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| **MY TAKE FEATURE ARTICLE** | | |
| ***John Denvir***, who teaches constitutional law at USF Law School, is editor of Legal Reelism: Movies as Legal Texts, available at local bookstores or through [amazon.com](http://www.amazon.com/).                            **"**  Films make the human psyche visible as **heroes and villains** act out scripts we already have in our imaginations; they give us a **glimpse** of the human psychology behind law-breaking–and law–making.  **"**                                          **"**  The interesting question is not whether **unconscious** racial sexual **prejudice** exists, but what we, including the Supreme Court, are willing to do about it.  **"** |  | **Law’s Shadow** by John Denvir  **I** used to listen to a radio show when I was a boy which began with a deep bass voice saying, “Who knows what evil lurks within the hearts of men? The Shadow knows.” Movies know, too. Films make the human psyche visible as heroes and villains act out scripts we already have in our imaginations; they give us a glimpse of the human psychology behind law-breaking–and law–making.  Alfred Hitchcock’s *Vertigo* is a good example of film revealing the “darker” side of human nature. When we first meet "Scotty" Ferguson (James Stewart) we immediately recognize him as a man who puts a premium on "control" in his life. Not a surprising personality trait in a former lawyer who is now a retired San Francisco police detective. Scotty has little interest in life, and less in sex. His only friend is Midge (Barbara Bel Geddes), whose painfully obvious love for him he ignores; in fact, the only sexual interest he exhibits is the mixture of fascination, fear and disdain he demonstrates in inspecting a bra he finds in her apartment.  Scotty seems a harmless, if lonely, man, but Hitchcock shows us that he has the potential to become a sadist, a monster whose need to remake the world and people in the image of his fantasies leads to violence.  During the first hour of the film, Scotty forms an erotic attachment to a frosty blonde aristocrat named Madeleine (Kim Novak) he is hired to follow. He has been told by her husband that Madeleine has threatened suicide and Scotty earnestly tries to save her from that fate, but he is unsuccessful. When she does die, he blames himself for her death and falls into deep depression.  A year later he sees a young woman on the street who looks like a working–class image of his lost love. He follows her to her hotel where she claims to be Judy Barton, a salesgirl in a San Francisco department store. He asks her out. Here the sadism begins. Hitchcock changes the perspective of the film from that of Scotty to that of Judy, his new "love." But the audience quickly sees that Scotty has no interest in Judy other than in recreating her in the image of the dead Madeleine. Accordingly, we see from Judy's perspective his badgering need to change her hair color, her hair style, her clothes, every detail of behavior which allows her to be herself. No excuse can stop him from bending her towards the goal of recreating his necrophiliac fantasy.  Eventually he discovers that she is in fact his lost love, and that he has been the victim of a ruse to conceal a murder. Despite her relative innocence and pleas that she has risked discovery only because she so loves him, Scotty finds no forgiveness within himself and hounds Judy to her death.  Scotty's sadistic treatment of Judy is even more troubling when we consider how he got involved with her as Madeline in the first place. He took the job of following her, not for the money, but because he was intrigued by the story told about her and wanted to solve the mystery; then he became protective of her as a lost innocent whom he wanted to save from a suicidal fate. Finally, he became sexually obsessed with her. So we see the Madeleine/Judy transformed in Scotty's mind from a piece in an intellectual puzzle, to an innocent victim, to romantic love, to sexual icon, to duplicitous fraud, to object of revenge. Yet all along it was just working–class Judy Barton, a woman Scotty never knew at all.  This phenomenon of a male a character setting out to "save" a woman only to end up as her executioner is not limited to *Vertigo* or to Hitchcock. We see a similar phenomenon in John Ford's *The Searchers*. Ethan Edwards (John Wayne) shows us a similar transformation from savior to sadist in his actions towards his niece Debbie (Natalie Wood). The young pre- pubescent Debbie has been kidnaped by red Indians and the "search" starts as an attempt to rescue her, but as the years pass and it becomes clear that she has become a woman cohabiting with an Indian warrior, the object of the search changes from saving Debbie to exterminating her because her “purity” has been polluted by sleeping with a nonwhite.  In both films, the audience recognizes that the protagonists are being driven by factors beyond their control, or even conscious knowledge. How should we react to films like these? Are they telling us something of value? Some say we should treat movies as mere entertainments with no connection to “real” life. But this seems a short-sighted view. The reason we are attracted to film narratives is because in some sense we identify with the characters’ emotions. For instance, while I would never commit the criminal acts perpetrated by the protagonists in *A Simple Plan*, it is only because I can identify with their greed that I find the movie engrossing. On the other hand, it would be a mistake to accept films like *Vertigo* and *The Searchers* as accurate social reportage, proof of an incontrovertible sexism and racism which poisons the white male psyche. This view confuses fiction with reality.  I think watching films like *Vertigo* and *The Searchers* should convince us that, no matter how many times your Torts professor told you otherwise, there is no such thing as the “reasonable person”; we are all affected by unconscious motivations which color our social interactions. Most likely these unconscious motivations are even stronger when sex and/or race are involved.  *The New England Journal of Medicine* recently published a study which showed that when patients of different races and sexes all reported the same symptoms to doctors, they received radically different diagnoses. The white male patients were selected for the highest quality care. I don’t think this means these doctors were “racists” or “sexists” in any active sense of those words, but it does appear that they unconsciously attributed greater “value” to white male patients.  The Supreme Court decided a case a few years ago which made the same point. The plaintiff was an African-American who had been convicted in Georgia of murder and sentenced to death. He challenged his conviction on the theory that racial motivation had influenced the white prosecutor’s decision to ask for the death penalty and the white jury’s decision to vote to inflict it. In support of his suit, his lawyers presented a sophisticated statistical study which showed that a black man accused of killing a white was eight times more likely to receive the death penalty in Georgia than a white who killed a black. The study was entirely consistent with *The New England Journal of Medicine* study; a white life was just considered more valuable.  This, of course, does not mean that the prosecutors or juries in Georgia were “racist” in the sense of consciously applying different standards on the basis of race, but it does seem likely that racial stereotypes unconsciously influenced their decision.  The Supreme Court rejected the plaintiff’s study and upheld his death sentence. One senses that the Court felt that accepting the existence of unconscious racial motivation would somehow undermine the public’s belief in the neutrality of the law. It would be reassuring to believe that unconscious racial prejudice doesn’t affect our justice system from top to bottom just as it would be reassuring to believe that it was mere coincidence that the unarmed man the New York police shot forty-one times was a minority. But we do know that it is not true. The interesting question is not whether unconscious racial sexual prejudice exists, but what we, including the Supreme Court, are willing to do about it. Because, no matter how strident the Court’s denials, the Shadow knows. |

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