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FEMINIST LAW AND FILM: IMAGINING JUDGES AND JUSTICE

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[F]or me there is ambiguity in justice—and that’s why I have given it to the character of the judge. I don’t know what the face of justice is—sometimes it’s masculine, sometimes it’s feminine—that is where ambiguity resides: in questions of morality.

Pedro Almodóvar¹

I. INTRODUCTION AND OVERVIEW

Despite the desire of some to append a “post” to the feminist legal enterprise, it is thriving and ever expanding in exciting directions. One such direction of unfinished feminist business is the reexamination of legal categories. This is an attempt to further conceptualize them in response to changing insights regarding the functions of law and the realities of women’s lives. Sexual harassment is a case in point.² A related project is the ongoing reformulation and development of concepts and values that have not traditionally been used in the legal feminist context. Some feminist scholars present women’s rights as “human rights”;³ some suggest harnessing the values of “respect” and “dignity” to the articulation of women’s rights;⁴ others rethink the notion of “justice” suggesting that it is

* I am grateful to my friends Nita Schechet and Rebecca Johnson for conversation, helpful comments, and ongoing support.

1. Rikki Morgan, *Dressed to Kill*, SIGHT & SOUND, Apr. 1992, at 28, 29 (quoting Pedro Almodóvar).

2. See, e.g., Kathryn Abrams, *The New Jurisprudence of Sexual Harassment*, 83 CORNELL L. REV. 1169 (1998); Anita Bernstein, *Law, Culture, and Harassment*, 142 U. PA. L. REV. 1227 (1994) [hereinafter Bernstein, *Law, Culture, and Harassment*]; Anita Bernstein, *Treating Sexual Harassment with Respect*, 111 HARV. L. REV. 446 (1997) [hereinafter Bernstein, *Treating Sexual Harassment*]; Katherine M. Franke, *What’s Wrong with Sexual Harassment?*, 49 STAN. L. REV. 691 (1997); L. Camille Hebert, *Sexual Harassment Is Gender Harassment*, 42 KAN. L. REV. 565 (1995); Vicki Schultz, *Reconceptualizing Sexual Harassment*, 107 YALE L.J. 1683 (1998).

3. See, e.g., HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES (Rebecca J. Cook ed., 1994); WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW (Kelly D. Askin & Dorean M. Koenig eds., 2000). I am grateful to Catharine MacKinnon for pointing me to these sources.

4. See Bernstein, *Law, Culture, and Harassment*, *supra* note 2, at 1248; Bernstein, *Treating Sexual Harassment with Respect*, *supra* note 2, at 483-527.

inseparable from an ethics of care.⁵ Additionally, theoretical categories are being revisited and the relationships between them reviewed. So, for example, the relationship between feminist theory that focuses on an ethics of care⁶ and feminist theory that focuses on dominance, oppression, and resistance⁷ is reexamined,⁸ as is the relationship between legal feminism and postmodernity.⁹ Yet, another avenue of expansion is the dialogue of legal feminism with other disciplines such as literary criticism.¹⁰ Such interdisciplinary work offers a potential source of original and challenging ideas. Integration of all four methods will undoubtedly provide surprising new insights.

Each of the above-mentioned theoretical, methodological directions is a case of "unfinished feminist business." All four should be pursued in attempts to broaden the feminist horizon and open up unfamiliar territory. My area of interest in this Essay focuses on cultural images of the judiciary, terrain only recently open to considering feminist alternatives. Integrating three of the above-mentioned directions, I try also to offer methodological mapping for future feminist research.

This Essay contains a close reading of a contemporary film, Pedro Almodóvar's *High Heels*, as offering a radical and feminist alternative to that of Solomonic justice, which dominates our Judeo-Christian heritage. The Essay explores the imagery of a newly developing legal-feminist concept, "caring justice," employing the inter-disciplinary methodology of feminist law and film. This approach suggests that the postmodern cinematic imagery presented here transcends the apparent dichotomy between "radical" feminism focused on patriarchal oppression and dominance, and feminist thought focused on an ethic of care. The approach invites a multiplicity of judicial imagery that is differently responsive and responsible. Creation of such a judiciary pantheon radically

5. See generally MARTHA NUSSBAUM, *Equity and Mercy*, in *SEX AND SOCIAL JUSTICE* 154 (1999); ROBIN WEST, *CARING FOR JUSTICE* 22 (1997).

6. See generally CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982).

7. See generally CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* (1987).

8. See NUSSBAUM, *supra* note 5, at 13-14; WEST, *supra* note 5 at 7, 37.

9. See WEST, *supra* note 5, at 259.

10. For a collection of essays on feminist law and literature, including a thorough annotated bibliography on women, law and literature, see *BEYOND PORTIA: WOMEN, LAW AND LITERATURE IN THE UNITED STATES* (Jacqueline St. John & Annette Bennington McElhiney, eds., 1997); see also WEST, *supra* note 5, at 179.

challenges contemporary concepts of justice.

In *Caring for Justice*, Robin West offers a notion of justice that closely links it with care and compassion. She argues that “the ‘ethic of justice’ and the ‘ethic of care’ are in fact much more interrelated and interdependent than [the] widely accepted dualism suggests.”¹¹ Further she argues that “the zealous pursuit of justice, if neglectful of the ethic of care, will fail not just as a matter of overall virtue, but more specifically, it will fail *as a matter of justice*.”¹² In her discussion of justice and care, West focuses on cultural images. She presents several traditional images of justice, concluding that “the plumb line, the cupped hands,¹³ the blindfolded judge and the scales of justice, as well as the values of consistency, integrity, and impartiality that they represent—do indeed constitute foundational elements of what James Boyd White calls our ‘legal imagination.’”¹⁴ The legal imagination reflected in, and refracted by, traditional images does not promote the association of justice with care. To bring about change in the legal imagination and in public notions of justice and law, to reconceptualize justice and law not merely in terms of “objectivity” and impartiality, but also in terms of compassion and care, new images are needed—images as powerful, memorable, and attractive as traditional ones.

In accordance with West’s line of thought, I suggest that cinema is a rich source of contemporary imagery—popular, familiar, and imaginative. Interdisciplinary “law and film” analysis can identify imagery of “caring justice” in movies. Such work may offer detailed analysis of the mechanisms and logic of such imagery, thus contributing to the conceptualization of a justice of care in new realms such as legal discourse.

Thus far, feminist legal scholarship has taken little notice of cinema, despite its enormous impact on contemporary imagery. When this scholarship has attended to cinema, it has often limited its scope to images of lawyers and study of their representation in American cinema.¹⁵ In this, feminist legal scholarship shares the

11. WEST, *supra* note 5, at 24.

12. *Id.*

13. The cupped hands represent the judge’s personal integrity, which is at stake when he sits in judgment. West quotes Robert Bolt’s Thomas More, explaining that “[w]hen a man takes an oath . . . he’s holding his own self in his own hands. Like water. And if he opens his fingers *then*—he needn’t hope to find himself again.” *Id.* at 26.

14. *Id.* at 30.

15. See Louise Everett Graham & Geraldine Machio, *A False Public Sentiment: Narrative and Visual Images of Women Lawyers in Film*, 84 KY. L.J. 1027 (1995-1996); Carole Shapiro,

interests manifested by much of the law-and-film scholarship.¹⁶ This tendency develops from an almost exclusive scholarly focus on American cinema with its own focus on lawyers as protagonists. I suggest that the adversarial essence of the American judicial system invites this interest in images of lawyers on the part of filmmakers, reviewers, and researchers alike. In turn, this cinematic and scholarly focus perpetuates the oppositional essence of the Anglo-American conception of justice. This binary view, cultural and judicial, suits the patriarchal social order and precludes imagery with subversive feminine potential.

In contrast, European cinema, representing legal traditions more inquisitorial in essence, tends to focus more on the judiciary and the legal system as such, rather than on dueling lawyers—thus offering potentially different perceptions. It meditates on the nature of the judicial system rather than on the variety of combative stances available to the adversarial advocate and portrayed in American cinema. American film and law-and-film scholarship focus primarily on styles of legal combat: the hero of the story is the lawyer and the spotlight is on his or her technique. The judicial system as a whole is hardly ever challenged. With its spotlight more often on the judiciary, European cinema facilitates reconsideration of fundamental elements of the judicial system, offering profoundly suggestive scrutiny of the judicial system and of notions of justice. In particular, the European point of departure is less dualistic and more open to the exploration of possibilities of feminine concepts of justice.

It is in this context that this Essay looks at a contemporary European film and compares two images of justice and law. The first is the traditional image of the King-Judge Solomon, as portrayed in the biblical story of Solomon's judgment. This popular image is of a

Women Lawyers in Celluloid: Why Hollywood Skirts the Truth, 25 U. TOL. L. REV. 955, 956 (1995); Mark Tushnet, *Class Action: One View of Gender and Law in Popular Culture*, in LEGAL REELISM: MOVIES AS LEGAL TEXTS 244, 244 (John Denvir ed., 1996).

16. See, e.g., Michael Asimow, *When Lawyers Were Heroes*, 30 U.S.F. L. REV. 1131 (1996); Ralph Berets, *Lawyers in Film: 1996*, 22 LEGAL STUD. F. 99 (1998); Randall Coyne, *Images of Lawyers and the Three Stooges*, 22 OKLA. CITY U. L. REV. 247-56 (1997); Judith Grant, *Lawyers as Superheroes: The Firm, the Client, and the Pelican Brief*, 30 U.S.F. L. REV. 1111 (1996); John Jay Osborn, Jr., *Atticus Finch—The End of Honor: A Discussion of To Kill a Mockingbird*, 30 U.S.F. L. REV. 1139 (1996); Cheyney Ryan, *Lawyers as Lovers: Gold Diggers of 1933 or "I'd Rather You Sue Me than Marry Me,"* 30 U.S.F. L. REV. 1123 (1996); Carl M. Selinger, *Dramatizing on Film the Uneasy Role of the American Criminal Defense Lawyer: True Believer*, 22 OKLA. CITY U. L. REV. 223 (1997); Cheryl Smith-Khan, *African-American Attorneys in Television and Film: Compounding Stereotypes*, 22 LEGAL STUD. F. 119 (1998); Rennard Strickland, *The Cinematic Lawyer: The Magic Mirror and the Silver Screen*, 22 OKLA. CITY U. L. REV. 13 (1997).

superior man, using the threat of a fatal sword to judge two women competing over a child, ultimately determining the essence of true motherhood. The judging man is external to the judged situation—he is objective, neutral, and completely impartial. Declared wise and just, the process is impersonal, swift, and indifferent to the parties involved, their background, well-being, pain, and motivation. The judgment is that the “true,” “real” mother is the woman who cares enough for the child to sacrifice her own interest. While motherhood is identified with care, and justice is identified with impartiality, justice and care are positioned in clear contrast, as are femininity and masculinity. The story, detached and uncaring, sides with masculine justice and law—and the imagery reflects this choice.

Contrasting imagery of law and justice is also reflected in the Spanish feature film *High Heels*.¹⁷ Here too, two “mothers” compete over the love of a female “child” (who is also a character accused of murder in the film’s detective subplot). But in this contemporary image, the law, represented by and embodied in the character of the investigating judge, is one of the competing “mothers.” Challenging the traditional binary opposition between the sexes, the judge is a man impersonating (in drag) a woman who is a singer, sex symbol, and the accused child-woman’s mother. The judge is also the accused woman’s lover, and the father of her expected child. The law is thus deeply and emotionally—one might say transsexually—involved in the lives of both the accused child-woman and her “real” mother. The law is, moreover, caring, compassionate, and loving. Justice is achieved through caring involvement. Care, compassion, law, and justice are interdependent, as are masculinity, femininity, and many more traditionally contrasted categories. The film’s compassionate treatment of all characters, judging and judged alike, invites the viewer to adopt the law’s/mother’s caring/just attitude. The central image of caring law is, thus, a sympathetic one.

In the following pages I first briefly present the familiar biblical image of King Solomon and his law and justice, followed by Almodóvar’s profoundly subversive image of compassionate judgment and its workings in *High Heels*. The discussion of *High Heels* presents the film’s conceptual themes, as well as the cinematic mechanisms supporting them. It is meant to both illustrate an alternative image of justice of great suggestive power for the feminist

17. See HIGH HEELS (El Deseo S. A. 1991). The movie was originally titled *Tacones Lejanos* (*Distant Heels*). The following descriptions are all taken from *High Heels*.

legal enterprise, and to exemplify an integrative methodology applicable to a variety of unfinished and continually evolving feminist business.

A. *Solomon's Judgment*

The Book of Kings contains the familiar story of two unnamed harlots who came before King Solomon, each claiming to be the real mother of a single child (each additionally claiming that the other woman's newborn died due to the mother's negligence).

And the king said [b]ring me a sword. And they brought a sword before the king. And the king said [d]ivide the living child in two, and give half to the one and half to the other. Then spake the woman whose the living baby was unto to the king, for her bowels yearned upon her son, and she said O my lord, give her the living child, and in no wise slay it. But the other said, [l]et it be neither mine nor thine, but divide it. Then the king answered and said, [g]ive her the living child, and in no wise slay it: she is the mother thereof. And all Israel heard of the judgment which the king had judged; and they feared the king; and they saw that the wisdom of God was in him to do judgment.¹⁸

The structure, rhetoric, and narration of the story, as well as its location in the chronology of King Solomon and its significance in the historical context of the ancient Hebrews' fierce attack on the worship of the great Goddess, have invited careful feminist analysis.¹⁹ Here, I wish only to focus on the imagery of law and justice as it is constituted by this classic text that "has long been accepted as a paradigmatic account of 'justice' and of 'wisdom.'"²⁰

In the text of Kings, the judge is portrayed as a man, a king, son, and heir to God's chosen King David. He is blessed and embraced by God. He is the story's single protagonist. At his feet, the two adversaries are wretched, anonymous women. They are both portrayed as whores, in conflict over the issue of motherhood. The male judge reveals the truth, determines justice, and pronounces the law through the swift, masculine drawing of a phallic, deadly sword. The legal process is detached, quick, violent, and efficient. It is uncaring, deaf, blind, and indifferent to the women's identities, predicaments, and narratives—as well as uninterested in a

18. 1 Kings 3:24-28 (King James).

19. For such illuminating analysis, see Ann Althouse, *Beyond King Solomon's Harlots: Women in Evidence*, 65 S. CAL. L. REV. 1265 (1992); Marie Ashe, *Abortion of Narrative: A Reading of the Judgment of Solomon*, 4 YALE J.L. & FEMINISM 81 (1991).

20. Ashe, *supra* note 19, at 81.

consideration of the child's best interest. A whole set of issues is not raised and thereby deemed irrelevant: the socioeconomic structure that reduces women to wretched "harlots," the culture that evaluates them in exclusive reference to their sexual behavior and motherhood, the responsibility of unmentioned fathers (Who were they? Did they have the women's consent to impregnate them? Did they support their offspring?), and the responsibility of the women's families and society at large. Only the women's immediate behavior before and during the trial *is* relevant, calling for judicial scrutiny. In order to reach good and just law, the judge outsmarts the women, uses their bodies and instincts against them, and treats them as objects. This process manifests the judge's superiority over the women. In deciding which of the women will receive the child, the male judge, by virtue of his sword, also determines the essence of true motherhood. Only one of the women can be the real, true, good mother. Motherhood is, therefore, exclusive, excluding, and recognized on the basis of man's all-or-nothing logic. A real mother, proclaims the masculine voice of justice, is one whose compassion for her child leads her to sacrifice her personal interest for the well-being of her child. Good law, in contrast, is fearsome.

In its presentation of this scene of judgment, the biblical text distinguishes between judging male and judged females by establishing the first as subject, king, and lord, and the latter as whores and mothers. True motherhood is identified with care, compassion, and sacrifice, while wise and just judgment is identified with extravagant, violent, external, zero-sum allocation of goods. The child, totally objectified, attracts no subjective attention. The text's own impartial indifference towards the judged women and their child, along with its determination that the winner is, indeed, the child's real mother, invites the reader to identify and side with the judging man. It constitutes its reader as a male judge.

Themes and elements of this biblical story are so deeply embedded in our notions of law, justice, and the legal process that they have become fully transparent and taken for granted. They underlie judicial decisions and lay concepts and contemporary cultural imagery—including complex, sophisticated works widely acknowledged as works of genius. Moving to cinema, recall Alfred Hitchcock's treatment of motherhood and law in *Marnie*.²¹ Motherhood is a major theme throughout the Hitchcockian canon,

21. The following descriptions are taken from *MARNIE* (Universal Pictures 1964).

with *Marnie* being Hitchcock's most powerful treatment of the mother-daughter relationship. Marnie's young single mother is a prostitute who nightly removes her daughter from her bed to entertain sailors. When one of her clients fondles the little girl, her mother attacks him and, rushing to her rescue, the girl kills the assailant. Protecting her daughter, the mother assumes responsibility for the killing and is released on the basis of self-defense. The girl completely suppresses the memory. Although refusing to offer her daughter for adoption, the mother, who has turned pious, is cold, distant, and unable to show affection to her daughter. As a result, Marnie (Tippi Hedren) matures into a frigid woman and a thief. She resorts to stealing, the film explains, in order to compensate for the lack of motherly love, as well as to support her mother and buy her attention with valuable gifts. Enter rich, masculine, educated, forceful Mark (Sean Connery) who outsmarts Marnie, catches her stealing, and decides to reform and cure her of both frigidity and thieving despite her expressed will. Threatening to turn her in to the police, he forcibly marries her, rapes her, and confronts her with her mother. Forcing Marnie's return to the memory of the night of the suppressed childhood trauma, he exposes the mother, thus curing the young woman of her obsessive attachment to the cold woman and taking the mother's place as the young woman's true savior.

In this twentieth century treatment of ancient themes, the manly Connery character steps into Solomon's majestic shoes. Empowered by both law and psychoanalysis, in swift, clean moves, this superior man pronounces judgment on the whoring mother and motherhood at large. He rescues the child from the harmful custody of a cold mother and paves her safe passage into mature heterosexuality, where she will fulfill a domestic role at the side of a powerful man. Although the mother's act of self-sacrifice seems to complicate the distinction between good and bad motherhood, it does not, in fact, undermine the patriarchal clear judgment that is reached and executed by the film's male protagonist, and fully endorsed by the film. Good motherhood is associated with warm compassion, the law is fearsome, and the distinction between the two upholds the social order. The social issues disregarded in the biblical story are similarly disregarded in the film.²²

22. For general discussions of *Marnie*, see DONALD SPOTO, *THE ART OF ALFRED HITCHCOCK: FIFTY YEARS OF HIS MOTION PICTURES* 339 (1992); ROBIN WOOD, *HITCHCOCK'S FILMS REVISITED* 173 (Columbia University Press 1989) (1960). For a Lacanian, postmodern reading of the film, see ROBERT SAMUELS, *HITCHCOCK'S BI-TEXTUALITY*:

I present this classic imagery since *High Heels* shares many of *Marnie*'s plot elements. Against the background of *Marnie*'s perpetuation of Solomonic morality, *High Heels*' treatment of the same issues is clearly and dramatically different.²³

B. *High Heels* Synopsis

Almodóvar's *High Heels* was a huge box office success.²⁴ It continues to be available in video rental stores around the world. For the benefit of those who have not seen it, let me offer a quick sketch of the central plot line (omitting multiple subplots).

The film opens with the image of Rebecca (Victoria Abril) in Madrid's airport, nervously awaiting her mother's arrival. The mother, Becky (Marisa Paredes), is a dazzling—if aging—pop star who has been absent from Rebecca's life for fifteen years. Waiting, Rebecca recalls childhood scenes. In a long on-screen flashback, we view the younger Becky buying small Rebecca earrings similar to her own. A stepfather jokingly tries to sell the girl at a market and the horrified girl flees. The stepfather attempts to prevent Becky from pursuing her artistic career, and he dies in a car accident. Becky leaves, promising to return to Rebecca and to spend time with her, but paying more attention to a flirting reporter, Manuel (Fedor Atkine), soon to become her lover, than to her hurt daughter. At the airport, the grown Rebecca, in tears, finds her old, childhood earrings in her purse and puts them on. Shaken and fragile, she is very much the neglected child that her mother left behind fifteen years earlier. Becky then arrives, recalling that she herself had earrings similar to Rebecca's, but failing to recognize those that she had given her daughter. From the conversation between mother and daughter we learn that Rebecca has married Manuel, now the head of the television channel where Rebecca works as a news broadcaster.

That night, after a tense dinner party (during which, as she had done years earlier, Rebecca intentionally eavesdrops on her mother's conversation with Manuel, overhearing his refusal to say that he loves his wife), the three go to the last show of a drag-performer, Letal (Miguel Bose), who imitates Becky in performance. Rebecca

LACAN, FEMINISMS, AND QUEER THEORY 93 (1998).

23. Cf. MARNIE, *supra* note 21.

24. See PEDRO ALMODÓVAR, ALMODÓVAR ON ALMODÓVAR 121 (Yves Baignères trans. & Frédéric Strauss ed., 1996); Paul Julian Smith, *Tacones Lejanos (High Heels, 1991): Imitations of Life*, in DESIRE UNLIMITED: THE CINEMA OF PEDRO ALMODÓVAR 121, 131 (1994).

discloses that, missing her mother, she often went to watch Letal perform. Imitating the younger Becky, Letal delivers a breathtaking performance in what has been called “the most brilliant sequence in the film.”²⁵ “When the camera cuts to a reverse shot of the spectators, we see that Becky watches the performance with narcissistic fascination, Rebecca with erotic desire, and Manuel with hostility and contempt.”²⁶ After the performance, Letal joins their table and asks for Becky’s earrings as a token of bonding. At Manuel’s suggestion, Becky requests and receives one of Letal’s fake breasts in turn, announcing that she now has three. To Manuel’s inquiry regarding the cross-dresser’s “real” name, the performer replies that s/he goes by any name s/he is called, but that for friends s/he is “Letal” (the camera follows Letal’s penetrating look and focuses on Manuel’s gun, which he carries on his body). To Manuel’s teasing question whether Letal is a feminine or a masculine name, the drag-performer replies “it depends,” adding that for Miguel s/he is a man. While Manuel makes a pass at Becky, Rebecca follows Letal to his dressing room. Letal confesses that he wishes to be “more than a mother” to her, and a lengthy sex scene takes place. “It begins with a wild gymnastic form of cunnilingus”²⁷ (a sex act that could just as easily occur between two women) performed by Letal on Rebecca, while she is hanging mid-air, fully dressed (he is mostly naked with his face still made up).

In the following scene, Judge Dominguez is shown spending a domestic evening with his mother, who collects newspaper clippings of Becky. In the next scene, a shot is heard, and Judge Dominguez is seen investigating the death of Manuel, whose body was found in his summer house. In the judge’s chambers, Rebecca learns that Manuel was not only sexually involved with another newswoman, but also with Becky. All three women confess to having visited Manuel on the night of his death, but all deny having committed the murder. That night, delivering the news on a live television broadcast, Rebecca confesses that she murdered Manuel, showing the audience

25. Marsha Kinder, *From Matricide to Mother Love in Almodóvar's High Heels*, in POST-FRANCO, POSTMODERN: THE FILMS OF PEDRO ALMODÓVAR 145, 151 (Kathleen M. Vernon & Barbara Morris eds., 1995).

26. *Id.*

27. *Id.* at 152. The sex scene is highly confusing, and I hesitated to define it. It begins with Lethal forcefully imposing himself on Rebecca, who asks him to let her go. This, of course, looks very much like rape. Yet, in typical Almodóvar style, the scene hardly feels like rape, ending not merely with Rebecca’s pleasure, but with her expression of gratitude and statement that she needed it. Marsha Kinder notes that the sexual encounter “is simultaneously very erotic and hysterically funny, a combination that is very difficult to achieve but that Almodóvar consistently masters.” *Id.*

photographs that she took of her house after committing the crime. The judge, who (with his mother) is watching her broadcast, orders her arrest. Insisting that he wants to help, Judge Dominguez convinces Becky to see her daughter and arranges a meeting. Rebecca passionately accuses her mother of desertion and, in a lengthy allusion to Bergman's film *Autumn Sonata*, expresses her feelings of inadequacy—revealing that she has tried to imitate Becky all her life, that she married Manuel in the hope of beating her mother in this lone battle, and that she was the one who instigated her stepfather's death (by causing him to take sleeping pills before a long night drive). She explains that she was trying to protect her mother and to help Becky lead her own life. She then denies having killed Manuel. On the way back to prison, Rebecca breaks down weeping in heartbreaking tears. On stage, in her comeback performance, Becky also breaks down crying and sheds a genuine tear when she dedicates the opening song, *Think of Me*, to her imprisoned daughter. Becky sings "Think of me when you suffer, and when you cry, think of me too," while Judge Dominguez sits in the audience watching her emotional plea.²⁸

After discovering that she is pregnant, a desperate Rebecca is mysteriously released from prison. Back home, she retrieves Manuel's gun—the murder weapon—from the television set. Judge Dominguez, who arrives on the scene unexpectedly, advises her to see Letal, who that same night performs for her the song *Think of Me*. In his dressing room after the performance, Rebecca learns (together with the viewer) that Judge Dominguez and Letal are one and the same man. Without the drag costume, Letal becomes Eduardo, who puts on a fake beard and dark glasses to become the judge. He proposes marriage, saying that she must have come to see Letal because he is the father of her child. If not for that, he continues, Rebecca would have preferred to spend the evening with her mother. Strange as it may be, he argues, they have formed a family. As they speak, Becky appears on the television screen, singing *Think of Me*, as the news broadcaster reports that she has collapsed and been hospitalized. Rebecca and the judge rush to the hospital, where

28. The song, as seen performed by Becky and heard by Rebecca in prison, includes the following words: "If your heart is breaking—think of me; If you feel like crying—think of me; You know I adore your divine image; Your child's mouth that being so young taught me how to sin; Think of me when you suffer; And when you cry think of me too; My life is yours if you want to take it; I don't want it; I don't want it; What good will it do me without you." HIGH HEELS, *supra* note 17.

Rebecca confesses to her mother that she did, in fact, shoot Manuel. On the night of his death, Rebecca narrates, she offered to kill herself and asked Manuel whether he preferred that she use the gun or sleeping pills. Manuel replied that he could not care less, to which Rebecca responded by shooting him. Becky sighs “men,” and decides to take responsibility for Manuel’s death. She confesses to the judge that, as he had suspected from the start, she was the one who committed the murder. Judge Dominguez, suspicious, considers disqualifying himself, but Rebecca dissuades him.

The final scene takes place in Becky’s renovated basement apartment after Becky planted her fingerprints on the gun that Rebecca has brought to her for this purpose. It is in that basement apartment that she was raised by her poor, janitor parents, watching the high heels of women passing by in the street above, and fearing that they have come to take her away. As mother and daughter watch these passing heels together, Rebecca recalls how, as a child, she waited for the sound of her mother’s heels every night before falling asleep. “At the end of the film, the two women’s regressions merge.”²⁹ Becky then dies, and Rebecca is left weeping at her bedside. “The final fade has Rebecca embracing her dead mother as if the two ‘form[ed] one body.’”³⁰

II. LAW AND THE SUBVERSION OF BINARY OPPOSITION

Almodóvar’s rich, imaginative text invites many readings. A central theme that no reading can bypass is that of mother and daughter revisiting their traumatic separation, confronting it, and working it out, as well as growing, letting go, and coming to terms with themselves. What I wish to explore, however, is the part played by the law in this mother-daughter drama, and the imagery it offers of law, justice, and care. Accordingly, I look at the mother-daughter-judge triangle with reference to the judge-mother-mother triangle represented in the story of Solomon’s judgment.

A reading of *High Heels* against the story of Solomon’s judgment highlights the film’s undermining of every conceivable binary opposition. In Solomon’s judgment, man is distinct from woman, mother from judge, judge from party, compassion from justice, right

29. Lucy Fischer, *Modernity and Postmaternity: High Heels and Imitation of Life*, in *PLAY IT AGAIN, SAM: RETAKES ON REMAKES 200*, 208 (Andrew Horton & Stuart Y. McDougal eds., 1998).

30. Smith, *supra* note 24, at 132.

from emotion, natural (mother) from fake (mother), authentic from imitation, good mother from bad mother, truth from lie, right from wrong, superior from inferior, subjective claims from objective decisions, relevant from irrelevant, law from love, and law from life. In *High Heels*, these distinct categories, as well as many others, converge. The image, character, and dynamics of the law, as represented in the film, play a central role in undermining a dualistic world-view.

A. *Fact-Finding, Relevance, Conflict Resolution and the Law*

In any proceeding within the Anglo-American legal world, two parties play the roles of adversaries. A judge reviews, supervises, and referees—distinguishing between relevant arguments which are permitted to be included in the proceeding, and irrelevant ones, which are excluded. Based on the parties' relevant arguments, the judge finds the facts of the case, applies the relevant law, arrives at a judicial (and judicious) decision, and imposes it on the parties and their conflict. Parties, in this world, are adversaries; judges and their judicial resolutions are distinct from parties and their conflicts; relevant is distinguishable from irrelevant; as are facts from law; and law from justice.

In *High Heels*, none of these distinctions apply in the making of just law. The law is not addressed by two adversaries, but merely confronted with a story to be thought through and worked out. The inquisitorial investigating judge does not referee. He actively searches for truth and justice. In his investigation, he does not distinguish relevant from irrelevant, fact from law, law from justice, or relevance from the outcome. The facts are not determined separately from, or prior to, the application of the law, and law is not indifferent to justice. Every source of information may be legitimate, every aspect of life may be relevant, and every emotion, impression and insight are meaningful—if they serve the goal of reaching the right decision in the right way. Furthermore, the judge does not reach and impose a resolution, but empowers the parties to negotiate and determine both the nature of the conflict and its just resolution.³¹ The judge accepts and respects their resolution despite his suspicion and better judgment.

31. By "parties" I am referring to Rebecca and Becky. Although, of course, not the official parties to the film's criminal proceeding, the two women are clearly treated by the judge as the parties to the real issue at the heart of the offense.

Such lack of clear, standard, legal norms and procedures to be applied uniformly in all cases invites the obvious concern for arbitrary discrimination and personal bias. The film's reply to this concern is that justice is not arbitrary: it is profoundly caring and compassionate. These values ensure that every person who comes before the law will receive equal, compassionate treatment. Care and compassion for the individuals before the judge and the law determine the relevance of facts, emotions, and laws alike—guaranteeing a just outcome. Such care and compassion presuppose a great deal of trust, humanity, and maturity. Such care and compassion are also the signature traits of motherhood.

B. *Law as Mother*

Letal is first mentioned when Rebecca tells her mother that when longing for her, she goes to watch Letal's performance. He first appears on screen in the context of Rebecca taking Becky to see this "mother image." Letal's appearance, gestures, and style are all an imitation of Becky. The voice that "comes out of his lips" is hers.³² Becky looks at Letal as a person would look at her own distant reflection. Rebecca looks at him with longing and joy that she cannot express towards her mother.³³ After the performance, Becky and Letal perform a bonding ritual in which they exchange "body parts" (Becky's earrings for Letal's fake breast), sealing their bond with this exchange. Letal is thus positioned by the film as Rebecca's surrogate mother.

Rebecca herself is portrayed as a woman-child. Our first and lasting impression of her is as a little girl: receiving earrings, degraded by her stepfather, worrying over her mother, and deserted by her mother. Throughout the film, we see Rebecca in reference to her mother: imitating her (through her choices of a performing career and of Manuel as a partner), seeking her company (through both Manuel and Letal), helping her (by killing Becky's oppressive husband), and

32. Of course, both Letal and Becky impersonate the "real" singer, Luz Casal—a similarity that associates them even further. Casal, in turn, imitates the Chavela Vargas's version of this song. See ALMODÓVAR, *supra* note 24, at 115.

33. A comparison of this scene with the one Rebecca mentions in Bergman's *Autumn Sonata* is revealing. Cf. AUTUMN SONATA (CBS/Fox Video 1978). In both instances the dinner reunion between mother and daughter is followed by a performance. But whereas in Bergman's film daughter and mother each perform and watch the other performing, here, rather than looking at each other, they both look at the performing Letal, the judge, the law, and Becky's mirror image. Compare *id.*, with HIGH HEELS, *supra* note 17. In the performing law they both see Becky—Letal is a mediating image.

above all—feeling abandoned, neglected, and rejected by her. The compassion, longing, hurt, and resentment Rebecca feels for her mother are so overwhelming that they leave her no room or energy for other emotions. Rebecca is completely preoccupied with her conflicting feelings for her mother. Letal, also known as Judge Dominguez, is a surrogate mother because Rebecca's need for a mother is so deep. Because Rebecca transfers her love for her mother to him, he reciprocates and loves her in turn. Because she loves him as a child, he sees and bonds with the child in her. Because she needs him to be her mother, he becomes one, and offers her compassion and care. It is in Letal's "guise" or appearance as law and justice that he loves, cares, and shows compassion.

However, things are also far more complicated, since Becky, the "original" mother whom Letal imitates, is herself *not* a loving, caring, compassionate mother. On the contrary: busy being a sex symbol and a successful career woman, she is the "bad," deserting mother. Self-centered, individualistic, and irresponsible, Becky is far from any conception of a "good mother." Further, as a sexy "pop star," she is a personification of a sexual fantasy. As she herself admits, it is hard to tell whether there is anything there other than this superficial, inauthentic image.³⁴ If Letal were an imitation of *this* mother, s/he would hardly be a "good," caring mother himself—and yet s/he is. Rebecca's need and her love for him as a mother turn him into a good mother—a caring, loving one. So, is he, the law, also the "real" mother? Not quite. *High Heels* does not offer either-or, zero-sum solutions. Through her relationship with Judge Dominguez, Becky undergoes a transformation. Outgrowing her artistic narcissism, she matures into a caring person and a loving mother. In the confrontation with Rebecca, initiated and supported by the judge for Rebecca's sake, Becky sings for her imprisoned daughter under the judge's watchful eye and takes on the responsibilities of a "good" mother.³⁵ In a sense, she imitates her double, Letal, the judge, absorbing the caring qualities s/he developed earlier while performing Becky's role. It seems that when the law performs a mother's role, a "bad" mother can become "good." When the "fake" mother (the

34. Becky tells Judge Dominguez how she waits all day for her 10 p.m. performance, when she does the only thing she knows how to do. See *HIGH HEELS*, *supra* note 17.

35. Judge Dominguez respectfully pleads with Becky to see her daughter and, having arranged the meeting, leaves the women to conduct it themselves. It is interesting to compare this facilitating behavior with Connery's character in *Marnie*. Cf. *MARNIE*, *supra* note 21. There, the male protagonist physically forces the women into confrontation and, participating in their meeting, he actively runs the show. See *id.*

judge) becomes a “real” one through compassion and care, the “real” but “bad” mother can grow, with the law’s assistance and support, into a loving mother. Thus, distinctions between “real” and “fake” or “good” and “bad” fade away, as do “rights” and competition. Similarly, motherhood and femininity are not biological, essentialist traits. They are human frames of mind, transcending and undermining any simple binary opposition of the sexes.

In a central and important sense, Becky and Letal are adversaries. They compete for Rebecca’s love, as well as for the “right” to protect and save her. Ironically, they each attempt to save her from the other: Becky from the law, and Judge Dominguez from her painful, distorted existence in the shadow of her uncaring mother. Upon arrival in Madrid, Becky sees Letal’s poster announcing that he is the “real Becky.” “I thought *I* was the real Becky,” she responds in dismay. It is when Becky arrives on the scene that Letal first consummates the sexual desire between him and Rebecca. This is one thing the real Becky cannot offer Rebecca, and he can. It is after Rebecca has been imprisoned by the judge that Becky sings to Rebecca *Think of Me* and *My Life Is Yours*—such complete support and self-sacrifice only she, not the law, can offer.

In turn, Judge Dominguez releases Rebecca from prison and brings Letal back to life. This time Letal is dressed as the older Becky and, sitting at Rebecca’s table, he sings the same song, promising, in a mother’s voice, that his life is hers. Additionally, he reveals himself as the father of Rebecca’s child, and the person through whom she will, herself, become a mother. In this, Rebecca’s ultimate imitation and replacement of her mother, Letal is her supportive partner, not Becky. Further still, he offers her truth, sincerity, and trust. Revealing his “true identity” to her, he entrusts her with his deepest secret. Not surprisingly, this is the exact moment when Becky’s image appears before Rebecca (on the television screen) singing *Think of Me* and collapsing. The sick Becky becomes completely vulnerable, and is in immediate need of Rebecca’s presence, care, and forgiveness. Following Letal’s appearance as the father of Rebecca’s child, Becky offers Rebecca forgiveness, compassion, and the ultimate sacrifice: she accepts responsibility for Manuel’s death. In so doing, she also accepts responsibility for her part in Rebecca’s unhappiness. This “confession” is the only thing that can really set Rebecca free, and Rebecca accepts it with gratitude. Mother and daughter conspire together, presenting the law with the version of truth and justice they have agreed upon. Then

Becky dies, leaving Rebecca with the judge.

If there is indeed a competition between the “mothers,” it is hard to determine which of the two wins her case. Unlike the story in Solomon’s judgment, “winning” does not seem to be the main issue. A comparison with that story makes it clear that in *High Heels*, the “child,” far from being an object in dispute before the law, is in a significant sense the judge of both mothers. As a result, she is judge of both her mother and the law.³⁶ The competition is not for “legal rights,” but for the child’s love—a love that can only be gained through motherly love and devotion. The “right” to motherhood is determined by the daughter’s love. Further, in the course of the competition, both mothers (i.e., both mother and the law) “improve” in response to the needs of the “child” and become more caring and more compassionate. They also become closer to each other, less readily distinguishable. Above all, in *High Heels*, fierce as the competition may be, there is room for both mothers to love and be loved.³⁷

Confronting her mother, Rebecca discloses that all her life she has felt judged by her mother, found inadequate, and lacking. This point is illustrated in the hilarious, if painful, scene in which Rebecca, nervous at the thought of her mother watching her reading the news, giggles and laughs while reporting of disasters.³⁸ Rebecca experiences motherhood as judgment, and both as uncaring and hurtful. Through the encounter with Judge Dominguez, judgment becomes motherly, and both the maternal and the judicial become caring and compassionate.

In *Caring for Justice*, Robin West argues for reciprocity of care and justice. Just as justice depends on caring, so compassion must include justice. “[T]he pursuit of care, if neglectful of the demands of

36. During the first investigation in the judge’s chambers, Becky addresses her daughter, who repeatedly reminds her that it is the judge whom she needs to convince, and not her (Rebecca). See *HIGH HEELS*, *supra* note 17. Clearly, it is her daughter that Becky rightly feels judged by. See *id.* Later, Rebecca scolds the judge for his uncaring, deceitful behavior towards people, and he promises to change his ways. See *id.*

37. Cf. *MARNIE*, *supra* note 21. In *Marnie*, the Connery character seems to replace the young woman’s mother. Having exposed her guilty past and harmful coldness, he finds her undeserving and takes her place. At this stage of the plot, Marnie herself is reduced to a little frightened girl, expressing no will of her own. More than competition over the young woman’s love, this film features the man’s need to possess and control her; it is mostly this purpose that “rescuing” her from her mother serves. See *id.*

38. Becky’s horrified response, watching her daughter’s performance, is clearly modeled on the Ingrid Bergman character’s response to her daughter’s performance in the *Autumn Sonata* scene mentioned by Rebecca. Compare *AUTUMN SONATA*, *supra* note 33, with *HIGH HEELS*, *supra* note 17.

justice, will turn out to be, in the long run, not very caring.”³⁹ *High Heels*’ coupling of motherhood and law represents this delicate balance.

The film’s last scene presents an image of a “reverse pieta” with Rebecca mourning over the body of her dying mother. In taking the mother’s position, pregnant Rebecca matures into a caring mother herself, a fluid subjectivity that the film insists upon in a strategy that pre-empts the kind of objectification so evident in the Solomonic myth.

C. *Law as Son, Lover, Father, and Man*

In addition to being Becky’s double, Eduardo (Judge Dominguez) is also portrayed as his mother’s son, as Paula’s deserting boyfriend, and as the father of Rebecca’s unborn child. The law is thus not exclusively maternal; neither is compassion.

Judge Dominguez lives with his mother, a narcissistic hypochondriac who has not left her bed in ten years. Investing all her emotional energy in her collection of newspaper clippings of other people’s (celebrities’) lives, the judge’s mother also deserted him many years earlier, leaving him a vulnerable child. Like Rebecca, Judge Dominguez is loyal to and protective of his neglectful mother, as well as hurt and angry. Through his relationship with his own mother, he understands Rebecca’s pain, as well as Becky’s.⁴⁰ Significantly, an old newspaper clipping (that his mother supplies to him) showing Becky with Manuel, informs Judge Dominguez the relationship between these two. This gives him insight into Rebecca’s relationship with Manuel and leads him to suspect Becky of Manuel’s murder. It is as his mother’s son then, that Judge Dominguez learns to see deeper into the relationships he investigates. It is through his reading of Becky against his own mother that he sees deeper into her character, and through his identification with Rebecca as a hurt child that he understands her.

A subplot that I have not mentioned so far has Rebecca (and the viewer) meeting Paula, a warm-hearted woman in search of her disappearing boyfriend. Adding up the clues, Rebecca realizes that Paula’s vanishing boyfriend is no other than Letal/the judge. The

39. WEST, *supra* note 5, at 24.

40. In one instance, in a conversation with Becky, he makes this point explicitly, comparing Becky’s 15 years in Mexico to his mother’s bed-ridden lifestyle. See HIGH HEELS, *supra* note 17.

judge then admits this dual identity and explains that while investigating a case, he secretly went undercover as a drug addict. It was under this “false” identity that Paula fell in love with him and tried to rehabilitate him. When his investigation concluded, he simply disappeared. In this incident, the judge treated Paula as an object, using and degrading her as well as offending her human dignity. This aspect of his personality, this experience in his past, makes him guilty of dehumanizing a fellow human being and abusing a woman. This too is a part of the law. This aspect of Judge Dominguez’s character associates him with Manuel, whose death he investigates. After their single encounter at the drag performance, Letal refers to Manuel as “monster.” This personal, emotional stance conveys his feelings not merely as Rebecca’s lover, but also as a man who recognizes Manuel’s inhumanity. In *High Heels*, the judge’s very personal antipathy to the victim of murder is no reason to disqualify him from sitting in judgment. On the contrary, it allows him to reach a just legal decision.

As Rebecca’s lover and an expectant father, Judge Dominguez is deeply concerned for Rebecca’s well-being. This personal concern blinds him to certain aspects of the situation, rendering him incapable of seeing Rebecca’s guilt. Like the judge’s other personal biases, this loving blindness too is portrayed as legitimate and helpful in the pursuit of justice.⁴¹

All these complex, personal elements of his human experience are inseparable from Judge Dominguez’s role as judge, from his professional investigation, and from his truth and justice. His insights, intuition, and emotional responses to characters and situations are relevant professional tools and sources of information. They assist him in collecting data, assessing it and arriving at conclusions. Most importantly, in *High Heels*, the data he collects and the conclusions he reaches based on his personal experience are true, right, and just *precisely because* they rely on his personal experience as mother, son, man, and father-to-be. The notion that a just legal decision must be reached through objective, impartial, analytic reasoning is subverted. The traditional image of the

41. Cf. MARNIE, *supra* note 21. In *Marnie*, both the law and the Connery character clearly view the young woman as guilty of theft (as well as (hetero)sexual frigidity). *See id.* This guilt, which is never questioned, allows Connery’s character to sexually blackmail her—as he himself explicitly admits (at the film’s very end he promises to negotiate with the authorities on her behalf and seems to imply that he will use his influence and connections, claim insanity, or both).

blindfolded goddess of justice is replaced by that of Judge Dominguez.

D. *Law as Impersonation*

Subjective experience and personal involvement are essential judicial tools in *High Heels*—so much so, that Judge Dominguez does not limit himself to his own personal experiences, but impersonates other characters to accumulate more human experiences. In order for a judge to know and understand a situation at hand, he believes, s/he must see it from within, as it is seen by those most personally involved. A judge's random life history is not sufficient: s/he must literally walk a mile in the shoes of victims and accused. A judge, in other words, must be a sensitive jury of peers to every victim and accused that come before him or her.⁴²

This image of the law as chameleon, is explicitly articulated in the short encounter between Letal and Manuel. To Manuel's question about Letal's real name, Letal replies that s/he is whatever s/he is called. To Manuel's question whether the name Letal is feminine or masculine, Letal replies that it all depends: "for you" s/he adds, "I am a man."⁴³ Like a chameleon, the law takes on different personae, genders, and life experiences in response to those who come before it. In order to try a person justly, the law must do so from the unique perspective that derives from the individual at hand. Equality before the law means that each individual deserves personal, unique treatment in order to be seen, understood, and treated as who s/he is. Unlike traditional images of the law as uniform, stable, and unchanging, Eduardo's is flexible and in flux. Unlike traditional images of judges' authenticity and integrity, Eduardo's authenticity and integrity are indistinguishable from impersonation and imitation of characters he judges. In this context it is interesting to recall that, as Letal, Eduardo (the law) does not speak in a uniform voice, and seems to not have a single voice. When judging Rebecca, it is Becky's voice that comes out of his moving lips. Like the law's visual image, his voice must be flexible and fluxible, as well as responsive to

42. When acting as judge, Eduardo impersonates a traditional image by dressing conservatively and wearing dark glasses and a beard. See *HIGH HEELS*, *supra* note 17. This costume, which the film suggests is but another facade, no different from drag, allows him to view people and respond to them as a "normal" judge would. See *id.* Interestingly, the traditional judicial image Eduardo impersonates is well hidden behind the dark glasses and beard; seeing and not seen. See *id.*

43. *Id.*

circumstances.

E. Viewer as Compassionate Judge

Almodóvar once described himself as “a kind of mirror, a mirror with a thousand faces, sometimes reflecting directly, sometimes in a distorted way, but reflecting everything around me, my own experience, and my experience . . . is very, very varied.”⁴⁴ Rikki Morgan rightly applies this statement to Almodóvar’s films generally, and to *High Heels* in particular.⁴⁵ Extending this metaphor, it associates *High Heels* as film with the character of Judge Dominguez, the embodiment of law and justice who is clearly a mirror with a thousand faces reflecting everything around him, as well as his own varied experiences. *High Heels* thus constructs an analogy between itself and the law where law and film mirror each other.

If *High Heels*’ presentation of its alternative vision of law and justice is powerful and convincing, it is to a large extent because the film, as such, embraces that vision. Enacting a cinematic inquisitorial process parallel to the legal one presented on screen, the film *qua film* supports its fictional legal system, and illustrates how investigation and judging can be conducted with compassion and care. Through its cinematic judging process, *High Heels* constitutes its viewer as a compassionate judge who, together with the fictional judge on screen, investigates, determines relevant facts, and reaches a just legal decision. Like the fictional judge, the viewer does so through shifting personae and points of view, through identification with the involved parties, and through caring for them.

In *Equity and Mercy*, Martha Nussbaum suggests that

[t]he novel’s structure is a structure of *suggnômê* [judging with forgiveness]—of the penetration of the life of another into one’s own imagination and heart. It is a form of imaginative and emotional receptivity, in which the reader, following the author’s lead, comes to be inhabited by the tangled complexities and struggles of other concrete lives. Novels do not withhold all moral judgment, and they contain villains as well as heroes. But for any character with whom the form invites our participatory identification, the motives for mercy are engendered in the structure of literary perception itself.⁴⁶

This description of narrative fiction can be extended to dramatic

44. Morgan, *supra* note 1, at 28.

45. *Id.*

46. NUSSBAUM, *supra* note 5, at 170.

fiction, and well describes the film *High Heels*.⁴⁷ Above all, *High Heels* invites its viewer to identify with Rebecca. It does so in several connected ways: by giving Rebecca a point of view; by closely aligning the viewer's point of view with hers; by positioning her as the most dominant, sympathetic on-screen character; by continuously presenting the child within her; and by looking at her through the eyes of the two mothers who love her and seek her love in return.⁴⁸ Within the film's "detective plot," Rebecca is clearly the prime suspect, accused, and killer, while the viewer is her ultimate judge. The viewer's carefully orchestrated sympathetic identification with her mediates and shapes the process of judging.⁴⁹ Let me illustrate.

The film opens with a series of close-ups of Rebecca's vulnerable, tormented face. Nervous, with a child-like short haircut, waiting for her mother—she is a woman-child from the very start. The long flashback, following Rebecca's thoughts into her childhood, is narrated exclusively from young Rebecca's point of view, while the child's sympathetic image also dominates the screen. As Smith rightly notes, "[a]udience identification is promoted by the unambiguous cinematographic technique of camera height: the child Rebecca is consistently shot at her own level and not 'looked down on' as if by an adult observer."⁵⁰ Young Rebecca's vulnerability is provided by the film as the relevant background for assessing the narrative to come. This is the source of it all, the film indicates quite explicitly, and the key to understanding, caring and judging. Putting on the earrings she received from her mother as a child, the "grown" Rebecca at the airport indicates that she is still the hurt, deserted child, and invites us to see her in that light. This tearful Rebecca is forever, in our minds, the hurt child she has never outgrown. She is also our point of reference.

At the nightclub, when Rebecca, Becky, and Manuel watch the performing Letal, we see Letal, and through him Becky, as objects of

47. Another outstanding example of a compassionate film is Almodóvar's most recent, not surprisingly, is titled ALL ABOUT MY MOTHER (El Deseo S. A. 1999).

48. On all these points, *High Heels* intensifies Bergman's treatment of the young woman in *Autumn Sonata*.

49. Similarly, *Marnie* solicits identification with the title character by restricting the viewer's point of view to Marnie's. Cf. MARNIE, *supra* note 21. But in Hitchcock's film, the viewer is not invited to meet the child within Marnie, and her childhood memory is suspended until the film's very end. See *id.* Further, Connery's dominant, appealing character invites at least as much audience identification as Marnie and, in sympathizing with him, the viewer is invited to hope that Marnie will make him a good wife, rather than hope that she follows her own path. See *id.*

50. Smith, *supra* note 24, at 122-23.

gazing, desire, fascination, and contempt (Manuel's). Becky receives the rare opportunity to view "herself" and is moved to tears.⁵¹ Manuel looks at Becky, inviting her to renew their intimate relationship. But it is Rebecca, seated between Becky and Manuel, that is the true origin of the gaze, and it is with her point of view that the film invites the viewer to identify. Lovingly, Rebecca looks at Letal and at her mother. In Letal, she sees her young mother—the mother she remembers as a child. Next to her sits her real mother, emotional, present, and happy. For a moment, Rebecca seems to integrate the mother of her childhood with the real person, and they are both present in her life, fulfilling her deepest needs. Further, at the sight of Becky, she is reassured that by bringing her to Letal's performance, she has managed to make her mother happy. Rebecca seems to have succeeded in bridging the gap between past and present, as well as between her mother and herself. But then Rebecca looks at Manuel, and together with her we see him looking at Becky. At once Rebecca is again defeated. Once again the man in their lives threatens to take her mother away from her. Once again he positions her in competition with her mother. Once again he positions her in a losing stance, with both her newly regained mother and her short-lived victory over her at stake. Rebecca's face immediately expresses the deep hurt she feels.

In this dramatic scene, to the sound of Becky's seductive, singing voice (bemoaning a year of love), the viewer is invited to identify with Rebecca, sharing her gaze and point of view. Doing so, the viewer regresses, together with Rebecca, to her childhood trauma, experiencing her painful desertion and loss. Through Rebecca's eyes, the viewer sees Manuel betraying and humiliating her, and coming between Rebecca and her mother. Immediately following this scene, Rebecca betrays Manuel with Letal, as Manuel relates to Becky that he has not changed and is still the unfeeling womanizer he has always been. Soon after, Manuel lies dead, and Judge Dominguez dictates an official report (detailed yet indifferent, with obsessive attention to insignificant details such as the deceased man's exact height and hair color, the report adds a comic dimension to the scene and obviates sympathy for the murdered man). Clearly, the viewer is led to arrive at the scene of Manuel's death immediately after having seen Manuel through Rebecca's eyes, hurting and betraying her (Letal's reference

51. In a nice symmetrical move, in Becky's performance, it is Eduardo/Letal who sits in the audience watching her. See *HIGH HEELS*, *supra* note 17.

to Manuel as a “monster” confirms the viewer’s lack of sympathy of Manuel).

The viewer’s association with Rebecca’s point of view is not complete. Unlike Rebecca, the viewer does not know if she shot Manuel until she reveals the truth to her mother on Becky’s deathbed. Here, as in the confession of Rebecca’s first killing, it is Becky’s point of view that the viewer shares. In other words, the viewer learns of Rebecca’s crime while identifying with her mother, who has finally taken on the loving role of a “good mother.” When she tells Becky of the events that led to the killing, Rebecca narrates Manuel’s cruel indifference, as well as her own pain and humiliation. Becky, identifying with her daughter, sighs “men,” supporting Rebecca’s characterization of Manuel as unfeeling and uncaring while offering a generic verdict of her own.⁵² Learning of the killing in this context, the viewer is influenced by the dying, remorseful mother’s attitude. The viewer joins her in the impulse to protect Rebecca, to save her, and to compensate for the emotional abuse she has suffered all her life. This, of course, influences the viewer as Rebecca’s judge, inviting the viewer to enact its alternative vision of justice.

Further still, the film has Rebecca testify five times, offering a different version of Manuel’s death each time. Interestingly, the “testimonies,” some of which are confessions to the crime, do not build tension nor do they lead to a dramatic revelation of the “real” truth. On the contrary, they lull the viewer into nonjudgmental indifference to the actual details. As all accounts seem plausible and sincere, the quest for “real truth” and “real guilt” loses its edge. According to his own testimony, Almodóvar has created this effect deliberately: “Rebecca confesses to the crime but no one believes her. The process interested me. She confesses three times in the film and each time she’s truthful and sincere. The three confessions are complementary and give an ambiguous impression.”⁵³

On her dying bed, Becky reassures Rebecca that she is not the only guilty party. In this, Becky clearly voices the film’s stand that Rebecca is not alone “on trial.” Becky is “on trial” throughout the film. She is accused of being self-centered, of neglecting and deserting her daughter, and of not caring enough. Eduardo is similarly accused of abusing Paula and disregarding her feelings. But

52. She herself was shocked earlier to discover that Manuel could have fallen asleep after the emotional fight he had with her. See *HIGH HEELS*, *supra* note 17.

53. ALMODÓVAR, *supra* note 24, at 107.

as with Rebecca, here too the film invites the viewer to see the hurt child inside each of these characters, who are both allowed childhood memories to accept their sincere remorse and to see them in reference to Rebecca's forgiving love and vulnerability. In this, the film chooses the least judgmental and most compassionate perspective in presenting them to the viewer. "Doing justice" with these characters includes caring for them, seeing them for who they are, and understanding them through their life experiences and vulnerabilities.⁵⁴ Manuel is the only character in the film who is not allowed a childhood, a point of view, or remorse. Manuel remains an unchanged, selfish, uncaring man who objectifies women and causes them pain. Not surprisingly, his death arouses little sadness in the viewer—it does not invoke a need to see "justice done" by avenging his death.

In its own non-judgmental attitude, in constructing its viewer as a compassionate judge of Rebecca, Becky, and Eduardo, *High Heels* supports its fictional judge. In demonstrating how cinematic judgment can be caring and compassionate, it offers a vision of a caring and compassionate legal system.

III. PRECEDENT AND GENRE IN FILM AND LAW

Films often cite earlier films, much like judicial cases cite previous judicial cases. In the legal world, particularly the Anglo-American legal world, such citation is a major component of the precedent system. In film, such citation is often more subtle and less explicit, but when significant, it sometimes renders the latter film a remake of the earlier. In a film which represents itself as analogous to law, cinematic citation of previous films can be read as constituting its own fictional legal system, as well as a commentary on legal usage of judicial precedents.

The most obvious case of film citation in *High Heels* is Rebecca's reference to Bergman's *Autumn Sonata*, and her use of the film to explain to her mother—and the viewer—her own self-perception in relation to her mother. Such explicit citation of film is unusual even in contemporary (and postmodern) cinema. When asked why he "decide[d] to refer openly to Bergman's film through one of

54. It is on this point that *High Heels* differs most significantly from both *Autumn Sonata* and *Marnie*. Compare HIGH HEELS, *supra* note 17, with AUTUMN SONATA, *supra* note 33, and MARNIE, *supra* note 21. Read against the earlier films' judgment of their mother characters, *High Heels*' compassionate generosity is fully apparent.

Rebecca's monologues," Almodóvar replied that

[i]t isn't a sign of passive complicity . . . when I quote other directors in my films, it's part of the story. When Victoria explains her relationship with her mother, she could take an example of her own life, but instead she uses *Autumn Sonata* because that, too, is part of her life.⁵⁵

Almodóvar was well aware of the deviance of his treatment of cinematic citation and insisted on it, despite what he perceived as significant risk: "A scene where two people talk and discuss Bergman's film in order to understand each other is risky. It could easily be ridiculous . . . Before shooting it, I told Victoria the monologue could kill the film. We did fifteen takes."⁵⁶

Autumn Sonata is not the only film cited in *High Heels*. As writers have noted, the film also alludes to several other films, and above all to Hollywood's classic melodramas such as *Imitation of Life*, *Mildred Pierce*, and *Stella Dallas*.⁵⁷ Lucy Fischer further argues that a comparison of *High Heels* with *Imitation of Life* reveals Almodóvar's film to be a remake of Douglas Sirk's 1959 "canonical film."⁵⁸

Some specific details of the comparison between *High Heels* and *Imitation of Life* are relevant to the portrayal of law and justice in *High Heels*. One such example is the comparison of Almodóvar's Judge Dominguez and the character of Annie Johnson (Juanita Moore) in *Imitation of Life*.⁵⁹ Sirk's melodrama features two mothers: a glamorous white actress, Lora Meredith (Lana Turner), and her African American maid, Annie. Whereas Lora's daughter feels neglected by her mother, and finds refuge and "true

55. ALMODÓVAR, *supra* note 24, at 109.

56. *Id.* Almodóvar was not mistaken in fearing that such direct citation would invite harsh criticism. David Thompson seems to have been enraged when writing that

Almodóvar even dares, in the central confrontation between mother and daughter, to have Rebecca talk about a scene in Bergman's *Autumn Sonata* . . . To quote scenes from other films . . . has invariably disquieting effects on the audience's perception of the world they are observing on screen. Here it has the doubly distancing effect of not only making one think of the superiority of Bergman's treatment of the same theme, but also of Almodóvar's characters' inability to achieve their own sense of identity outside a world of devoted reference.

David Thompson, *Tacones Lejanos (High Heels)*, SIGHT & SOUND, Apr. 1992, at 61, 62. I do not share Thompson's evaluation of *High Heels*. A full cross-cultural comparison of the lively Spanish, postmodern film with the dark Swedish one is clearly called for.

57. See Fischer, *supra* note 29, at 202; Smith, *supra* note 24, at 123; Thompson, *supra* note 56, at 62. Smith suggests that *High Heels* is even closer to Sirk's ALL I DESIRE (Universal Studios 1953). See Smith, *supra* note 24, at 133 n.8.

58. Fischer, *supra* note 29, at 200. For a list of the similarities between the films, see *id.* at 200-01.

59. Cf. HIGH HEELS, *supra* note 17, with IMITATION OF LIFE (Universal International Pictures 1959).

motherhood” in Annie, Annie’s own daughter feels suffocated and oppressed by her mother’s excessive warmth. After Annie’s death, both young women turn to Lora for mothering, a quality that she has learned from the deceased woman. This plot confirms the reading of *High Heels* as portraying the mutual, collective study and internalization of motherhood—but whereas in *Imitation of Life* the struggling mothers are two women, in *High Heels* they are a woman and the law. If in *Imitation of Life*, Lora needs Annie as a model of motherhood, in *High Heels* the law serves this purpose. Sirk’s soulful African-American maid is replaced by Almodóvar’s sensitive transsexual legal system. The model of motherhood, it seems, is an outsider to the mainstream heterosexual, white society in both films; in Almodóvar’s version the law may fill this function. Further, the analogy suggests that the law need be cautious, for excessive motherhood may be as damaging as parental neglect.

But more interesting than the details is the film’s general attitude towards precedents. *High Heels* clearly cites precedents, and does so to illuminate its own themes and the inner lives of its characters. But, interestingly, the most significant precedents are not detective films, thrillers, or other works that deal with investigations of killings. Despite its detective plot, *High Heels* prefers to cite and rely on precedents that deal with mother-daughter relationships, motherhood, and the tormented souls of daughters. Through this usage of precedents, *High Heels* indicates what lies at the heart of its detective investigation. Further, it suggests the usage of precedents to transcend rigid, conventional categories in film and law alike, both between cinematic genres and in legal distinctions between public and private, between criminal and family law.

Lucy Fischer rightly observes:

As *High Heels* intermingles fact and fiction, so it crosses genres—much as Judge Dominguez crosses dress (Almodóvar himself states that he does not “respect the boundaries of . . . genre” but “mix[es] it with other things”). Hence, *High Heels* is a “hybrid” of the melodramatic, satirical, and film noir modes.⁶⁰

The citation of precedents from classic melodrama strengthens this tendency, suggesting that a detective investigation, even when set in a satirical film noir style, may benefit significantly by the insights offered by family melodrama. Similarly, a criminal legal procedure may profit from considering concerns typical of other legal categories,

60. Fischer, *supra* note 29, at 204.

such as the child's best interest, as well as other precedents from such distinct legal categories.

In its extravagant cross-genre reliance on cinematic precedents, *High Heels* supports its transsexual, cross-dressing judge. It also suggests that legal discourse, much as film, may reconsider its traditional adherence to rigid distinction of categories, their separate logic, terminology, and precedents.

IV. CONCLUSION: BUT IS IT FEMINISM?

High Heels eludes classification within any defined film genre. It combines motifs of melodrama, *film noire*, detective thrillers, musicals, and films of female friendship.⁶¹ Among other things, it seems to fit the definition of a postmodern comedy:

The notion of postmodern comedy arguably resists any clear definition as a discrete filmic style or practice precisely because of its ostentatiously hybrid, cross-generic character and its contempt for established filmic aims as well as other cultural and social boundaries and hierarchies. Its humour tends to arise as much from the wil[l]ful disruption of the spectator's reading expectations as from narrative and generic incongruities and the juxtaposition of the bizarre and the banal . . . Almodóvar was deliberately and wil[l]fully engaging in generic confusion, mixing and juxtaposing aspects of cine[ma] *verité*, melodrama, situation comedy, pornography, advertising, pop music, *zarzuela* (operetta), etc. into a unique *mélange*, which would become an unmistakable Almodóvarian trademark.⁶²

Clearly a postmodern text, is *High Heels* also a feminist one? It could be (and indeed has been) read as conveying antifeminist messages: the male judge is a better mother than the real mother; the "bad," sexually promiscuous mother is responsible not only for her daughter's misery, but for her murderous impulse as well; the mother is, therefore, a *femme fatale* of sorts; the mother is "reformed" from independent career woman to traditional, self-sacrificing mother; womanhood is identified with motherhood; femininity is associated with exaggerated drag imagery; and, as in any patriarchal fairy tale, the young woman is rescued from her bad mother by her saving prince, establishing a heterosexual couple.⁶³ And yet, another reading

61. For a full presentation of the female friendship film, see KAREN HOLLINGER, *IN THE COMPANY OF WOMEN: CONTEMPORARY FEMALE FRIENDSHIP FILMS* (1998).

62. BARRY JORDAN & RIKKI MORGAN-TAMOSUNAS, *CONTEMPORARY SPANISH CINEMA* 81-83 (1998).

63. Along such lines, Lucy Fischer argues that "[b]eyond valorizing a postfemale world, *High Heels* offers a 'post-maternal' one—envisioning a universe in which men (like Dominguez)

presents Almodóvar as a feminist creator: "Given his actively deconstructive approach to dominant representations of cultural production, sexuality, authority, religion, justice, etc. and his self-declared pro-feminist position, the fact that Almodóvar's films are most often about women in a cinema dominated by male characters and problems has positioned him as a 'women's director.'"⁶⁴

One way in which Almodóvar's films are feminist is in the portrayal of strong women. "Almodóvar's films are more noted for the strength and interest of their female characters than their male counterparts. His heterosexual male characters tend towards caricatures and stereotypes, but these are placed under the magnifying glass of black humour to produce a critical 'discourse of the absurd.'"⁶⁵ Almodóvar's films are also feminist in portraying women as sexually desiring subjects,⁶⁶ in presenting female support networks,⁶⁷ in allowing female characters access to the powerful cinematic gaze, in offering sympathetic treatment to difficult subjects, such as women who kill, and in undermining patriarchal gender roles. "Films by Pedro Almodóvar have been particularly instrumental in introducing and promoting the fluidity of traditional gender attributes in particularly challenging ways."⁶⁸ Even his choice of genre, such as his respectful treatment of melodrama, can be considered a feminist attitude. As Rikki Morgan observes:

Strongly associated with "women's films," and consequently devalued, melodrama has only recently been reconsidered as a result of feminist attention. Almodóvar's reprise of the form is typical of his indifference to critical snobbery . . . Time and again he returns to *family* melodrama as both a narrative form and a thematic focus, a typical example of his characteristic disregard for critical and social propriety.⁶⁹

She further asserts that in his melodramas, including *High Heels*, Almodóvar challenges the conventional family unit while "retain[ing] a strong sense of the supportive role his alternative families play."⁷⁰

make the best Moms." Fischer, *supra* note 29, at 212-13. "Ultimately, what is 'under cover' in *High Heels* is not only a male judge but a male *judgment* latent in the euphoric 'polymorphous perversity' of the postmodern prose." *Id.* at 214.

64. JORDAN & MORGAN-TAMOSUNAS, *supra* note 62, at 115.

65. *Id.* at 143.

66. *See id.* at 137.

67. *See id.* at 133.

68. *Id.* at 152.

69. Morgan, *supra* note 1, at 29.

70. *Id.* Almodóvar's latest production, *All About My Mother*, strongly supports this point. *See ALL ABOUT MY MOTHER*, *supra* note 47.

Such subversion of patriarchal norms can clearly be read as feminist.

The film's advocacy in support of a "justice of care" can be read as promoting a feminine world view—or as essentializing femininity while supplementing women with men. I suggest that the film's advocacy of a "justice of care" should be read together with two other elements. First, the caring judge, Dominguez, is a man who chooses to take on a feminine identity *in addition* to his own. Care is thus portrayed as neither biologically female nor appropriated by men. Care is, rather, a human trait, socially associated with women that can and should be acquired by men—particularly those in positions of power who wish to improve themselves as well as the public functions they fulfill. This combination of justice of care with transsexuality is highly subversive and feminist.⁷¹ Second, the justice of care and compassion is practiced in *High Heels* on a woman accused of killing a man. In our patriarchal culture judges sometimes feel compassion for men who abuse women.⁷² It is harder to find sympathy for women who kill men—especially if they were not raped and battered in outrageous ways immediately prior to the killing. Applying a justice of care to Rebecca is thus a radical, subversive move that can be seen as feminist.

I prefer to refrain from any attempt to categorize *High Heels*, since I feel that it successfully resists and trivializes taxonomies. Yet, as my reading indicates, I see in the film many elements that can be viewed as liberating and empowering for women, as well as for other nonpatriarchal narratives and needs. In this sense, despite its postmodernity, the film clearly contains feminist tendencies and themes.⁷³

71. Chris Straayer suggests that

[t]he rebellious effect of a drag queen depends on a disguise which appropriates and manipulates gender conventions, and on the purposeful breakdown of that disguise into essentially contradictory levels of information. This leaves the viewer unsure about sexual identification and rules for sexual determination, and thereby offers the most radical conclusions.

Chris Straayer, *Redressing the "Natural": The Temporary Transvestite Film*, WIDE ANGLE, Jan. 1992, at 36, 52.

72. For a list of United States judicial decisions that manifest such judicial compassion for men who batter or murder their spouses, see Shirley A. Wiegand, *Deception and Artifice: Thelma, Louise, and the Legal Hermeneutic*, 22 OKLA. CITY U. L. REV. 25, 46-49 (1997).

73. Paul Julian Smith starts his discussion of the film noting that

[n]o film by Almodóvar has received such contradictory responses as *Tacones lejanos*. This drama of sexual rivalry between mother and daughter has been attacked by some critics in the UK and US for its appeal to stereotype (neurotic career woman and sacrificial mother) and undercurrent of sexism, while others have praised the way it marginalizes male concerns, placing men quite firmly in the supporting role.

Smith, *supra* note 24, at 121.

In her concluding remarks on *Feminism, Postmodernism and Law*, Robin West suggests that feminism can and should have it “both ways” with regard to postmodernism. Feminists should embrace and celebrate some postmodern insights, while rejecting others.

A skepticism toward particular claims of objective truth, a particular account of the self, and any particular account of gender, sexuality, biology, or what is and is not natural, is absolutely necessary to a healthy and modern feminism. But that skepticism need not require an unwillingness to entertain descriptions of subjective and intersubjective authenticity, claims of a pervasive and cross-cultural patriarchy, various accounts of the female self, promises of a nurturant or caring morality.⁷⁴

I suggest that combining deep skepticism with fresh imagery and interpretation of “subjective and intersubjective authenticity,” as well as with “promises of a nurturant or caring morality,” *High Heels* offers a brilliant example of one such possible combination of postmodernism and feminism.

Interestingly, the film’s feminist themes do not point towards a unique feminine culture, but rather portray the reality of patriarchal oppression and its tragic outcomes. Both Becky and Rebecca are oppressed by the men in their lives (Rebecca’s stepfather and her husband) and molded by their desires and expectations of them. If Becky spends her life impersonating a sex-fantasy, it is because men expect that of her, and her livelihood depends on it.⁷⁵ If Rebecca is driven to commit murder (twice), it is because men objectify women, exchanging one for another, undermining human dignity. Becky and Rebecca do come to form a kind of feminine community, as do the women prisoners, but this community hardly speaks a language of its own—it has yet to liberate itself, discover its identity, and speak in its true voice. In other words, Almodóvar’s film does not present an “ethics of care” feminist vision so much as one that rejects and deconstructs patriarchal oppression and dominance. It is a feminism that understands a woman’s need to kill men who abuse her. Violent feminine resistance is acknowledged and condoned. Nevertheless, this same film constructs elaborate images of compassionate law and the justice of care, thus escaping, transcending, and combining distinct categories of feminist theory.

74. WEST, *supra* note 5, at 259.

75. Lucy Fischer rightly notes that “Lethal’s simulation also reveals what many theorists have observed about ‘femininity’ within patriarchal culture: that it requires a masquerade even of biological women—a performance not at all different from drag.” Fischer, *supra* note 29, at 206.

In her introduction to *Sex and Social Justice*, Martha Nussbaum describes her attempts to reconcile “dominance feminism” with feminism that focuses on care

however uneasily, to combine a radical feminist critique of sex relations with an interest in the possibilities of trust and understanding To some, the moral interest in sympathy and forgiveness will seem like a kind of collaboration with oppression. And indeed, who knows at what point patience becomes masochism or sympathy self-torment But one important ingredient of a response is the reminder that cultures are not monoliths; people are not stamped out like coins by the power machines of social convention. They are constrained by social norms, but norms are plural and people are devious. Even in societies that nourish problematic roles for men and women, real men and women can also find spaces in which to subvert those conventions, resourcefully creating possibilities of love and joy.⁷⁶

High Heels advocates, illustrates, and creates a perspective of hope and belief similar to that articulated by Nussbaum by combining rage at, and violent response to women’s oppression with, a human search for compassion—acknowledging social constraints, yet subverting them in pursuit of love and joy. Generously, the film portrays the law as a major character in pursuit of this vision. Its unique, vital contribution lies in the fact that “seeing is believing,” as well as in the film’s ability to spread its viewpoint among millions of viewers worldwide.

Perhaps because it does not restrict itself to feminist analysis of dominance and oppression, *High Heels* can offer a hopeful ending, away from the depth of the Grand Canyon. Perhaps because it does not conform to feminist notions of ethics of care, it escapes the traps of essentialism and trivialism. Compassion and care, although portrayed as “maternal,” are not portrayed as feminine in a confining, repressive sense. Human beings—men and women alike—can, do, and are encouraged to find the “maternal within” them, and to combine it with their pursuit of justice. They are invited to apply this justice of care to women who kill in distress. They are invited to transcend rigid distinctions between femininity and masculinity, and liberate themselves from the constraints of patriarchy. “Maternity” in *High Heels* is not a biological trait: it is a human resource, feminine yet universal, essential for the operation of law and justice.

The image of Letal/Judge Dominguez, the caring mother-judge, is of course, a fantastic one. But so is King Solomon and his sword of

76. NUSSBAUM, *supra* note 5, at 14.

justice. I suggest that in the process of expanding the legal imagination and the imagery of law and justice, the colorful image of the caring judge should take its place in a pantheon of images of justice and law.

