

Fiction and Justice*

I.

What is the explanation for the amazing success-story of fictional texts in Western societies since the eighteenth century, which gained full force with the arrival of the novel?¹ In the following essay I shall argue that one important reason lies in the ability of fiction to bring together symbolically social justice and what I would like to call “individual justice,” a mode of reconfiguring reality that “does justice” to the expectations and self-perception of the individual (used here not as a philosophical concept but in the sociological sense of the smallest social unit in society). In effect, I think that this successful linkage makes it possible to explain the ever increasing hunger for fictional texts in Western societies, which is also in evidence in the fact that current literary and Cultural Studies often authorize their claims for social justice by reference to fictional texts, although these are, by definition, mere inventions and “lies.” Can fictional texts such as novels, plays or films offer meaningful contributions to the question of what constitutes justice? In what way can they authorize claims for justice? Although the following essay can be situated in the context of the recent “ethical turn” in literary and Cultural Studies, my topic will not be the relation of literature and ethics but of fiction and justice. The purpose is not to look for examples of moral conduct in literature, nor do I want to deal with literature as a form of ethical guidance. Instead, I focus on the function fictional texts (can) have in a culture’s view of

* First published in *New Literary History* 34.1 (2003): 19-42. The text has been slightly revised for this volume.

¹ The term fiction goes, of course, beyond literary texts and can be an element of any kind of discourse, including legal discourse, as the law-and-literature movement has demonstrated. However, in the following discussion the term is applied exclusively to those texts that are culturally considered as fictive, no matter whether their mode of representation is “realistic” or not. In drawing attention to the role narrativization and rhetorical strategies play in legal argument, Richard K. Sherwin, in his study *When Law Goes Pop*, rightly claims “that the law is shot through with fiction” (3). However, I will argue that certain functions and possibilities are opened up or intensified, once we regard a text as fictional in the sense of being fictive.

what constitutes justice, no matter whether they address the topic explicitly or not.²

Many critics may accept the claim that fiction draws special cultural significance from the fact that it often describes the quest for justice of an individual, as for example in texts like Heinrich von Kleist's *Michael Kohlhaas* or Theodore Dreiser's *An American Tragedy*. But many will reject the idea that the treatment of issues like love or individual self-realization concerns matters of justice. What about a novel like Anzia Yeziarska's novel *Salome of the Tenements*, published in 1923 and recently rediscovered as part of the renewed interest in race, class and gender studies? The new paperback edition I have used carries the trade classification "Fiction/Women's Studies" and is issued in the series "The Radical Novel Reconsidered" which is "dedicated to reissuing famous as well as 'lost' novels by twentieth-century U.S. writers associated with radical movements for social change" (back cover). This is also where the problems begin which both sympathetic and unsympathetic critics have had with the novel. Yes, the novel may be associated with radical movements for change but the narrative pattern it employs for dealing with social conflicts is the one most critics consider the tritest and most outworn of all plot patterns, the love story. To quote the brief plot summary from the back cover of the recent paperback edition: "A love story of a working-class Salome and her 'high-born' John the Baptist, the novel is based on the real-life story of Jewish immigrant Rose Pastor's fairytale romance with the millionaire socialist Graham Stokes. It also reflects Yeziarska's own aborted romance with the famous educator John Dewey."

Yeziarska's novel will not be my topic here. I draw on it as a point of departure, because, in contrast to readers who are frustrated with the book's

² There are basically three ways in which the issue of justice can come up in fictional texts: 1) in texts that deal with legal problems and legal practice; 2) in texts that argue for rights and entitlements, for example by "altering social perceptions of ethical responsibility for the (mis)treatment of various groups of people" (Hadfield 12); 3) in texts that articulate claims for the recognition of individuality or particularity. For example, in her study *Residues of Justice. Literature, Law, Philosophy*, Wai Chee Dimock describes Kate Chopin's novel *The Awakening* as a literary text that makes a strong case for the right to be "left alone," without, however, ever touching on any kind of legal argument or rights talk. I would add that such claims are not dependent on mimetic modes of representation in fiction. This also means that my argument includes anti-mimetic, experimental texts, although these may be far removed from the representation of any moral philosophy or rights claims. My argument is not focusing on cultural representations of justice and, hence, it is not restricted to realistic forms of representation. Nor is it focusing on people's ideas, attitudes, and expectations about law and the legal process. For studies of such representations of the law and the legal process in film and contemporary American culture, see Paul Bergman and Michael Asimov, *Reel Justice. The Courtroom Goes to the Movies*; Helle Porsdam, *Legally Speaking. Contemporary American Culture and the Law*; and Richard K. Sherwin, *When Law Goes Pop. The Vanishing Line between Law and Popular Culture*.

conflation of political argument and individual love interest – or, in broader terms, between cultural justice and cultural desire – and who consider these two aspects as opposites that get in each other’s way, I see them as basically complementary and mutually reinforcing. For me, Yeziarska’s novel is most interesting when it appears to be most private, when it seems lost in strong individual emotions of self-pity or rage, as it does frequently in the second part of the book, where the politically sublimated rage about a scandalous injustice committed to the heroine comes to the surface and the private drama takes over the novel almost completely. At this point, an interesting logic sets in: Because the dreams of the main character are shattered and she is in danger of losing her self-respect, her first strategy of self-empowerment, the role of the political actor, is cast aside. The search for self-respect takes a new direction, and finds the solution in familiar, and therefore eminently “safe,” narrative patterns, the individual success-story and a happy ending in which professional cooperation and love interest merge harmoniously and almost effortlessly.

Such a happy ending may be considered a form of poetic justice. Characters who have suffered neglect and have been mistreated finally get the recognition and respect they deserve. *Salome of the Tenements* provides a particularly interesting example of this search for justice. By linking an experience of injustice – in this case of a badly treated woman – first with the utopian vision of a social movement and then with individual self-assertion through creativity and “real” love, the novel foregrounds, unwittingly, to be sure, that these two aspects of fiction do not necessarily contradict one another. In the novel, politics and romance, although quite different in content, are not opposites but options within the same project that present two possible choices for the realization of the same goal.³ There is a romance of politics and a politics of romance.

II.

To apply the term justice to a case like *Salome of the Tenements* only makes sense when we draw on recent debates that have moved the definition of justice from issues of distribution to questions of recognition. Conservatives and many liberals will argue that justice is granted by the correct application of procedural rules of the political and legal system. A left liberal will insist that, in addition, justice requires equal opportunity in other areas such as occupation or education. This is the issue of fairness. In contrast, a Marxist, as a typical representative of political radicalism, will claim that this is not enough; real justice can only be established by a redistribution of wealth and

³ In both cases, the idea of justice functions as “an anticipatory concept” (199). The term is taken from Jane Flax, “Beyond Equality: Gender, Justice and Difference.”

public ownership of the means of production. Finally, a cultural radical will point out that even under conditions of economic equality human relations may still be shaped by such deeply ingrained cultural ideologies as sexism, racism, or homophobia, so that categories such as race or gender have to be taken into account. This marks the shift from criteria of just distribution to the issue of recognition.⁴ As Judith Shklar argues in her book *The Faces of Injustice*, such re-descriptions of what constitutes discrimination or victimization have the effect of increasing people's sense of injustice: When power effects seem to be all-pervasive, all barriers to the self can be seen as systemic and unjust.⁵

Culture – and for reasons yet to be discussed, fiction – has played a crucial role in articulating this sense of injustice and the individual's claim for justice. In fact, the broader the definition of power gets and the more radicalized the individual's claims for self-realization, the more important fiction becomes as part of the search for individual justice. One cannot eliminate stereotypes by procedural rule and one gets into many complicated problems in the attempt to put the idea of fairness into political practice, for one person's idea of fairness may be another person's idea of discrimination. In fictional texts, on the other hand, one can avoid these problems because one can be radically subjective. Thus, fiction has played a pioneer role in introducing the claims of the individual into culture and, more recently, in broadening the meaning of the term justice.⁶ The extended meaning of justice I am using here already

4 See Nancy Fraser, "From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age." An exemplary argument for the displacement of the distributive paradigm is provided by Iris Marion Young's study *Justice and the Politics of Difference*; a critical discussion of Young's approach can be found in Nancy Fraser's book *Justice Interruptus. Critical Reflections on the "Postsocialist" Condition*. In a later essay, "Recognition Without Ethics?," Fraser develops "an expanded conception of justice" (97), in which she tries to combine the criteria of distribution and recognition. For a philosophical discussion of the issue of recognition, see Axel Honneth's study *The Struggle for Recognition: The Moral Grammar of Social Conflict*; for applications within race and gender studies, see the discussion of Charles Taylor's argument in *Multiculturalism. Examining the Politics of Recognition*, and the essay by Maria Pia Lara, "Justice and Solidarity: The Case of Recognition."

5 Judith N. Shklar, *The Faces of Injustice*: "Indeed, there are times when it seems that Americans especially are engaged in no other sport than in blaming each other because we have such high social and technological expectations. It has been said that we demand nothing less than 'total justice'" (4).

6 In her study *Residues of Justice*, Wai Chee Dimock makes a strong case for literature as the site of an incommensurable residue of justice: "From the democratic personhood in 'Song of Myself' to the economic personhood in *Life in the Iron Mills*, from the punitive fervor of *The Deerslayer* to the compensatory fervor of *The Rise of Silas Lapham*, from the luck-driven universe of *The Wide, Wide World* to the rights-driven universe of *The Awakening*, the problem of justice is given a face and a voice, a density of feature that plays havoc with any uniform scale of measurement and brings to every act of judicial weighing the shadow of an unweighable residue. In the persistence of

reflects this influence. The injustice the heroine of *Salome of the Tenements* experiences does not fulfill traditional concepts of injustice. She is not sent to prison on flimsy, fabricated evidence, she does not become a victim of employer despotism, nor is she mistreated by the police. She is mistreated by her lover who does not realize her real worth as a person because, as a rich Anglo-Saxon male, he has the wrong cultural values and does not understand the value of other cultural traditions. The injustice done to her is a lack of recognition. She does not get the respect she deserves because she is different. This, in effect, is the reason why the novel was written. Its purpose is to give us an idea of her real worth and the worth of her own cultural heritage. In the final analysis, there is no political change or judicial reform to make up for the injustice she has experienced. The major compensation is cultural. It consists in a different cultural perception, a recognition of her person as being valuable. For this, the fictional text paves the way. It is not only a privileged medium for articulating a sense of injustice but also for making up for experiences of injustice by increased recognition and by establishing justice on a symbolic level.

III.

There are three major reasons why fictional texts have played an increasingly important (and effective) role in the articulation of a search for individual justice:

- a) Fiction is an important part of modernity, if not, in fact, one of its driving engines;
- b) Fiction invites symbolic transfer processes;
- c) Fiction is a privileged form of articulating imaginary elements that cannot yet be articulated in any other way.⁷

that residue, in the sense of mismatch, the sense of shortfall, that burdens the endings of these texts, we have the most eloquent dissent from that canon of rational adequation so blandly maintained in philosophy and law. ... Literature, in this sense, might be said to be the very domain of the incommensurate, the very domain of the nonintegral. In its signal failure to make good its logic, to affirm the adequacy of any rational order, it denies us the promise extended by law and philosophy both. But for that very reason it is a testing ground no jurist or philosopher can afford to ignore" (10).

⁷ All three of these aspects are central aspects of a theory of fiction I have outlined in my book *Das kulturelle Imaginäre. Eine Funktionsgeschichte des amerikanischen Romans 1790-1900* and in a number of recent essays on aesthetic experience, especially "Pragmatism and Aesthetic Experience," "Aesthetics and Cultural Studies," and "The Role of the Reader and the Changing Functions of Fiction: Reception Aesthetics, Literary Anthropology, *Funktionsgeschichte*."

a) Fiction and Modernity

To be sure, fiction is not an invention of modernity. Telling stories and lies is part of the human make-up. But for a number of reasons, fiction is institutionalized in the West as a form of individual expression at the moment of transition from feudalism to capitalism. The novel is different from earlier forms of fiction in two ways. In contrast to the heroic communal epic of antiquity and the middle ages, its origin lies in the literature of religious self-inspection which, following a logic of secularization and dehierarchization, leads to a literature of bourgeois self-empowerment, as can be most clearly seen in early novels such as *Robinson Crusoe*, *Pamela* and *Clarissa* in which bourgeois characters take the place of kings, knights, and aristocrats. The second major difference results from developments of print which made novels the first mass medium in the West. Their wide-spread availability turned books into an individual possession and opened up new, private modes of reading that reinforce imaginary self-empowerment by the individual. As a consequence, reading is no longer intensive, that is, focusing on a small number of books, but extensive in the sense that the individual can work her way through an ever widening array of books and stories which can be quickly replaced, so that her appetites and imaginary desires can be constantly refueled and a virtual hunger for reading (*Lesehunger*) emerges.

Marshall Berman has put these developments in the larger context of a culture of modernity. In his book on cultural modernity, with the already telling title *All That Is Solid Melts Into Air* taken from Karl Marx, Berman focuses on the promise of individual self-realization established by the culture of modernity and, linked with it, the unlimited dynamic of self-development unleashed by modernization. This “restless individualism,” as Berman calls it, throws all culture into a constant flux.⁸ All sources of authorization and self-legitimation are subject to constant scrutiny and change and the individual is torn between a drive for self-realization and an anxiety about its consequences, one of which is a permanent sense of injustice about unfulfilled potentialities. Parallel to this development runs the emergence of aesthetics as a separate discipline and mode of authorization in the eighteenth century, because aesthetics provides a form of authorization that relies on the authority of individual experience. Whether an encounter with nature or a painting can be characterized as beautiful or sublime has to be confirmed by the personal experience of the observer for whom his or her own imaginative engagement becomes a crucial criterion of value. In other words: While modernity has increased both the freedom and the anxiety of the individual, it has also opened up cultural spaces for imaginary self-empowerment.

⁸ See also chapter 5 of John Tomlinson’s book *Cultural Imperialism*. For a discussion of the transition from utilitarian or economic individualism to expressive individualism, see my essay “The Humanities in the Age of Expressive Individualism and Cultural Radicalism.”

b) The Role of Transfer in Fiction

Wherein does the usefulness of fiction lie for this process of imaginary self-empowerment? The answer of aesthetic modernism, which was crucial in replacing mimetic models of representation, focuses on fiction's potential for defamiliarization, boundary-crossing and cultural transgression. Fiction is regarded as experimental epistemology which permits the reader to cross existing boundaries, explore other worlds and try out new identities.⁹ But why should the individual be interested in this kind of imaginary self-extension? The answer provided by modernism is that we are stifled by convention which suffocates the authentic inner self and prevents self-expression.¹⁰ However, why do we seek self-expression in the first place? The explanation provided by one branch of modernism is that of a repressed side of the self which seeks to overcome self-control by means of art. I think that this is a plausible description of one possible function of fiction – at least for those daring pioneer works such as Kate Chopin's *The Awakening* that helped to introduce a vision into American culture which could hardly be expressed otherwise.¹¹ But, clearly, this is only one type of fiction and not even its most frequent one. Even more importantly, there is the logical problem of later readers, say at the beginning of the 21st century, who may be quite liberated in sexual terms and do no longer need to resort to indirect means of articulation but who may nevertheless still value texts like *The Awakening* as a rewarding reading experience. Can the fictional text still function as a tentative transgression in this case and, if not, what is the source of gratification in this latter alternative case?

In an essay on the role of the reader in reception aesthetics, I have drawn attention to another possible model of explanation introduced by Wolfgang Iser, who uses the example of a reading of *Hamlet* as an illustration.¹² Since we have never met Hamlet and do in fact know that he never existed, we have to come up with our own mental images of him. Inevitably, this mental construct will draw on our own associations, feelings and bodily sensations

⁹ If I understand the argument correctly, this is the basis for John Guillory's plea for considering reading as an ethical practice in his essay "The Ethical Practice of Modernity: The Example of Reading." "So far as I know, Foucault only once mentions reading in connection with the ethical, but I suggest here a certain historical thesis in the spirit of Foucault: that reading is the *principal* ethical practice of modernity, the site where a practice of the self has not been entirely or easily subordinated to the moral code, or rendered solely an instrument of power/knowledge" (39).

¹⁰ Cf. Geoffrey Harpham's characterization: "It is significant in this respect that so much of literature, but not myth, concerns itself with people who want to leave wherever they are, their place, their class, their condition. Is this intense longing for the abstract, the novel, the undefined and unrealized, this discontent with the habitual, this quickened interest in somewhere over the rainbow – is this integral to the literary?" (7)

¹¹ Cf. my essay "Tentative Transgressions: Kate Chopin's Fiction as a Mode of Symbolic Action."

¹² Wolfgang Iser, "Representation: A Performative Act."

in order to give life to a character who never existed. In the act of reading, the literary text thus comes to represent two things at once: the world of the text and imaginary elements added to it by the reader in the process of giving meaning to the words on the page. And it is exactly this “doubleness” or double reference of fiction that can be seen as an important source of aesthetic experience, because it allows us to do two things at the same time: to articulate imaginary elements and to look at them from the outside. Aesthetic experience is thus a state “in-between” in which, as result of the doubling structure of fictionality, we are, in Iser’s words, “both ourselves and someone else at the same time” (Iser, *Prospecting* 244) so that, in reading, we can be inside and outside a character at once.¹³ The fictional text allows us to enter a character’s perspective and perhaps even his or her body; on the other hand, we cannot and do not want to completely give up our own identity. In reading, we thus create other, more expressive versions of ourselves.¹⁴ This is achieved, however, in a much more complex way than suggested by the term identification. One may assume, for the sake of the argument, that it may be possible to “identify” with a character, but one cannot identify with a whole text. It is the text, however, that provides an aesthetic experience, not just single characters in it. Clearly, in actualizing the text in the act of reading, all characters have to be brought to life by means of a transfer, not only the good or sympathetic ones.¹⁵ The “more expressive version of ourselves” is thus not a simple case of self-aggrandizement through wish-fulfillment but an extension of our own interiority over a whole (made-up) world.

c) Fiction and the Articulation of the Imaginary

By engaging the reader’s interiority, ranging from mental images to bodily sensations, in the transfer that transforms the words on the page into an aesthetic experience, fiction provides recognition of the reader’s subjectivity.¹⁶

¹³ For a more detailed discussion see my essay “The Role of the Reader and the Changing Functions of Literature: Reception Aesthetics, Literary Anthropology, Funktionsgeschichte,” reprinted in this volume under the title “Why Do We Need Fictions?” The following paragraph is taken from that essay.

¹⁴ For a description of the reception of literary works by means of a transfer, see also Stephen Greenblatt, who writes in an introduction to Shakespeare’s *A Midsummer Night’s Dream*: “If we are to see fairies onstage in *A Midsummer Night’s Dream*, and not simply flesh-and-blood actors (probably boy actors in Shakespeare’s theater), it must be our imagination that makes amends. So too if we are to believe in the lovers’ desire and sympathize with their predicament, it must be *our* desire that animates their words” (811).

¹⁵ This is not to imply that the reader’s transfer is restricted to characters. In principle, it concerns every word of the text. I am staying with Iser’s example here for the sake of the argument.

¹⁶ By interiority I mean the full range of inner states, from mental images to moods and bodily sensations, that strive for articulation but can never be fully expressed; by subjectivity I mean the sense of self that an individual has of herself.

This individual empowerment goes beyond any identification with single characters or events in the text. It arises from the necessity of the individual reader to actualize a whole world along the lines of her own interiority – Yeziarska’s working-class Salome as well as her insensitive lover and his self-righteous circle of family and friends, feelings of disappointment and humiliation as well as feelings of rage. One may call this the “articulation effect” of fiction.¹⁷ Because of its status as a made-up world, the fictional text can employ “official” discourses of the real as host for the expression of yet unformulated dimensions of the self. But what exactly is articulated in this process? Concepts like “the unsayable” may suggest material that violates cultural taboos. This would tie the fictional articulation effect primarily to the expression of socially repressed impulses. We could, in this case, apply categories like desire or the unconscious for that which is articulated.

One way to get around the problem of an all-too literal understanding of the transgressive role of fiction, which ties its function to an avant-garde role of cultural subversion, is to extend the definition of that what is articulated by fiction from a forbidden or repressed impulse to the broader term imaginary, which Wolfgang Iser defines, from a phenomenological point of view, as an indeterminate, diffuse, and protean flow of impressions, images, feelings and bodily sensations (Iser, *Fictive* 3). These strive for articulation but, since they do not yet have a *gestalt* to manifest themselves, have to attach themselves to existing cultural signifiers. Seen in this context, the function of fictional texts to offer a counter-perspective is no longer restricted to daring pioneer works. It is now tied to a potential which fiction possesses in principle, its ability to articulate an interiority that cannot be represented in any other way. In requiring a transfer for their actualization, fictional texts engage this interiority, thereby providing the possibility of articulating something radically subjective, while at the same time representing this dimension of interiority in a way that opens up a way for public recognition.

This “duplicity” can explain fiction’s usefulness for an articulation of the imaginary: Fictional texts are especially useful, because they can link the subjective and the public dimension by means of a structural analogue. Since readers have to draw on their own mental images, feelings and bodily sensations in the transfer process, the actualization of the text establishes analogies between elements that may be wide apart historically but linked by structural resemblance. A Victorian reader may have seen Huck Finn’s struggle between “a sound heart and a deformed conscience” through religious analogies, while post-War critics used it as an analogue for their own struggles against a Leftist orthodoxy. This articulation effect is, I think, the actual gratification fiction provides and one reason for the increasing role fictional texts and aesthetic experience have come to play in modern societies.

¹⁷ For this term and a more detailed version of the following argument, see my history of the American novel *Das kulturelle Imaginäre*.

At the same time, it is also the source of a never-ending dissatisfaction. The reason lies in the inherent inadequacy of representation. We can only speak through the linguistic codes and signs that are available for expression, but these will never fully express all of our interiority.¹⁸ This discrepancy keeps communication going, it is the ever-renewed source of our search for articulation. At the same time, it also keeps the individual's sense of injustice alive, because the promise of a complete recognition of one's own interiority can never be fully satisfied.

IV.

Iser's description of representation as a performative act based on a transfer-process raises the question why we are interested in such a transfer in the first place. In his literary anthropology, he posits a basic drive to know the unknowable.¹⁹ But even if there may be a wish to know the unknowable, this wish has taken on very different forms and has varied greatly in the reception of a text like *Hamlet*. The concrete actualization by the reader is always different and much more specific in historical and cultural terms than a general anthropological characterization is able to grasp. What I want to suggest therefore is another explanation for our interest in the transfer possibility opened up by aesthetic experience, an alternative version of what constitutes and drives this transfer, namely the search for individual justice defined here as a search for recognition and self-esteem (*Selbstwert*).²⁰

There are two historical contexts which provide an explanation why the question of justice has become a central concern in Western societies and why culture, and especially fiction, plays a crucial role in the articulation of

¹⁸ This does not mean that I posit a pre-verbal subjectivity that exists before language and seeks expression. The conceptualization of subjectivity is inseparable from linguistic patterns, but subjectivity and interiority are never fully identical. When we have the sense, as we almost always have, that we have not managed to express everything we meant, this discrepancy becomes obvious. The phrase "I love you" may be the supreme example of a discrepancy between interiority and representation.

¹⁹ For a more detailed discussion see my analysis of Iser's work: "The Search for Distance: Negation and Negativity in Wolfgang Iser's Literary Theory."

²⁰ One of the reasons why I find poststructuralist approaches of no use for a discussion of the relation between fiction and justice, despite their sensitivity to power effects in language and cultural discourse, is that, as language-based approaches, they have no concept of the functions of fiction and of aesthetic experience and therefore also no conception of the transfer that constitutes aesthetic experience. In effect, the only model offered by poststructuralist approaches for a description of the relation between text and reader is that of Lacanian misrecognition, a model that has come under serious criticism because of its monolithic concept of subject-formation and has by now lost its influence even in film theory, where it dominated analyses of the spectator position in the 1970s and 1980s.

claims for individual justice. One of these contexts is modernity, the other democracy – understood here in the Tocquevillian sense, not as political ideal but as a new way of life. As we have seen, modernity ushers in a process of individualization in which a restless individualism constantly seeks recognition that would provide distinction from others. As Tocqueville has pointed out, democracy complicates and intensifies this search. I have outlined his argument in more detail in another context: Because the link to a chain of family tradition, characteristic of aristocratic societies, is broken and the perception of an individual's worth no longer irrevocably tied to her social position, the individual becomes responsible for establishing her own worth in the eyes of others. This task, however, is complicated by the fact that, in view of the promise of equality, all others pursue the same task, so that the challenge is to find a way of distinguishing oneself from others.²¹ Tocqueville, in fact, attributes the strong elements of performance in American culture, the striking persistence of the theatrical or, as he calls it, a “bombastic” style of communication, to this challenge.²²

But there is another complication: Since authority is diffused and provisional, the addressees for the individual's self-representation also become diffused. The individual not only has to “sell” herself successfully, she also has to identify or even create an audience for her performance. The artist who evolved out of the gentleman and the clergyman in American culture is an exemplary modern figure in this respect. Ever since art became a separate institution in the U.S., artists are in search of an audience and often complain about the lack of recognition they get from the audience, about how fickle the audience is and how unfair the success of other, artistically inferior writers or painters is. For the restless individual, there is, in other words, a continuous and increased feeling of injustice emerging from democratic conditions which is constantly refueled by a sense of frustration that others do not make enough of an effort to appreciate one's own worth and that all appeals to public authorities to do something about this neglect are not sufficiently heeded. Although democracy, as a rule, is no longer repressive, it may thus nevertheless be experienced as “unjust,” because it neglects or, worse, ignores the individual. Democracy thus provides liberation from traditional dependencies but also creates entirely new forms of dissatisfaction. And the more diffuse authority becomes, the greater the dissatisfaction – sometimes, in fact, up to a state of paranoia. Paranoia is an integral part of democracies and, not accidentally, a frequent and favorite theme of American fictions. In a situation of clear-cut social hierarchies and openly repressive power relations, self-esteem can be gained by successful self-assertion. But the more

²¹ In his essay on “Modern Democracy and the Novel,” A.B. Yehoshua pinpoints the problem in these words: “How, then, will modern democracy give individuals the feeling they are both unique and special while at the same time maintaining their rights are always equal to those of everyone else?” (55)

²² Alexis de Tocqueville, “Why American Writers and Speakers Are Often Bombastic.”

diffuse power relations become, the greater the difficulty of defining oneself in opposition to the system and the greater the bitterness about a system that becomes increasingly elusive.

Fictional texts offer a solution to the problems of recognition and self-esteem created by democratic societies. On the most obvious level, fiction is a mode of communication in which an individual perspective is authorized through performative means, that is, by how strong it is as an aesthetic experience. If a novel is skillfully crafted, we may even find ourselves on the side of a killer, as, for example in Theodore Dreiser's novel *An American Tragedy*. This is actually one of the strengths of fiction because fiction can articulate aspects of individual experience that are erased by broad social classifications. Since even an individual killer may have experienced particular forms of misrecognition and may indeed have a strong sense of injustice (as Clyde Griffiths does), it is, in principle, not only legitimate but desirable to have a cultural form in which such individual claims can be articulated. Richard Wright's *Native Son* is a daring, risky attempt to "understand" the plight of a cruel murderer. However, one also has to add that our perception of the injustice from which he suffers is, in principle, exclusively an effect of how convincingly this injustice is evoked through rhetorical and narrative means.²³ Without additional information we cannot really know who was more to blame in the unhappy relation between Anzia Yeziarska and John Dewey but, while reading the book, we are sure that it must have been Dewey because we are in the grip of Yeziarska's version.

There is a basic problem emerging at this point in the relation between fiction and justice. How do we solve the logical problem of a dramatization of injustice that may be very partial and therefore in violation of the idea of justice, since taking the side of a particular individual often means doing injustice to another?²⁴ We solve the problem by means of another transfer, namely

²³ In his book *The Novel of Violence in America*, W.M. Frohock describes this manipulative power of narrative when he writes about James Cain's novel *The Postman Always Rings Twice*: "We have been tricked into taking the position of potential accomplices" (98). Hannes Böhringer, in his book on the American Western and the Gangster movie, entitled *Auf dem Rücken Amerika. Eine Mythologie der neuen Welt im Western und Gangsterfilm*, draws attention to an elementary emotional pattern at work in such seemingly "perverse" identifications when he writes about the *film noir* *White Heat*: "Selbst ein brutaler Verbrecher gewinnt die Sympathien der Zuschauer, wenn er, von seinen eigenen Leuten verraten, an den Verrätern Rache nimmt" (92). ["Even a brutal criminal can gain the sympathies of the audience, when he is taking revenge on those who betrayed him," my translation]. There are obviously "elementary" experiences of injustice – for example, "betrayal" – that blot out all questions about how revenge is carried out and what its legal status is.

²⁴ In his essay "Modern Democracy and the Novel," A.B. Yehoshua also deals with this element of partisanship in favor of a particular perspective and concludes: "My point is that there is something undemocratic in literature that allows it to tell its story from an arbitrary and reduced perspective and to ignore other points of view" (48).

by group affiliation, or, more precisely, by transferring the characteristics of a larger group with which we affiliate ourselves to a single fictive character. One of the arts of fiction is to lure us into making this transfer: There is the group of the sensitive (against the brutes), that of the rebels or nonconformists (against the conformists), and now, in race and gender studies, groups that stand for certain historical discriminations. We may believe Yeziarska's version and not Dewey's because, as the "typical" story of a misunderstood woman, her version fits a current pattern of cultural recognition. Thus, we decide what we perceive as just or unjust by authorizing a particular case through the claims of a group for recognition – in other words, by merging cultural desire, the individual wish for articulation and recognition, with cultural justice, the claims of a particular social group. This, in fact, explains the current vogue of minority studies even among whites. In the case of a minority, especially one that has suffered severe discrimination, justice claims can be authorized much more convincingly and with more moral authority than, for example, in the case of the typical modernist victim. It is one thing to argue that society should be fair to the especially sensitive or to the nonconformists. The argument is far easier, however, when there is a clear-cut case of discrimination and a history of fully documented injustice.

V.

In literary and Cultural Studies, the last years have been dominated by difference-movements, out-radicalizing each other in ever more differentiated versions of political criticism. This has provoked critical voices who deplore a reduction of literary studies to questions of political correctness. The two most influential counter-proposals offered as an antidote are a return to aesthetics and a so-called ethical turn in literary studies. The return to aesthetics is not my topic here; in principle, it remains a necessary task of any discipline to define the nature or characteristics of the object with which it deals. The problem many critics see in a revival of aesthetics is that it may take the discussion of fiction away from social concerns. The so-called ethical turn addresses this concern head-on by arguing that literature can actually be read as an especially effective form of moral philosophy.²⁵ Martha Nussbaum's

²⁵ The recent "turn to ethics" in the humanities can be seen as consequence of the radical deconstruction of linguistic and discursive power effects by cultural radicalism. After everything has been deconstructed, the question arises whether, and on what basis, social arrangements can still be criticized as unjust. In this context, ethical criticism emerges as another option. Since socialist or other "grand" visions of society can no longer claim authority as a basis for the political criticism of literature and culture, recourse to the concept of justice holds the promise of preserving a basis for political and moral judgment without, on the other hand, committing oneself to the lure of grand theory. But this "liberation" from foundationalism creates new uncertainties, so

argument in *Poetic Justice*, for example, is built on the inspiration of Adam Smith's theory of the judicious spectator and emphasizes fiction's ability to make us imagine "the concrete ways in which people different from oneself grapple with disadvantage" (xvi). What Nussbaum values about novel – so much so, in fact, that she recommends them as required reading for judges and lawyers – is that they invite us "to concern ourselves with the good of other people whose lives are distant from our own" (Nussbaum xvi). This ability is a precondition for any ethical reconceptualization of society, for "an ethics of impartial respect for human dignity will fail to engage real human beings unless they are made capable of entering imaginatively into the lives of distant others and to have emotions related to that participation" (Nussbaum xvi).²⁶ Readership, for Nussbaum, "is, in effect, an artificial construction of judicious spectatorship leading us in a pleasing natural way into the attitude that befits the good citizen and judge" (75).

In Nussbaum's model of reading, the transfer between text and reader remains a one-way street, however. Although the concept of the judicious spectator implies a balance between empathetic participation and external, rational assessment (something for which the term "rational compassion" is used), Nussbaum's interest lies exclusively in whether and to what degree the reader empathizes with the fictive characters. Her favorite literary example in *Poetic Justice*, Dickens' novel *Hard Times*, illustrates one of the problems created by this model of readership. There is no doubt that it can provide a powerful motive for just conduct by making it possible for us to empathize with mistreated fictive characters. But Dickens is also an extremely manipulative writer, employing melodramatic devices with utmost skill, who just happens to be on the right side, the side of social justice, while an author like Thomas Dixon, whose historical romance of the Ku Klux Klan, *The Clansman*, became the literary source for *The Birth of a Nation*, is also an extremely skillful writer relying on melodramatic devices but, from today's enlightened point of view, on the wrong side. In other words, the assessment of whether fiction can serve as model for just conduct cannot be grounded on

that the editors of the recent volume *The Turn to Ethics*, obviously not yet quite convinced of the wisdom of this turn, but, on the other hand, driven by the necessity to provide new material for their book series, can start out with the question: "What kind of a turn is the turn to ethics? A Right turn? A Left turn? A wrong turn? A U-turn?" and then go on to summarize the reservations of some of the contributors by saying: "Many express concerns that the turn to ethics is a turn away from politics and toward moralism and 'self-righteousness'" (Garber et al., vii, ix). One of the philosophical problems created by the ethical turn is that somebody else's choice of what is right cannot be as easily deconstructed as a grand narrative, because one can argue that it is in itself already a manifestation of diversity.

²⁶ Cf. also Nussbaum's starting premise: "I believe more strongly than ever that thinking about narrative literature does have the potential to make a contribution to the law in particular, to public reasoning generally" (xv).

fiction's potential for making us empathize with characters.²⁷

Nussbaum acknowledges the problem by admitting that “not all emotions are good guides:” “To be a good guide, the emotion must, first of all, be informed by a true view of what is going on – of the facts of the case, of their significance for the actors in the situation, and of any dimensions of their true significance or importance that may elude or be distorted in the actors’ own consciousness. Second, the emotion must be the emotion of a spectator, not a participant. This means not only that we must perform a reflective assessment of the situation to figure out whether the participants have understood it correctly and reacted reasonably; it means as well that we must omit that portion of the emotion that derives from our personal interest in our well-being” (74). Readers who do not yet possess such amazing and far-reaching forms of self-knowledge (so that emotions can be judiciously related to “true facts”), “reflective assessment” (so that trustworthy emotions can be distinguished from untrustworthy emotions) and self-discipline (so that our emotional involvement can be controlled at dangerously impulsive moments) do not illustrate “a defect in the type of ‘fancy’ I shall be defending here, but a defect in human beings who do not exercise that type of fancy well, who cultivate their human sympathies unequally and narrowly. The remedy for that defect seems to be, not the repudiation of fancy, but its more consistent and humane cultivation ...” (xviii). Nussbaum’s model of imaginative self-cultivation which may help transform the yet “defective” reader into a judicious spectator presupposes the very capacity it wants to create in the reader. Her vision of reading makes sense only if one still believes in an eighteenth century version of moral sentiments as a common link of humanity. She entirely disregards the constitutive role of imaginary elements in reading fiction which constantly undermine literature’s potential for an ethical theory.²⁸ She therefore also fails to account for the cultural history of fiction since the eighteenth century – which, I have claimed, lies in the search not for an ethical

²⁷ This is basically the “*Uncle Tom’s Cabin*-question,” as it is discussed, for example, in James Baldwin’s seminal essay “Everybody’s Protest Novel.” The essay contains modernism’s answer to the possibility of being manipulated by fiction: True art is the best (and only) antidote to this kind of manipulation.

²⁸ One aspect that makes the empathy-model insufficient as a model of reading is that it can only speak meaningfully about our imaginary relation with the victimized. As a rule, however, we do not only identify with victims but also with villains; in fact, any model of reading that wants to do justice to the complexities of the reception process should consider the possibility that one of the major attractions of reading (or watching a movie) may lie exactly in this movement between different character and subject positions. In the transfer model, such mobility can be easily explained because not only the victims but also the villains can be brought to life only if we draw on our own imagination. On this point, see my essay “Aesthetic Experience of the Image,” published in this volume.

base for social relations but for ever-expanding and ever-more radical claims for individual justice.²⁹

VI.

This search manifests itself in different ways in different kinds of literary and cultural representation. Views of literature as a form of moral philosophy such as Nussbaum's depend on a particular kind of art. In order to trigger empathy, a certain mode of representation is required. One can hardly develop empathy towards abstract forms or radically experimental modes of representation, while, on the other end of the cultural spectrum, popular culture is often dismissed as "immoral" and shameless in its sensationalist and exploitative manipulation of the reader's or spectator's readiness to empathize or identify with a character. Clearly, Nussbaum's argument that literature can be an effective form of philosophy depends on a particular pre-modernist type of eighteenth and, above all, nineteenth century novel.³⁰

²⁹ Apart from the two models discussed here of how the reader relates to fictional texts and, specifically, to issues of justice, the empathy-model and the transfer-model, one could add a third one, linked with the name Levinas for whom the recognition of the claims of the other depend on the preservation of unbridgeable distance, as Richard Kearney points out in his essay "The Crisis of the Image: Levinas's Ethical Response:" "Face to face conversation becomes for Levinas the ethical model of relation par excellence. For it is here that the other comes to me in all his/her irreducible exteriority, that is, in a manner that cannot be measured or represented in terms of my own interior fantasm" (14). However, this model can hardly be applied to fictional representations, which for Levinas are always in danger of deception and self-deception: "But what, we may ask, is the motivation of Levinas's critique of poetic imagination? Some answer, I suggest, is to be found in his contrast between the 'face' and the 'image' in *Totalité et infini*. Here again, we find Levinas deeply suspicious of the enchanting power of images once they cease to be answerable to the other. The face is the way in which the other surpasses every image I have of him/her. ... The face transcends every intentional consciousness I have of it. It *expresses* rather than *represents*. And so Levinas describes it as that which I receive from the other rather than that which I project upon him" (14). Only a few experimental writers such as Leiris, Celan or Blanchot succeed in undermining the abuse of the other inherent in fictional representations. For a discussion of the role fictional texts play in articulating ideas of justice, Levinas is therefore of little use. I think it is fair to say that the rediscovery of his work is strongly linked to the fact that it helped deconstruction (and other poststructuralist perspectives) to counter the charge of nihilism (raised with new intensity after the DeMan-case) and to establish an ethical base in a manner that preserves the idea of justice as something that is not deconstructible, without, on the other hand, resorting to metaphysical claims. For helpful discussions of the issue of deconstruction and justice see Drucilla Cornell's study *The Philosophy of the Limit*, Christoph Menke, "Für eine Politik der Dekonstruktion. Jacques Derrida über Recht und Gerechtigkeit," and Douglas Litowitz, *Postmodern Philosophy and Law*.

³⁰ In her discussion of Nussbaum's approach, Cora Diamond argues that Nussbaum's

This makes sense from her philosophical point of view, but it seems to confirm the literary critic's suspicion that the recovery of an ethical function of literature can only be achieved at the cost of a dated mimetic aesthetics. If the search for individual justice is a crucial element in the appeal fiction has and explains the ever-increasing importance fictions have in Western societies, then one should be able to point out how this project also informs those fictional texts that do not fit the Dickensian or Jamesian mold. Obviously, claims for recognition inform different types of literature in different ways. In the following part of this essay, I want to point out in what way the search for individual justice also shapes those kinds of texts that experimentally go beyond the eighteenth and nineteenth century novel or appear to fall below it: modernist and postmodernist experiment on the one hand, the "low" form of popular culture on the other.

The call for individual justice by means of fiction is most obvious in that area in which we encounter it in its least mediated, most direct and raw form, in popular culture and the mass media.³¹ This may appear counter-intuitive at first sight, because the familiar critique of mass culture is, of course, that it is highly formulaic and standardized, and thus does not seem to provide any opening for a search for individual justice. However, this view disregards fiction's function as host, which allows for the attachment of imaginary longings on the basis of a structural resemblance. Reference to the beginning of almost any Hollywood movie can demonstrate how the question of justice not only influences this type of fiction at the most elementary level but actually constitutes it. Deliberately, the following example is not taken from a social problem film or a social protest movie but from a type of movie that can be taken as typical Hollywood fare, a historical epic that seems to exist for the sake of spectacular effects only. Cecil B. DeMille's silent movie *The Ten Commandments*, a biblical epic with lots of scantily clad males and females, stunning visual effects like the parting of the waters, some sado-masochistic thrills and an orgy, is considered to be the film in American film history which replaced the Victorian-minded historical epics in the style of Griffith's *Birth of a Nation* and *Intolerance* by a consumerist spectacle.

However, the question of justice is a basic issue in American popular culture. No matter whether it is openly addressed or not, it is constitutive. While

perspective can be applied not only to "classic realist novels" but then concedes: "Now in fact the specific moral views which she is concerned with can be expressed only in novels which *do* present deliberation and choice" (47). Actually, as Diamond points out a few pages later, the most fitting generic label for Nussbaum's literary examples is not classic realism but the *Bildungsroman*.

³¹ The following argument is entirely different from the one developed in Richard K. Sherwin's book *When Law Goes Pop*. Sherwin wants to depict how popular culture influences practices and perceptions of the law in contemporary society. In contrast, my aim is to show how popular culture, past and present, is centrally shaped by claims for recognition and the search for individual justice.

the viewer may still be intrigued and overwhelmed by the newness of the exotic spectacle of *The Ten Commandments*, the theme of justice is already established in the most economical manner, without addressing the issue explicitly:

- 1) At the beginning we see monuments of old Egypt which are also monumental manifestations of absolute power.
- 2) A slave-driver with a whip illustrates the despotic character of the system.
- 3) In contrast, we see a human being, obviously not in power (she has to carry things), but much more human than the representatives of the system. She is our entry into the film.
- 4) Her compassion is aroused by a suffering slave. The pharaoh denies the slave's humanity, Miriam recognizes it. The drama of recognition begins.

The Ten Commandments is a film about power and the injustice resulting from illegitimate power. Although conservative in its attempt to legitimize political authority on the basis of the ten commandments, it also supports democratic ideas, because the ten commandments function as a norm of social behavior that is fair in the sense of creating equal conditions for all. The law replaces the despotic ruler. While we are still in the despotic world of ancient Egypt on the representational level, emotionally we have already arrived in modern-day America. In this sense, American popular culture can be seen as strong manifestation of what one may call an "emotional democracy," a form of culture that draws its resonance from the articulation (and constant rekindling) of a sense of individual injustice.³² The second part of the film which leaps from ancient history to present-day America is of interest because it appears to characterize this present-day America as a deeply immoral and unjust world – appears to, because in the end the narrative restitutes moral order and does to the corrupt in power what God did to the Egyptians. In American popular culture, the narrative usually follows a predictable sequence of transgression and punishment, not because of the writer's lack of creativity, but

³² In his book *History by Hollywood. The Use and Abuse of the American Past*, Robert Brent Toplin describes some of the basic narrative patterns in which this "emotional democracy" finds expression, from David-and-Goliath stories to a deep-seated suspicion of authority: "Clearly the filmmakers examined in the eight case studies featured in this book drew on many of the familiar myths from American history. Their stories relate tales of Davids fighting Goliaths, of the dignity of the poor in confronting the rich, and of the moral superiority of individuals who fight for justice. Their films also convey broad critical judgments. They invoke traditional suspicions about people in power, whether these well-positioned figures are situated in business or in government. They raise questions about the behavior of individuals in seats of authority, such as manufacturers, bankers, presidents, generals, or government bureaucrats – even Southern rednecks, if the scene of presentation is the racist South. Most fundamentally, their histories communicate lessons about the struggle of the little person versus the big one, the weak versus the powerful" (13).

because of the narrative's function in the search for individual justice. As the parallelism employed by *The Ten Commandments* makes clear, the narrative takes the place of God or any other form of (failing) authority in reconfirming the idea of justice.³³

But what about modern and postmodern fictional texts in which literature and other cultural objects have finally been liberated from mimetic and moral functions? Is this not the stage in literary history where the representation of moral views is replaced by a focus on formal experimentation, so that, for example, discussions of the moral meaning of what characters do become meaningless and fail to grasp the nature of aesthetic experience? However, the ways in which modern and postmodern literature continue to focus on the question of justice may be different in degree and type, but this does not mean that modern and postmodern literature no longer deals with society and its relation to the individual.³⁴ Basically, there are three major steps:

- 1) In twentieth century novels that still rely on a representational level, society is reconceptualized as system, so that particular instances of misunderstanding, mistreatment or cruelty can become metonymies of the inhumanity and injustice of American society as a whole; this is the tradition of modernist realism ranging from Hemingway to Fifties authors like Salinger or Bellow to Counter-culture novelists like Vonnegut or Heller, which is revived, with various modifications, in the contemporary ethnic novel.
- 2) the equation of the social system with a realistic mode of representation, so that the struggle between social power and individual self-assertion can be shifted to the level of narrative or linguistic subversion; this is

³³ The central role of claims for recognition and the search for individual justice explain the basically melodramatic mode of American popular culture which Linda Williams has worked out very convincingly in a recent redefinition of the concept of melodrama: "Thus the basic vernacular of American moving pictures consists of a story that generates sympathy for a hero who is also a victim and that leads to a climax that permits the audience, and usually other characters, to recognize that character's moral value. This climax revealing the moral good of the victim can tend in one of two directions: either it can consist of a paroxysm of pathos (as in the woman's film or family melodrama variants) or it can take that paroxysm and channel it into the more virile and action-centered variants of rescue, chase, and fight (as in the Western and all the action genres)" (58). The courtroom trial in American popular culture is thus only a legally explicit version of a basic "melodrama of recognition." Women's and action movies are equally concerned with the struggle over misrecognition and recognition. The examples Williams discusses range from Griffith to *Rambo*-movies and *Schindler's List*. In each case, illustrating the basic narrative pattern of popular culture, a seemingly "worthless" individual stands at the center who has to find a way to redeem himself and prove his worth.

³⁴ The following examples are taken from American literature but with the implication that they can be generalized. Although I restrict myself to the genre of the novel, it should also become clear that the argument can be extended to other literary genres.

the tradition beginning with Gertrude Stein and leading to radical post-modern writers such as Donald Barthelme or Robert Coover.

- 3) the shift from character, as a focus of empathy and identification, to reader position, so that it is actually the reader who has to recover a dimension of meaning and experience which is no longer expressed on the representational level.

This is the tradition of Faulkner and other writers in the Southern tradition which is used for different purposes in the work of Pynchon.³⁵

In all three of these cases, a recognition of subjectivity remains the central project:

- 1) The redescription of society as a bureaucratic, impersonal system increases the individual's sense of being victimized.
- 2) The transfer of the idea of systemic oppression from social life to systems of representation radicalizes the idea of a cunning systemic imprisonment in the prison-house of language and discourse, just as, on the other hand, the unmasking or subversion of such discursive regimes promises to pave the way for a "true," almost anarchic liberation.
- 3) In the shift to reader position, an even more radical step is taken towards a recognition of the individual's interiority, since meaning resides no longer on the level of representation but only in form of a mental construct of the reader who tries to give coherence to the various pieces of information received.

In Faulkner and other authors writing in the Southern tradition, this strategy still supports a project of reauthenticating subjectivity. This also applies to other forms of modernism, where the potentially endless supplementarity of single acts of liberation is still arrested in a moment of revelation; consequently, the "just" moment in modernism is the authentic moment of epiphany. In postmodernism, on the other hand, "authenticity" is merely another discourse and the individual can only struggle against social and discursive coercion by constant flight. Meaning is replaced by play, but playfulness can hardly provide a basis for claims of justice. Paradoxically, this empowerment also increases the dilemma of recognition for the individual, because the liberation of meaning from a mimetic mode of representation is in danger of taking on a random, arbitrary quality. Empowerment and recognition become victims of their own proliferation. For the individual with a radically processual identity, different manifestations of the self might be in need of different criteria of justice. Justice begins to dissolve into temporal sequence. Hence the shift to identity politics as a welcome relief from the radical fragmentation of individual identity.

³⁵ Cora Diamond argues in her essay "Martha Nussbaum and the Need for Novels," "that formal features of various different sorts of literary texts may fit them for the expression of various views of life that cannot be expressed in other ways" (39). With regard to the three types of modern novel discussed here, one may claim that they search for ever more radical ways to articulate this "unsayable" dimension.

VII.

Interpretations of fictional texts are inherently “political” in the sense that many, if not most, critical comments about matters of plot, character, rhetorical devices and aesthetic effects are based on (often tacit) assumptions about what constitutes just or unjust forms of social and political organization. If this is the case, there is a need to clarify the underlying assumptions about (present and future) forms of social and political organization on which such interpretations are based, including those that underlie the current critique of power effects in revisionist criticism. Most of this criticism appears to be based on a vague egalitarianism that has its goal in the removal of all forms of subjection without ever addressing the issue of how, in what kind of social and political organization, competing claims for individual justice can be accommodated politically and adjudicated legally.³⁶ This curiously “unpolitical” politics of recent revisionist approaches is made possible by a second tendency, namely the fact that this political criticism is largely based on the authority of fictional texts. However, as an experimental epistemology, fictional texts are, by definition, “over-statements.” Hence, they cannot serve as models of conduct. On the contrary, fiction is a form of representation which reminds us that cultural justice and cultural desire are inextricably linked and that the imaginary is not always just – that, in fact, most of the time it is unjust and often quite irresponsible.

To point out that fictional texts can be unashamedly subjective and partial in their claims for recognition is not to dismiss fiction from cultural debates about justice. On the contrary, fiction’s insistence on the legitimacy of

³⁶ On a more general theoretical level, this point is made by Douglas Litowitz in his discussion of the postmodern critique of the law: “The Nietzschean will to power, the Derridean notion of justice as a call to the other, Lyotard’s heterogeneity of discourses, Foucault’s aesthetics of the self: each of these is offered somewhat sheepishly by postmodernists as potential new foundations for revising the political and legal system, but as I have shown, they are too weak to provide the richness we seek in a workable program of legal reform. In every case, the philosopher’s critical movement (“negative jurisprudence”) was so sweeping that no basis for political action remained upon which to build something positive” (173). As a result, “there are no viable options left for a positive jurisprudence other than a vague and implausible sort of anarchy or nihilism” (175). For helpful analyses of the implied normative claims of post-structuralism and post-structuralist race and gender studies, see the first part of Amanda Anderson’s essay “Cryptonormativism and Double Gestures: The Politics of Post-Structuralism,” and Allen Dunn, “A Tyranny of Justice: The Ethics of Lyotard’s Difference” in which Dunn characterizes the normative base of Lyotard’s work on justice as “atomic individualism” (206). It is a general characteristic of almost all poststructuralist approaches that their underlying norms of freedom or non-coercion are practically “impossible.” As Christoph Menke puts it: “The politics of deconstruction does not really believe, indeed, it does not even hope any longer that its claims for justice can ever be satisfied” (287, my translation). In this way, it is possible to always maintain critical superiority.

individual claims for justice remains one of its most important moral functions. Fiction is designed to keep the claims of individual justice alive. It is the placeholder of a sense of justice that cannot be guaranteed or enforced by the law. In the cultural system of the West, it has become an institution to give voice to a radically subjective dimension, not only in the sense of an articulation of interiority but also in the sense of authorizing a particular perspective through aesthetic means. In this context, it is amazing how close poststructuralism, in its insistence on an idea of justice based on the claims of singularity and difference, comes to what fiction has always been doing. In his discussion of Lyotard, Harpham draws attention to the point of convergence: “Since we cannot infer prescriptions from descriptions, the good from the true, value from fact, *ought* from *is*, then there are no true principles, and we must, Lyotard asserts with barely contained enthusiasm, resign ourselves to a ‘pagan’ practice of judging ‘without criteria’ on a ‘case by case’ basis” (Harpham 38).³⁷ Since, for Lyotard, the “victim’s sense of wrong is by definition an *unjust* suffering for which no language of justice yet exists” (Dunn 200), only the sublime work of art can foreground this very fact and thus function as an articulation of the claims of the victim.

This “aesthetization” of justice can be seen as a logical consequence of the power analysis of cultural radicalism. The more one extends the definition of power effects, the more likely fictional texts can be used as evidence, because evidence for the manifestation of (unjust) power can now be strictly metonymical: If power is everywhere, then every text, literary or not, can illustrate the presence of power. However, such an approach seems to regard justice only as a matter between individual and system, not between an individual and others. From the point of view of those others, however, the aesthetically powerful articulation of a claim for recognition may appear highly subjective, exaggerated, out of proportion, in fact, excessive. This, in effect, is the price for the successful articulation of claims for “singular” justice in fictional texts. The ability of fiction to articulate such claims extends the reach of the claims of justice, but this extension can only be achieved at the cost of an individualization of the idea of justice. Thus, one may argue that, ironically enough, the ethical turn in literary studies has resulted in another turn of the screw in the history of individualization.

³⁷ See also Douglas Litowitz who extends the argument to Foucault: “For Nietzsche and Foucault the loss of foundations lead, in varying degrees, to a turn towards aesthetics as a way of supporting political and legal positions, on the assumption that in the absence of fixed moral rules, the self and the state can be created in an aesthetic act” (37).

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