Legal Fictions: Novel, Law, and Society

Spring 2014

Monday/Wednesday 2-3:15

Waverly 429

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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. 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?

**Learning Goals:** 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, students will learn to pose some fundamental questions about the strange attraction between law and the novel. This entails learning to examine narrative fiction in the context of its historical and legal background, while attending to its literary qualities.

**Texts:**

Godwin, *Caleb Williams*

Collins, *The Law and the Lady*

Eliot, *Felix Holt, Radical*

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

Morrison, *Beloved*

Kafka, "In the Penal Colony"

Coetzee, *Waiting For the Barbarians*

Brooks, ed. *Law’s Stories*

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 have your choice of a set of topics.

You will also write informally each week in response to reading questions to prepare for class discussion. These short writings do not receive letter grades, but are part of your work for the course and must be handed in each week.

Participation is mandatory. You should come to class prepared and ready to engage in discussion.

**Attendance and Punctuality:** Both are required. 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] 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

[nb: this schedule may change in slight ways as we go along; asterisked items will be on the NYUclasses site]

January 27: Introduction.

January 29: Criminal Biography and *Caleb Williams*

- excerpts from The Newgate Calendar*
- Dolin, "Crime and Punishment in the Eighteenth Century"*

February 3: *Caleb Williams*

February 5: *Caleb Williams*

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


February 12: Eliot, cont’d.

February 17: Presidents’ Day. No class.

February 19: *Felix Holt*

- *Address to Working Men*

February 24: *Felix Holt*

- The Legal Plot of *Felix Holt*
- "The Natural History of the German People" [excerpt]
February 26: *Felix Holt*

March 3: Legal Sensations: Popular Trials and Popular Novels

- Wilkie Collins, *The Law and the Lady*
- Altick, “Henry James's Perfect Case”*

March 5: Collins, cont’d.

- Alexander Welsh, fr. *Strong Representations*

March 10: Collins, cont’d.

March 12: Collins, cont’d

- First Formal Paper Due

March 17-23: Spring Break.

March 24: Moral/Formal Dilemmas: Melville, *Billy Budd*

March 26: Melville, cont’d.

- Cover, fr. *Justice Accused*

March 31: Fugitive Justice

- text of The Fugitive Slave Act of 1850
- Sandiford v. Scott
- Brooks, "The Law as Narrative and Rhetoric"

April 2: Morrison, *Beloved*

April 7: Morrison, *Beloved*

April 9: Morrison

April 14: Morrison

April 16: Morrison

April 21: Kafka, "In the Penal Colony"

April 23: Kafka, "In the Penal Colony"

April 28: Coetzee, *Waiting For the Barbarians*

- Dolin, "Law and Literature in the Post-Colonial Society"

April 30: Coetzee, *Waiting For the Barbarians*

May 5: Coetzee, cont’d.
May 7: Achille Mbembe, "Necropolitics"

May 12: Last class/Wrap-up. Discussion of final papers.

May 15: Final date for submission of final papers.