

Law, Popular Culture, and Classical Culture: Representation of Underdogs in Arts and Media

Dear Reader,

Welcome to a new issue of the Journal of the Oxford Centre for Socio-Legal Studies (JOxCSLS). As guest editors for this special issue on law, popular culture, and classical culture, we appreciate the kind invitation to organise this issue from former general editors Matilde Gawronski and Felix-Anselm von Lier and the invaluable assistance of the current editors, Owain Johnstone, Fernanda Farina, Mark Haskew, and Hannah Smith. It was a great opportunity to organise a thematic issue with the collaboration of scholars from the United Kingdom, the United States, Venezuela, and Brazil.

All of the essays explore the universe of arts and media, discussing socio-legal issues found in TV series, cinema, photography, opera, science fiction, and literature. The eight contributions were selected from a panel organised by Michael Asimow at the Law and Society Association Conference in New Orleans in June 2016 and from a volume edited by Pedro Fortes at the FGV LAW SCHOOL series (Cadernos FGV DIREITO RIO) in December 2015, which was published in Portuguese. All of the texts are original and published in English for the first time here.

Lawrence Friedman participated in both the panel, as a discussant, and the book, as a contributor, and we are delighted that he accepted our invitation to write a foreword for this special issue. Lawrence produced the seminal article on law and popular culture, establishing the foundations of this field of socio-legal studies with his article, *Law, Lawyers, and Popular Culture*, published in the Yale Law Journal in 1989.¹ In his foreword, Lawrence revisits this theme, bringing new perspectives and ideas for our reflection. In a nutshell, he argues that understanding popular culture is important for understanding current law and it no longer makes sense to draw a sharp line between the real and the fictional.

Interestingly, all essays somehow include representations of underdogs in the arts and media. One essay claims that filmmakers may protect minorities through affirmative cinema and another critiques the negative stereotypes of Jewish lawyers in TV series. We also find socio-legal analyses of the underworld of drug traffickers and the lack of racial and ethnic diversity in corporate law firms depicted in TV series. In the universe of photography, we are reminded of the human rights and privacy of individuals under visual surveillance. We encounter a humiliated Asian wife, a sensual Spanish gypsy, and a number of villains, traitors, and anti-heroes in opera. In science fiction, robots demand recognition of their rights to life and self-determination. The dilettante's dream of law and literature emphasises the importance of analysing law from various standpoints, including from the perspective of the underdogs.

¹ Lawrence Friedman, *Law, Lawyers, and Popular Culture* (1989) 98 Yale Law Journal 1579

In *Jewish Lawyers on Television*, Michael Asimow discusses stereotypical representations that portray Jewish attorneys as greedy, unethical, and unattractive characters. The analysis is based on more than a dozen TV characters, such as Douglas Wambaugh from *Picket Fences*, Louis Litt from *Suits*, and Maurice Levy from *The Wire*. There is also the strange case of the highly unethical Saul Goodman, a non-Jew passing as a Jewish lawyer in *Breaking Bad* and *Better Call Saul*. Michael explains that these stereotypes are rooted in anti-Semitic attitudes toward Jewish lawyers that were prevalent until the 1960s. This article contrasts the negative representations of Jewish lawyers on television with mildly positive and strongly favourable portrayals, provides explanations for these contrasting images, and how they correspond to a Jewish commitment to social justice.

Manuel Gomez depicts the socio-legal universe of mafias, gangs, and criminal organisations in his *Outside but Within: the Normative Dimension of the Underworld in the Television Series 'Breaking Bad' and 'Better Call Saul'*. Manuel reminds us that normative orders emerge from within the underworld, wholly outside the state legal order. Combining lessons from both normative pluralism and law and popular culture, his essay reminds us of the particular sense of right and wrong established in various representations of Italian mafias, including the Corleone family in the Godfather trilogy. His socio-legal analyses include the relevance of private ordering in competition with the state public order and of cooperation enhanced by social connections and multi-stranded ties of family, ethnicity, and common heritage. Manuel investigates the relevance of internal sanctioning, the construction of the sense of justice, and the special role of lawyer Saul Goodman in both *Breaking Bad* and *Better Call Saul*.

Peter Robson contributes to this issue with *The Portrayal of Corporate Lawyer on TV: The U.S. and British Models from McKenzie Brackman to Trust and Suits*. Corporate lawyers may not seem like underdogs because of their glamorous lives, expensive suits, and shiny glass towers but closer examination reveals highly conflictive working environments, in which intra-firm infighting may comprise 75% of their time in the office. Additionally, work in a corporate law firm is portrayed as incompatible with family life. Peter identifies a clear difference between the screenplays of these programs and series dealing with criminal law, in that series based in corporate law firms tend to focus on the characters instead of the cases. In *Suits*, for example, the focus is on the tragi-comic farce of Mike Ross, a man escaping from the police who runs into an interview and is hired as a corporate lawyer even though he never attended law school. There is very little discussion of law, which probably results from a perception that any legal issues relating to the corporate world are too complicated for the audience.

In *Lights, Camera, Affirmative Action: Does Hollywood Protect Minorities?*, Pedro Fortes examines the universe of affirmative cinema and investigates the dialogue between film-makers and law-makers in advancing the protection of minority rights. The article examines the recognition of same-sex marriage by the Brazilian Supreme Court and suggests that the transformation of popular culture and public opinion may be the primary explanation for this landmark decision, since the formal sources of law had not changed. The article claims that the global diffusion of normative ideas supporting the protection of minorities, based on race and sexual orientation, is faster through the cinema than through the courts. Hollywood blockbusters like *Guess Who's Coming to Dinner?* and *Brokeback Mountain* are more easily

translated, distributed, and disseminated than academic doctrine, judicial decisions, and legal opinions.

The use of photography as a tool for reflection of the relationship between law and culture is the core of Henry Steiner's essay *Photography's Transformation: Its Influence on Culture and Law*. His essay discusses two different sub-themes of law and photography, changing the centre of gravity from photography in the first part to law in the second part. In the first part, Henry proposes a thought experiment, in which we are invited to imagine the relationship of future generations with their ancestors, given the access to images and videos generated by contemporary smartphones. The second part of his essay moves into human rights law and analyses how the technological diffusion of images and videos, generated in public spaces monitored by a profusion of closed-circuit television cameras, bears on complex legal questions on the right to privacy.

Gabriel Lacerda has produced a real tour de force through the universe of European operas in his *Law and Opera: Stimuli to a Sensible Perception of Law*. After 10 years of teaching a course on Law and Cinema, Gabriel decided to explore the universe of normativity in a selection of works from well-known French, German, and Italian composers. In this essay, he shares with the reader snapshots of socio-legal issues found in Verdi's *Otello* and *Don Carlo*, Puccini's *Madame Butterfly*, and Bizet's *Carmen*. Each opera involves individuals in positions of vulnerability and their legal dilemmas. Gabriel also discusses a legal case in Wagner's *Lohengrin* and the scepticism of the devil towards jurisprudence in Goethe's tragedy of *Faustus* and in Boito's *Mefistofele*. In his conclusion, Gabriel emphasises the importance of sensibility and the emotions evoked by artistic expression for legal analysis.

In *More Human than Human: How Some Science Fiction Presents Artificial Intelligence's Claims to Right to Life and Self-Determination*, Christine Corcos explores the universe of science fiction to investigate the possible recognition of personhood and rights for robots. This innovative intellectual journey covers several classic works from literature and cinema, providing insights based on normative elements developed within science fiction, such as Asimov's 'laws of robotics' and the 'Voigt-Kamff' test to identify robots. Christine reflects on the deeply philosophical question of the potential humanity of machines with artificial intelligence. She provides a powerful investigation of human nature, the constitutional rights of an autonomous personality, and the development of signs of consciousness. Through discussions of works such as *Bicentennial Man* and *Blade Runner*, Christine examines claims to sentience and self-determination of humanoids in science fiction - another interesting example of underdogs in popular culture.

William Twining has written a somewhat confessional essay on *Law and Literature: A Dilettante's Dream*. It is an abridged version of a lecture delivered at Wolfson College, University of Oxford in 2013 in which he explored the rich interplay between literature and law. This essay is full of autobiographical reminiscences, such as William's inspiration from his professor, H.L.A. Hart, at Oxford, his collaboration with Shakespeare scholar René Weis at UCL, and his exchange with Lord Denning at a Warwick workshop. William reveals that many socio-legal concepts developed in his jurisprudence were inspired by literature and literary theory, such as the differentiation of standpoint, the necessary use of narratives, and

frames of reference for evaluating and interpreting evidence. Italo Calvino's *Mr. Palomar* and *Invisible Cities* are used to explain the implications of globalisation for understanding law and society and the idea of legal cartography. William praises the multiple perspectives and descriptions of complex realities.

Additionally, Donald Papy provides a book review of *Law and Popular Culture: A Course Book*, by Michael Asimow and Shannon Mader (New York: Peter Lang Publishing, 2nd edition, 2013). In his review, Donald praises the qualities of the book, summarises some of the core ideas, approves the legal realist perspective, and offers the constructive feedback that future editions should explore popular culture beyond just the universe of cinema and TV series.

Finally, Sandra Ristovska provides a note from the field entitled *Tackling Visual Knowledge: The Story of the Yale Visual Law Project*. Sandra shares with us her vision about a change of paradigm regarding the value of images for legal argumentation, highlighting the sensory richness and relational thinking so relevant for the academic turn to visual rhetoric. Sandra focuses primarily on the activities and mission of the Yale Visual Law Project, but she points out that Stanford, NYU, Harvard, and the University of Pennsylvania also conducted similar initiatives. She calls for the development of a visual jurisprudence.

Editing this special issue of the Journal of the Oxford Centre for Socio-Legal Studies (JOxCSLS) was a great opportunity, given the collection of essays that combine academic quality with the contemporary insights brought to socio-legal studies by arts and media, pop culture and classical culture. We hope that you will enjoy reading this special issue as much as we appreciated reading, discussing, and editing these terrific essays.

Oxford and Stanford, January 2017.

Pedro Fortes and Michael Asimow

Guest Editors for the JOxCSLS