Legal Fictions: Novel, Law and Society

Spring 2012/IDSEM 1669

M-W 11-12:15/One Washington Place, 401

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**Description:** Technically, a ‘legal fiction’ is a construction by which existing law is supplemented or even effectively changed without recourse to legislation. But the phrase also might evoke for the modern reader the interesting relations between the novel and the law: from at least the eighteenth century onwards, the plots of novels have been motored by legal processes and institutions; they have featured lawyers as protagonists. But they have also highlighted the ways, obvious and not so obvious, in which modern individuals and societies are shaped by law.

In this course, we’ll engage in a study of the novel as narrative form, while interrogating relations between the novel and the law. By supplementing our readings of novels with theoretical and historical texts and legal cases, we’ll be able to pose some fundamental questions about the strange attraction between law and the novel. Some of our questions: Do novels offer an alternate vision of justice to that posited by law and even a critique of modern legal apparatus? Or do they instead teach people how to understand themselves as legal subjects, schooling them? Do novels present themselves as law’s supplement in some sense? Or are they always somehow in advance of the law, offering visions of society and the ethical to which law must catch up?

**Texts:**

Godwin, *Caleb Williams*

Dickens, *Bleak House*

Braddon, *Lady Audley’s Secret*

Melville, *Billy Budd, Sailor: An inside narrative*

Morrison, *Beloved*

Coetzee, *Waiting For the Barbarians*

Bentham, *The Panopticon Writings*

Supplementary Texts to be available via class blackboard site; they are indicated on class schedule with an asterisk.

**Requirements:** There will be two papers of roughly seven to ten pages each, one at the midterm and one at the end of the semester. You will also be asked to write informally each week in response to reading questions to prepare for class discussion.

**Attendance and Punctuality:** Attendance is required, as is class participation. More than three unexcused absences can cause you to fail the course. Come to class on time and prepared.
• **Academic Integrity**: As a Gallatin student you belong to an interdisciplinary community of artists and scholars who value honest and open intellectual inquiry. This relationship depends on mutual respect, responsibility, and integrity. Failure to uphold these values will be subject to severe sanction, which may include dismissal from the University. Examples of behaviors that compromise the academic integrity of the Gallatin School include plagiarism, illicit collaboration, doubling or recycling coursework, and cheating. Please consult the Gallatin Bulletin or Gallatin website [www.gallatin.nyu.edu/academics/policies/policy/integrity.html](http://www.gallatin.nyu.edu/academics/policies/policy/integrity.html) for a full description of the academic integrity policy.

**Incompletes**: An incomplete (I) is issued in those rare cases when a student is unable to finish the assigned work for a course due to illness, family emergency, or other extraordinary circumstances. Incompletes must be requested in advance of the final deadlines for the course. Please familiarize yourselves with the Gallatin Policy on Incompletes on the website.

**Class Schedule (Note that this schedule is somewhat elastic and may change a bit as we go along)**

January 23: Introductions.

January 25: Literature and Law: Disputed relations?

- James Boyd White, “Law as Rhetoric, Rhetoric as Law”* 
- Martha Nussbaum, fr. *Poetic Justice* 
- Peter Brooks, “The Law as Narrative and Rhetoric”* 

January 30: *Caleb Williams*: Law and the “Jacobin Gothic”

February 1: *Caleb Williams*

- Henry Maine, from *Ancient Law* 
- Moran, “Law and the Gothic Imagination”* 
- Grossman, “*Caleb Williams* and the Novel’s Forensic Form” 

February 6: *Caleb Williams*

- Bentham, *The Panopticon Writings*: Preface, Letters 1-6 

February 8: *Bleak House*

- Baker, “The Court of Chancery and Equity”* 

February 13: *BH* 

February 15: *BH* 

February 20: **Presidents’ Day Holiday**
February 22: BH
February 27: BH
February 29: BH
  - Hillis Miller, “Moments of Decision in Bleak House”
March 5: Lady Audley’s Secret
March 7: LAS
  - Welsh, fr Strong Representations
  - Bentham, on circumstantial evidence, from A Rationale of Judicial Evidence
March 12–17: Spring Break
March 19: Lady Audley’s Secret
March 21: Billy Budd
March 26: Billy Budd
March 28: Billy Budd
  - Cover, fr Justice Accused
April 2: “The Fugitive Slave Law”
  Sandiford v. Scott
April 4: Morrison, Beloved
April 9: Morrison, Beloved
April 11: Beloved
April 16: Beloved
April 18: Beloved
April 23: Waiting for the Barbarians
April 25: WB
  - Supplemental TBA
April 30: WB
  - Schmitt, fr The Concept of the Political
May 2: Agamben, fr State of Exception
May 7: Wrap-up and Final Papers discussion
May 9 by 5pm: Final Papers due