

Looking for Representation: Illness, Race, and the Complications of Justice in *Philadelphia*

By Rebecca Tsevat

Philadelphia, starring Tom Hanks and Denzel Washington, was one of the first mainstream feature films to address HIV/AIDS and homosexuality at the time of its release in 1993. Set in the early 1990s in this eponymous city, the film follows Andrew Beckett (Hanks) and his lawyer Joe Miller (Washington) as they litigate, and ultimately win, a case against Andrew's previous employers on account of an unlawful demonstration of homophobia and AIDS discrimination. While the film appears to use the legal system as a pretext for combating stigma against homosexuality and, especially, HIV/AIDS – the credits reveal that the movie was inspired by those who, along with their loved ones, have “experienced discrimination because of AIDS” – the trial actually becomes a means of silencing those with this illness and further distancing them from the able-bodied. Taking into consideration Thomas Couser, Linda Alcoff, and Gayatri Spivak's ethics of representation, it becomes evident that the judicial system, and the film more generally, perform a kind of double injustice: on a micro-level, they insensitively transform Andrew into a “subaltern” who cannot speak, and on a macro-level, simplistically convert AIDS into a more modern “blackness.”

If, as Linda Alcoff argues, “a kind of representation occurs in all cases of speaking for, whether [one] is speaking for [oneself] or for others,” then it follows that the profession of law has more to do with representation than almost any other, for it relies upon the appointment of one person to speak on another person's behalf (Alcoff 10). When court cases are approached from this angle, many parallels can be drawn between them and other forms of representation, namely collaborative life writing or reporting. As Thomas Couser discusses, in most cases of collaborative life writing, one member supplies the “life” while the other supplies the “writing” (Couser 335). While the lawyer's statement is generally verbal, rather than written, this division of labor holds true in the courtroom as well. It is up to the client to provide the story, and it is up to the lawyer to shape the story into something that can pass as a statement of truth; as Sherene Razack writes, “in the end, law has to privilege one story over another,” and “those whose stories are believed have the power to create fact” (Razack 37-41). To expand upon the relevance of Couser's principles, in most trials, a “monological product” (the lawyer's presentation) is created from a “dialogical process” (weeks, sometimes months, of consultation with the client) (Couser 334). Although clients often are permitted to testify, allowing for their story to be told through more than one voice, their responses are heavily shaped and coached, or “co-constructed,” by the lawyer's preparation and questions.

While Andrew is a lawyer by training who has practiced in a successful firm for years, AIDS strips him of his professional identity early on in the film. Shortly after he is assigned to a high-profile copyright case, his illness lands him in the hospital, which in turn inspires

fear in his coworkers and leads them to terminate his contract on the grounds that he can no longer adequately perform his job. Andrew decides to take legal action, but regardless of his employment status, is incapable of acting as his own advocate in court. Due to the nature of the judicial system, he must seek official representation by another lawyer – a task that proves exceedingly difficult on account of the widespread homophobia and fear of AIDS that deprived him of his career in the first place. Prior to obtaining representation, however, Andrew does take initiative in building his own case: not only does he seek out nine different lawyers, which we can assume takes weeks or even months, but he also defends himself against prejudicial remarks and conducts his own research to determine his likelihood of success in court. Furthermore, because of Andrew's background and experience with the law, there is great potential for co-construction with his lawyer once he does secure representation. After Joe finally agrees to take on his case in the library, the two lawyers sit directly across from each other in explicit collaboration, with neither in a position of domination or subordination: they read from the same reference book and complete each other's sentences, "co-creating" a probable clause. For a good part of the remainder of the film, too, their relationship continues to be "dialogical," as Arthur Frank and M.M. Bakhtin would have it – Joe does not only "study" Andrew, but he also spends time with him, opening himself up to the experience of living with AIDS in late-twentieth century *Philadelphia* (Frank 971). He attends his first gay party, and afterwards, in one of the most deeply moving scenes of the film, witnesses Andrew become transformed by his favorite opera. As a result of this experience, Joe becomes "permeated by the voice [and image] of [this] other," unable to pause the music playing in his mind and thereby divests himself of his client's influence after finally returning home to his family (Frank 968).

Within the courtroom itself, however, Andrew becomes less and less autonomous as his illness takes a greater toll on his mind and body. The trial opens not with Andrew's words, but with Joe's; within only a few minutes, the complex narrative of Andrew's illness exposed in the first half of the movie is neatly consolidated into a few discrete points that, while heavily mediated, pose as an objective statement of truth. From this point forward, Andrew, the former lawyer, recedes into the background as his lawyer becomes increasingly vocal and aggressive, implicating several of the witnesses and the judge with his provocative comments about sexuality and homophobia. While Andrew does try to consult with Joe at the very beginning, whispering to him in between cross-examinations and taking notes furiously, the discriminatory remarks by former colleagues as well as his physical condition begin to deplete his energy and prevent him from doing even that. By the time Andrew testifies, he has grown so weak that he struggles to complete the cross-examination; in fact, it could be said that the incisive interrogation of his prior sexual behavior becomes the proverbial straw that breaks his back (and his voice), causing him to collapse and swiftly be removed to the hospital. The remainder of the trial is marked by a palpable absence, which is further emphasized by the camera's sustained focus on Andrew's empty chair. The case proceeds without him, and though he survives long enough to hear the verdict, his presence does not prove instrumental in the trial's resolution.

Thus, while Joe does acknowledge his client as "counsel" in the penultimate scene of the movie, they can hardly be described as equals, at least with regards to their roles in bringing about the final outcome of the trial. This sequence is not unlike the situation described by Thomas Couser, in which an illness or disability puts a person at a disadvantage with respect to the collaborator, requiring that "the completion...of a narrative [in this case, a judicial decision] devolve upon a survivor who narrates another's terminal illness" (Couser

335). The film therefore aligns with Sherene Razack's argument that legal rules and conventions can "suppress the stories of outsider groups," for in the end, it is Joe who is given the final word in the courtroom while his client lies a few miles away on his deathbed (Razack 38). It is Joe who, in effect, becomes Andrew's proxy, and who fills the gap created after Andrew's absence. And it is Joe – a heterosexual, able-bodied, and importantly, African American man – who speaks for Andrew when the court, the homophobic and AIDS-phobic society, and his illness have taken away his voice.

In this film, then, legal representation becomes a stand-in for what Linda Alcoff refers to as a more general "crisis of representation," the notion that in the practice of speaking for, as well about, others, one is always "engaging in the act of representing the other's needs, goals, situation, and in fact who they are" (Alcoff 9). As she explains, "this act of representation cannot be understood as founded on an act of discovery wherein I discover their true selves and then simply relate my discovery....such representations are in every case mediated and the product of interpretation" (Alcoff 9). Although Alcoff sees this as unavoidable, even when speaking for oneself, it becomes all the more concerning when the person speaking is in a position of power (as is the case for Joe, who is heterosexual and able-bodied), and the person being spoken for is marginalized and cannot talk back (as is the case for Andrew, who is homosexual, has AIDS, and is, for the most part, deprived of his ability to speak in court). If, as Gayatri Spivak claims, "for the... 'true' subaltern group, whose identity is its difference, there is no subaltern subject that can know and speak itself," then we might conclude that the nature of the judicial system, the homophobic and AIDS-phobic culture of Philadelphia, and the progression of this fatal disease are oppressive not only because they stipulate that Andrew must be represented by someone else, but also because, together, they convert him into "a 'true' subaltern" who figuratively and literally has no voice (Spivak 32).

But just because Alcoff and Spivak problematize the act of representing another person, neither argues that this should never be done. Spivak writes, "The intellectual's solution is not to abstain from representation," and inquires how "it is possible to touch the consciousness of the people, even as we investigate their politics?" (Spivak 32). Alcoff similarly notes, "while there is much theoretical and practical work to be done to develop... alternatives, the practice of speaking for others remains the best possibility in some existing situations" (Alcoff 24). As it would be unjust for society not to speak for Andrew, we must concede that Joe's agreement to represent him was not an unethical one, just as we must acknowledge the good that does come out of this (fictional) case within the film: another judicial precedent stipulating the unconstitutionality of AIDS-based discrimination, financial reparations for Andrew's family, and greater awareness of the issues faced by people with AIDS and their families. Yet, of course, even with Alcoff and Spivak's concessions in mind, the characters, producers, and the viewers themselves should not be held any less responsible for remaining conscious of the ethics of speaking for another, as well as the power relations shaping, the intentions behind, and the effects resulting from this very act.

While Joe's able-bodiedness and heterosexuality have already alerted us to the troubling nature of this lawyer-client relationship, there is at least one more aspect of "the speaker's location" that begs to be discussed (Alcoff 6-7): his race. On the one hand, we might imagine the film to be encouraging a liberal or modern inversion of a classic social justice courtroom scene involving the defense of a black man by a white man – for example, Atticus Finch's defense of Tom Robinson in *To Kill a Mockingbird*. However, by casting an

African American actor to represent a person with AIDS, the producers make it nearly impossible for viewers to forget the long history of Civil Rights cases that preceded this one, and thereby encourage a conflation of AIDS discrimination with racial discrimination. Even Andrew's family members allude to the precedent set in the Civil Rights era as they encourage their son to fight for justice: as his mother remarks, "I didn't raise my children to sit at the back of the bus." Thus, we might say, as Spivak has in her critique of Gilles Deleuze, that there are two types of representation at work simultaneously in Philadelphia: "representation as 'speaking for,' as in politics [or law] and representation as 're-presentation,' as in art or philosophy [or film]" (Spivak 28). For as Joe represents Andrew, AIDS discrimination in the film (and homophobia to a lesser degree) get re-presented against America's history of racism.

In light of this apparent conflation, it is curious that Andrew himself is not black, and that Joe does not have AIDS (and not only is he not infected with the disease, but he also intensely fearful of those who are). In fact, there are almost no overlaps between racial minorities and AIDS patients in this film, as if to suggest that a person could not be both infected with AIDS and non-white, or in other words, that a person's "otherness" could only ever consist of a single defining, or innate, set of features.¹ By portraying AIDS as the new "blackness," therefore, the film advocates essentialism and leaves no room for an intersectional understanding of identity. This approach can have negative consequences, for as Judith Butler argues, "the assertion of the abstract or structural equivalence [of two marginalized groups] not only misses the specific histories of their construction and elaboration, but also delays the important work of thinking through the ways in which these vectors of power require and deploy each other for the purposes of their own articulation" (Butler 18). If, in the world of the film, black people always "get" to be healthy and uncontaminated, and AIDS patients always "get" to be white, then neither is ever more than one step removed from the white, able-bodied ideal enacted through Andrew's prejudiced coworkers – the very people who appear to be under the harshest critique in the film.

Sherene Razack also advocates a move beyond essences and toward an understanding of what she calls "interlocking systems of oppression" (Razack 14): the notion that hegemonic structures exist "symbiotically but hierarchically," such that certain positions of subordination can reflect and sustain other positions of privilege (13-14). Although she focuses primarily on race, geography, and gender, we can extend her analysis to other interconnected systems of privilege and penalty. For once we acknowledge the thin veil between them, we become poised to consider how Andrew's whiteness grants him certain privileges over blacks in spite of his illness; how Joe's able-bodiedness grants him other certain privileges over the disabled in spite of his race; and how their gender and upper-middle class status grant them still other privileges over females and the lower classes. Not to mention how those who are white, able-bodied, male and financially stable, like the judge, the defendants, and the producers themselves, come to hold the greatest privileges of all. Though we may be tempted to laud the producers on the decision to portray a stigmatized population, we cannot do so without problematizing the essentialist representations both depicted within and performed by the film, and without considering how certain marginalized groups sustain and implicate others. As the film, in many ways,

¹ There is one character who is homosexual and Latino, Andrew's partner Miguel, but he is very marginalized and marginal to the plot; he is only in a handful of scenes, and he has no voice in the courtroom. That the person who is doubly "other" gets little representation thus is the exception that proves the rule.

upholds the power dynamics that it purports to subvert, we can only hope that the scales of justice will one day be tipped in the other direction – if not instantaneously by trial then perhaps gradually, one representation at a time.

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