

60

MODERN
AMERICAN
LITERATURE

Jane Smiley, Jonathan Franzen, Don DeLillo

Narratives of Everyday Justice



Jason S. Polley



INTRODUCTION

Ends and Odds

Performances of justice and narrative have a lot in common. As an ideal that necessarily evolves, justice requires narrative in order to be debated and implemented. Narrative puts justice into practice. Narrative arbitrates the legal apparatuses of justice. Narrative therefore facilitates and problematizes jurisprudence. It enacts the processes that define the legal method. Yet narrative also textually inscribes legitimacy. It therefore compromises the dynamic (and by definition unattainable) principle of the ideal of justice by administering it in a particular way. Legality, as vehicle for justice, exposes its pronouncements to supplementary intercession. Justice, in order to remain just, must always already risk conceding its previous verdicts—its actions, its precedents—need correction. As a matter of praxis, justice puts itself on trial through narrative acts.

Contemporary American writers repeatedly represent the liabilities of the law. They complicate a fixation on justice in the United States. This American fascination is illustrated in the cultural pervasiveness of “spectacles of justice,” or what might ironically be understood as the spectacularization of everyday acts of justice—the aggrandizement of a commonplace occurrence into a hyper-mediated

cultural event. American culture obsesses over public mediations of justice. American novelists and dramatists speak to this cultural spectacle of everyday justice. They configure justice in different ways and from within different spaces. They reflect on conspicuous exhibitions of legality. Fiction writers emplot the repercussions of these executions. More importantly, they too emplot the repercussions of the repercussions of these spectacular exhibitions of everyday justice. Fiction writers narrativize both the spectacle and the “post-spectacle”—or the period that survives media treatment (which often includes engineered obsolescence) and is indelibly affected by this mediated spectacularization.

An investigative commission published a contentious twenty-six-volume encyclopedia of evidence, accusation, and victimhood in the aftermath of President Kennedy’s assassination in 1963. Prosecutor Kenneth Starr’s multiple cases against President Clinton sparked comparable civic controversy. The same Republican attorney took over the investigation into Clinton’s involvement in the Whitewater Scandal in the mid-1990s. Starr then moved from real estate transactions to sexual indiscretions. He gathered testimony essential to Clinton’s impeachment following the Lewinsky Affair. American culture is captivated by chronicles of injured parties just as it is mesmerized by the perpetration of moral assassinations. American culture betrays an overwhelming concentration on justice perpetuated through different modes of legality. Contemporary American writers illustrate how acts of everyday justice emerge in many zones or environments, not just courtrooms. Dramatizations of legal processes happen in such places as college campuses, closed courts, gambling milieus, TV talk shows, and theaters. These spaces also ironically allow for the suspension of due legal processes.

My assessment of justice focuses on novels and dramas, not critical dispositions to justice. This study of justice in some of its multiple everyday forms involves the intersection of a number of theoretical approaches to narrative and culture. I represent a narrative theory of everyday justice through the investigation of selected works by major American novelists Jane Smiley, Jonathan Franzen, and Don DeLillo. Each of these novelists shows in different ways how justice mediates all daily interactions, even when we are alone. "Everyday justice theory," as I lay claim too it, integrates the juncture—at times confluent, at other times divergent—of ethics, performance, gambling studies, new criticism, suburban theory, media analysis, narratology, and globalization. My principal concern is with justice per se and its permutations within the field of literature.

The nebulous word "justice," because of its banal usage (a usage I too preserve in this book) occupies a fundamental position in the public imaginary. The root "just" can denote prescribed philosophical adjectives like "jural," grammatical commands like "jussive," and legal terminology, like the nouns *jus cogens*, *jus gentium*, *justitarius*, and *juste milieu*. Less formally, or more publicly, and therefore apt in terms of this book, "justice" connotes more decipherable nouns, like "jurisdiction," "jury," and "judge." Justice also calls to mind the familiar verb "justify," along with its synonyms "validate," "defend," and "substantiate." Justice, in addition, indicates words normally interchangeable with the adjective "just": "fair," "unbiased," "proper," "decent," "correct."

"Justice" in its simplest formulation can be seen as the moral barometer or collective register for a civil discourse. The "social we" has a common recognition of the obligations of justice. Literary analysts and contemporary cultural theorists, however, have for the most part

under-examined justice as ground requiring critical inquiry. Andrew Ross points out “the vastly disproportionate attention that broadcast TV devotes to legal culture” (48). I would like to re-contextualize his instantly clear claim. I contend that legality—which concerns itself (however apparently tangential at times) with applications of justice—serves as the starting point for storytelling. Disturbances to justice initiate narrative. Narrative is itself legal culture. Fictional narratives are inherently embroiled in acts of justice. Independent of medium or genre, they are the consummate handbooks or *mises en scène* for the interrogation of free agency, which is what justice really determines. Justice mediates our being-in-the-world alongside other beings in the world. Representations of legality are not “disproportionate” to the interventions of justice in everyday life. Rather, it is *attention* to contemporary fictional applications of legality that proves incommensurate with the predominance of legality in contemporary America. Legal culture remains understudied, despite its popularity in fiction, film, and television. Richard Posner, for example, drafts multiple concordances between classic novels and legal texts in *Law & Literature*. Posner, a trained lawyer and economist, appropriates literature as a means to refine legality. But literature exists in its own representational terms. It is a symptom of neither philosophy nor theory nor legality.

Justice is not only the prerogative of law faculties and the producers of television docudramas. Serious (and popular) contemporary writers reconfigure justice in various modalities. Contemporary American literature appraises jurisprudence in substantive ways. Fiction emplots justice in terms of women, outcastes, depressives, and other marginalized figures. Smiley, Franzen, and DeLillo cross-examine justice by means of reflection, verdict, punishment, spatial-

ity, and the constellation of consequences that go hand-in-hand with the law. Each discounts clever jargon or specific name-hurling. Each likewise reframes the *modus operandi* typical to formal tribunal spaces. Courtroom deliberations, court documents, and legal texts provide expert accounts and certified examples for the arbitration of existing laws and the institution of new ones. What Smiley, Franzen, and DeLillo do is narrativize the many aftereffects of these traditional dispensations of justice. They scrutinize, for instance, the domino effect of victimhood (or how crimes may be caused by *crimen antecedere*). These authors elaborate upon illegality—which includes legal illegality and illegal legality. Irony, each illustrates, is the preserve of justice. Smiley, Franzen, and DeLillo move beyond the limits of the courtroom. Each widens the scope for the articulation and interpretation of justice.

A word on terminology is required. My decision to use the designation “contemporary” for the major works and writers I study in this book derives from a reflection proportionate to the extensive consideration justice obliges. I resist employing the “not ‘unproblematic’ aspects of the term ‘Postmodernist’” (McHale 3) for a few key reasons. Aware of Hutcheon’s Derridean understanding of “postmodernism,” which she defines as “a contradictory phenomenon, one that uses and abuses, installs and then subverts, the very concepts it challenges” (*A Poetics of Postmodernism* 3), and equally sensitive to Jameson’s elaborate thinking on the subject of postmodernism, as manifested in his compilation *The Cultural Turn* and his tome *Postmodernism*, I adopt the catchword “contemporary” to steer clear of this debate about the meaning of “postmodernism.” I’m indebted to this debate. But this deliberation would only sidetrack readers from my main concerns. The term postmodern, however, obviously arises in this investigation.