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**Bench & Bar in Popular Legal Fiction**

**A Comparative Approach to Fictional Representations and Public Perceptions**

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Law and literature studies received fresh impetus in 1999 with the formal identification of a new genre of popular fiction by Michel Petit, *la fiction à substrat professionnel*—or, more conveniently, FASP—which provided a much needed theoretical framework for the many researchers interested in how popular literature engages with other disciplines. The opening lines of Petit’s seminal article define the genre:

Les noms de John Grisham, Robin Cook, Tom Clancy, Dale Brown, etc., sont aujourd’hui immédiatement évocateurs, pour un large public international, d’un certain nombre de succès de librairie et d’un certain type de littérature, [...] Nous postulons que cet ensemble d’ouvrages de fiction présente suffisamment de caractéristiques communes pour justifier une appellation générique, et que la nature de ces caractéristiques peut être résumée par l’appellation « substrat professionnel », ce qui nous conduira donc à parler de fiction à substrat professionnel, ou FASP. (1999, 57-58)<sup>1</sup>

Given that the bulk of the literature concerned by this field of research is written in English, one of the early questions posed concerned the translation of *fiction à substrat professionnel* into English. After several unsatisfactory proposals—“profession-based fiction” or “specialised fiction”, for example—it was decided to maintain the French acronym FASP, in the tradition of such other well-known literary genres as *roman policier*, *roman à clef*, *policier noir* and of course, *genre* itself.

## 1. FASP: some generic characteristics

Petit identifies several intrinsic and extrinsic features that characterise FASP. For our purposes here, the main defining conventions of the genre may be summed up as:

i) A FASP novel is a suspense-based novel, a crime thriller rather than an adventure-thriller. It is usually a murder mystery based on the classic plot triptych of crime-suspense-*denouement*, and as such, is classified as crime fiction, crime thriller, detective fiction or murder mystery.

ii) A FASP novel is contemporary. This convention has given rise to academic debate amongst FASP researchers, some of whom feel Petit's seminal definition confines the genre by establishing a restrictive timeframe—70s and 80s—thus leading to the exclusion of earlier works which nevertheless fulfil other more creative generic criteria.<sup>2</sup>

The contemporary timeframe does, however, become relevant when establishing FASP as a specific sub-genre within a broader scope of study. This is particularly relevant in the case of legal FASP in relation to law and literature studies which have a long-standing tradition of enquiry focussed on classical literature, going back to Shakespeare himself.

iii) As a corollary to the two above conventions, FASP novels belong to the category of mass popular literature and are often bestsellers. According to Bloom (2002: 8) this form of mass literature can represent the best, "a popular classic—an almost oxymoronic concept—a work that is still read as a type of superior entertainment, alongside the canon of serious literature when a superior reading 'holiday' is required—or the worst, "a subcultural bestsellerdom of ideologically and morally unsound fiction, created by and for a literary underclass". Researchers working in the area of popular literature all fall prey to this quality pendulum for, while the category undoubtedly includes superior and uplifting creative literary work, the line of research duty also calls for ploughing through a certain amount of "junk"...

iv) The *substrat professionnel* undoubtedly represents the distinctive convention of the genre. In a FASP thriller, the plot, characters and *denouement*, as

well as the very source of literary inspiration, are defined by and dependent on a specialised professional environment, the omnipresent and all-pervasive *substrat professionnel*. Given the degree of specialised knowledge required to embed a work of fiction in a *substrat professionnel*, it comes as no surprise to learn that most FASP authors are professionals-turned-novelists.

The multiple sources of *substrat professionnel* make for a great diversity of sub-genres some of which are medical FASP (Robin Cook, Terri Gerritson), science FASP (Michael Crichton), military FASP (Tom Clancy), art FASP (Iain Pears), media FASP (Denise Mina, Liza Marklund), environmental FASP (David Docherty), political FASP (Michael Dobbs) and, of course, the enormous bulk of legal FASP.

Legal FASP is most certainly the most abundant of the genre and sub-divides into lawyer FASP as illustrated by John Grisham and Scott Turow in America and John Mortimer and Natasha Cooper in the United Kingdom, police procedural FASP which is popular on both sides of the Atlantic (Ian Rankin, P D James, Colin Dexter, James Patterson, Michael Connelly) and forensic FASP the queens of which are most certainly Kathy Reichs and Patricia Cornwell. And finally, there is judiciary FASP, a relatively under-represented sub-genre which is the focus of this discussion.

Legal FASP—like all FASP—is also present in media other than books: some classic examples of cinematic FASP in this area are *Witness for the Prosecution* (1957), *Twelve Angry Men* (1957), *Philadelphia* (1990) and *Erin Brokovich* (2000). Television FASP is a most prolific genre and if *Ally MacBeal*'s claim to status as valid lawyer FASP is open to debate, *Perry Mason* certainly exemplifies the genre. A final and more unusual medium is graphic novel FASP as represented by the British *Judge Dredd* comic albums.

The focus of this discussion is on judiciary FASP in books. As such, it is part of a broader on-going research project which investigates representations and perceptions of law professionals in the United Kingdom, the United States and France. Previous work in this context has focussed on the figure of the lawyer; in an endeavour to extend the field of enquiry, this study aims to explore fictional representations of the Bench as portrayed by the judiciary FASP sub-genre. The

discussion proposed runs along two comparative axes, American and British judiciary FASP on the one hand and lawyer and judiciary FASP on the other.

## 2. Comparative data regarding the sub-genre

As a preliminary approach to the study of judiciary FASP in books, some factual data will help provide an initial comparative framework:

### *A quantitatively minor sub-genre*

Judiciary FASP is, quantitatively-speaking, a minor sub-genre. An important corollary to the *substrat professionnel* is the fact that the primary protagonist is generally an active member of the profession concerned. The protagonists who dominate legal FASP are lawyers, law enforcement officers and forensic experts, leaving judges conspicuously rare. Though judges are frequent secondary characters in legal FASP, they are seldom promoted to the role of primary protagonist – which makes for a comparatively small corpus of true judiciary FASP thrillers.

### *Dominantly American production*

Factual data about the genre also reveals that America certainly produces more judiciary FASP than Britain does. However, this is not specific to judiciary FASP, since the same trend may be observed for legal FASP, FASP in general and popular literature as a whole.

### *Absence of specialised judiciary FASP authors*

In Britain, there are two authors who specialise in the judiciary: Henry Cecil and Robert van Gulik.<sup>3</sup> However, both these writers' works, if they do indeed always figure a judge as the main protagonist, present significant deviations from the genre: can Henry Cecil's novels be categorised as thrillers? How does Robert van Gulik's Judge Dee, a seventh-century Chinese judge, fit in with the contemporary timeframe? Too deviant to be considered as mainstream FASP, such authors nonetheless find their niche in what we have called elsewhere "interstitial FASP".<sup>4</sup>

Apart from Cecil and van Gulik, there appear to be no other authors specialising in judiciary FASP. This is in contrast to, for example, John Grisham and John Mortimer who are closely identified with the lawyer FASP sub-genre. Their works often present a certain continuity through either recurring protagonists such as Mortimer's Rumpole or people and places as Grisham's fictional town of Clanton and some of its inhabitants. Judiciary FASP thrillers are basically single, unrelated works, as for example, Scott Turow's *Limitations* (2006), Paul Levine's *9 Scorpions* (1998) or Steve Martini's *The Judge* (1995).

### 3. Fictional representations of the judiciary

Studies in law and literature have documented the increasingly systematic negative portrayals of American lawyers in fiction, (Asimow 1996, 2001, Isani 2005) a process which culminates in the literal demonisation of the profession through the strong lawyer-as-the-devil metaphor which sustains Andrew Neiderman's *The Devil's Advocate* (1990). In a comparative approach, it is significant to note that the egregious nature of such negative fictional depiction of lawyers is characteristic of American lawyer FASP since British authors, on the whole, tend to portray barristers and solicitors in a somewhat milder, if not altogether nobler, vein.

#### *Fictional representations of the American judiciary*

In view of the harshness of lawyer portrayals, how does the American judiciary fare in the hands of FASP authors? The judge as a protagonist appears to benefit from a more nuanced approach. In spite of the limited corpus of judiciary FASP books, fictional representations of judges may be analysed on a three-point scale with idealisation and demonisation at either end, and the middle representing the "ordinary" man.

##### *i. Idealisation*

If Harper Lee's cult novel, *To Kill a Mocking Bird* (1960), established the benchmark for members of the Bar, the Bench has no fictional equivalent of Atticus Finch, "the dream that young lawyers hope to achieve and that old lawyers regret

having lost".<sup>5</sup> Judiciary FASP does not use the discourse of deification and canonisation to depict its protagonists, who remain remote from Walt Whitman's vision of "The perfect judge [who] fears nothing – he could go front to front before God" (*Leaves of Grass*, 1855).

*ii. Demonisation*

On the opposite extreme of the lawyer spectrum is Andrew Neiderman's *The Devil's Advocate* (1990). The Bench equivalent to such demonisation is Grisham's *The Brethren* (2000), in which the protagonists are three judges depicted as sordid common criminals in jail for theft, manslaughter and tax evasion.

Frequent secondary characters in Grisham's lawyer FASP, judges generally fare as badly as the lawyers he portrays, as these extracts from his first novel, *A Time to Kill* (1989), illustrate:

The Honorable Omar Noose had not always been so honorable. Before he became the circuit judge for the Twenty-second Judicial District, he was a lawyer with meagre talent and few clients, but he was a politician of formidable skills. Five terms in the Mississippi Legislature had corrupted him and taught him the art of political swindling and manipulation. [...] Like most members of the Mississippi Legislature, he ran for reelection one time too many, and in the summer of 1971 he was humiliated by an unknown opponent. A year later, Judge Loopus, his predecessor on the bench, died, and Noose persuaded the governor to appoint him to serve the unexpired term. That's how ex-State Senator Noose became Circuit Judge Noose. (p. 125)

He's an old man who can do nothing but be a judge. Can you imagine him trying to start a law practice? He makes sixty thousand a year and would starve if he got beat. Most judges are like that. (p. 289)

In *The Brethren* (2000), Grisham mercilessly degrades the profession. A recurrent strategy is gross parody of judicial court dress. The opening lines set the tone:

For the weekly docket the court jester wore his standard garb of well-used and deeply faded maroon pajamas and lavender terry-cloth shower shoes with no socks. [...] The pajamas and shoes weren't nearly as troubling as the wig. It parted at the middle and rolled in layers downward, over his ears, with tight curls coiling off into three directions, and fell heavily onto his shoulders. It was a bright gray,

almost white, and fashioned after the Old English magistrate's wigs from centuries earlier. A friend on the outside had found it at a secondhand costume store in Manhattan, in the Village. (p. 9)

To complete the picture, the judge protagonists are systematically depicted as being involved in trivial and demeaning situations, as the following extracts illustrate:

What would his friends think? The Honorable Hatlee Beech, federal judge, writing prose like a faggot, extorting money out of innocent people. [...] The law he once worshipped had placed him where he was, which, at the moment, was in a prison cafeteria wearing a faded green choir robe from a black church, listening to a bunch of angry convicts argue over urine. (p. 79)

Since the case was Justice Yarber's, he was expected to at least appear as if he were paying attention. He was not, nor was he concerned about appearances. As usual, he was naked under his robe, and he sat with his legs crossed wide, cleaning his long toenails with a plastic fork. (ibid.)

Saira Rao's *Chambermaid* (2007) in which, according to the jacket cover, "The devil holds a gavel..." appears to be set in the same vein. The judiciary clone of Lauren Weisberger's Miranda Priestley (*The Devil Wears Prada*, 2006), Federal Judge Helga Friedman is "a power-hungry sociopath", who is nevertheless redeemed to some extent by her successful battle to have a death penalty reviewed.

### *iii. Flawed heroes*

In between the fictional extremes of judicial good and evil lies the protagonist who is neither angel nor demon but an "ordinary" man, with his qualities and defects. In this respect, the main body of American judiciary FASP protagonists may be likened to the flawed heroes of Greek tragedy, heroes whose personal failings make them victims of Aristotelian *hamartia* or fatal error. In the case of judiciary FASP, the strengths are professional and the weaknesses are personal: the protagonists are outstanding members of the Bench whose personal lives lead them astray:

- In Nancy Taylor Rosenberg's *Interest of Justice* (2001 [1994]), the protagonist is Judge Lara Sanderstone, an idealistic and high-minded judge who is nevertheless a failure as a foster parent and subsequently the subject of a social services' enquiry.
- In James Zagel's *Money to Burn* (2002), the protagonist is an outstanding and principled Federal judge whose personal and professional disillusionment following his wife's death leads him to plan and carry out a hold-up of nothing less than the Federal Reserve Bank itself.
- Lisa Scottoline's eponymous *Dirty Blonde* (2006) is in fact young and promising Judge Cate Fante whose off-duty activities, in a reversal of gender roles, involve curb-crawling and paying for sex.
- In Scott Turow's *Limitations* (2006), the protagonist, Appeals Court Judge George Mason, presides a university "frat" rape case which brings to the surface memories of his own involvement in a similar event.

To conclude with this point, contrary to the quasi systematic negative characterisation of lawyers, most fictional judges belong to that other major literary tradition of characterisation, the ambivalent hero/villain protagonist. Most judiciary FASP authors blur the lines between good and bad, professional and personal, resulting in a professional hero and a personal anti-hero, gods with feet of clay who are nevertheless carefully crafted as not to alienate the reader's sympathies entirely.

### ***Fictional representations of the British judiciary***

A significant difference between American and British fictional depiction of the judiciary relates to choice of literary category: comedy, romance, tragedy and satire.<sup>6</sup> American FASP authors adopt a serious approach to their fiction however popular it may be. British authors, in contrast, tend towards a distinctly lighter vein and more humorous approach, generating a somewhat culture-specific sub-genre referred to as the "comic legal series" in the foreword to *Boozers, Ballocks and Bail* (2006) by Stephen D. Smith, a Yorkshire solicitor-turned-author.



As already seen, there is little British judiciary FASP *per se*. To analyse how British FASP authors depict their judges, we have to turn to British lawyer FASP where judges are important secondary characters. John Mortimer and Henry Cecil are probably Britain's best known legal FASP authors. As barrister and judge respectively, both were practising law professionals who drew upon their own professional experience to nourish their fiction, this conforming to the typical profile of the FASP author.

Mortimer's lawyer FASP is constructed around the first person narrative of Rumpole of the Bailey, an iconoclastic barrister whose relations with the judiciary tend to be strained, no doubt because of his "incisive wit and a 'nose' that cuts swathes through the judicial system" as the back cover of the first Rumpole novel (*Rumpole of the Bailey*, 1978) suggests. In spite of the constant friction between Bar and Bench underlying the entire series, the judiciary is not depicted along the harsh lines of *The Brethren*; Mortimer's way of cutting the judiciary down to size consists in depicting judges with irreverence and mockery, as the following extracts illustrate:

This was far from my lucky day. The case was being presided over by the judge who was often, round the Old Bailey, known as Injustice Bullingham. The facts of the case on which the Mad Bull was to be let loose were...<sup>7</sup>

Mrs Justice Templett had sat on the bench for many years. [...] Her first name, which was Floribel, was kept strictly under wraps, never to be referred to.<sup>8</sup>

With his wig off and finishing a fat cigar, the Lord Chief Justice seemed smaller, almost insignificant. He sat in his room, which was decorated with photographs of the prize pigs he reared on his farm in the Berkshire Downs [...]<sup>9</sup>

And there was I, in my rather too white wig and much too new gown, cross-examining with my guns blazing, uncomfortably aware that I might be shot down in a ball of fire any minute by 'Custodial Cookson', the not so learned judge at London Sessions...<sup>10</sup>

Cecil's judiciary FASP – whose conformity to the genre remains open to discussion – confirms this tradition:

Mr Justice Grampion was inclined to suggest various ways in which the motoring laws would be improved and the roads made safe. Apart from removing licences wholesale he had suggested that it should be open to a judge to order offending drivers to have a card fixed to the front and rear of their cars, with 'Menace' on it.<sup>11</sup>

As these extracts illustrate, both authors are representative of a certain British tradition which portrays members of the Establishment with irreverence—impertinent nick names, embarrassing first names, distortion of professional titles, unusual leisure pursuits and professional quirks—, eccentrics whose professional and personal idiosyncrasies are chronicled with humour.

#### 4. Public perceptions

##### *The American judiciary*

The extremely negative public perception of American lawyers is evidenced in everyday life by the prevalence of lawyer jokes, a distinction no other profession carries. A study of recent statistics confirms the public's negative perceptions of American lawyers. Obtaining a precise statistical picture of public perceptions with regard to the judiciary is hampered by the unavailability of standardised statistics. In spite of this, the following tables, compiled from extracts of official statistics, allow for a comparative picture of public perceptions:

A 2004 table—the latest comparative table available on the *Sourcebook of Criminal Justice Statistics* site—reveals discriminatory differentials in public esteem regarding three important professions represented in legal FASP, the police, the judiciary and lawyers:

**FIG. 1 — PUBLIC PERCEPTIONS IN AMERICA REGARDING LEGAL PROFESSIONS / 2004**

	Very high	High	Positive Aggregate	Average	Low	Very Low	Negative Aggregate
Police	17%	43%	60%	31%	7%	2%	9%
Judges	13%	40%	53%	35%	8%	2%	10%
Lawyers	4%	14%	28%	45%	24%	11%	35%

*Sourcebook of criminal justice statistics Online* <http://www.albany.edu/sourcebook/pdf/t2172004.pdf>

The high esteem in which the American public holds its police force is a constant—and suggests an interesting line of enquiry with reference to fictional representations as moulded by the vast bibliography of police procedural FASP. In comparison with other professions, the police force ranks fifth, preceded by, in order of preference, nurses, school teachers, military officers and pharmacists. Judges rank 7<sup>th</sup> and are preceded by the previous five and the clergy (6<sup>th</sup>). Lawyers rank 15<sup>th</sup> and are preceded by such professions as bankers, auto-mechanics, TV and newspaper reporters, etc. The image of lawyers continues to decline, as shown in the following table based on data collected two years later:

**FIG. 2 – PUBLIC PERCEPTIONS IN AMERICA REGARDING LAWYERS / 2006**

	Very high	High	Positive Aggregate	Average	Low	Very Low	Negative Aggregate
Lawyers	3%	15%	18%	42%	27%	11%	38%

*Sourcebook of criminal justice statistics Online <http://www.albany.edu/sourcebook/pdf/t2172006.pdf>*

While comparative statistics for 2007 remain unavailable at time of going to press, a 2006 survey conducted on public perceptions of public institutions—and therefore not concerned with lawyers—analysed with reference to the 2006 statistics specific to lawyers presented in figure 2, nevertheless seems to confirm the public's tendency to view other legal professionals and institutions in a more favourable light than lawyers:

**FIG. 3 – PUBLIC PERCEPTIONS IN AMERICA REGARDING LEGAL INSTITUTIONS / 2006**

	"A great deal of confidence" / "quite a lot of confidence"
Police	58%
US Supreme Court	40%
Criminal justice system	25%
Lawyers	18%

*Sourcebook of criminal justice statistics Online <http://www.albany.edu/sourcebook/pdf/t2102007.pdf>*

To sum up the question of public perceptions of the judiciary, and in view of the above statistics, it is safe to posit that the judiciary is clearly placed between the police and lawyers in the public's esteem and that the differential between the judiciary and lawyers is higher than that between the police and the judiciary.

### *The British judiciary*

Two recent surveys carried out in Britain relative to public perceptions provide useful data. The first, commissioned by the Ministry of Justice in 2006 and published in August 2007, concerns the confidence of the British public in its criminal justice system. It reveals that 44% of the respondents feel they were “very confident” or “fairly confident” in the criminal justice system. Interestingly, over the years, the confidence ratings concerning the judiciary in Britain indicate a steadily increasing trend, contrary to the United States, as a confrontation of the different sets of statistics reveals:

**FIG. 4 – POSITIVE PUBLIC PERCEPTIONS OF CRIMINAL JUSTICE SYSTEMS 2003-2006**

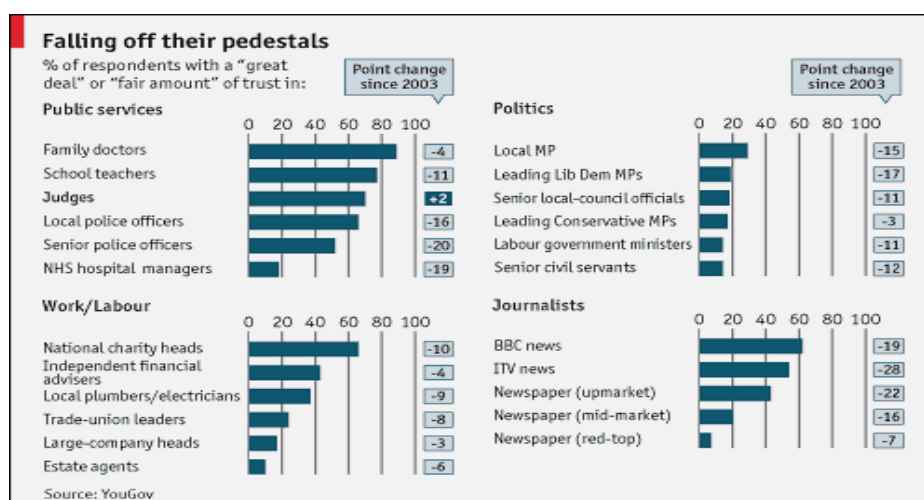
	2003	2004	2005	2006	2007
United Kingdom	39%	41%	43%	44%	NA
United States	29%	34%	26%	25%	19%

UK: *Confidence in the Criminal Justice System / Ministry of Justice*  
<http://www.justice.gov.uk/docs/criminal-justice-system-report.pdf>

USA: *Sourcebook of criminal justice statistics Online* <http://www.albany.edu/sourcebook/pdf/t2172007.pdf>

The esteem in which the British public holds its judiciary is further confirmed by a recent YouGov survey commissioned by the *Daily Telegraph* and published by *The Economist*,<sup>12</sup> regarding public attitudes to certain professions. According to the survey, doctors, school teachers, local and senior police officers, hospital managers and journalists have all lost the public’s confidence; the judiciary is the only public profession to have actually progressed:

**FIG. 5 – PUBLIC PERCEPTIONS OF PUBLIC PROFESSIONS – 2006**



These different sets of statistical data establish a number of findings which are significant in the context of this discussion and may be summed up as follows:

- Public opinion in America holds its judges in significantly higher esteem than it does its lawyers.
- This difference correlates with fictional representations of lawyers and judges in American legal FASP.
- Public opinion of American judges, with the exception of the Supreme Court, has registered a steady decline over the years.
- Public opinion in Britain holds its judges in high esteem.
- Public opinion of British judges has, over the years, registered a steady increase.
- This tendency correlates with the more moderate fictional representations of judges in British legal FASP.
- There is a high degree of correlation between fictional representations and public perceptions of judges in both Britain and the United States.

The recurrent question in this domain is that of the chicken-and-the-egg: is it public perceptions which colour fictional representations or fictional representations that mould public perceptions? This question has been, to some extent, addressed elsewhere<sup>13</sup> and may be summed by two major approaches: fiction-as-a barometer-of-public-opinion, as opposed to “cultivation effect” as developed by psychologists showing how exposure to media influences the consumer’s conception of social reality.

### **5. Some non-fictional explanations...**

Fiction however, is not the only factor which moulds public perceptions. Other dynamics also explain why American lawyers, but not American judges, have an image problem and why British judges fare better in public perceptions than do American judges.

The question of the image problem of lawyers is well documented and most researchers in the field of legal FASP tend to see it as a consequence of the fictional representations of the profession as, for example, Creo (1997) with reference to Grisham's work: "Grisham, unfortunately, goes south himself in his recent portrayal of lawyers. [...] His protagonists are disenfranchised lawyers or law drop-outs. [...] The protagonists' guillotines fall on the collective neck of the profession too."

Concerning the discrepancy between public perceptions regarding lawyers and judges, one reason often humorously suggested to explain why lawyers have an image problem and judges do not is quite simply the fact that a judge never loses a case! Other reasons also contribute, such as the payment of hefty fees even for a case lost, the association of lawyers with unhappy events, certain practices specific to the professional culture of American lawyers ("no-win, no-fee"), as well the very nature of their calling which requires a defence for the even the worst of criminals. However, one relatively undocumented factor in relation to the question of the American lawyer's image problem is that of dedicated professional court dress.

Contrary to all other important legal professionals in America or abroad, the American lawyer is conspicuous by the lack of dedicated legal court wear. The elaborately codified—and soon-to-be obsolete?—British bar court dress needs no introduction and if the "continental gown" may appear somewhat nondescript in comparison, it nevertheless does serve to distinguish legal professionals from the lay public. American lawyers are the only body of advocates not entitled to a dedicated professional dress code of their own, and are relegated to wearing a "business suit" to court. The professional "nakedness" of the American lawyer in court is further emphasised by the robed presence of the American judiciary, visually highlighting the inferiority of the lawyer's status as compared to that of the judge's. The presence—and contrasting absence—of such strong visual semiotic indicators of professional identity act as discriminators of status and condition public perceptions in consequence.<sup>14</sup>

The second discrepancy—why British judges fare better than American ones in terms of public perceptions—may also be related, to some extent, to the question of legal court wear. Though American judges are, within limits, free to choose their

legal court wear, consensus tends towards a plain black gown the austerity of which provides a sharp contrast to the flamboyant colours—scarlet, purple, blue—of the British judiciary, to say nothing of the wigs! This visual pageantry bestows a certain aura upon the English Bench which, if it is occasionally perceived as alienating, nevertheless contributes to enhancing the image of the profession.

Another factor which plays a key role in this context is the fact that certain categories of American judges are elected. The inevitable conflict of interest between the impartiality of justice and electoral considerations is a recurrent theme in American legal FASP and the failure to make the distinction a common trait in the negative characterisation of American judges, as the following extract from Huffman's fictional vignettes of legal professionals illustrates:

Spike [the judge] knows judges don't stay judges by demonstrating jurisprudential courage. The mob's taste for blood must be satiated. He decides to sacrifice the defendant for the votes. The court of appeals will correct his error in judgement, even if it takes nine months. By then, he will be serving a six-year term. He knows it's chicken-shit, but everyone ends up where they belong eventually, even justice.<sup>15</sup>

British judges of course, are not elected but appointed and, until recently, only Queen's Counsel, the most elite branch of the English legal profession, were eligible. The appointment system was informal, arcane and secret as described by *The Times* journalist, Frances Gibb:

Once it was done in the smoke-filled rooms of gentlemen's clubs or in the Temple corridors. Lawyers were appointed to be judges after the right word in the right ear; they were "tapped on the shoulder" and asked if they fancied promotion to the Bench. Whom you knew counted; as did your college or school.<sup>16</sup>

As such, the system was criticised for its reliance on the "old boys' network", considered as tantamount to cooptation of peers and self-replication of a certain socio-cultural ethos on the Bench.

In view of the above, it is possible to posit a link between the judicial appointments process and the positive representations of the judiciary by British

legal FASP writers in that the authors, members of the Bar themselves, belong to the same professional “family” as their fictional judiciary protagonists. As indicated in the preceding quotation, many come from similar social backgrounds, are educated in the same schools and colleges, attend the same Inns of Courts, dine in the same dining halls and share the same chambers. This creates a common culture among “professional gentlemen”, an *esprit de corps* which balks at sullying fellow members of the professional family. The more democratic processes of judicial appointments through elections tend to reveal the truth, if only in fiction, about His Honor’s new clothes...

### Conclusion

As mentioned earlier, this discussion is part of on-going research concerning fictional representations and public perceptions of legal professions and institutions. The findings presented here relate to judiciary FASP books which represent a relatively minor genre and medium compared to lawyer FASP for example. The next phase seeks to extend the enquiry to exploration of fictional representations of judiciary FASP in other media. In this respect, television, a far more powerful and outreaching medium than books, and its popular judiciary FASP series – Judge John Deed in Britain and Judge Judy, the JAG and Judge Maria Lopez in the US, not to mention the several “legal reality shows” – is a promising field of study in this respect.

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<sup>1</sup> « La fiction à substrat professionnel: une autre voie d'accès à l'anglais de spécialité ». ASp, la revue du GERAS nos. 23/26 (1999), 57-81 (57-58). Loosely translated as: "For a large number of readers world-wide, authors like John Grisham, Robin Cook, Tom Clancy, Dale Brown, etc. are associated with bestsellers and a certain category of literature [...]. We posit that these works of fiction present a sufficient number of common characteristics to justify

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being classified as a genre, and that the fundamental nature of these characteristics may be summed up by the “substrat professionnel”, thus inviting us to call the genre “fiction à substrat professionnel.”

<sup>2</sup> See Shaeda Isani, “The FASP and the genres within the genres”, 2004.

<sup>3</sup> Of Dutch nationality, Robert van Gulik was an accomplished linguist and wrote his Judge Dee series in English.

<sup>4</sup> See Isani, 2004.

<sup>5</sup> Rennard Strickland, “The Cinematic Lawyer: the Magic Mirror and the Silver Screen”, *Oklahoma City University Law Review* 22.1 (1997): 13-23 (17).

<sup>6</sup> M. H. Abrams, *A Glossary of Literary Terms*. Boston: Heinle & Heinle, 1999, p. 109.

<sup>7</sup> *Rumpole and the Reign of Terror*, 2006, p. 7.

<sup>8</sup> *Ibid.*, p. 52.

<sup>9</sup> *Rumpole and the Penge Bungalow Murders*, 2004, p. 120.

<sup>10</sup> *Ibid.*, p. 77.

<sup>11</sup> *Independent Witness*, 1963, p. 31-32.

<sup>12</sup> May 5th 2007, p. 41.

<sup>13</sup> See Isani, 2005.

<sup>14</sup> See Isani, 2006.

<sup>15</sup> Bob Huffman, “Contrary to the Manifest Tenor”, in *Legal Fiction*, California: Creative Arts Book Company, 1999, p. 15.

<sup>16</sup> April 4, 2006.