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Where the Evidence Leads: Teaching Gothic Novels and the Law

Every year I teach courses on the gothic novel at both the graduate and undergraduate levels. Whether I am teaching majors (as I obviously am in the graduate course) or nonmajors, I have found it useful to be explicit about the theoretical approaches that one brings to a text. Hence, I have developed a style of teaching that helps students see the differences between four dominant schools of theory: formalist, historicist, ideological, and psychoanalytic. Increasingly, I have focused on the topic of law as both a major historical and ideological component of the gothic novel.

This essay examines how to teach the British gothic novel as an exploration of a number of contested legal issues during the late eighteenth and early nineteenth centuries. As Michael Scrivener has observed, one of the dominant concerns in legal evolution during this period was the reform of what was referred to as the premodern Bloody Code, a legal system that listed two hundred capital crimes, most of them offences against property. The Bloody Code was also infamous for revealing the upper-class domination of the legal system. Like the many depictions of aristocratic divorce or adultery trials that were printed and widely circulated in popular pamphlets, the Bloody Code as well as these sensational adultery trials had the effect of showing the aristocracy to be corrupt and immoral and thereby

abusing the advantages it had been accorded by this same legal system (Scrivener 128). As Leon Radzinowicz's study makes clear, by the 1830s and 1840s legal reforms had occurred because of the utilitarian and rationalistic approaches proposed by Jeremy Bentham, James Mill, and their followers, but the gothic novel's popularity straddles the divide between the earlier, class-based approach to law and the later utilitarian reforms. We see in gothics (as in other Romantic texts) an ideological bifurcation between what Jürgen Habermas refers to as the premodern, paternalistic, providential, divine-right approach to law versus modernity's utilitarian, rationalistic replacement of the divine and authoritarian with the human and the secular ("Modernity").

I focus on the legal palimpsest that emerges in contested form in one gothic novel after another: the oral versus written testimony debate that was central to the evolution of a modernized, secularized, print-based culture; the anxiety that emerges in textuality when a providential, divine-rights legal system symbolized by a judge is replaced by novels that examine more real-life legal issues and by criminal cases decided by a jury of one's peers; and the continued contest between providential and aristocratic-authoritarian appeals to legality and the emerging rationalistic and utilitarian approach (the way that law replaces religion as "the main ideological cement of society," as J. A. Sharpe has noted [145]).

To see the growing importance of the written document as proof in legal trials, one need only think of Ann Radcliffe's *The Romance of the Forest* (1791). The dead body of Adeline's father is found in a trunk after Adeline finds the diary he kept while being held prisoner by his diabolical brother. Both the body and the diary are necessary to prove conclusively that he was murdered for his property: the body without the diary would not signify, and Radcliffe and her readers know this. Although the gothic novel began as an essentially conservative genre, with strong aristocratic sympathies, it quickly evolved into a middle-class discourse system as more bourgeois authors began to claim the genre for their own interests. What James Watt refers to as the earlier, "Loyalist" strain of the gothic novel anticipated the threats on the French monarchy and encoded in its fictions an adherence to the rights of primogeniture, birthright, and class-based virtue (42-69). Horace Walpole's *The Castle of Otranto* (1764) and Clara Reeve's *Old English Baron* (1778) are the most blatant and earliest examples of the "Loyalist" gothic in the British tradition. But this strain of gothic (heavily invested in a providential discourse as well) continued to live on in even pulp gothics, such as the anonymous *The Animated Skeleton*

(1798), suggesting that even lower- and middle-class audiences still found pleasure and escape in what I would call class-based nostalgia by reading texts that no longer presented their social, political, and historical realities.

I try to get students to see that the evolution of legal issues in the gothic novel reflects the process by which a print-based culture replaced an earlier and anachronistic oral-based culture. For instance, in many gothic novels the claims of written documentation generally trump oral testimony, unless a royal or authoritarian arbiter appears in a civil trial case or a monk or clergyman in an Inquisition trial. One can recall the attempt by Monçada in Charles Maturin's *Melmoth the Wanderer* (1820) to renounce his clerical vows by appearing in a civil court:

“Wretch,” said the Superior, “when have such papers as those profaned the convent before? When, till your unhallowed entrance, were we insulted with the memoirs of legal advocates? How comes it that you have dared to—” “Do what, my father?” “Reclaim your vows, and expose us to all the scandal of a civil court and its proceedings.” (138–39)

Legal vestiges of the ancien régime continue to appear in gothic novels—for instance, the notorious lettre de cachet, auto-da-fé scenes, varieties of torture, or anonymous letters to the authority accusing an enemy of crimes against the state. The demonizing of these outmoded and European-Catholic strategies allows British bourgeois gothic authors and their readers to measure approvingly the distance they have moved in modernizing and secularizing Britain.

The gothic, of course, also questions the authority of civil law itself, and hence one continues to see in gothic novels the presence and power of ecclesiastical courts vying with civil courts in rendering decisions and passing judgments over people. For instance, students can be reminded here of the notorious trial of Justine Moritz in Mary Shelley's *Frankenstein*, who confesses to a crime she did not commit and who is convicted on the most circumstantial of evidence:

The person to whom I addressed myself added that Justine had already confessed her guilt. “That evidence,” he observed, “was hardly required in so glaring a case, but I am glad of it; and, indeed, none of our judges like to condemn a criminal upon circumstantial evidence, be it ever so decisive.” (83)

Finally, one of the central issues facing this culture was what Habermas has called the invention of a “public bourgeois sphere” (“Public Sphere”

49) in which the growing middle class could operate in an increasingly professionalized arena where written discourse and a print culture dominated over oral testimony. As John Richetti has noted, there was an increased investment in imagining the legal system as monolithic, while the emergence of the new public sphere was dependent in part on an understanding of the law in which it was “conceived of as an embodiment of permanent and universal norms rather than as an imposition by the sovereign for securing order and power” (115). The growing divide between the public and private spheres, and the concomitant dispute between dynastic-political and personal-individual concerns, can be seen by examining the evolution of the early gothic novel. Whereas the earliest, such as *The Castle of Otranto* and *The Old English Baron*, concern the unlawful usurpation of thrones and duchies (however small), the later increasingly focus on besieged families or the threats to a father’s or mother’s power in the household (e.g., Radcliffe’s *A Sicilian Romance* [1791] or *The Italian* [1797]).

Perhaps one of the most blatant examples of the unjust nature of European justice can be found in Radcliffe’s *Mysteries of Udolpho* (1794), when Count Morano is arrested shortly after returning to Venice:

[H]e had been arrested by order of the Senate, and, without knowing of what he was suspected, was conveyed to a place of confinement, whither the most strenuous enquiries of his friends had been unable to trace him. Who the enemy was, that had occasioned him this calamity, he had not been able to guess, unless, indeed, it was Montoni, on whom his suspicions rested, and not only with much apparent probability, but with justice. (422)

Montoni apparently suspected Morano of trying to poison him but was unable to obtain the evidence he needed to bring a charge against him.

A major issue in the gothic universe is the relative reliability of oral versus written testimony, or what Toni Wein calls the lack of any “simple correspondence between oral/human and written/text” (297). Anachronistic markers of orality riddle the trial scenes in *The Castle of Otranto* and *The Old English Baron*: snatches of remembered conversations, bits of clothing and jewelry that are said to belong to the murdered ruler, or summarized speeches presented by the narrator. (I provide on handouts for my students a summary of the major positions taken by critics like Leslie Moran, David Punter, Beth Swan, and Kathryn Temple on the topic of the

gothic and law. I also post them on the *Desire2Learn* site I maintain for the course.)

In my courses, I begin my more detailed survey of teaching the theme of law in gothic novels at the beginning, with Walpole's inaugural gothic, *The Castle of Otranto*, almost a case study of anxious aristocratic concerns. In its focus on a dispute over lawful title to the principality of Otranto and the legality of an older male seeking to divorce his aged wife for a young bride who can provide him with a male heir, we see writ large the historical romance and antiromances of King Henry VIII. Like Henry, Manfred alleges that his marriage to Hippolita is incestuous, and he wants a divorce in order to marry Isabella, the fiancée of his dead son, Conrad. Like Henry, whose brother was married to Catherine of Aragon very briefly before that elder brother died, Manfred also searches Scripture for some way out of his marriage. He tells his confessor:

But alas! father, you know not the bitterest of my pangs! It is some time that I have had scruples on the legality of our union: Hippolita is related to me in the fourth degree — It is true, we had a dispensation; but I have been informed that she had also been contracted to another. This it is that sits heavy at my heart: to this state of unlawful wedlock I impute the . . . death of Conrad! — Ease my conscience of this burden; dissolve our marriage. (49)

Manfred in fact earlier “contracted a marriage for his son with the marquis of Vicenza’s daughter, Isabella; and she had already been delivered . . . into the hands of Manfred, that he might celebrate the wedding as soon as Conrad’s infirm state of health would permit” (15). But on the verge of the wedding, Conrad is mysteriously killed and Manfred is suddenly without a male heir. Manfred loses no time in offering himself as the groom:

“[I]n short, Isabella, since I cannot give you my son, I offer you myself.” — “Heavens!” cried Isabella . . . “what do I hear! You, my lord! You! My father in law! the father of Conrad! the husband of the virtuous Hippolita!” — “I tell you,” said Manfred imperiously, “Hippolita is no longer my wife; I divorce her from this hour. Too long has she cursed me by her unfruitfulness: my fate depends on having sons.” (23)

In addition to attempting to divorce his wife by a simple oral declaration of dissatisfaction (a crime in the private sphere), Manfred is guilty of living as a usurper of the principality of Otranto from the rightful heir,

Lord Frederic and his son Theodore (58). Their claim is disputed by Manfred, who continues to assert his right to the land and the bride:

You come, sir knight, . . . to re-demand the lady Isabella his daughter, who has been contracted in the face of holy church to my son, by the consent of her legal guardians; and to require me to resign my dominions to your lord, who gives himself for the nearest of blood to Prince Alfonso. . . . I shall speak to the latter article of your demands first. You must know, your lord knows, that I enjoy the principality of Otranto from my father Don Manuel, as he received it from his father Don Ricardo. Alfonso, their predecessor, dying childless in the Holy Land, bequeathed his estates to my grandfather Don Ricardo, in consideration of his faithful services. . . . But Frederic, your lord, is nearest in blood—I have consented to put my title to the issue of the sword—does that imply a vitious title? (64)

Notice that Manfred's claim and counterclaim are made verbally and that the dispute is to be settled by the sword, both relics of a medieval, premodern chivalric code of conduct, both strategies essential to the loyalist, antimodern agenda of a beleaguered aristocrat like Walpole.

In a similarly anachronistic manner, *The Old English Baron* concerns a dynastic dispute as well as the murder of the rightful ruler, this time replaying the saga of Richard III as the historical ghost haunting this gothic tale. These two early gothic novels position themselves as retellings of Shakespearean narratives, their sympathies clearly on the side of inherited wealth, class privilege, and innate aristocratic virtue. Lord Lovel and his wife have both been murdered by his kinsman Sir Walter Lovel, who usurps the property and title, thinking that he has also disposed of their heir, Edmund. But Edmund has been raised by a village couple who reluctantly reveal the truth by swearing on a bible to Edmund and Father Oswald, his advocate, that Edmund is indeed the son of the murdered Lord and Lady Lovel. When this information is brought to Sir Philip Harclay, he exclaims:

What shall be done with this treacherous kinsman! This inhuman monster! This assassin of his nearest relation? I will risk my life and fortune to bring him to justice. Shall I go to court, and demand justice of the King? Or shall I accuse him of the murder and make him stand a public trial? If I treat him as a Baron of the realm, he must be tried by his peers; if as a commoner, he must be tried at the county assize. But we must show reason why he should be degraded from his title. . . . I will challenge the traitor to meet me in the field; and, if he has spirit

enough to answer my call, I will there bring him to justice; if not, I will bring him to a public trial. (181)

Resorting to a duel again reifies the early gothic's loyalist posture, suggesting that the shame of a public trial is more than an aristocrat should or could bear, even if he is an assassin. The public-private split here, with the aristocrat inhabiting a secretive private realm where his crimes are concealed from public view by his peers, would appear to be viewed with nostalgia by Reeve and, one assumes, her readers.

By the time Radcliffe published *The Mysteries of Udolpho* in 1794, the emphasis in the gothic had shifted to legal issues that could be located in the private realm of marriage settlements and the inheritance of houses. As Amy Louise Erickson has argued, women's property rights were actually better protected under the earlier system of equity, chancery, and ecclesiastical law (operating approximately until the seventeenth century) than under the new common law (codified by Sir William Blackstone in his *Commentaries on the Laws of England* [1765–69]). As she notes, common law did not recognize contracts made by a woman before her marriage, while under ecclesiastical law a family's land could descend to daughters in the event that there were no sons. By the early eighteenth century, however, provisos in common law limited a woman's right to inherit land, while new statutes were added to ecclesiastical law that reduced a woman's rights to her husband's or father's goods. Further, the practice of dividing an estate equally among all surviving children was ended. Students begin to see anxiety over the effects of this later legal development in a number of gothic novels (culminating perhaps best in Emily Brontë's *Wuthering Heights*). Women begin to use the legal technologies of wills and codicils in order to maintain their property rights even after marriage. Female novelists begin to depict heroines who will do almost anything to resist being what Blackstone referred to as *femes covert*.

In *The Mysteries of Udolpho*, St. Aubert, the heroine's father, is financially ruined and yet extracts a promise from his daughter Emily, "that you will never, whatever may be your future circumstances, *sell* the chateau." St. Aubert even enjoins her, whenever she might marry, "to make it an article in the contract, that the chateau should always be hers" (78). The villain in the piece, Montoni, schemes to possess La Vallée and marries Emily's aunt, Madame Cheron, as the first part of his strategy:

But Montoni, who had been allured by the seeming wealth of Madame Cheron, was now severely disappointed by her comparative poverty. . . .

He had been deceived in an affair, wherein he meant to be the deceiver; out-witted by the superior cunning of a woman. . . . Madame Montoni had contrived to have the greatest part of what she really did possess, settled upon herself. (190)

In addition to issues of wills, inheritance, and property settlements, dramatic court trial became a gothic staple by the end of the eighteenth century. As Jonathan Grossman notes, William Godwin's politico-gothic *Things as They Are; or, The Adventures of Caleb Williams* (1794) was among the first novels to feature "a newly juridical conception of character and narrative form" (37). In *Caleb Williams*, we find a number of trial scenes, as well as scenes where Caleb, accused as a criminal, encounters pamphlets and broadsheets depicting him and describing the history of his various supposed misdeeds. Godwin was not merely, as Grossman suggests, "present[ing] a historic struggle between criminal biography and the novel" and pursuing "radical aims" of legal reform in *Caleb Williams* (38); his emphasis on legal narratives and apparatus in the novel also served to appeal to the reading public's fascination with the law and sensational crimes and trials.

After *Caleb Williams*, students see a much greater prevalence of criminal trials in gothic fiction; in fact, it is as though readers, so accustomed by this time to seeing criminals tried for their crimes and punished on the gallows, demanded the same theme in popular fiction. Earlier gothic fiction generally ended with the villain's extrajudicial death or religious repentance. For example, in *The Castle of Otranto*, "Manfred signed his abdication of the principality, with the approbation of Hippolita, and each took on them the habit of religion in the neighbouring convents" (110). In *The Mysteries of Udolpho*, the villain Montoni, after many years and several hundred pages of villainy, dies almost in passing, so that an inattentive reader might miss it: "[B]eing considered by the senate as a very dangerous person, [Montoni] was, for other reasons, ordered again into confinement, where, it was said, he had died in a doubtful and mysterious manner" (567). Throughout the 1790s, as the minor gothic writers imitated Radcliffe and Walpole, we find similar dispositions of villains' fates, as in Richard Sickelmore's *Edgar; or, The Phantom of the Castle* (1798), where the evil Bernardine and the avaricious Armine both die peacefully, despite their many horrid crimes, after having repented of their sins.

By the first and second decades of the nineteenth century, it becomes clear that readers expected the gothic villain to be punished by judicial

means after a trial in a civil or sometimes ecclesiastical court. For example, Percy Bysshe Shelley's first attempt at a gothic novel, *Zastrozzi* (1810), concludes with the trial of the titular villain and his accomplice, Matilda, for their long careers of crime. The trial is ostensibly conducted by the Inquisition, although it appears to be public, which reflects nineteenth-century judicial practices more accurately than sixteenth-century ones.

As an instructor, I would like to be able to trace a neat progression in the gothic, charting for my students an increasing investment in the rationalistic worldview taken by reforms in the law and a decline in anachronistic, premodern, providential narratives. But in fact, later gothic novels continue to present vehemently providential narratives and use anachronistic legal codes to prop up their adherence to a chivalric code of conduct. One need only think of *Melmoth the Wanderer*, James Hogg's *Private Memoirs and Confessions of a Justified Sinner* (1824), or Charlotte Brontë's *Jane Eyre* (1847). Gothic fictions are split in their presentations of flawed juries that hear murder cases (as in *Frankenstein*) and of the continued and preferred power of judges to function as *dei ex machina*, substitutes for an omniscient God. There is a deep nostalgia in gothic works, a mourning for the premodern, oral, providential universe and for all its outmoded class privileges and corruptions. It might be more accurate for us to say that the gothic is hopelessly split in its presentation of the law because it is constrained by the power of its conventions. It needs, according to the rules of genre, to present a damsel in distress and an oppressive count or corrupt monk, and yet such devices cause its use of legal themes to be seen as rationalistic and utilitarian (liberal) rather than conservative. Gothic novels are similarly ideologically bifurcated on the issue of the court system, some works seeing the court as almost godlike in its power, others presenting the legal system as class-based, unjust, and inhumane in its execution of inequitable laws. By introducing students to the topic of the law as both a historical and an ideological issue in the gothic novel, instructors can help them better understand the role that literature plays in shaping the larger environment we inhabit. Our laws and our rights have not always been in place or uncontested; indeed, they were issues of public debate, and a large part of that discussion occurred in novels. By seeing how the law has evolved, students come to appreciate the continuously shifting interaction between literature and the law.