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## **The Dark Comedy of the Courtroom**

Norman Jewison's *And Justice for All*

Jensen, Mikkel

*Published in:*  
American Studies in Scandinavia

*DOI (link to publication from Publisher):*  
[10.22439/asca.v55i2.7042](https://doi.org/10.22439/asca.v55i2.7042)

*Publication date:*  
2023

*Document Version*  
Publisher's PDF, also known as Version of record

[Link to publication from Aalborg University](#)

*Citation for published version (APA):*  
Jensen, M. (2023). The Dark Comedy of the Courtroom: Norman Jewison's *And Justice for All*. *American Studies in Scandinavia*, 55(2), 26-41. <https://doi.org/10.22439/asca.v55i2.7042>

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# THE DARK COMEDY OF THE COURTROOM:

Norman Jewison's *And Justice for All*

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**Abstract:** This article examines *And Justice for All's* (1979) peculiar spin on the courtroom drama. Though the film embraces a mode of seriousness to portray sexual violence and an unjust criminal justice system, it also includes an undercurrent of dark comedy and absurdity. The article shows how the film incorporates dark-comedic absurdity to emphasize how severely malfunctioning the criminal justice system is. While the film reproduces the lawyer-as-hero trope known from earlier eras in American film history, it is very disillusioned with the state of the criminal justice system as such. In this sense, it gives viewers a recognizable lawyer-hero to root for even though the film invites viewers to be very skeptical of the state of the system.

**Keywords:** courtroom drama, *And Justice for All*, dark comedy, the system, heroic lawyer

Norman Jewison's *And Justice for All* (1979) is a rare exception in the history of the courtroom drama. Its portrayal of sexual violence and an unjust criminal justice system is marked by a mode of seriousness, but the film also includes an undercurrent of dark comedy and absurdity. Depicting its protagonist, lawyer Arthur Kirkland (Al Pacino), as an idealist working in a dysfunctional criminal justice system, the film offers a vote of confidence to the classic lawyer-hero trope in American film history, but the film's portrayal of Arthur's milieu relays a fundamental disillusionment with the state of the criminal justice system at the close of the 1970s. Informed by the pressing social issues of its day, the film mixes seriousness and darkly comedic absurdity to articulate a desperation about the injustices it portrays.

Courtroom dramas from the postwar era usually portrayed lawyers "in glowing terms" (Asimow 1132). Lawyers were "springing to the defense of the downtrodden, battling for civil liberties, or single-handedly preventing injustice," which, to law and popular culture scholar Michael Asimow, is indicative of "the popular culture of the time in which attorneys were widely respected" (1132). Indeed, in 2003 the American Film Institute singled out the iconic character Atticus Finch (Gregory Peck), the lawyer-hero from Robert Mulligan's 1962 adaptation of Harper Lee's *To Kill a Mockingbird*, as the greatest hero in American film history. Several people have taken issue with Finch, whom they see as the embodiment of the white savior trope (James; Haines), but that does not change the fact that, to some observers at least, American popular culture's premier hero is an attorney.

The courtroom drama speaks to serious issues ranging from racial injustice in *To Kill a Mockingbird* to homophobic ostracization in *Philadelphia* (Jonathan Demme, 1993). The gravity of the issues that the genre speaks to is often accompanied by what one could call, to borrow film



scholar Birger Langkjær's take on cinematic realism, "a mode of seriousness" (25–26 and 75–79). Langkjær argues that realist films are marked by this mode of seriousness, by which he means that realist films do not just depict serious subjects such as, say, childrearing, disloyalty, war, or illness. Viewers are also strongly invited to see such films' content in a serious way (Langkjær 25–26). *Tropic Thunder's* (Ben Stiller, 2008) portrayal of the Vietnam War is satirical and comedic, which means that it is not marked by the mode of seriousness present in, say, *Apocalypse Now's* (Francis Ford Coppola, 1979) depiction of that war.

Langkjær's argument concerning the mode of seriousness also applies to the courtroom drama. This genre emphasizes the gravity of the issues it portrays, for instance with regard to workplace homophobia in the case of *Philadelphia*. *And Justice for All* takes on several weighty subjects—injustice, sexism, murder, and rape—in a serious manner, but it also features several comedic elements. But what are we to make of this film's simultaneously serious and comedic treatment of the American criminal justice system? This article shows how the film's mix of seriousness and dark comedy articulates a sense of politically charged desperation about gender-related social issues. Contributing to a deeper understanding of the humor in this film, the ar-

ticle further explores how the film's generic hybridity and aesthetics are intimately connected to the film's attempt to engage with 1970s cultural-historical trends with regard to a more general skepticism of the system.

### ***And Justice for All* (1979)**

The opening credits of *And Justice for All* foreshadow the fate of its idealist protagonist, lawyer Arthur Kirkland. Footage of a Baltimore courthouse set to the sound of a group of children extradiegetically reciting the Pledge of Allegiance—which includes the film's title—is the crux of this montage sequence. Law and humanities scholar Jessica Silbey notes that this montage “begins with the juxtaposition of the wide sunny steps of the courthouse building and its narrow dark halls in the entry way” (101). The sunlit shots of the courthouse invoke a notion of a well-reputed court system, but the “narrow dark halls” suggest a contrast between the outward appearance of the courthouse—synecdochic of the court system as such—and the actual workings of this system ‘behind the scenes.’ This montage suggests that the film's protagonist will have to navigate within a criminal justice system marked by a distance between its appearance and its reality.

Much of the montage establishes the grandeur of the courtroom, but we also see a sign saying: “No chewing gum while court is in session.” The discrepancy between the solemnness of the décor of the Baltimore courthouse and the sign outlining rules about chewing gum foreshadows the irreverence with which the film will portray the court system. Taken together, this opening montage and the title of the film intertextually invoke central ideals relating to the American criminal justice system. If any viewers were to consider the notion that this film was made only for entertainment purposes, the opening of the

film rebuts that notion by activating the ideals that the film wishes to engage with.

Several critics have engaged with the opening montage and the paradoxes it entails. Silbey notes that the mise-en-scène of this opening scene activates certain viewer expectations, arguing that “we are awake to the possibility of fault and corruption while we remain wary, however hopeful, of the impact of a specific verdict on our faith in the law's ability to achieve an enduring order and justice” (101). The allusions to the Pledge of Allegiance signal a belief in the system's ideals and profess a sense of loyalty to it. This belief, however, is quite the contrast to how Arthur experiences a broken criminal justice system. Lawyer and film critic Allen Rostron argues that “these opening sequences affirm from the outset a faith in America's basic ideals, but they associate that faith with innocence and naivete by giving voice to it through children” (60). In this sense, the film presents itself as a critique of the American criminal justice system, but this is a critique that does not reject what the film presents as the ideals of the nation. The film, too, ‘pledges its allegiance’ to central tenets in American society, but it rejects what it sees to be the realities of the system in the 1970s and faults the system for not being able to deliver on its promise about securing “justice for all.”

Aside from flagging central themes, the earliest scenes of the film also establish an absurdist tone. An early court scene shows a defendant eating lottery tickets lying on a table in a Baltimore courtroom—important pieces of evidence in the case against him—without anybody paying notice to his actions. Then a fight breaks out that is only interrupted when Judge Francis Rayford (Jack Warden) enters the courtroom and fires his gun in the air before posing the ironic question: “Gentlemen, need I remind you, you are in a court of law?” This line is reminiscent of a similar scene in Stanley Kubrick's absurdist classic *Dr. Strangelove* (1964), in which President

Merkin Muffley (Peter Sellers) admonishes two people for fighting in a deeply ironic location: "Gentlemen, you can't fight in here. This is the war room!" In the case of *And Justice for All*, its early courtroom scene becomes absurd by juxtaposing Judge Rayford firing his gun into the air while lamenting the behavior he is witnessing. Arthur's request for a recess so that his "client could get something to eat [because] he's obviously very hungry" underscores the comedic nature of the scene. With a defendant eating evidence, a psychical fight breaking out in a courtroom, and a judge firing a gun, the scene signals the inclusion of absurd elements into this otherwise serious portrait of a dysfunctional criminal justice system.

This scene, however, is quite the contrast to how the film first introduces Arthur as a character only minutes earlier. A young crossdresser, Ralph Agee (Robert Christian), is booked in jail, where Arthur is being held for having been found in contempt of court the day before. The crossdresser is visibly terrified of going to jail and is only objectified further when he is forced to undress in front of other inmates, who are catcalling him. The dim lighting in this prison scene—a stark shift from the lighting scheme used in the opening montage—visually suggests that the prison system is the dark underbelly in the film's vision of Baltimore's criminal justice system. Arthur objects to how Agee is being treated but is summarily brushed off. The indignity of this crossdresser's treatment is presented as no laughing matter—this is portrayed in a mode of seriousness—but the film's take on the criminal justice system is both absurdist and comedic. Sidney Lumet's classic *12 Angry Men* (1957) went in the opposite direction in its depiction of how Juror 8 (Henry Fonda) continuously challenges each of his fellow jurors' reasons to convict the defendant. Lumet's dialogue-driven parlor drama arguably represents a defense and celebration of the principle of reasonable doubt

and is antithetical to Jewison's comedic-absurdist take on the courtroom drama. Put briefly, the criminal justice system works in Lumet's vision, which clashes with Jewison's vision. This skepticism is connected to broader cultural and societal developments that affected the US when the film was produced and released.

The 1970s shook American culture and society. Law and humanities scholar Nicole Rafter argues that American 1970s cultural texts were informed by the two biggest political maladies of the era: The Vietnam War and Watergate (44–49). Indeed, historian Thomas Borstelmann notes how the US witnessed a precipitous drop in public trust in the government in the years leading up to the release of *And Justice for All*. In 1965, 75 percent believed that they could "trust the federal government" (46). By the end of the 1970s, that number had dwindled to a mere 25 percent, and professing a belief in the system was on the wane. Borstelmann sees Jimmy Carter's 1976 win over Gerald Ford as indicative of this skepticism. The election of Carter marked the first time since Woodrow Wilson that a politician ascended to the presidency with no experience in federal politics: "Experience in Washington became a political burden rather than an asset, a remarkable measure of voter distrust in their government" (Borstelmann 46). Recent research by the Pew Research Center shows that public trust in the US government has never recuperated to the high levels registered in the 1950s and 60s. I should add that the Baltimore criminal justice system in which Arthur works, of course, is not to be mistaken for a branch of the federal government. But this skepticism of American government nonetheless seems to inform *And Justice for All's* portrayal of American society in the 1970s. Articulating this skepticism through the storylines of the three clients whom Arthur represents, *And Justice for All* emphasizes that the issues it addresses are to be taken seriously.

The film's critique of the criminal justice system places it at odds with one body of film, but it also aligns *And Justice for All* with another tradition in American film history. Citing examples such as *To Kill a Mockingbird*, *Inherit the Wind* (Stanley Kramer, 1960), *Anatomy of a Murder* (Otto Preminger, 1959), and *The Young Philadelphians* (Vincent Sherman, 1959), Law and American Studies scholar David Ray Papke argues that American law films in the 1950s and 60s "established the now classic tale of noble and articulate lawyers representing deserving clients, primarily in courtroom trials," which ended up establishing this view as a "cultural norm" (1492). Legal and cultural historian Norman Rosenberg, however, argues that 1950s visions of a functional system were predated by so-called law noirs in the 1930s and 40s, which, to him, raised "doubts about the ability of the trial process to achieve satisfactory closure and about the adequacy of legal language itself" (344–45). In this sense, *And Justice for All's* skepticism of the criminal justice system calls back to law noirs like *Fury* (1936) and *Stranger on the Third Floor* (1940). Tacitly invoking both of these film traditions, Jewison's film aligns itself with the skepticism of the law noirs while it also counters the then more recent cultural norm of "noble and articulate lawyers" (Papke 1492) of the 1950s and 60s. *And Justice for All's* way of intersplicing a mode of seriousness with a dark-comedic and seemingly fatalistic sentiment suggests that, to Jewison, it was only by disrobing the justice system of the veneration it was becloaked in in earlier films that it was possible to really take issue with the serious problems that the criminal justice system faced in the 1970s.

### Three Stabs to Arthur's Sense of Justice

*And Justice for All* chronicles how Arthur becomes disenchanted with the criminal justice system through his experience in working with three dif-

ferent clients. Having been arrested after reluctantly participating in an attempt at armed robbery, Ralph Agee hires Arthur as his attorney. Agee is guilty, but Arthur believes that his objections to parts of the case might help Agee get probation instead of a jail sentence. But when Arthur is about to present his arguments at a hearing, his colleague Jay Porter (Jeffrey Tambor) is having a mental breakdown at the courthouse. Arthur chooses to accompany Jay as he is being hospitalized but instructs his colleague Warren Fresnell (Larry Bryggman) to fill in for him when the court reviews Agee's probation report. But Fresnell forgets to submit Arthur's corrections to the report, and Agee consequently faces imprisonment and not probation, which Arthur had hoped and believed would be the result. Agee, fearing how he will be treated in prison, commits suicide after his sentencing.

Another experience that shakes Arthur's faith in the system is his handling of the case of Jeff McCullaugh (Thomas G. Waites), who has been imprisoned for several months due to two lawyers' incompetent way of dealing with a case of mistaken identities. Judge Henry T. Fleming (John Forsythe) is untroubled by the innocent McCullaugh's imprisonment and merely concludes that the relevant paperwork had been filed three days late when Arthur calls for McCullaugh's release. Continuously beaten and raped by fellow inmates in the Maryland prison system, the desperate McCullaugh gets hold of a gun and sets up a hostage situation in the prison. He is ultimately killed by a police sniper. As film scholar Paul Haspel notes, "[a] simple, law-abiding man all his life, he finally commits a criminal act because of the justice system" (128). The fact that McCullaugh is imprisoned through no fault of his own delegitimizes the authority and fairness of the criminal justice system. Legal scholar Lawrence Travis III explains that "the components of the justice process are police, courts, and corrections" (3). This fact is important to bear in mind when considering *And*

*Justice for All's* indictment of the criminal justice system. It chiefly indicts a faulty court system, but it also problematizes the realities of incarceration (a central part of corrections) by having both Agee and McCullaugh die while in the custody of the Baltimore prison system. The death of McCullaugh by the hands of a law enforcement sniper means that the film also takes issue with an aspect of policing. But this critique is much less central to the film than its criticism of the courts and the prison system. Unlike McCullaugh, Agee has committed a crime, but he is treated harshly and unfairly, as we see in Fresnell's mismanagement of the hearing, as well as in Agee's fears concerning the treatment he will have to endure in prison. Law and humanities scholar Ross Levi notes that the film's "sympathetic portrayal of a transgender client" and its emphasis on how "society's oppressed become even more victimized in the justice system" make the film "ahead of its time" (16). By today's standards, informed by contemporary gender discussions, the film resembles a metoo-esque articulation of gender inequalities.

The third of the cases that shake Arthur's faith is the most central one, both in thematic and narrative terms. Judge Fleming, whom Arthur already has an adversarial relationship with due to his refusal to release the innocent McCullaugh from prison, is charged with beating and raping a young woman. The establishing shot of the building where Arthur meets with Fleming to discuss the judge's case is accompanied by ominous extradiegetic music that foreshadows how Fleming will strongarm Arthur into defending him in court. The unorthodox and suicidal Judge Rayford is a friend of Arthur's, and he suggests that Arthur should take the case, and so does Arthur's girlfriend, Gail (Christine Lahti). Arthur is ultimately able to make Fleming admit to him that he is guilty, and Arthur struggles with the prospect that he might be able to get Fleming acquitted. After Ralph Agee's suicide and the murder of Jeff McCullaugh, Arthur cannot handle the

possibility of Fleming going free. All three storylines push Arthur. All of them point to a dysfunctional criminal justice system that Arthur, in the end, must distance himself from in order to keep his conscience and his self-image.

After witnessing the murder of McCullaugh firsthand, Arthur is seen sitting on a park bench, staring despondently into the air when a group of joggers run past him. Arthur impulsively and somewhat strangely gets up and follows the group. Rostron believes that there "is no explanation of why or where he was running. The scene is incoherent, except perhaps as a reference to Rocky's memorable runs through Philadelphia" (64), but Haspel notes that film critic Robert Zarkin is on the mark when he argues that Arthur's actions demonstrate the "sheer mental fatigue" that he experiences in the wake of Agee and McCullaugh's deaths (132). Getting up and running is a sign of his exhaustion, and this scene is thus narratively important in terms of understanding the seemingly impulsive decision Arthur makes during his opening statement in the criminal case against Judge Fleming. Viewers need to understand why Arthur, a thoroughly ethical and professional lawyer, snaps in court and exposes his own client. When Arthur starts turning against Fleming, the presiding Judge Rayford tells Arthur that he is out of order, but that only sends Arthur over the top and he starts yelling:

You're out of order! You're out of order!  
The whole trial is out of order! They're out of order!  
That man, that sick, crazy, depraved man raped and beat that woman there, and he'd like to do it again. He told me so! . . . You son of a bitch, you! You're supposed to stand for something! You're supposed to protect people, but instead you fuck and murder them!

Arthur's belief that both the judge and the trial are "out of order" is the film's clearest articulation of the idea that it is the system itself that is at the root of the problems that Arthur experiences. Arthur is dragged out of the courtroom and the camera cuts to Fleming, whose facial expression shows how this turn of events marks a defeat for him. This shot of Fleming is the film telling us that Arthur's deed is efficient in achieving justice, though Arthur must ostracize himself from the system to do so. Had Fleming gazed with, say, bafflement or amusement at Arthur's outburst, the scene would have had a different tone to it. Film scholar David Bordwell argues that we must consider the creative choices a filmmaker must make, arguing that "the filmmaker chooses an option in order achieve some end" (370). The choice to cut to Fleming and pick a shot where Fleming has that exact facial expression indicates how we are to understand Fleming's experience of defeat, and, in turn, understand that Arthur's actions do have an effect other than his choosing, quite likely, to be disbarred as a lawyer. His facial expression, then, is central to how the film resolves its plot.

Prosecutor Frank Bowers (Craig T. Nelson), however, is upset that Arthur gets to best Fleming. He wanted that 'prize' for himself. Haspel notes that in two different scenes, Frank uses football metaphors to frame his case against Fleming (130). When Arthur tries to persuade Frank to drop the case against Fleming, Frank reveals his career ambitions with his case: "It's the Super Bowl, Art. It's the Super Bowl and I'm the quarterback." In Frank's opening statement to the jury in the courtroom scene at the end of the film, he tells the jury that this case could be their "goal-line stand." These football metaphors reveal that Bowers's way of thinking revolves around notions of winning and losing and has nothing to do with pursuing justice. He is purely motivated by ambition. This is part of *And Justice for All's* critique of the criminal justice system:

many people in the system fail to focus on securing justice. Frank Bowers wants a career, Fleming is unconcerned with the imprisonment of the innocent McCullaugh, and when Warren Fresnell learns that Ralph Agee is imprisoned after Fresnell mishandled Agee's hearing, he complains that case was "nickel and dime." While the film criticizes Bowers for thinking about his career instead of justice, it excoriates Fresnell for focusing on economic gain instead of the clients. "They're people, Warren," Arthur reminds his colleague. Arthur is the odd one out as an idealist in this world.

### Rejecting the System

The Vietnam War, the Watergate scandal, and the effects of inflation and the oil crisis fueled a growing distrust of the American government (Borstelmann 21). These developments arguably fostered a more skeptical general view of the system, and this skepticism eventually made its way to the big screen in the form of, for instance, Sidney Lumet's *Network* (1976), in which a television network tries to exploit a news anchor's enraged rants against society for its own benefit. Three years later, *The China Syndrome's* (1979) depiction of a coverup of safety issues at a nuclear power plant furthered this skeptical view of the system. *And Justice for All* also articulates a concern for how the system is faulty given the fact that it cannot provide justice in the cases of Agee, McCullaugh, and Fleming. The film shows Arthur to be a good person trying to do good work, but the system thwarts his efforts. Portraying him as moral by showing him to conscientiously defend his clients and to consistently visit his grandfather, who suffers from dementia, the film even uses his surname—"Kirk" is the Scottish word for 'church' (Tomasulo 52)—to flag his moral nature. It is symbolically significant that it is Arthur's grandfather who praises him for being a good and honest lawyer and affirms



a belief in the criminal justice system. Arthur begrudgingly responds that “being honest doesn’t have much to do with being a lawyer, Grandpa.” The film suggests that being honest is a good thing, but also shows how honesty is not conducive to functioning well in the criminal justice system. Jewison’s film thus offers one iteration of the classic American championing of the vigilante good guy against institutional forces we also see, for instance, in *Dirty Harry* (Jensen 73).

The issue of sanity and functionality in the criminal justice system is further explored through Jay Porter’s storyline. Jay has been going through severe emotional distress since learning that a murderer he got acquitted on a technicality has killed two children. In one scene Jay shows up late at night at Arthur’s home in complete dismay, and another scene shows Jay throwing ceramic plates around the hallway of the Baltimore courthouse. Jay has done what he was supposed to do in defending his client to the best of his ability, but his storyline shows that his actions negatively affect his mental health, thus making him poorly fit for working in the criminal justice system. Jay’s guilty conscience about the tragic outcome of playing by the rules of the justice system is a contrast to Arthur’s backstory. Fleming knows that Arthur once broke his oath of confidentiality by informing the police that a client of his had told him fantasies of sticking fireworks into people’s mouths. When the news media starts reporting on that actually happening, Arthur betrays his duties as a lawyer for the sake of public safety and informs the police of what he knows. Arthur thus only takes on Fleming’s case because he is forced to do so. Jay, however, has done what he was supposed to do, and this experience leads, in a way, to the murder of two children. Conversely, Arthur has done what he was not supposed to do as a lawyer, but he is able to help protect people because of it. But only Arthur breaks the rules of the legal profession. He has broken the rules, but his conscience

is clear. This contrast between what is sanctioned by the legal profession (which lands Arthur in a problematic situation) and what is not (which leaves Jay in ethical distress) demonstrates the problems in this criminal justice system.

*And Justice for All* further develops this discussion of the system through Arthur’s relationship with Gail Packer, who works for an ethics committee that oversees legal professionals working in Baltimore and which tries to ensure the functionality of the criminal justice system. Arthur is skeptical about the success the committee will be able to achieve, a point the film also articulates by making the committee uncritical of the suicidal Judge Rayford. Suggesting that the internal form of review with which the criminal justice system self-regulates is inadequate or even misdirected, the film rejects the belief that the system will be able to fix itself as it stands now.

At one point, Arthur and Gail are discussing this issue, and although the film is focalized through Arthur, it does not derogate Gail’s point of view. It is more dialogic than that. Literary critic M. H. Abrams defines the *confidante* as a character who is of only minor importance to the plot but who serves as “a plausible device for communicating to the audience the knowledge, state of mind, and intentions of a principal character” (46). To some extent Arthur’s scenes with Gail are important in terms of the film communicating his worldview to the viewer, but Gail is more than a mere confidante. Her viewpoint is presented in full seriousness. As one of their discussions draws to a close, Arthur doubts their compatibility, but Gail muses that their opposing viewpoints can help “keep a little friction between” them, which can be a good thing for them as a couple. Their ideological discussion about the criminal justice system fades into the background for a bit to allow them to contemplate their relationship. As a result, these scenes

function to develop Arthur and Gail as characters instead of merely working as representations of divergent viewpoints on the film's central theme.

Arthur's critical stance towards the system ties the film into a strong trend in American history. American Studies scholar Grace Elizabeth Hale notes that oppositional stances can be found both on the left and the right in American cultural history (6–7), and the fact that *And Justice for All* problematizes the mistreatment of a crossdresser in police custody shows that the film's critique comes more from the left than from the right. This point is important to note given the fact that the film articulates its critique of the criminal justice system in the wake of the years of the Warren Court. Earl Warren's tenure as Chief Justice of the Supreme Court (1953–69) is commonly considered to be an era of legal liberalism in the sense that the court used its power to create social reforms that affected the nation and benefitted millions of Americans, including African Americans, women, and workers (Belknap 68). Legal scholar Mark Tushnet notes that liberals would later "yearn for a return to the Warren Court's true course, just as conservatives take the Warren Court to represent everything a Supreme Court should not be" (qtd. in Belknap 65). Key rulings of the Warren Court include, famously, the 1954 *Brown v. Board of Education* decision that ended the legality of school segregation, the 1967 *Loving v. Virginia* decision that decriminalized interracial marriage, and the 1966 *Miranda v. Arizona* decision that called for police officers to inform arrestees of their rights regarding how their statements can be used in criminal proceedings. In the 1960s, the Warren Court's liberalism worked in tandem with Democratic President Lyndon B. Johnson's policies. Both Warren and Johnson "believed that what they regarded as the flaws in the economy, society, and government of the United States could be corrected through legal means" (Belknap 70).

But even though liberal America had experienced crucial victories in both the courts and in Congress since the mid-1950s,<sup>1</sup> several challenges remained in terms of securing rights for some groups. The fact that the Equal Rights Amendment was never ratified (Kruse and Zelizer 69–72) bears witness to the headwind that some liberal causes experienced in the 1970s. This backlash against feminism informs the fact that *And Justice for All's* critique of the criminal justice system is oriented so much towards crimes of a sexual nature, including rape of both women and men, as well as transphobia. That, however, does not change the fact that the film is focalized mainly through a male attorney and the fact that the woman whom Fleming raped has no voice or agency in the film. Thus, there are limits to *And Justice for All's* feminist politics, but it is significant that the cases it portrays all center on sexual violence.

The film thus responds to, and is a part of, two interlinked cultural and political developments in 1970s America: feminism and the backlash against it, as well as anti-establishmentarian discourses, as witnessed by the rise in skepticism regarding the government (Borstelmann). The film's strongest connection to anti-establishmentarianism is the fact that it resolves its plot by making Arthur distance himself from the criminal justice system. Pointing to the symbolic significance of the final scene of the film, Rostron notes that Arthur ultimately "must abandon the system" (65). Arthur is seen sitting on the steps of the Baltimore courthouse after his outburst in court. Looking up, Arthur is greeted by Jay, who is now donning a hairpiece. Walking up the stairs to the courthouse, Jay lifts his hairpiece as if it were a hat to greet Arthur. This comedic endnote ties the film's mood back into its darkly humorous vein. Rostron concludes that "Kirkland could not adjust to the system inside the courthouse, but his demented colleague stands a better chance" (65). Rostron's choice to use the word "adjust" here is precise, because

the system's problems cannot be resolved when potential forces for good conform to the workings of a flawed system. The film shows that only through the addition of more idealists like Arthur Kirkland would it be possible to change the system. A lone force for good has little chance of succeeding in securing justice inside the courthouse.

It is symbolically significant that the first time we see Arthur he is in a jail cell, and that the last scene of the film shows him sitting outside on its steps. In the first scene, the criminal justice system has thrust Arthur out of its fold, which foreshadows how he will leave the legal profession of his own volition at the end of the film. When Arthur is moved to reject the legal discipline, however, he has a harder time doing so because of his loyalty to and love of his grandfather, which shows the thematic importance of the several scenes where Arthur visits him at his retirement home. But in order to keep his morals and to get the best of Fleming, Arthur must become the vigilante good guy, which demonstrates *And Justice for All's* 1970s anti-establishment point of view.

### **The Social Critique of Dark Comedy**

Film scholar Wes Gehring argues that the 1970s saw a surge in dark comedy films (*Genre-Busting*), a genre marked by a "comic irreverence that flippantly attacks what are normally society's most sacredly serious subjects" (*American* 1), which, in the case of *And Justice for All*, is the American criminal justice system. Gehring notes that the genre's three defining themes are "the omnipresence of death, the inherent absurdity of the world, and man as beast" (*Genre-Busting* 6), which fits well with *And Justice for All*, as evidenced by Agee and McCullaugh's deaths, the absurdity of the criminal justice system, and Judge Fleming being a rapist.

Films in this genre are typically focalized through anti-establishment anti-heroes instead of "traditional admirable heroes" (Gehring, *Genre-Busting* 5). *Catch-22's* Yossarian (Alan Arkin) is a prime example here. Dark comedies also tend to opt for nonchronological narration, portraying a "slice-of-life existence," as is seen in *Slaughterhouse-Five*, in which Billy Pilgrim (Michael Sacks) comes "unstuck in time" and thus time travels from different points in his life. Finally, these typically countercultural films, like the novels they were adapted from, reject the upbeat endings of so many American films and instead "end with a bittersweet honesty, from shattered dreams to death" (Gehring, *Genre-Busting* 5–6). Jewison's film does not feature nonchronological narration, but it fits Gehring's two other criteria. Though Arthur Kirkland is a lawyer, he is not a traditionally admirable lawyer-hero. But the fact that *And Justice for All* pits Arthur against an unconscientious and criminal judge (Fleming) and shows Judge Rayford to be unfit for his job demonstrates how *And Justice for All* embraces an anti-establishmentarian stance. Though Arthur is part of the system by virtue of being a lawyer, he is the outsider who tries to do good within a dysfunctional system. In this way, *And Justice for All* fits Gehring's definition of the dark comedy genre. Equally important is the fact that Jewison's film also rejects what Gehring calls "classic cinema's tidy upbeat conclusions" (*Genre-Busting* 6). *And Justice for All* shows that the conscientious lawyer is ultimately incompatible with the criminal justice system, a notion that hardly reassures viewers about a healthy state of affairs in American society. In this way, *And Justice for All*, like other dark comedies of its day, is antithetical to the feel-good populism of, say, a Frank Capra, whose films showed the little guy to be able to take on the system and win.

*And Justice of All* is thus no outlier in 1970s American cinema. The purpose of its dark-comedic aspects is to communicate how severe the problems that the criminal justice system faces are.

Laughter here is a coping mechanism in the face of transphobia, rape, and victimization. The film's mode of seriousness in terms of portraying, for instance, the deaths of Agee and McCullough shows that there is political anger at the core of this laughter. The film's embrace of comedy, however, makes it something of an outlier in the history of the courtroom drama. *My Cousin Vinny* (Jonathan Lynn, 1992), *Liar Liar* (Tom Shadyac, 1997), and *Legally Blonde* (Robert Luketic, 2001) are also courtroom comedies, but they are not dark comedies like *And Justice for All*. This film's dark-comedic take on the criminal justice system retains a mode of seriousness, which, as mentioned earlier, is premised on the fact that such films do not simply depict serious subjects such as homophobia and unjust imprisonment. This mode invites viewers to see the subject matter of the film in a serious way. The laughs are not included in the film to activate a distance between subject material and the viewers' perception of it.

The film extends its irreverent take on the criminal justice system especially through Judge Francis Rayford's suicidal behavior, which only becomes increasingly pronounced throughout the film. At the start of the film, he takes his lunch while sitting on a ledge outside his office window several stories up. Later on, he takes Arthur on a helicopter ride and reveals that he likes to start flying back to his starting point only when he has used up half of the fuel, which ultimately makes the helicopter crash before they get back. His darkest moment, however, comes just before the final courtroom scene, when he is in the restroom trying to fit the muzzle of a shotgun into his mouth and pull the trigger. Gehring notes that "black humor's stock in trade has always been *shock*" (*Genre-Busting* 8; italics in the original), which shines through here in Rayford's suicidal actions. Though Rayford has many appealing qualities, *And Justice of All* makes him such a darkly humorous character to signal how alone Arthur is as a sane force for good in

this system. Taken together, the lack of heroic judges in the film and its dark humor add to *And Justice for All's* pessimism and dark comedy.

The film also articulates its pessimism by failing to solve the problems it presents. At the end of the film, two of Arthur's clients are dead, the criminal justice system has lost a force for good in Arthur, and the film does not suggest to its viewers that the criminal justice system will be able to fix itself. This is why the committee that Gail serves on is impotent: *And Justice of All* wants to make sure that viewers do not believe that this system will be able to fix itself. For this reason, the film shows that it takes the downfall of a righteous lawyer to remove a crooked judge. Arthur will not be able to parade through the justice system and continue to defend underprivileged clients in the future or maybe even attend to the system's problems. This adds to the film's pessimism but should not be read as defeatism.

To Gehring, novelist Kurt Vonnegut is a central dark humorist in American literature (*American*), which is interesting to note in relation to understanding the function of laughter and dark comedy in *And Justice for All*. Heralded as "one of America's greatest humanists" (Baker), Vonnegut is famous for this dark humor and his consistent political commitment in his novels. In the eyes of media scholar Peter C. Kunze, Vonnegut represents "a blend of absurdist black humor with guarded sense of hope. A light exists at the end of the tunnel—or, at least, a belief in it exists" (42). But Vonnegut's use of dark humor in, for instance, *Cat's Cradle* (1963) and *Slaughterhouse-Five* (1969) created an ambiguity that meant people were not always sure what he was trying to say, which meant that his work was also sometimes seen as being defeatist (Broer 7). *And Justice for All's* use of dark humor parallels Vonnegut's dark comedy by emphatically not offering a resigned grin in the face of sexual abuse and death, just as *Slaughterhouse-Five* did not resign to a defeatist humor in its critique of the

fire-bombing of Dresden. The historical motivation for drawing this link between Vonnegut and Jewison's drama was how large Vonnegut loomed in American letters in the 1970s. In 1973, literary critic Jerome Klinkowitz was able to unflinchingly call Vonnegut "the most talked-about American novelist since Ernest Hemingway" (57). Literary critic Peter Freese would later add that, at that point in time, Klinkowitz was "simply stat[ing] a fact" (10). Interestingly, both Vonnegut and *And Justice for All* draw on popular genres in their dark comedy. The former extends from science fiction and the latter employs the narrative template of the courtroom drama in articulating an implicitly hopeful but also very dark political critique. When Jay lifts his hairpiece to greet Arthur at the end of Jewison's film, the film ends on an absurd laugh that retains its political critique. The darkness of the film's humor, the lack of a positive, uplifting ending, and the gravity of the topics it deals with suggest that we are not to see *And Justice for All's* laughter as defeatist. The film uses its dark humor like Vonnegut did; namely, to retain a critical edge in pointing out how severely malfunctional it sees the criminal justice system to be. In this way, its desperate humor is integral to its political critique. It is a politically indignant laughter, not a resigned grin.

### **And Justice for Whom?**

*And Justice for All* embraces a mode of seriousness to give weight to the many different cases of injustice it portrays: the unjust imprisonment, abuse, rape, and murder of McCullaugh, the sexist treatment of Agee by both inmates and guards in the Baltimore jails that propels his suicide, and Fleming's rape and the very real possibility that he will go free. The film is so despondent about how to fix this system that it looks to dark-comedic interludes in order to show how absurd the situation is. These injustices are by no means a laughing matter, but *And Justice for*

*All* has little faith in a criminal justice system that produces injustices instead of penalizing them. The fact that the criminal justice system is unable to do anything about the problems it portrays is the background for the film's indignant dark comedy. Laughing at the injustices of the world does not solve anything, but Jewison uses this laughter, as several other filmmakers did in the era, to point out and emphasize the severity of key social problems in 1970s America.

While the film is most centrally concerned with critiquing the American justice system, it is crucial to note that all its cases center on sexual violence. The remark that Ross Levi made in 2005 about the film being ahead of its time arguably rings even truer today. Emphasizing the horrible realities of sexual violence and pointing to the possibility of sexual predators like Fleming potentially evading justice, the film today looks like a precursor to contemporary critiques of gender inequalities. This theme, however, is secondary to the film's main focus on condemning the American criminal justice system.

*And Justice for All's* pessimistic take on the American justice system counters the cinematic tradition of portraying with reverence, sympathy, and praise lawyers and the criminal justice system. In *And Justice for All*, Arthur is portrayed in "glowing terms" (Asimow 1132) through his time spent with his grandfather and his strong sense of justice, but the system appears to be almost beyond repair. By letting Arthur remain virtuous and giving him his last hurrah by winning over Fleming, the film reaffirms the classic idealization of the lawyer and gives viewers a sense of narrative uplift in the end. Managing 'only' to expose Fleming for what he is and what he has done, Arthur, however, does not improve or affect the system. It remains as broken as ever when the film ends. In this sense, *And Justice for All* affirms a belief in the lawyer-hero, a belief that would not be there if Jewison had let the system corrupt Arthur, and in the courtroom

drama as a template for discussing justice in a US context. Holding onto a glimmer of optimism about the situation it depicts, the film nevertheless makes a scathing critique of the state of the American criminal justice system at the close of the 1970s.

## Notes

1. I should add here that this era's liberal legislative wins started with the New Deal policies of the 1930s (Cowie), but I am here referring to the historical overlap of important liberal wins in both the federal legislature as well as in the federal judiciary.

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