

## Patterns of Courtroom Justice

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*Any one film can sustain a myriad of compelling interpretations. A collection of films, however, sharing formal and substantive qualities, reveals a common effect more than a diversity of meanings. This essay traces the shared formal and substantive qualities of a group of films, as I name them 'trial films'. It documents this genre of film by identifying the genre's norms of viewing and identification. It also investigates peculiar hybrid discourse of the trial film genre that combines both filmic and legal discursive practices to show how trial films cultivate support for the American system of law through its constitution of a specific viewing audience. In so doing, I broach the following questions: how do images of law in film help sustain the power and legitimacy of legal institutions? How does the study of film genres, like the courtroom drama, reveal the way law lives beyond its formal processes?*

### I. THE GENRE AND ITS VIEWER-SUBJECT

What will follow in this essay will be the identification of the 'trial film' genre. Specifically, I look at the space of the courthouse and courtroom and how, in film, they signify legal processes and law's promise of justice. In practice, the trial is a ritualistic aspect of the law that is often overlooked (and, in fact, a stage in the litigation process that is rarely reached) but that is crucial to the law's binding of its practice with its ideals in culture. I would dare to say that the trial, for many people, is the symbol of law in action. How, then, does it garner meaning in these films?

My answer is two-fold. First, trial films, as a group, contain identifiable patterns of narrative structure, cinematic features, and character development that manifest assumptions, embolden expectations, and reproduce ideological notions of legality. These patterns – marks of a genre – induce specific expectations of law in the films' community of viewers,

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expectations of their own subjective and authoritative role in making meaning and meting out justice within the American legal system. Second, in order for these patterns to be influential (as I argue that trial films are in the production of popular legal consciousness), as embodied by the trial film genre, these patterns constitute and encourage the identification of a specific kind of film viewer, what I call the trial film's viewer-subject. This viewer-subject is one end-effect of the trial film genre: an experience through which the spectator (inscribed by the filmic text) interacts with the social viewer (audience member) and is asked to assume certain positions within and by the film in order to make sense of it. This viewer-subject is one way trial films help sustain the power and legitimacy of legal institutions.

The trial film's viewer-subject mirrors the concept of the liberal legal subject (the subject of legal liberalism) and his central role in the pursuit of justice.<sup>1</sup> In a three-stage process, the trial film encourages its viewer-subject both to believe in his crucial contribution to the law's success and to critique the law's all-encompassing constitutive capabilities. Normally (that is, generically), this critical position is incorporated into the film's story of law and results in an affirmation of both law's capacity to include those who dissent from it and film's capacity to incorporate its viewers in its worldmaking. The trial film deliberately choreographs the viewer-subject's participation in and critique of law to produce and sustain the ideology of liberal legalism: an understanding that law's recursive structure sustains its authority and power, but also an insistence on the possibility of (as the liberal legal subject claims to embody an example of) individual resistance and agency despite law's engulfing presence. In other words, the viewer-subject of trial films, as constituted by the discursive strategies of film and law, is encouraged to expect justice through law by virtue of his unique contribution to the system (the filmic system of meaning and the legal system of justice), and yet also to insist that justice reside apart from the law's institutionalized processes.

## II. THE VIEWER-SUBJECT'S JOURNEY TOWARD JUSTICE

### 1. *Step one: framing patterns, static symbols, and establishing shots*

Most initially striking among trial films are the consistent establishing shots setting the scene in the house of law. Much of the time, these shots are at the beginning and end of the film, like a frame, the law as the skeleton that structures the story.<sup>2</sup> Other times, these shots are only in the film as the trial

1 I deliberately use the masculine pronoun here. One of my arguments, made elsewhere, is that the dominant viewer-subject of the trial film is male, that is, the liberal legal subject as constituted by trial films is gendered masculine. J. Silbey, 'The Subjects of Trial Films' (PhD., University of Michigan, 1999) ch. 5.

2 See, for example, the discussion of *And Justice for All* (Norman Jewison, 1979) that follows.

process is introduced – after the discovery of the crime, or upon introduction of the attorney, judge, jury member or witness who is to be central to the law’s functioning in this case.<sup>3</sup> In either instance, usually an initial shot sequence pastes together a complex experience of what will be the legal experience – grand and opulent, pregnant with promise, disorienting and mysterious, somewhat ominous and potentially threatening. The result of this initiation into the legal system that will, from then on, structure and flavour the film’s story, is a double relation to the law: on the one hand detached and alienated and on the other hand involved and invested. In both relations, however, the viewer-subject is led, as if by hand, through the corridors and doors of the courthouse making the law – however distant, noble or flawed – the context in which the conflicts of the film must be resolved. The space of the courthouse seems inevitable, and in this way, the viewer-subject is made to urge a resolution of this double relation in the terms given to him: by his own occupation of the legal process and toward the law’s overdetermined goals of order and justice.

The baptism most often begins with either shots from outside the courthouse looking up at the glare and height of its cupola or head-on shots of a statue, monument or engraving outside the building; it inevitably includes a wide-angle shot of the front steps and tall pillars of the courthouse, the viewer-subject placed at the edge of government property about to touch down on government soil. The statues might be lady liberty, as in *Inherit the Wind*,<sup>4</sup> or a shot of the monument commemorating the battle of Iwo Jima, as in *A Few Good Men*.<sup>5</sup> The monuments and statues salute the purpose of the building they introduce; they seem to say that the nation’s rule of law that provides our freedom is worth the fights of the past. This, in turn, implies that the fight that will follow is also worth the freedom it ostensibly will enable. The fight for freedom means little, however, if there are no visible individuals in whose name the fight goes on. For this reason, the absence of people in these establishing shots is, at first, ominous. It is not difficult, however, to fill the absence with our own desire to infuse these monuments with the freedom and justice they promise. The empty stairs and the tall pillars facing us directly are, thus, like a newly-laid carpet beckoning the viewer-subject into the house on the hill. When, soon after, the steps inevitably teem with crowds, the ominousness has faded and the goodwill sustained by the liveliness and energy surrounding these monuments has taken its place. The diminutive size of the people on the exaggerated steps of courthouse is both comforting, as the strength of the building and its enduring quality protects us as we hover, and daunting, as we recognize our potential insignificance among the crowds standing in the building’s shadows.

3 See, for example, *Adam’s Rib* (George Cukor, 1949).

4 *Inherit the Wind* (Stanley Kramer, 1960).

5 *A Few Good Men* (Robert Reiner, 1992).

This sequence highlights the differences between the inanimateness and permanence of stone, and the lively, however temporary, presence of individuals. It also points to the mutual dependence of such opposites – the stone walls are made significant by the individuals who are housed by them, as the individuals are made immortal by the stone that is carved in their name. The law is somewhere in the middle here, in the binding relation – both animate and inanimate – as it is both the house on the hill and the people that built it there. There is a grandeur about these sequences, a triumphant tone that always comes with gleaming gold, blue skies and the bustle of people busy with life's work. It suggests that law's entrance should be followed by a fanfare as something to be revered and appreciated. If such a sequence were to be shot in dreary conditions – aberrant weather over dilapidated buildings – the grandeur of the structure would remain, only it might be tainted, hinting at corruption, foreshadowing a fall. The expectation of opulence and great-heartedness remains, however, only in its disappointed form. In either instance, the experience of this initial shot sequence of the courthouse is the beginning of a relation between the glory and pride that attaches to an unfaltering legal system and the individuals who call to it in challenge and need.

Like a dose of reality, once inside the glorified house of law, the camera's object and its stalwart gaze often change rapidly. The steps continue inside, but instead of being covered by a welcoming carpet, they are dizzying as the camera hangs from the cupola suggesting that here the law is untouchable and precarious. Made to look up at the height of the dome, the viewer-subject cannot help but compare it to the steeples and rotundas of churches and cathedrals as it reaches for the sky and is coloured like the heavens in blue and gold. Less significant and less stable than before, the viewer-subject nevertheless considers law as a faith, as other-worldly and as indispensable to our organization of social life. When we are brought further into the inner domain of the courthouse, twisting stairs and corridors project a sense of claustrophobia with their shadows and dead ends; labyrinthine hallways are either ghostly empty or they are too crowded, with no room to move. Either way, the necessity of faith has strengthened as trepidation and confusion encroaches. The viewer-subject, initially in awe of the monument to law and grateful for its enduring promise, grows concerned about his original naïvety. Within these walls, a balance must be achieved that is not inherent in their structure. Invested in the law's foundation, and already infused with expectations that past successes will carry into the future, the viewer-subject is caught in the middle of its contradictions, between the concrete force of law's daily life and its goal of lasting justice.

The establishing-shot sequence ends in a courtroom combining the experience of our initiation with the inner sanctum of the house of law. It is both reminiscent of the courthouse hallways – disordered and confusing in the diversity of individuals who populate the room and whose chatter is unintelligible to us – and of its front entrance, grandiose and belittling in its

wooden panelling, symmetrical galleries, raised judge's bench and haloed windows. The usual symmetry with which we are introduced into the courtroom, however – from behind the gallery, down the centre aisle, focusing on the judge's bench and the United States flag adjacent – cures some of the residual anxiety from outside the room. This is where little battles are fought in the name of the bigger ones, and here, it looks as if order reigns and we have a place within it. Often the judge is introduced just after our entrance, or sometimes the judge sits awaiting our arrival, banging the gavel shortly thereafter, as if court could not begin until we got there. In harmony with the judge's timing, we feel that this is where the film begins – our introduction to the courthouse aside – with the individual case before an individual judge calling the court to order.

In the shot sequence of these images lie competing feelings of order and disorder, vertigo and claustrophobia, reverence and alienation, humanity and immortality, realism and idealism, defeat and triumph. The constant juxtapositioning of these images challenges the viewer-subject of the film to make sense of their dichotomous relationships. Entirely engulfed by the law's monument in stone, marble, gilt, and wainscoting, we must make sense of these contradictions within the space provided. Our expectations have been established by this entrance; we are awake to the possibility of fault and corruption while we remain wary, however hopeful, of the impact of a specific verdict on our faith in the law's ability to achieve an enduring order and justice. Our entrance cued the battle cry. And it is in the courtroom, we expect, the truth of law's potential will be revealed. Common to all the films I have studied, with some minor deviations, these shots map the viewer-subject's initiation into the house of law and set out the ensuing fight that will judge law and the persons who are brought before it. As a part of the trial film genre, these scenes, repeated over and over, form part of a cultural consciousness – a common spatio-temporal experience – that, with each repetition, represent a feeling and reaffirm a claim to law's relation to justice in terms of that individual journey before the law for the viewing audience who belongs to this particular cultural co-ordinate.

(a) *And Justice For All*

The opening montage sequence of *And Justice For All*<sup>6</sup> begins with the juxtaposition of the wide sunny steps of the courthouse building and its narrow dark halls in the entry way. The hallways are made of marble, lit by antique sconces; the hallways are vacant and shiny. Inside, the camera focuses on a series of informational signs that mark the judge chambers as well as rules of courtroom decorum and schedules. Other signs direct the process for legal complaints, body searches, and security measures. Some signs are permanent, painted on doors, written on plaques; others seem fleeting, hand-written on blackboards and scraps of paper. Indication of

6 *And Justice For All* (Norman Jewison, 1978).

activity is everywhere, as the signs are supposed to organize that activity, but the building is empty. The initial glory of the sunny courthouse and the marble hallways gives way to the mundaneness of signs prohibiting gum-chewing in the courtroom. The scene ends with a chorus of school children fumbling over the pledge of allegiance, their last phrase ‘and justice for all’ to the beat of distinctly 1970s music, and the camera focusing on a painting above the judge’s bench depicting Jesus addressing angels at his resurrection. The children suggest the promise of the future, but their garbled pledge threatens a naivety; the painting screams of sacrifice and redemption, but also threatens the lives of those that come before the judge in court.

Placed in the context of the characters of this film about a Baltimore public defender, Arthur Kirkland (played by Al Pacino), who sees himself as a little man fighting for other little men against what he experiences as a corrupt justice system, this opening montage is a sarcastic indicator of an American ideology: surrounded by all the signs of justice – some glorious, some mundane – the promise of law is at worse superficial and at best idealistic, nearly impossible to experience or achieve. Like many religions, this quest for justice is about rules and redemption, sacrifice and resisting revenge. So in the beginning, while Arthur Kirkland believes deeply in the promise of law, he also realizes that sometimes law’s rules need to be broken to achieve that promise of justice. This is a paradox he is willing to live with, that he actually lives to maintain – like the dichotomous senses of our initial entrance into the courthouse – until too many people are needlessly harmed at the hands of the internally flawed system. Without the glimmering possibility of their redemption, Arthur, no longer able to make sense of the contradictions, seeks revenge. He does so by challenging the very foundation of the system the film set up from the beginning – the courtroom as a majestic and orderly place, however filled with ordinary people full of faults – and calls into question the futility of his role, the intention of law, and throws the court into chaos.

This chaos is preordained from the beginning of the film. After the opening montage, we return again to the courthouse, this time on the shoulder of Arthur Kirkland as he leaps the stairs of the building two at a time, weaves in and out of the crowded hallways, and eventually lands in court, before the suicidal Judge Rayford (played by Jack Warden), where Kirkland will successfully plead for a continuance for his client accused of forging lottery tickets. His agility and liveliness is in direct contrast to our introductory glimpse of him, not a minute before, slumped against the wall of a crowded, filthy jail cell where he spent the night for contempt of court. He is our hero, the man who, while part of the law, having internalized its procedure and its ideals, nevertheless fights like a solitary crusader with the legal contradictions that too often resolve themselves in favour of the system and not its subjects. As Arthur identifies with his clients, the viewer-subject is made to identify with him, following him to his ultimate test: whether or

not to defend a judge who is guilty of rape and who is remorseless. Caught between his defender sensibilities that recognize the honesty that defending the guilty infuses into the justice system and his awareness that this powerful judge has taken advantage of those defender sensibilities for his own loathsome gain, Arthur Kirkland must decide whether to adhere to a central legal tenet that everyone, even an admitted rapist, is entitled to a fair trial, or to throw the trial and with it his legal career.

The establishing shot of the film set up this conflict between the glamour of the courthouse façade, the workaday atmosphere of its inside, and the insinuation of mythical (and potentially mistaken) sacrifice at its finale. The ending shot concludes this conflict: we see Arthur Kirkland close-up sitting dazed at the top of the courthouse steps, under the pillars, squinting in the sunlight, having just been carried out of court by the bailiffs because he purged himself of his client's guilt in open court before the jury. The scene is triumphant – in the sun, at the top of the stairs; we are proud of Kirkland's courage despite the mistrial he just caused, and we feel relieved that everyone, not only counsel, knows the truth of the judge's guilt. We also recognize that he is still (as are we) within the stronghold of the law, for good or for bad; despite the centrality of Kirkland (in this last shot and throughout the film) and despite our satisfied sense of vengeance made possible by his heroic *coup de grâce*, the kind of momentary chaos and vigilante justice Arthur inspired is nevertheless recovered into the possibility of an ordered justice as attorneys and clients climb the stairs for another day at the courthouse.

(b) *Class Action*

*Class Action*<sup>7</sup> begins with a panorama of the San Francisco skyline, the morning sleepy rush-hour and a montage of monuments in the city parks, and a shot of a courthouse cupola and the United States flag blowing in the wind. We enter the courthouse, up the steps and under its dome. Shot from above, the cupola is imposing and the camera is wobbly indicating a sense of unrest to come. Echoing through the halls, we hear the murmur of arguments over a syncopated pounding of gavels. Through the fracas we hear clichéd phrases oozing from the courtrooms, clichés otherwise envisioned from the outset: 'justice is blind not deaf', 'appeals to emotion have no place in the courtroom of law', 'the court of justice, like Alice and Wonderland, is filled with non-sequiturs; it makes no sense, until we give it sense'. All of these clichés imply the inevitability of that individual voice that will infuse the empty halls and towering heights with meaning; they also imply the prerequisite, that before such an infusion, these monuments to law and national pride are barely significant as they stand alone.

Grandiose and clichéd from the beginning, this film goes on to narrate the eternal rivalry of justice (that individual voice) with the rule of law (the

<sup>7</sup> *Class Action* (Michael Apted, 1991).

constellation of monuments) through the conflicted relationship of two attorneys – an overbearing, adulterous father who works as a civil-rights attorney, and his self-righteous and bitter daughter who works for a rival corporate law firm. The film traces the work on one case by father and daughter, each researching for opposing sides an automobile company that is being sued for knowingly profiting from deadly malfunctioning cars. At the core of the case, and the film, is the schism between head and heart, professional and personal, law and justice that drives apart daughter and father. We watch as the daughter (played by Mary Elizabeth Mastrantonio), desperate for a place ‘where [her father] can’t make the rules’, fights her father (played by Gene Hackman) and his every move in and out of court – a place where she thinks the rules make the game even. We watch as she has the authority of legal precedent behind her, as she uses it to take revenge for her father’s adultery and as she rests on the brink of legal victory, until she realizes that justice lies on the other side.

Her mother’s overdetermined sacrificial death by heart attack on the glorious courthouse steps awakens her daughter to the fact that law does not make a game fair, it must be made fair by the players. So when she serendipitously learns that her firm has knowingly conspired to cover-up their client’s legal liability, she vows to right the scales of justice with the legal upper hand she has been dealt. In this way, she not only mirrors the tension from the establishing shot of the film, but settles it in favour of that individual voice. Despite the legal precedent, and despite her oath as an attorney to represent her client to the best of her ability, the daughter colludes with the father, the opposing counsel, in exposing her client as the fatally reckless corporation it was accused of being. Her firm is humbled by the loss, but not out of business; and she remains a lawyer, although not in the corporate firm. Thus, the game of law continues to be played, according to the rules that remain always already in place, by a self-righteous individual who believes in the power of his or her voice to alter the game for the better, if only for a moment.

(c) *Twelve Angry Men*

*Twelve Angry Men*<sup>8</sup> begins with an upward scan of the courthouse façade which widens as it climbs, overwhelming the screen. Inside the courthouse, the camera hangs from the ceiling, first dwarfing the inhabitants it shelters, and then slowly demonizing them as it draws closer – too close – to return them to a human size. Then we are inside the courtroom; it is miniature compared to the atrium outside. A fishbowl close-up of the judge’s gavel and his hand as it fiddles with a pencil suggests a bored, depleted man who is nevertheless supposed to stand for law’s wisdom. With a sigh, the judge monotonously intones the criminal burden of proof and discharges the responsibility of its application to the jury of twelve men before him.

8 *Twelve Angry Men* (Sidney Lumet, 1957).

Humanity is grossly mundane here, made especially so in contrast to the courthouse's exaggerated granite and cathedral heights. With a last scan of an already exhausted jury, the camera fades from a pitifully drawn, young face of the defendant charged with a capital crime to the jury deliberating room, which, unlike the opening shot of the courthouse, is claustrophobic and sweltering; mounted fans don't work and the doors are shut, apparently locked from the outside. The jury is slated as either prisoners or animals. Either way, their contribution to law, like the judge's, cannot be inspiring. Posed with this monstrous picture of law's house inhabited by pathetic members, the opening of this film suggests nothing but the emptiness and defeat of justice. There is no hint of law's promise here, except in its absence.

The end of the film, however, is a complete reversal of this opening sequence. Positioned from the stifling and dark coat closet, the camera follows each juror out the door of the deliberating room, pans to the table filled with paper and dirty ashtrays – indication of a busy life and passing time – and fades into a shot of the front of the courthouse looking down from under the immense pillars. The camera then zooms slowly to focus on Henry Fonda's character, a juror, who stands below – humanized this time, not demonized, by the camera's proportional treatment. On the steps of the courthouse, Henry Fonda's character exchanges names with a fellow juror (played by John Fielder) for the first time. Both, then, walk away and down the steps into the waning light of day. The camera remains on the steps, focusing the viewer-subject on the centre screen in between the columns hanging like a chandelier looking out at the day and re-establishing the house of law as enlightened and inviting.

This ending is a summation of the events of the film that chronicles the day of a jury deliberation in which one man (played by Henry Fonda) convinces eleven others to change their 'guilty' vote to 'not-guilty' based on a new (and according to the film, better) understanding of the rule of law and its ideal of equal justice for each individual. Set up originally as a system of disinterested people and disorganized parts, law is (re)made by a group of twelve men by virtue of their argument, the conflict between individual and group desires, and the clarification that results. This film initially questions the jury system by portraying a tyrannical majority as the decision-making body, an imbalance between group dynamics (the imposing structure) and the individual voices (the dwarfed shots of people inside the structure, parts without the whole). That we never know people by name in this film accentuates this imbalance; law is an impediment to the ability to stand as an individual among many with the same rights and allowances, to be known by name without prejudice or malice and without foregoing impartiality. At the end, however, the balance between house and member is repaired; through the trial process, the film restores the activity and the ability to know each other by name and as citizens of the same house, and the viewer-subject is made to live comfortably beneath its columns.

These framing patterns – particularly the opening shot sequences of the films – form part of the filmic codes through which the expectations of law and justice are established and fulfilled (and sometimes broken) during the viewing experience. These expectations are integral to the relationship between the viewer-subject and the film that is enabled by the trial film genre as it develops throughout the one film and across many others similarly coded. In these beginnings, the viewer-subject is positioned ambivalently, wary of the edifice that towers before and above him, as well as hoping for its shelter as a haven of order and righteousness. In the end, that ambivalence has lessened as the viewer-subject has been made to identify with the film's marginal legal subject who nevertheless triumphs at the heart of law's ritual process, thus recapturing the gloriousness of the opening and keeping at bay its gnawing anxiety. The trial process becomes a metaphor not only of the justice that law can enact, but of the struggle through which a determined individual must journey in order to participate in that justice he has learned to demand from the law. These framing patterns are only the skeleton of the trial film experience, however – the outline of the film's story – that will fill out and grow complex from the subsequent transitions and developments in the film's narrative and form.

## *2. Step two: position, relation, and perspective*

If the above framing patterns were all that was remembered of the trial film, the journey to justice would be the development from legal edifice to legal hero – a story of the individual who triumphs over the inanimacy of legal monuments and infuses them with the promise of individual determinism and freedom for which they were arguably erected to praise. This is a crude summary of the experience of the trial film, however. Once inside the courthouse and drenched with the details of the particular conflict whose resolution the legal process promises, these framing patterns are revealed as merely the stage on which more complex and subtle relationships with the law are played. These relationships within law's theatre are constant throughout the genre; just as there are limited opening and closing shots for the trial film, so there are limited predetermined relationships that are made by the camera between the viewer-subject and the legal process that unfolds during the film.

Most of these relationships are positions and roles that blossom in the courtroom and are constituted through the trial process in the form of persistent camera movement and technique that hones and manipulates the viewer-subject's understanding of the merits of the case at hand. For example, inevitably, the camera positions the viewer-subject as an actor in the courtroom – in the jury box, on the witness stand, behind the judge's bench, over the shoulder of the trial attorney – and often in a position which, at that moment, is potent with critical decision-making duties. The viewer-subject is in the jury box when counsel makes closing remarks, for example, or he is on the witness stand when counsel asks questions that are crucial for

the revelation of the truth of the case. In this way, the trial's promise as a cohesive and satisfying process lies in the confluence of these positions as inhabited by the viewer-subject.<sup>9</sup>

The camera will also cue the revelation of clandestine relations between characters in the film, relations, which once outed by the trial process, enable a just conclusion. By framing the film's characters in a single head shot, for example, and then cutting swiftly from one character to another, the camera discloses the psychic relationship between the thoughts, lives, and situations of the highlighted persons within the courtroom, encouraging the viewer-subject to declare the pertinent connections relevant for the trial at hand. This kind of relational composition is common in many films as a form of suturing device,<sup>10</sup> but in trial films they are the imperative contrast to the initially inhuman shots of monuments, façades, stairs, flags, empty hallways and courtrooms. Now, filled with faces – often close-ups of emotional expressions and gestures – the house of law is imbued with the significance of individual human lives as represented by the uncovered relationships between people in a court of law.

Finally, the camera also acts as a perspective lens, zooming and reverse-zooming, panning and rotating, providing a sense of coherence and omniscience within the courtroom, that is, able to see the situation from many angles and with a multi-faceted perspective of time and space. The camera takes on the representation of the ideal of justice – for example, providing distance for objectivity, close-ups for intimacy and emotion, zoom shots for pointed commentary – in order to evaluate the case from all possible positions and to put the problem in a reasonable situational context. In its more technical manoeuvres, the film camera is not mimicking the human eye but accomplishing those perspectives only capable of a machine that hangs from a ceiling or can pivot through 360 degrees. In this way, the ideal of justice as a form of perspective is only imaginable as a combination of the human with his technological or institutional supplements. Law's promise is thus imagined not only as a disclosure of the viewer-subject's privileged knowledge based on the camera's reinforcing and revealing connections in the courtroom, but also as incorporating the ideal of a superstructure, a justice system powered by a community of individuals and their institutional by-products of rules, roles, stages, and props.

As an example, take *The Verdict*.<sup>11</sup> At the climax – the trial toward which all of the film's energy has been directed – the camera hangs back from the

9 M. Ball, 'The Play's the Thing: An Unscientific Reflection on Courts Under the Rubric of Theater' (1981) 28 *Stanford Law Rev.* 104.

10 Suture as a concept originated in psychoanalytic theory with Lacan's student Jacques-Alain Miller. It was incorporated by film theorists, initially by Jean-Pierre Oudart, to describe the production of the subject through film, particularly in terms of the subject as produced by the exchange of gazes through the filmic discursive practices. See J.-P. Oudart, 'Cinema and Suture' (1978) 4 *Screen* 18 35–47.

11 *The Verdict* (Sidney Lumet, 1982).

activity in the courthouse, easily losing sight of and focus on the central character of the film, Francis Galvin (played by Paul Newman). He fades into the woodwork behind the plaintiff's table, is lost around the labyrinthine corridors of the courthouse, is blocked by the balconies and the columns inside the building. He is the underdog in this case of medical malpractice, an alcoholic plaintiff's attorney who has seemingly during the course of the film tragically bungled what would have been his first winnable case in over three years. The lack of the camera's focus on Galvin suggests his own weakness and his ambivalence toward the legal system which we learn has cost him his job and his integrity due to corrupt colleagues from years past. He has become a pawn of the system, a stereotype of an ambulance-chaser, and as such, his figure and his lifestyle are completely dominated – taken over – by the structure of the courthouse.

The trial drags on for several days and straddles a weekend. With each witness, Galvin's case grows weaker and the anticipation of the trial's outcome bodes only tragedy. During the examination of these witnesses, the viewer-subject is made to simultaneously participate in and judge the trial's progress by being placed in critical roles and by cueing key relationships between the characters. Galvin's expert witness, for example, has been bought off by the defence to flee the jurisdiction and Galvin is instead stuck with an incredible general practitioner to counter the reputations of the world-renowned obstetricians who sit accused of malpractice. During the expert testimony, the judge, already angered by Galvin's poor performance, takes it upon himself to question the witness, a permissible if uncommon practice. During this exchange, the camera films the two men – the expert witness and the judge – in contrast. From the judge's bench, the camera teeters over the edge, looking down in a canted shot of the doctor, reinforcing his incredible testimony. From the witness stand, the camera looks up at the judge who peers over the side of his bench and who fills the screen as he fires harsh criticism down toward the witness and at his weak testimony. The close-up shots and the relational editing in this exchange neatly demonize both characters who both turn out to equally damage Galvin's sympathetic, however losing case. The viewer-subject is made uncomfortable in the position of witness and judge, unable to empathize with either character in this scene; in this alienating exchange, one strongly feels that the role of judge or expert will frustrate the legal system's hortatory goal.

In contrast, during the testimony of plaintiff's surprise rebuttal witness, Kaitlin Costello Price, the camera does not film her testimony from the judge's bench as if to criticize, but from the plaintiff's desk and the jury box as if in compassion and support. When Ms. Price gives her startling testimony – direct evidence of the obstetricians' malpractice – she is filmed close-up and straight on. The camera does not belittle her by filming her from above, nor does it aggrandize her from below. And despite the fact that the defence attorney, in all attempts to discredit her testimony, looms above

her as she sits in the witness stand, the camera sides with Ms. Price, sitting on her shoulder as if in support and comfort. It is during this testimony when Galvin finally stands out in court. He does not look confident, however, but slumps behind plaintiff's desk biting his nails. Nevertheless, he figures centrally in this cross-examination of his own witness. The film sutures his expressions in between shots of Ms. Price as she testifies, of the judge as he sits back surprised at the serendipitous turn of events, and of the defence attorney Concannon as he fumbles about trying to positively spin her testimony in favour of his clients. The camera's movement between Galvin and Concannon, the judge and Ms. Price situates the dramatic tension in the credibility and control of Ms. Price's damning testimony. How will the jury judge this testimony?

The answer seems foregone after the judge instructs the jury to disregard Ms. Price's entire testimony for various dubious technical evidentiary reasons. During the judge's instruction, the camera films him centred and from below as he addresses the jury. The camera puts the viewer-subject in that jury box to absorb the admonition of the judge as he admits to his own mistake in allowing such testimony to go on. Despite the centrality of the judge in the shot, however, he looks puny behind the bench, as its heavy wooden moulding forms a cage around him and the bench's corner seems to cut sharply into his body. In contrast, the jury, in whose position the viewer-subject is put, has ample space in front of the bench, comparatively free to decide for themselves how Kaitlin Price's testimony will bear on the verdict, the decision being ultimately in their hands. In this exchange of shots, the judge has lost the prestige and authority that came from his raised position, and the jury has filled out the space that Galvin finally managed to provide for them as the remaining arbiters of justice.

During Galvin's summation, the film rehearses his initial sense of loss and ambivalence with regard to the legal system and its dominating presence. His speech later transforms, however, into a representation of a transferral of power, enacted in the previous scene between Kaitlin, the judge, and the jury, between the institutional rules and the individual people in whose name those rules are supposed to function.

When the judge calls Galvin for his summation, Galvin does not stir. It is easy to miss Galvin in the static camera shot, a shot which looks like a painting because it lasts so long with virtually no movement. Then, however, Galvin rises, as if from a crowd of people; he was there all along only unresponsive, invisible. Called to a final battle, at first he only stands, looking straight ahead. He is not looking at the camera, and the camera keeps an awkward distance from him – filming from the jury box in a far left corner – paralleling Galvin's losing battle in the loss of perspective the camera's distance creates. His words mirror the experience of his image on screen. 'So much of the time we're just lost', he says as he stares straight ahead:

We say, Please God, tell us what is right, what is true. When there is no justice, the rich win and the poor are powerless. We become tired of hearing people lie. We think of ourselves as victims. We become victims, we become weak, we doubt ourselves, we doubt our beliefs, we doubt our institutions. We doubt the law.

This slow and soft diatribe rehearses the story of Galvin's descent from his own glory as a young, successful attorney to the despair of disbarment at the hands of unethical colleagues. It also puts the power of a resurrection from those depths into the hands of the jury. He is sympathizing with them, declaring his similarity to them. He is saying that we have all felt the anger and insecurity that arises from the misdeeds of those whose duty it is to protect us – doctors, attorneys, judges, police.

The camera remains unresponsive to Galvin's plea until the last phrase, 'We doubt the law'. On its repetition, 'We doubt the law', the camera moves slowly and steadily toward Galvin as he turns to face the jury. The camera draws closer to him, drawing a straight line between him and the jury box, appealing to the comparison between this plaintiff's attorney, his case of malpractice and the jury's identity as ordinary citizens before the law. 'We doubt the law', he says to them again 'but today you are the law. You are the law.' Galvin reaches the jury box, laying his hands on their bench, the camera allowing his approach, itself drawing nearer, nearly over the shoulder of the jurors, down their necks. He continues:

[Today the law is] not some book, not a lawyer, not a marble statue or the trappings of the court. Those are just symbols of our desire to be just. They are in fact a prayer, a fervent and frightened prayer.

The camera draws so close to Galvin that for the first time in the trial we see into his eyes, we see the wrinkles beside his mouth and along his cheeks. Galvin fills the screen on that last word 'prayer' and looks at the jury, the camera sitting close to the railing of the jury box. He has just described the experience of the film – full of monuments to justice and God, atriums, marble corridors and columns and yet devoid of even a glimmer of hope for those who pray for guidance and shelter, like the plaintiffs in this case at bar. When Galvin finishes, saying, 'In my religion, they say "Act as if ye have faith, and faith will be given to you"'. If we are to have faith in justice, we need only to believe in ourselves and act as if there is justice', the camera rests on his face and then follows him back, as he drags himself to his chair, exhausted.

In his final speech, Galvin exposes his vulnerability and his ideals, giving all he can to this case which, despite the merits, was doomed by a corrupt defence attorney, a manipulative judge and a washed-up plaintiff's lawyer. Yet the camera does not minimize Galvin's presence behind the chair as it had done previously. Nor does it leave the position of the jury from atop the railing on the jury box. Galvin's message – of jury nullification, recovered strength, and the power of the common person – continues to resonate with

the final decision-makers in the trial as the camera holds back, standing beside the jury instead of following Galvin as he returns to his place at the plaintiff's bench. It continues to resonate as the scene fades out, superimposing onto the images of Galvin and his co-counsel a line of jurors entering the courtroom directly towards the camera and a waiting audience in what seems like an instantaneous verdict in favour of the plaintiff for unprecedented amounts of money. As the foreman reads the verdict, the camera hangs from the ceiling, reminiscent of Galvin's alienation and powerlessness. Upon hearing the verdict in favour of his clients, however, Galvin looks upward, at the camera, which instantly zooms down to reach him, filling the screen with his image, blessing his argument with its heightened and triumphant posture.

After Galvin's speech to the jury, the case could only end with a satisfied faith in the legal system's promise of individual and equal justice. To end with a verdict in favour of the defence would have depleted the signs, relationships, and perspectives that were cultivated throughout the film (and especially in the ending trial scene) that together suggested the possibility of a resurrected faith in individual strength and the law's promise of justice.

### *3. Step three: interpretive gridlock, the truth be told*

Despite the portrait, until now, of the trial film's aim in meting out justice through the viewer-subject's balancing of monumental structure and minute detail, diverse perspectives and acute focus, the trial film's finale is often an unsophisticated revelation of some hidden essential truth – be it the facts of the case or the law's inability to assess those facts fairly. Poised to negotiate the contradictions in law's goal of individual and equal justice with its institutional organization of constant, consistent rules and hoops, the viewer-subject instead is made to experience the conclusion of the courtroom drama as a triumph of neatly-tied loose ends. Rarely is the issue at trial in these films about the perplexing (and sometimes unanswerable) questions of law, such as the ambiguity of legislative interpretation, the constitutionality of a state law, or the problematic dichotomous categories of guilt or innocence. Instead, the framing patterns and courtroom shots that are consistent in so many of these films serve not to make complex the relationship between the legal subject and his desire for justice through the process of law, but to simplify that relationship as an individual's decision between right or wrong, truth or falsehood.

In the genre of the trial film, there are two common conclusions toward which the above mapped framing patterns and courtroom scenes eventually lead:

- (i) trial law helps to uncover a long-kept secret and to fit it, like a puzzle piece, into its proper place, thus perpetuating law's reputation as a means toward the whole truth and its resultant justice; or

- (ii) trial law is a process through which law extends its authority and power, despite what the viewer knows to be the facts of the case, perpetuating law's reputation as an ever-present social organizer – not because the law is always right, but because it is always the law, the last sanctioned force, the foundation upon which everyone has dared to stand.

In both scenarios, the truth is made known to the viewer-subject eventually, either at the end of the trial as law fulfils its promise, or before the trial, in which case the issue is not who did it and why, but whether the law will be able to account for the truth the viewer understands to be facts of the matter. Likewise, in both scenarios, the law is constituted as an internally consistent and endlessly recursive and discursive practice. As the law inevitably remains standing and in place at the film's end – whether or not it achieved justice through its courtroom procedure – the trial film concludes by propagating a notion of the world already made, only waiting to be found, always occupied by a legal system, and only waiting to be organized by it. This is not a representation of law and its force as tyrannical, but a representation of society which cannot imagine sustainable human civilization without law. It is a very rare film about the legal system (and certainly not a mainstream feature film) whose message is truth at all costs, even anarchy.<sup>12</sup>

Amidst these neat endings, the viewer-subject is left to make sense of the rushed, nearly predictable conclusions to these films in the face of what has otherwise been an internally complicated experience of law. Framed from the beginning in terms of its grandiose structure and its diminutive (though no less powerful) inhabitants, and developing towards a participatory perspective about the adversarial process and its ability to reconstruct a story from diverse angles, the law engages the viewer-subject as an inclusive system, its goal being individual and equal justice that the viewer-subject is made to both desire and effect. But the viewer-subject's engagement with the law is more accurately on a take-it or leave-it basis when the climax of the film is either simply the discovery of previously missing evidence, the revelation of which speeds the trial to a just conclusion, or a disruption of law's orderly process, which exposes its internal corruption and sets the record straight despite its limitations. There no longer remains a relationship with the law to be nurtured through the story's unfolding around the viewer-subject's interpellated identity. Instead, in the end, the law is constructed by the film to stand there, reified, before its subjects as the classificatory social practice that sometimes hits its mark and sometimes does not. When it does, the viewer-subject experiences a sense of triumph and gratitude, somewhat proud of the system that designates him a subject within it; when it does not,

12 But see *Sacco and Vanzetti* (Giuliano Montaldo, 1971), the film about the trial and execution of the two Italian immigrant anarchists.

the viewer-subject is rarely surprised, having been warned throughout the film of the law's potential failings and insurmountable burdens, and thus his suspicion is vindicated, his pride remains attached only to those individuals who resisted law's overreaching pull.

The ideology of the trial film genre is most strong here, at the film's overstated and often predictable climax. Made to recognize and expect the ever-present force of law in its fulfilment and its flaws through the patterns previously outlined, the viewer-subject can make claims (indeed the film's story is motivated by such claims) to know how the law's force works to perpetuate its authority and classificatory practice, and particularly how it keeps its promise of justice as truth alive. As the film interpellates its subject both as critical of the film's fiction due to its generic expectations and as desiring of the film's triumphant climax, however generic, the film genre continues the work of establishing a relationship between a viewing audience and a legal system, a relationship that has as its object the constitution and critique of law and its subjects. The viewer-subject as liberal-legal subject – who is both outside (as in a spectator of) the law as represented in the film and part of (as in discursively designated within) the legal representation that constitutes the film experience – figures himself as distrustful of law's totalizing presence as well as integral to the law's promise of individual and equal justice.

For example, in *A Few Good Men*,<sup>13</sup> about the investigation of a murder in a marine corps unit in Guantanamo Bay, Cuba, Tom Cruise plays Dan Caffy, a smart and cocky Harvard Law graduate serving in the Army's Legal Services in order to pay off his law school loans. Caffy has a reputation for plea-bargaining every case, some say because he is committed to expediency, others suggest it is because he fears the commitment a courtroom trial entails. What is clear is that to him law is a game less important and less complicated than his weekly softball games; it is not something to think much about, but to manipulate, fit, and apply. He says as much when asked by his client, 'Do you think we were right?' and Caffy answers, 'It doesn't matter what is right, you'll lose in a court of law.' That right and wrong have nothing to do with winning his cases does not seem to bother Caffy; in fact, Caffy is drawn to the surety, consistency, and predictability of law. He shouts with frustration, and indeed some pride, when he says, 'Don't tell me what is right and wrong, I know the law!', insinuating that he knows what will win the case despite the fact that there are murky moral issues at stake. Here, Caffy represents the legal professional who imagines law as a system that is not about interpretation or context, not about details of individual cases as they relate to larger social and ethical questions, but instead about a maintenance mechanism, a system that keeps order, drawing lines between legal and illegal based on arbitrary social norms.

13 *A Few Good Men* (Robert Reiner, 1992).

Caffy's perspective changes, however, when he realizes that he has been assigned to defend two marines accused of murder so that he will do his usual dance and settle out of court; his weakness – a reluctance to litigate – is being exploited by the system so that this case will be washed away with so many others, its details hidden by the opportunism the legal process can inspire. Out of pride, it seems, he struggles to discover why his superiors are suspiciously eager to have Caffy's clients plead guilty to a lesser offence. Caffy, thus, refuses settlement and pursues the investigation with unrivalled zealously.

During his preparation for trial, Caffy is bothered by his clients' blind faith in the Marine credo 'Unit, Core, God, Country', a faith that he thinks led them to commit the murder for which they now stand trial. Caffy is appalled that his clients refused to think for themselves and instead obeyed an illegal Code Red order from a superior officer that demanded they 'haze' a fellow marine, an order that resulted in the marine's death. Eventually, however, Caffy finds inner enlightenment; he realises that following orders in the Marines is like blindly applying the law to cases, a tactic he has mastered and exploited to his benefit. Caffy's awakening leads to a new-found sympathy for his clients.

Following a hunch based on very little evidence (and, as such, that could cost him his legal career), Caffy insinuates in open court that Colonel Nathan Jessup, his clients' commanding officer, lied under oath when he denied his involvement in the death of the marine. Caffy effectively accuses Colonel Jessup of violating both military and federal law by ordering the Code Red that eventually cost the life of a marine under his command. In his cross-examination of Jessup, Caffy pressures the Colonel to defend his severe disciplinary tactics, to which Jessup responds: 'We follow orders or people die.' The irony in this response spills from the screen; a person died, in this case, because of an order.

To win his case, however, Caffy knows that irony is not enough; if Caffy's clients are to be acquitted on the first-degree murder charges, Jessup must admit to ordering the Code Red. So Caffy pushes Jessup. 'I want the truth!' Caffy demands of the Colonel. At first amused by the young lawyer's audacity, Jessup now turns angry. At Caffy's suggestion that Jessup is lying under oath and that the marines under Jessup's command fail to follow his orders, the Colonel puffs that they never question him and that they do exactly as they are told. 'We follow orders or people die. You want answers? ... You want the truth? You can't handle the truth!' In this suspenseful and intensely emotional cross-examination, both Caffy and Jessup, representing two competing systems of power and order, confront their breaking point. For Jessup, it is the fact that in a court of law, he is responsible to the rules of law and its representatives despite his towering rank in the Armed Forces. For Caffy, it is the revelation of something as conclusive and unambiguous as the truth of a situation that drives his argument and wins over the jury. Jessup's retort suggests that the truth is not something Caffy, as a lawyer, has

had to face, not something he has ever needed to think about, and frankly, something he is incapable of handling. In the end, however, Caffy learns that the truth is the simple admission that Jessup did order the Code Red causing the death of the marine, and that this truth can set his clients free. Upon admitting that he ordered the Code Red, Jessup is dragged from the courtroom in shackles, charged with breaking the Marine Corps code and with the murder of one of the marines under his command. Upon hearing the Colonel's admission, the jury finds the two marines not guilty of murder, not guilty of intent to kill, but guilty of conduct unbecoming a marine. In the end, then, the law as represented by the jury verdict not only reaffirms that the law is a truth-telling process, but also converts Caffy into a believer in trial law as that which binds truth with justice.

*A Few Good Men* could have been a complicated and interesting commentary on the rule of law – suggesting that the military and its mission may be parallel to, or even a rival of criminal law. Instead, the film ends with a more simplistic message about the relationship between truth, justice, and individual stamina, providing oversimplified guidance for distinguishing between right and wrong, just and unjust orders in the face of rigid rules. Upon being convicted only of 'conduct unbecoming a marine,' young Private Downey asks his more savvy co-defendant Corporal Harold Dawson, 'What did we do wrong? We didn't do anything wrong', implying they just followed orders and that is what marines are taught to do. Dawson replies bitterly, his life as a marine and his blind faith in service to his nation now torn apart by the law's guilty judgment of his own faith in his superiors, 'Yeah we did. We were supposed to fight for people who can't fight for themselves.' As it turns out, for these marines, and for Caffy, the best course of action within the institutions that shaped them was to reject the institution's rigid structure and disobey orders. Dawson and Downey should have ignored Colonel Jessup's order to haze their fellow marine, despite the strength unquestioned allegiance to authority brings to the military; and Caffy was right to have challenged Jessup on the stand, despite the professional and ethical risks he ran had it proven a mistake. Both were potentially illegitimate moves within the institutions that judge them, but both, according to the legal verdict, fit neatly within the trial film's theory equating truth with justice.

At the end of his journey in *A Few Good Men*, the viewer-subject encounters a truth that is not only about an event in history or an individual's culpability, but also about the law's (and the trial film's) constitutive power. This is the truth of the force of the metaphor of the journey toward justice through law: the viewer-subject's struggle to recover diverse perspectives through the organizing principles of the courtroom. In other words, the discursive practice of the trial film (of film form and legal practice) effects a viewer-subject who both sanctions the trial film's and the law's final word (the narrative finale and the legal judgment) and helps perpetuate the notion of legality that promises justice to those who participate in its process. This

metaphor for law's process in courtroom drama, and its sojourner, the viewer-subject, is the motor for liberal legalism.

Such a close look at the trial film genre, something understood as a signifying practice with effects beyond its formal existence, demonstrates how trial films are meaningful and affective as instruments of American legal ideology. As productive and transformational interactions that braid a real relation between the film, the viewer, and the communities in which they are situated, trial films perpetuate the authority of law by constituting their viewer-subjects as the liberal legal subject – as desirous of and believing in the power of each individual and the promise of equal justice.

All of these filmic patterns – iconic, relational, and thematic – help constitute the life of law in trial films. The trial, in particular, stands as a metaphor for each individual's journey toward justice, a sense of individual worth as seen through the perspectives of many and as validated by the institution whose rules strive to give meaning to justice in the first place. As patterned, this journey is recognizable, cultivating expectations in its subjects that perpetuate the law's promise whether or not it is fulfilled at the film's conclusion. As a fulfilment or disappointment of these expectations, the trial film enables the relationship between film and viewer-subject as one that both critiques the discursive practices of law and of film as disciplining forces on their subjects and relies on those practices as they designate their subjects as integral to their meaning-making.

In his journey from the steps of the courthouse to the final verdict, the viewer-subject of these trial films experiences more than the triumph of justice achieved or the exasperation of justice soiled; he grows strong with the knowledge of the just result and of the importance of law's struggle to achieve it. By positioning the viewer-subject within the courtroom drama to participate in and witness justice done, the trial film heeds the warning of the by now familiar adage, 'for justice to be done, it must be seen to be done'. In this way, the trial film – an instrument and conduit of popular legal consciousness – cultivates a desire for and perpetuates the strength of law's authoritative endeavour by locating the promise of law in the tenacity and proclaimed self-possession of each individual.