate to ordinary society only professionally; their need for social identity is totally satisfied by membership in the group” (Wright 1975, 180). Wright explains:

This group of strong men, formed as a fighting unit, comes to exist independently of and apart from society. Each man possesses a special status because of his ability, and their shared status and skill become the basis for mutual respect and affection. Thus, the group of heroes supplies the acceptance and reinforcement for one another that the society provided for the lone hero of the classical plot. This change in the focus of respect and acceptance naturally corresponds to an important change in the qualities or values that are being respected and accepted. The social values of justice, order, and peaceful domesticity have been replaced by a clear commitment to strength, skill, enjoyment of the battle, and masculine companionship. (86)

Popular law firm television series, such as *L.A. Law* and *Ally McBeal*, mirror the professional plot westerns. In *The Verdict*, however, the hero-lawyer is not replaced by a professional law firm with its bunch of specialized legal warriors. On the contrary, Paul Newman’s hero-lawyer becomes “the man who shot the law firm.” In this film, the law firm is the nemesis; it is the Liberty Valance that serves the evil hospital, doctors, and church. Frank is the man who stands up to this professional elite group of lawyers, fights it against all odds, and prevails. His liminality and commitment to equal liberty qualify and empower him to do so. His victory is that of the classical plot western over the professional plot western of democracy and the American constitution over oligarchy. Interestingly, at the end of the film, Frank is less liminal than before. He is slightly reconciled with the community and with himself. There seems to be hope of his reentering society and perhaps even the legal world.

Both protagonists of the “transitional hero-lawyer films” are champions of equal liberty. Neither is set in frontier towns in the Far West, South, or North. In fact, they are both big eastern city lawyers. In their personal and professional lifestyles, both lawyers are liminal characters; yet only Frank Galvin is situated in a new legal frontier. Arthur, attempting to use criminal defense to promote civil liberties, feels that he is facing a dead end. In 1979, Hollywood portrays, civil liberties were no longer perceived as the exciting new legal field of endless possibilities. In fact, the struggle for civil liberties seemed to have reached its limit. Arthur Kirkland is thus a pessimistic hero-lawyer. He is a liminal character with no frontier, that is, he is a threshold character with no “out.” He is trapped on the edge of a corrupt and hopeless “inside,” with no “wilderness” to empower him and no horizon to aspire to. Frank Galvin, on the other hand, the 1982 civil, tort lawyer, discovers a whole

new professional frontier—that of individual[s'] damage claims against corrupt, cynical, powerful institutions. This new professional frontier empowers him and fills him with hopeful purposefulness; it redeems his earlier tragic downfall.

33.5 Part V Hero-Lawyers of the 1990s and Beyond

The 1990s were the heyday of hero-lawyer films. Of the 15 hero-lawyer films that this chapter refers to, eight were released between 1990 and 1998. Of these, three continue in the tradition of the classic hero-lawyer films and ...*And Justice for All*; four follow the revised, "tort law and redemption" model proposed by *The Verdict*; one combines the two models.

33.5.1 Criminal Hero-Lawyers of the 1990s

The three most notable movies that featured aspiring successors of Atticus Finch, Henry Drummond, Paul Biegler, and Arthur Kirkland are *A Few Good Men* (1992), *The Client* (1994), and *A Time to Kill* (1996).¹⁶ Each of these films imbued its hero-lawyer with commitment to equal liberty as well as some form of liminality. The two Grisham-based films (*The Client* and *A Time to Kill*) mostly explore the rearrangement of familiar elements, while *A Few Good Men* uses them to convey an unusually optimistic worldview.

In *A Few Good Men*, Tom Cruise's lieutenant Daniel Kaffee is a young navy lawyer. He "has plea-bargained forty-four cases in a row and has yet to try one" (Bergman and Asimow 1996, 73). He ostensibly aspires to drift through his professional career with as little trouble or inconvenience as possible. Son of a renowned jurist, Daniel reluctantly strives to live up to the model set by his father. Kaffee is assigned the defense of two marines who killed a fellow marine in the course of executing "Code Red," that is, the brutalizing of a marine who "dishonored" the navy. They are charged with murder. In the course of preparing the case, Kaffee encounters Jack Nicholson's Colonel Nathan Jessep, a "bad father" character, who had instigated the Code Red in the name of navy honor but now evades responsibility. He protects his own liberty at the expense of the defendants'. Kaffee realizes that he was chosen to conduct the defense in hope that he would settle the case. He therefore decides not to settle and to go after Jessep despite the personal risk to

¹⁶ *The Accused* (1988) is a good candidate for this subgroup. Since its (woman) hero-lawyer is a public prosecutor, rather than a criminal defender, it belongs to a subcategory of hero-lawyer films that requires a discussion that is beyond this chapter's scope. *The Music Box* (1989) is another worthy candidate, but the protagonist's "heroism" is not a professional, legal one. It is not surprising that Hollywood's women lawyers are harder to define as "hero-lawyer." For a systematic analysis, see Lucia (2005).

his career. In the courtroom showdown between Kaffee and Jessep, Kaffee evolves into a hero-lawyer, proving full commitment to the equal liberty of his clients. Kaffee matures into an honorable lawyer and human being, just like his father before him, and earns his clients' appreciation.

In the process, Kaffee sheds his liminal position as a junior lawyer on the threshold of the legal profession. His initial liminality is revealed to have been a chrysalis one due to his unresolved Oedipal issues. He was "on the fence," reluctant to jump into the water, in fear, and resentment of having to live up to his father's heritage. He suffered from "adolescent liminality," a passing phase on the road to hero-lawyerism. The process of becoming a hero-lawyer through litigation turns out to be a rite of passage for Kaffee, both professionally and personally. This unusual cinematic optimism echoes some classical plot westerns in which the gunfighter cleans up the town and then settles in it and becomes a pillar of the community (think, e.g., of *Destry Rides Again*, 1939¹⁷).

The Client's protagonist, Susan Sarandon's Reggie Love, is liminal in almost too many ways: She is a woman, a very small-time lawyer, a divorcee, a rehabilitated alcoholic, and a mother who has lost custody of her children. Protecting her client—an underage witness to a suicide—from both the ruthless mafia and the self-serving prosecutors, her growth into a hero-lawyer entails a process of redemption and salvation, a la Frank Galvin. *The Client* thus combines a variation on the criminal hero-lawyer plot with *The Verdict's* personal salvation motif. Reggie wins her heroic legal battle, but the victory leaves her, Moses-like, at the threshold of the family she has saved. As her client boards a plane with his mother and brother, she stays behind, alone.

A Time to Kill, another Grisham-based hero-lawyer thriller, similarly reworks familiar motifs. It fuses a *Mockingbird*-like plot of racist persecution of a black man with an *Anatomy of a Murder*-like premise that the law and the legal system must allow a man to pursue his "unwritten rights." In this movie, a white attorney defends a black man who shot the two white men that had brutally raped his 10-year-old daughter. Matthew McConaughey's lawyer character, Jake Tyler Brigance, evolves from an uncommitted professional into an Atticus Finch in his insistence that the law must honor his black client's unwritten right to avenge his daughter's victimization, just as it would have honored a white man's right to do so in an analogous situation. Like Atticus, Brigance's commitment to his unpopular client ostracizes him from his racist community, and he is left in Mosaic isolation.

33.5.2 *Civil Hero-Lawyers of the 1990s*

Most prominent among the 1990s civil law hero-lawyer films are *Class Action* (1990), *Philadelphia* (1993), *The Firm* (1993), and *Civil Action* (1998). Each of these films' protagonists undergoes the transformation from a brash, self-serving

¹⁷In *Destry*, too, the title character struggles to come to terms with the legacy of his dead sheriff father.

attorney to a conscientious hero-lawyer, committed to civil liberties, fighting the big, powerful elite groups, and making a personal sacrifice. All these films focus on their protagonists' struggle with professional liminality, exploring it through variations on the Frank Galvin redemption theme and the Daniel Kaffee rite of passage motif. Most notably, in all four films, *The Verdict's* evil "social institutions" have transpired as full-blown corporations: self-interested commercial entities, solely concerned with their economic gain. In *Class Action*, the hero-lawyer's nemesis is an automobile manufacturing company; in *The Firm*, it is the mafia; and in *Civil Action*, it is a tannery—a subsidiary of a chemical company. Additionally, every one of these films features a large, successful law firm that is financially motivated, just like its clients. The law firm represents the corporate world and serves its interests. It is just as greedy, corrupt, and harmful as any other corporation. In fact, in these films, the law firm has become the hero-lawyer's archenemy.

Class Action's protagonist is a woman lawyer in a highly competitive, testosterone-flooded professional legal environment. At the end of the film, in an Arthur Kirkland gesture, she exposes and betrays her corporate law firm and its greedy, negligent automobile-manufacturer client. She loses her job but not her license and finds a professional home in her father's small, old-fashioned human rights' law firm. Her initial liminality, the film seems to indicate, was "adolescent," like Kaffee's, and, like him, she too resolves her Oedipal issues in the course of her professional rite of passage. Unlike Kaffee, however, in joining her father's law firm, she does not become an honorable insider but embraces the liminality of the father's professional role. Stepping out of "the game," she chooses the idealistic past over the corporate present. She will do "good law" but has no hope to effect a significant impact upon the corrupt environment.

The Firm's protagonist struggles to escape his identity as the guy raised by a single mother in a trailer park, whose big brother serves time for homicide. As his wife points out, his enormous endeavor to blend in the prominent law firm that hires him out of law school is a conscious effort to become a legitimate member of that "in-group," which he regards as a "mainstream family." Mitch McDeere's painful growth into a hero-lawyer is complemented by his relinquishing of this dream. Betraying and exposing the law firm that turns out to be fraudulent and murderous, he embraces the humble vision of life as a good lawyer in a small, unpretentious law firm. Performing his rite of passage, he is redeemed of the desperate desire to fit in and finds both his inner hero-lawyer as well as the type of liminal existence that suits him best.¹⁸

In *Philadelphia*, one of the protagonists is a black, lone, ambulance-chasing lawyer, while the other, his client, is a gay lawyer with HIV, shunned and discriminated against by his prestigious law firm. Both men outgrow their self-centeredness and rise to the ideological challenge they face together. Seeing, in a Mosaic liminality, the Promised Land he will never enter, the gay lawyer dies of AIDS. The black lawyer seems to remain as marginal at the end of the heroic battle as he was at its beginning. Having found his moral core, he embraces his liminality but goes nowhere.

¹⁸ For a more detailed analysis, see Kamir (2009a).

Civil Action's protagonist starts out as a lawyer at the height of his success in every possible way (he is, among other things, the most popular bachelor in his community). The senior partner of his law firm, he is an expert at making quick, easy profit. Unexpectedly, he takes on a class action against a tannery that pollutes the drinking water, causing the deaths of many members of a small community. At the end of the film, having sacrificed and lost everything in zealous pursuit of justice and recognition for his clients, he is ruined, bankrupt, and alone. But redeemed of his egotistical professional *hubris*, he is proud and content in his liminal existence, at the outskirts of both the legal world and society.

As this brief outline points out, in each of these films, being a hero-lawyer entails fighting an all-out battle against the corporate world and a strong, evil law firm. Waging this battle requires a deep, existential liminality and leads the protagonist to a professional one. Having found his or her true self, the newborn hero-lawyer rejects the fantasy of membership in an elite group law firm and embraces a liminal professional existence. Hero-lawyerism and liminality seem, more than ever, to be fused together.

Of the seven 1990s hero-lawyer films, five entrap their protagonists in a liminal condition devoid of an open frontier. They are pessimistic, hopeless hero-lawyer films. Only the two Tom Cruise films, *A Few Good Men* (portraying the *Bildung* of a young criminal defense hero-lawyer) and *The Firm* (featuring the growth of a young lawyer fighting the corporate world), supply their young lawyers with open frontiers. In *A Few Good Men*, the young lawyer discovers the path of honorable service as a marine attorney. *The Firm's* young lawyer looks forward to a peaceful, quiet professional life and a fulfilling personal one. His horizon is not professional but rather emotional and familial. The criminal defense hero-lawyer's bright future lies in the navy; the corporate-world hero-lawyer's lies in the personal sphere, away from law and the public sphere. Of the seven 1990s films, only these two offer an optimistic vision.

33.5.3 *The Devil's Advocate* (1997) and *Michael Clayton* (2007)

The Devil's Advocate is unique in its combination of the criminal lawyer, the shadow of the lawyer father, and the big law firm nemesis, pushing all three elements to the limit. It further combines the hero-lawyer subgenre with the horror genre, opening up new, supernatural possibilities. Additionally, it offers two endings and thus two interpretations of legal heroism and liminality.

Kevin Lomax, Keanu Reeves' young lawyer character, is a criminal defense attorney who never lost a case. Representing a defendant accused of raping a minor, Kevin realizes that his client, Gettys, is guilty and finds himself facing the dilemma of how to proceed. Deciding to win at all costs and maintain his record, he destroys the victim's credibility and is recruited by John Milton's big New York firm. Milton (Al Pacino) turns out to be Satan and also Kevin's biological father. He designs to use the law to rule the world and to use Kevin to beget the Antichrist. Kevin is

tempted to win at all costs the big cases his father throws his way and loses his wife and his soul in the process. At the last moment, he decides to prevent his father's plans and commits suicide. Alternatively, Kevin decides to withdraw from Gettys' case at the risk of being disbarred. He saves his soul and his family but is tempted to be interviewed and made famous by a reporter who, the viewer knows, is John Milton, father/Satan.

The first plot line suggests a variation on the Daniel Kaffee personal and professional development theme. Confronting the "bad father" character, the young criminal lawyer realizes that his professional ambition has brought him too far, and the only course of redemption and salvation is death. Here, the human frailty of the excellent professional lawyer leads him to moral doom, as he cannot resist the temptation to join the big law firm. In the alternative plot, the excellent young lawyer resists the temptation, doing the right thing, but only to face a new temptation every day. Surrender is merely a matter of time. In the world of big law firms/mega temptation, hero-lawyerism is inhuman and impossible. In such a world, it is hard to speak of a meaningful "inside," "outside," or liminality. But there can be no doubt that the film offers its protagonist no frontier, no out, and no hope other than death.

A decade later, *Michael Clayton* situates the hero-lawyer in the dark setting of *film noir*.¹⁹ Clayton, a big law firm's "fixer," is an inherently liminal character. Having discovered that it had consciously assisted a big corporate client in concealing its lethal business practice, Clayton betrays and exposes his law firm. His professionally suicidal act of heroism leads him to an Arthur Kirkland-like limbo, only more so. I suggest elsewhere that "in line with the logic of *film noir*, even when exposing a corrupt corporation and bringing it down, Clayton remains trapped as ever because in the 'asphalt jungle' of *film noir* one can run—but never break free. The turn to *film noir* thus signals, accommodates and enhances a bleak mode of cynical despair regarding lawyers, as well as the hope of civil rights and rule of law that they once stood for" (Kamir 2009a, 830). I further claim there that "in *film noir* style, *Michael Clayton* bars its protagonist from reentering his world, his community or the law, voiding his self-sacrificing act of meaningful heroism and of true social significance. The villains are overpowered, but the community is not saved. In *Michael Clayton*'s world, life, community and law are all aspects of the labyrinth. They can be neither empowering nor redeeming. There can be no inside or outside, victory or change, meaning or moral action (848)."

From a slightly different perspective, the film defines Michael Clayton as "a lawyer with a niche." According to the senior partner of Clayton's law firm, this is the most desirable situation a lawyer can aspire for. It renders him unique, highly specialized, and indispensable to his law firm. It provides him with some security in an uncertain world. In Wright's terms, it guarantees him a role in his professional elite group, where "each man possesses a special status because of his ability, and their shared status and skill become the basis for mutual respect and affection" (Wright 1975, 86). The catch is that in order to enjoy his status as "a lawyer with a

¹⁹For a full analysis, see Kamir (2009a).

niche," a lawyer must belong to the group in which there is such a niche. Clayton, his firm's fixer, knows all there is to know about every one of its lawyers: their skills, strengths, weaknesses, connections, and secrets. Granted the authority to do so, he can fix anything for them and for the firm. But outside this elite group, his highly specialized skill is worthless. For him, liminality is only possible as a member of the firm. Riding away in a New York cab at the end of the film renders Clayton devoid of any professional merit. He can no longer be effective in any way. He cannot even survive.

33.5.4 Discussion: The End of Liminality?

Classical hero-lawyers of the 1960s were mature men, at the height of their careers, who fought for equal liberty from the threshold of their frontier communities. Most often, they were portrayed as winning their battles while remaining liminal, or becoming even more so.²⁰ In the hero-cowboy tradition, their liminality was associated with open professional frontiers, usually the then promising horizon of civil rights. Despite their liminal state, they succeeded in being effective and influential. Their professional activism made a difference. Even if they did not live to see society change and become more respectful of equal liberty, their spectators knew that such a change would prevail and that these hero-lawyers had helped bring it about.²¹

The hero-lawyers of the transitional phase were men in their mid-careers. Arthur's heroic professional suicide leaves him outside the legal world. In his experience, there is no hope of social change, and he leaves the arena. His liminality is devoid of professional frontier and thus hopeless. Frank's hero-lawyerism, on the other hand, opens up the possibility of a professional future for him. His success at reaching the jury gives rise to hope that the community would use its judgment and power to set things right. Around 1980, when these two films were made, the future seems to have been unclear.

Whether they feature criminal defense lawyers or lawyers fighting corporations, most hero-lawyer movies of the 1990s offer their protagonists no professional frontiers and no hope for a future. On the linear axis, the hero-lawyers of the 1990s can be grouped into two clusters. In the first part of the decade, *Class Action* (1990), *A Few Good Men* (1992), *The Firm* (1993), and *Philadelphia* (1993) feature very young lawyers on the threshold of their careers. All four evolve into hero-lawyers, and all four win their heroic battles. One of the four (Daniel Kaffee) sheds his liminality and becomes a member of a community that is, on the whole, good enough. The film supplies him with an honorable professional future to look forward to, in the service of the navy. The other Tom Cruise young hero-lawyer

²⁰ Atticus Finch was portrayed as losing his case and Paul Biegler as becoming somewhat more integrated in his community.

²¹ Atticus Finch and Henry Drummond.

abandons the hope to become a superstar corporate lawyer and embraces, instead, a dream of a meaningful personal life. The open frontier the film grants him is intimate rather than professional. The other two newborn hero-lawyers end up in a pessimistic, hopeless liminal state, and their battles seem to have no effect on society. The corporations and their law firms continue to rule. They continue to cut corners, to sell defective cars, to launder mafia money, to tamper with evidence, and to discriminate against homosexuals. The hero-lawyers' hard-won victories are but drops in the ocean. While hero-lawyers may win some battles, the corporate world wins the wars.

This message becomes far more evident in the second half of the 1990s. In *The Client* (1994), *A Time to Kill* (1996), *The Devil's Advocate* (1997), and *Civil Action* (1998), the protagonist lawyers are older, in their mid-careers. Their heroic deeds are not rites of passage but acts of redemption. They usually win their cases (in three out of four films) and always embrace liminality. But none of them has an open frontier; none of their victories has any hope of making a difference. The corporations (and in *A Time to Kill*—racism) may suffer anecdotal losses, but the system is immune. Heroic lawyerism seems to be touching, but futile.

The last of these films, *Civil Action*, makes the point most poignantly. It is also most explicit in its disillusionment with liminality as a viable, operative place. *Civil Action* shows that in our contemporary, corporate world, fighting a big, strong corporation requires the kind of funds that only corporations can raise. A liminal lawyer that attempts to take on such a battle is doomed to lose and go bankrupt. Liminal hero-lawyerism is thus a tool of the past. It is unsuitable to fight the corporate world. *Civil Action* is a docudrama; it is based on a true case and depicts the story of a real lawyer. This makes its message all the more chilling.

Following *Civil Action*, fewer hero-lawyer movies were made, and Hollywood seems to have started searching for new avenues. In 2000 *Erin Brockovich*, a docudrama, narrated the story of a hero-legal-clerk and an environmental activist. Five years later, *North Country*, another docudrama, presented the story of a blue-collar mine worker who initiated a sexual harassment class action against her workplace.²²

The 2007 *Michael Clayton* revisited the hero-lawyer of the late 1990s. Encountering the lethal practices of U North, a giant corporation, the title character, a mid-career "fixer," takes on the role of "Shiva, the god of death." He succeeds in bringing professional "death" to two individuals, the corporation's CEO and the chair of its Board of Directors. Clayton manages to expose these individuals' personal responsibility and corruption. But not even god Shiva can curtail the liberty of U North, the giant corporation that had brought death and illness to many unsuspecting farmers. The corporation will pay a fine and continue to grow, pollute, and rule. No hero-lawyer can stop it.

Will Hollywood experiment in search of a new hero, who will deploy new tactics to fight the corporate world? Will the American film industry abandon

²²For a detailed analysis, see Kamir (2009b).

its belief in common law and in lawyers' power to solve the nation's problems one at a time? Will it embrace the corporate world and create its new heroes from its entrails? Will it opt for governmental policies that can regulate the corporate world and ensure equal liberty? Will *Michael Clayton's* characters continue to feature on our screens and commit professional suicide, like whales throwing themselves at the shore? Or will movies supply them with new frontiers, either professional or legal? In a densely populated universe, will the new frontier be internal, within the protagonist's psyche? In a world too crowded to have real physical, territorial frontiers, such as the Wild West, will the new frontier be a psychical horizon? Time will tell.

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Chapter 34

The Representation of Law on Film: *Mr. Deeds* and *Adam's Rib* Go to Court

Wim Staat

Abstract Stanley Cavell's comedies of remarriage sometimes end up in court. When they do, the law featured in these films is not to be mocked. In all seriousness, Cavell claims that these courtroom comedies pertain to the morality of law. To be sure, these films are not about front-page moral dilemmas. They are about what usually remains unnoticed about morality: its being engrained in everyday life. The special courtroom setting lets the everydayness of morality come into view. *Adam's Rib* makes clear that the private lives of its lawyer protagonists sometimes are on public display in the courtroom. This turns out not to be a mistake but a precondition for their marital success. *Mr. Deeds Goes to Court* uses the courtroom stage for the display of the privacy of public moralities. In terms of Charles Sanders Peirce, morality in courtroom cinema works as the habit that comes into view because a change in that habit retrospectively makes us realize that we had a habit in the first place. These courtroom comedies are not asinine pastimes; rather, in so far as they bring into view what before remained unacknowledged, that is, the morality of everyday life, they are, as Peirce would have it, intelligent entertainment.

34.1 High Stakes for Comedies

Mr. Deeds Goes to Town (1936, directed by Frank Capra) and *Adam's Rib* (1949, George Cukor) are comedies made in the so-called golden age of Hollywood, the 1930s and 1940s of the twentieth century, the time of large inner-city cinemas, the time before television. The golden age Hollywood comedies entertained millions. Their box office success, of course, did not go unnoticed, and a critical interest in

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comic genre conventions is still developing. In fact, this chapter can be considered as an attempt to take at least some of these comedies seriously, too seriously, perhaps, for those who just want to enjoy the fact that these quick-paced comedies still can make us laugh. Be forewarned, then, that in just a few paragraphs considering what these comedies may be about, we will go from ethics rules for professional lawyers to a reference to the Declaration of Independence. As will be argued, moreover, these films do not jokingly undermine these earnest references; instead, the earnestness remains, not in spite, but actually in virtue of the comedy.

In this chapter, law on film is approached by way of Stanley Cavell's books on cinema. The two case studies presented have at least two purposes. They are cases in point concerning *both* the relevance of courtroom scenes for our understanding of Cavell's work *and* the significance of cinematic courtroom renditions of private life for our understanding of the morality of law. Although courtroom scenes are discussed by Cavell, they are yet to be developed as crucial to our understanding of the relation between private and public life in Cavell's work. The fact that many characters in Cavell's favorite genre are journalists or otherwise employed by the newspaper business does get some of his attention: "The newspaper figures (...) sometimes so prominently that one may wonder whether it is a feature required by the genre" (*Cities of Words* 11). True, the public's business is the issue, but as this chapter will confirm vis-à-vis Cavell's work, the front-page moral issues for the newspaper are not the moral issues at stake. The case studies' contention will be that newspaper headlines often are beside the point; however, the courtroom scenes are not. What makes the courtroom scenes morally relevant is not their reference to what is in the general public's interest. Instead, their public presentation of private matters is only relevant to a specific audience of experts capable of evaluating these matters precisely as private. These experts are not members of a very exclusive group though. They are the general audience of courtroom comedies.

Regarding the morality of law, the insights offered by our Cavellian case studies of courtroom scenes pertain to the principles of the rule of law. They concern the idea that in a democracy, the law is a coded, that is, procedurally warranted expression of the morality of the people, succinctly captured by Jean-Jacques Rousseau's (1712–1778) formula that laws are acts of the general will (*The Social Contract*, Book II, Chapter 6). The law, then, can be seen as a particular representation of the general will. However, this does not imply that the general will, or morality for that matter, is a constant. An expression of morality can actually change the morality from which it came. Therefore, the case studies' contention will not be that the courtroom scenes are more or less accurate depictions of how law may stand for morality. Instead, the case studies will contend that the film medium's aptness for uneventful everydayness is crucial for our understanding of the processes involved in the interrelationship between morality and courtroom interaction.

More specifically, the relation between morality and law on film can be addressed in terms familiar to experts in signification processes. In this chapter, then, we will use the terminology of Charles Sanders Peirce (1839–1914) in order to reflect on what can be called the semiosis of law on the screen. The interrelationship between law and film will be nuanced. Peirce's semiotic helps to focus: we begin to understand why it is that we need to let the courtroom comedies have us take a look at

the everydayness of our own habits. Peirce's abstractions actually bring us closer to what is right in front of us.

In their legal analysis of *Adam's Rib*, law professors Paul Bergman and Michael Asimow acknowledge the fact that this film is intended as a comedy and should therefore not be taken too seriously. They are cinephiles and write appreciatively about *Adam's Rib*. Nevertheless, Bergman and Asimow are concerned about the suggestion that the protagonists, prosecutor Adam Bonner (Spencer Tracy) and defense lawyer Amanda Bonner (Katharine Hepburn) would take their marital problems to court by way of a case concerning Mrs. Doris Attinger (Judy Holliday) shooting her adulterating husband. As Bergman and Asimow (1996) point out, we should not mistake such law on film for real courtroom interaction. In real life, lawyers may of course get married, but it would be "completely inappropriate for a husband and wife (...) to be opposing each other in court" (89). The serious issue of shooting an adulterating husband is presented comically enough, though, no mistakes there. Yet, we also should not be mistaken about the seriousness of Bergman and Asimow's project either (1996). Indeed, their reference to the legalese of ethics rules turns *Adam's Rib* into a lesson for aspiring attorneys: "A lawyer should not represent a client when that representation may be adversely affected by the lawyer's responsibilities to a third person or to the lawyer's own interests" (89). The professional Bonners, then, should not endanger the interest of a client and should not be opposing each other in court; the private Bonners should leave behind their personal worries at home. But they do not; they break the rules. Interestingly, acknowledging that the comedy of *Adam's Rib* is a result of the Bonners breaking the rules actually brings these rules to the fore, exactly where law professors would want them.

Law scholars appear interested in the representation of law on film, perhaps because many of them believe that not only serious cinematic renditions of actual cases but even courtroom comedies can be excellent illustrations of otherwise unimaginative rules. The image of Katharine Hepburn's character violating ethics rules sticks; unfortunately, the rules themselves do not. As beginning law students will be more familiar with cinematic or televised versions of courtroom interactions than with actual judicial proceedings, law professors may be quite right in admitting film as evidence into their classrooms. The point of these legal experts is that we can learn something about law from the difference between law in popular films and law in actual courts. We may even learn something about popular culture from this very difference, although the legal experts may not be primarily interested in that.¹

¹ In *Film and the Law* (2001), Greenfield et al. systematically address different purposes of law on film, particularly for scholars of law. Their work aims beyond stating obvious differences between "screen law" and "real law": "There seems to us little point in spending too much time pointing out that screen law does not obviously mirror real law" (26). Their point is that even though it is hard enough to determine what to understand by screen law, it would be impossible to describe what real law is independent of what representations of law make of it. In other words, according to Greenfield et al., what we might compare is not so much the representation of law on the one hand and the law itself on the other. Our understanding of the law is what it is, not least because of popular representations of the law. Hence, if there would be an appropriate comparison at all, then "the proper comparison to make is between the cinematic portrayal of law with the cinematic myth of law" (27).

Film scholars perhaps would be, but there is a remarkable mismatch in publicized scholarly attention. Film scholars, it would seem, are not as interested in law films as lawyers are. To be sure, there are many more law professors than film scholars. But even if we would take that quantitative difference into account, it would seem that there is a lack of scholarly attention in film studies. The law film, for example, rarely is considered to be a genre by itself, like the Western or the action-adventure film. Courtroom dramas appear to be relegated to the division of subgenres in crime films; courtroom comedies are even more difficult to classify.² This does not imply, however, that the representation of law on film is uninteresting. Film scholars are interested, but not necessarily in terms of a genre called the law film. In this chapter, whether or not comedies like *Adam's Rib* and *Mr. Deeds Goes to Town* belong to this genre is less important than what the courtroom scenes in these films do for our understanding of the interrelationship between private and public lives. In fact, the courtroom scenes are more important from the perspective of quite another genre, a genre described by Stanley Cavell as “the comedy of remarriage.” By means of the comedy of remarriage, then, Cavell is able to abstract from the legal implications of the law film. Yet, he doesn't abstract from the morality of these films.

We will return to Cavell shortly, but let us first consider what is implied by the display of private and public lives in remarriage comedies. In semiotic terms, this is where private lives and public spheres dynamically signify each other. Film in general can be considered as a privately viewed aspect of the public domain. More specifically, law films like *Adam's Rib* and *Mr. Deeds Goes to Town* show us how the public sphere signifies the realm of privacy and vice versa. In both examples, courtroom scenes are contrasted with scenes dealing with the protagonists' private lives. These films, then, make their viewers experts in evaluating the dynamic, both of courtroom renditions of formerly private interactions, and of domestic repercussions of formerly isolated professionalisms. In the terminology of Charles Sanders Peirce (1931–1934), the interrelationship inherent in this mutual signification can be described as *semieiotic* – Peirce's idiosyncratic way of emphasizing the process of dynamic signification rather than the architecture of a static sign system.

In contrast with the idea that Peirce's work (1931–1934) is highly abstract and notoriously inaccessible, many of the terms he holds crucial for a better understanding of his semiotics are not abstract at all. An example of this, in relation to our understanding of interactions in a continuum of private and public lives, is his use of *habit* and *habit change*. For Peirce, habit cannot be understood without *habit change*. A change of moral behavior may retrospectively signify the familiarity of addressing matters of right and wrong. Without the change of habit, we would not be able to observe the crucial quality of the morality already inherent in our behavior, namely its being a matter of course. From the perspective of Peircean semiotics,

² In Thomas Leitch's book on *Crime Films* (2004), for example, the “lawyer film” is just one of nine subcategories. Still, the fact that there are many problems inherent in defining the law film as a genre *per se* should not be sufficient ground for labeling the law film as a minor or marginal subgenre. Genre theory in film studies is fraught with problems of definition. Even the Western is not as clear-cut a genre as it would seem.

we can claim that *Adam's Rib* and *Mr. Deeds* can help us understand in what way private lives and public spheres can signify each other. Through Peirce we may hope to better understand the way in which a public realm must already have had a private significance, and vice-versa.

Returning to Cavell, recall that Cavell, like Peirce, is not a law professor, nor a film scholar by training. Cavell does have a pedagogical interest, however, in films like *Adam's Rib* or *Mr. Deeds*. In his *Pedagogical Letters on a Register of the Moral Life*, which is the subtitle for his recent *Cities of Words* (2004), Cavell reserves a chapter for *Adam's Rib*.³ In this chapter, Cavell is concerned with legal language and legal documents, albeit less explicitly than law professors Bergman and Asimow. For Cavell, *Adam's Rib*, is a paradigmatic case of the remarriage comedy. Cavell writes that the remarriage comedy shows that marriage requires "a double ratification (...) by its being chosen out of experience not alone out of innocence; and by its acquiescence in allowing itself to become news, open beyond the privacy of privilege, ratified by society" (75). Cavell seems to argue that films like *Adam's Rib* depict how, after the innocence of being in love has perhaps subsided, a married couple enters the public realm of certificates and licenses. But that is not why these films are called comedies of remarriage. To wit, it is not even why Cavell takes his comedies seriously. In fact, the stakes are higher, because the ratification Cavell is interested in is a reflexive one. To be sure, Cavell does not deny that a happy couple requires from society the ratification of its marriage. According to Cavell, however, society requires ratification from married couples as well. "In effect," the happy marriage of the remarriage comedy, Cavell writes, "ratifies its society as a locale in which happiness and liberty can be pursued and (...) preserved" (75). Obviously, writing about liberty and the pursuit of happiness in one sentence can hardly be missed as a reference to the Declaration of Independence. Indeed, for Cavell, an interest in these comedies implies an interest in American democracy. It is precisely in their being about a repeated marriage that democracy is involved.⁴

According to Cavell, the comedy of remarriage presents a lighthearted but not naive version of repeated consent. And repeated consent, Cavell claims, is a crucial ingredient of democracy because of John Locke (1632–1704). The much debated difference between express and tacit consent in Locke's writings, conditioning legitimate government, cannot be resolved once and for all, Cavell claims. Not because there is proof that Locke was wavering in his argument, but rather because

³ Stanley Cavell born (1926) is a philosopher by training, but he has written several books about film appreciated by philosophers and film scholars alike. *Cities of Words* is the condensation of a lecture course on Moral Perfectionism and combines chapters on canonical philosophers with chapters on melodramas and comedies from the 1930s and 1940s.

⁴ Cavell has written earlier about *Adam's Rib* in particular and about the remarriage comedy in general. The high stakes involving the theory of democracy, then, are not new to *Cities of Words*. In *Pursuits of Happiness. The Hollywood Comedy of Remarriage* (1981), Cavell writes: "It is not remarkable to be told publicly that the integrity of society depends upon the integrity of the family. But it is something else to be told that the integrity of society is a function of the integrity of marriage, and vice versa" (193–4). This is, Cavell continues, "the dialectic of remarriage" (216).

wavering is essential to consent. Consent itself is always wavering between the express confirmation of its existence and the imminent doubt about the idea that consent would exist only in so far as it is expressed. In Cavell's words:

Apart from our (...) consent, a Politick Society (Locke's term, WS) does not exist. So that so far as I am in doubt whether I have, or how we have, given consent, I am so far in doubt whether my society exists, whether it speaks for me and I speak for it. And it seems to me that what Locke's wavering indicates is his sense that this doubt is never permanently resolved. (...) That this doubt of the existence of consent, hence the legitimacy – hence of the existence – of society, is never permanently resolved, strikes me as revelatory of the nature of democracy. (68)

We may doubt the legitimacy of our democratic society, and as we are its constituents, this may very well be one of its fundamental weaknesses, but the continuation of this doubt even after we have expressed our consent by our vote is also its forte. Democracy requires from us the endless repetition of our express consent, which will always be doubted as soon as the votes are in. In other words, we need the actualization of our consent in a particular expression of it, not to make it definite, but rather to be able to question it again. What Cavell is emphasizing here is that the uncertainty about consent belongs to the nature of democracy, which is another way of saying that in Locke's work, we have found an early argument for periodical elections. But the theater of elections, the political arena that may come to mind first, is not the only stage for the expression of democracy.

Original about Cavell is that he claims that one of the modern arenas of democracy is popular cinema, not only when politics are explicitly thematized but even when "mere" romance is involved. In these latter cases, the cinema is not so much a place of reflexive contemplation of marital consent projected on the screen; rather, it is the locus of expressed and doubted consent itself, asking from the viewer a participatory role in as much as his readiness to question his own consent to marriage, to law, or to any institutionalization of human interaction becomes an issue for himself. The insight into the repetitious cycle of expressing and doubting consent that comes to the fore in and through film, according to Cavell, is potentially revolutionary, because it reveals the politics of everyday life. The movie camera appears to penetrate deeply into every life. And yet, what we come to see is not so much a front-page truth about, say, technological manipulation by capitalism.⁵ Instead, what we see may be our own conformity to the status quo, the kind of consent that remains undoubted.

⁵ Soviet filmmakers Sergej Eisenstein (1898–1948) and Dziga Vertov (1896–1954) examined and propagated the revolutionary potential of the new medium film. Vertov made news reels which he called *Kino Pravda* ("Film Truth"), because he believed film could unravel truths the naked eye could not see. Walter Benjamin (1892–1940), in "The Work of Art in the Age of Its Technical Reproducibility," compared the movie camera to a surgeon's scalpel and lauded the penetrating insights with which film would mobilize the masses. But Benjamin also warned for the aestheticization of politics, to which use Nazi propaganda has exploited the same medium. Benjamin was therefore suspicious of mass entertainment through film, although he has also written appreciatively about comedy. For Benjamin, Charles Chaplin's comedies have addressed one of the major issues of modernity and technology in a critical albeit entertaining way. For Cavell, however, comedy and melodrama are not first and foremost palatable ways of addressing, by way of everyday-life situations, what Cavell calls front-page moral dilemmas. On the contrary, as everyday-life situations are central to, and not detours from our understanding of morality in film, the effort to substantiate morality in film by referring to the death penalty, abortion, technological manipulation, climate change, etc. would be a byway itself.

Hence, not any film will suffice. A traditional romantic comedy, for example, would not be adequate, because the conventional variations of the expression “I do” are never questioned. Contradistinctively, the comedy of remarriage is premised on doubting these very words, which means that any expression of consent in these films always needs a second coming, as consent is never final.

34.2 *Adam's Rib*: Setting the Courtroom Stage for Remarriage

The moral issue of doubting consent is generic in remarriage comedies, but not because it is thematically featured in terms of front-page moral dilemmas.⁶ To be sure, there is such a front-page moral dilemma in the diegesis of *Adam's Rib*, but according to Cavell, this moral issue is actually less important for our understanding of the repetition of consent than *Adam's Rib*'s average everyday embodiment of it. Before we address this everyday embodiment of consent, though, let us take a closer look at the moral issue thematized by *Adam's Rib*. The headlines of the newspapers in the film are shown to develop an interest away from the shooting of the husband by his wife. We move from “Wife Shoots Fickle Mate,” to gender inequality personified by Amanda Bonner's courtroom performance in “Social Standards Unfair to Female Sex, Declared in Court by Mrs. Bonner.” Notwithstanding the film's lightheartedness, then, Amanda Bonner does indeed face the dilemma whether or not to try Mrs. Attinger's case as her own opportunity to address the general issue of equal rights in contemporary society. However, and this is crucial for Cavell's interest in comedies like *Adam's Rib*, if we were to take this moral issue, perfectly understandable as it is in terms of newspaper headlines, as the only moral issue worthy of the attention of legal and/or film scholars, then we would reduce the potential of these comedies to illustrations of what we already know. In this case, we already know that we should, as Amanda Bonner says, “believe in equal rights for women”; we do not need this particular film to be reminded of that. *Adam's Rib*'s mise-en-scene of equal rights before the law, even if the particular case of Mrs. Attinger suffers because of it, merely is coincidental. For the purpose of generating discussion about equal rights, or about lawyers going public over the interest of their clients, we could have chosen any other film addressing a similar theme.⁷

⁶ In “The Good of Film” (2005), Cavell explains that he is less interested in films concerning “front-page moral dilemmas, say about capital punishment (as in *Dead Man Walking* [1995]) or about whistle blowing (as in *The Insider* [1999]) (...) since such films, whatever their considerable merits, tend to obey the law of a certain form of popular engagement that requires the stripping down of moral complexity into struggles between clear good and blatant evil, or ironic reversals of them” (334). Given Cavell's many pages dedicated to remarriage comedies, it is safe to assume that in Cavell's view, these comedies may actually honor moral complexity and avoid the law of popular engagement according to which morality is presented in terms of clear goods and blatant evils.

⁷ In an appendix to *Pursuits of Happiness* about “Film in the University,” Cavell describes the reduction of the significance of a particular film to what we already know as follows: “It represents just one more instance of using film as an *illustration* of some prior set of occupations rather than constituting an effort to study the medium in and for itself, to gather what it specifically has to teach” (272).

But we need not confine the relevance of *Adam's Rib* to an illustration of preconceived morality. Alternatively, we can point out that the mise-en-scene of Amanda Bonner's claim to equal rights is conditioned by the mise-en-scene of her marriage to Adam Bonner. *Adam's Rib* warrants our understanding of the moral issue of equal rights less through the Attinger case, but rather by way of our insights into the private life of Adam and Amanda Bonner. Their private life is showcased, literally via text cards with drawings of stage curtains adorning the words "That Evening," five times after a day in court, or "and That Night," when the Bonners finally make up. Moreover, the Bonners' dinner party, after the first "That Evening" card, features a home movie entitled "The Mortgage the Merrier" made by the Bonners themselves. In this silent home movie, the Bonners show the celebration of their final payment on their country home. During the screening, the guests exchange witty remarks on costumes, pets, and funny walks. In the privacy of their apartment, the Bonners' home movie is a public display of their private life, shown to entertain their guests, among them their parents but notably also judges from their professional setting⁸.

With this home movie, *Adam's Rib* puts on a display of "nested" privacy. It appears to remind us of the fact that the public display of professionalism in court is counterbalanced not so much by letting us, the viewers, in on the secrecy of the Bonners' privacy, but rather by presenting us with yet another public display, the display of the Bonners' private life at home. The courtroom is not the public opposite of the private Bonner residence. Both the courtroom and the Bonner apartment are settings for the interrelationship of the Bonners' public and private lives. Hence, the dilemma facing Amanda Bonner is not confined to her professionalism. It is not just about the Attinger case versus the common good of equality before the law. Instead, both Amanda and Adam are faced with the prospect that trying the Attinger case could actually amount to their divorce. The Bonner marriage is on trial precisely because their marriage to a certain extent is also public. That is why in *Adam's Rib*, the embodiment of the everydayness of the Bonners' lives is mostly, but not exclusively private. The Bonners' everyday privacy, in as much as it has become significant for us, the viewers, is public.

In a more technical, Peircean term, the public display of their marriage qualifies the Bonner's embodiment of everydayness as the *interpretant* of their marriage. The significance of the 'Bonnerian' embodiment of marriage, is not so much their being married on the basis of, say, a specific romantic adventure or specific wedding vows;

⁸ In 1959, Erving Goffman wrote about *The Presentation of Self in Everyday Life*. He used the theater as his main source of metaphorical reference to make sense of the staging involved in both public and private appearances. Goffman emphasizes that public and private appearances cannot be understood in isolation. According to Goffman, frontstage behavior cannot be understood without reference to backstage behavior and vice versa. He emphasizes the remarkable possibility that front- and backstage activity often contradict each other; Goffman interrelates "front regions where a particular performance is or may be in progress, and back regions where action occurs that is related to the performance but inconsistent with the appearance fostered by the performance" (134). Unlike Goffman's examples, the public and private lives of the Bonners in *Adam's Rib* are not really inconsistent. Very much like Goffman, however, *Adams Rib* lets us understand public appearance by way of private life and vice versa.