

# Using Literature to Teach the Rule of Law

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*This article has been adapted from the American Bar Association's Dialogue on the Rule of Law. Additional information on the Dialogue is available at [www.abanet.org/publiced/features/dialogues.html](http://www.abanet.org/publiced/features/dialogues.html).*

**Concepts of law**, justice, and the rules of fair play influence more than our legal system. They are central to our understanding of who we are and how we make sense of the world. Not surprisingly, these concepts often appear in the movies and television programs we watch and the books we read.

Fictional treatments of concepts central to the rule of law—the rules of fair play that form our notion of due process, for example, or our belief that the rule of law must be judged by the quality of justice it delivers—make abstract concepts concrete for students and invite explorations of how and why the rule of law succeeds, is threatened, or fails in different circumstances. And the opportunities for such explorations go far beyond such legal classics as *To Kill a Mockingbird* or *Twelve Angry Men*.

This article looks at three examples of children's and young adult literature that offer entertaining, accessible, and at times provocative, explorations of the rule of law in very different settings. Lewis Carroll's classic, *Alice's Adventures in Wonderland*, finds Alice confronting a host of procedural irregularities and abuses of power within the nonsensical world that she discovers after her fall through a rabbit hole. Louis Sachar's novel for young adults, *Holes*, asks readers to confront injustices past and present and reflect on the meaning of justice. And the fifth installment in J. K. Rowling's *Harry Potter* series, *Harry Potter and the Order of the Phoenix*, opens with an extensive exploration of due process (or the lack thereof) in the wizarding world.

The books discussed in this article can be used with a range of age groups. *Alice's Adventures in Wonderland* and *Holes* are suitable for late elementary and middle school grades, while both *Holes* and *Harry Potter and the Order of the Phoenix* are suitable for middle and high school students. All three books have been adapted into films; the movie versions of *Holes* and *Harry Potter and the Order of the Phoenix* are particularly good at dramatizing issues of law and justice and could be screened as a complement to students' reading of the novels.

This article outlines key passages of the three books that address rule of law concepts and suggests how these passages can invite student exploration and discussion of the rule of law. Suggested discussion questions for classroom use are provided in the "Teaching Activity" section of the article.

## The Rule of Law in Wonderland

References to the law are a recurring motif in *Alice's Adventures in Wonderland*.<sup>1</sup> In chapter 3, the Mouse shares his "long tale" of a lawsuit with Fury; the Queen of Hearts arbitrarily—and ineffectively—orders the summary execution of all who offend her; and the book closes in chapters 11 and 12

with the trial of the Knave of Hearts for stealing tarts.

As with everything in Wonderland, nothing is quite right about the law. Much of the fun of *Alice's Adventures* is the book's creation of a nonsensical world, loosely tethered to our sense of the way things should be. By figuring out what is wrong with the law in Wonderland, students can gain a sense of how the law should function in the "real world."

## Mouse's "Long Tale" of the Law

In chapter 3 of *Alice's Adventures*, Mouse offers the "long and sad tale" of his personal history. This tale takes the form of a poem, printed in most editions of the book as a long and curving mouse's tail. It tells of Mouse's encounter with Fury, who suggests that to pass the time, they both "go to law" for a trial: "Fury said to a mouse, That he met in the house, 'Let us both go to law: I will prosecute you.'" When Mouse notes that a trial would be a waste of time without judge or jury, Fury responds: "I'll be judge, I'll be jury...I'll try the whole cause, and condemn you to death." Mouse's tale ends when he notices that Alice has become distracted by a knot in his tail.

The Mouse's tale offers a concise introduction to the reasons why (outside Wonderland) our justice system divides power among a prosecutor, who decides to bring charges on behalf of the state, a judge, who is to serve as neutral arbiter between the prosecution and the accused, and the jury, which—independent of

This page is from the 1865 manuscript of *Alice's Adventures in Wonderland* that was sold at an auction in New York City, December 9, 1998.

Reuters/Jc/Aa

THE QUEEN'S CROQUET-GROUND. 113

"You'd better not talk!" said Five. "I heard the Queen say only yesterday you deserved to be beheaded!"



"What for?" said the one who had spoken first.

"That's none of your business, Two!" said Seven.

"Yes, it is his business!" said Five, "and I'll tell him—it was for bringing the cook tulip-roots instead of onions."

Seven flung down his brush, and had just begun, "Well, of all the unjust things—" when his eye chanced to fall upon Alice, as she stood watching them, and he checked himself suddenly: the others looked round also, and all of them bowed low.

I

## Due Process and the Rule of Law

Trial passages in all three of the books discussed in this article raise issues of due process, a concept fundamental to the rule of law. In essence, due process means that every person is entitled to certain safeguards that help ensure that a trial is fair and impartial. Some basic due process rights include the right to be assisted by a lawyer, the right to a neutral decision maker (jury or judge), the right to know the charges against you, the right to question witnesses against you, and the right to present testimony in your favor. Discuss the concept of due process with students and ask them to consider how due process rights help ensure a fair trial.

prosecutor or judge—decides whether the case against the accused has been proved. With these three independent roles collapsed into the figure of Fury, Mouse confronts an arbitrary and unjust power who can condemn him to death at a whim (even if Mouse has lived to tell his tale).

### **The Queen's Croquet Game**

The arbitrary power of Fury in the Mouse's tale is met again in the Queen of Hearts. In chapters 8 and 9, Alice, having successfully made her way into the Queen of Hearts' croquet ground, plays a game of croquet with the Queen and her courtiers. It is an unusual game of croquet, with hedgehogs serving as balls, live flamingos as mallets, and the Queen's soldiers, made to "double themselves up and stand on their hands and feet," as arches.

The Queen of Hearts is easily angered, and just as easily condemns those who offend her with a scream of "Off with their heads!" The game quickly disintegrates into chaos:

The players all played at once without waiting for turns, quarrelling all the while, and fighting for the hedgehogs; and in a very short time the Queen was in a furious passion, and went stamping about, and shouting "Off with his head!" or "Off with her head!" about once in a minute.

Despite the Queen's orders, no one ever seems to be executed.

The disconnect between the Queen's frequent and summary orders of execution and the complete disregard her courtiers have for the rules of the Queen's game of croquet encourage reflection on

what is required for an effective rule of law. In a world of arbitrary power, rules themselves make no sense. If one can be summarily condemned for an unintended slight, there is little incentive to pay attention to rules. Moreover, no one pays attention to the Queen because no one takes her threats of execution seriously. The extremity of the punishment ordered for violating the rules of a simple game is such that the rules are simply ignored and the Queen's behavior and threats become even more extreme.

### **Who Stole the Tarts?**

Even when sentences are not summarily issued in Wonderland, the rule of law is left wanting. Alice's adventures end in chapters 11 and 12 with the trial of the Knave of Hearts, who is accused of stealing tarts. The accusation flows from the familiar nursery rhyme, recited in court by the White Rabbit:

The Queen of Hearts, she made  
some tarts,  
All on a summer day:  
The Knave of Hearts, he stole  
those tarts,  
And took them quite away!

The King of Hearts serves as judge (Alice recognizes him as judge “because of his great wig”), with the Queen at his side. Twelve creatures from Wonderland serve as the jurors.

The Knave’s trial is highly irregular. The King calls upon the jurors to consider their verdict before they have heard any evidence; the Mad Hatter is called as a witness and commanded to testify, lest he be executed on the spot; the King tells the jury what he thinks is important evidence; and an unsigned letter, not in the Knave’s handwriting, is taken as proof of the Knave’s guilt (the King tells the jury that the Knave “must have imitated someone else’s hand,” and that the lack of a signature proves that the Knave “must have meant some mischief, or else [he]’d have signed [his] name like an honest man”). The trial ends with the Queen of Hearts ordering the jury to give their sentence first, then the verdict. Neither sentence nor verdict is delivered, however, as Alice’s adventures abruptly end when she wakes with her head on her sister’s lap.

There is so much lacking in the trial of the Knave that the scene invites readers to consider what would set his trial right. By identifying what is missing—a neutral judge, a witness who delivers testimony free from coercion, basic rules of evidence—students can gain a good understanding of what due process requires and how it helps ensure a fair trial.

### **Holes and the Rule of Law**

In Louis Sachar’s *Holes* the rule of law does little to protect Stanley Yelnats when he is accused of stealing the shoes of famous baseball player Clyde “Sweet Feet” Livingston.<sup>2</sup> Found guilty of a crime he swears he did not commit, Stanley is sent to Camp Green Lake, a juvenile detention facility where boys spend their

days digging holes five feet wide by five feet deep, ostensibly to improve their character. Green Lake, once the largest lake in Texas, is now nothing more than a dried out lakebed. The camp is run by the Warden, who uses a combination of terror and rewards to keep the boys digging their holes.

### **Two Injustices**

Central to the plot of *Holes* is the theme of injustice; in one case, the injustice that arises from one’s failure to keep one’s word, and in two others, the injustices caused by a legal system gone awry. These latter two injustices—one from the present and one from the past—give the book its specifically legal grounding.

### **Stanley’s Trial**

Walking home from school one day, Stanley Yelnats is hit on the head by a pair of sneakers as he walks out from under a freeway overpass (chapter 6). Stanley’s father, an inventor, is working on a way to recycle old sneakers, and Stanley takes the free sneakers that have fallen from the sky as “some kind of a sign.” He breaks into a run to get home more quickly, and is picked up by a patrol car. The policeman makes a call on his radio and learns that the sneakers had been stolen from a display at a homeless shelter, where they were going to be auctioned off at a charity event to help the homeless. Stanley is arrested. Stanley has a hearing before a judge, but his parents can’t afford a lawyer. “You don’t need a lawyer,” Stanley’s mother advises. “Just tell the truth.”

At Stanley’s hearing, baseball star Clyde “Sweet Feet” Livingston testifies that the sneakers were his, and that he had donated them to the homeless shelter. He testifies that “he couldn’t imagine what kind of horrible person would steal from homeless children.” Stanley takes his mother’s advice and tells the truth, but no one believes that they fell from the sky. The judge, calling Stanley’s crime “despicable,” offers a choice of time served at Camp Green Lake or in jail. Stanley chooses Camp Green Lake.

### **The Murder of Sam**

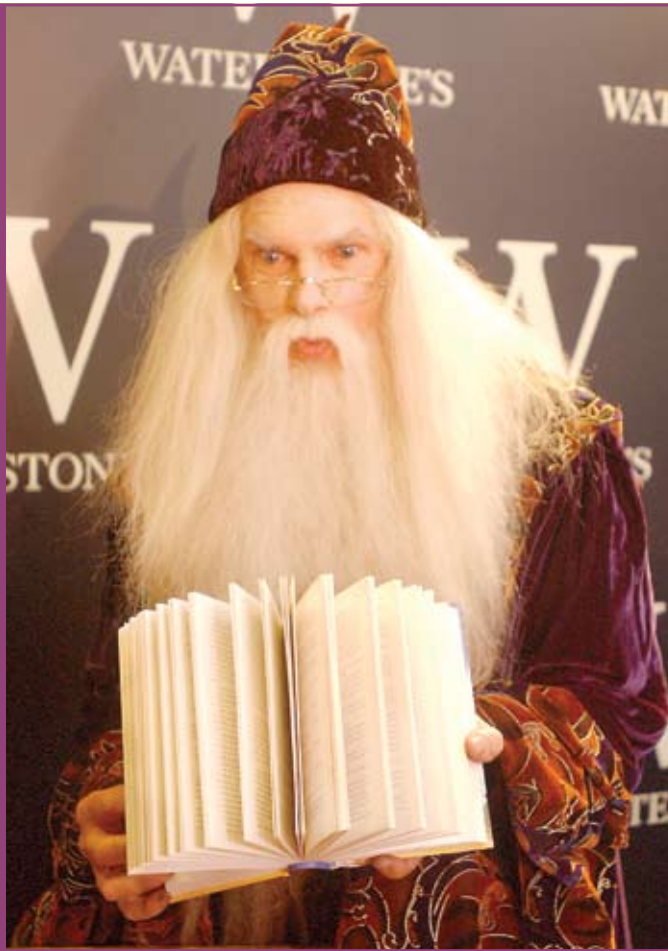
*Holes* also tells the story of how Green Lake came to be a dried out lakebed (chapters 23, 25, and 26). More than 100 years ago, the lake was full of water, with peach trees lining its shore. Miss Katherine Barlow was the town’s schoolteacher. Katherine strikes up a friendship with Sam, a black farmer who lives across the lake and comes into town with his donkey, Mary Lou, to sell his onions. Katherine hires Sam to do some repair projects around the school, and their friendship deepens. Katherine and Sam eventually kiss, and are seen by a townswoman who tells the townspeople what she saw.

A mob descends on the school and begins tearing it down. Katherine runs to the sheriff for help. He refuses, stating that the kiss between Katherine and Sam violated a law against interracial relationships, and that he is getting ready for a hanging. Sam and Katherine try to flee across the lake in a boat, but are pursued by townspeople who shoot and kill Sam. Katherine is taken back to town, where she sees the donkey Mary Lou also shot dead on the shore. Three days after Sam’s shooting, Katherine shoots the sheriff in his office. She applies a fresh coat of lipstick and gives the dead sheriff a kiss. For the next 20 years, she terrorizes the West as the outlaw Kissin’ Kate Barlow. From the date of Sam’s murder, not a drop of rain falls in Green Lake, and the lake eventually disappears.

The two injustices of Stanley’s trial and Sam’s murder differ in important respects—Stanley has his day in court, such as it is, while Sam is murdered by a mob as the law stands by. Sam suffers a clear miscarriage of justice, a result of the sheriff’s unwillingness to uphold the rule of law. His fate highlights the role of law enforcement in maintaining the rule of law. A discussion of Sam’s story, focusing on whether a law enforcement officer should have the right to decide which laws are enforced, and how Sam’s fate might have differed if the sheriff had responded to Katherine’s request for assistance, can illustrate the importance of neutral enforcement of the law.

A man dressed as the wizard Albus Dumbledore holds open a copy of *Harry Potter and the Order of the Phoenix* at Waterstone's bookshop in central London, June 21, 2003.

REUTERS/Sinead Lynch, MD



Students might also consider Katherine's conversion to Kissin' Kate Barlow and the connections between a failed rule of law and the "outlaw justice" that Kissin' Kate comes to represent.

Stanley's trial poses different questions for the reader. He did, after all, have an opportunity to defend himself before a judge, and still received an unjust sentence for a crime he did not commit. Students might first consider whether the trial Stanley received was indeed fair; in particular, students should focus on whether Stanley's lack of a lawyer compromised the fairness of his trial. More generally, however, Stanley's trial asks the reader to consider whether due process of the law guarantees a just result. Although law and justice are sometimes treated synonymously, they are distinct concepts. *Holes* asks us to explore the distinction between law and justice and to consider what can be done to lessen the impact of injustice when the rule of law fails to secure a just result.

### **The Rule of Law in the Wizarding World**

In her *Harry Potter* series, J. K. Rowling creates an alternate "wizarding" world that roughly parallels the world of Muggles (humans without magical powers). Wizard adults have professional lives, wizard children attend school, wizard needs are supplied by wizard shops, and wizard finances are handled at the Gringotts Wizarding Bank. The wizarding world also has its own government, centered in the Ministry of Magic, which promulgates laws and regulations and tries and punishes wizards who violate the law.

### **The Trial of Harry Potter**

The rule of law emerges as an important theme of the fifth installment in the series, *Harry Potter and the Order of the Phoenix*.<sup>3</sup> Threatened by the rumored return of the Dark Lord (Voldemort), the Ministry of Magic begins to take desperate measures to suppress any dis-

cussion of Voldemort. A key target of the Ministry's efforts is Harry Potter. At the end of his fourth year at Hogwarts (*Harry Potter and the Goblet of Fire*), Harry witnessed Lord Voldemort ordering the murder of Harry's schoolmate, Cedric Diggory. When Harry, in the first chapter of *Order of the Phoenix* ("Dudley Demented"), makes unauthorized use of the Patronus Charm to save himself and his cousin Dudley from an attack by dementors, the Ministry seizes its opportunity to expel him from Hogwarts and remove him—and his eyewitness account of Voldemort's return—from the wizarding community.

In chapter 2 ("A Peck of Owls"), Harry is served with notices from the Ministry's Improper Use of Magic Office. The first message announces that Harry has been summarily expelled from Hogwarts and will have his wand destroyed by Ministry of Magic officials. The second message announces a revised decision, allowing Harry to retain his wand until a disciplinary hearing at the Ministry, at which his continued enrollment at Hogwarts will also be decided.

On the day of his hearing, Harry arrives with Mr. Weasley at the Ministry of Magic only to learn that the Ministry has at the last moment changed the time and venue of his hearing (chapter 7, "The Ministry of Magic"). He is whisked down to Courtroom 10, which he recognizes as the courtroom where he has seen serious criminals tried while visiting a memory in Dumbledore's Pensieve. He is made to enter the hearing alone, but Dumbledore appears behind him as a witness on his behalf (chapter 8, "The Hearing"). Dumbledore also serves as Harry's advocate, reminding the tribunal that the Wizengamot Charter of Rights gives the accused the right to present witnesses on his behalf. He also calls the tribunal's attention to clause 7 of the Decree for the Reasonable Restriction of Underage Sorcery, which provides that "magic may be used before Muggles in exceptional circumstances, ... includ[ing] situations that threaten the life of the wizard or witch himself, or witches, wizards, or Muggles present at the time." Harry

## TEACHING ACTIVITY

Discussion of any of the books featured in the accompanying article will be strengthened by first discussing with students what is meant by the rule of law. The American Bar Association's *Dialogue on the Rule of Law*, from which the article is adapted, offers an exercise that asks students to consider a series of quotes illustrating different possible components of the rule of law and then fashion their own definition of what the rule of law means. This exercise, contained in Part 1 of the *Dialogue*, is available for free download at [www.abanet.org/publiced/features/dialogues.html](http://www.abanet.org/publiced/features/dialogues.html).

Offered below are questions for guiding class discussion of each of the books discussed in the article.

### Discussion Questions for *Alice's Adventures in Wonderland*

1. Read the Mouse's tale of his lawsuit with Fury with the students. The Mouse makes reference to a prosecutor, judge, and jury in his tale.

- Discuss with students the role that these figures play in a typical trial (a prosecutor decides whether to try someone for a crime, a judge determines what law should apply and makes sure that the parties play by the rules, and a jury decides whether the facts presented at trial violate the law as defined by the judge).
- Why would it be unfair for one person to play all three of these roles? Why would it be especially unfair for a party to a lawsuit to play any of these roles?

2. How would you describe the Queen's behavior during the game of croquet? Does her behavior make the other players pay better attention to the rules of the game? Why does no one seem to listen to the Queen? What might make the players pay better attention to her and to the rules of the croquet game?

3. Look closely at chapter 12 ("Alice's Evidence"). Focus especially on Alice's testimony and the discussion of the unsigned letter that is introduced as evidence against the Knave. Is the Knave given a fair trial in this scene? If not, what is wrong with the trial? What would have to change to give the Knave a fair trial?

### Discussion Questions for *Holes*

1. Stanley has his day in court and is given the opportunity to tell his story to the judge, but he is still wrongfully convicted of a crime. Do you think that Stanley was given a fair trial? Why or why not? What does a fair trial include? What do you think of Stanley's mother's advice that Stanley does not need a lawyer if he just tells the truth?

2. When Katherine Barlow seeks help from the sheriff, he responds with indifference and inaction, stating that Katherine and Sam have themselves violated the law. Should a law enforcement officer have the right to decide whether the law is enforced? What is required from a law enforcement officer to uphold the rule of law? If the sheriff had acted differently, how might the outcome of Sam and Katherine's story have changed?

3. Review chapter 47. How does the arrival of the lawyer, Ms. Morengo, and the Texas attorney general at Camp Green Lake

change the fate of Stanley and his friend Zero? Do you think access to lawyers is a necessary part of maintaining the rule of law? If so, what should be done when someone accused of a crime is unable to afford a lawyer?

4. Stanley is given a hearing and is able to tell his story, but an unjust result still occurs. Does this mean that there has been a breakdown in the rule of law? Is there a difference between law and justice? Is there anything that can be done to lessen the harm that results when the rule of law fails to secure justice?

### Discussion Questions for *Harry Potter and the Order of the Phoenix*

1. Why does Harry summon his Patronus in chapter 1? Could he have done anything else to drive away the dementors?

2. What takes place in chapter 2 between the first message from the Improper Use of Magic Office and the second message? What does Dumbledore disclose at the trial about the changes in the Ministry's messages?

3. Why do you think the Ministry suddenly changes the time and venue of Harry's hearing?

4. What is the significance of the procedures and rules that Dumbledore brings to the tribunal's attention? What sort of rights seem available to wizards in a regular Ministry hearing? Why are these rights important to secure a fair trial?

5. Based on the evidence of Harry's hearing, how stable is the rule of law in the wizarding world? What threatens or undermines the rule of law?

6. Identify and discuss other passages in the book that reflect on the strength or weakness of the rule of law in the wizarding world (e.g., the Ministry's relationship with the media, the powers given to Professor Umbridge at Hogwarts, the application of the law to other magical creatures, etc.).

### Optional Activity: Stage a Trial

All three of the books discussed in the article involve trial scenes. Ask your students to create a mock trial script and reenact one of the scenes. Examples of mock trial scripts are available on the ABA Division for Public Education website at [www.abanet.org/publiced/mocktrials.html](http://www.abanet.org/publiced/mocktrials.html).

# RESOURCES

The ABA Division for Public Education offers a Teaching Resource Bulletin on "Law and Literature Across the Curriculum." The bulletin provides lesson plans for teaching Ray Bradbury's *Fahrenheit 451* and censorship; Susan Glaspell's "A Jury of Her Peers" and the American jury; Bruce Springsteen's "American Skin" and race in the criminal justice system; and Anton Chekhov's "The Bet" and the death penalty. For additional information, visit [www.abanet.org/publiced/schoolshome.html](http://www.abanet.org/publiced/schoolshome.html).

NCSS offers several publications on incorporating literature in the social studies curriculum, including *Linking Literature with Life: The NCSS Standards and Children's Literature in the Middle Grades* (Bulletin No. 99, 2002); *Children's Literature in Social Studies: Teaching to the Standards* (Bulletin No. 95, 1998); and *Arts & Humanities in the Social Studies* (Bulletin No. 90, 1995). For more information, see the NCSS Publications Catalog at [downloads.ncss.org/publications/NCSSCatalog08.pdf](http://downloads.ncss.org/publications/NCSSCatalog08.pdf).

secures a majority of votes in his favor from the tribunal, and is cleared of the charges against him.

The rule of law theme continues through the novel, as the students and faculty at the Hogwarts School of Witchcraft and Wizardry struggle under the tyrannical rule of Dolores Umbridge. Initially appointed as teacher of Defense Against the Dark Arts, Professor Umbridge is soon given the title of High Inquisitor and serves as the Ministry of Magic's representative at the school. As the High Inquisitor, she single-handedly issues educational decrees that gradually limit student and faculty privileges at Hogwarts. Umbridge assumes full powers when she is named Head of Hogwarts to replace Dumbledore.

Cast against the backdrop of Lord Voldemort's return, the trial of Harry Potter and subsequent events at Hogwarts examine the rule of law under the stress of a threat to the security of the wizarding world. Efforts to subvert the rights guaranteed Harry in the wizarding world's Charter—including his right to present witnesses—threaten to turn

his hearing into a kangaroo court, saved only by Dumbledore's timely intervention on Harry's behalf. At Hogwarts, where power over both students and faculty is gradually concentrated in the figure of Dolores Umbridge, the novel highlights how the rule of law is threatened when power is allowed to go—and grow—unchecked.

The examples provided by these three books represent just a few of the possibilities for exploring concepts of law and justice through literature in the social studies classroom. Like all literary works, they invite students to enter an imagined world in which real problems are confronted and resolved. They appeal to students' innate sense of fairness and justice, encouraging them to give meaning to these concepts as they work to interpret the characters and situations they encounter in their readings. 📖

## Notes

1. Lewis Carroll, *Alice's Adventures in Wonderland* (New York: The Modern Library, 2002).
2. Louis Sachar, *Holes* (New York: Yearling, 1998).
3. J. K. Rowling, *Harry Potter and the Order of the Phoenix* (New York: Scholastic Press, 2003).

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The American Bar Association Dialogue series is built upon the idea of stimulating conversations about law and its role in society. Often facilitated by a lawyer or judge, these conversations are intended to take place in high school classrooms or community settings.

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