

Law and Popular Culture: A Course Book by Michael Asimow and Shannon Mader

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The field of law and popular culture, as a relatively new area of legal study, has needed canonical works to help define itself. An offshoot of the law and literature movement (itself a descendant of legal realism), and later the law and film movement, law and popular culture developed in the 1980's with an attempt, as in all modern law "movements," to explain its place in the legal curriculum. One of the leading scholars in this area of law (as well as contracts and other areas), is Michael Asimow, Professor Emeritus at UCLA Law School and currently a visiting professor at Stanford Law School. As a distinguished pioneer in the field of law and popular culture, Professor Asimow has written and taught extensively on the topic, producing a number of law review articles and books. A recent effort is the excellent book he has written with Shannon Mader, *Law and Popular Culture: A Course Book*. In a way, this book constitutes the culmination of Professor Asimow's efforts at systematizing this area of law and making it accessible not just to the law school community but also to the wider university community, including undergraduates.

Law and Popular Culture is an outstanding work that can be used in many academic settings. Subtitled "*A Course Book*," (in contrast to a casebook, the typical law school book), the text means that law students can be offered a course that combines legal analysis with academic and practical guidance in the ever-evolving field of popular culture. Future lawyers can learn how popular culture informs law and the legal system. Undergraduates or non-law graduate students can learn about the area as well, in understanding the connection and relation between law and popular culture, rather than its role in the practice of law.

The iconic cover image, depicts a courtroom scene from the film version of *To Kill a Mockingbird*, based on the novel by Harper Lee. The fictional Atticus Finch and his client, the wrongly-accused black man, Tom Robinson, sitting next to each other at counsel table, the reader is put into the middle of the law and popular culture milieu by way of the law and film movement. Finch was named by the American Film Institute¹ as the greatest hero in the history of the movies in 2003, not just a hero in the legal world. In fact, *Law and Popular Culture* devotes an entire chapter to the movie (and Lee's book). That fictional lawyer as liberal hero is even cited as a by a conservative attorney as unlikely as Kenneth Starr, tormentor-in-chief of Bill Clinton.²

The field of law and popular culture, derived most immediately from the law and film movement, starts with the premise that the public consumes large quantities of popular culture in the form of television and film (fiction and non-fiction), along with other media such as books, comics, news, and now the Internet. A great deal of popular culture deals with law or

¹ www.afi.com/100years/handv.aspx

² See William H. Simon, "Moral Pluck: Legal Ethics in Popular Culture," 101 *Columbia Law Review* 421 (2001)

legal issues such as police procedurals. Popular culture penetrates the legal system in the United States through the jury system. It is one of the primary insights of the law and popular culture movement that the public largely derives its understanding of the law through its voracious consumption of popular culture.³

The aim of the book is to give a comprehensive summary of how law and popular culture affect one another, using the language of law and popular culture, largely through the study of law films. The book is divided into three parts: the first is an overview of the legal system, largely through its actors; the second and third consist of discussions of legal subjects, grouped under criminal justice and civil justice. Each chapter addresses particular actors in part I, and particular legal subjects in parts II (criminal) and III (civil). Each chapter treats legal and media concepts using the assigned film or television series as the focal point of the chapter. The assigned preliminary “text” for discussion in each chapter is a carefully curated fictional film (or, for two chapters, a television series) which is used to explore the chapter’s subject. Some of the “texts” are classics, such as *To Kill a Mockingbird* or *Anatomy of a Murder*; others are more obscure yet still worthy, such as *Counsellor at Law* (1933).

The book’s structure allows the reader, regardless of prior knowledge of law and popular culture, to examine the elements of both and, more importantly, how they interact. For example, Chapter 3, “Lawyers as Heroes,” begins with a description of both the book and the film version of *To Kill a Mockingbird*, followed by a brief discussion of the Scottsboro Boys, the inflammatory 1931 charges of alleged sexual assault against a group of black teenagers in Lee’s home state of Alabama, as well as referring to the progression of the civil rights movement. Thus, the background of the case and times are addressed, leading to a discussion of the role of attorneys as heroes in popular culture. The film is then deeply analyzed, both in terms of legal strategy and filmic presentation. The chapter then delves into the role of law in American society and films, tying in more recent films with that theme. Finally, at the end of each chapter, the authors offer thoughtful review questions to stimulate class discussion.

Similarly, Chapter 12 on “The Civil Justice System,” uses the film *A Civil Action* to examine how civil cases are handled in legal theory and practice, as well as in popular culture. The chapter begins with an overview of the civil justice system, including the roles of lawyers, judges, and juries. It then moves to an examination of the real cases that form the basis for the film and the best-selling book on which it is based. This is followed by coverage of the broader issues of toxic tort litigation, the role of litigation financing, the importance of the judge in such proceedings, as well as the importance of settlement negotiations, and finally how big business is portrayed in popular culture, especially in film.

Thus, the book offers a comprehensive examination of the legal system as presented in popular culture and how the two are interrelated. The book could be used as a primary text or as a supplement in a law school, graduate school, or undergraduate course. Each course naturally has different goals based on the students’ and teachers’ needs.

³ See Tyler Alper, Anthony G. Amsterdam, *et al.*, “Stories Told and Untold: Lawyering Theory Analysis of the First Rodney King Assault Trial,” 12 *Clinical Law Review* 1, 51 (2005).

One area which could be considered further is the decision to primarily use film as the vehicle to explore popular culture and its relationship to law. The field derives initially from the legal realism movement, based on the premise that the study of law must consider non-law matters to fully understand how the legal system, including judicial decision-making, operates. An offshoot of this is the law and literature movement that examines literature's presentation of law, especially classics such as Dickens' *Bleak House* or Shakespeare's *The Merchant of Venice*. The law and film movement developed from it, in effect using films as "texts," especially classics such as *Anatomy of a Murder*, *Witness for the Prosecution*, and *To Kill a Mockingbird*. One of the primary reasons for this is the focus on texts (like appellate opinions were for Christopher Columbus Langdell, the nineteenth century Harvard Law Dean credited with originating the "case-method" of legal instruction).⁴ Langdell wanted a readily available, distinctive "text" to study, and appellate opinions were available for that purpose. (Later, excerpted, rather than whole opinions were included in casebooks.) Legal realist critics in the mid-twentieth century, such as Judge Jerome Frank, criticized the case-method approach of relying exclusively on reading appellate opinions as too narrow, ignoring trial courts and other omissions that did not lend themselves to textual availability.⁵

I would argue that the easy availability of films with the advent of videotape, then DVD, and more recently streaming, perhaps along with many law professors' natural interest in film over TV, and the length of films (generally less than two hours) making a convenient "text" for analysis, have led to an overemphasis on film over all other media. I suggest that the law and popular culture movement should go beyond film by integrating television, news reports of trials and other legal matters, books, and the Internet. The increasing availability of television and other media on DVD or online platforms make it feasible to study all media in understanding how law and popular culture affect each other. The enormous audience for law on television (and now the Internet) suggests that film is likely not the most significant source of influence on the public's attitudes toward law and the legal system. Furthermore, that popular culture is one of, if not the, biggest export by the United States, and the impact of representations of American law on foreign cultures and their legal systems, suggests that those influences are fruitful areas of study and teaching for courses in law and popular culture and should be included in course materials and books.⁶

To its credit, *Law and Popular Culture* integrates more television into its second edition. The book now incorporates television series as the focal point of two chapters, Ch. 7 ("Law on Television") (*Boston Legal*), and Ch. 8 ("The Criminal Justice System") (*Law & Order*). Perhaps in later editions the book will integrate even more television and other media in its

⁴ See Jerome Frank, "Why Not a Clinical Lawyer-School?", 81 *University of Pennsylvania Law Review* 907 (1933)

⁵ *Id.*

⁶ For a fuller discussion of my recommendations, see Donald Papy, "More Media and More Countries: New Approaches to Teaching Law and Popular Culture," in Michael Asimow, Kathryn Brown, and David Ray Papke (eds.) *Law and Popular Culture: International Perspectives* (Cambridge Scholars Publishing, 2014), 369-381.

analysis of popular culture's interaction with law, as well as the impact of American popular culture on legal systems throughout the world.

In conclusion, *Law and Popular Culture: A Course Book* is an outstanding addition to the teaching literature in this burgeoning field, offering a comprehensive yet concise resource for the law school, graduate school, and undergraduate curriculum. The second edition has improved upon the first. The book can be used as a primary or secondary source. I highly recommend the book for any teacher serious about delving into the ever-changing, and increasingly important, field of law and popular culture.