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Review essay
Visual justice

Film and the Law
By Steve Greenfield, Guy Osborn and Peter Robson, Oxford: Hart, 2010, 2nd edn.
343 pp.
ISBN 978-1-84113-725-4 £30.00 paperback

Legal Architecture: Justice, due process and the place of law
By Linda Mulcahy, Abingdon: Routledge, 2011.
204 pp.
ISBN 978-0-415-57539-3 £75.00 hardback

Representing Justice: Invention, controversy, and rights in city-states and democratic courtrooms
By Judith Resnik and Dennis Curtis, New Haven: Yale University Press, 2011.
668 pp.
ISBN 978-0-300-11096-8 £50.00 hardback

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1 Introduction

As the many pages of law journals, monographs and textbooks demonstrate, the complex interface between law and visual culture continues to be a marginal aspect of legal study, research and scholarship. To paraphrase sociologist Pierre Bourdieu (1965/1990, p. 1) there exists a hierarchy of legitimate objects of study. The orthodoxy continues to be preoccupied with the ways in which the written texts of law make the world. The multifarious gatekeepers of legal studies have responded in a variety of ways to scholarly and pedagogic projects that turn away from law's written text and its operationalisation. In my experience from giving papers and talking to lawyers and judges, these range from bewilderment, disbelief and passive aggressive indifference to more open attacks and withering denunciations that dismiss work that touches on the visual aspects of law as esoteric, trivial, 'not law'. The publication of these three books exploring various dimensions of the interface between law and visual culture does not herald the death of the written text of law, but they do point to the long history and contemporary significance of visual culture for law. Their publication provides an opportunity to examine a body of work that takes this interface seriously. Each of these studies demonstrates the need to qualify the legal obsession with the word and for legal scholars to pay due regard to a wider range of visual cultural forms and practices that shape and represent law and legal practice. They also provide an opportunity to reflect on apparent resistance to taking the visual dimensions of law more seriously. In combination, these three monographs illustrate the substantive, jurisdictional, disciplinary and methodological diversity of current research on the visual dimensions of law and its historical range.

2 Images of justice

The book that most immediately displays and engages such a rich agenda is *Representing Justice*, a monumental and copiously illustrated study. It is an investigation of images that depict justice,

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judgment and adjudication spanning a period of some 5,000 years of Western civilisation. The 253 pages of bibliography and footnoted sources (there are over 5,000 footnotes attached to the book's fifteen chapters) are some indication of the rich diet of sources that has informed and sustained this project, sources ranging from art history, architecture and political economy to government reports and policy documents, decided cases and legal philosophy. Their combination captures the daunting and exhilarating nature of this multidisciplinary law project.

The central thesis of *Representing Justice* is that the image plays a key role in not only expressing but also shaping understandings of justice and law. The institutions of law, in particular courts, are not only sites for the display of particular images but in their totality are rich, complex, symbolic structures that both form the individual experience of and shape the general meaning of law and justice. The objects of visual culture studied here range from figurative and abstract painting, etchings and sculpture through to the architecture and interior design of courts. The dominant theme of the first part of Resnik and Curtis's book is an examination of the complex origins and history of *Justicia* as the allegorical figure of Justice. This then mutates into a project that sets *Justicia* within a symbolic landscape that is much more elaborate and all-embracing: the architecture and design of courts of law under conditions of democracy. The authors associate this transition with the emergence of the court of law as a distinctive space dedicated to adjudication. While European city and US federal court examples dominate, the jurisdictional interests of the authors extend to the iconography and institutions of some aspects of supranational and international law.

Mulcahy's *Legal Architecture* overlaps to some extent with Resnik and Curtis's project but is more focused in its aims and specific in its jurisdictional scope. It is a rigorous and well-illustrated study of the emergence, design and ornamentation of a relatively recent legal phenomenon: buildings designed with the sole or primary purpose of functioning as courts of law in England and Wales. While this study touches on the longer history of places of adjudication, from pre-feudal times, its primary concern is the period from the mid nineteenth century to the present. A central focus is the physical and aesthetic fabric of courts of law, the stone, bricks, tiles, wood, iron and, more recently, glass, cables, cameras and computer screens. All, Mulcahy demonstrates, are shaped by and in turn fashion the emerging practices, principles and rules of the adversarial trial as well as the demands of legitimate authority under the conditions of a liberal democracy. This is again a rich, multidisciplinary, project which extends to some aspects of biography, conservation studies and cultural geography, as well as architectural and historical scholarship, not to mention a wide variety of legal perspectives and policy documents. Mulcahy also adds some fascinating archival data on the recent history and changing contemporary nature of the 'place of law'. Building on Clare Graham's (2003) pioneering study of the architectural and social history of the English law court, Mulcahy skilfully combines humanities and social science perspectives in the service of developing new insights into the everyday experience of law and justice, exemplifying a socio-legal scholarship informed by the 'cultural turn' in the social sciences (see Moran, 2012).

Adding *Film and the Law* to this scholarly line-up provides an opportunity to turn attention to different dimensions of the emerging landscape of law and visual culture studies. Focusing on cinema, a mass media image-making technology, *Film and the Law* takes study of the complex relationship between law and visual culture in the direction of 'low' art and 'popular culture'. In that sense, Greenfield, Osborn and Robson's work is in sharp contrast to what might be described as the 'high art' preoccupations of the other two works, manifest in their common but jurisdictionally distinct explorations of the spatial organisation and symbolic meaning of grand architectural court building projects spanning the nineteenth to the twenty-first centuries, aptly named 'temples of justice'. The 'temples of justice' that interest Greenfield, Osborn and Robson go by names such as 'Odeon', 'Palladium' and, more recently, 'Cineplex'.

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At the same time, Mulcahy's work shares with *Film and the Law* a keen interest in the everyday. In *Legal Architecture* this takes the form of exploring the impact of changes in courtroom architecture and design upon the lived experiences and popular perceptions of courts of law. This also ties Mulcahy's project into more traditional, sociologically informed, work on the experiences of courtrooms such as Pat Carlen's dramaturgical analysis of English magistrates courts (1976a; 1976b) and Paul Rock's empirical study of Wood Green Crown Court in North London (1993). This aspect of Mulcahy's work is at its best in detailed historical studies of the emergence of tendencies to segregation in courtroom design. One chapter explores the isolation of the accused in English courts in what is now commonly a fortified 'dock'. Another casts a critical eye on the creeping confinement and marginalisation of 'the public' in the courtroom, at the same time as the 'public' nature of the trial was being emphasised and celebrated as a requirement for courts under the emerging conditions of democracy. A third chapter explores the way in which screen technology is demonstrating and facilitating a previously unimaginable degree of courtroom segregation, turning the place of the trial into a virtual location, made up of a series of remote, televisual, performances, watched by various parties to the dispute in potentially widely dispersed places.

In contrast, the preoccupations of Greenfield, Osborn and Robson's book are not the daily routines of legal practice but the everyday operation of the image of law, made and projected by cinema into the world and consumed by audiences positioned as cinematic judges and juries (see Clover, 1998). The 'jurisdictional' preoccupation is Hollywood, simultaneously both distinctively national and effectively global. The films gathered together in the book offer much evidence of Hollywood's fascination with law, especially criminal law, lawyers, courtrooms and the adversarial trial. By providing an enduring supply of images of law and justice for regular mass consumption, Hollywood's products have a potential to fashion everyday perceptions and expectations of justice and its institutions on a massive scale.

Film and the Law is a second edition of a work originally published in 2001. While there are important thematic continuities between the editions, the new edition is a significant reworking and development of the first edition. It has several new chapters, three of which engage with the burgeoning body of scholarship on film and law.[1] One chapter adds a brief reflection on representations of law in a different but related cinematic jurisdiction: British cinema. Some topics in the first edition, for example on representations of military tribunals and of minority ethnic lawyers, have been expanded into discrete chapters. Other parts of the first edition have been edited out. The visual images (stills from various films analysed in the text) and a 'filmography' identifying the full range of films referenced in the text appear to have ended up on the cutting room floor, so to speak. Their disappearance is mystifying, and the counter-productive effect is the loss of both important source material and an invaluable device that could have helped readers to navigate their way through the film archive being studied.

3 Challenges of film

Film and the Law and Resnik and Curtis's *Representing Justice* have in common a passion for the investigation of images of law and justice. But their juxtaposition raises some interesting issues. The project on legal cinema adds a number of important dimensions to research on representations of justice largely untouched by Resnik and Curtis, despite both the scale of the latter's project and their interest in the contemporary. For example, Greenfield, Osborn and

1 There is also a growing body of work on television and law: see, for example, Asimow (2009); Jarvis and Joseph (1998); Rapping (2003); Villez (2010). Television is not incorporated into Greenfield, Osborn and Robson's study.

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Robson's study draws attention to the rise of an important new character in the contemporary pantheon of figures of justice. Through Hollywood cinema, the lawyer has become a popular cultural icon of the contemporary (adversarial) justice system capable of being read allegorically. Resnik and Curtis's preoccupation with the admittedly long reign of *Justicia* as an allegorical figure, and her paraphernalia – her blindfold, sword and scales – as well-recognised signs of justice, misses out on this cultural development.

Also in contrast to many of the official images examined in Resnik and Curtis's study, the cinematic representations of law and justice at the heart of the book on film are not in the final instance official images made for the purpose of representing the virtues of legal institutions and their figures of authority. While the cinematic images are closely connected to the official visual language of legal authority, the former are images made by private organisations as commodities for profit, for sale and consumption in a mass market. But such a crude distinction needs to be treated with caution. Through the medium of cinema the collective culture of civil society is made by way of an exchange of cultural objects that are private property. Moreover, Resnik and Curtis's study offers ample evidence of the way that the 'official' images of law and justice have also been subjected to the logic of capital, ownership and private property. Almost every image in the book is accompanied by an effusive acknowledgement of the property rights of the owner of the copyright in the 'official' image of law and justice.

Cinema throws down another major challenge to the approach found in *Representing Justice*, perhaps best described as technological. Cinema changes the materiality of representations of justice. This takes various forms. In cinema, the image of justice takes the form of a particular technological illusion, a temporary play of flickering light and sound that appears to emanate from a blank screen. Another effect of cinematic technology is on the dissemination of images of law and justice. If, as Resnik and Curtis show, graphic techniques and new technologies of reproduction such as the printing press allowed images of justice and the nature of judgment to be copied and circulated away from their original fixed locations on the walls of particular buildings, cinema is a technology of image-making and image distribution that adds to the range and speed of mass dissemination, display and consumption. Digitalisation and a range of mobile technologies have the potential to put these images into the hands and pockets of individuals 24/7.

Another important difference is the impact of cinema on the nature of representations of law and justice. Cinema animates representations of law and justice like never before, making them speak. *Justicia* and her other allegorical cousins have come down from the walls and now dwell amongst us.

This brings me to the lens. Images of law and justice produced using camera lenses differ from images made with other techniques,[2] in that they tend to have what Tagg (1998) describes as 'realist assumptions' attached to them. A key aspect of this is 'an existential connection between "the *necessarily* real thing which has been placed before the lens" and the … image' (p. 1). The camera is not only associated with its apparent ability to record visual likeness but also in its use to capture moving images with an ability to move the viewpoint animating the empirical illusion of the viewer (Corner, 1992, p. 98). In short, camera technologies in cinematic and televisual contexts produce images that incite powerful epistemological associations. Film and television scholars have developed a number of categories to examine these illusions of reality. All have relevance for understanding the contemporary interweaving of images, law and justice.

2 This is an overly crude distinction: David Hockney (2006) has explored the revolutionary impact of lens technology on painting. For an example of painting that plays with the realist assumptions associated with the camera in a legal context, see Moran (2008).

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4 Realism

'Empiricist realism' emphasises the tendency of those producing camera-based images to work hard to close the gap between the thing represented and the representation, be it in relation to the likeness of setting, social action or theme (Corner, 1992, p. 101). In a cinematic context, the assumption is that the world can be both fully known and fully reconstructed in front of the camera. This can be achieved by various means such as the design of the set, the use of costume and props, the language, the tone of voice, etc. Camera technology is assumed to be a benign machine that merely records, and does so with an incredible capacity to reproduce the details of the 'pro-filmic event' (Willamen, 1972, p. 38). Under these conditions of realism, the assumption when viewing the image is that detailed consideration has been given to making sure that the camera recreates the activities of the lawyers, their clothing, locations such as the courtroom, office, props, movements, verbal exchanges and so on to be, if not the same as, then as close as possible to, the world before and outside the cinematic machinery. As an objective, 'empiricist realism' may be achieved with varying degrees of success. As an expectation, it brings into play epistemological assumptions about the nature of the image being viewed.

'Empiricist realism' is an assumption that informs *Film and the Law* as well as Resnik and Curtis's book. In the former it takes the shape of a frequently deployed criticism that Hollywood gets 'real' law and lawyers wrong. This is a complaint common to legal scholarship on both cinematic and televisual images of law. In Resnik and Curtis's study, the operation of 'empiricist realism' is revealed in a number of twentieth-century conflicts over images of *Justicia*. These disputes tend to focus on *Justicia's* archaic style of dress (generally Greco-Roman) or her idealised looks, which tend to be Caucasian, European. The criticism is that these features of *Justicia* fail to embody the community and its ideals of justice. The attendant demands are that the face of *Justicia* be more naturalistic, more local, more diverse, or that her dress be more modern, more everyday.[3] Both are examples of a call for art to mirror life. What both forget is that life may well be inconceivable without art, broadly defined, that is only questionably realistic.

'Bourgeois realism' (Gaines, 1999, p. 2), or more commonly 'classical realism', is a realism commonly associated with 'Classical Hollywood Cinema' (Williams, 1994, p. 277). Central to this model of realism is the way the image-making process works to suppress the marks of the process of image production. Ang (1982, p. 38), writing in the context of television, explains that this characteristic of moving images works to produce and sustain the seamlessness of moving images, which plays a key role in generating 'the realistic illusion' of the screen image. It generates and sustains a miscognition which takes the following form. We know the final cinematic image is a construction made up of many thousands of 'takes' and that the production of the image is not necessarily organised as we see it in the final product. Images that occur at the end of the film may have actually been made during the early days of making the film. Likewise an image made during the closing stages of shooting may represent the chronological beginnings of the story. Yet we make an epistemological investment in the final organisational display, its apparently seamless continuity, thus generating or sustaining the before and after, cause and effect, of the arrangement of the images as the flow on the screen. We know that the camera technology is ever present in the image but the image itself includes no formal recognition of that fact. The action unfolds apparently in ignorance of the army of workers involved in making the image. We in turn occupy and enjoy the voyeuristic pleasures of the experience of the camera being a presence that is formally absent (see further, Mulvey, 1975).

Richard Sherwin's work draws attention to the fact that 'classical realism' does not only impact on fictional representations of law enjoyed by an audience in the darkened halls of the local cinema or

3 For an interesting case-study where the realism of the image of *Justicia* was the reason for objecting to an image, see Mulcahy (2011).

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watching a TV screen at home. It is an approach to image-making used by lawyers who make or commission visual images for the courtroom (Sherwin, Feigenson and Spiesel, 2006; Feigenson and Spiesel, 2009). It is also a part of the experience of viewing forensic images. Audiences that view these images in a variety of law-related locations – surveillance suites attached to transport systems and shopping malls, police stations, courtrooms – may be called upon, sometimes unconsciously and sometimes deliberately, to put to work the epistemological assumptions and cultural expectations of 'classical realism' in the service of forensic investigation, partisan practices of advocacy and non-partisan judgment (Sherwin, 2011).

The third form of realism cinema scholars have identified has been called 'emotional realism' (Williams, 1994, p. 277). Emotional realism is different from the other forms of realism in that it operates by connotation. Ang explains it in the following terms:

> '. . . the same things, people, relations, and situations, which are regarded at the denotative level as unrealistic, and unreal, are at [the] connotative level apparently not seen at all as unreal, but in fact as "recognizable".' (1982, p. 42)

This takes realism, and thereby the epistemological dynamics of images of justice and images used in law, in a different direction. It takes us into the realm of the viewer's tears, laughter, fears and anxieties, experiences of terror, awe and so on. It brings into the frame of inquiry the relationship between the visual image and immediate embodied reactions, occurring outwith reason and rationality. The juxtaposition of 'emotion' and 'realism' also points to a different way of experiencing the truth and authenticity of the subject of the image as a viewer. 'Emotional realism' adds into the frame the possibility of a 'truth' in and through images that may not satisfy the demands of either 'empirical realism' or 'classical realism'. In terms of film, emotional realism may demand that the truth-generating capacity of science fiction, horror, cartoons or other image formats that violate some of the accepted conventions of realism be taken seriously.

Taking 'emotional realism' beyond cinema and television into the realm of the visual in law calls for serious consideration to be given to the ontological impact of cold marble, the soaring pointed arch of a gothic interior, cracked and dried paint on a wall or canvas, or the spatial organisation of the modernist courtroom examined in the studies by Resnik and Curtis and by Mulcahy. Mulcahy in particular reflects on the way the architecture of the English Victorian 'temples of justice' incites experiences of awe and majesty as well as fear and terror.[4] Other scholars claim that visual images have a distinctive link with emotions. Richard Sherwin, for example, suggests that 'visual images tend to have a more embodied impact than non-visual expressions of the same information' (2011, p. 59). While it may be less common to associate the written text of law with spontaneous weeping or laughing out loud, or fear and trembling, it is not unheard of. Work on law as rhetoric has drawn attention to the emotive dynamics of the text of law (Goodrich, 1984; 1987).[5] Work on law and film has the potential to facilitate further conversations on the emotional life of the law. When joined to the work on architecture and space, a rich new seam of scholarship on the emotional life of law comes into view. The identification of the emotional charge of visual images also needs to be better connected to existing, especially crime-related, scholarship that has put the emotional aspects of law and legal practice under the microscope (see, e.g., Bandes, 1999; Bentley and Flynn, 1996; Goodrich, 1995;

4 Alison Young's work on the crime-image, *The Scene of Violence* (2010), draws upon the concept of 'affect' to explore the role of image in the generation of these embodied reactions to violence, law and justice.

5 Mr Justice Smith, who presided over the failed *Da Vinci Code* plagiarism case at London's High Court included seemingly random italicised letters in his 71-page judgment. When asked the reason for this rather exceptional state of affairs he drew parallels with the book, and is reported to have said 'I can't discuss the judgement, but I don't see why a judgement should not be a matter of fun' (Anon, 2006).

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Kahan and Nussbaum, 1996; Lange, 2002; Moran, 2004a; 2004b; Moran, Skeggs, Tyrer and Corteen, 2002; Nussbaum, 2004; Laseter and O'Malley, 1996).

5 'Law film' as genre

As with the other projects reviewed here, Greenfield, Osborn and Robson's work on the cinematic portrayal of law has a multidisciplinary dimension to it. In particular, they identify the importance of engaging with 'the essential features of film theory' to examine not only the construction but also the consumption of film. Their engagement with 'film theory' is dominated by an interest in film genre. This takes the form of a commitment, carried over from the first edition of the book, to argue for, map and populate 'the law film' as a distinctive film genre. Why are they preoccupied with genre? Langford provides a neat answer to this:

> 'For scholars, genre provides a historically grounded method of establishing "family resemblances" between films produced and released under widely differing circumstances, and of mediating the relationship between the mythologies of popular culture and social, political and economic contexts.' (2005, p. 1)

Krutnick describes genre as a 'mental machinery' of the cinematic institution best understood as systems of orientations, expectations and conventions that circulate between industry, text and viewer (1991, p. 9). These attributes frame Greenfield, Osborn and Robson's project, which they describe generally as concerned with 'uncovering the ideology of film' (p. viii). For them, genre is 'an analytical tool that can be used to explain the creation, reception and effect of a film or group of films' (p. 61). Their interest in the role of genre in connecting the film to the audience's experience has a strong pedigree. One of the pioneers in this field, Anthony Chase, argued for a genre approach on the basis that genre categories are 'a basic classification scheme utilized by the popular audience to initially categorize and make sense out of its culture … an extremely revealing method of inventorying' (1986, p. 564). The latter description is particularly important for Greenfield, Osborn and Robson's engagement with genre: for them a key objective is to craft a coherent definition of the category 'law film' in order to facilitate a systematic enquiry (see Chase, 1986, p. 566).

They proceed using a number of formulations of the 'law film' genre. 'Courtroom drama' is their first, described as the 'most obvious': a traditional 'archetype' (p. 45). The next is the more expansive 'relationship between law and justice', and more specifically films in which the law is depicted as an impediment to justice that must be overcome. Law films, they argue, 'are always concerned with the enforcement of justice' (p. 64). But their approach to the law film genre does not cover the full range of Hollywood's fascination with justice or the justice system. Some familiar filmic topics, which they describe as 'phases of law', in particular 'detective films', 'police procedurals' and 'prison dramas', are placed outside their interest. In the final instance this may be for pragmatic reasons: as a subset each is made up of innumerable films capable of forming a pool of images worthy of separate study. There is also a significant body of scholarship in other disciplines in the social sciences and humanities that have been less hesitant to explore these aspects of the justice system. But pragmatism goes against the grain of the avowed project dedicated to the development of a coherent and inclusive category.

So it is not surprising to find that these exclusions are rationalised. This occurs by way of a gloss on the 'enforcement of justice' definition of the 'law film' genre. Carried over from the first edition of their work, this involves the identification of a number of indicators that must be present to qualify a film as a 'law film', namely 'the geography of law; the language and dress of law; legal personnel; and the authority of law' (p. 64). Their impact is clearly felt on the organisation of the book. Six out of sixteen chapters are dedicated to representations of legal personnel (four focusing on lawyers, one

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on judges and another on juries). Courtrooms, the primary cinematic place of law, are the preoccupation of four chapters. The significance of the other characteristics is more diffuse.

To paraphrase Krutnick, their goal is to plot a system of orientations, expectations and conventions that circulate between industry, text and scholars in general and legal scholars in particular. The investment that the authors make in 'law film' as a new genre category may well have benefits for present and future scholars of representations of law. Studies of detective films, police procedurals and the depiction of crime more generally have paid too little regard to criminal law in these representations (see Young, 1996). 'Law film' may excite scholars to rethink the way crime films and criminal justice representations are approached and analysed. While 'law film' is unlikely to shift too much attention away from the preoccupation with crime, as crime together with security has become such a contemporary preoccupation (see Simon, 2007), it may help to open up work on representations of other aspects of the justice agenda. Whole swathes of the justice system that are touched on by Hollywood, such as civil justice, public law and international law, are neglected by those working on cinematic depictions of justice. A related point, but one more relevant to legal education, is that 'law film' may facilitate the identification of a corpus of cultural objects fit for legal study. This may help present and future scholars to fight battles against more orthodox approaches to legal study from colleagues and students alike, legitimating undergraduate or postgraduate courses as well as research. Building a category of 'law film' seems accordingly a laudable aim.

But it is also problematic in various ways. One of the problems is identified by the film scholar Steve Neale in his critique of genre film theory:

> 'Time and again it emerged that generic specificity is extremely difficult to pin down in general statements that are anything other than rudimentary and banal.' (1980, p. 48)

The various formulations of 'law film' offered above bear witness to this problem. Another problem is the somewhat arbitrary effect of genre categories. As the authors themselves note, '[t]he flexibility of the genre allows the enquirer to set his or her own boundary to the limits of the enquiry' (p. 51). If that is the case, how useful is the boundary-forming category 'law film'? The capacity of such an idiosyncratic practice to generate insights may be limited.

One problematic boundary is in the chapter joining together films preoccupied with vigilantes and those that celebrate the 'private eye'. Vigilantes, as figures outside the law who take on the role of bringing the law into line with justice, do seem to fit the authors' broad definition of the law-film genre. The addition of 'private eye' makes less sense. The 'private eye' comes out of the tradition of detective stories (Symons, 1994, pp. 201–203), which are specifically excluded from the authors' definition of 'law film'. The inclusion of 'private eye' is not a personal quirk providing evidence of the 'flexibility' of genre categories: it just doesn't make sense. Another issue is the way the 'outsider' dimension of the vigilante theme is utilised. It is, for example, surprising that other cinematic figures of law, such as judges and lawyers, who step outside the formal legal professional role in the service of justice, are not considered in that context. An example of this, considered elsewhere in their book in a chapter that examines representations of female lawyers and lesbians and gay men but not mentioned in the chapter that explores 'vigilantes', is the character of Melville Farr in Basil Dearden's landmark 1961 film *Victim* (Coldstream, 2011).[6] Farr is both a lawyer (a barrister) and a homosexual, but importantly we never see this barrister in court, his quintessential location. His character blends together a distinctively English form of the lawyer as icon of adversarial justice, the barrister, with an attribute, his (homo)sexuality, which at the time places him necessarily outside

6 For the cinema trailer, see www.youtube.com/watch?v=JYlLnrhzU_E.

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the law and so an impossible hero in the courtroom (see Moran, 1998). Yet he engages in a heroic struggle for social justice, through the role of barrister as 'amateur detective' (Anon, 1961). Thinking of the vigilante as a strictly extra-legal character in film misses an opportunity to explore the way the iconic figure of the lawyer has also developed this 'outsider' quality: bringing justice to law. This rather crude use of categories means that a fertile opportunity to explore the law/justice relationship in and through the allegorical figure of the lawyer has been missed. This may well be one of those instances of differences between scholars about how a category might be used but in *Film and the Law* its potential analytic capacity is not fully realised.

The film *Victim* raises another issue about the use of genre. The *Internet movie database* entry for *Victim* uses the genre categories of 'crime' and 'drama' to describe the film.[7] In categorising the film for consumption, Lovefilm.com, an Internet film rental and film sales company associated with Amazon, adds 'gay/lesbian' and 'thriller' as genre descriptors.[8] The British Film Institute website categorises *Victim* as a 'social problem' film (Duguid, undated). 'Law film' is notable by its absence. Is this an oversight unique to *Victim*? Another film discussed in the book is *Chicago*. Despite the film's extended engagement with questions of law and justice (it is about the treatment of women who kill in the justice system, the use of the death penalty and the interface between the justice system and the popular press), the central role of the character Billy Flynn, a lawyer, and the courtroom sequence that provides the climax of the film, neither 'courtroom drama' nor 'law film' appear to be genre categories that circulate between industry, text and viewer. The *Internet movie database* genre classification reads 'Comedy, crime, drama, musical'.[9] And if you think I have just chosen rather obscure films to highlight the genre categories used to generate interest, create expectations, and orientate those who make, circulate and consume films that are concerned with law and justice, do a search for *To Kill a Mockingbird*, the oft-cited film that offers what many US legal scholars regard as the quintessential portrait of the US lawyer as hero character, Atticus Finch. Again 'law film' is not one of the genre descriptors used in the categorisation of the film.[10]

If, as the authors propose, 'law film' is a genre category that needs to be generated in order to engage legal professional or legal scholarly interest, this is all well and good. But this makes it a genre category of significance for a very small and particular audience. The category of 'law film' is much more problematic as a heuristic category for enhancing understanding of the ideological form and force of films that touch on law and justice. It does not appear to be one of the systems of orientations, expectations and conventions that actually circulate between industry, text and viewer. The cultural objects that shape the ideology of law studied by Greenfield, Osborn and Robson, or any other legal scholar for that matter, are made and circulated in and through a number of other genre categories such as 'thriller', 'musical', 'comedy', 'drama', 'romantic comedy', 'costume drama' or 'science fiction'. There is some recognition of this in *Film and the Law*; for example 'comedy' is touched on in a couple of pages devoted to 'Laughing at the Law' (pp. 58–60). Unfortunately the appearance of this established genre produces neither a rigorous nor a systematic analysis of the way comedy shapes representations, understandings, expectations and attachments to particular ideas of law and justice. It is a pleasurable but superficial aside.

Keeping the established filmic genres in mind is important in another way: it may be of direct relevance to understanding legal practice. Yes, singing and dancing is not common in legal practice. But as some law scholars working on genre have more than amply demonstrated, drawing upon the literary rather than filmic tradition of genre, the text and practice of law are

7 www.imdb.com/title/tt0055597.

8 www.lovefilm.com/film/Victim/18858.

9 www.imdb.com/title/tt0299658.

10 www.imdb.com/title/tt0056592.

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suffused with genre-informed sensibilities such as melodrama and the gothic (see Hardy, 2004; Moran, 2001; 2004b; O'Connell and Baldwin, 2002; Rapping, 1999; on humour see Goodrich, 2005; Leung, 2010). Echoing some of the insights of the film scholars, these legal scholarly examples of an engagement with genre point to the way these categories pinpoint structures of feeling (Berlant, 1997) that orientate, prefigure and shape the interactions between the lawyer, legal text, legal institutional setting, client, defendant, victim and so on. One of the, perhaps unintended, consequences of the limitations of the category 'law film' is that its novelty draws attention to the fact that cinematic experiences of law and justice are neither generated via the neat box of one particular genre nor, more specifically, by prefiguring a film as a 'law film', but in and through a multiplicity of genre formats. These separate but overlapping genres may in their singularity and multiplicity produce a range of ideological experiences and expectations about law and social justice. So a law and film engagement with 'thriller', 'comedy', love story' and 'musical' may offer richer insights into popular and professional practices and experiences of law than 'law film'. The danger is that in pursuing genre as an attempt to isolate 'the law film', this potential will get lost.

6 Legal practitioners

What is the role of legal practitioners (lawyers and judges) in making and managing the visual culture of law? Resnik and Curtis's study has the most to offer here, though it is far from a systematic consideration of the issue. One conclusion the authors draw is that lawyers have little interest in the visual culture of law. From the seventeenth century when the desire to create dedicated courthouses began to gain momentum, Resnik and Curtis report a 'lack of interest' by lawyers and the judiciary in the art being produced for the courthouse. Their explanation ranges from:

> '... intellectual disdain for the didacticism of allegory, to intellectual dislike of ornamentation, and to the aesthetic affection for line and form, as well as to the absence of institutional structures pressing for art production.' (p. 182)

This suggests that 'art' has long been characterised and institutionalised as a frivolous and substantively marginal distraction, in stark opposition to 'law'.[11]

But this conclusion needs to be treated with caution, as it is drawn in the context of a particular aspect of legal visual culture: 'art'. What does the term mean here? It refers to 'art in architecture', the paintings and sculptures that adorn the public spaces of court buildings. It doesn't necessarily support a conclusion that lawyers have a general indifference to or disdain for the visual aspects of courts. In fact, Resnik and Curtis provide evidence that the marginal relevance of 'art' is not indicative of a wider professional lack of interest in the visual culture of law. They suggest that lawyerly engagement was elsewhere, in the visual aspects of the courthouse itself, which Resnik and Curtis argue 'came to replace Justice as icons of government' (p. 143). So if legal professionals showed a lack of interest in the 'art *in* architecture' this is perhaps because they engaged with the bigger picture, the art *of* architecture.

By way of a short US 'travelogue' that takes the reader on a tour of US federal courts built from the late nineteenth to the mid twentieth century, Resnik and Curtis offer some fine examples of the enormous works of legal art that emerged in this period: a series of iconic courthouses that mark the landscape, dwarfing their surroundings. What is the lawyerly role in the shaping and making of these legal artworks? There is some evidence that it might be more individual than integral. So for example Chief Justice Taft is identified as a key player in shaping and developing court

11 For a useful introduction to this long-standing relationship, see Douzinas and Nead (1999).

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aesthetics, with in particular a pivotal role in relation to perhaps the most significant iconic courthouse in the US, the Supreme Court in Washington. Likewise, Judge Stephen Breyer and Judge Douglas Woodlock are named as late-twentieth-century exemplars of such a role with regard to the Boston Courthouse.

Chief Justice Taft of the US Supreme Court is significant in another way. Resnik and Curtis argue that he was instrumental in generating a structural interest in law's visual culture. He is named as a major player who worked to create a collective judicial identity at the US federal level and helped to give it an administrative apparatus (p. 154). The latter is of particular significance. One of the administrative innovations, the Judicial Conference, enabled the judiciary to identify courtroom needs and lobby more effectively for their satisfaction by way of increased funds. The Judicial Conference also seems to have played a key role in enabling the judiciary to articulate, express and institutionalise their aesthetic needs. Resnik and Curtis's study suggests that the Conference was a vehicle for the judiciary to take a more active and effective role in shaping the courthouses and courtrooms that were built. Their review of the development of US court design guides from the late 1980s suggests that judges working through the Judicial Conference, under the tutelage of Chief Justice Rehnquist, were in the driving seat for court design and project realisation (p. 171). The rationale for this judicial interest is to be found in an extract from the 1991 version of the *Guide*: 'Federal Court architecture should symbolize the Judiciary ... Courthouse design should reflect the seriousness of the judicial mandate and the dignity of the judicial system.'[12] The courthouse and the courtroom are here identified as quintessentially visible expressions of the values and virtues of judicial authority, judicial legitimacy and the system they represent. This is far from being evidence of legal professional 'lack of interest' in the visual culture of law. It is an example of a systemic legal professional interest. It may also be an example of the role of institutions in nurturing, articulating and embedding that interest.

The legislation and codification of the aesthetics of courts that take place through design guides is not peculiar to the US. Mulcahy's study of legal architecture also makes reference to courthouse design guides in England and Wales. The description of the 2010 edition of *Court Standards and Design Guide* produced by the Ministry of Justice (Her Majesty's Courts Services, 2010) on the government's 'Construction information service' website gives an idea of its range. The guide contains:

> 'Comprehensive guidance for designing court buildings, covering site selection, analysis and layout, form and massing, planning, architecture and selection of architects. Contains sections dealing with various types of courts: magistrates', crown, county, judiciary and magistrates, district judges, jury, custody, advocates, non-HMCS staff, catering, public space, office design, court office, probate, office support service, common facilities, storage areas, car park, sustainable development, electrical, alarms and information and communications technology (ICT), air, water and acoustics, furniture and furnishings, finishes and materials, provision for disabled people, fire safety, security, locks and key mastering, libraries, signs, specific design features, and health and safety.'[13]

Reaching over 1,000 pages, the range of the *Guide* stretches from basic plumbing to high aesthetics. Mulcahy's study offers just a few examples of the *Guide's* engagement with and attempts to codify the aesthetics of court buildings and courtrooms. For example the *Guide's* 'design models' legislate the detail of the interior design of the courtroom (Mulcahy, pp. 46, 102), setting and regulating its

12 *US Courts Design Guide* (1991, p. 71), quoted in Resnik and Curtis (2011, p. 172).

13 Construction Information Service, http://products.ihs.com/cis/Doc.aspx?AuthCode=&DocNum=287689.

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sight-lines, distances and levels (p. 14). She concludes: 'Even the most cursory reading of the text reveals the *Guide's* concern with the minutiae of courtroom signifiers' (p. 169). Another example refers to some of the generic legal values that must shape and be expressed through the structure, and especially the entrance, of court buildings. These include 'civic presence', 'symmetry', 'formality' and 'generosity' (p. 23). Unfortunately there is little in Mulcahy's study about how the *Guide* came into being, or about the role lawyers and judges played in the development and content of the *Guide*. A reference in the *Guide* explaining that the courtroom layouts are the result of 'careful consideration by numerous user groups' (see Mulcahy, p. 14) is one tantalising hint at legal professional participation. Mulcahy's historical case-studies of the developing tendency for segregation in courthouses and courtrooms offer some details of the role legal professionals have played in the past design of courts. Her work also highlights the importance of context. In England and Wales, centralisation of funding and building courts did not occur until the 1970s. Prior to that, court design and building was a local matter. The building of various outstanding 'temples to justice' in the nineteenth century's new industrial and commercial centres – Liverpool, Leeds, Birmingham and Manchester – was initiated, driven and controlled by new local bourgeois elites who were using court building projects as devices to develop and express the values of newly generated civic pride. These civic projects were also vehicles to shape and represent their own character, status and legitimacy. The values and virtues of law so enshrined were, Mulcahy suggests, very much a part of bourgeois civic personality formation. What role did lawyers play as members of these new elite civic cultures? Mulcahy's historical work suggests that in England and Wales the role of the remote and peripatetic judiciary and advocates, largely London based, may have been marginal or ad hoc. What has been the impact of the decline of regional influence and the relatively recent centralisation of funding and building on judicial and legal professional engagement with the visual culture of courts? More research is needed if we are to gain any insight into this matter.

Both studies of legal architecture provide brief but tantalising glimpses into legal professional involvement in law's visual culture. It is perhaps hardly surprising that lawyers, and more specifically the judiciary, are involved in the design and development of courtrooms, being, in the modern parlance, 'user groups'. But neither study suggests that legal professional engagement with these aspects of law is coterminus with the invention of that particular modern term. It has a much longer duration.

While Greenfield, Osborn and Robson's study of filmic representations of law does not directly touch on the role of lawyers in the making of those images, the cinematic demands of empirical realism provide one opportunity for legal professionals to exercise their interests and expertise in the visual culture of law. Another is the role of lawyers in providing the stories and writing the scripts for films with a law theme. But these are individual initiatives and interests rather than institutional ones. My interest is in the latter.

One area of work suggesting that legal professional interest in the legal image is neither confined to courtroom architecture nor ad hoc and individual is research on the judiciary. Judicial scholars have identified judicial image making and image management as a fundamental aspect of judicial practice. Baum argues that judges, like other public officials and social elites, are preoccupied with self-image and self-presentation. Judicial peers and superiors are important audiences for these images (Bell, 2006, p. 137; Baum, 2006). The image of the judge being staged and performed for these and other audiences (such as the parties to the proceedings) is in part about displays of obedience to the law and exhibitions of dedication to the promotion and realisation of extant legal policy (what Baum describes as the legal instrumental dimensions of judicial performance). Judicial self-presentation is also made and managed to ensure 'esteem', 'respect' and 'status' (Baum, 2006, p. 29). Baum suggests that judicial self-presentation is orientated to a judge's 'personal audiences' (p. xii). A concern with 'esteem' comes from the fact that the judiciary is a role linked

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to high social status. As such, it involves and demands high self-monitoring, including refined skills of audience awareness and significant labour spent on producing and managing the judicial image to ensure that the performance of elite status is realised (p. 32).

Baum's work on the judicial image does not necessarily engage with its visual aspects. This reflects the fact that the written text of the judgment continues to be a preoccupation of those studying judicial image making and image management. Courtroom rituals and performances of judicial authority have attracted surprisingly little attention (Moran, Skeggs and Herz, 2010). Another under-researched dimension is the judicial use of visual images – portraits, sculpture and photographs – to shape and communicate ideas about the judiciary as an institution. Images depicting named holders of judicial office have a long history in the common law, originating in the thirteenth century with funeral monuments. Judicial portraiture blossoms in the sixteenth century and is transformed in the nineteenth century with the birth of photography (Moran, 2009). The collections of portraits of judges and barristers housed in the various Inns of Court in London certainly suggest that in England and Wales, by the nineteenth century, the legal profession had a well-developed interest in and engagement with the portrait as another aspect of law's visual culture.[14] Research on the interface between the judiciary and mass media adds another dimension to judicial image making and image management for wider audiences, namely journalists, other media professionals and the public. Haltom describes this interface as being all about 'image politics' (1998, p. 69).

The work of Resnik and Curtis and of Mulcahy offers many glimpses into the long and durable history of visual culture as a part of legal culture. If their works are short on the detail of legal professional interest in and involvement with the visual culture of law, they offer some provocative glimpses of lawyerly engagement. When set in the context of other research that touches on the visual culture of law, together they begin to generate a picture of a wider professional institutional interest. In turn, this begins to challenge the orthodoxy that legal practice is overwhelmingly hostile to all things visual. It also puts into question any grand theorising that seeks to explain legal professional and legal scholarly resistance to or active hostility towards taking the visual culture of law seriously as a form of 'iconoclasm' (see also Douzinas, 2000). This is a term that can be crudely used to refer to a long-standing hostility to visual images, associated with the elevation of the written text as the supreme form of representation and the one most closely associated with 'truth'. This is a cultural preference and political strategy that in the West is associated with the Judeo-Christian tradition. In terms of the Common Law it is also connected with Protestant attacks on the Catholic Church and nation-state formation from the sixteenth century onwards. If 'iconoclasm' does offer an insight into lawyerly hostilities that seek to reduce law to the written text (see Goodrich, 1995; Douzinas, 2000), my argument is not that these insights are wrong but that iconoclasm is not a practice or politics that evidences outright and unrelenting hostility to images. Scholarship on post-Reformation England and Wales has noted an explosion of images of the various monarchs, suggesting that investment in the destruction and condemnation of visual images can and did co-exist with vigorous image making and image management (see Latour, 2002).[15] Work covering the early modern period but looking at the emergence of local civic culture and local government has likewise noted that visual images in general, and portraits in particular, including portraits of judges, flourished in

14 See Holdsworth (2007), Rider and Horsler (2007), and Cooper (2011) on the earliest legal portraits in Lincoln's Inn. See also Archer, Goldring and Knight (2011) for an introduction to other aspect of visual culture and the early history of the English Bar.

15 There is a large literature on royal images in the Tudor period. For an introduction see Sharpe (2009). The visual image of Elizabeth I has attracted a particularly vigorous scholarship: for examples, see Strong (1963; 2003) and Montrose (1999).

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this period, playing an important role in shaping and representing the values attached to the new post-Reformation cultures of government and legitimate authority (Tittler, 2007). Thus, iconoclasm results neither in total disengagement from nor total disinterest in the visual as an important medium of communication. At most it seems to produce something like a formal disavowal of interest in visual images while at the same time sustaining an active and vigorous interest in image making and image management. Although this is not unique to law,[16] it is of particular importance here because law is an institutional, professional and scholarly context in which the written text occupies such a dominant position. These three books both individually and collectively make a powerful case for this contradictory state of affairs to be exposed and explored. They also provide ample evidence that visual justice should be taken more seriously.

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16 On the resistance to images in historical scholarship, see Burke (2001).

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