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Peasants, Tanners, and Psychiatrists: Using Films to Teach Comparative Law

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Abstract

Films have proven to be a useful teaching tool for a course on Comparative Law. The films serve to introduce the class to the look and feel of legal proceedings from selected foreign legal systems and to illustrate particular aspects of how these legal proceedings differ from our own. The article summarizes the results of more than 10 years of experience in using films. It will be of interest to others who teach Comparative Law and also to lawyers, judges, and students who want a video means of oriented themselves to foreign legal traditions. The article discusses the limitations of such films as teaching (or orientation) tools, both in general and with regard to each particular film.

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I. INTRODUCTION

The last four decades have seen the emergence of the "law and literature" movement.[1] Although numerous stories in the common law world turn on the trial of cases,[2] many studies in the law and literature vein use stories that do not take place in a courtroom, and often do not even involve a lawyer, to illuminate significant features of the law or its

[1] *See, e.g.,* KIERAN DOLIN, A CRITICAL INTRODUCTION TO LAW AND LITERATURE (2007). The movement emerged as a major force through the work of James Boyd White, most significantly with JAMES BOYD WHITE, THE LEGAL IMAGINATION: STUDIES IN THE NATURE OF LEGAL THOUGHT AND EXPRESSION (1973). This line of thought about law has evolved in many directions and now has too many permutations to allow summary in a footnote. It has had a major impact on jurisprudence generally through Ronald Dworkin's building his theories of law around law as a multi-generational narrative. *See* RONALD M. DWORKIN, TAKING RIGHTS SERIOUSLY 81-149 (1977). There is even a journal denominated LAW AND LITERATURE.

[2] Consider the novels of John Grisham: *A Time to Kill* (1999); *The Firm* (1991); *The King of Torts* (2003); *The Rainmaker* (2005); *The Runaway Jury* (1997); *The Street Lawyer* (1998). *See also* Marijane Camilleri, Comment, *Lessons in Law from Literature: A Look at the Movement and a Peer at Her Jury,* 39 CATH. U. L. REV. 557 (1990); Randalph N. Jonakait, *Law in the Plays of Elmer Rice,* 19 LAW & LIT. 401 (2007); Richard Weisberg, *How Judges Speak: Some Lessons on Adjudication in* Billy Budd, Sailor *with an Application to Justice Rehnquist,* 57 NYU L. REV. 1 (1982).

practice.[3] The emergence of the law and literature movement seems to have prompted a turn in legal education toward using pop culture to teach about law, or perhaps reflects that turn.[4] Examples of such efforts include legal symposia devoted to the wisdom of Yogi Berra,[5] of Bruce Springsteen,[6] and of Harry Potter.[7] Others have preferred to study lawyers who are poets.[8] Yet others profess to find poetry in the law itself.[9]

One aspect of the turn to popular culture has been increasing recourse to fiction films to teach about law or legal process.[10] Today, many civil procedure teachers (and others) use *A Civil Action*[11] in their course.[12] *Erin Brockovich*[13] could prove to be similarly popu-

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[3] *See, e.g.,* Orit Kamir, *To Kill a Songbird: A Community of Women, Feminist Jurisprudence, Conscientious Objection, and* A Jury of Her Peers *and Contemporary Film,* 19 LAW & LIT. 357 (2007); Suan Mann, Note, *The Universe and the Library: A Critique of James Boyd White as Writer and Reader,* 41 STAN. L. REV. 959 (1989); Ticien Marie Sassoubre, *The Value of Legal Irony: Legal Orthodoxy and Henry James'* Washington Square, 95 CAL. L. REV. 1027 (2006); Kenji Yoshino, *The City and the Poet,* 114 YALE L.J. 1835 (2004).

[4] *See, e.g.,* WILLIAM P. MACNEIL, LEX POPULI: THE JURISPRUDENCE OF POPULAR CULTURE (2007); RICHARD K. SHERWIN, WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE (2000); Alex B. Long, *[Insert Song Lyrics Here]: The Uses and Misuses of Popular Music Lyrics in Legal Writing,* 64 WASH. & LEE L. REV. 531 (2007); Symposium, *Law and Popular Culture,* 48 UCLA L. REV. 1293-1591 (2001); Symposium, *Law and Popular Culture,* 24 NOVA L. REV. 527-700 (2000).

[5] 39 Authors, *The Jurisprudence of Yogi Berra,* 46 EMORY L.J. 697 (1997). Citations to real or imagined comments by the great Yogi are legion in law reviews and books by lawyers, usually in settings having nothing to do with baseball and sometimes involving quotations that Yogi probably never uttered. *See, e.g.,* JOSEPH W. DELLAPENNA, DISPELLING THE MYTHS OF ABORTION HISTORY 358, 453, 576, 585, 697, 722, 820, 846, 887, 979 (2006); Gideon Parchomovsky, *Fair Use Harbors,* 39 VA. L. REV. 1483, 1525 (2007).

[6] Symposium, *The Lawyer as Poet Advocate: Bruce Springsteen and the American Lawyer,* 14 WIDENER L.J. 719-988 (2005).

[7] *See, e.g.,* Symposium, *The Power of Stories: Intersections of Law, Literature, and Culture—Harry Potter, Law, and Culture,* 12 TEX. WESLEYAN L. REV. 427-84 (2005).

[8] *See, e.g.,* Thomas C. GREY, THE WALLACE STEVENS CASE: LAW AND THE PRACTICE OF POETRY (1991); David A. Skeel, jr., *Notes Toward an Aesthetic of Legal Pragmatism,* 78 CORNELL L. REV. 84 (1979) (analyzing the relation between Stevens' poetry and his practice as a corporate lawyer).

[9] MARTHA NUSSBAUM, POETIC JUSTICE (1995); RICHARD H. WEISBERG, POETHICS AND OTHER STRATEGIES OF LAW AND LITERATURE (1992); Adam Geary, *The Poetics of Practical Reason: Joseph Raz and Philip Larkin,* 19 LAW & LIT. 377 (2007); Lawrence Joseph, *Theories of Poetry, Theories of Law,* 46 VAND. L. REV. 1227 (1993).

[10] *See, e.g.,* STEVE GREENFIELD *et al.,* FILM AND THE LAW (2001); SCREENING JUSTICE—THE CINEMA OF LAW (Rennard Strickland, Teree E. Foster, & Taunya Lovell Banks eds. 2006).

[11] Touchstone Films, 1999, PG-13.

[12] Anthony Chase, *Civil Action Cinema,* 1999 L. REV. MICH. ST. UNIV. DET. C.L. 945; Elaine D. Pappas, Comment, *Legal Ethics: Lawyers' Duties to Clients and Clients' Rights and the Media—Teaching Legal Ethics Using a Media Studies Lesson Plan,* 24 NOVA L. REV. 701 (2000).

lar, perhaps with environmental law teachers.[14] And, of course, the courtroom drama is a staple of American film and television,[15] as well as a regular feature of film and television in other common law countries.[16] Yet these films or shows, like the printed stories, are generally not used to teach students about law as such. Movie makers and television producers generally are not lawyers and, in any event, do not allow strict legal procedures to stand in the way of dramatic effect[17]—as any first-year law student quickly realizes. And many of the movies that are used to teach about, or consider, law and the legal system do not involve trials, although most do involve lawyers.[18] Instead, the concern, particularly with movies discussed in legal scholarship and sometimes shown in class, is whether the film illuminates the substantive content of the law. Any well-made film about human relationships (including, of course, science fiction[19]) can serve that purpose even without the appearance of a single lawyer in the movie.[20] There are even attempts to

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[13] Jersey Films, 2000, R.

[14] *See, e.g.,* James F. d'Entremont, *Fear Factor: The Future of Cancerphobia and Fear of Future Disease Claims in the Toxicogenomic Age,* 52 LOY. L. REV. 807 (2006).

[15] *See, e.g.,* Stefan Machura, *An Analysis Scheme for Law Films,* 36 U. BAL. L. REV. 329 (2007); Rebecca Porter, *Lawyers on the Big Screen,* 38 TRIAL, Mar. 2002, at 54. This tradition, of course, has rich literary sources. *See, e.g.,* Weisberg, *supra* note 2.

[16] One need only recall "Rumpole of the Baily" (BBC TV, 1978-1992) to demonstrate this fact.

[17] *See, e.g.,* Michael Asimow, Kramer v. Kramer (1979)*: Family Law in the Movies,* in SCREENING JUSTICE, *supra* note 8, at 373, 387 (discussing the several procedural errors in the film's trial scenes). *See generally* Stephen Landsman, *The Perils of Courtroom Stories* (book rev.), 98 MICH. L. REV. 2154 (2000).

[18] *See, e.g.,* SCREENING JUSTICE, *supra* note 8; Symposium, *Law & Cinema Special Issue,* 36 U. BAL. L. REV. 303-91 (2006).

[19] *See, e.g.,* Michael Scharf & Lawrence Roberts, *The Interstellar Relations of the Federation: International Law and* Star Trek: The Next Generation, 25 U. TOR. L. REV. 577 (1994). *Cf.* Robin West, *Authority, Autonomy, and Choice: The Role of Consent in the Moral and Political Vision of Franz Kafka and Richard Posner,* 99 HARV. L. REV. 384 (1985) (examining the jurisprudence of Richard Posner through the prism of the surreal writings of Franz Kafka).

[20] *See, e.g.,* ORIT KAMIR, FRAMED: WOMEN IN LAW AND FILM (2006); José E. Alvarez, *How We Teach: The Final Reel,* in IL POST (Oct. 11, 2007), *available at* www.asil.org/ilpost/president/pres071010.html. For a literary analogue, see Anita Allen, *The Jurisprudence of Jane Eyre,* 15 HARV. WOMEN'S L.J. 173 (1992).

develop a visual vocabulary to better understand how we process cinematic images, both in order to learn more from films and in order to use films in trial advocacy.[21]

Given the problematic nature of using American films to teach law students something about the actual conduct of a trial, one can perhaps understand why little attention has been given to the possibility of using foreign films to teach law students about foreign trials. Not only are film makers in foreign countries just as willing as American film makers to sacrifice legal accuracy for dramatic effect, but American law students are poorly equipped to catch such inaccuracies, unlike their rapidly growing facility in catching legal errors in Hollywood films. Add in an alien culture and a language other than English, and the potential to mislead students is all too clear. Nonetheless, I have had the temerity to use non-English speaking, non-common law films in my comparative law course at Villanova for more than a decade. Given this accumulated experience, what I have learned might useful to other teachers of comparative law.

II. SELECTING THE FILMS

I start from the premise that few, if any, of my students have seen a court in Europe or Asia or Africa, or even in Québec, and thus have no idea what a legal proceeding in a court following the civil law (or some other non-common law) tradition would look like. Moreover, one cannot simply instruct them to go the county seat and observe a trial or two.[22] Yet many students find the descriptions of legal proceedings (and legal principles) from a different legal tradition to be dull and lifeless on the printed page. A film or two

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[21] *See* Richard K. Sherwin, *A Manifesto for Visual Legal Realism,* 40 LOY. L.A. L. REV. ___ (forthcoming 2007), *available at* ssn.com/abstract=1004307.

[22] My impression is that even in Louisiana, which ostensibly follows the civil law tradition, the impact of being embedded in the common-law based United States renders trials there (with a jury, etc.) unrepresentative of the civil law tradition's trials generally. I do not claim that this is a result of any sort of systematic study, however.

(or four, as I customarily show) can bring the ideas and principles to life. Even more importantly for my pedagogical purposes, a well-made film centering on, but not limited to, lawyers and a trial serves to place the law and the legal proceedings in a broader social matrix. Teaching students about the social matrix in which law takes place (in which legal outcomes are "negotiated" in the broadest sense of that term) is perhaps the most significant lesson that American students can take away from a comparative law course, for it goes without saying that one three-hour course will not qualify a student as an expert on a single foreign legal system or tradition, let alone the several legal systems or traditions covered in my survey course on comparative law.[23] In other words, the point is to teach students that the way we do things is not necessarily the only way to approach legal problems or even the best way, but that legal solutions must be judged within a context that includes political, economic, and social realities. As Jack Balkin has written, "Constraint does not occur through rules or conventions; rather culture and ideology are what allow individuals to know how to follow rules and conventions."[24] For many, perhaps most students, a well made film offers the best path towards understanding of the multiple discourses that make up law in a globalizing world.

Finding films for such purposes in a comparative law class is not easy because non-common law courtroom dramas are rare. For the most part, courtroom dramas are a distinctly common law genre, heavily dominated by the American entertainment industry, although that may simply reflect the relative dominance of American entertainment me-

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[23] In my course, I teach units on European (primarily French and German, but with some information on Italian and Spanish) law, on Chinese law, and on Islamic law, with a nod or two in the direction of the legal systems of indigenous peoples following a traditional life style, and hence in the direction of the legal pluralism that generally surrounds such indigenous peoples.

[24] J.M. Balkin, as quoted in Gary Minda , *Jurisprudence at Century's End,* 43 J. LEGAL EDUC. 27, 53 (1993).

dia in all English (and many non-English) speaking countries. The rarity of non-common law courtroom dramas itself tells one a lot about the perceived importance (or rather the lack of importance) of courts in non-common law cultures. Police and crime dramas are common in non-common law countries, as are dramas in which non-criminal claims that could lead to court proceedings are played out "in the street" as it were,[25] but there is generally little interest in what happens after the culprit is caught or the civil claim is vindicated in the eyes of the community but not yet in court.

For the most part, I have ignored films about courts martial (which are somewhat more common than for other film trials in civil law countries),[26] for I am interested in showing law students a normal legal proceeding and its social setting. For the most part, I have also ignored movies made in a common law country (usually a "Hollywood movie") about a non-common law trial, for such films are even more likely to contain serious errors regarding the court proceedings they depict.[27] Given these constraints, I have been able to locate only six films, and one of those is a Hollywood film. I would be delighted to learn of more such films.

Once one has found the films, one must determine which, and how many, to show to the class. I show four, which is quite a lot—about eight hours of class time, although I cut this to six hours by showing one of the films in my home, along with pizza and beverages as a bonus for the students. To accommodate the showing of the films in class, the three-

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[25] For fine examples of potential civil claims over the legal rights to a spring, one could watch two films, *Jean de Florette* (France 1986) and its continuation *Manon des sources* ("Manon of the Spring") (France 1986). *Manon des sources* is often described as a "sequel" to *Jean de Florette,* but given the inferior results characteristic of most "sequels" in film, and given that the two films were made together, the term "continuation" is more accurate.

[26] *See, e.g., Kriegsgericht* ("Court Martial") (German Fed. Rep., 1959); *Prijeki Sud* ("Court Martial") (Yugoslavia, 1978).

[27] Consider in this regard my discussion of *The Red Corner, infra* at notes 53-59.

hour class is scheduled to meet once each week for two hours and one each week for one hour. Before and after the showing of each film, I emphasize the need to be wary of details (particularly procedural details) in the films, which can no more be relied on in a foreign courtroom drama than they can be relied on in a Hollywood courtroom drama. Yet I have the sense that these films, like the typical Hollywood equivalent, do a good job at capturing the look and feel of the legal proceedings they depict.[28] After each film, the students and I discuss both the legal content of the film and its social matrix. Each selected film provides a rich, thick description of the society in which the legal action takes place. Each film can also fairly be described as melodramatic, some greatly so. What does one expect from a courtroom drama? Several of the films are so melodramatic that one might fault them in terms of cinematic theory generally, but the melodrama usually serves to highlight the social matrix that to me is one of the more important aspects of showing the film.

III. THE FILMS

The remainder of this article consists a of brief descriptions of each of the four films that I show and also of the two films that I have used at least once in class, but do not regularly show, along with a discussion of my pedagogic purpose in showing the film. My course is built around the text *The Comparative Law Tradition: Europe, Latin America, and East Asia* by John Henry Merryman, David S. Clark, & John O. Haley (Michie Co. 1994). I choose this book because of its material on three major legal traditions—the European civil law tradition, the mixed indigenous-civil law tradition found in South America, and the mixed Confucian-civil law tradition of eastern Asia (a tradition that I

[28] I have personally observed trials similar to those in three of the four films—the fourth is set at the end of the middle ages.

have studied and with which I have worked). I also add a unit on Islamic law (another tradition that I have studied and with which I have worked over the years). The four films I show are: *The Return of Martin Guerre* (*Le Retour de Martin Guerre*; France, 1982); *Dingaka* (South Africa, 1965); *The Story of Qiu Ju* (*Qiu Ju da guan si,* literally "Qiu Ju Goes to Court"; China, 1992); and *A Question of Silence* (*De Stilte rond Christine M.,* literally "The Silence of Christine M."; Netherlands, 1982). The two that I have shown but do not now show are: *The Conviction* (*La Condanna*; Italy, 1991); and *The Red Corner* (USA, 1997, R).

A. The Return of Martin Guerre

Le Retour de Martin Guerre
France 1982 unrated
Director: Daniel Vigne
Writer: Jean-Claude Carrière
Lead actors: Gérard Depardieu, Nathalie Baye, Maurice Barrier, Roger Planchon
122 minutes
French, with English subtitles (avoid the dubbed version)

I spend time in my comparative law course developing the contours of each legal tradition that I ask the students to encounter. I begin with a brief overview of English legal history in order that the students can better develop a context in the form of their own legal tradition against which to compare elements of a different legal tradition.[29] Then we turn to Roman law, covering its evolution from the Twelve Tables through Justinian to the western European reception during the high Middle Ages in about six class hours. *The Return of Martin Guerre* nicely caps this rather too quick romp through a complex

[29] In my experience, students usually have learned little or nothing about English legal history (the source of our legal tradition) before coming to my course, even if they have taken an elective course on legal history.

historical process to illustrate the somewhat convoluted set of legal proceedings culminating in a trial before the *Parlement de Toulouse* in 1560.[30]

The Return of Martin Guerre is based on the novel *The Wife of Martin Guerre,* by Janet Lewis, with Princeton historian Natalie Zemon Davis called in to ensure its historical accuracy.[31] These in turn are based upon an account written by Jean de Coras, the principle judge in the story, as well as an account by an observer of the proceedings, Guillaume le Sueur. The film is photographed with such painstaking attention to historical detail that it appears to be a Bruegel painting brought to life. The plot is rather simple to relate, but its many subtle complexities are amply developed on screen. (When the film was remade in Hollywood, the subtleties disappeared, producing a far inferior film, *Sommersby.*)[32]

Young Martin Guerre, the only son of a well-to-do peasant family, married Bertrande de Rols in 1538 at the age of 14. He was ridiculed in the village when he failed to consummate the marriage for several years, but eventually (after a scourging by the town priest) fathers a son. Finding life in the small village unbearable, he runs off after fighting with his father, and disappears for about eight years. Then Martin suddenly returns, a changed man. He explains that he spent the missing years in the Spanish army, serving in Spain and northern France. After his return, he is now lovingly attentive to his wife, helpful to his wife's uncle (who took over the combined farms after Martin's parents died), and generally much more masculine than before he set off.

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[30] The *Parlement de Toulouse* was the highest court in the region of Languedoc. *See* RENÉ DAVID & HENRY P. DE VRIES, THE FRENCH LEGAL SYSTEM 10 (1958).

[31] *See* NATALIE ZEMON DAVIS, THE RETURN OF MARTIN GUERRE (1983).

[32] (USA, 1993, PC-13) It starred Richard Gere and Jodie Foster.

After three years (with two more children with Bertrande, one daughter surviving), Martin demanded a division of the property so he could claim his share of the inheritance. The uncle then accused Martin of being an imposter. De Coras, a judge from the *Parlement* of Toulouse, was sent to investigate the matter and declared the man to be the true Martin. Only a few days later, however, Bertrande joined in a complaint that Martin was a fraud, and the trial was eventually brought before the entire bench of the *Parlement.* Despite the supposed Martin's prodigious memory of the details of his past life, the sudden appearance, at the last possible moment in the trial, of a one-legged man who claims to be the real Martin seals the pseudo-Martin's fate.[33] He is convicted and hung in the village where his fraud took place. The film sticks closely to the actual record of the events except for an ending in which Bertrande admits that she knew all along that the pseudo-Martin was a fraud but had fallen in love with him.[34]

One could use the film to expound on the politics of class,[35] of gender,[36] and of sexual orientation,[37] themes that are all nicely placed in the film. While there is no explicit reference to the Reformation until the postscript about de Coras' execution as a Huguenot (Protestant), there is an interesting portrayal of the role of the Catholic priest in the life of

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[33] This unlikely circumstance is actually in the written summary of the trial prepared by Jean de Coras, the lead judge.

[34] While this might be a plausible explanation of Bertrande's role in the trial, there is no record of any such an admission on her part.

[35] Martin Guerre's family appears to be the most prosperous family in the village, with some jealously on the part of other villagers playing a role in the film, particularly in the early scenes.

[36] Bertrande is married off to a boy who doesn't love her, has to be an obedient servant to her uncle until her "husband" returns, and must face living the rest of her life with a man who despises her betrayal of him with the pseudo-Martin. I point out to my students that perhaps one reason she chose her real husband over the man she is presented as loving was to protect the daughter she bore to the pseudo-Martin, a child who would have no one to care for her if her mother were also condemned for participating in the fraud of the girl's father.

[37] There are strong suggestions that the real Martin's sexual problems with Bertrande and the source of his difficulties with his father arose because the real Martin was homosexual, or perhaps one should say wasn't very manly—if one defines, as was common at the time, manliness as heterosexual.

the village as well as of the role of a "wise woman" in the village, a blind old woman who appears to practice witchcraft, with the peasants accepting both set of practices as equally valid. But at its center is the love story of the pseudo-Martin and Bertrande.

Gérard Depardieu, who played the pseudo-Martin, went on to become internationally famous—and some consider *Martin Guerre* to be his best work. Despite his less than movie-star looks, he compels you to love him just as Bertrande does. Nathalie Baye, who played Bertrande, remained largely unknown outside of France.[38] Her eyes seem constantly troubled by the events around her even while loving the man of her life. In this movie, they seemed perfectly matched and captivate the audience with the love of a demure young women for a big bear of man. On this level alone, the film will move most anyone watching it. Against this compelling backdrop and within this well drawn social matrix, the film also renders the several sets of legal proceedings clear and compelling.

At the time of the trial, which was attended by a young Montaigne, the *Parlement of Toulouse* followed the Roman law as embodied in Justinian's Code (*le droit écrit*). That law had introduced the requirement of hard evidence and presumptions of innocence (as was recognized in the film). It was also the era of the Huguenot Wars in France, and (as we are told in a postscript) de Coras was himself executed (with one hundred of his friends) in the St. Bartholomew's day massacre of 1572. Thus the film is set in a time of social turmoil and a questioning of values. This beautifully made film captures all of this.

B. Dingaka

Dingaka
South Africa 1965 unrated
Director: Jamie Uys
Writer: Jamie Uys

[38] She did play the mother of Frank Abagnale, jr. (Leonardo de Caprio) in *Catch Me if You Can* (USA, 2002, PG-13).

Lead Actors: Ken Gampu, Stanley Baker, Juliette Prowse, Alfred Jubilani, Paul Makgoba, John Sithebe
98 minutes
English

After having brought the students up to the end of the Middle Ages, we turn to the collision between an expanding Europe and the rest of the world. The Merryman *et al.* book contains considerable material on indigenous peoples in Latin America and their colonization by Spain and Portugal, which produced a Spanish or Portuguese legal system that co-existed (and co-exists in some areas) with surviving indigenous legal traditions. One of the more dramatic examples is a case from Colombia, *The Case of Célimo Miquirucama*,[39] involving a killing that the defendant sought to excuse because the victim was a witch. The consideration of such materials prompts the class to consider the survival of indigenous legal traditions in other parts of the world, including within the United States, or the introduction of non-European traditions into basically European societies, such as the Hmong refugees who settled in Philadelphia and elsewhere in the United States after, for example, the Vietnam war.[40]

Dingaka, which was not a widely known film when it was made (in contrast with *The Return of Martin Guerre*), presents a melodramatic example of such a clash between cultures and legal traditions. It was written and directed by Jamie Uys (1921-1996), probably South Africa's greatest film maker, best known outside of South Africa for his two

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[39] 13 G.J. 303 (S. Ct. Columbia 1970). A translation of the court's opinions is in Merryman *et al.,* at 658-64. *See also* David S. Clark, *Witchcraft and Legal Pluralism: The Case of Celimo Miquirucama,* 15 TULSA L.J. 679 (1980).

[40] The Hmong were a stone-age people who helped the United States in the jungles of Laos, many of whom were transported at the end of the war to the United States. They had, and to some extent continue to have, difficulty adjusting to living in an urban, or at least western, setting in the United States, difficulties that often manifest themselves in troubles with the legal system. *See, e.g.,* Jerry L. Anderson, *Comparative Perspectives on Property Rights: The Right to Exclude,* 56 J. LEGAL EDUC. 539, 544-46 (2006) (describing a shooting by a Hmong man who trespassed onto private land while hunting); Deirdre Evans-Pritchard & Alison Dundes Renteln, *The Interpretation and Distortion of Culture: A Hmong "Marriage by Capture" Case in Fresno, California,* 4 S. CAL. INTERDISC. L.J. 1 (1995).

films, *The Gods Must Be Crazy* (South Africa, 1980, PG) and *The Gods Must Be Crazy II* (South Africa, 1989, PG).[41] *Dingaka* is nicely photographed and, as befits the oral tribal culture that dominates much of the film, features great singing and dancing. The film tells the story of a tribal African, Ntuku Makwena, with little or no experience of white South Africa, who becomes embroiled in the dominant society's legal system after traveling to the "white man's city" (Johannesburg) in search of the man whom Ntuku believes has killed Ntuku's daughter.

The film is set against the backdrop of *apartheid* South Africa, apparently just before the pass laws were imposed that made it much more difficult for tribal Africans to relocate to the cities. In this setting, we are shown not only the cultural gulf between Ntuku and white society, but also the cultural gulf between Ntuku and urban black society in South Africa in the middle 1960s. If one did not know the plot, one would think for the first 20 minutes of the film that it was simply an exploitative and condescending look at tribal African culture at that period. Only after the principal characters relocate to the "white man's city" do we learn what the film really is about.

The moving opens with a "stick fight" between two African men, in which one beats the other senseless. The tribe celebrates the victory with drinking, singing, and dancing, but the loser (Masaba, whom we learn had been the tribe's champion stick fighter for several years) goes off to see the witchdoctor (who lives atop a steep cliff) to demand strong medicine to restore to him his lost virility. For a price, he is given strong medicine indeed—he is told to eat the heart of a pre-pubescent twin girl without harming the other

[41] Few people seem to notice that the two *The Gods Must Be Crazy* films also comment pointedly on law or lawyers. In the first film, the hero, a bushman from the Kalahari desert, is arrested and briefly sent to jail; the second film turns on an American lawyer, a young woman, who gets lost in the desert while attending a conference in South Africa.

twin. Shortly thereafter, one of Ntuku's twin daughters disappears and when the entire village is unable to find her, Ntuku goes to the witchdoctor and forces him to disclose that Masaba had killed his daughter. Ntuku pursues Masaba, but Masaba strikes him down. The witchdoctor forbids the tribe to help Ntuku, so Ntuku's wife climbs up the cliff to beg forgiveness for Ntuku. The wife falls to her death, which the witchdoctor says is punishment enough, so the tribe can help him.

Masaba goes to the witchdoctor, who tells him to flee to the "white man's city." The witchdoctor sells Masaba some medicine that he assures Masaba will prevent Ntuku from finding him there. When Ntuku recovers sufficiently, he apologizes to the witchdoctor, who tells Ntuku that Masaba is hiding in the "white man's city" and sells Ntuku some medicine to help him find Masaba. Ntuku leaves his surviving children in the care of his parents and sets off, with the help of a friend who has been to the city, to find Masaba.

The movie then follows Ntuku as he searches through a city that he doesn't understand for Masaba. Ntuku loses his friend, his money is taken by a conman, he gets a job at a mine, and he searches whenever he is not working. His wonderings among the black neighborhoods allow us to encounter various aspects of black life in the city. And always is the singing and dancing, in a church, a nightclub, on the job, and at a Sunday gathering of the tribes in a park. Ntuku tracks down and strangles a tuxedo-clad Masaba. Ntuku is arrested and charged with attempted murder.

Ntuku simply doesn't understand the white man's legal processes and refuses even to talk to his court-appointed lawyer. When Masaba is brought into court to testify against Ntuku, Ntuku tries to strangle Masaba once again. Only then does it come out that he is after Masaba for killing his daughter. The judge informs Ntuku that if he can prove Ma-

saba killed his daughter, the court will punish him. Ntuku blurts out, "You can't do that. He didn't kill your daughter. It is the law!"[42]

Ntuku, of course, has no proof and is sentenced to prison, which allows us to see prison life for black prisoners (with yet more singing). Ntuku escapes, and returns to his village. Meanwhile his white lawyer has gone to the village to find him, and tells him that the witchdoctor is the real villain. Ntuku says that then he will have to kill the witchdoctor even if the Gods strike him dead—it is his legal duty to avenge his daughter, no matter what the cost to himself. That evening the witchdoctor calls the tribe to a festival in his honor. Amidst much singing and dancing, Ntuku shows up and strangles the witchdoctor. The white lawyer arrives and assures Ntuku that his lawyer will defend him.

The acting in the movie is first rate, although the white characters in the film are poorly written compared to the black characters. Ken Gampu, a former school teacher, had an undistinguished career, apart from this film, as a supporting acting in films in South Africa and Hollywood, but a distinguished career on the South African stage. He utterly dominates this movie with a moving performance as a strong, yet deeply troubled, man. Stanley Baker, at the time one of the leading English-speaking film actors in the world, had come to South Africa to co-star (with Michael Caine) in *Zulu* (UK, 1964) and does a presentable job as the white lawyer, almost overcoming his poorly written dialogue. Juliet Prowse, portraying Baker's wife, has even less to work with; in some ways, students can more easily relate to the dramatic change in the status of women (at least on screen),

[42] Later, after the court adjourns, the white lawyer tells Ntuku, "If he (Masaba) is guilty, we will hang him for you. We're civilized here."

made clear by the utterly decorative function that Ms. Prowse performs, than to the racial and cultural barriers that Ntuku confronts.[43]

Despite the movie's weaknesses (particularly the poorly written white parts), it is interesting for its images of black and white life in South Africa in the mid-1960s.[44] It also works as a mystery and an adventure. But for a comparative law class, its most interesting aspect is the confrontation between a man who thinks in terms of traditional or indigenous law and a lawyer who functions within the Roman-Dutch legal system that still is used by the government of South Africa and its courts. The film never stops to identify either legal system, for it was not meant as a didactic instrument. Yet the contrast is starkly drawn, especially with the aforementioned courtroom confrontation. Ntuku's invocation of "the law" allows the class to consider where did this law come from, who created it, and how is it enforced—all radically different processes for a customary legal system from our notion of law as a consciously created social artifact, created and enforced through formal structures, and the purview of a special profession. And in the end, *Dingaka* echoes the viewpoint of the classic Greek tragedy—a person must do what the law requires even at the cost of his own life.

C. The Story of Qiu Ju

Qiu Ju da guan si ("Qiu Ju Goes to Court")
China 1992 PG
Director: Zhang Yimou
Writer: Liu Heng (based on a novella by Chen Yuan Bin)
Lead Actors: Li Gong, Lei Queshen, Liu Peiqi, Yang Liuchun
101 minutes
Chinese, with English subtitles

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[43] In some ways, Ms. Prowse's own career mirrored the role she plays in *Dingaka.* She had a brief career as a film actress, a long career as a nightclub performer, and is perhaps best remembered today as having been briefly engaged to marry Frank Sinatra.

[44] Other racial groups, such as Indians (South Asian) and "Colored" (persons of mixed blood) do not appear in the film.

While this movie was directed by China's foremost director and starred internationally renowned actress Gong Li (Li Gong in its Chinese form), it did not achieve the international commercial success of their several other ventures,[45] such as *Red Sorghum* (*Hong Gao Liang*; China, 1987), *Ju Dou* (China, 1990), *Raise the Red Lantern* (*Da hong deng long gao gao gua;* China, 1991), and *To Live* (*Houzhe;* China 1994). It is easy to see why. *The Story of Qiu Ju* was part of the ongoing propaganda campaign in China to educate the public to think in terms of formal law and legal institutions in a society where such structures were never important and were often seen as a foreign imposition. As such, the film is didactic, following the protagonist, Qiu Ju, from the village, the district, and the county public security bureaus (the police), all of which fail to give her justice, and to a lawyer and a court, which also fails on her first try. On appeal to a higher court, she finally gets what she has sought—when she no longer wants it.

Qiu Ju's stubborn pursuit of justice is actually rather un-Chinese, as several characters in the film remind the audience, but she persists, if only so the audience can see the possibilities open to someone in her place. She is visibly pregnant and living in a small village on a hillside in rural China. Just going to town or to the city is difficult for her, yet go she does, again and again. Her husband has been assaulted by the village chief and she demands an apology. The chief, under pressure from the public security bureau, agrees to pay for the husband's medical bills, but insists that he did nothing wrong. Qiu Ju pursues her case, insisting that it is not about the money but about the chief admitting he was wrong. Eventually, the appellate court finds that he husband has suffered a broken rib in the assault and orders the village chief to be jailed for two weeks—but in the meantime

[45] Gong Li did win the best actress award at the Venice International Film Festival for this movie.

the village chief has saved Qiu Ju's life when the birth of her child goes wrong. The chief organizes a group of men to carry her through snow to the hospital in the distant town.

The movie creates a richly textured view of peasant life in China, a life that for a majority of Chinese has changed little despite the on-going economic miracle that so captures the imagination of the rest of the world. The struggle of wills between Qiu Ju and the chief (her husband was ready to give up the fight long before she was) is really a struggle about "saving face," as the characters mention several times. We see how all, including the village chief, live impoverished lives in simple, poorly heated houses. The story also involves questions about the one-child policy,[46] land-use policy,[47] and the resurgence of traditional practices with the decline of faith in the Chinese Communist Party, as well as the spreading impact (especially in the city) of foreign influences.

The movie is well written and well acted, although Gong Li appears in what has to be her most unglamorous role in this film. As intended, the movie illustrates the various legal avenues for redress of grievances that are emerging in China. Yet even American law students sometimes become exasperated by Qiu Ju's dogged pursuit of justice (as she defines it) long after it seems worth pursuing. The film offers an opportunity for an American audience to consider the nature of formal legal institutions and what alternatives might be available for ordering a society. And to a Chinese audience, while the film was meant to instruct them on the utility of formal legal institutions, Zhang is too good a story teller to make a merely didactic movie. In being true to his characters' lives, he ends up

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[46] The assault occurred because the husband, in a moment of anger, had accused the chief of raising only "hens." The chief has four daughters and no sons.

[47] The dispute leading to the assault occurs because the chief refused to give Qiu Ju and her husband permission to build a shed on their land.

undercutting the propaganda message of the film. Therein lies yet another important lesson. The film has also worked well in my seminar on Chinese Law.

D. A Question of Silence

De Stilte rond de Christine M. ("The Silence of Christine M.")
Netherlands 1982 R
Director: Marleen Gorris
Writer: Marleen Gorris
Lead Actors: Cox Habbema, Edda Barends, Nelly Frijda, Henriëtte Tol, Eddie Brugman
92 minutes
Dutch, with English subtitles

A Question of Silence is a movie that is shown in some women's studies courses. Otherwise it is largely unknown, even among film buffs. It is an artifact of the international women's movement of the 1970s and derives both its strengths and its weaknesses from that fact. It holds one attention as a portrayal of the injustices and indignities that women suffered before the women's movement (and to some extent still suffer), and a graphic portrayal of the revenge that three women took on a man who just happened to be in the wrong place at the wrong time. The three women, who were strangers to each other, combine in a brutal murder a shopkeeper after he catches one of them shoplifting. Other women in the shop look on and do nothing to prevent the murder. Why the man doesn't defend himself or run away is puzzling. And, to make its political point, the film has the prosecution insist that the women were insane and the defense insist that the acts were a rational response to the intolerable situation of women.

The movie centers on the efforts of a psychiatrist to understand the motivations and thinking of the three accused women. One of the women, Christine Molnar, simply refuses to speak to anyone, hence the title. Flashbacks gradually bring out that she was hopelessly frustrated in the role of a housewife and mother, and gradually stopped speak-

ing, apparently because she saw no point in talk. It is her shoplifting that sparks the murder. The other women are both living alone and both work outside the home—one is a rather loud waitress in a small restaurant whose husband divorced her and whose daughter no longer speaks to her; the other is a secretary to the president of a global corporation who contributes a great deal to the success of the company but whose efforts are ignored because "she is only a secretary." The film excels at portraying the subtle discriminations that are so much a part of social prejudice. Apparently, the three murder the shopkeeper as a surrogate for all the men who have abused or ignored them over the years, although the film is complex enough to leave viewers uneasy about just what point of view the writer-director wants them to take.[48]

While successful in portraying the three women and their lives, the film is less successful in portraying the legal proceedings. Students are generally surprised at the cleanliness and roominess of the Dutch prison in which prisoners are held—a lesson that might alone justify showing the film. But the only part of the trial that is shown is the examination of the psychiatrist who appraised the women's mental state and found them (and implicitly, their action) sane. We see the bench of three judges, the prosecutor, and the defense attorneys in action. There is only the merest hint that there are jurors or lay assessors involved in the case.[49]

The central character of the film is the psychiatrist, Janine van den Bos, played admirably by Cox Habbema. One of the things that I suggest students look for in the film is

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[48] The movie allegedly is based upon an actual event, except that the murder victim was a young woman in the putative "real life" story from which it derives. Given the political cast of the movie, this is spectacular change.

[49] Since the lay people sitting behind desks to the side of the court are barely glimpsed, there is no information provided in the film as to which function (juror or lay assessor) they perform. On these two different systems of lay involvement in judging, see John D. Jackson, *Lay Adjudication and Human Rights in Europe,* 13 COLUM. J. EUR. L. 83 (2006).

how the practice, general in the civil law tradition, that experts of all kinds (including the psychiatrist in this film) are employees of the court rather than of one side or the other in the litigation, changes the dynamic of the expert investigation and provision of evidence. We are introduced to Janine van den Bos at home with her husband, who is developed in the film as a left-leaning lawyer who nonetheless is not truly sympathetic to women's issues. Janine has a close relationship with him at the start of the film, but they gradually grow apart as her involvement in the murder case progresses. She eventually comes to "understand" what happened, at least sufficiently to insist in court that the women were sane, despite her husband's entreaties that she not rock the boat.

The writer-director, Marleen Gorris, went on to direct *Antonia's Line,* a film that won the Oscar as best foreign-language film of 1996, as well as other well received films. *A Question of Silence,* her first effort as a director and as a screen writer, is in some ways heavy handed. Even its musical score is heavy handed. Yet, despite its obvious flaws, it tells a deeply troubling story that raises important questions about gender relations (and, by extension, other forms of discrimination). It also nicely develops a basis for discussing the role of experts in a courtroom and provides at least a glimpse of a modern criminal trial in the civil law tradition. As such, it complements the readings that the students are assigned on both topics. Moreover, the very defects that apparently limit the film's effectiveness encourage once again discussion of how law takes place embedded in a social, political, economic, and historical context, a context that often is the subject of considerable and on-going challenge. Examining law as functioning in a contested and contestable context for me is what a course in comparative law should be about. Thus, despite its

problems both as a presentation of criminal proceedings in a civil law country and as in terms of gender politics, *A Question of Silence* is well worth showing in class.

E. The Conviction

La Condanna
Italy 1991 unrated
Director: Marco Bellocchio
Writer: Marco Bellocchio and Massimo Fagioli
Lead Actors: Vittorio Mezzagiorno, Claire Nebout, Andrzej Seweryn, Grazyna Szapolowska
92 minutes
Italian, with English subtitles

If *A Question of Silence* suffers from too much attachment to its feminist vision, *The Conviction,* an Italian film made a decade later, suffers from the appearance of too much anti-feminism. Truth be told, however, the latter part of the movie is so surreal that one cannot be certain what point the writer-director is trying to make. Still, the first two-thirds of the movie is sufficiently misogynistic that many students (and not just the women) objected strongly after seeing the film, and I no longer show it. The uproar is not worth the possible pedagogical gain, even though its portrayal of a criminal trial provides far more information about the process than *A Question of Silence* does.[50]

The Conviction consists of three distinct parts, which while clearly connected to each other, exist almost autonomously within the overall film. The movie opens as Lorenzo Colajanni, an art history professor portrayed by Vittorio Mezzogiorno, leads his class on a tour of an art museum in the Farnese Castle near Virterbo, Italy. One student, Sandra Celestini portrayed by Clare Nebout, wanders off and finds herself locked in the museum after it closes. She runs into Lorenzo, who apparently is the only person left in the museum. They talk, they flirt, they fight, they flirt some more, and eventually they spend

[50] Curiously, there is never student uproar over *A Question of Silence.* Apparently misandry is more acceptable than misogyny to today's law students.

much of the night in passionate embrace. In the morning, when she asks when the staff will arrive to open the museum, Lorenzo casually mentions (for the first time) that he has the keys to the museum and she can leave whenever she likes.

Sandra charges Lorenzo with rape, either (viewers differ on this point) because he overpowered her will or because he denied her relevant information.[51] That aspect of the film could provide an interesting entrance into a discussion of the nature of rape. But the differing possible interpretations of the charge of rape become secondary because Lorenzo embraces the charge at least at the trial. He testifies that of course he raped her, that is what she (and inferentially all women) want from a man. The trial scenes are carefully drawn, with a full panoply of legal participants, testimony from several witnesses, and well developed vision of the functions of a court.

The third part of the film virtually drops the story line of Lorenzo and Sandra, and follows the prosecutor, Giovanni played by Andrezj Seweryn, and his girlfriend, Monica played by Grazyna Szapolowska. They do not have a happy relationship, and whether by design or out of an excessive zeal to find parallels between the relationship between Monica and Giovanni and that between Sandra and Lorenzo, the last third takes a surrealist turn that quickly becomes almost unintelligible.[52]

Despite the film's obvious weaknesses, it has some virtues. Its story line, at least before the last third, is intriguing, the camera work is sometimes surprising but always fluid, and the middle part of the film presents a criminal proceeding in a civil law country much more clearly than does *A Question of Silence.* Unfortunately, for many students the virtues are far overshadowed not only by the misandry expressed at the trial, but also by

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[51] I see the film as strongly suggesting that Sandra would not have charged Lorenzo with rape had he not had the keys. Others have disagreed with this interpretation.

[52] Some might say I am being kind with the word "almost."

the confusion that comes afterward. The serious defects in the film also firmly place law in a contested context, but one that (unlike the radical feminism of *A Question of Silence*) raises so many objections and appears so confused that on balance, it probably is best left out of the classroom.

F. The Red Corner

The Red Corner
USA 1997 R
Director: Jon Avnet
Writer: Robert King
Lead Actors: Richard Gere, Ling Bai, Byron Mann, James Hong, Jessy Meng
122 minutes
English

The final film that I have used in both my course on Comparative Law and my seminar on Chinese Law is *The Red Corner.* The film was a major departure from my criteria of seeking movies made in the culture which is depicted in the film, yet it is so rich with telling (and generally accurate details) about Chinese culture and the Chinese legal culture, that I used it successfully for several years before I became aware of *The Story of Qiu Ju.*

As a Hollywood movie, it is more accessible to an audience of American law students, and it raises serious questions in an intelligent way about the role of American and other foreigners in the dramatic changes Chinese now going on in Chinese society. It also inadvertently, raises questions about how the United States treats persons from foreign countries accused of crimes in the United States. Thus, students visibly react when Jack Moore (played by Richard Gere) is initially denied access to American consular officials despite the Chinese adherence to the *Vienna Convention on Consular Relations,*[53] The

[53] TIAS no. 6820, 21 UST 77 (1969).

treaty promises such access "promptly" after a foreign national is arrested in a signatory country. Most of the students have never learned in law school that the United States, which also has ratified the treaty, routinely violates its terms and has even gone so far as to withdraw its ratification of the optional protocol to the treaty allowing states access to the International Court of Justice when there is a dispute about whether the convention has been violated.[54] President Bush withdrew American consent to the optional protocol after the United States repeatedly before the International Court of Justice relating to the routine violation of the treaty by the United States.[55]

What students learn about American laws and policies is a bonus to what the movie shows about Chinese society. It shows how far, for the relatively well-to-do Chinese with whom Jack Moore interacts, westernization has progressed. Not only do these Chinese dress in the western style, but they shop in expensive shopping malls, dance at fancy discotheques, and attend high fashion shows of designer clothes. Moore is a cynical American lawyer in China in an attempt to market a set of American television shows to Chinese television networks. The head Chinese negotiator (Lin Dan, played by Byron Mann) takes him out to dinner and a fashion show. At the fashion show, Jack allows himself to be picked up by a very pretty model, Hong Ling (played by Taiwanese actress Jessy Meng), who goes to his hotel room with him for a night of passionate sex. (This, plus a bloody murder, earns the movie its R rating.) This in turn suggests how the more affluent members of Chinese society have also adopted western sexual mores, in a sharp break from only a few years earlier. The way the encounter turns out, however, reveals just how

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[54] *Ex Parte* Medellin, 223 S.W.3d 315 (Tex. Crim. App. 2006), *cert. granted,* 127 S. Ct. 2129 (2007).

[55] The Case of Avena and other Mexican Nationals (Mexico v. United States), ICJ 31 Mar. 2004; The Case of La Grand (Germany v. United States), ICJ 27 June 2001; The Case of the Vienna Convetion on Consular Relations (Paraguay v. United States), ICJ 9 Apr. 1998.

different China, including its well-to-do classes, remain from western, or at least, American values.

Jack is rudely awakened by Chinese police in the morning, who have found Hong Ling bloodily murdered in his room, with Jack covered with her blood. He is taken into custody and charged with murder. He is denied access to American consular officials and finds himself with a Chinese attorney assigned to "defend" him. The Chinese attorney, Shen Yuelin, is played admirably by Ling Bai (billed as Bai Ling, the Chinese form of her name, in the movie). Gere provides a typical strong performance, while Bai, who herself entered the United States as a refugee after the Tienanmen Square tragedy, gives a sparkling performance as the attorney. Bai, who had some small parts in movies in China before 1989, has had a mostly undistinguished career in the United States, generally playing exotic and highly sexualized villains in other American movies. In this movie, in which she keeps her clothes on, she is made to look older than her age of 26 (when she made the movie), proves she can act and deserved better than she was allowed to achieve in the United States. But that is another story.

As portrayed by Bai, Shen Yuelin conceives of her job as being to convince Jack Moore to confess to the murder, in the hope of that she can persuade the court of his remorse and thus save his life. This somewhat undercuts the reality that in politically important cases, defense lawyers are expected to seek their client's confession not in the interests of the client, but because their primary duty is to the state and not to the client. And this turns out to be a politically important case because Hong Ling, the dead girl, is the daughter of an important general. Jack insists on pleading not guilty, and suffers frequent unpleasant or worse interrogations as a result. The general also intercedes in the

case, virtually ordering Shen to allow him to plead not guilty because the general wants to see Jack executed.

The maneuvering over how Jack will plead is somewhat misleading. It could perhaps happen as depicted, but more likely the confession would not have saved his life and would have been more in keeping with what is expected in a Chinese criminal trial. This is particularly true as Shen is not a private attorney, some of whom have gotten themselves into serious trouble—losing their license to practice law, imprisonment, or simple physical beatings[56]—for arguing too strongly on behalf of a client. Shen is something like a public defender, assigned to the case by the state and frequently confronting orders (that she does not welcome) from her supervisors, also presented as state attorneys.

The trial begins before a panel consisting of one professional judge and two lay assessors. The assessors say virtually nothing, allowing the proceedings to be run by the judge. The judge, unlikely enough, speaks excellent English and seems (also unlikely) to have some understanding of how Jack conceives of a trial. Eventually, Shen persuades the court to delay the proceedings so she can undertake to investigate the case. She takes Jack to her home to question him with some privacy. While there, he meets Shen's elderly grandmother with whom Shen lives and he impresses Shen by playing the grand piano she just happens to have in her tiny apartment. On the page, all of this sounds increasingly unlikely, and yet it is handled so well that the audience generally accepts it as a credible story.

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[56] *See, e.g.,* Mure Dickie, *Beijing Brings out Touch New Regulations for Lawyers,* FIN. TIMES USA, May 22, 2006, at 3; Maureen Fan, *Chinese Rights Activist Stands Trial after Police Detain Defense Team,* WASH. POST, Aug. 19, 2006, at A10; Maureen Fan, *Attorney for Jailed Chinese Activist Cites Obstruction,* WASH. POST, Aug. 31, 2006, at A19; Joseph Kahn, *Chinese Dissident Says Confession Was Coerced,* N.Y. TIMES, Apr. 10, 2007, at A10; Peter Ford, *In China, New Crackdown on Dissidents,* CHRISTIAN SCI. MONITOR, Oct. 15, 2007, at 1; Chan Siu-Sin, *Lawyer Fighting for Oil Investors Gets 1-Year Bail,* S. CHINA MORNING POST, Sept. 23, 2005, at 6; Didi Kerstin Tatlow, *Human Rights Lawyer Says He Was Tortured,* S. CHINA MORNING POST, Oct. 3, 2007, at 5.

On the way back to prison, they are attacked by a killer in a police uniform. Jack had met the would-be assassin before, when the would-be assassin had attempted to kill Jack at the prison where he was being held. Jack escapes not only the assassin, but also from Shen's custody and after a thrilling chase through the back alleys and over the rooftops of Beijing, makes his way to the American embassy. Once inside the embassy, he learns that Shen will be punished for letting him escape, and thus chooses (incredibly) to leave the embassy and reenter Chinese custody.

All of this has finally convinced Shen that Jack might be innocent and she employs a computer-geek friend to investigate the telephone records from Hong Ling's cellphone on the night of the killing. She herself goes to the hotel room to look for evidence, only to be set upon by the would-be assassin who fails to kill her only because the computer-geek shows up. All of this leads up to a dramatic showdown in the courtroom, a showdown that becomes possible because the lay assessors combine to overrule the judge. Without giving the entire plot away, suffice it to say that Jack is proven innocent, the would-be assassin is uncovered, and the responsible party is unmasked.

Despite the film's clearly melodramatic, Perry-Mason style features, it actually works well to disclose how the superficial appearances of a western-style legal proceeding masks a much more traditional Chinese (and Communist) approach to judging accused criminals. That approach makes a trial more like a sentencing hearing than a trial as we would conceive of it. Again, without giving too much more away, the outcome of the case discloses the pervasive corruption of modern China—a corruption that underlies the attempt to set up Jack for murder.

Robert King, the screenwriter, evidently is familiar with Chinese culture, using Chinese slang correctly and effectively. The forms and appearance of a Chinese court proceeding are correctly presented. (I speak from experience having lived in mainland China for a year, and having observed Chinese trials, including a murder trial.) And the vision of Chinese culture at large seems largely correct. In fact, several of the street scenes were filmed in Beijing, as anyone familiar with that city would recognize.[57] While the rest of the movie was made in California, it rings largely true.

Some critics have sought to dismiss the film as just so much anti-Communist propaganda, made at the behest of Gere, an outspoken public champion of Tibetan independence.[58] There are indeed some lengthy soliloquies about the evil of the Chinese regime (once Shen becomes persuaded to save Jack). These speeches could have been left out without hurting the movie, although they do serve to make explicit some of what is already implicit in the film. And the attempt to justify these comments by suggesting an unconsummated love between Jack and Shen do not ring true.

Despite these various shortcomings, a comparative law teacher who is prepared to discuss the many problems in the movie will find it a worthwhile effort. The movie presents the sort of richly contextualized image of a Chinese court proceeding that I prefer for my students in Comparative Law. It did require a good deal more correction of details than did the other movies, and I dropped it when I was made aware of *The Story of Qiu Ju. The Red Corner* actually gives students a much more detailed look at how a Chinese court proceeds and how Chinese lawyers function than does *The Story of Qiu Ju,* but the latter movie provides an enormously valuable inside view of Chinese proceedings. Made

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[57] The fact that they were able to film at all in China, especially in Beijing, for a part of a movie this critical of China itself demonstrates just how far well placed bribes can get you in China.

[58] *See, e.g.,* Carrie Rickey, *Finding His Humanitarian Path,* PHILA. INQUIRER, Nov. 13, 2007, at D1.

in China by Chinese, *The Story of Qiu Ju* captures far better than *The Red Corner* how Chinese understand law and legal proceedings and how they fit (or don't fit) Chinese society. This Chinese sensibility is lacking in *The Red Corner* and despite its more accessible story and clear delineation of the risks that Americans and other foreigners doing business in China face,[59] it just doesn't give an American law student a real look at the Chinese perception of law and legal proceedings.

[59] Stories of foreign business arrested on trumped up charges continue to leak out of China. While not so dramatic as in *The Red Corner,* these stories deserve to be more widely known than they are. *See, e.g.,* Chris Buckley, *For Entrepreneur, Business Trip Ends in a Chinese Jail,* N.Y. TIMES, Jan. 18, 2005, at C6; Chris Buckley, *Spot on China's Image: U.S. CEO "Hostage" in Business Dispute,* INT'L HERALD TRIB., May 18, 2005, at 1; Stephanie Fitch, *Held Hostage in China,* 176 FORBES no. 10, at 142 (Nov. 14, 2005); Nicholas Keung, *China Holds GTA Man in Jail without Charge; Mississauga Electronics Supplier Held for Four Months in Business Dispute,* TORONTO STAR, Feb. 20, 2007, at A1.