

# Framing Law and Crime

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# FRAMING LAW AND CRIME

## AN INTERDISCIPLINARY ANTHOLOGY

EDITED BY  
CAROLINE JOAN S. PICART,  
MICHAEL HVIID JACOBSEN, AND CECIL GREEK



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# Multifocal Judgment, Intersecting Legal Proceedings, and Conservatism

## *A Separation and Rashomon*<sup>1</sup>

Orit Kamir

Law movies typically feature champions of justice—archaically dignified, like Gregory Peck’s 1962 Atticus Finch (*To Kill A Mockingbird*, Pakula 1962) or bitterly disillusioned, like George Clooney’s 2007 Michael Clayton (*Michael Clayton*, Clooney 2007), these champions are often what I have labeled “hero-lawyers” (Kamir 2009; 2012). Cinematic hero-lawyers embody natural justice combined with the law of the land. Often reluctantly, they come to the rescue, serving the law by doing “the right thing” at any cost. Their crusades are heroic, lonely, against all odds; but inherent integrity, loyalty, superior professional legalism, and unconditional devotion to the cause secure their moral victory, personal growth, and sometimes social acknowledgment. The hero-lawyers’ terrain is the adversarial world of the Anglo-American common law.

While hero-lawyer movies are by far the most familiar and popular law-films, this chapter explores a different, non-Anglo-American format. Its focus is *A Separation*, Asghar Farhadi’s (2011) Iranian movie—a powerful, Oscar winning law-film that does not even feature a lawyer. While following and presenting legal proceedings—in fact, two court cases—it exhibits none of the familiar law-film motifs. It portrays no victims or villains, no reluctant, reclusive heroes, or dramatic, adversarial courtroom battles. No one comes to the rescue; no justice is procured. It is very hard to assess whether any personal growth may be detected.

*A Separation* was warmly acclaimed and achieved great success including winning the Academy Award for Best Foreign Language Film in



[AQ1: was  
this also in  
2012?]

2012, and the Golden Globe for Best Foreign Language Film[AQ1]. And yet, when I asked law students about their impression, they admitted to have found it difficult to follow or decipher. While touching them, the movie had left them puzzled and frustrated. They seemed to lack a key to access it. In response to that lack of access, in this chapter, I suggest that *A Separation* follows a path unexplored by most American law-films, but famously paved by Akira Kurosawa's renowned 1950 Japanese law-film, *Rashomon* (Jingo 1950). I propose that reading *A Separation* against the backdrop of *Rashomon* highlights an underlying structure shared by both films, revealing their unique "multifocal judgment" and "intersecting legal proceedings."

The second part of this chapter considers what I refer to as "multifocal judgment." Both *Separation* and *Rashomon* offer judgmental perspectives and engage their viewers in judgment in complex ways. In both, judgment focuses on the characters of "husband" and "wife." These characters judge each other, are both judged against another, parallel couple, and most importantly, viewers are explicitly invited to partake in passing judgment in their cases. Many law-films engage in what I have referred to in previous works as socializing audiences to judgment (Kamir 2005a, 268); *Separation* and *Rashomon* share uniquely sophisticated structures of judging marital partners. Yet both films also undercut their judgmental zeal with equal sophistication and success.

The third part of this chapter unravels the "intersecting legal proceedings" of both films. Each presents two legal or legal-like proceedings. The intersection of these proceedings reveals much of the film's jurisprudential insight. In *Rashomon*, the intersection of criminal and lay proceedings (one held in a courtyard and the other at the Rashomon gate) highlights the advantages of the latter, social, informal proceeding. The lay "tribunal" of citizens reviews the evidence that was earlier examined by the criminal court, but, in the process of making social sense, relies on additional evidence (that was not available in the official proceeding) and resorts to common sense. Besides passing judgment, this procedure leads to redemption and rectification. *Separation* intersects criminal and family law proceedings, demonstrating the limited capacity of the criminal proceeding to grapple with the messy realities of human psychology and relationships. Concomitantly, the clear-cut accusations formed by the criminal law define and clarify the muted, sometimes suppressed grudges and resentments that muddle the waters of the more loosely formed family law procedure.

The fourth part of this chapter reveals the disguised (conservative) gender politics that underlie both movies, their silent acceptance of traditional honor norms (at the expense of full embrace of equal dignity),

and the universalistic (rather than concrete political) nature of their social critiques.

Finally, in the conclusion, I map this chapter in terms of the three focal themes of my larger law-and-film endeavor: the analysis of law-films as social devices that induce audiences to engage in judgment; the exposé of popular jurisprudence suggested by law-films to their audiences; the illustration of law-films' mirroring of some social functions carried out by legal systems (Kamir 2005a).

With worldwide success, both *Rashomon* and *Separation* have become part and parcel of an international culture. It is in this context that the chapter examines them as remarkably influential law-films.

## PART I: FILM SYNOPSES

### *A Separation*

*A Separation* opens in a courtroom, in which Simin (Leila Hatami), an eloquent young woman in a modern garment and a minimal head cover, is pleading for divorce. She generously admits that her husband Nader (Peyman Moaadi) is a good, decent husband and father to their daughter Termeh (Sarina Ferhadi). Her grounds for petitioning divorce are that Nader has retracted from his previous willingness to leave Iran and settle in a country in which Termeh would enjoy more freedom. Nader, a soft-spoken young man, claims that he cannot leave his elderly father behind, since his father suffers from dementia, and Nader is responsible for him. The judge, who is never shown onscreen, finds Simin's request for divorce unfounded.

Simin packs her belongings and leaves Nader's (father's) apartment, despite the heart-wrenching pleas of both her father-in-law and daughter. With Simin's help, Nader hires a very conservatively dressed woman who, accompanied by her young daughter Somayeh (Kimia Hosseini), begins to take care of his father. The woman, Razieh (Sareh Bayat), is in desperate need of the income, and accepts the job despite the dread that her husband would prohibit it were he to discover she undertook such employment. She is deeply disturbed upon discovering that Nader's father is incontinent, and that she must help him dress and undress. From a conversation that Razieh holds in the living room with Termeh's teacher, we learn that she is pregnant and in need of medical care.

One afternoon, as Nader and Termeh return home, they find Nader's father injured, having fallen from his bed while tied to it. Startled, they attempt to revive him, as Razieh and her daughter return to the apartment. Furious, Nader fires Razieh, who was not supposed to have left his father

alone, and even less so tie him to the bed. When Razieh returns to ask for her day's wage and insists on her right to receive it, he demands that she leave, and pushes her out, slamming the apartment door in her face. Later that night Simin is notified that Razieh has been hospitalized, and when she and Nader arrive at the hospital to visit her, they learn that she has miscarried. At the same time, Razieh's hot-blooded husband, Hojjat (Shahab Hosseini), realizes that Nader had employed his wife without his consent, and assaults him.

Razieh and Hojjat file a complaint against Nader, accusing him of having caused Razieh's miscarriage by shoving her forcefully out of the apartment, which resulted in her tumbling down the stairs. Nader is arrested and only Simin's intervention releases him on bail. He claims not to have known that Razieh was pregnant, and to have pushed her so mildly that it could not have possibly caused her fall. In turn, he files a complaint against Razieh, accusing her of neglecting her duties toward his father and causing his injuries and mental regression. The investigation of both allegations is carried out by an examining magistrate in a setting that seems to be a busy, crowded police station. The magistrate repeatedly asks Nader whether he overheard the conversation in which Razieh told Termeh's teacher of her pregnancy. In a dramatic scene, the judge interrogates Termeh. Termeh, who earlier confronted Nader on this point, knows that he was indeed privy to the women's conversation. Yet she adheres to his version, apparently believing him that in the moment of heat, when he pushed Razieh, he was oblivious to her state. Visiting Nader's residence, the magistrate examines whether Nader could have pushed Razieh hard enough to cause her fall down the stairs. Nader seems to prove that his action could not have precipitated the plunge.

Throughout the period of investigation, Hojjat repeatedly stalks Termeh, acting violently and threatening the girl and her teacher. Simin, horrified, is willing to pay Hojjat off in order to protect Termeh from him, but Nader refuses, arguing that it would make him look culpable. He accuses Simin of cowardice, while she accuses him of dishonesty and of risking his daughter's well-being.

Finally Nader consents, and, together with Simin, comes to Hojjat and Razieh's apartment. In the presence of witnesses (Hojjat's debtors) Nader seems willing to pay damages, if Razieh swears that he is indeed responsible for her miscarriage. Razieh refuses to swear. She discreetly confesses to Hojjat and his sister (as she did earlier to Simin) that a day prior to the dramatic clash with Nader, his father had left the apartment unnoticed; crossing the street to fetch him, she was hit by a passing car, and felt that the fetus might have been injured. Razieh fears that if she swears, as Nader demands, that he had caused the miscarriage, her false invocation of God's name might cause harm to her daughter. Hojjat de-

mands that she swear, assuming responsibility for her guilt. But Razieh remains adamant.

The last scene returns the viewer<sup>2</sup> to the family courtroom. We learn from the invisible judge that Nader has consented to Simin's petition for divorce, and that both parents have left the custody decision to Termeh. With tears in her eyes, Termeh answers the judge that she has reached a decision, but prefers to give it to the judge in private. Simin and Nader leave the courtroom, the camera joining them. Termeh's decision is presumably rendered to the judge but not to the viewer, who is left to agonize in the corridor with Simin and Nader, separated by a glass door.

### *Rashomon*<sup>3</sup>

*Rashomon* presents three men—a woodcutter (Takashi Shumura), a priest (Minoru Chiaki), and a commoner (Kichijiro Ueda)—who run into each other seeking shelter from the rain at the decaying Rashomon gate. Together they review testimonies delivered earlier during a legal proceeding that took place at the police courtyard. The judicial, criminal proceeding investigated the death of a samurai (Masayuki Mori), which occurred in a forest clearing, following a sexual encounter between the samurai's wife (Machiko Kyo) and an outlaw, Tajōmaru (Toshiro Mifune). Both woodcutter and priest were present at the courtyard, testified at the criminal proceeding, and heard the testimonies delivered by the outlaw, the samurai's wife, and the samurai's ghost. Deeply affected by the case, the woodcutter and the priest beseech the commoner to help them unravel the meaning of the event. Trapped by the rain, the commoner consents.

The woodcutter narrates to the commoner (through flashback) the testimony given by the outlaw in the courtyard. The outlaw admits to having slain the samurai after "taking" his wife. Four extended flashback-within-flashback scenes, representing his story on-screen, conjure up his courtyard narration. The outlaw recounts how, having glimpsed the angelic woman, he tricked the samurai into following him to a clearing in the wood, where he attacked and tied him up. We see him drag the horrified woman to the clearing, where she grabs her dagger and attacks the outlaw fiercely and skillfully. After a struggle, the outlaw "takes her." Then, he reveals, the woman demanded that the men fight over her. Accepting her proposal, the outlaw releases the samurai and the two engage in a lengthy, professional, heroic duel that leads to the samurai's honorable death.

Through a flashback to the courtyard, the priest at the Rashomon gate relates to the commoner the woman's testimony. The woman testifies that after the outlaw's departure, she rushed to the bound samurai, sobbing and throwing her arms around him. Through flashback-within-flashback

we see how, encountering nothing but cold hatred and spite, she releases the samurai, offers him her dagger and demands that he kill her. Then, the dagger still in her hands, she faints. The woman says that awaking, she saw the dagger stabbed in her dead husband's chest. She claims that she then tried to drown herself in a pond, but failed.

At the gate, the commoner remarks: "Women lead you on with their tears. . . . They even fool themselves. Now, if I believed what she said I'd be really confused." The priest resumes his flashback narration, now of the dead man's testimony as delivered in the courtyard through a female medium. The dead samurai's version is presented as flashback-within-flashback. After the sexual encounter, the outlaw persuades the woman to follow him and leave her husband. But she insists that the outlaw kill the samurai first. Horrified by her cruelty, the outlaw asks the samurai what to do with his traitorous wife, but the woman escapes; the outlaw chases her. The samurai remains immobile, weeping and heartbroken. Then we see him grab the dagger and stab himself.

At the gate, the woodcutter paces up and down, proclaiming there was no dagger, but a sword. The commoner talks him into admitting what he really saw as he arrived at the scene of the crime. In the woodcutter's flashback narration, the woman is lying on the ground, weeping, while the outlaw beseeches her to come with him, promising to do anything for her and threatening to kill her if she refuses. In response, the woman replies that the men should fight over her, and that she would follow the winner. But the samurai refuses, denouncing the woman, and so the outlaw too loses interest in her. Accusing both men of cowardice, the woman incites them to fight to prove their manhood, which they finally do, reluctantly and clumsily. We see how this unheroic battle results in the pathetic death of the samurai.

At the gate, alerted by a cry, the commoner finds a baby, strips it of its expensive looking coat and good luck charm, and leaves with this booty. When the woodcutter confronts him, the commoner accuses him of finding the dagger in the samurai's body, stealing it, withholding evidence and covering up by fabricating a false narrative. For a long time the rain continues to pour, as the shamed woodcutter and the grieving priest stand silent. When the rain stops, the woodcutter offers to adopt the baby. At first the priest, suspicious of the woodcutter's motivation, grips the baby. But as the woodcutter reassures him that he merely wishes to raise the baby and care for him, the priest consents and gently places the baby in the woodcutter's arms. The glowing woodcutter carries the baby in his arms and walks into the light of a clear day.

## PART II: MULTIFOCAL JUDGMENT AND BEYOND

### On The Judge's Bench

Law films resort to various cinematic techniques to prompt their viewers to take an active stance and pass judgment on characters and situations (Kamir 2005a, 268–71). *Rashomon's* technique is explicit and forceful: in all its courtyard (that is, the courtroom) scenes, the camera is placed on the bench of the unseen judge. This choice is curious, because the courtyard scenes are presented as flashbacks of the woodcutter's and the priest's points of view and neither of them could have seen the courtyard from the judge's seat. The cinematographic choice calls attention to its cinematic meaning, cueing to the viewer that he is invited to occupy the bench and assume the judge's role.<sup>4</sup> Concomitantly, the viewer is also invited to identify with the commoner at the *Rashomon* gate. Like the commoner, the viewer is an uninvolved passerby, asked to make sense of the second-hand testimonies presented to him. Through this shared role, the viewer joins the commoner in deciphering the events and judging them as the film's community's "reasonable man." By associating the viewer both with the official judge and with the lay "reasonable person," *Rashomon* invites him to perform a double judgment, from both legal and social perspectives (Kamir 2000, 74–78).

*Separation* renders a telling variation on this theme. *Rashomon's* "camera on the judge's bench" technique is adopted in *Separation's* first and last family courtroom scenes. In the film's criminal proceeding the judge is an onscreen character and the camera does not assume his point of view. The viewer is, thus, asked to preside not over the film's criminal case, but over the less formal, less legalistic family focused proceeding. Whereas *Rashomon* asks its viewer to be both judge in the criminal case and jury (so to speak) in the social tribunal, *Separation* clearly suggests that its viewer consider everything presented on screen while passing judgment over the family dispute. This choice seems to signal the centrality and importance of exercising judgment, and, more specifically, of judgment regarding the represented divorce and custody dispute. It seems to indicate that it is the family controversy that poses the issues which *Separation* requests its viewer to consider and judge.

### Judgmental Spouses

*Rashomon* presents to its viewer four takes on the fatal event in the forest. The first and last versions, the outlaw's and the woodcutter's, point to the sword as the deadly weapon, presenting a duel between the outlaw and the samurai that results in the latter's death. The two versions offered

by the samurai and his wife point to the woman's dagger as the deadly weapon. They differ in that the samurai condemns the woman for his death, whereas the woman blames the samurai.

According to the woman, after her rape, her husband's response to her was disgust, hatred, and a self-centered focus on his own wounded honor. Her anguish at the samurai's mental abandonment tormented her to the point of offering him the dagger, begging him to kill her. At this point she fainted, and perhaps her falling on top of him with the dagger in her hand caused his death.

In contrast, the samurai testifies how the intercourse with the outlaw unleashed in his wife savage hatred for him. The traitorous woman turned to the outlaw and demanded that he slaughter her husband. Her cold, merciless betrayal wounded the samurai's soul to the point where he stabbed himself with her dagger.

In *Separation*, Nader and Simin are similarly judgmental of each other. Simin admits that Nader is a decent man, yet she repeatedly claims that he is not proactive enough regarding Termeh's well-being, preferring his own interest to hers. She accuses him of insincerity, and of relinquishing their relationship by letting her go without a proper fight. Simin's accusations of her husband are not very different from those voiced by *Rashomon's* woman.

Nader, on his part, accuses Simin of not standing by him steadfastly enough, deserting him, doubting him and turning Termeh against him. Nader, like the samurai, is disappointed that his wife does not manifest complete, unconditional loyalty to his well-being, as he defines it.

Ultimately, in both movies, husband and wife's mutual recriminations of insufficient commitment and empathy are presented before the viewer, who is cast as the bench. The parallel mutual imputations give rise, in both films, to the apprehension that, perhaps, neither husband nor wife are able to look outside him or herself far enough to discern the empathy and compassion that the other offers and seeks.

### Judgment by Comparison: Parallel Sets of Characters

In *Rashomon*, the interaction between the three characters sitting in "social judgment" at the gate mirrors that between the triad involved in the violent event in the forest (*mise-en-abyme*). A comparison of the two corresponding groups casts a judgmental light on the samurai and his wife.

The samurai and his wife are an upper-class couple: he is a member of the military nobility, and she complements him, representing that which is delicate, emotional, and modest. The outlaw is a ruthless outsider who threatens the couple's virtue, relationship, and survival. In his self-serving attack on the normative couple, the outlaw wedges between them,

setting them against each other and destroying both. Challenging them, he exposes their selfishness and greed, as well as their mutual blindness, expressed in their reciprocal accusation of lack of empathy, commitment, and devotion.

The Rashomon gate community features a different pair: the woodcutter, a member of the working class, and a gentle, emotional, meek priest. The commoner is the outsider: a shrewd and cynical drifter. He claims that all men are selfish and self-serving, and that he is no worse than the rest. In the process, he exposes the woodcutter's dishonesty, revealing that the woodcutter stole the woman's dagger and refrained from attesting to it. The revelation shames the woodcutter and shocks the priest. In response to the remorseful woodcutter, the priest offers him the helpless child, in a gesture that conveys his empathy, forgiveness, and faith. The woodcutter accepts these generous gifts with a glowing face.

Confronted with a challenging situation, the "couple" at the gate manifests the mutual compassion, generosity, and respect that the first couple so poignantly lacked. They support and enable each other to regain faith in one another and in human decency. Their moving, mutual benevolence atones for the first couple's selfishness; it also invites judgment-by-comparison of the upper-class couple. Through an interaction that revolves around parenting, the unselfish act of giving and taking responsibility for a vulnerable other, the priest and the woodcutter convey absolution and faith in each other. This distinguishes this couple from the samurai and wife, while judging the heterosexual couple as incapable of parenting.

*Separation* focuses on a married, middle-class couple and their daughter. Simin's departure entangles their lives with those of a lower-class family: Razieh, Hojjat, and their young daughter, Somayeh. Nader's loyalty to ancestral ties upsets Simin's quest for liberation—for herself and Termeh—from the prison house of kinship and country. Simin's demand for a divorce amounts to placing her daughter's well-being above her husband's. Later she sets Termeh's safety above her husband's honor, his reputation, and vindication when she insists that Nader pay Razieh and Hojjat blood money, even upon learning from Razieh herself that Nader was probably not responsible for the miscarriage. Nader feels deserted and betrayed. His response is passive yet stubborn: he neither yields to Simin's demands nor tries to dissuade her from leaving. She is frustrated and hurt by his aggressive passivity.

On the other side of Tehran, Hojjat's loss of his job, coupled with his volatile temper and irascibility, drive his family to distress and poverty. Razieh's secretive undertaking of the caretaker job to provide for her family shows that she values her daughter's well-being above her husband's honor. Later, when Simin convinces Nader to pay blood money, Razieh once again chooses her daughter's safety above her husband's honor



when she refuses to invoke God's name in vain and accept the much-needed money. Despite Hojjat's aggressive pressure, Razieh does not budge. Hojjat loses his temper on both occasions, resorting to violence. Discovering that his wife worked for a man without his consent he attacks Nader. When Razieh refuses to swear, he slaps himself wildly in frustration and despair.

Razieh is Simin's *doppelgänger*. Her devotion to her daughter mirrors Simin's. Like Simin, Razieh takes an independent, strong stand, upholding her daughter's best interests, refusing to succumb to her husband's demands. Razieh's persistence is viewed by her husband as an offensive and disloyal attitude to him, as well as a religious sin. Yet Razieh does not yield. In this, Razieh's character offers Simin strong moral support. The pious woman, whose chief concern is to do good, who calls a religious hotline to check whether it is sinful to help Nader's father undress, is as strong-headed regarding her daughter's well-being as Simin.

And yet, Razieh's character differs from Simin's in a significant way: Razieh disobeys her husband, refutes and shames him, but does so in agony and lament. Her pained expression, constant pleading, and passionate tears leave no room for doubt that hurting her husband causes her much anguish, and that she would have done anything to avoid it, had she felt she could. In contrast, Simin's attitude seems cold, unfeeling, and uncaring. This is the judgment of Simin that becomes rendered by comparison to Razieh.

A comparison to Hojjat makes Nader fare the better man. Both are hard-working, well-intentioned, and devoted family men who try to do their best for their respective daughters' sake. Inadvertently, both put their children at risk—Nader by triggering Hojjat's violent stalking of Termeh, and Hojjat by failing to provide a secure environment for Somayeh. Both Nader and Hojjat struggle against dire straits and experience frustration and anguish. Each of them tries to assume responsibility for his daughter's wellbeing and attempts to regain control over his family life. But whereas Hojjat fails to control his temper, flaring up, time and again, to everyone's distress, Nader manages to keep a lid on his emotions and to act rationally and civilly. Even when Hojjat assaults him physically, and Simin blames him for all their trouble, Nader maintains his composure. Hojjat's explosive character highlights Nader's serenity and self-control.

The lower-class husband and wife exhibit more emotion than the middle-class couple. "Judgment by comparison" works in favor of the middle-class man, who seems composed vis-à-vis his lower-class counterpart. The comparison to the lower-class woman reveals the middle-class one to be cold and uncaring: "less feminine."

Interestingly, a cross-gender comparison between the two couples is no less enlightening. Nader and Razieh are both directly involved in the

conflict; Simin and Hojjat actively intervene, feeling that their respective spouses cannot be trusted to grapple with the situation. Hojjat brings the contention before the court, pressing charges against Nader. His violent conduct pressures Simin to try and resolve the conflict by paying blood money. From this point on, both Hojjat and Simin seem eager to settle the affair out of court, disregarding the truth, as well as Nader and Razieh's feelings and wishes. Hojjat claims that he stands by the principles of fairness and equality; the viewer, however, cannot but suspect that his self-righteous zeal is triggered, at least partly, by injured honor, as well as by greed. Simin claims that her sole motivation is to ensure Termeh's well-being; the spectator, nevertheless, cannot help but feel that perhaps she, too, is partially impelled by a less-noble drive—the vindictive urge to reproach Nader and prove that only she can fix what he has broken. In their eagerness to settle the case, Hojjat and Simin thus seem somewhat insincere.

Unlike Hojjat and Simin, Nader and Razieh convey an impression of earnestness in their respective protestations. Each of them insists that the other is fully culpable. Yet, by the end of the film, it transpires that neither one was as truthful as she or he would have liked us to believe. Nader perjured himself by repeatedly and falsely testifying that he was oblivious to Razieh's pregnancy. Razieh withheld critically relevant evidence, known only to her, regarding the car accident. Nader and Razieh both try to justify withholding the truth. Nevertheless, they both know that they are less than completely truthful while assuming wholly innocent poses.

Nader and Razieh each point to a deficiency in the criminal law, which, they argue, causes a discrepancy between law and justice. Nader claims that criminal concepts and categories (such as the criminal *mens rea*) are too rigid and unidimensional to take into consideration a common psychological state of simultaneously knowing and suppressing knowledge. Razieh claims that the legal requirement of causality is unjust. She feels that when two distinct factors could have each separately caused the harmful outcome, they should each be held accountable, disregarding the other. But both place themselves above the law, and struggle to manipulate it in order to achieve what they each consider justice.

The cross-gender judgment by comparison does not prove favorable for either Simin or Nader; it exposes both their weaknesses and insincerities. Through the judgmental comparison, they both fare imperfect; human, all too human.

### Nonjudgmental Judgment by Priest and Daughter

*Rashomon* and *Separation* both resort to complex cinematic devices to situate the theme of judgment at center stage. Each movie invites the viewer

to judge by mounting the camera on the bench, and each weaves intricate relationships between its dramatis personae, that facilitate judgment by comparison of the husband and wife characters. Concomitantly these movies both add a redeeming gesture or character which undercuts the judgmental spirit and endows the viewing experience with forgiveness and redemption.

As *Rashomon's* primary judge, the viewer stands in lieu of the unseen judge of the criminal proceeding and is also associated with the commoner at the Rashomon gate. The commoner is a witty, sharp character, and the spectator is drawn to his common-sense interpretation of the testimonies. But, in the final episode, when the commoner robs the helpless baby of its garments, the viewer is left to realize that he is too cynical to provide a trustworthy ethical reference point. Disillusioned, the spectator now finds himself in the rain with the woodcutter, harboring disappointment and dismay toward his insincerity and greed. It is a long awkward moment.

When the woodcutter finally moves to take the baby and the priest finds it in his heart to forgive him, the viewer feels invited to join the priest in this humane gesture. This shift is surprising, as the priest is the least charismatic character on screen. Yet in the final episode it is his compassionate move that provides the viewer's only course of relief. After two agonizing hours of intense judgment, the viewer is allowed to forgive and let go, and is grateful at the opportunity.

*Separation* associates its viewer, as judge, with the film's most captivating character—Termeh. The gentle yet repetitive camera focus on Termeh places her at the center of the film, inviting intense viewer identification. Termeh is onscreen much of the time both when the camera follows Nader or Simin and when it trails the grandfather, Razieh or Somayeh. In her interactions with her parents—as well as with the other characters—Termeh is inquisitive yet sensitive; her penetrating gaze complimented by deeply emotional facial expression. It is practically impossible not to connect with her.

This sensitive, thoughtful teenager watches, examines, and considers every move made by her parents. Throughout the film she sees and hears each of them condemning and feeling hurt by the other. She is privy to their strengths and weaknesses. She is aware of her mother's devotion to her, yet also faults her for leaving Nader and deserting the feeble grandfather and the family. She appreciates her father's efforts to take care of his aged parent and of herself, yet demands to know whether he had lied to the investigating judge regarding his cognizance of Razieh's pregnancy. Termeh tries to mediate between her parents by talking Simin into coming back home, and Nader—into asking Simin to do so. She observes Razieh and Hojjat, and sees her parents in comparison (Somayeh's character helps to establish the analogy). She is intelligent enough to notice nuance,

and mature enough to assess what she sees. Yet she is compassionate to both her parents throughout the film, and her judgment is conditioned by this powerful sentiment.

In *Rashomon*, the viewer is invited to pass harsh judgment throughout the film, and then to experience compassion and redemption at the very end. In *Separation*, the viewer is never left alone to judge: the film is focalized through Termeh, and her point of view is, above all else, a loving one. Scrutinizing and sharp as she is, Termeh has the empathy and acceptance that her parents lack in their mutual accusation and condemnation. Judgment by Termeh is nonjudgmental, and it is with her that the viewer is invited to judge. Termeh's love for her parents undercuts the film's judgmental spirit.

### PART III: INTERSECTING LEGAL PROCEEDINGS

#### The Questions Posed by Legal Proceedings

In *Rashomon*, the criminal proceeding in the courtyard reviews the very case discussed by the lay tribunal at the Rashomon gate; both tribunals address the event of the samurai's death. Yet each of the proceedings focuses on a slightly different question. The question asked at the criminal court is simply who killed the samurai and how. The court is interested in determining what was the deadly weapon used to slaughter the man, and who caused the death. The legal conundrum results from the fact that the three eye witnesses that testify before the court offer three different testimonies leading in three different directions. The lay, social proceeding tackles the question of meaning, pondering on the social and moral significance of the Samurai's killing. The lay tribunal resorts to all the evidence presented before the criminal court, as well as to additional sources—the woodcutter's testimony and shared common sense.

The mystery that *Rashomon* seems to present, which most of its scenes ostensibly tackle, and for which the film is universally renowned is the factual, criminal one: the puzzle of who killed the samurai and how. Known now as the Rashoman Effect, the film struggles to reach legal culpability as the accounts of the witnesses, suspects, and victims of a rape and murder are all different (Alia 2004, 29). But *Rashomon* never arrives at a conclusion that is "beyond reasonable doubt." The woodcutter's testimony, given at the gate, supports the outlaw's; the commoner, however, casts doubt on the truthfulness of the woodcutter's story. Thus, the viewer never learns whether the samurai died by sword or dagger; neither does the viewer find out whether the hand that held the weapon was the outlaw's, the samurai's own, or the woman's.

And yet, the testimonies submitted at the criminal court, allied with the lay discussion at the gate, seem to point to the woman's responsibility for her husband's death (Kamir 2000, 74–78). No less significant, at the final scene, both woodcutter and priest offer a different resolution to an interpersonal crisis that mimics the familial one at the forest, thus implying that both the samurai and his wife had failed in their task of overcoming a crisis and preserving the family. This seems to indicate that in *Rashomon*, the strict legal question is of secondary importance. The mystery built around it is a smoke screen. It is the question of social meaning, explored by the lay tribunal, which really matters. The legal proceeding, even when inconclusive, can reinforce a social conclusion. The resolution of the crisis at the *Rashomon* gate redresses the normative couple's failure, enabling society—and the audience—to overcome the trauma caused by the tragic crisis in the forest by virtue of catharsis.

*Separation* seems to offer a variation on the *Rashomon* formula, focusing attention on a factual and psychological criminal inquiry regarding the miscarriage, which merely echoes the underlying social enigma of family, partnership, and parenting.

The onscreen criminal proceeding focuses on the question of whether Nader is legally responsible for the death of Razieh's fetus. This question is twofold: did Nader's shoving of Razieh cause her miscarriage (*actus reus* and causality: did he shove her hard enough, and did this shove actually cause the miscarriage), and was he aware of her pregnancy at the time (*mens rea*). Neither one, nor both, resolve the underlying social concerns.

Unlike *Rashomon*, *Separation* does not hinge on witnesses' flashback testimonies providing contrasting onscreen versions of the disputed event. In a seemingly conventional cinematic manner, *Separation* presents the events to the viewer in chronological order, from diverse points of view. Only in retrospect does the viewer realize that she or he was never offered the relevant shots of the scenes that could have shed light on the two key aspects of the legal question. When the film presents Razieh's revealing conversation with Termeh's teacher, the camera remains with Razieh and does not follow Nader; the viewer has no way of knowing whether or not he overhears the women's conversation. Similarly, when Nader pushes Razieh out of his apartment, the camera, rather than follow Razieh, stays indoors with him, and the viewer has no way of knowing whether he causes her fall (or if, indeed, she fell). Even more dramatically, in the presentation of the episode in which Nader's father leaves the house and Razieh follows to fetch him, the film stops short of the scene in which the car hits her. All the material information for the legal proceeding is discreetly concealed through editing choices; the choice of a focal point entails an occlusion, an inconspicuous editorial favoring of an ellipsis.

In *Separation*, as in *Rashomon*, most of the suspense revolves around the legal inquiry, and the viewer is constantly invited to reevaluate whether Nader's conduct caused the miscarriage and whether he was aware of Razieh's condition. And as in *Rashomon*, here, too, the legal mystery is merely the surface structure of the deeper issues at stake.

The family law proceeding with which *Separation* opens and closes tackles poignant sociocultural issues: what makes a family? What holds it together? What is the essence of spousal commitment? What makes a good spouse? What makes a good parent? How does one choose between one's parent and one's child? Which is a child's best interest: to grow up where she enjoys more civil liberties, or where she is culturally rooted? And more specifically: is Simin's request for divorce "justified"? Should she be granted the divorce she seeks? And with which of the two parents should Termeh stay? These are the issues over which the audience of the film is invited to sit in judgment.

Unlike *Rashomon*, *Separation* does reveal to its characters and viewer the "right answer" to the legal question. The information previously omitted is eventually disclosed: we learn from Nader, together with Termeh, that he did overhear Razieh's conversation regarding her pregnancy; we realize, together with the investigating judge, that Nader's push probably could not have caused Razieh's fall down the stairs; and we hear Razieh's disclosure to Simin that a car had hit her before Nader pushed her.

Does the legal verdict that absolves Nader from criminal responsibility due to lack of proof beyond reasonable doubt resolve the social questions raised by the family law proceeding? Clearly not. In fact, it hardly makes a difference, because in *Separation*, as in *Rashomon*, the criminal legal proceeding pursues "the objective truth" and cannot diffuse the real tension and suspense regarding the social meanings raised by the informal family proceeding.

As in *Rashomon*, the criminal proceeding is instrumental for supplying the necessary data to evaluate social meanings. Nader's choice to commit perjury before the court, Simin's disbelief of her husband's testimony, Termeh's decision to lie for her father, Razieh's refusal to swear to Nader's responsibility—those fragments of human, psychological information, revealed under the pressure of the criminal litigation, are the components from which social meaning arises and answers are construed in response to the difficult questions posed by the family law proceeding.

### Legal (Criminal) Evidence in Social (Family) Court

*Rashomon's* social inquiry is fashioned around its criminal litigation. The lay tribunal at the *Rashomon* gate reiterates the testimonies presented in

the official proceeding, comments on them and questions them, granting them social meaning.

The criminal proceeding that *Separation* presents does not refer directly to Simin and Nader's familial dispute. Yet, framed by the two scenes at the family court, the criminal proceeding duplicates, or mirrors, fundamental elements of the family dispute. In this framework, the criminal proceeding supplies the viewer, situated as the family court judge, with evidence relevant to Simin and Nader's conflict. The audience is invited to review the criminal case presented on screen and rely on it in determining the justification of Simin's plea for divorce.

Both Razieh's and Nader's arguments before the criminal judge reiterate Simin's and Nader's claims in the divorce case, amplifying and elaborating on them. Razieh's accusation of Nader, symbolically echoes Simin's accusation that he all but pushed her out of his home and ruined the future of her child. In this translation of Nader's alleged culpability (toward his own family) into criminal terms, his alleged betrayal of daughter and wife by failing his promise to leave Iran becomes—through mirroring and reverberation—homicide of a child and physical assault of the mother.

In his defense at the family court Nader invokes his loyalty and obligation toward his aging father. At the criminal court, this stand entails his accusation of the woman, Razieh, whose devotion to her child comes at the expense of her duties to the now helpless patriarch. The sight of Nader's father lying on the floor tied to his bed and suffocating is a vivid depiction of Nader's nightmare that Simin's plan to leave Teheran would doom the helpless old man to neglect and abuse.

The onscreen social interactions surrounding the criminal proceeding expose Nader and Razieh's emotional "behind the scenes." Nader admits that his frustrated devotion to and fear for his father overwhelmed and enraged him to the degree of suppressing his awareness of Razieh's pregnancy and his concern for the unborn child.

Razieh, on her part, admits that her accusation of Nader was a projection of her tormenting feeling of guilt over neglecting the old man, for rushing into the road carelessly and putting her fetus in harm's way. Last but not least, Razieh feels guilty toward Hojjat, whom she had deceived by taking the job without his permission. The denial of her own guilt toward the father, husband, and unborn son (three generations of men) leads Razieh to shift the accusation from herself and project it onto Nader, whose frustration, fear, and rage lead him to suppress his basic responsibility toward her.

The analogy between the criminal and the family law proceedings suggests that perhaps a similar emotional "behind the scenes" is at play in the divorce case. Perhaps underneath her relentless accusations of Nader lies Simin's sense of guilt toward her dependent father in law. Perhaps

she feels guilty toward Nader and Termeh, of whom she demands that they abandon a dependent, beloved father and grandfather. Perhaps she even feels that she is betraying Nader by turning her back on her marital duties and vows. Her bold conduct and accusations infuriate Nader, who, agonizing at the sight of his languishing father, now feels ever more powerless, frustrated, trapped. In turn, these racing emotions suppress his ability to acknowledge Termeh's well-being and accept responsibility for her future. He is paralyzed into self-defense and caught up in accusing Simin. Simin's denied guilt and Nader's resentment, rage, and suppressed acknowledgment of responsibility thus feed into each other, forming a vicious cycle.

The film's criminal procedure cannot convict either Nader or Razieh; hence, they both remain innocent in the eyes of the law. But what of the family dispute between Nader and Simin? It does not call for proof beyond reasonable doubt, yet does require a resolution. The parties must either divorce or stay married, and, if they divorce—a decision must be reached regarding Termeh. Can the criminal proceeding be reinterpreted to shed light on the outcome of the family dispute? I believe that it can.

As Nader rightly explains to Termeh, the law only understands yes or no, black or white emotional situations; it cannot accommodate a vicious cycle of mutual denial. The only ones who could grapple with such a complex emotional reality are Simin and Nader. Had each of them shown integrity, courage, and compassion, they could each and both confront their fears and weaknesses. They could admit these shortcomings, accept them, and undergo a process of maturation. They could communicate openly and resolve their predicament, like the woodcutter and priest in *Rashomon's* final scene.

But despite the insights supplied by the criminal proceeding, neither Nader nor Simin is strong enough to break free of the loop in which they have entrapped themselves and Termeh. Stubborn, silent, and cowardly, they remain locked in and chained to their insecurities and fears. Having reached a dead end, they both admit to the failure of their marriage, and agree to divorce, leaving Termeh to choose between them; typically, burdening her with their parental task.

The movie keeps us in the dark regarding Termeh's choice. It does not supply a conclusive answer to the legal aspect of the custody question. But it leaves us knowing that, much as in the criminal proceeding, the legal answer is of secondary importance. The heart of the issue lies beyond the reach of the law, and its "either or" questions and solutions. Both Termeh's parents are good people and good parents. They both love their daughter and are greatly involved and invested in her upbringing. Yet neither one of them shows the integrity, courage, and compassion necessary to do what Termeh really needs; neither is generous enough to



admit, communicate, forgive, accept, and let go. Neither of them knows how to follow in the footsteps of their predecessors—the woodcutter and priest—and thus redeem themselves and save the family.

Termeh needs two adult parents who can face their guilt, assume responsibility for her future, and support each other with all their weaknesses. Such parents she does not have; hence no decision of hers can grant a happy ending. The real denouement in the family proceeding is that, regardless of who is granted custody, everyone loses.

*Separation* suggests that a criminal proceeding, with its “either or” logic, cannot do justice to a complex emotional situation, such as Simin and Nader’s family dispute. In a family dispute, the scope of possible success is determined by the maturity of the parties: by their integrity, courage, and compassion.

#### PART IV: GENDER POLITICS, HONOR VERSUS DIGNITY, AND SOCIAL CRITIQUE

##### Gender Politics

I have argued elsewhere, in great detail, that *Rashomon’s* apparent relativistic—even anarchistic—stance regarding truth, evidence, and legal fact finding, conceals a deeper layer of meaning, in which the woman is socially condemned (Kamir 2000, 56–61, 66–67). I have shown how, relying on audiences’ intuitive familiarity with Hollywood’s common-law legal conventions, as well as with those of mystery stories and honor codes, *Rashomon* leads its audience to find the woman culpable for her husband’s death. The legal evidence may not substantiate her guilt, but implied underlying social conventions do. A similar strategy is at play in *Separation*.

I have mentioned earlier that Razieh is Simin’s double, and her devotion to her daughter mirrors Simin’s. Both women maintain this stance at the expense of their husbands’ respective interests. This theme is presented in the opening scene, in which Simin demands that Nader either leave his father and emigrate with her, or be forced by the family court to divorce her and let her take their eleven-year-old daughter out of Iran. It culminates in the scene, toward the end of the movie, in which Razieh discloses to Simin, confidentially, that her miscarriage may have been caused by a car accident. In fear for Somayeh’s well-being, Razieh begs Simin not to pay Hojjat, despite his eagerness to receive compensation and repay his heavy debts. Rather than confide in her husband, trust him, believing that together they could best ascertain Somayeh’s well-being, Razieh turns to Simin, attempting to conspire with her behind Hojjat’s back.

But Simin is worried for her own daughter, who might be hurt by Hojjat if he is not paid and appeased. She clarifies that complying with Razieh's request may save Somayeh but endanger Termeh. The daughters are pitted against each other, and each mother prefers her own.

The next scene reveals that Simin does not trust Nader enough to share with him the crucial information disclosed by Razieh. Like Razieh, Simin chooses her daughter's interests, as she defines them, over those of her husband, as he defines them. She does not trust him enough to believe that, were he to choose between his own interests and his daughter's well-being, he would opt for Termeh's.

The distraught Razieh blames herself for the messy consequences. It is hard to refute her self-accusation that she is the source of turmoil. After Hojjat storms out of the failed mediation meeting, Razieh exclaims, "How can I live in this house now?" Her desperate outcry implies that she has destroyed her marital relationship.

This is followed by Simin and Nader's arrival at the family courtroom, their now confirmed divorce echoing Razieh's admission that she has wrecked her family. This shift from one woman to the other brings to mind that just as Razieh's unauthorized exit of Hojjat's home has led to upheaval and misfortune, so Simin's desertion of Nader's home led to the fateful hiring of Razieh and the calamity that ensued. Inasmuch as Razieh could have at least spared Hojjat the last blow (his humiliation before the creditors) had she entrusted him with the truth regarding the car accident, so Simin could have shown consideration for Nader's feelings by sharing with him Razieh's confession. Had she felt compassion, love, and loyalty for Nader, they could have planned together how to best settle the situation. But Simin withheld Razieh's secret from Nader, planning to let him pay for a miscarriage he did not cause, and dooming him to wonder forever about his guilt.

*Separation* leaves little doubt that cold, reserved Simin is guilty not merely of abandoning her father-in-law and home, but also of deserting her husband and causing the breakup of her family. Her culpability derives from being too active, self-reliant, strong, and suspicious, and due to her failure to trust, love, or share with a husband who is, as she herself admits, a good and decent man. Even empathetic Termeh tells her mother in no uncertain terms that—but for her desertion, none of this would have happened.

*Separation* does not acknowledge or admit its reliance on patriarchal gender norms and stereotypes; but its uncritical, unquestioning adherence to them renders them neutral and invisible, inviting the audience to blindly accept them as the yardstick against which to measure the characters and their actions.

Razieh's actions brought about her family's breakup only if we take for granted and do not question her husband's one-sided patriarchal right to control her employment choices. Her fear that this volcanic man might discover her "unauthorized" employment causes her to conceal both her work and the related car accident, a concealment that bears a disastrous entanglement and suffering. Had the film invited us to question Hojjat's patriarchal privilege, we might have concluded that Hojjat partook in a discriminating, oppressive regime. Perhaps we would have realized more clearly that accusation of Razieh is a form of victim blaming.

The same holds true for Simin and Nader. Were Simin not expected to do the housework and caretaking for Nader's father, she would not have been held responsible for Razieh's fateful presence in the household. Were it not considered improper for a woman to be active, independent, self-reliant, strong-headed, and critical—Simin would not have been cast in a negative light.

Nader and Simin are presented as a Westernized, egalitarian couple. Nader is portrayed as an active parent, very much involved in the upbringing of his daughter. This conceals the reality that in the onscreen world, Simin, like Razieh, is judged according to traditional, conservative patriarchal standards and norms. Those seem to be taken for granted by the film, and are thus inadvertently accepted and implemented by its implied viewer and audience. In this respect, the film uncritically mirrors the legal system that it portrays, supporting its logic and reasoning. Taken with Simin and Nader's modern lifestyle, as well as with Nader's open-mindedness, we become oblivious to the embedded patriarchal culture, and are invited to judge Simin by its standards. In this constellation, her guilt is blatant.

The following section suggests that uncritical grappling with the theme of traditional, patriarchal honor in *Separation* is an additional way in which the film invites judgment and condemnation of its female characters.

### **Dignity, Honor, and Gender: Latent Narratives in *Rashomon* and *Separation***

In the analysis of other films, I have suggested that sometimes a movie presents a dignity-based value system, while (also) upholding an honor-based one (Kamir 2005b, 67). Whereas a dignity-based value system commands absolute preservation and protection of each and every individual's human value, and fundamental human rights, an honor-based one encourages fierce, unqualified competition for honor, which assumes and perpetuates the distinction between men as subjects and women as objects and includes stereotypically gendered means of shaming competi-

tors and humiliating them. (For further explication of honor and dignity see below.) Regarding *Rashomon*, I have claimed that under the guise of its famous relativistic posture, the movie discreetly invites its viewer to accept honor-based norms and implement them to assess the woman's conduct. Honor-based judgment is one way in which *Rashomon* invites its viewer to blame and condemn the woman. Here I claim that *Separation* does the same.

Each one of the four main adult characters in *Separation* claims to be devoted to the well-being of a dependent family member—Nader to his demented father, Hojjat to his miscarried, unborn son, Simin to Termeh, Razieh to Somayeh. The men claim that they are devoted to upholding the memory and rights of a male family member that they once loved or hoped to love, whereas the women are devoted to the well-being of their daughters. These four attachments may be described as commitments to human dignity.

Very simply put, I use "human dignity" to mean the inherent value ascribed to the category "human," and, therefore, to humankind and every member of the human family (Kamir 2006a, 5–10; 2006b, 143). Dignity, as constituted by the 1948 United Nation's Universal Declaration of Human Rights, is said to be inherent in the human nature of every human being, that is, in the humanity of each and every member of our human category. We can think of it as a stamp of human quality that is imprinted in each of us.

Nader still sees the innate human virtue of the old man who no longer communicates and wets his pants. Hojjat values the potential humanity of his unborn son, insisting that his death be treated seriously and respectfully by the authorities and the middle-class men and women involved in his demise. He demands recognition and compensation for the loss of this human life. Simin wants to offer her daughter—through exile—the option to realize her autonomy and human potential to the utmost. Razieh seeks to ensure Somayeh's well-being and protect her from harm by pleasing and appeasing God as dutifully as she can.

But beyond the ostensible dignity-based motivations, Nader and Hojjat also abide by their respective sense of honor, while both Simin and Razieh seem to have no compunction about dishonoring and shaming their respective husbands.

Let me clarify the meaning that I attribute to honor (Kamir 2006a, 5–10; 2006b; Miller 1993); in honor-and-shame societies, honor is the relative value attributed to a member of society in comparison to his peers. It implies social status, prestige, rank, and standing in a given group's hierarchical structure. Shame is the lack/loss of honor; dishonor. In most honor-and-shame societies, honor is partially bequeathed and mostly gained through a careful and disciplined adherence to the coded norms.

A meticulous observance of the appropriate set of norms entitles a person to honor; failure bestows shame.

In most traditional honor-and-shame societies, honor is closely linked with the ideal of manhood. Typically, only men are players in any group's honor game. Many societies offer men two routes to earn honor and status: one is success in the competition against other men (one's peers) in "manly" activities (such as warfare, accumulation of wealth); the other is conquering and maintaining sexual and familial control over women. Women are a means by which men may gain or lose honor. A wife's duty is to uphold her husband's honor by obeying him, particularly in public, and by being sexually accessible exclusively to him. A woman who disobeys her husband, especially in the open, or is "taken" sexually by another man, shames her husband extremely (Peristiany and Pitt-Rivers 1966; Pitt-Rivers 1977).

Hojjat has lost his job, and is unable to support his family. He feels intensely humiliated and emasculated. Losing a potential male son—a source of tremendous honor—is an additional blow. He experiences Razieh's disobedience as further humiliation, attesting to his loss of manly status and control. Nader is the man who, in Hojjat's mind, caused this humiliation and witnessed it. One cannot help but sense that Hojjat wants not just to redress the dignity of his unborn son, but also to avenge himself on Nader and receive from him compensation for his dishonor. But just as he is about to be somewhat reinstated as a man of honor, his wife prevents it, by once again disobeying him in public and refusing to play the submissive role that he assigns her. Razieh is fully aware of this: Hojjat's sister urges her to take the oath that Nader requests, reminding her that Hojjat's honor is at stake. If Razieh were a good, obedient, dutiful wife, she would cherish her husband's honor, especially as she is partially responsible for tarnishing it. But she refuses, realizing fully the meaning of her action in an honor-and-shame society.

This interaction between Hojjat and Razieh mirrors the one between Nader and Simin. At the opening scene, Simin publicly shames Nader before the court with her drastic demands. We cannot help but sense that Nader's commitment to his father's dignity excuses his abiding by his manly honor as son, husband, and father. Nader refuses to abandon his father, which would mean colossal disgrace for both men, and stands on his honor-right to lead his family rather than follow his wife. A modern, Western man, who considers himself egalitarian, Nader denies Simin's accusation that he is driven by considerations of honor; but it is hard to deny the suspicion that in fact he is.

As if Simin's conduct were not disgraceful enough, Nader is further shamed when proven incapable of running his household without her. Imprisoned, and later released only thanks to her intervention, he is des-

perately shamed. When she demands that he pay Hojjat off, his shaming is complete: what kind of a *man* (of honor) is he, if he accepts responsibility for a homicide he is wrongly accused of, and pays the man who is threatening his daughter, all merely out of fear? Nader emphatically refuses. When Simin has the opportunity to restore some of Nader's sense of honor upon learning that he was indeed falsely accused, she declines to do so. Her explicit reason is concern for Termeh's dignity (she seems to fear that Nader would refuse to pay Hojjat, thus risking Termeh). But it is hard not to suspect, as well, that perhaps she is not too eager to help Nader recover some of his lost honor.

None of these interactions is openly acknowledged by the film, yet we sense them. The film's onscreen society is traditional, patriarchal, and honor-based. It is not hard to sense both men's acute humiliation, and their wives' continuing failure to relieve them of it. Left to our own devices, eschewing the issue of honor and its inherent ties to patriarchy, *Separation* (passive-aggressively?) allows us to comply with the honor norms of its onscreen society. Even if we are taken aback by Hojjat's blunt patriarchal conduct, we feel for both men's painful sense of dishonor, wishing their wives were more compassionate (more "feminine" in a traditional sense). We find the men merely human; the wives—uncaring and even cruel. Razieh, at least, suffers as she lets Hojjat down; Simin seems indifferent.

### Social Critique

*Rashomon* does not offer explicit social critique, but in leaving the viewer under the impression of the woodcutter's last testimony, it winds up with a very critical view of the samurai, the bandit, and the woman. Through the woodcutter's eyes, all three are caught up in a vain struggle for honor, in which they lose sight of their own as well as their fellow humans' dignity. In their competition for prestige and esteem they become selfish, arrogant, and cruel, dooming themselves to ruin. Since this film was made in Japan in 1950, it is difficult not to think that it may have expressed critique of the Japanese social order that led the country into World War II and its disastrous aftermath. But since nothing in the film alludes to this historical interpretation, it is more likely to read the text as presenting and perhaps criticizing human nature and human interactions at large.

The only explicit reference to Iranian sociopolitical reality is made in *Separation* in its opening scene. Explaining why she insists on taking Termeh out of the country, Simin says that as a mother, she prefers not to raise her daughter in Iran. Aware that this line of argument is not likely to win the judge's sympathy, she stops short of mentioning that civil rights and liberties in Iran are greatly restricted; that women are silenced,

marginalized, and subjected to patriarchal religious oppression. Nader joins the judge is pretending not to understand why Termeh would be better off elsewhere, and Simin chooses not to step into the trap that he sets her, and does not criticize the country's political regime. But her plea, as well as her discretion, frames the whole movie, and the little she says suffices for a contemporary Western implied viewer and audience to fill in the blanks.

But to keep sight of Simin's implied critique, a viewer must hold on to it with great determination, because from the second scene onward, *Separation* portrays daily life in Teheran as very normal and ordinary. The film almost splits itself from its opening scene. Termeh goes to school, does her homework and plays with other girls, while her parents go to work and are burdened with issues concerning their personal lives: an aging father, marital problems, a legal dispute. Neighbors, teachers, family members, judges—they all seem to be reasonable people; human interactions are familiar and casual.

The viewer is never shown a situation in which Simin or Termeh are oppressed, restricted, or discriminated against. Their head covers seem to be a matter of fashion. Razihe's veiling in the chador seems to be her own choice, as she is a very devout Muslim. Simin drives her own car, and in a scene at a gas station, Nader asks Termeh to fill the tank and teaches her to demand the change assertively. Nader and Simin seem to stand on an equal footing and the family court judge talks of their need to agree on both divorce and custody issues. It is significant that the homework that Termeh is shown doing with her father is on Iranian language and history; we are never shown classes in which she may be subjected to religious indoctrination and gender stereotyping. In one scene, Simin stands on a balcony with her back to the camera, and when she turns to face Nader and the viewer, it appears that she has been smoking. But unless one knows that it is prohibited in Iran to show women smoking, it is impossible to guess that this is a meaningful second.<sup>5</sup>

This creates the impression that women enjoy coequality with men, or, at least, that their situation is not very different from that of couples in the Western world.

Simply put, *Separation* naturalizes and normalizes everyday life in Iran, rendering it inconspicuous to the point that the viewer doubts whether Simin's concern about raising Termeh there is warranted. The film thus seems to embrace Nader's point of view and question the legitimacy of Simin's sociopolitical critique.

Simin's clear repudiation of the Iranian regime at the opening scene is thus blurred and her outcry is silenced by the ensuing uncritical presentation of Iranian life. The documentary-like character, seemingly objective perspective of *Separation* misleads the audience into feeling that real life in

Teheran is no different than in the West, and that there is no justification for Simin's insistence on traumatic exile and abandonment of Nader's father. In this, again, the film mimics the family court legal proceeding it portrays, offering it unacknowledged support.

It is this obliteration of Simin's point of view that renders *Separation* a universalistic examination of human nature, of husbands and wives and upper and lower classes, rather than a sociopolitical critique.

## SUMMARY AND CONCLUSION

### Summary

This chapter offers a close reading of *Separation* in comparison with *Rashomon*, demonstrating that these two acclaimed law films establish a unique, non-Anglo-American sophisticated and effective cinematic critique of law and judgment, while subtly and discretely taking a conservative sociopolitical stand.

The chapter reveals how *Separation* (like *Rashomon*) places judgment at large and judgment of interpersonal, family related concerns in particular, in the limelight. The cinematic choice of placing the camera and the viewer—on the bench of the family court judge; the onscreen mutual accusations and judgment of husband and wife; the judgment of a middle-class couple by comparison with a lower-class one—make up the multifocal ways in which the film not merely presents its audience with issues of family law and judgment, but also invites it to actively participate in complex, many-faceted family law decision-making. The film undercuts this intensely judgmental mood by establishing the feuding couple's loving, compassionate daughter as its supreme judge and the viewer's onscreen guide.

A comparison of the *Separation*–*Rashomon* cinematic reference to judgment with the more familiar one of the Anglo-American hero-lawyer law-film suggests that in the absence of courtroom drama, the *Separation*–*Rashomon* multifocal tactic is more nuanced, granting more weight to the undercutting nonjudgmental force.

The chapter further demonstrates how *Separation* (like *Rashomon*) engages the audience in a complex legal enigma (in the context of a criminal *whodunit* proceeding), concomitantly indicating that the resolution of legal conundrums does not impact the underlying interpersonal questions (posed by the less-formal family court proceeding). Still, the harshness and formalism of the criminal proceeding tease out information and responses that less formal proceedings cannot, and which are instrumental in the more subtle context of the family law case. The chapter illuminates



how fragments of human, psychological information, revealed under the pressure of the criminal legal proceeding (such as Nader's decision to lie, Simin's disbelief of her husband's testimony, Termeh's decision to back her father despite his insincerity, Razieh's refusal to swear to Nader's responsibility)—are the building blocks of social meaning, illuminating the difficult issues posed by the family law proceeding.

A comparison with more conventional law-films suggests that the cinematic technique of intersecting legal proceedings leaves (Western) audiences in awe—as well as frustrating confusion. Legal detective investigations are aimed at discovering who did what, and who knew what when. The expectation is that once these investigations unravel the mystery, justice will be done, and conflicts satisfactorily resolved. In *Separation*, following such investigations, audiences appreciate the mystery and sense of complexity, but are perhaps baffled and discouraged when no legal solution in the criminal case sheds significant light on the underlying interpersonal family themes of the less-formal proceeding, leading to questions such as: “Should Nader and Simin divorce?” and “Who should get custody of Termeh?” The gap between the detective-like pursuit of legal answers within the criminal context and the complete irrelevance of these answers to the deeper level of human concerns addressed by the family focused procedure is shocking and, perhaps, paralyzing. Even as we realize that Nader is not guilty in the criminal case, no decision in the family case may grant a happy ending. This is a very difficult outcome for audiences, trained in happy legal endings that promise optimistic personal solutions and futures.

The last part of this chapter exposes how by ignoring the onscreen society's underlying patriarchal honor norms and discriminatory gender stereotypes, *Separation* (like *Rashomon*) induces its viewer to accept these conservative conventions. Withholding criticism of a particular patriarchal, honor-based society, frames the film as a universalistic, archetypal portrayal of the human condition.

In summary, the discussion in this chapter reveals that a non-Anglo-American law film featuring multifocal judgment and intersecting legal proceedings may be more radically critical and less optimistic than a conventional Anglo-American hero-lawyer law-film regarding the power of a legal investigation to shed light on fundamental social concerns or to reach the right decision and do justice in complex human situations. But this nihilistic skepticism regarding the legal system may go hand in hand with uncritical conformism regarding traditional, conservative sociopolitical realities, upholding patriarchy and honor-based norms. In fact, perhaps total skepticism regarding the rule of law necessitates acceptance of sociopolitical order. Perhaps *Separation* and *Rashomon*'s deep disbelief in the rule of positive law is part and parcel of adherence to con-

servative “natural law” (“the way things are”). Concomitantly, perhaps the optimistic stance of more conventional Anglo-American hero-lawyer law-films toward the rule of law cohabits with profound criticism of sociopolitical reality.

## Conclusion

In conclusion, let me connect this discussion of *Separation* with my long-standing law-and-film enterprise. I have repeatedly marked three perspectives that strike me as particularly exciting in the discussion of law and film. One is the examination of ways in which law-films train audiences in judging, and in legal-like ways of relating to the social world. Another is revealing law-films’ jurisprudential commentary and insights. Finally, comparing law-film’s social action to that of the legal systems they depict onscreen (Kamir 2005a; 2006a, 1–5).

In the second part of this chapter I have unraveled the ways in which *Separation* (much like *Rashomon*) trains its audience in judgment. The movie bluntly places the viewer on the judge’s bench, instructing him or her to perform complex, multifocal judgment, relying on characters’ mutual accusations and their comparison with characters cast as their doubles. Interestingly, *Separation* undercuts judgment by casting a compassionate, loving character as its supreme judge.

The third part of this chapter shows that some of *Separation*’s jurisprudential insights are voiced by its characters. One, perhaps the film’s main character (Nader) claims that the law fails to address common psychological realities, such as knowledge suppressed due to stress. He believes that this justifies perjury, in order to supply the law with simple answers that it is capable of processing. Termeh, who is the film’s main focal point, seems to be convinced by this argument. Is this a signal to the viewer regarding this jurisprudential point? Another main character (Razieh) faults the criminal law for its requirement of actual causality; she claims that if Nader’s actions had sufficed to cause harm, he should be found guilty even if a different, unrelated factor actually caused the harmful result. Interestingly, at the very end of the movie she seems to retract (when, pushed to swear to Nader’s culpability—she refuses). Is this a signal to the viewer regarding this jurisprudential point?

No less interesting is the film’s implied jurisprudential claim, revealed in the intersection of the film’s two legal proceedings. *Separation* shows that a criminal proceeding cannot resolve a complex emotional situation, such as a family dispute. The legal solutions may resolve formal, procedural conundrums, but remain completely irrelevant to the underlying human issues. Regarding these, the scope of possible success is determined by the maturity of the parties: by their integrity, courage,

and compassion. In the summary, I suggest that this jurisprudential stand may strike audiences, trained in more conventional law films, as overly radical, perplexing, and unsatisfactory.

Last but not least, the fourth section of this chapter demonstrates how *Separation* mirrors the social action of the legal system that it portrays. The family court allows Simin to express her view that Iran is no place to raise a girl. But while speaking in a liberal, egalitarian voice, the law silences and ignores Simin's attempt to point to Iran's patriarchal, fundamentalist, conservative political and legal regime. *Separation* follows in the footsteps of its fictional legal system, offering it cinematic reinforcement. The film's choice to ignore its society's patriarchal honor norms and discriminating gender conventions ultimately silences Simin's voice and undermines her insistence that Termeh's well-being requires migration from Iran.

Some law-films, such as Marleen Gorris's Dutch, 1982, film *A Question of Silence* (van Heijningen 1982), present legal systems critically, inviting viewers to examine their assumptions and find them wanting.<sup>6</sup> (Kamir, 2006a, 218–42). *Separation*, much like *Rashomon*, calls our attention to its complex, sophisticated perspectives on judgment, and to radically critical jurisprudential commentary, while silently supporting its conservative onscreen patriarchal legal system. This complex structure seemingly reassures us of the film's critical, even radical nature, while silently inviting us to accept its underlying conservative worldview; much like the acclaimed *Rashomon*.

## NOTES

1. I am deeply grateful to the generous support of the Emile Zola Chair for Human Rights; to the warm hospitality of the EUI[AQ2]; to Talia Trainin for her excellent professional work.

2. Throughout the chapter, "viewer" and "audience," refer to the "implied viewer"—as well as to real-world Western audiences, assuming that audiences, on the whole, accept the film's invitation and take on the role of its implied viewer. For discussion of this choice see Orit Kamir, 2006a, *Framed: Women in Law and Film* (Durham, NC: Duke University Press), xvi–xviii.

3. For a very detailed synopsis see Kamir, Orit, 2000, "Judgment by Film: Socio-Legal Functions of *Rashomon*," *Yale Journal of Law & Humanities*. 12(1): 39, 44–56.

4. I use the male pronoun because *Rashomon* seems to construct a male hypothetical viewer.

5. I learned the significance of this scene from an interview with Leila Hatami who plays Simin. The interview appears in the "Special Features" of a DVD of the film. From this interview I also learned that Hatami was explicitly instructed to portray the image of a "cold" and very assertive woman, and that Simin's character is very well aware that the family court is biased against her.

6. A case in point is Marleen Gorris's Dutch, 1982, film "A Question of Silence." For detailed analysis see Kamir 2006a, 218–42.

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