

# Legal Trauma in Twentieth-Century American Drama: Arthur Miller's *The Crucible*

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## ABSTRACT

Basing on the interdisciplinary approaches of law and literature studies and trauma theory, in particular Felman's repetitive legal trauma, we advocate that *The Crucible* demonstrates a past and a modern «legal trauma» in which the judicial hearings and trials of the post-World War II remarkably rehearse the Salem witchcraft trials. We engage with the play's significant analogy to Communist witch-hunts to show how the justice system, in both periods, proceeds in engendering legal traumas. To prove this claim, we explore the legal narrative and the shared procedures, dramatically leading to accusation and/or execution. We discuss the judiciary's articulation of law and justice, guilt and innocence within traumatic atmosphere, stressing the point that trauma yields nothing but another trauma, doomed to be repetitive when similar conditions arise. Also, we highlight the role of the play as a universal mode of testimony to Salem's legal spectre and to any similar hysterical practices.

**Keywords:** Communism, hysteria, Justice, Law, legal trauma, Testimony, Trial.

## Trauma Legal en el Teatro Americano del Siglo XX: *The Crucible* de Arthur Miller

## RESUMEN

Basándonos en un enfoque interdisciplinar del derecho, los literarios y la teoría del trauma, en concreto el trauma legal repetitivo de Felman, defendemos que *The Crucible* muestra un «trauma legal» en el cual las audiencias y los juicios ocurridos después de la Segunda Guerra Mundial remedan los juicios por brujería de Salem. Seguimos la significativa analogía de la obra entre el Comunismo y la caza de brujas para mostrar cómo el sistema judicial, en ambos periodos, continúa engendrando traumas legales. Para demostrar esta afirmación, exploramos las narrativas legales y los procedimientos que comparten, y que terminan de forma radical con una acusación y/o ejecución. Analizamos cómo el poder judicial articula la ley y la justicia, la culpa y la inocencia, en un contexto traumático, enfatizando que un trauma no da paso más que a otro trauma, condenado a que se repita cuando se den condiciones similares. También resaltamos el papel de la obra como modo universal de testimonio del espectro legal de Salem y de otras prácticas históricas similares.

**Palabras clave:** Comunismo, hysteria, justicia, derecho, trauma legal, testimonio, juicio.

## 1. Introduction

Because the 20<sup>th</sup> century has been shaped by many traumatic events, it is considered to be an age of traumas and of historical trials (Felman 2002: 1). After the WWII, the United States found itself in a new war, that is, the Cold War. This latter created a national paranoia against the Communist ideology, triggering the emergence of McCarthy witch-hunts, or the Red Scare. And one battle to face this threat was through the courtrooms or the hearing rooms, as O'Connor notes (2013:64). Consequently, many people were targets to these judicial practices, seen by many critics as kind of persecution.

It was under these new realities that Miller's masterpiece *The Crucible* came out in 1953. The play dramatizes the Salem witchcraft trials of the late 17<sup>th</sup> century to be an outcry of America's mid-twentieth century anti-Communist hysteria. Generally, scholars have been divided into two categories when discussing the themes of law and justice in the play. The first part sees that the trials symbolize an unjust, or a «bad law» (Porter 1979:75-92) for the execution of 20 innocent people for the crime of witchery. The second part considers the trials as impartial for the judiciary acted according to the norms of the time, as the law professor Samuelson argues (1995:620-642). However, none of these studies has tackled Miller's representation of legal trauma.

To prove our statement, we have opted for an interdisciplinary approach that combines law and literature studies (it means reading the play through literary as well as legal lens) in dialogue with contemporary trauma studies in particular Felman's theory of repetitive legal trauma. The latter states that:

because of what the law cannot and does not see that a judicial case becomes a legal trauma in its own right and is therefore bound to repeat itself though a traumatic legal repetition....Legal memory is constituted, in effect, not just by the «chain of law» and by the conscious repetition of precedents but also by a forgotten chain of cultural wounds and by compulsive or unconscious legal repetitions of traumatic, wounding legal cases (2002:57).

In other words, the theory articulates that the law has its own trauma<sup>1</sup> when it becomes unable to deal with, or to read appropriately, the very questioned case; thereby, the law finds itself in a crisis or a trauma, becoming doomed to repeat its previous misdealing when similar conditions arise.

The questions we want to address in this paper are: what the judiciary—both in Salem and in modern trials—couldn't or refuses to see? How do guilty judgments come out? Why such trials are so problematic? And what may a drama like *The Crucible* fulfill in portraying legal traumas? To answer these questions, this paper proceeds in three

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<sup>1</sup> Trauma has many connotations including wound and suffering. Felman proposes that trauma theory has a strong relation to legal studies, «[s]ince the consequences of every criminal offense (as well as the legal remedy) is literally a trauma (death, loss of property, loss of freedom, fear, shock, physical and emotional destruction)» (*Juridical* 2002: 171-72).

parts. First, it delves into *The Crucible*'s articulation of Salem judiciary's legal trauma. Then, it discusses how Salem's legal shadow or trauma has become a haunting experience that reappears when a similar threat emerges. Finally, the paper highlights the role of the play to be a universal mode of testimony to both eras' legal traumas.

## 2. The Salem Court: a Re-staging of Legal Trauma

The Salem trials generally epitomize an earliest American collective memory of fear, oppression and legal injustice. *The Crucible* narrates the story— which is almost identical to the real events of a hysteria that swept Puritan New England in 1692— of a group of young girls who in order to predict their future husbands and fulfill some enclosed wishes, delve into some nightfall folks in the forest. When caught and being unable to explain their actions to their oppressive community, the girls resort to strange behaviours, leading to the potential manifestation of the devil, then, to accusation of witchcraft and trial, and finally to the execution of twenty Salemites.

Through the play's narrative, Miller heavily stresses how the issue of witchery empowers the girls, rising them to the status of «officials in the court», as Mary Warren the servant of the John Proctor— the play's tragic hero—strongly claims to be (Miller 2003:50). And this represents a total contrast to the norms of the time in which the girls are «anything but thankful for being permitted to walk straight, eyes slightly lowered, arms at the sides, and mouths shut until bidden to speak» (2003:3). But now the girls have a loud voice and holding a privileged position, derived from the legal system itself.

Speaking about the Holocaust trials, Felman asserts that the power of the court has given a stage to «the tradition of the oppressed»—concept proposed by Walter Benjamin which refers to people facing severe traumas or persecution (2002:13). Constructing on Felman's statement, we propose that the Salem court has helped the oppressed teenage girls, or 'the expressionless', to have a loud, yet deadly voice. This kind of new power is considered one of the most important ironies in the play, since the young women have become accusers as well as witnesses, and much more preeminent figures in the court; that is, having a strong word in the legal system, as Bigsby notes (2005:150). It is precisely at this verge that Salem legal trauma emerges.

For an exemplary scene that captures this claim is when John Proctor comes to the court to handle Mary's testimony, testifying that she and the other girls have been just pretending. However, the Salem judge, Danforth, clearly admonishes that «the entire contention of the state in these trials is that the voice of heaven is speaking through the children» (Miller 2003: 82). Therefore, and considerably, it is the voice of the girls that triumphs on Salem and its justice system. As such, the court is performing a legal trauma towards the accused, for refusing to even see at least the possibility of the accusers' fraud and fear.

Besides, and though in his endeavour to resolve the contradicted testimonies, what the Salem judge Danforth resumes to do is to pave the way to the teenage girls to repeat the same questioned hysteria by allowing them to perform a fabricated bewitchment show in the court. Miller's describes the judges' act as follows:

Now, children, this is a court of law. The law, based upon the Bible...children, the law and Bible damn all bearers of false witness... Now then. It does not escape me that this deposition may be devised to blind us; it may well be that Mary Warren has been conquered by Satan, who sends her here to distract our sacred purpose. If so, her neck will break for it. But if she speak true, I bid you now drop your guile and confess your pretense, for a quick confession will go easier with you. (*Crucible* 2003:95)

Commenting on this excerpt, Porter observes that even the «rhetoric of this charge» seems to encompass «doubts about the advisability of retraction», there is no promise of applying justice in favor of the poor accused since the general straining in Salem rows against them (1979:75-92). That is, the law fails in establishing justice because the hysteria has already excavated into people's lives and minds; accordingly what the judiciary does achieve is the validation of this hysteria and of its yielding power. And this is exactly what the girls come to understand as they transplant, once again, the witchcraft hysteria to the law arena when threatened by Mary's new testimony, collectively reacting and presuming to be haunted by Mary's spirits. Most importantly, the court finishes by considering this bewitchment show as irrefutable evidence<sup>2</sup>.

As such, we can say that a «pattern emerges in which the [Salem] trial, while it tries to put an end to trauma, inadvertently performs an acting out of it. Unknowingly, the trial thus repeats the trauma, reenacts its structures» (Felman 2002:50). That is, while «law strives to contain the trauma», as Rottenberg explains, it «fails to remain safely outside it» (2004:1099-1103). It means that the Salem law stands blind to the girl's pretense as well as fear, falling prey to a legal trauma for ascending hysteric voices at the expense of innocent voices.

Thus and in contrast to the girls' heard voice, Miller too sheds light on another image that which of how the voice of the accused has been silenced by the same court. And we are going to show this legal trauma through two main legal procedures. The first way is through the court's conduct of depriving the accused to have legal councils because according to Salem judge the crime of witchery is an *ipso facto* (Miller 2003: 93), needing no proof except, of course, of the girls'. However, according to law professor Ronner, this kind of climate constitutes an «anti-therapeutic arena» that deeply undermines the rule of law and the judicial system in the whole (2007:241-298). The second way is by presuming the guiltiness of the accused instead of their innocence, «Is the accuser holly by now», as Miller exclaims through his protagonist's mouth (2003:73). A distinguished reading of Salem's law is that of Porter who describes it as deficient. He argues that this deficiency stems from the court's focusing only on the letter of the law and excluding the humane view (1979:75-92). And in our context, we claim that another failure of Salem court to contain the witchcraft hysteria lies on the absence of the humane view that which is the presumption of innocence.

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<sup>2</sup> See *The Crucible's* presentation of the bewitchment show and its impact on convicting the play's hero, pp 100, 101, 109, 110, 111.

Moreover, what happens in Salem court is that through underscoring the letter of the law, the Salem judge goes on further to the extent of advocating guilt by association. He opines: «Hang them high over the town. Wherever weeps for these, weeps for corruption» (Miller 2003:90). To Danforth, the law is similar to a reaper machine which harvests everything whether good or corrupt, for the simple act of showing emotions is considered as guilt by association. Danforth has also the power of his signature to yield more and more verdicts of death regardless of others' views or reactions. In other words, he is indomitable in enforcing the letter of the law. In so doing, for him the law is, in a Derridean reading, «always an authorized force, a force that justifies itself or is justified in applying, even if this justification may be judged from elsewhere to be unjust or unjustifiable» (Derrida 1992:5). Noticeably, Salem's court proceedings of enforcing the letter of the law seem to be grounded so deeply in American cultural and legal history.

### 3. The Communist Hysteria: a Repetitive Legal trauma

We shall investigate Salem's modern repetitive legal trauma through two examples that marked the period of the Cold War and its Communist hysteria. The first will be through the hearings of the House of Un-American Activities Committee (HUAC); and the second will be through the Rosenberg case. Before that, we have to mention that the aim of this study is not to make a pure comparative study between past and modern legal traumas, but in a way that explore the similar general patterns.

One infamous person who orchestrated and presided over post war Communist hysteria was Joseph McCarthy whose hysteric voice echoes in some way that of the Salem's girls. As the young girls, in *The Crucible*, endorse a prestigious position for having knowledge about persons who made contract with the devil, as McCarthy did, claiming to have a list of Communists in the federal department, and through the committee room he exercised his witch-hunt. He was also depicted by many commentators as unknown person or «a little man» who made use of the nation's hysteria «to build a political constituency» (Neal 2005:79).

Miller says that the committee's hearings and the Salem trials epitomize the same rituals except the fact that Americans of the 1950's weren't hanged (2003:xvi). Interestingly, Murphy depicts the HUAC hearings as trials «without any system of defense, a jury, or even evidence against the accused» (1999:4). She goes on further to add that the mere interrogation before the committee implied incrimination and sealed destiny (1999:9-10), alluding by that to the embrace of the presumption of guilt. Moreover, people were not only accused of being Communists but to be Communists' sympathizers, an ostensibly similar practice to Salem' court endorsement of guilt by association.

Accordingly, we can say that both the Salem and the HUAC procedures are «vehicle of trauma; a vehicle of aggravation of traumatic consequences rather than a means of their containment and of their legal resolution» (Felman 2002:60). In other words, the legal procedures have failed to give reasonable treatment to the

hysterical cases. And more than that, like in Salem, the Communist paranoia put many lives into jeopardy.

One of the most resounding historical trials of the Cold War era in which the lives of two Americans were subjects to great scrutiny was the espionage case of Julius and Ethel Rosenberg. They were arrested in 1951 and electrocuted in 1953 for communicating and delivering atomic information to the Soviets. However, the question we pose here is what is the relation between the Rosenberg and the executed Puritans?

The theater professor Polster says that there is an apparent similarity between the convicted in both cases. He says that the socio-political atmosphere of the fifties forms the 'historical' setting to Miler's play and to the audience's views. He also contends that the Rosenbergs' accusation of espionage for the infiltration of atomic secret to the enemy, hence, putting the U.S. into great danger, equals the accusation of the Salemites «for spreading the dark secrets of the invisible world» and destroying the Puritans' community (qtd. in Castellito 2011:128-129). Besides, the historian Detweiler affirms that both the Rosenbergs and the Salemites were convicted with 'uncertainty' (1996:23).

Significantly, Felman suggests that historical trials are prone «to repetition or to legal duplication» (2002:62). Within this vein, the Rosenberg case may be read as an adjacent judicial case to Salem trials and an echoing/repetitive event, that is, a 'legal duplication' to them. Felman further explains:

[G]reat trials make history... in being not merely about a trauma but in constituting traumas in their own right; as such, they too are open to traumatic repetition; they too are often structured by historical dualities, in which a trial (or a major courtroom drama) unexpectedly reveals itself to be post traumatic legal reenactment, or the deliberate historical reopening of a previous case or a different, finished, previous trial» (2002:62).

As *The Crucible's* courthouse prosecutes the defendants on the basis of high anxiety and contradicted testimonies as did the court in the Rosenberg's affair. The government had long urged an anti-Communist rhetoric; and the judicial criminal system, too, operated in the same vein by superimposing a specific narrative, powerfully leading to the couple's execution.

To better illustrate the case as a repetitive legal trauma to Salem, we refer to arguments stated by the law professor Ferguson. He addresses the issue of the prosecution's narrative in the Rosenberg's trials and its impact on the case. He says that because «the prosecution's account held a narrative desire for the long moment of the trial», the Rosenberg's execution, then, had become inevitable (2007:238). Ferguson also states that the prosecution used «untrue master narrative» which «dominated the country as well as the court» (2007:245). Likewise, we have seen how the Salem judiciary has dramatically opted for the girl's untrue testimony.

In her discussion of the presence of legal trauma in the Rosenberg case, Li argues that the trial transcript reveals «a certain willful blindness» in the state narrative (n.d.4). Li also clarifies that the legal trauma in the couples' case dwells in the «pos-

sibility that an injustice—an act of political persecution— may have been facilitated by *the very process of the law itself*» (n.d.7). Similarly, in *Salem*, «the law itself becomes the instrument of perversion» (Porter 1979:75-92).

Interestingly, the Rosenbergs' legal trauma is also seen through the court's inflammatory narrative. The presiding judge Irving Kaufman concluded during the couples' sentencing, that their crime was «worse than murder», for «immeasurably increasing the chances of atomic war...may have condemned to death tens of millions of innocent people all over the world» (qtd. in O'Connor 2013:67-68). O'Connor contends that this general inflammatory statement is far from reality, for the fact that the Soviets, according to government officials, had developed the atomic bomb without information delivered from the U.S. (2013:68). So, by enforcing a certain over-exaggerated legal rhetoric or narrative, the justice system certainly worked linearly with reifying the nation's paranoia. And what led to this kind of narrative is the unconscious implementation of a past legal memory.

We have already mentioned how *Salem* courthouse has ascended the accuser's voice, conversely hushing the voice of the accused. Remarkably, Li states that the Rosenbergs' voices have been «overridden or overwhelmed by those of the judge and legal counsel», therefore the defendants' voice has been silenced (n.d.8). Consequently, though the court managed to bury the defendants' voices— as is the case in *Salem*— it has left a non-closed case that refuses to be buried in the American cultural memory.

Essentially, after many years of the Rosenbergs' death and with the emergence of new evidences concerning the case, considerable views have appeared whether proclaiming the prospect of the couples' innocence, or questioning the credibility of the procedural investigations and trials. Among these voices is that of Dershowitz who says that the Rosenbergs' death continues to be a «serious blemish on the Federal Bureau of Investigation, the Justice Department and—worst of all—the judiciary» (1995:3). Basing on information delivered to him by Roy Cohen, who was a prosecutor in the Rosenbergs case, Dershowitz contends that it is more likely that Julius was guilty, that the couple was 'framed' by wrong evidence, and that Ethel was betrayed by her lawyer. He further illustrates:

He [Roy Cohen] told me that the FBI knew for certainty that Julius Rosenberg was guilty because they had access to secret intercepts of Soviet intelligence messages, but that the prosecutors could not use this evidence because the FBI didn't want the Soviet to know that their code had been broken. Without this evidence, the prosecution had a weak case, because the various witnesses had given conflicting and changing accounts, especially as to whether Ethel had typed up notes given to Julius (1995:3).

Taking into account this statement and regardless of the extent of the Rosenbergs' culpability, what matters is that the law has been manipulated by the different partners in the justice system. In other words, the law has been articulated to accomplish special scheme or certain predetermined political agendas. As such, the law has surrendered to the power of hysteria and of politics, deviating deeply from the notion of justice and due process.

Thus, the answer to the question of whether the judiciary in the Rosenberg case succeeded in containing the Communist scare may be clearly stated through the words of Detweiler who concludes that «If the Rosenbergs were a cancerous growth demanding excision, the process left a wound that still festers» (1996:17). He also mentions how the case has never come to terms saying that in «literary and historical terms, the plot has as yet no conclusion; in psychological terms, the nation has not achieved closure» (1996:17).

Actually, this very sense of non-closure connects with one proposal of trauma studies that of a traumatic event usually «registers a belated impact»... which «becomes precisely haunting... to the precise extent that it remains un-owned and unavailable to knowledge and to consciousness» (Felman 2002:174). That is to say, the Rosenbergs' trauma has not yet fully closed that which is in need to reappear many times into the surface. The appearance of the new evidences, new interpretations, and new literature on the affair is in fact an attempt to represent a legal trauma which resists to be locked. Hence, the role of an artistic work like *The Crucible* is to reconstruct the nation's wounding legal cases, standing by that as an open act of testimony.

#### 4. *The Crucible*: a Universal mode of Testimony

Felman perceives that «literature and art as precocious mode of witnessing» (Felman and Laub 1992:xx). Also she pinpoints that the mere act of retelling a story is a kind of 'testimony' to trauma or crisis (1992:4-7). Within this context, we claim that *The Crucible* significantly stands as a precocious mode of testimony not only to Salem but to any contemporary legal traumas or crises.

Speaking about *The Crucible's* impact, Miller says:

And for people wherever the play is performed on any of the five continents, there is always a certain amazement that the same terror that had happened to them or that was threatening them, had happened before to others. It is all very strange. On the other hand, the Devil is known to lure people into forgetting precisely what it is vital for them to remember—how else could his endless reappearance always comes with such marvelous surprise? (*Guardian* 2000).

The questions we may pose, here, is what makes this 'endless reappearance' of such terror or devil so marvelously surprising? And what do the play and its dramatic performance and script provide to its audiences/ readers? Actually, *The Crucible* enables Miller, not only to reopen the case to his American audience, yet to satisfy a universal thrust to the theme of justice and ascending the sense of solidarity and common experience among humans. Accordingly, *The Crucible* can also be perceived as a universal mode of testimony to laws' traumas, for it throws light on the likelihood of repetition or reappearance of the legal trauma at any time or place.

Adams argues that one crucial implication of Salem «as a rhetorical weapon» at any age or disagreement can be obviously seen when a convenient Puritanical quo-



tation is used (2008:157-158). She further explains that the raising of, through succeeding centuries, 'the specter of Salem witchcraft', serves as a warning among the Americans that there are 'limits both to liberty and to power' (2008:158). Within this context, Zivin—commenting on George Bush's proclamation that «you are either with us or against us in the fight against terror»—comments on how the Salem judge's words still «unexpectedly, hauntingly *mattered* to a twenty-first century public...[re-erupting] like a specter» (2014:58).

Not only has Miller's play tried to testify and to allude to the eruption of the spectre of legal trauma to the modern audiences, but his drama also achieves another role that of bringing up the legal trauma closer. In this vein, Felman affirms that «Law is a discipline of limits and of consciousness.... Law distances the [trauma]. Art brings it closer» (2002:107). Drama can better speak a legal trauma, reenact its structure and juxtapose past events with the present conditions, making it more tangible and this due to the inherent affinity existing with trial; for the fact in a drama, as in a real trial, the audience can experience the element of authenticity<sup>3</sup>. Hence, *The Crucible* may strongly revive the shared painful, may be forgotten wounds.

Law as a discipline aims to put an end to a case by promulgating a final judgment and closing the law's gate. But, in recreating the trial in dramatic work, the case is reopening from which new windows are waving and stirring the readers/audiences to face the law, question its process and, then, to promulgate their own verdicts or to reach, as Budick notes, 'a moral verdict' on events, whether they are contemporary or historical (2008:21-40). That is, the play, as an artistic work, permits its viewers to experience insights, whether they are legal or moral, about themselves as well as about others; in so doing, they also become a kind of participants, or witnesses, to justice system's trauma.

## 5. Conclusion

Miller's play aims to disclose both Salem and its contemporaneous hysterical trials and judicial hearings, showing what kind of results may unfold when the law functions, first, blindly by allowing the very trauma intended to be treated to be unconsciously repeated in the legal arena; second, for acting violently and advancing a deliberate inflammatory rhetoric. So, under these conditions, decisions of guiltiness may easily come out at the expense of innocence and due process.

Significantly, what the Salem, the HUAC and the Rosenberg courts couldn't and refuse to see is that trauma has been more powerful than law's apparatus and the imperatives of justice. Consequently, historical trials are so problematic because, as is the case in Salem, the legal trauma has been rooted unconsciously in both the cultural memory and as well as in the legal one, becoming doomed to be repetitive when similar conditions arise such is the case of the Rosenbergs. That is to say, «paranoia breeds paranoia», as Miller cogently observes (*Guardian* 2000).

The role of *The Crucible*, hence, is to testify on past and existing judicial blindness, violence, paralysis and miscarriage through its dramatic re-enacting of the closed hysterical trials. The play, unlike the law, does 'justice to trauma', as Felman

proposes (2002:8), for an artistic work has the power to permit its viewers to have their own words or judgments on judicial issues, regardless of time or space. As such, Miller's play stands as a universal mode of testimony to legal injustices.

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