

## BOOK NOTICE

### RECONSTRUCTING RURAL DISCOURSE

Bailey Tulloch\*

WHERE THE CRAWDADS SING. By *Delia Owens*. New York: Putnam. 2018. Pp. ix, 368. \$26.

#### INTRODUCTION

Delia Owens “defied the new laws of gravity”<sup>1</sup> with the success of her 2018 novel *Where the Crawdads Sing*. Described as “both a coming-of-age tale and an engrossing whodunit,”<sup>2</sup> the novel situates readers in the desolate marshlands of the North Carolina coast, looking through the eyes of an abandoned child named Kya. The first half of the story feels almost transcendentalist, focused largely on Kya, her self-reliance, and the bond she forges with the nature that surrounds her. But interspersed throughout this narrative are snippets of a future murder investigation, which leads readers into the events that transpire during the second half of the novel.

This combination of bildungsroman and courtroom thriller placed in an unconventional, natural setting has captivated audiences of all backgrounds. Publishing experts remain baffled by the book’s sales, which hit 4.5 million copies in under a year and a half,<sup>3</sup> as well as its steadfast hold on the *New York*

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1. Edward Helmore, *Retired Biologist’s ‘Painfully Beautiful’ Debut Novel Becomes Year’s Surprise Hit*, GUARDIAN (Dec. 21, 2019, 2:35 PM), <https://www.theguardian.com/books/2019/dec/21/delia-owens-where-the-crawdads-sing-books-america> [perma.cc/AW7S-HK5M].

2. Nora Horvath & Elizabeth Sile, *The Best Books of 2018*, REAL SIMPLE (Nov. 28, 2018), <https://www.realsimple.com/work-life/entertainment/best-books-of-2018?slide=d5388c9f-bda3-4a74-a5c0-e591537358ce#d5388c9f-bda3-4a74-a5c0-e591537358ce> [perma.cc/2S29-YWCB].

3. Helmore, *supra* note 1. For context, the last standalone adult novel to have such unprecedented success was *The Help* by Kathryn Stockett in 2009. In two years, *The Help* sold four million copies, and that includes the ‘bump’ in sales due to the release of the film adaptation. See Andy Lewis, *‘The Help’s’ Strong Box Office Bumps Up Book Sales*, HOLLYWOOD REP. (Aug. 26, 2011, 12:31 PM), <https://www.hollywoodreporter.com/news/help-s-strong-box-office-228350> [perma.cc/4BM2-H9GJ].

*Times* bestseller list still today—nearly four years after publication.<sup>4</sup> While accolades such as a spot on Barnes & Noble's Best Fiction Books of 2018 and a book club endorsement by Reese Witherspoon contributed to the novel's success,<sup>5</sup> critics suggest that "the story of a young woman wrestling with isolation and loneliness in lushly descriptive settings resonate beyond political boundaries and in defiance of falling sales of adult fiction."<sup>6</sup> Further, the dialogue surrounding Kya and her life in the marsh appears far from over, as a film adaptation is currently in the works.<sup>7</sup> *Where the Crawdads Sing*'s unifying effect has propelled it to a position of literary importance, and it has also created an audience for a literary voice not often, nor accurately, represented in popular culture: the voice of ruralism.

Depictions of ruralism in books, movies, and television frequently perpetuate stereotypes and create misunderstandings about the realities of rural life and law. For example, most characterizations of rural lawyers, like those in *Where the Crawdads Sing*, portray them as efficient and accessible. But in reality, studies show that the pool of attorneys serving rural communities is shrinking,<sup>8</sup> making it more difficult for rural dwellers to access legal services. The American Bar Association (ABA) describes rural residents as "disproportionately poor[] and . . . forced to travel long distances to find lawyers to handle routine matters that affect their everyday lives, such as wills, divorces and minor criminal and civil cases."<sup>9</sup> The attorney shortage is due in part to social perceptions of rural lawyering, and this Book Notice evaluates the role that *Where the Crawdads Sing* plays in contributing to these and other rural stereotypes.

This Notice focuses on misconceptions about rural realities and how representations of ruralism in *Where the Crawdads Sing* either perpetuate or deviate from these misunderstandings. Part I provides an overview of the impression of ruralism that *Where the Crawdads Sing* creates. Part II discusses the current state of rural life and justice, highlighting issues of access to justice

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4. See *The New York Times Best Sellers*, N.Y. TIMES: BOOKS, <https://www.nytimes.com/books/best-sellers> [perma.cc/6GEF-TEHA].

5. *Barnes & Noble's Best Fiction of 2018*, BARNES & NOBLE, [https://www.barnesandnoble.com/b/books/barnes-nobles-best-books-of-2018/barnes-nobles-best-fiction-of-2018/\\_/N-29Z8q8Z2rzz](https://www.barnesandnoble.com/b/books/barnes-nobles-best-books-of-2018/barnes-nobles-best-fiction-of-2018/_/N-29Z8q8Z2rzz) [perma.cc/HZ3J-PLST]; Kara Thompson, *Reese Witherspoon's September Book Club Pick is "Painfully Beautiful,"* TOWN & COUNTRY (Sept. 12, 2018), <https://www.townandcountrymag.com/leisure/arts-and-culture/a23101715/reese-witherspoon-september-book-club-where-the-crawdads-sing> [perma.cc/75BU-P4DF].

6. Helmore, *supra* note 1.

7. See Susan Devaney, 'Where the Crawdads Sing': Everything You Need to Know About Daisy Edgar-Jones's Next Film, VOGUE (July 6, 2021), <https://www.vogue.co.uk/arts-and-life-style/article/where-the-crawdads-sing-movie-adaptation> [perma.cc/2BGD-U9US].

8. N.Y. STATE BAR ASS'N, REPORT OF THE NEW YORK STATE BAR ASSOCIATION TASK FORCE ON RURAL JUSTICE 2, 7–8 (2020), <https://nysba.org/app/uploads/2020/04/Report-Task-Force-on-Rural-Justice-April-2020-.pdf> [perma.cc/MA7R-786J].

9. *Legal Deserts Threaten Justice for All in Rural America*, A.B.A. (Aug. 3, 2020), <https://www.americanbar.org/news/abanews/aba-news-archives/2020/08/legal-deserts-threaten-justice> [perma.cc/4K9S-Y2JX].

and other challenges caused by misconceptions about ruralism. Finally, Part III evaluates how *Where the Crawdads Sing* reflects or diverges from reality and considers the real-world implications of those representations.

# I. WHERE THE CRAWDADS SING'S DEPICTION OF RURALISM AND RURAL LAW

*Where the Crawdads Sing* tells the story of Kya, a young girl living in a marsh on the outskirts of a rural North Carolina village.<sup>10</sup> Abandoned by her family, Kya quickly adapts to her surroundings and learns to be self-sufficient in the marsh. Kya's isolation earns her the nickname "Marsh Girl" from the local villagers, most of whom discriminate against her on the few occasions she goes into town. The novel begins by depicting Kya's life in the marsh in the 1950s (pp. 5–8), but the narrative also hints at a murder investigation occurring several years in the future (p. 3). The novel then jumps to 1970 as Kya faces the rural justice system, standing trial for the murder of her abusive ex-lover, a local village boy named Chase.<sup>11</sup>

This Part describes key passages that contribute most significantly to the perception of rural life and law that *Where the Crawdads Sing* creates. Section I.A focuses on the novel's depiction of Kya's rustic life. Section I.B then gives an overview of the novel's presentation of rural law through Kya's experience with the criminal justice system.

## A. Portrayal of Kya's Life in the Marsh

By the time Kya turns ten, every member of her family has abandoned her in the marsh (pp. 73–74). But Kya successfully adapts, finding companionship among the oaks, birds, and swells of the sea. She lives by her own rules, working in tandem with nature to provide for herself; she goes fishing instead of attending school, trades her fresh catch for food and clothes from a local wharf owner, and lives on the land without owing rent to anyone. Every evening, Kya "slip[s] down to the marsh by candle or moon—her shadow wavering around on the glistening sand—and gather[s] mussels deep in the night" (p. 76).

The novel uses lush imagery to paint a portrait of Kya's life in the marsh. The book's opening line introduces the marsh as "a space of light, where grass grows in water, and water flows into the sky" (p. 3). In describing Kya's life, it weaves in poetic descriptions of the natural world, such as "fingers of fog

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10. For an imagined map of Kya's community, see *Where the Crawdads Sing*, BOOKTRAIL (Mar. 9, 2020), <https://www.thebooktrail.com/book-trails/where-the-crawdads-sing-delia-owens> [perma.cc/R9Y9S-C6TR]. Kya can reach the village only by walking a long distance through the marsh or by taking a boat to the town's main dock. *Id.*

11. Pp. 255–57. Chase was a wealthy village boy who met Kya while she was in town one day. Pp. 152–53. Chase clearly viewed Kya as lesser, and throughout their relationship, rebuked her efforts to go on dates in public or meet his friends and family. Pp. 190, 194–95. Kya eventually found out that he was engaged to another woman. Pp. 208–09. Kya broke up with Chase and he attempted to rape her, but she managed to escape. Shortly after, local authorities found Chase dead in a water tower. Pp. 22–25.

flirted with the waves” (p. 178) and “leaves rained and danced around them as silently as snow” (p. 125). The language conjures a vivid, idyllic image of the world in which Kya lives, and in doing so romanticizes her self-sufficient rural life. Kya rarely encounters any challenges as a result of her isolated lifestyle; rather, nature serves as Kya’s steady and reliable friend, and in it she is truly free.

At the same time, Kya’s isolation and self-sufficiency in the marsh make her otherworldly and “wild” in the eyes of the villagers (p. 168). Chase compares Kya to animals, calling her a “she-fox,” “marsh minx,” and “lynx” (pp. 199, 264), and the novel itself also comments on marsh culture. The first chapter declares that “[j]ust like their whiskey, the marsh dwellers bootlegged their own laws—not like those burned onto stone tablets or inscribed on documents, but deeper ones, stamped in their genes. Ancient and natural, like those hatched from hawks and doves” (p. 8). This description of “bootlegged laws” suggests that marsh dwellers, including Kya, live by uncouth rules that make their existence inapposite to mainstream society. Yet the passage also romanticizes this way of life, labeling it “ancient” and “natural,” like something sacred, and draws a parallel to gentle animals such as doves. These juxtaposing concepts—romanticization of ruralism and a pejorative attitude toward rural life—resound throughout the book.

#### B. *Characterization of Rural Law and Justice*

Kya’s freedom in the marsh starkly contrasts with her stifling experience in the village’s criminal justice system. She becomes the prime—and only—suspect in Chase’s murder investigation after his mother tells the police about her suspicions that Kya, “the Marsh Girl,” killed her son (p. 226). The only evidence for her claim is that “Chase had broken off their relationship . . . She couldn’t have him, so maybe she killed him” (p. 172). One officer quickly notes that he “can see somebody from the marsh being involved in this thing. They got their own laws” (p. 173). The very fact that Kya is from the marsh, where the “law” does not align with forms of legal accountability in the village, bolsters suspicions against her despite her sound alibi.<sup>12</sup> And though the police acknowledge that her involvement in the murder “[s]eems a bit of a stretch” (p. 227), they proceed to arrest her.

Kya is “the first female inmate—other than overnights—in years” to be incarcerated in the village jail (p. 276). At night, she hears two men bantering about the “gossip they’d heard about Kya’s case from their visitors. Especially her odds of getting the death penalty, which had not been issued in the county for twenty years, and never to a woman” (p. 277). Fortunately, Kya somehow

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12. At the time of Chase’s death, Kya was in Greenville, North Carolina, meeting with a book publisher about reference guides she created on seashells and seabirds. P. 224. Greenville was about a three-hour bus ride away from Kya’s marsh. Though the police officers confirm that Kya was in Greenville from the evening of October 28th through the afternoon of the 30th, p. 226, and Chase was murdered on the 29th, p. 60, they try to argue that she may have surreptitiously bussed back and forth on the night of the 29th to commit the murder. P. 227.

secures the community's former hot-shot defense attorney, Tom Milton, as her pro bono counsel.<sup>13</sup>

Kya's jury trial further illustrates the village community's parochial legal environment. Kya "recognized [most of the jurors] from the village . . . Mrs. White, who had told her daughter that Kya was dirty, now sat on the jury" (p. 261). Not only did Kya know the jurors, but they knew her, as is inevitable in a small town with only so many people available for jury duty. Bias and animosity pervade Kya's every interaction with the jurors, witnesses, and even the judge. As Tom warns her, "[P]eople in this town are prejudiced, you have to be prepared that it won't be easy for us to win" (p. 287). To convict Kya, all the prosecutor needed was "some plausible concept the jurors could latch on to and pull them in" (p. 336). The attorneys' observations about the case suggest that small-town familiarity and prejudice could undermine the potential of reaching a just result, a notion that Tom embraces in his powerful closing statement.

Tom's closing statement acknowledges the community's discrimination against Kya, "the Marsh Girl," for which he condemns the villagers (p. 340). He reminds them that Kya was

only an abandoned child, a little girl surviving on her own in a swamp, hungry and cold, but we didn't help her . . . Instead we labeled and rejected her . . . If we had fed, clothed, and loved her, . . . we wouldn't be prejudiced against her. And I believe she would not be sitting here today accused of a crime. (p. 340)

Tom's decision to highlight the village culture in his closing rather than emphasizing the legal arguments in his favor shows how small-town characteristics even impact something as "objective" as the law. Ultimately, the jury returns its verdict: Kya is acquitted.

At this point in the novel, readers understand the acquittal to be both just and correct. However, when it is revealed in the last few pages that Kya actually *did* kill Chase, the acquittal becomes complicated, calling into question what "justice" means for this community (pp. 366–68). The jury may have acquitted Kya simply because it did not find enough evidence to prove her guilt beyond a reasonable doubt. Alternatively, the jury could have decided that it was time for the community to atone for years of bias against Kya and grant her the freedom to return to the marsh in peace. Either way, in the end, Kya, who lived according to "ancient" and "natural" laws, received the justice that her rules demanded.<sup>14</sup>

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13. See p. 256. For reasons that are never made clear, Tom came out of retirement to defend Kya. *Id.*

14. This ending follows a pattern similar to another famous novel featuring rural law: *To Kill a Mockingbird*. At the very end of the novel, Bob Ewell, who had previously discriminated and committed horrific wrongs against Tom Robinson, is found dead from a knife wound. Though the sheriff feels certain that Boo Radley committed the murder, he reports the death as an accident to right the wrongs that the community had committed against Tom and Boo. This

## II. REALITIES OF RURAL LIFE AND LAWYERING

While *Where the Crawdads Sing* narrates one view of ruralism and rural lawyering, reality tells a much different story. This Part discusses some of the realities of rural life and lawyering. Section II.A describes the issues of access to justice in rural America, including its causes and possible solutions. Section II.B then evaluates how misunderstandings about rural living exacerbate the social, political, and economic challenges that rural dwellers face.

### A. *The Justice Gap in Rural America*

There are 1.3 million lawyers working in the United States today, but most live in cities, leaving small towns and rural<sup>15</sup> counties with few lawyers.<sup>16</sup> Fifty-four counties nationwide have no lawyers, and nearly every state has at least one county with few or no lawyers.<sup>17</sup> And even in rural counties with a lawyer, there is no guarantee that their services are available to the community;<sup>18</sup> they may be retired, or they may work for the government or a nonprofit organization.<sup>19</sup> This justice gap will likely worsen over time. Recent studies show that many attorneys who currently serve rural communities will retire in the next ten to thirty years, and few attorneys are waiting in the wings to take their place.<sup>20</sup> The origins of this justice gap, specifically financial burdens and rural stereotyping, are discussed in Section II.A.1 before turning to possible solutions in Section II.A.2.

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idea of rural communities creating their own justice thus seems to be a common stereotype. See discussion *infra* Section III.C.2.

15. The word “rural” may itself be a term of art, as it carries different connotations in various contexts. See Lisa R. Pruitt, *Gender, Geography & Rural Justice*, 23 BERKELEY J. GENDER L. & JUST. 338, 344–46 (2008) (explaining that the *Encyclopedia of Rural America* defines rural as places with “sparse populations and relative isolation from urban areas,” but that judges, legislatures, and administrative agencies use other definitions, which may include economic or social factors, and contemporary society similarly contests the term’s meaning); see also Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 177–84 (2006) [hereinafter Pruitt, *Rural Rhetoric*] (discussing various statutory and judicial definitions of “rural”). This Notice adopts the definition used by Debra Lyn Bassett, who defines rural as “communities of 2,500 or fewer people that are located at least fifty miles from a community of 20,000 or more people.” Debra Lyn Bassett, *Ruralism*, 88 IOWA L. REV. 273, 275 n.1 (2003).

16. See A.B.A., ABA PROFILE OF THE LEGAL PROFESSION 2 (2020), <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> [perma.cc/UM52-PVG6].

17. *Id.*

18. *Id.* at 3.

19. *Id.*

20. See N.Y. STATE BAR ASS’N, *supra* note 8, at 8, 11; see also Lisa R. Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 121 (2018).

## 1. The Justice Gap: Why It Exists

The scarcity of lawyers in rural areas creates hardships for rural residents who are already disproportionately poor, forcing them “to travel long distances to find lawyers to handle routine matters . . . such as wills, divorces and minor criminal and civil cases.”<sup>21</sup> This scarcity largely stems from two sources: financial burdens and stereotyping of rural life and lawyering.

Economic factors create significant problems for rural access to justice. The high salaries offered in urban settings, as well as the comfort and ease of living in a bigger city, often make rural practice a hard sell for young lawyers.<sup>22</sup> Expensive law school tuition means large amounts of student debt, leading many young attorneys to pursue lucrative urban firm jobs. And for those who want to work as small-town lawyers, living on a rural lawyer’s salary may be challenging.<sup>23</sup> Lawyers in rural private practice frequently earn even less than public interest attorneys in urban areas,<sup>24</sup> and are also ineligible for the loan forgiveness policies that make public interest work possible.<sup>25</sup> Additionally, many rural residents are unable to afford the minimum hourly rate for an attorney, causing private attorneys to face client shortages, which can push them into urban settings.<sup>26</sup> Financial difficulties also exacerbate the justice gap on the criminal side. Small town budgets cannot support robust public-defense practices, resulting in overwhelming caseloads for the one or two public defenders serving a rural jurisdiction.<sup>27</sup> The inability to access justice in such

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21. *Legal Deserts Threaten Justice for All in Rural America*, *supra* note 9.

22. See Bassett, *supra* note 15, at 278 (describing how our idea of success purveys an urban image). As of 2021, approximately 50 percent of law school graduates at the top-ranked law schools went into Big Law practice in a big city. This number does not include students first doing a clerkship before practicing in Big Law. See Staci Zaretsky, *The Best Law Schools for Getting a Big Law Job* (2021), ABOVE THE L. (Mar. 5, 2021, 12:48 PM), <https://abovethelaw.com/2021/03/the-best-law-schools-for-getting-a-biglaw-job-2021> [perma.cc/MMW8-3TUC].

23. See Wendy N. Davis, *No Country for Rural Lawyers: Despite Incentives, Small-Town Attorneys Still Find It Hard to Thrive*, A.B.A. J., Feb./Mar. 2020, at 32, 32 [perma.cc/R9PV-NMYN]. One attorney, Brian Lohse, started a small practice in Lee County, a rural area of Illinois, following his law school graduation in 1995. He earned only \$27,000 per year even after three years of working. Lohse stated that he would have stayed in Lee County had it been economically feasible, but he could not afford his household and student loan fees and thus felt compelled to take a higher-paying job at a small law firm in Des Moines. *Id.*

24. See Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 ME. L. REV. 209, 218–19 (2019).

25. See *id.*

26. See Davis, *supra* note 23, at 35–37. Maddy Warder, for example, started a practice in the rural town of Oskaloosa, Iowa, specifically targeting low-income residents. Warder set her fees as low as possible, but few clients materialized. Despite a \$2,000 monthly stipend from Drake University Law School, she could not make ends meet and left Oskaloosa to take a job in Sioux City, where her salary doubled. *Id.*

27. See Maybell Romero, *Low-Ball Rural Defense*, 99 WASH. U. L. REV. (forthcoming 2022) (manuscript at 14), <https://doi.org/10.2139/ssrn.3801330>; see also Jessica Pishko, *The Shocking Lack of Lawyers in Rural America*, ATLANTIC (July 18, 2019), <https://www.theatlantic.com/politics/archive/2019/07/man-who-had-no-lawyer/593470> [perma.cc/8DB9-Q9MK].

areas is quantifiable; in Mississippi's most rural counties, indigent defendants may be forced to wait up to a year before being assigned counsel.<sup>28</sup>

Financial burdens are not the only factor causing rural "legal deserts." Social norms, stereotypes, and misunderstandings about ruralism also play a role in diminishing the appeal of practicing in rural areas. As scholar Debra Lyn Bassett contends, "[R]ural areas often are idealized as safe, bucolic, quiet havens from the stress of city living."<sup>29</sup> This idyllic life, immersed in nature, takes center stage in *Where the Crawdads Sing*. On the other hand, those who live in rural areas are often stereotyped as "uneducated and unsophisticated at best" and, at worst, "backward, unattractive, lazy, stupid, and dirty."<sup>30</sup>

Rural stereotypes are driven by a variety of causes, but depictions in books, movies, and television make the most significant contribution. The media purveys varied perspectives of ruralism, very few of which are accurate. Television programs such as *The Beverly Hillbillies* and movies such as *Fargo* show rural dwellers as "dimwitted" and uncivilized, thereby stripping them of legitimacy and perpetuating prejudice.<sup>31</sup> Another prominent stereotype perpetuated by the media is the "country lawyer" archetype, as termed by scholars Judy Cornett and Heather Bosau.<sup>32</sup> The country lawyer is "middle-aged or older, an avuncular mix of wisdom and good humor. He is a generalist, in a small town, deeply connected to his community. He is trusted and respected. The person who is called upon when trouble threatens."<sup>33</sup> Though frequently depicted on screen,<sup>34</sup> in reality, the number of country lawyers has dwindled.<sup>35</sup>

The country lawyer and other stereotypes have turned young attorneys away from rural America. First, the ideals of most law schools run contrary to those of the country lawyer, contributing to their extinction. To be an effective rural lawyer often demands a close relationship with the entire community,<sup>36</sup>

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28. See Pishko, *supra* note 27; see also Arielle Dreher, *Indigent Defendants Denied Counsel, Speedy Trials in 10 Counties*, JACKSON FREE PRESS (Mar. 19, 2018, 12:59 PM), <https://www.jacksonfreepress.com/news/2018/mar/19/indigent-defendants-denied-counsel-speedy-trials-1> [perma.cc/92BS-UV99].

29. Bassett, *supra* note 15, at 275.

30. *Id.*

31. See *id.* at 293–99.

32. See generally Judy M. Cornett & Heather H. Bosau, *The Myth of the Country Lawyer*, 83 ALBANY L. REV. 125 (2019–2020) (tracing the archetype of the country lawyer through American culture and analyzing its effect on the legal profession).

33. *Id.* at 125.

34. Notable country lawyers in the media include Atticus Finch (*To Kill a Mockingbird*), Ephraim Tutt (*Tutt and Mr. Tutt*), and Paul Biegler (*Anatomy of a Murder*).

35. See Cornett & Bosau, *supra* note 32, at 159.

36. *Id.* at 162–63 (describing after-hours work such as "attending civic meetings, chatting with local business owners, and holding happy hours" as attributes of a successful rural lawyer); see also *Practicing Law in a Rural 'Legal Desert'*, CAL. LAWS. ASS'N, <https://calawyers.org/california-lawyers-association/practicing-law-in-a-rural-legal-desert> [perma.cc/5F5J-RRRM] (describing the importance of maintaining good relations with other lawyers in the community "because you're going to see them again"); Stephanie Francis Ward, *Do You Have What It Takes to Be a Rural*



but most law schools train students to maintain a professional distance from clients. Accordingly, many attorneys are unfamiliar with the intimate country-lawyer style of lawyering. Second, small-town lawyers must often practice as generalists, while the legal profession emphasizes specialization.<sup>37</sup> Most law schools provide little guidance about generalist rural careers even for students wishing to pursue them.<sup>38</sup> Finally, the legal community's very idea of success purveys an urban image,<sup>39</sup> pushing law students toward large legal markets and high-powered firms.

Whether because of fear of a financially precarious life or "backward" towns and "uncivilized neighbors," rural stereotypes disincentivize attorneys from practicing in rural areas. The next Section discusses possible solutions for alleviating this problem.

## 2. The Justice Gap: How Can We Solve It?

Possible solutions to the justice gap include state bar association initiatives, community-based resources for rural communities, and better federal support for rural attorneys. This Section discusses some of the current efforts to implement these programs and their efficacy in combating the justice gap.

At the state level, the South Dakota Bar Association in 2012 created one of the few programs to make a positive impact on rural access to justice: Project Rural Practice (PRP). The PRP program combines funding from the state, rural counties, and local bar associations to support young lawyers pursuing legal careers in small towns and farm counties.<sup>40</sup> It also established a program that matches South Dakota attorneys seeking employment with a rural community severely lacking access to justice. In exchange for a five-year commitment to living and practicing in that community, PRP provides funding to the

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*Lawyer?*, A.B.A. J. (Oct. 6, 2014, 8:30 AM), [https://www.abajournal.com/news/article/podcast-monthly\\_episode\\_55](https://www.abajournal.com/news/article/podcast-monthly_episode_55) [perma.cc/7WJZ-EVB3] (arguing that a lawyer's ability to establish a clientele is dependent on developing personal and community relationships).

37. April Simpson, *Wanted: Lawyers for Rural America*, PEW: STATELINE (June 26, 2019), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/06/26/wanted-lawyers-for-rural-america> [perma.cc/Y9C5-9G5H].

38. The few schools that do provide such resources are also in or near rural communities. See, e.g., Davis, *supra* note 23; *Rural Kansas: Continued Investment in Rural Legal Programs*, WASHBURN UNIV., <https://wualumni.org/rural-kansas-law> [perma.cc/44L9-L39Z]; *The Rural Law Initiative*, ALBANY L. SCH., <https://www.albanylaw.edu/government-law-center/the-rural-law-initiative> [perma.cc/L8RJ-M34Z]; *Rural Practice Incubator Project*, UNIV. OF ARK. LITTLE ROCK WILLIAM H. BOWEN SCH. OF L., <https://ualr.edu/law/clinical-programs/rural-practice-incubator-project> [perma.cc/TY3Z-RF5X]; *Rural Law Center*, UNIV. OF WYO., <https://www.uwyo.edu/law/centers/rural-law-center> [perma.cc/UFU6-X4K6]; *infra* notes 43–45 and accompanying text.

39. Bassett, *supra* note 15, at 278.

40. *Legal Deserts Threaten Justice for All in Rural America*, *supra* note 9. For additional information about the program, see *Project Rural Practice*, STATE BAR OF S.D., <https://www.statebarofsouthdakota.com/project-rural-practice> [perma.cc/XZU8-UTCM].

attorney.<sup>41</sup> Now almost a decade later, the program is not only working but is growing in size.<sup>42</sup>

Another initiative that has garnered some success is the University of Nebraska College of Law's Rural Law Opportunities Program (RLOP). Acknowledging that rural residents are best equipped to serve their own communities, RLOP offers scholarships to high schoolers from rural Nebraska to attend one of the three major state universities and then gain automatic acceptance to Nebraska Law.<sup>43</sup> After graduation, RLOP helps each participant gain employment as an attorney back in their rural community.<sup>44</sup> RLOP started in 2016, so it is still too early to determine its viability, but many medical schools have found success after instituting similar pipeline programs.<sup>45</sup>

In most states, however, the situation remains dire.<sup>46</sup> States lack either the funding or the incentive to initiate programming like PRP or RLOP that could positively impact their rural citizens. And for those that have pursued these initiatives, more drastic funding measures are necessary for sustainability.<sup>47</sup>

Community-based resources provide another possible solution. Scholar Hannah Haksgaard proposes building programs in rural areas that would help alleviate the need for counsel in the first place.<sup>48</sup> These might include mental health programs and services for parents facing termination petitions.<sup>49</sup> If these resource gaps were filled, perhaps the burden on the country lawyer to

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41. Patrick G. Goetzinger, *Project Rural Practice: Saving an Endangered Species by Recruiting the Sweet Sixteen*, A.B.A. (July–Aug. 2013), [https://www.americanbar.org/groups/bar\\_services/publications/bar\\_leader/2012\\_13/july\\_august/project\\_rural\\_practice\\_saving\\_endangered\\_species\\_recruiting\\_sweet\\_sixteen](https://www.americanbar.org/groups/bar_services/publications/bar_leader/2012_13/july_august/project_rural_practice_saving_endangered_species_recruiting_sweet_sixteen) [perma.cc/8THZ-DEW8].

42. Libby Leyden, *Program to Establish Attorneys in Rural SD Thriving After Five Years*, AGWEEK (Oct. 6, 2017, 2:24 PM), <https://www.agweek.com/news/4339597-program-establish-attorneys-rural-sd-thriving-after-five-years> [perma.cc/DMD3-6R8Y].

43. See *Rural Law Opportunities Program*, NEB. COLL. OF L., <https://law.unl.edu/RLOP> [perma.cc/SJK8-83NT]. Automatic acceptance is conditional on meeting minimum GPA and LSAT requirements. *Id.*

44. See *id.*

45. See, e.g., UNK Commc'ns, *UNK Program Working to Ease Lawyer Shortage in Rural Areas of Nebraska*, KEARNY HUB (July 24, 2019), [https://kearneyhub.com/news/local/unk-program-working-to-ease-lawyer-shortage-in-rural-areas/article\\_644ed89f-3258-56d4-aca-202a0578592d.html](https://kearneyhub.com/news/local/unk-program-working-to-ease-lawyer-shortage-in-rural-areas/article_644ed89f-3258-56d4-aca-202a0578592d.html) [perma.cc/JHH3-X7V7].

46. *Legal Deserts Threaten Justice for All in Rural America*, *supra* note 9 (describing the lack of a PRP-style program in California and Georgia and expressing pessimism that there will be any improvements in the next ten years); see also Hannah Haksgaard, *Court-Appointment Compensation and Rural Access to Justice*, 14 U. ST. THOMAS J.L. & PUB. POL'Y 88 (2020) (discussing the heightened problems caused by the low rates paid to court-appointed attorneys in rural areas).

47. The New York Bar Association may be making strides in the right direction. It proposes more vigorous funding and outreach for attorneys who might be interested in working in rural New York. For more information about the program, see N.Y. STATE BAR ASS'N, *supra* note 8.

48. Haksgaard, *supra* note 46, at 119–20.

49. *Id.*

perform so many duties in the community would not be as great, and more attorneys would be up to the task.

Finally, federal funding for attorneys in rural America could help shrink the justice gap. In particular, federal aid programs should better assist attorneys working in rural communities who need to pay off student loans.<sup>50</sup> For attorneys who want to live and work in a rural area but cannot afford to do so, removing student debt could make a rural legal career possible,<sup>51</sup> particularly if paired with a postgraduate scholarship or law school stipend.<sup>52</sup>

Ultimately, however, changing perceptions and attitudes about ruralism may serve the greatest role in lessening the justice gap. With better, more accurate awareness of the realities that rural dwellers face, more attorneys may follow.

#### B. Legal, Economic, and Social Challenges Caused by Rural Misperceptions

Problems in the legal field are clearly interconnected with pervasive rural social issues, and without change, rural dwellers will continue to face disadvantages beyond a lack of legal representation.<sup>53</sup> Misunderstandings about rural realities negatively influence judicial decisionmaking, result in economically harmful legislation, and create barriers to social change and advancement.

Rural stereotyping not only exacerbates the justice gap but also impacts the development of state common law and interpretations of federal law. Because many judges do not understand rural lifestyles, they often take rural stereotypes and perceptions into consideration when deciding cases, even when ruralism has no apparent relevance to the outcome of the given legal issue.<sup>54</sup> For example, in *FCC v. Fox Television Stations, Inc.*, the Supreme Court considered whether the FCC's rules regarding "profanity bleeping" technology for television broadcasters violated the Administrative Procedure Act.<sup>55</sup> Justice Scalia wrote that the FCC need not worry about small-town broadcasters' financial ability to comply with the regulations because "down-home local guests" as well as their audiences are less likely to be "vulgar[]." <sup>56</sup> Bud Jerke notes that Justice Scalia's "casual and gratuitous assertion sweeps the very real

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50. *Id.* at 122–24; *see also* Pruitt et al., *supra* note 20, at 58–60.

51. *See* Haksgaard, *supra* note 46, at 122–24.

52. *See supra* note 26 (discussing Maddy Warder and her failed attempt at becoming a rural lawyer despite a monthly stipend from Drake Law School); *see also* *Maine Law's Rural Lawyer Project Awarded Three-Year Grant from the Betterment Fund*, UNIV. OF ME. SCH. OF L. (Oct. 22, 2019), <https://mainelaw.maine.edu/news/maine-laws-rural-lawyer-project-awarded-three-year-grant-from-the-betterment-fund> [perma.cc/LEJ7-DU3E].

53. Pruitt et al., *supra* note 20, at 19 (describing health, consumer finance, and employment problems as closely interconnected with the types of civil legal disputes common in rural areas).

54. Pruitt, *Rural Rhetoric*, *supra* note 15, at 167.

55. *See* 556 U.S. 502 (2009).

56. *Id.* at 527.

legal concerns of broadcasters in rural areas under the rug; it provides cover for ignoring rural realities.”<sup>57</sup>

Just like Justice Scalia, judges and legislatures across America employ sweeping rural stereotypes when coming to conclusions about property, criminal, child custody, and tort laws.<sup>58</sup> They consider distinctions between rural and urban areas without empirical evidence related to the lives of rural dwellers, relying instead on assumptions about rural lifestyles.<sup>59</sup> For example, in a Kentucky child welfare case, a judge wrote that it would not promote the children’s welfare to “transplant” them from an established urban home to a rural home “utterly unlike anything to which they had become accustomed”;<sup>60</sup> a judge in Georgia similarly cited the “stigma that the child may face growing up in a small, rural town” to justify revoking child custody.<sup>61</sup>

Misunderstandings about ruralism often result in rules and regulations that further fuel stereotypes and that frequently have adverse economic effects on rural communities.<sup>62</sup> Presumptions about who lives and works in rural America affect the distribution of federal spending, such as the Supplemental Nutrition Assistance Program (SNAP).<sup>63</sup> High levels of unemployment and poverty levels in rural areas caused by dwindling job opportunities reinforce the stereotype of rural dwellers as “lazy.”<sup>64</sup> Without knowledge of the real forces behind such statistics, policymakers instead rely on these stereotypes when legislating. Thus, efforts to tighten the work requirements for federal benefits programs such as SNAP and Medicaid, targeted to reduce the number of “lazy” beneficiaries, only exacerbate unemployment and poverty in rural areas.<sup>65</sup>

57. Bud W. Jerke, Student Article, *Queer Ruralism*, 34 HARV. J.L. & GENDER 259, 296 (2011). Just weeks before the *Fox* decision, the popular sitcom *30 Rock* challenged the assumption that small towns are less “vulgar.” In the episode, the TV producers were seeking someone “wholesome” from the “real America,” so they went to a rural comedy club, only to discover that it was just as vulgar as comedy clubs in New York. *30 Rock: Stone Mountain* (NBC television broadcast Oct. 29, 2009). This is a rare example of media correcting a common misunderstanding about rural life, but the episode still perpetuates other stereotypes about rural areas. For example, in the episode, Liz gets food poisoning from the “carp po’ boy with extra chuckle” and a “slow” receptionist services guests at the hotel. *Id.*

58. See Pruitt, *Rural Rhetoric*, *supra* note 15, at 184–99. Pruitt describes child welfare cases where judges refused custody out of concern for a transition from urban to rural life, statutory exceptions to strict liability for dog bites in rural areas, and greater expectations of privacy for rural residents in considering the propriety of search and seizures in criminal law.

59. *Id.* at 207.

60. *Id.* at 186.

61. Jerke, *supra* note 57, at 296–98 (emphasis omitted).

62. See Pruitt, *Rural Rhetoric*, *supra* note 15, at 207.

63. See Bryce Oates, ‘Stereotypes Get in the Way’ of Rural Nutrition Program, Says Head of National Advocacy Group, DAILY YONDER (Jan. 15, 2020), <https://dailyyonder.com/stereotypes-get-in-the-way-of-rural-nutrition-program-says-head-of-national-advocacy-group/2020/01/15/> [perma.cc/Y5F8-JBVQ]; see also Bassett, *supra* note 15, at 279–80.

64. See Oates, *supra* note 63.

65. See *id.*

Harmful rural stereotypes also create additional barriers for social change. Many urban dwellers wrongly assume that rural America is predominantly inhabited by white, religious conservatives.<sup>66</sup> This assumption “uniquely complicates life for queer rural dwellers,”<sup>67</sup> and discussions about opportunity and equality in rural America frequently ignore the experiences of Black, Native American, Latinx, LGBTQ, immigrant, and disabled people.<sup>68</sup> Consequently, social movements are less likely to focus efforts in these communities.<sup>69</sup> They either fail to reach rural areas, or if they do, the burden of taking a stance is shouldered by individuals who risk alienation from their communities.<sup>70</sup> Misunderstandings about rural diversity and the potential for discrimination also dissuade young attorneys who are female, minorities, or LGBTQ from pursuing careers there.<sup>71</sup>

Even when stereotypes seem more positive, they may still have negative effects on rural communities. As Bassett observes, “the romanticism associated with rural areas fails to acknowledge the increasing levels of poverty,” which exacerbates lack of access to other needs such as medicine, education, and technology.<sup>72</sup> In sum, misunderstanding and mischaracterization of rural communities creates very real consequences for all aspects of rural living.<sup>73</sup> *Where the Crawdads Sing* has the power to encourage the first step toward more accurate discourse about rural areas in contemporary society.

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66. OLUGBENGA AJILORE & CAIUS Z. WILLINGHAM, CTR. FOR AM. PROGRESS, REDEFINING RURAL AMERICA 9 (2019), <https://cdn.americanprogress.org/content/uploads/2019/07/27080905/redefining-rural-america-brief.pdf> [perma.cc/36BX-XJDV]; Oates, *supra* note 63.

67. Jerke, *supra* note 57, at 264; MOVEMENT ADVANCEMENT PROJECT, WHERE WE CALL HOME: LGBT PEOPLE IN RURAL AMERICA 56–58 (2019) (describing how the social and political landscapes in rural areas result in fewer policies and legal protections for LGBT people).

68. AJILORE & WILLINGHAM, *supra* note 66, at 1; *see also* NPR, ROBERT WOOD JOHNSON FOUND. & HARVARD T.H. CHAN SCH. OF PUB. HEALTH, LIFE IN RURAL AMERICA: PART II, at 13, 23–26 (2019), [https://media.npr.org/documents/2019/may/NPR-RWJF-HARVARD\\_Rural\\_Poll\\_Part\\_2.pdf](https://media.npr.org/documents/2019/may/NPR-RWJF-HARVARD_Rural_Poll_Part_2.pdf) [perma.cc/P2VA-SXBN] (reporting that minorities in rural America rate their quality of life as fair or poor at higher rates than rural Americans overall).

69. *See* Jerke, *supra* note 57, at 263.

70. *E.g.*, Jim Carlton, *Black Lives Matter Protests Spread Quickly to White, Rural Areas*, WALL ST. J. (June 22, 2020, 5:30 AM), <https://www.wsj.com/articles/black-lives-matter-protests-spread-quickly-to-white-rural-areas-11592818201> [perma.cc/K4B8-YG93]. For example, following the murder of George Floyd, two high school students in rural St. Helens, Oregon, wanted to organize a Black Lives Matter protest and posted about the event on the town’s Facebook page. The next morning, locals threatened to run over, shoot, or throw protestors into the river. To ensure the safety of the protest, a student reached out to an urban community organizer. *See* April Simpson, *Why Rural America Is Joining the Movement for Black Lives*, PEW: STATELINE (June 12, 2020), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/12/why-rural-america-is-joining-the-movement-for-black-lives> [perma.cc/2DS9-NEY9].

71. *See* Cornett & Bosau, *supra* note 32, at 160.

72. *See* Bassett, *supra* note 15, at 300, 302, 318.

73. *See id.* at 300.

III. THE RURAL DISCOURSE OF *WHERE THE CRAWDADS SING*

With the realities of rural living in mind, *Where the Crawdads Sing* presents a complicated image of life and law in rural communities. One important consideration to note is the novel's 1970s setting. Some aspects of the book's depiction of rural justice may be accurate for that decade, but this Notice operates under the assumption that most readers will not make that differentiation, instead associating the state of rural law in *Where the Crawdads Sing* with the state of rural law today.

This Part considers the ways in which *Where the Crawdads Sing* both reflects and deviates from the realities of ruralism and rural law. It focuses first on the real-world consequences of the novel's romanticization of rural life, then evaluates its depiction of rural lawyering, and finally turns to the novel's presentation of the rural carceral system and jury trials.

A. *Romanticizing Ruralism: Fiction and Reality*

Scholar Lisa Pruitt observes that most people “‘come to know rural America only through stereotypical media portrayals’ . . . [A]s a consequence, ‘[t]he true nature of rurality’ . . . is inconsistent with most Americans’ perceptions.”<sup>74</sup> Indeed, some have criticized *Where the Crawdads Sing* as perpetuating these conceptions of ruralism, particularly through its idyllic portrayal of Kya's life in the marsh and her harmony with nature.<sup>75</sup> The romanticized and nostalgic tone of the novel might depict a more charitable view of ruralism, but it has consequences in failing to acknowledge some of the challenges associated with a rural lifestyle. Namely, it diminishes rural dwellers' problems<sup>76</sup> and dehumanizes them, resulting in continued discrimination.<sup>77</sup>

In its romanticized depiction of Kya's self-sufficiency, *Where the Crawdads Sing* glosses over many hardships that Kya likely faced as a ten-year-old living alone in a marsh. For example, after Kya steps on a rusty nail (p. 32), she does not seek medical attention. Instead, she heals herself by “limp[ing] into the woods toward a brackish slipstream . . . its edges glisten[ing] with brilliant white crystals. She s[its] on the ground, soaking her foot in the marsh's brine” (p. 33). The scene does display a realistic hardship of rural life—being isolated from modern medicine and swift treatment<sup>78</sup>—but skims

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74. Pruitt, *Rural Rhetoric*, *supra* note 15, at 164–65.

75. See Jeremy Ray Jewell, *Are the Rural Poor Noble Savages?*, ARTS FUSE (Mar. 5, 2019), <https://artsfuse.org/181345/book-review-where-the-crawdads-sing-are-the-rural-poor-noble-savages> [perma.cc/D9RM-R7QS] (reviewing *Where the Crawdads Sing*). Jewell commented that “[w]hat *Crawdads* lacks is acknowledgment of how the ‘primitive,’ ‘backwards’ South is pressing itself against (or being squeezed out by) the ‘progressive,’ ‘elitist’ South. The narrative welcomes rural gentrification while serving up an air-brushed reproduction of small-town Southern pasts.” *Id.*

76. See Bassett, *supra* note 15, at 297–98.

77. See *id.* at 299.

78. Geographical constraints limit access not only to legal services, see *supra* Section II.A.1, but also to medical services. In 1970, when part of *Where the Crawdads Sing* takes place,

over it by instead highlighting Kya's self-sufficiency and romanticizing her harmony with nature through poetic language.

As Pruitt notes, the stereotypical assumption that rural citizens are "autonomous and self-sufficient" creates real-world consequences, leading "courts to uphold legislation that differentiates between rural and urban in terms of the type and degree of legal regulation deemed appropriate."<sup>79</sup> Justice Scalia's *Fox* opinion is one example,<sup>80</sup> but even state courts make harmful assumptions about rural populations.<sup>81</sup> For instance, the Oklahoma Supreme Court upheld the application of a standard-setting code that required greater safety when laying pipelines in urban areas than in rural areas.<sup>82</sup> Therefore, romanticized descriptions of rural self-sufficiency in the media are hardly inconsequential. The depiction of Kya's life in *Where the Crawdads Sing* perpetuates harmful stereotypes of rural communities being "safe, bucolic, quiet havens from the stress of city living,"<sup>83</sup> which lead judges to believe they do not require the protection of courts and legislatures.

The novel also romanticizes the marsh's "bootlegged" law (p. 8) in a way that has real-world implications.<sup>84</sup> First, the reference itself perpetuates the common stereotype of rural people as lawless, or at least living by their own set of rules. A study of American history textbooks revealed this stereotype to be a prominent feature,<sup>85</sup> which, when taught to schoolchildren, only further embeds notions of ungovernability that may lead to disparate regulatory treatment. Further, casting this lawlessness in a romantic light belies some of the real challenges faced by rural people. For example, one in three communities

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"there were twice as many physicians per capita in urban America than in rural America." Bassett, *supra* note 15, at 318. Even in rural areas where physicians are more accessible, the cost of medical care may hinder rural residents' ability to visit with a doctor. Federal policies provide only half the number of Medicaid and Medicare reimbursements to rural physicians and hospitals than are given in their urban counterparts. *Id.* at 319. For modern statistics, see *About Rural Health Care*, NAT'L RURAL HEALTH ASS'N, <https://www.ruralhealthweb.org/about-nrha/about-rural-health-care> [perma.cc/D5AX-Q93T].

79. Pruitt, *Rural Rhetoric*, *supra* note 15, at 226.

80. See *supra* text accompanying note 55.

81. See *Triggally v. Mayor & Aldermen of Memphis*, 46 Tenn. (6 Cold.) 382, 388 (1869) ("Laws and regulations adequate to protect the safety, health, comfort and good neighborhood of people in rural districts, are utterly insufficient for such purposes in the cities."). The Tennessee Supreme Court concluded not only that rural folk need less law enforcement oversight and intervention but also that they are less tolerant of it. Pruitt, *Rural Rhetoric*, *supra* note 15, at 201.

82. See *Barnes v. Transok Pipeline Co.*, 549 P.2d 819, 821 (Okla. 1976).

83. Bassett, *supra* note 15, at 275.

84. This romanticization occurs through the language itself, see *supra* Section I.A, and arguably through the verdict in Kya's case, see *supra* Section I.B.

85. Aimee Howley, Karen Eppley & Marged H. Dudek, *From Ingenious to Ignorant, from Idyllic to Backwards: Representations of Rural Life in Six U.S. Textbooks over Half a Century*, in (RE)CONSTRUCTING MEMORY: TEXTBOOKS, IDENTITY, NATION, AND STATE 93, 109–110 (James H. Williams & Wendy D. Bokhorst-Heng eds., 2016).

in Alaska have no local law enforcement, leaving “residents to fend for themselves.”<sup>86</sup> By casting rural “lawlessness” in a sentimentalized light, *Where the Crawdads Sing* suggests that there are no real downsides, which is far from the truth.

If popular culture continues to perpetuate romanticized perspectives of rural areas as idyllic, self-sufficient, and lawless, the poverty and inequities that rural communities experience will only continue to worsen.<sup>87</sup> In order to fix resource gaps in rural areas, urban communities first need to be made aware of the problem.<sup>88</sup> Books and films such as *Where the Crawdads Sing* can start the conversation about the need to reduce romanticized portrayals of rural communities and instead showcase rural realities.

### B. Rural Lawyering: Fiction and Reality

Another overly romanticized portrayal of ruralism in the novel is Tom Milton’s heroic performance both in and out of the courtroom. Tom’s character perpetuates two misconceptions about rural lawyering: first, he makes rural lawyers appear easily accessible, and second, his character embodies preexisting stereotypes of rural lawyering.

Tom’s unexpected arrival creates a misguided and inaccurate depiction of access to justice and the quality of legal representation in rural areas. The novel provides no discussion of Tom’s motives or why he chose to come out of retirement to save Kya; all readers know is that “[l]ike everyone else, he had heard stories about the Marsh Girl, and . . . seen her occasionally” (p. 256). But given the dwindling numbers of attorneys living in rural areas, Kya’s marsh village would be unlikely to have any lawyers at all.<sup>89</sup> In today’s reality, Kya would need to use a public defender from the closest town<sup>90</sup> or, if her local

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86. Kyle Hopkins, *Lawless: One in Three Alaska Villages Have No Local Police*, ANCHORAGE DAILY NEWS (Oct. 17, 2019), <https://www.adn.com/alaska-news/lawless/2019/05/16/lawless-one-in-three-alaska-villages-have-no-local-police> [perma.cc/N3VW-4PCZ].

87. See Bassett, *supra* note 15, at 303 (“Our society’s urban focus magnifies the invisibility that enshrouds the problem of poverty in rural areas, and therefore ruralism exacerbates poverty in rural areas.”).

88. See *id.* at 329–30 (“Perhaps even more dismaying than actual disadvantages caused by ruralism is the lack of awareness of prejudice. . . . Outside of a few who specialize in rural studies, ruralism as a phenomenon is largely unrecognized.” (footnote omitted)).

89. See *Legal Deserts Threaten Justice for All in Rural America*, *supra* note 9. Since this story is set in the 1970s, there were more lawyers living in rural communities than there are today, but still not many. See Jack Karp, *No Country for Old Lawyers: Rural U.S. Faces a Legal Desert*, LAW360 (Jan. 27, 2019, 8:02 PM), <https://www.law360.com/articles/1121543/no-country-for-old-lawyers-rural-u-s-faces-a-legal-desert> [perma.cc/S3YS-SYNS] (“[B]aby-boomer attorneys who set up shop in America’s small towns 40 or 50 years ago [are] retir[ing] and younger attorneys choose to congregate in cities rather than fill the gap.”).

90. See Romero, *supra* note 27, at 8–9. This assumes that a judge would grant Kya, an indigent defendant, her Sixth Amendment right to counsel. In many small towns, increasing demands for counsel paired with decreasing revenue make providing public defenders difficult. This conflict has resulted in the denial of many indigent defendants’ Sixth Amendment rights, a



government had such a partnership, would be represented by a “‘pro bono lawyer’ borrowed from a big firm whom [she] will probably never see again.”<sup>91</sup> In either circumstance, Kya’s counsel would not only be difficult to retain but would also likely lack insight into the dynamics within her rural community,<sup>92</sup> the key to Tom’s success in her case. Instead of acknowledging this reality, the novel’s inclusion of Tom’s character and his ability to win an acquittal may further exacerbate the justice gap. Because most people “come to know rural America only through stereotypical media portrayals,”<sup>93</sup> depictions of easily accessible attorneys such as Tom make rural legal deserts difficult to recognize. Without awareness of the problem, the gap will only continue to widen.<sup>94</sup>

Tom’s character also perpetuates the country lawyer stereotype. As Cornett and Bosau describe, the country lawyer “crusad[es] for the underdog.”<sup>95</sup> Here, Tom swoops in to provide the “uneducated and unsophisticated” underdog, Kya, with counsel. His ability to rise above town gossip and condemn the jurors—and the community at large—for their discrimination against Kya mirrors the characteristics of the “foremost fictional country lawyer”: Atticus Finch.<sup>96</sup> Like Atticus, Tom “is the ultimate insider who gives outsiders . . . access to justice.”<sup>97</sup> Because many consider Atticus Finch to represent the ideal standard to which lawyers should aspire,<sup>98</sup> Tom’s revival of the country-lawyer archetype seems to put a positive spin on rural law and justice. But it also perpetuates tropes that discourage many young attorneys from practicing in rural America, such as the need to be an “insider” embedded in the community. Tom not only provides Kya with counsel but also serves as a source of paternal

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phenomenon that can only be eliminated by employing more attorneys in rural areas or providing better funding for rural criminal justice systems. See, e.g., David Carroll, *Putting the Spotlight on Small-Town America: Putnam County, Indiana*, SIXTH AMENDMENT CTR. (Dec. 5, 2012), <https://sixthamendment.org/putting-the-spotlight-on-small-town-america-putnam-county-indiana> [perma.cc/YJ4Y-922Y]; Rebecca McCray, *This Is What Justice Looks Like in Many Small Towns Across America*, TAKEPART (Aug. 14, 2015), <https://web.archive.org/web/20211018223142/http://www.takepart.com/feature/2015/08/14/indigent-courts-right-attorney> [perma.cc/Y766-MBTD].

91. Cornett & Bosau, *supra* note 32, at 167.

92. See Jill M. Leibold, *4 Challenges of Jury Selection in Small Town Venues*, LITIG. INSIGHTS (June 15, 2018), <https://www.litigationinsights.com/challenges-small-town-venues> [perma.cc/3M3X-MWUB].

93. Pruitt, *Rural Rhetoric*, *supra* note 15, at 164.

94. Pruitt et al., *supra* note 20, at 155.

95. Cornett & Bosau, *supra* note 32, at 156.

96. *Id.* at 153.

97. *Id.* at 155.

98. E.g., William Holston, *Commentary: Why We Need More Lawyers Like Atticus Finch*, KERA NEWS (Feb. 26, 2016, 7:31 AM), <https://www.keranews.org/commentaries/2016-02-25/commentary-why-we-need-more-lawyers-like-atticus-finch> [perma.cc/XRC9-M7PH]. But see Cynthia D. Bond, *To Kill a Lawyer-Hero: Atticus Finch in the Law School Classroom*, 45 RUTGERS L. REC. 191 (2017–2018) (discussing some of the changed perceptions of Atticus Finch after Harper Lee’s posthumous *Go Set a Watchman* was published and positing that Atticus may not actually represent socially conscious lawyering).

comfort, taking concern when she gets mosquito bites in jail (pp. 286–87) and bringing her books (p. 257). By depicting the pinnacle of a rural lawyer as avuncular and closely connected to the community, *Where the Crawdads Sing*, among other fictional works, makes rural lawyering appear inaccessible to urban lawyers.<sup>99</sup> As a result, even attorneys who are willing to work in rural areas might be dissuaded from practicing there, which further widens the justice gap.

### C. *The Rural Justice System: Fiction and Reality*

The accuracy of *Where the Crawdads Sing*'s depiction of rural incarceration and the trial process depends on one key factor: the book's 1970s setting. Kya's experience at the local prison and courthouse may more adequately represent rural incarceration in the 1970s, but incarceration looks much different in rural communities today.<sup>100</sup> This Section compares Kya's experiences with reality, both in the 1970s and today, and evaluates the impact of each depiction. Because this Notice assumes that most readers of the novel are unfamiliar with the changes in rural prisons and justice system in the intervening decades, it considers Kya's experience to be the primary perception of rural incarceration that readers will take away. This perception leaves much to be corrected.

#### 1. The Carceral System

Kya's pretrial experience would look very different in today's criminal justice system. During her time in prison, there are only two other incarcerated individuals present: men serving thirty days for starting a fight at a beer hall (p. 277). "The county jail consisted of six twelve-by-twelve cells in a cement-block, one-story building" (p. 275). The novel also notes that Kya is among the very few women to have been incarcerated in her county (pp. 276–77). These details paint the village as devoid of true crime—to the point where even six jail cells are excessive—and perpetuate the stereotype of rural areas as being "safe, bucolic, quiet havens from the stress of city living."<sup>101</sup> But in reality, today's rural prisons are overcrowded and underfunded, and they continue to incarcerate more individuals than ever before.<sup>102</sup>

In rural areas, the rise in prison population is partly a result of longer pretrial detention periods.<sup>103</sup> While Kya laments the duration of her two-month

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99. This is likely even more true for female lawyers.

100. See generally JACOB KANG-BROWN & RAM SUBRAMANIAN, VERA INST. OF JUST., OUT OF SIGHT: THE GROWTH OF JAILS IN RURAL AMERICA (2017), <https://www.vera.org/downloads/publications/out-of-sight-growth-of-jails-rural-america.pdf> [perma.cc/2W7A-B7V3] (reporting the increase of incarceration in rural areas and its effects on rurality).

101. Bassett, *supra* note 15, at 275.

102. See KANG-BROWN & SUBRAMANIAN, *supra* note 100.

103. LÉON DIGARD & ELIZABETH SWAVOLA, VERA INST. OF JUST., JUSTICE DENIED: THE HARMFUL AND LASTING EFFECTS OF PRETRIAL DETENTION 2 (2019), <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf> [perma.cc/N6BV-J3AZ]; see also German Lopez, *Mass Incarceration in America, Explained in 22 Maps and Charts*, VOX (Oct. 11,

incarceration (p. 255), in reality, she would be fortunate if her pretrial detainment were so brief.<sup>104</sup> Kya's swift trial belies the inequities and difficulties that exist in rural counties.<sup>105</sup> For example, fewer judges are available to hear cases in rural communities.<sup>106</sup> As a result, some rural counties can only hold hearings during business hours,<sup>107</sup> while others rely on circuit judges who cover multiple districts and can only convene every few months.<sup>108</sup>

The lack of funding for rural criminal justice systems also worsens the problems of prolonged detainment and mass incarceration. Without adequate funding, most counties have less robust pretrial services and fewer diversion programs.<sup>109</sup> This makes pretrial risk assessments either unavailable or inaccurate, and it diminishes the number of community-based programs to aid in bail-release advocacy.<sup>110</sup> Further, cash-strapped rural jurisdictions can obtain per diem funding from federal and state prison systems, as well as federal immigration centers, by selling their unused jail beds.<sup>111</sup> Consequently, some rural jails have built out capacity far in excess of what they require locally, either by expanding on existing facilities, adding as many extra beds as possible, or building entirely new facilities.<sup>112</sup>

In addition to this depiction of pretrial detainment, *Where the Crawdads Sing* also provides fodder for discussions of racial disparities and sentencing.

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2016, 1:50 PM), <https://www.vox.com/2015/7/13/8913297/mass-incarceration-maps-charts> [perma.cc/M6BK-HCDZ].

104. The Bureau of Justice Statistics published a report in 2000 that determined the average elapsed time from date of arrest to date of felony conviction. For jury trials, the average was nine months, and it was eleven months for murder cases. See DAVID J. LEVIN, PATRICK A. LANGAN & JODI M. BROWN, DEP'T. OF JUST., BUREAU OF JUST. STAT., STATE COURT SENTENCING OF CONVICTED FELONS, 1996, at iv (2000), <https://bjs.ojp.gov/content/pub/pdf/scscf96.pdf> [perma.cc/RZG4-C7MT].

105. See KANG-BROWN & SUBRAMANIAN, *supra* note 100, at 7.

106. *Id.* at 7, 18–19.

107. By contrast, arraignment courts in New York City are open every day of the week, from the early morning until 1 a.m. the following night. *Id.* at 19.

108. *Id.*

109. *Id.* at 7, 19.

110. *Id.* at 19–20. This lack of community programming also means that individuals facing mental illness, homelessness, or substance-abuse problems are unable to meet with trained specialists who can address their needs before and after trial. *Id.*

111. *Id.* at 21.

112. *Id.*

Racial disparities, notably absent in the novel's portrayal of the justice system,<sup>113</sup> are heightened in rural prisons.<sup>114</sup> People of color are incarcerated at higher rates in rural jails than in urban jails, where the percentage of incarcerated minorities is actually decreasing.<sup>115</sup> False assumptions about rural America as entirely white skew these alarming statistics, perpetuating the disenfranchisement of minorities who already face exacerbated levels of poverty and discrimination in rural areas.<sup>116</sup> Readers learning of Kya's experience in the rural jail most certainly fail to gain an accurate understanding of the demographics of rural prisons.

The book's depiction of Kya's death-penalty charges as unusual holds truer. Only 2 percent of all death sentences are imposed on women.<sup>117</sup> Even in North Carolina, the state ranked fourth in number of female death sentences, Kya's charge probably would have been extreme in 1970; since then, between 1973 and 2020, North Carolina has only sentenced sixteen women to death.<sup>118</sup>

While Kya's experience may not properly represent modern pretrial circumstances, it may be more accurate for the 1970s. Mass incarceration, especially in rural areas, only began to increase right after that decade.<sup>119</sup> But most readers lack the background knowledge to differentiate the past from the present, and this makes the novel's depiction of rural justice systems troubling. If readers consider Kya's experience to be the norm, then the novel raises no awareness of the fact that rural prisons are overcrowded and underfunded despite lower crime rates.<sup>120</sup> This highlights a pressing reason for more scholarship, research, and social awareness about rural law. Expanding discourse about ruralism in scholarship will generate more thoughtful engagement with depictions of rural justice like *Where the Crawdads Sing*.

## 2. Jury Trial Process

Kya's trial, by contrast, paints a more accurate picture of rural realities through the prejudice experienced at the hands of her jury. Many scholars

113. Though the book does not portray racial inequities specifically in its depiction of the justice system, it does address them more generally within the rural community. Specifically, the novel acknowledges the discrimination faced by two Black characters, Jumpin' and his wife Mabel, who are parent figures to the Kya, by describing that they live just outside the village in "Colored Town—a cluster of shacks and lean-tos . . . deep in the woods, back from the sea, with no breeze." P. 81.

114. Micah Haskell-Hoehl, *Time for a New Federal Commitment on Rural Jail Incarceration*, VERA INST. OF JUST. (Dec. 16, 2019), <https://www.vera.org/blog/target-2020/time-for-a-new-federal-commitment-on-rural-jail-incarceration> [perma.cc/7L8C-Q52L].

115. See *id.*; see also KANG-BROWN & SUBRAMANIAN, *supra* note 100, at 13.

116. See Bassett, *supra* note 15, at 330.

117. See *Women's Death Sentences Since 1973: Number and Geography*, DEATH PENALTY INFO. CTR., <https://deathpenaltyinfo.org/death-row/women/womens-death-sentences-since-1973-number-and-geography> [perma.cc/A2PA-P8E4].

118. *Id.*

119. See Lopez, *supra* note 103.

120. KANG-BROWN & SUBRAMANIAN, *supra* note 100, at 7.

have noted the paradoxical nature of small-town closeness, where “‘social relationships are face to face and personal’ . . . but . . . the individual is subjected to ‘continuous observation and control by the community.’”<sup>121</sup> While most literature, films, and other cultural works romanticize this small-town closeness as creating a familial environment,<sup>122</sup> *Where the Crawdads Sing* takes a different approach. The novel highlights the way that village closeness—inescapable in a rural criminal justice system—caused jurors to unfairly prejudice Kya, yet it also suggests that it is the reason for her acquittal.

Voir dire aims to eliminate any biased jurors who are familiar with the defendant, such as Mrs. White in Kya’s trial.<sup>123</sup> But small towns have limited jury pools, such that a few jurors might inevitably have personal knowledge of the trial, have similar lawsuits of their own if the case is a civil suit, or have personal relationships with their fellow jury members.<sup>124</sup> Attorneys may not have enough peremptory strikes to remove jurors with such knowledge or background, and the judge may simply rely on jurors’ assertions of unbiased fairness in order to keep them on the jury.<sup>125</sup> Alternatively, a lack of qualified jurors may force the judge to impanel a jury from a neighboring town. But in rural areas, the nearest city may be over an hour away.<sup>126</sup> In such instances, the extra time required for juror and witness travel, as well as exhibit transportation, frequently delay trial.<sup>127</sup>

The novel’s somewhat unsettling ending, culminating in an incorrect verdict, further spotlights problems caused by this small-town closeness. Bias against Kya led to her arrest and permeated the evidence presented at trial. But the existence of this bias may have eventually led to her acquittal, as the novel seems to suggest that Tom’s closing argument convinced jurors to atone for their prejudice. Had there been a broader jury pool or funding for travel between towns, maybe Kya’s trial would not have been decided as a referendum on village culture, and maybe it would have actually reached the truth.

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121. Pruitt, *Rural Rhetoric*, *supra* note 15, at 171.

122. *Id.* at 171 n.58 (discussing scholar Walter Höbbling’s survey of small towns in twentieth-century literature and his conclusion that the small town represented a place where people can find their “home”).

123. See *supra* Section I.B.

124. Leibold, *supra* note 92.

125. *Id.*

126. See, e.g., Michael F. Yoshiba, *Small Town Jury Trials: How the Size of a Community Can Cause Unexpected Delays*, RIGHT OF WAY, May/June 2015, at 20, [https://eweb.irwaonline.org/eweb/upload/web\\_mayjune\\_15\\_LegalInsight.pdf](https://eweb.irwaonline.org/eweb/upload/web_mayjune_15_LegalInsight.pdf) [perma.cc/A7PY-S2JB] (describing a jury trial in Barstow, California, that had so few qualified jurors that a jury panel was ordered from Victorville, the nearest city, which was still thirty-two miles away).

127. See *id.*

Today, several states have implemented measures to ameliorate these inequities, such as transporting defendants in remote areas to larger cities<sup>128</sup> or reimbursing rural jurors for taxi, airline, and bus fares.<sup>129</sup> But even in states like Alaska, where courts have taken measures to balance impartiality and community representation,<sup>130</sup> rural defendants still face disadvantages. They may be unaware of the rules permitting them to transfer their trials to venues with fairer jury pools, or their counsel may neglect to inform them of these rules out of a desire to try the case in an urban area.<sup>131</sup>

In sum, *Where the Crawdads Sing*'s portrayal of juror familiarity and bias is not wholly inaccurate and may even catalyze positive growth for rural communities. The novel opens the door for conversation about how to improve rural jury selection and minimize prejudices infiltrating the judicial process.

#### CONCLUSION

Recognition of ruralism is a necessary first step in remedying discrimination against rural areas.<sup>132</sup> But recognition is beneficial only to the extent that it purveys a realistic picture of ruralism.<sup>133</sup> A narrative that focuses on nostalgic or negative stereotypes and ignores the changing face of rural America is not likely to meet this criteria.<sup>134</sup> *Where the Crawdads Sing* is hardly the first piece of popular culture to portray both accurate and harmful depictions of rural communities.<sup>135</sup> But what sets this novel apart is its unprecedented readership and the fact that it still has the power to use its mass audience to help eradicate the harmful cycle of rural stereotyping.

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128. E.g., Jeff D. May, *Alvarado Revisited: A Missing Element in Alaska's Quest to Provide Impartial Juries for Rural Alaskans*, 28 ALASKA L. REV. 245, 247 (2011).

129. See *Jury FAQs*, U.S. DIST. CT., DIST. OF ALASKA, <https://www.akd.uscourts.gov/jury-info/jfaqs> [perma.cc/VL38-6FP6]; *Jury Service – Frequently Asked Questions*, KING CNTY., <https://kingcounty.gov/courts/superior-court/juror-information/FAQ.aspx> [perma.cc/7CJ2-EDTY]; *Jury Service*, GILA CNTY., ARIZ., [https://www.gilacountyaz.gov/government/courts/clerk\\_of\\_the\\_court/jury\\_dury.php](https://www.gilacountyaz.gov/government/courts/clerk_of_the_court/jury_dury.php) [perma.cc/M7RQ-E7MB]; *Jury Service Frequently Asked Questions*, HAW. STATE JUDICIARY, [https://www.courts.state.hi.us/general\\_information/jury/jury\\_service\\_faqs#Q33](https://www.courts.state.hi.us/general_information/jury/jury_service_faqs#Q33) [perma.cc/URR4-43U2].

130. See *Alvarado v. State*, 486 P.2d 891, 899 (Alaska 1971). “[T]he enormous gulf which separates the mode of life of the typical Alaskan villager from the type of existence led by most residents of Anchorage” led the Alaskan Supreme Court to require that a rural defendant’s jury be selected from a group of persons who represent a fair cross section of the community where the events at issue transpired. *Id.*

131. See May, *supra* note 128, at 268–69.

132. Bassett, *supra* note 15, at 340.

133. See Pruitt, *Rural Rhetoric*, *supra* note 15, at 233–34.

134. *Id.* at 234.

135. Some of the most prominent examples include *To Kill a Mockingbird*, *Anatomy of a Murderer*, *My Cousin Vinny*, and John Grisham’s works.

Popular culture leads to the calcification of certain views and has an undeniable impact on how people in society think about certain issues.<sup>136</sup> Hollywood's recent acquisition of *Where the Crawdads Sing*'s film rights means that a wide range of audiences will soon be flocking to theaters to watch the story unfold onscreen. In the wake of the film's inevitable popularity, scholars can showcase more accurate discourse about rural areas, shaping the conversation about the novel and ruralism more broadly. Currently, few academic studies evaluate rural legal systems, rural prisons, the distribution of federal aid to rural communities, or possible reforms.<sup>137</sup> Scholarly dialogue will aid in creating a more accurate picture of ruralism for the public, which is necessary to correct misrepresentations made by texts such as *Where the Crawdads Sing* and remove disincentives for young attorneys considering a rural practice. It may also pressure federal and state governments to provide more resources and reforms to rural communities<sup>138</sup> and inform judicial dialogue surrounding ruralism, creating case law and regulations that reflect the realities of rural people rather than fueling stereotypes.<sup>139</sup>

The unprecedented success of *Where the Crawdads Sing* has given it the power to serve as a platform for awareness of rural realities. Society is interested in rural life and law because of *Where the Crawdads Sing*, but the window will only be open for so long. Now is the time to create a new rural rhetoric that correctly reflects the realities of rural life, justice, and law so that we can finally do right by these communities. Hopefully, the discourse sparked by *Where the Crawdads Sing* is just the beginning.

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136. See Elizabeth Kolbert, *Americans Despair of Popular Culture*, N.Y. TIMES (Aug. 20, 1995), <https://www.nytimes.com/1995/08/20/movies/americans-despair-of-popular-culture.html> [perma.cc/6KME-4LYH].

137. See, e.g., KANG-BROWN & SUBRAMANIAN, *supra* note 100, at 16, 18; Oates, *supra* note 63.

138. In addition to recognition, Debra Lyn Bassett calls for the institution of remedial procedures to lessen the impact of ruralism in our laws and regulations. Bassett, *supra* note 15, at 341.

139. See Pruitt, *Rural Rhetoric*, *supra* note 15, at 240 ("Judges nevertheless need a more robust sense of rural realities and their relevance to the social science that is law.").