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Is it possible to identify a category of 'Law Film' and how might it be applied?

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Is it possible to identify a category of 'Law Film' and how might it be applied?

Steve Greenfield

A thesis submitted in partial fulfilment of the requirements of the University of Westminster for the degree of Doctor of Philosophy

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Abstract

This summary explores a large body of published work that has sought to develop both teaching and research in what has been termed film and the law or perhaps more accurately 'cinematic justice'.

The first section outlines the diversity of methodological approaches that have been used in the area generally but also within the submitted pieces that form the main body of the work.

The second part outlines the problems in identifying the core material that now forms the basis of the subject. It charts the attempts to expand the base beyond courtroom drama and explores the engagement with areas of film theory. A thread that runs through the published work from start to finish has been identifying what a legal film is or might be. At the start this was not explicitly recognized as a question of genre, there was no established framework to apply. A large part of the scholarship has involved analyzing films and searching out common elements and ideas in order to invigorate the process.

The third section addresses the synthesis of teaching and research that has always been a central feature of the enterprise. Developing a new 'pedagogy' for legal teaching seemed important - then became outdated - but now, it is argued, has the potential for a rebirth. This section makes the case for new thinking about using television material to explore the ideology within legal portrayals. The summary also reflects the author's highly significant role in the contribution to the development of the area more generally.

Acknowledgements

This has been a long and interesting journey from the earliest beginnings of film and the law that started in a Birkbeck University extra mural class with Vincent McGrath. I have been privileged to work on this project with Peter Robson from Strathclyde and Guy Osborn at Westminster and have learned an enormous amount from both of them. A huge debt of thanks is owed for their continual support, laughter, and wonderfully innovative unconventional thinking and writing. We have enjoyed many discussions both formally at academic conferences in various locations across the globe and informally, often in less salubrious surroundings.

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Not forgetting those closer to home, Del, Nye and Cerys and more latterly Busby with the long, mind clearing walks over the fields chasing rabbits.

Thank you all.

Declaration

This thesis is submitted to the Westminster Law School, University of Westminster, in partial fulfilment for the degree of Doctor of Philosophy. I declare that all the material contained in this thesis is my own work.

Date _____

Signed _____

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Introduction

'Legal film is an area that is ripe for detailed analysis for anyone interested in how we learn and understand law, the legal system, lawyers and, perhaps most importantly, justice...However, if we want to make the study of legal film more meaningful, more rigorous and more detailed work needs to be undertaken unless the subject is to be seen as merely an amusing diversion from the business of 'real law'.¹

At the outset a distinction needs to be drawn between a much larger body of work, encompassing over 20 years of activity, and the smaller more discrete material that forms the basis of this submission. The former has numerous threads running through it that have ebbed and flowed over time. It contains many ideas, some more developed than others and some that have flickered sporadically and others discarded. This submission includes articles that also develop and build on some of the themes found in the wider work. The situation is also clouded by the inclusion of the entire work *Film and the Law* as I took the view that submitting chapters would interrupt the flow of some of the arguments. This does however create a rather untidy mass that, at times, lacks clean lines.

Whilst the broader body has numerous aims and queries this summary (and by association the body of work submitted) seeks to address two specific questions:

1. How has the work contributed to the development of a new area of critical research and scholarship concerning the representations of law and legal personnel?
2. How has the scholarship been integrated into law teaching to promote stimulation and engagement?

¹ Greenfield *et al* (2001,203).

The first question analyses the construction of a framework for, and the content of, film and law scholarship and the specific contribution of the submitted pieces. A crucial feature for this new field of academic research and teaching has been determining its boundaries. As films (and other audio visual material) are the texts this has involved finding 'law films'. Essentially this is the 'genre' question that has directed half of the work. The second question involves a central longstanding aim of my work in law and film, it has always been teaching informed by research. A key issue here is the extent to which changing technology and a student audience closely assimilated into that technology has lessened the effectiveness of the original work. Prior to discussion of the two questions there is section that outlines the methods applied within the submitted works and more generally.

Methodological Approaches: Realism, Legal Theory and Film Theory

'Law and film is now a relatively mature discipline and has changed markedly since we first produced teaching materials, articles and conference papers. There is a fabulous wealth of material, demonstrating a broad range of aims and methods. Some of these show the way in which film can supplement legal study and involve truly imaginative approaches to areas of scholarship. Others show a use of language that may prove baffling to the beginner and involve an opaque methodology' (Greenfield *et al* 2010, 3)

A critical analysis or even a basic review of the scholarship, in the field of law and film, reveals two obvious things.² First there is a great breadth of outputs from the short film review to the research monograph. This in itself is not unusual as most subjects contain a range of work. Secondly there is an obvious diversity in terms of aims and methods. In 2001 Machura and Robson co-edited a special issue of the *Journal of Law and Society* on Film and the Law and noted a variety of approaches within the articles. This included social theory, literary theory, film studies as well as individual film analysis, and groups of films from specific Directors. As they pointed out this was unsurprising and a positive feature; 'We welcome this diversity which is inevitable in a field of scholarship that seeks to cross traditional boundaries.'³ This model has continued with a range of scholars from various disciplines addressing different issues employing diverse methods. There is the obvious danger that scholars adopting a specific methodology disregard other approaches and privilege their own ignoring the individual goals. There are inevitably blurred lines and much depends on the nature of the background discipline, particular aim or interest or in my case the specific line of enquiry I was pursuing at the time. Accordingly there is no one obvious methodological approach within the submitted work; they indicate

² For a more detailed assessment of the contemporary scholarship and the various methodological approaches adopted see Greenfield *et al* (2010 Chapters 1, 2 &16).

³ Machura & Robson (2001,1).

the diversity of approaches found within the subject as a whole.

The first piece (Greenfield & Osborn 2005) is a chapter in a wide-ranging collection covering the intersection of law and popular culture. At the time my work was trying to move the analysis of lawyers beyond a simplistic negative/positive portrayal rooted in legal practice that had dominated much of the early American work. It built on my earlier article (Greenfield 2001) and was part of a series of pieces that largely applied narrative analysis to individual films. It draws contrasts and comparisons within a select group of films through character and plot examination. Law and specifically trial films as a vehicle for drama was part of this analysis.⁴ The essence was to critically challenge those American scholars who adopted a rather shallow one-dimensional 'good/bad' approach to screen lawyers (Greenfield, 2001). It offered a distinct contribution to break out of the assumptions that portrayals were necessarily negative and that this had significant consequences. If an orthodox position existed at the time it was this conservative view of law films or rather lawyers that my work sought to critique.

One of the obvious limitations of the very early work had been the limited engagement with film theory.⁵ In 2001 this was specifically noted as a challenge for the subject:

'...we need to engage with elements of the construction of film and, more specifically where possible, legal film. A starting point is to incorporate ideas and theories that have been developed in cultural studies generally and more specifically film studies....What we are proposing is taking the "film" out of "law and film" and interrogating the essential features of film theory.....In particular,

⁴ It is important not to underestimate the requirements of the dramatic dimension. As Arnheim notes suspense is a fundamental element of dramatic film: 'Dramatic film, just as the dramatic stage play, is dynamic. It presents a plot that proceeds from step to step; one of its most characteristic effects is "suspense." Also it rigorously limits the presentation to what is needed to explain the motives of the characters and to make the events progress. There is no time for broad description in dramatic film.' Arnheim (1957,9).

⁵ An early development was to take film and the law into film studies with a conference paper at the *Screen Conference* in Glasgow in 1996. A somewhat chastening, though with hindsight, rewarding experience led to an appreciation that the subject had a hitherto unexplored depth and that aspects of film theory could and should be incorporated. It also indicated some of the real difficulty with interdisciplinary work.

we need to engage with theories of both construction and consumption of film. With respect to the former, the task is to work more broadly on the creation of genre. This needs to be supplemented with **a deeper analysis of how legal films fit into ideas of genre** (my emphasis).⁶

The second article (Greenfield *et al* 2007) in the *Baltimore Law Review* represented a move further into film studies applying iconography. It had two specific aims with related methodological approaches. First it sought to expand the broad base of national legal films through identifying the products of British national cinema. This was part of a wider policy, by European scholars, to reduce the dominance within the scholarship and teaching, of American films.⁷ Identification of the group of legal films defined as British, some 25 in all, was in itself significant. This required historical analysis of the production values and content of films themselves using narrative, visual and speech conventions. The other part of the article was a subsequent analysis of the identified group applying the concept of iconography drawn from film studies. The approach was innovative adopting McArthur's application of Alloway's early iconography analysis itself constructed from art. This was the first time it had been applied to law films.⁸ It built upon the earlier work identifying the characteristics that were largely visual. This enabled a more comprehensive view of the important images within law films to be fixed.

The third piece (Greenfield 2009) sought to continue the increased involvement with ideas drawn from film studies. It applied individual film analysis to a Swedish film, *Solstorm*, again with one aim of broadening the research base beyond the products of Hollywood. It also sought to pick up one of the constant threads, within many legal films, of the apparent discord between the formal legal process and the delivery of 'justice'.⁹ This links back to the dramatic element required for films, if the due process

⁶ Greenfield *et al* (2001, 190).

⁷ On the work of European scholars see Greenfield *et al* (2010 Chapter 16).

⁸ This of course assumes that gangster films are not law films.

⁹ Justice is of course a loaded term and I am concerned here with the representations of justice and not philosophical notions of what justice might mean. Neither am I seeking to link the portrayal to any

meanders to the right outcome there is a little tension or suspense. Many law films, I have argued, are often framed within a justice/injustice dichotomy. The legal process may be seen as an impediment or even a means to promote injustice for political ends for example; *A Dry White Season*, *Let Him Have It* and *In the Name of the Father*.¹⁰ *Solstorm* sought to work on the strained boundaries of the law/justice representation. Justice often lurks beneath the surface of legal film as the end point, the dramatic finale. On the surface the legal process and the work of the lawyers and other personnel progresses with character flaws and plot twists. This binary divide with recognisable and consistent features coupled with an underlying theme seemed to lend itself to analysis through the application of Altman's syntactic/semantic approach to genre. Apart from the individual issue of the relationship between law and justice this piece was part of a wider engagement with film studies and genre theory specifically.

The fourth piece (Greenfield *et al* 2010) is a major piece of work that operates as both a research monograph but also as a textbook. This original scholarship sets out the parameters to the field and presents an overarching analytical framework. It identified a number of themes and concepts that reinforced both the academic and pedagogical dimensions to the subject. A starting point in Chapter 1 of *Film and the Law* was to review how other scholars have tackled their subject matter:

'Different interests and foci exist. Just as legal scholarship ranges from the doctrinal, through socio-legal, to philosophical analysis, so too law and film has its distinct constituents. The problem lies in failing to recognise that the

external definitions. Within trial movies there are different approaches to the end point, justice or injustice is essentially the outcome. The audience may for dramatic reasons not be given the full story so what may seem to be a just outcome is in fact concealed. There are other films such as *The Accused* where the viewer is aware of what justice means at the outset. Within films justice is a problematic concept and comes in different forms see for example *To Kill a Mockingbird*, *Erin Brockovich* and *A Civil Action* and indeed *Solstorm* where the outcomes are nuanced unlike the simpler end to *The Verdict*.

¹⁰ 'The relationship between law and politics has been represented in both fictional films such as *...And Justice for All* and *Suspect* and films based on 'true' events. In this latter category political influence on the legal process is often a significant element in the 'story'. The most obvious being the miscarriage of justice trope (Greenfield *et al* 2010, 157-194).

distinct approaches come with different sets of criteria of relevance. When scholars shift between different approaches without acknowledging this change, they run the risk of their work being misinterpreted or critiqued for failing to do something it was not trying to do. Descriptive work or taxonomic surveys often cover extensive amounts of material without appearing to engage explicitly with theory. Theoretical insights are sometimes premised, as we have noted, on very limited evidence. These limitations need to be addressed in the pursuit of richer scholarship.¹¹

The book also charted the themes and topics that have been addressed noting the concentration on the portrayal and changes over time rather than analysis of the construction of the images. This latter approach would bring the work closer to the concerns of film studies. The book represented a significant milestone in the area and was well received.

The final piece (Greenfield 2013) is a chapter from an international collection on Capital Punishment Studies. It moves the film and law work into a new area of interdisciplinary study through analysis of a specific film, *Pierrepaint*. However the analytical framework was deliberately not rooted in legal film:

‘This essay does not seek to analyse the film from a ‘traditional’ law and film perspective through a classificatory approach contrasting the characteristics portrayed with films that explore similar themes.¹² *Pierrepaint* does not lend itself to this type of methodology given its rather unique subject matter. Whilst there are scenes of executions the punishment dimension is not the crux of the film and is neither directly supportive nor critical of state killing in a simplistic fashion. It is not a superficial ‘for’ or ‘against’ offering. Nor is it

¹¹ Greenfield *et al* (2010, 7)

¹² For an interesting comparative structural analysis of European and United States death penalty films see Bettwy (2010). He notes that; ‘U.S. films avoid the depiction of real-life cases gone wrong, preferring to employ fictional characters who fortuitously escape the potential danger of wrongful conviction and execution’ (2010, 103). True life stories do however feature in US capital punishment films in other categories see for example *Dead Man Walking*, *I Want To Live* and *The Executioner’s Song*. See also Harding (1995) and O’Sullivan (2003).

concerned with other aspects of the legal process such as the trial stage. A 'realist' approach could be applied to contrast the cinematic portrayal with the actuality of Pierrepoint's life. However this has rather limited use and would rely on a small number of sources some of which may not be accurate. It is also difficult to compare Pierrepoint's portrayal across the films in which he features given the minimal screen time he occupies. The more interesting dimension is how Pierrepoint is shown in relation to the victims, the others involved in the criminal justice system and his family, friends and the wider community. In essence the appeal of the film is how Pierrepoint, as a human being, interacts with the execution process and the effect this brutal 'career' had upon him and his wife. The framework adopted to consider his behaviour and attitudes is the concept of moral agency and subsequent disengagement developed by Bandura (1999, 2002). It also briefly considers some of the work on obedience studies in so far as physical proximity may be a relevant consideration.¹³

The application of the concept of moral disengagement to the film enables the construction of a greater understanding of the behavior of Pierrepoint and his relationship to the criminal justice system and the different participants. It explains his apparent indifference towards those he was about to execute and the changing relationship with his wife. The aim was to move away from the 'traditional' perspective of capital punishment films, although the numbers are somewhat limited. Sarat (1999) argues that there are two broad types of death penalty films; 'sentimental' tales and 'injustice' tales. The Pierrepoint piece addressed the portrayal of the death penalty from the consequences of capital punishment on individuals within the criminal justice system. This was an innovative development and sought to promote new methods of analysis.

I would strongly argue that these mixed methodological approaches are part of the

¹³ Greenfield (2013, 393).

richness of the subject in which there is no fixed method or orthodoxy. For instance the work on *Let Him Have It* (Greenfield & Osborn 1996) extended to an interview with Iris Bentley the sister of the Derek, the central character who is executed. This holistic approach sought to establish 'realism' not in terms of the film to the court proceedings or rather the reporting of the court proceedings but rather to the perspective of someone who had lived through the story. There is also the prospect that the further the academic work moves into dense theoretical quagmires the less it promotes student engagement; a strong rationale at the outset. I have been acutely conscious of the need to promote accessibility alongside a rigorous and critical methodology. There is a wonderful variety of work appearing as the subject grows and reflects different agendas.¹⁴ The least developed area of the work concerns empirical analysis of 'audience' reception and interpretation of the representations. At the very outset a concern of some US scholars was the negative effect of the cinematic portrayals on public confidence in the profession. Establishing the causal relationship, between the depiction and the altered view, is clearly problematic. It is not even clear at the outset that portrayals are 'negative' as much depends on how the film is 'read'. A small piece of empirical work involving law students across six jurisdictions was though carried out (Asimow *et al* 2005).

My own approach has been to embrace a range of methods and not to pursue one overarching perspective. A realist standpoint has been used in a limited fashion where appropriate to the **specific work** in question but it is not the driving research paradigm.¹⁵ Realism may reveal 'inaccuracies' in the portrayal but unless the consequences of the gap are analysed it has limited effect. Similarly aligning portrayals to distinct theoretical perspectives concerning the operation of law in society has been noted at points but is one influence and needs to be broadly construed.¹⁶ The thrust of my own work has been located at the end of the spectrum

¹⁴ See for example the different approaches to the portrayal of women in film by Lucia and Kamir noted in Greenfield *et al* (2010, 6).

¹⁵ Most obviously the work on miscarriages of justice films that are based on true stories (Greenfield & Osborn 1996). I deliberately chose not to adopt a realistic framework for the work on *Pierrepoint* as I have reservations about the usefulness of the outcome.

¹⁶ See for example this passage from Greenfield *et al* 2001: 'Given the broad range of theoretical perspectives that have emerged within both law and film studies, legal film would seem to be an area

primarily concerned with the nature and content of the representations whether found in film or television. Regardless of the method employed the consistent aim has been to produce a critical but accessible body of work.

Developing critical scholarship: identifying and working with legal film

‘Why bother to theorize, American pragmatism asks, when there are no problems to solve? We all know a genre when we see one. Scratch only where it itches.’¹⁷

This section covers two distinct elements. First the ongoing work to classify the subject matter and thus set the parameters to the field in terms of the material. This has always been a difficulty once ideas move beyond courtroom drama though this term in itself brings definitional problems that are noted below. The genre question is unresolved and as an open enquiry doesn’t lend itself to a definite outcome. Indeed it would be disappointing if it did, new films with different perspectives enable the field to develop. The second element considers how my work has used the identified body of material to develop ideas and thinking about legal film. It is not always easy to draw the distinction between identification and application as both issues are often inextricably tied together. For example trying to determine the good/bad lawyer representation in film requires identification of the characteristics of good/bad and finding the films or starting with the films themselves and classifying the content. This has always been a problem of genre analysis as Tudor noted: ‘..we are caught in a circle which first requires that the films are isolated, for which purpose a criterion is necessary, but the criterion is, in turn, meant to emerge from the empirically

ripe for significant theoretical discourse. We suggest that the framework of applicable legal theory ought to be kept as broad as possible and encompass notions of postmodern jurisprudence.... This ‘naturalistic-positivist debate could be reflected, or indeed fought out, in legal films and it is possible to find examples of both ideas within the same film, such as *The Verdict* (1982). In another example, ideas from legal realism can be identified in the courtroom scenes in *Serial Mom* (1994). Whilst this provides one route into theory, it is perhaps other theoretical aspects that have been influential in film studies that may provide a more immediate relevancy’. (2001, 24-25).

¹⁷ Altman, (1984, 6).

established common characteristics of the films.¹⁸ This circular problem is inevitable if classification is considered an important part of the construction of the subject. This unavoidable link between identifying the essential constituents to the genre and analysis of the films does make for one rather unwieldy section that had no other obvious method of division.

The obvious starting point in building a subject framework is to identify and categorise the relevant material. Generally in legal areas the substance is obvious as cases and statutes largely fall into pre-determined areas. New fields that emerge, for example sport and law, draw from existing areas such as contract, tort and crime because the dispute at the centre is sport related. Over time a coherent body can appear. For film and the law defining the material at the outset in order to determine what constituted a 'law' film meant embarking on categorisation of films and the writing on legal film. However the most obvious retort to the question of whether it is possible to identify a category of law films is; why bother? There are on-line classifications and lists that have been developed and it would be much easier to just adopt these.¹⁹ Aside from the indices produced by 'film buffs' there is now a much greater volume of academic work.²⁰ The overwhelming bulk of the scholarship is written by legal academics and they ought to be able recognize a law film when they see one, no one could be better placed. These are firstly academic lawyers, and some are pretty weighty, and secondly film buffs.²¹ Law films could simply be defined as those films that law academics write about. Furthermore there is now a number of serious books and an impressive range of academic essays covering a wide variety of subjects and themes.²² There are also plenty of 'lighter' pieces by

¹⁸ Tudor, (1974, 137-8).

¹⁹ See for example: http://www.abajournal.com/magazine/article/the_25_greatest_legal_movies/ (Last accessed 16th April 2014).

²⁰ The UK Film Council adopts the term film 'avids', rather than buffs, with 3 recognisable sub categories 'summits, specialists and scatterguns' (2007, 3). An interesting and relevant characteristic of avids, that resonates with the influence of Atticus Finch on some lawyers, was identified: 'It is common for avids to cite a particular film as the formative influence on their development. Often the film in question is said to have 'really moved them', caused them great excitement ('it blew me away') or provided a powerful point of identification ('that is me')' (2007,3).

²¹ Some notable scholars have tied film to broader ideas around law and popular culture (Chase (1986), Friedman(1989).

²² The significant texts include: Bergman & Asimow (1996); Black (1999), Rafter (2000, 2006),

academics and practitioners mainly of the 'my favorite law film' variety for example Denvir (1995). Lawyers can comfortably write about their favourite lawyer or most influential or memorable law film. This leads to consideration of whether law films must be concerned with viewing lawyers in action and if so what type of action qualifies; what might be termed the 'character role' question. Can there be a law film without a lawyer and without any courtroom action? A more considered approach is to ask whether law films are concerned with the practice or profession of lawyering whenever and wherever it transpires. This latter approach then draws within the ambit of the definition a film such as *The Firm* that is primarily focused on the organization of lawyers and unethical behavior. People, places and practice are the crucial elements when trying to set the boundaries.

One of the earliest attempts to engage with the concept of genre appeared in *Film, law and the delivery of justice: the case of Judge Dredd and the disappearing courtroom*.²³ This sought to take law films beyond the traditional courtroom drama by considering the portrayal of other *fora* in which disputes might take place. This seemed at the time to be an important, albeit a rather small, step as it permitted new directions to be explored going beyond the narrow definition of the courtroom drama or trial movie:

'In a contemporary sense, the most obvious examples of external (to the courtroom) justice are those films that deal with the concept of street justice - sidewalk law enforcement'.²⁴

On reflection this approach, whilst attractive at the time did not tackle the inherent genre problem though expanded the material beyond the traditional trial film. Creative interpretation of how a 'courtroom' might be constructed did at least add to

Sherwin (2000), Greenfield *et al* (2001, 2010). Sherwin kindly described the 2001 *Film and the Law* book as follows: 'The emerging law and film movement now has its founding text.' (2001, rear cover). A full bibliography can be found in Greenfield *et al* (2010).

²³ Greenfield & Osborn (1999).

²⁴ Greenfield & Osborn (1999, 38).

the filmography.²⁵ *Twelve Angry Men* provides an example of the contradictions in defining legal film as more than courtroom drama. The action takes place almost entirely in the jury room and the audience sees a very small piece of courtroom action at the very beginning. This initial scene sets the parameters for the jury deliberations. It is undoubtedly a film based on a jury but the question is whether that necessarily makes it a jury film or indeed a law film. It is very obviously concerned with the application of law and a potential death sentence for a young man. The New York Times film reviewer noted that the film: 'is a penetrating, sensitive and sometimes shocking dissection of the hearts and minds of men who obviously are something less than gods. It makes for taut, absorbing and compelling drama that reaches far beyond the close confines of its jury room setting.'²⁶ This suggests a clear critical appreciation that this is far more than a film about the workings of the jury and indeed this particular case. This is borne out by Cunningham's evaluation:

'Lumet is uninterested in the legal attack and defense system, in the sometimes pyrotechnic emotional displays by both counsel and witness in American courtrooms. On the contrary, as is so frequent in his films, Lumet here is far more interested in human character, in the nuances of the ways that people make up their minds about things (or think they do), than in the more obvious spectacle of such legal melodramas as *Kramer vs. Kramer* or *And Justice for All*.'²⁷

He identifies that the theme of personal responsibility so central to *Twelve Angry Men* also appears in other Lumet films. In this interpretation of the film the jury room is a means to explore a wide range of issues around democracy, prejudice and responsibility. The legal process is the vehicle for this discussion to take place; the film is not about the trial of a young man but relationship of individuals to a liberal democracy and each other. Cunningham further cites Lumet as saying; 'This is not a

²⁵ It was argued that the boat in *Cape Fear* was effectively the scene of a trial over Bowden's unethical behavior and the consequences for Cady (Greenfield *et al*, 2001).

²⁶ Weiler, (1957 April 15th).

²⁷ Cunningham (1991, 118).

tract. This is not a pro-jury or anti-jury thing. It's about...human behavior.'²⁸ So perhaps *Twelve Angry Men* should be categorized as a film about group behaviour with its roots in psychology rather than law. A film that is listed, by lawyers, as one of the greatest legal movies is not, according to its Director, a film primarily concerned with law or the legal system. *Twelve Angry Men* is often cited as an archetypal law film and the idea of a group of 'classic law films' appears in the film and law scholarship; films from the 50's 60's and 70's were cited including; *Witness for the Prosecution*, *Anatomy of a Murder*, *Inherit the Wind*, *To Kill a Mockingbird*, ...*And Justice for All* and *Kramer v Kramer*. *The Caine Mutiny* and *Paths of Glory* offer a slightly different perspective on trials, through courts martial, whilst *Judgement at Nuremberg* presented a global perspective on justice. *Twelve Angry Men* maintains iconic status perhaps bolstered by the fact there are few films centred entirely on the jury.

The characteristics of legal film

One of the early contributions to classify law films was to identify certain crucial features of the imagery:

'In order to qualify as a law film the following characteristic(s) must be present in some shape or form: the geography of law, the language and dress of law, legal personnel and the authority of law.'²⁹

This classification permitted an expansion beyond courtroom drama but was not so open as to include all films where notions of justice were present within different settings such as war films and westerns. However courts martial films were within the definition given the formal nature of the proceedings and there are a good range of memorable films from *Paths of Glory* through to *Mangal Pandey: The Rising*. This group shares a number of similarities with a traditional courtroom drama in terms of

²⁸ Cunningham, (1991, 119).

²⁹ Greenfield *et al* (2001, 24). The 'geography of law' referred to the places and spaces where justice is shown as being delivered. See the point above concerning the boat in *Cape Fear* Greenfield *et al*, (2001, 31-53)

both place and procedure and often plot. The rookie lawyer up against a conspiracy that is the essence of *A Few Good Men* can be seen to varying degrees in films such as *Young Mr Lincoln* or even *My Cousin Vinny*. The essence of this approach to genre definition was a concentration on image rather than a structural or narrative analysis.

Once some categorisation, albeit contested, has taken place the question was how to use the body of work to explain the essence of legal film. One of the starting points to my work, with the identifiable law films, was to engage with the 'good lawyer versus bad lawyer' argument notably with Michael Asimow.³⁰ Some scholars, in the USA, have continually asserted that; (i) the contemporary portrayal of lawyers is generally negative and (ii) the consequence has been an unhelpful effect on public confidence in the profession.³¹ Even if the legal profession has suffered from a declining lack of public esteem it is a large leap of faith to attribute this critical public view to cinematographic images. I have also consistently argued that there is considerable doubt that the image of lawyers can only be defined as negative. Cinematic portrayals when critically appraised in depth are often more positive than might be first assumed. In any event treating the cinema audience as a rather simplistic one-dimensional stereotypical mass is intellectually unattractive; the relationship is inevitably more sophisticated. The extent to which knowledge and understanding of law and lawyers is solely gleaned from unrepresentative media portrayals is naturally unresolved. Regardless of the point and extent of 'influence' it is difficult to find many examples of lawyers shown with purely undesirable traits and even where there are negative characteristics they may be outweighed by either a

³⁰ See the contrasting approaches and views of Asimow (2000) and Greenfield (2001).

³¹ This view also presupposes there to have been a 'golden age' of lawyer portrayals and also ignores the importance of both Television portrayals, which are numerous, and media reporting including televised trials. TV examples that critics of the film portrayal might find hard to stomach could include Maurice Levy (*The Wire*), Thomas Beecher (*Oz*) and Denny Crane (*Boston Legal*) amongst (many) others. On TV lawyers see Asimow (Ed) (2008).

In terms of declining public confidence as an example a Harris poll in the USA in 2002 found that only:

'24% of respondents trusted lawyers to tell the truth; in comparison, 65% of respondents trusted ordinary men and women to tell the truth. Only stockbrokers (at 23%) came in behind lawyers' (Asimow *et al* 2005, 431). This article provides a more detailed analysis of the 'problem' of public confidence and the influence of media portrayals.

personal transformation or other contrasting lawyers e.g. *The Verdict*, *The Devil's Advocate*.³² Regardless of subjective interpretations there is a further problem associated with the lack of a demonstrable causal link between the portrayal and public distrust of lawyers.³³

A fundamental issue that requires analysis is the relationship between the portrayal of the legal process and the outcome, the law/justice conundrum. Leaving aside those films based on true events that may have additional considerations, a key part of the outcome is the dramatic dimension. The requirement for suspense, in trial films, is almost inevitably tied into the verdict. The process allows for 'twists and turns' and surprises. For example *The Verdict* builds suspense through a number of stages in the proceedings. There is the finding of a key expert witness; his surprise 'disappearance' and subsequent last minute replacement. This expert is inevitably nothing like as well qualified or convincing and is black to add a new dimension for the defence. There is the location of a surprise witness who has vital evidence, her court appearance, and the judicial refusal to admit the crucial hospital record. There is also the path of the central character, Frank Galvin, from inebriation through despair to redemption. All of these stages in each element of the trial unite to build suspense towards the final jury decision. The different routes drive the narrative forward to a final climactic moment of decision, all hinges on the final outcome; will the jury find for the plaintiff or defendant? There is a huge burden at stake for all concerned, the plaintiff and the defendants, the hostile judge as well as Frank Galvin and indeed law itself. This type of suspense building works so well because of the final dramatic moment that the audience knows awaits them. Having developed ideas around characters, narratives and plots a new attempt to move further into film studies was made.

³² Perhaps Atticus is part of the problem. His general all round heroism that is stressed throughout (single parent raising children, representing unpopular black defendant, shooting a rabid dog, preventing a lynching etc.) doesn't allow much space for human weaknesses. Thankfully most contemporary screen lawyers are not 'just Atticus' and are far more complex in terms of characteristics.

³³ With respect to viewer perception of television lawyers Pfau *et al* noted; '...in addition when compared to the reality check, television portrayed practicing attorneys, and the public viewed attorneys, as more imbued with the traits of: composure, presence, power, and physical attractiveness.' (1995, 325).

Iconography

A return to the visual dimension of law film and applying the concept of iconography formed the basis of the *Baltimore Law Review* article. The article had two aims, first to engage with iconography but also to expand the film base incorporating national film addressing a previous weakness in terms of the source material:

'There is now a huge range of work to be found in the field of law and film. The scholarship varies enormously both in terms of quality and its approach. One thing that is marked within the research that has been conducted is the initial centrality of work emanating from the United States. This is undoubtedly a reflection, in part, of the significance of Hollywood, to the global film audience. Historically little attention has been devoted to material produced "locally", whether within Europe or beyond. Such has been the dominance of Hollywood that academic work within the field has tended to concentrate on products of American cinema. As scholars we must come clean at this point - much of the work we ourselves have previously conducted has focussed largely upon American cinema and output'.³⁴

Identified material encompassed 25 films produced over 65 years that had a trial or legal process at the centre; 'The classification of British law films splits neatly into two types. Firstly we have films, principally based on fictional events which were encountered from the 1940s through to 1970. Thereafter the overwhelmingly dominant theme for law films has been miscarriages of justice based on real events'.³⁵ It was argued that whilst the identification of films was in itself useful the link to ideas around genre could move the subject area forwards:

³⁴ Greenfield *et al* (2007, 371).

³⁵ Greenfield *et al* (2007, 376-7). I recognise the circularity and irony here of discussing what makes a genre film having already selected the films. This has always been an integral problem within genre theory.

'We have here a whole range of British films concerned with the British justice system. This identification of national law films is important in itself for reasons of cultural identity in a hegemonic world. It is also worth considering what distinctive features and aspects of a national cinema might bring to wider debates about law and film. We suggest that by going back and re-examining debates about genre and law films we can provide a richer understanding of differences and similarities within the area. By focusing not simply on narrative aspects but also upon the iconography, our study also offers an illustration of the potential of the portrayal of the British legal system through the British law film to add to the contemporary international scholarship in the area of film and the law'.³⁶

Alloway adapted the concept of Iconography from art history and utilised it for the cinema. McArthur (1977) applied the idea to gangster film noting a consistency of imagery over several decades drawing comparisons from *Little Caesar* in 1930 through to *Tony Rome* in 1967. He identified three separate categories of images that could be used to create a consistent iconography. These he suggested were:

'those surrounding the physical presence, attributes and dress of the actors and the characters they play; those emanating from the milieux within which the characters operate; and those connected with the technology at the characters' disposal'.³⁷

McArthur distinguished a number of recurring characters including two legal figures; 'crusading district attorneys and legal mouthpieces for the mobs'.³⁸ In addition to the roles themselves there is also the specific dress of the characters that he described as having 'the peculiar squareness of their hated and coated figures'.³⁹ Clothes

³⁶ Greenfield *et al* (2007, 378). It is not just the consumption of American produced films that drives this hegemony but also the influence of Hollywood on the creativity and output of national cinema.

³⁷ McArthur (1977, 118).

³⁸ McArthur (1977, 119). Perhaps the two best/most interesting mouthpieces for the mob that illustrate different contexts in terms of both the medium and the changing criminal grouping are Tom Hagen in the *Godfather* and the streetwise Maurice Levy in *The Wire*.

³⁹ McArthur (1977, 119).

single out not just an individual as a gangster but also his status in the organization. The environment for the gangster is the city 'most often seen at night, lit by feeble streetlights or more garish neon signs'.⁴⁰ In terms of the technology iconography is represented primarily by the weapons, and the cars though 'telephones' also feature.

Within legal film physical presence and dress are clearly important elements; the advocate is centre stage with a wig and gown, similarly the buildings provide the opportunity for an opening framing shot.

'From the 'scales of justice' to the occlusion of law (justice blindfolded), from the pomp and pageantry that surround the legal process and the legal players, legal imagery is forcefully used by film makers.'⁴¹

Perhaps more interesting is the application of the idea of the iconography of technology, identified by McArthur. For legal film there is no specific technology, indeed the absence of change including modern technology emphasizes the antiquity, stability and history of the law. Despite its antiquity it was argued that the law itself was the technological 'tool' at the disposal of the screen lawyers.⁴²

However it is important to recognize that iconography is but one element that contributes to the idea of genre;

'to define the gangster film/thriller solely by its iconography is to suggest that the genre is static and unchanging, that the gangster film of the thirties is indistinguishable from that of the fifties....both thrillers and gangster films...are in constant flux, adding a new thematic dimension here, a new

⁴⁰ McArthur (1977,121).

⁴¹ Greenfield *et al* (2007, 387). See also Greenfield *et al* 2010 at page 37 discussing the visual spectacle and the work of Jay on the emergence of 'eyes covered' from 'eyes uncovered'.

⁴² "Technology' for the lawyer equates to legal process, and how the lawyer uses the tools of his trade within his job. In particular here we might see the misuse, or abuse, of legal process. This point had previously been identified in terms of "going beyond the law to achieve justice'. Greenfield *et al* (2007, 387).

moral emphasis there.⁴³

This argument applies equally to law films particularly as ethical issues have come to the fore. One of the problems with the approach of using iconography is that whilst it enables a much better delineation of some films it excludes others that have little or no court action and leads the analysis back solely to courtroom drama or at least films that have a significant trial content. For example *The Firm* is clearly a film about lawyers but not lawyers in a trial setting and it lacks the iconography identified in the *Baltimore* piece. What this account has however provided is an understanding of the importance of British films beyond the national cinema;

‘.we see the importance of the iconography of the British law film, both in terms of the "British", but also its wider relevance and use in other law films, particularly from the United States. Indeed, this very iconography becomes a staple of the American film and often "the British dimension" is used as a signifier within the avowedly Hollywood law film. This goes beyond the narrative and concentrates on the visual, so whilst the British law film might appear as a minor footnote to the catalogue of law films, in fact its importance is far greater than perhaps expected. Its trajectory can be charted through a specific application of a line within genre theory.’⁴⁴

Whilst the application of ideas around iconography did provide a useful addition, especially for the rediscovery of British film this did still lead back to the idea of the courtroom drama being central. Law films lack the consistent and obvious imagery that McArthur identified in gangster films and the idea artificially stretched to equate technology with law. The appeal of iconography is that it does seem to apply to a narrow group of British law films and it is possible that more films can be discovered that belong within this group. This work built on and refined the original characteristics previously applied and certainly bolstered the visual dimension to

⁴³ McArthur (1977, 123).

⁴⁴ Greenfield et al (2007, 389). Obvious examples include inter alia *Guilty As Sin*, *Class Action*, *Jagged Edge*, *A Civil Action*.

classification. It did though mean that whilst the field was expanded and national cinema incorporated it returned to the idea of law film as being courtroom based.

Semantic/Syntactic divisions

Trying to find a way out of the portrayal of law juxtaposed with justice led to the application of Altman's semantic/syntactic approach to genre.⁴⁵ The problem faced with categorising and understanding law films seemed to find resonance with Altman's identification of a contradictory underpinning of the concept of genre: 'there are two competing notions of generic corpus on our critical scene, it is perfectly possible for a film to be simultaneously included in a particular generic corpus and excluded from that same corpus.'⁴⁶ Altman's proposal to resolve the contradictions he identified in genre theory was to combine the idea of both the semantic and syntactic dimensions under one broad umbrella rather than choose on or the other which in itself created difficulties: 'choose the semantic view and you give up explanatory power, choose the syntactic approach and you do without broad applicability'.⁴⁷ The solution he posited was to combine these two elements rather than choosing one or the other. Much of my original work had been the classification of law films using the semantic elements noted by Altman as: '..common traits, attitudes, characters, shots, locations, sets and the like.'⁴⁸ These are easy enough to identify with the central core of law films and are reflected in the classification instruments that have been developed.

⁴⁵ As with the 2007 *Baltimore Law Review* article this piece also explored a group of films, although concentrated on *Solstorm*, and briefly drew out interaction between law and religion in film identifying a number of types including the trial of the existence of God, religious sleuths and a broader legitimacy of religious values most notably seen in *The Exorcism of Emily Rose*.

⁴⁶ Altman (1984, 7).

⁴⁷ Altman (1984, 11). Altman identified the central issues within genre theory generally; 'Here we have three problems which I take not to be limited to a single school of criticism or to a single genre, but to be implicit in every major field of current genre analysis. In nearly every argument about the limits of a generic corpus, the opposition of an inclusive list to an exclusive canon surfaces. Whenever genres are discussed, the divergent concerns of theorists and historians are increasingly obvious. And even when the topic is limited to genre theory alone, no agreement can be found between those who propose a ritual function for film genres and those who champion an ideological purpose.' Altman, (1984, 9-10).

⁴⁸ Altman (1984, 10).

The *Solstorm* piece first sought to identify the semantic dimension within the film and applied the original 2001 definition that concentrated on the visuality noting its limitations:

‘One of the problems with the definition is that it is unclear how the various elements link to each other in terms of quantity and quality. It is clearly difficult to quantify on a general level and might prove too prescriptive and mechanistic an approach’.⁴⁹

The geography of law in *Solstorm* might seem problematic, there are not any formal court scenes but there are adversarial ‘trials’ notably in the church. There could have been a criminal trial once Rebecka finds the truth but she is satisfied that justice is done.⁵⁰ Similar issues arise in terms of legal personnel. The essential problem with classifying the film is determining whether it is a thriller that happens to have a lawyer in the lead role or a film that can be more legitimately located within a law and justice trope. The reason for selecting the film was precisely because of the ambiguity. Put simply could Rebecka be an architect or a farmer rather than a lawyer, indeed a tax lawyer? However it is because she is a lawyer that she is contacted at the outset and her lack of specialist criminal law knowledge is not a significant handicap. The problems of the original definition are clearer when it becomes apparent that there are similarities in terms of elements of the plot with more ‘established’ legal films; notably the lawyer as the principal investigator which appears in *The Client*, *Suspect* and *A Time to Kill* amongst others.

Altman defines the syntactic dimension as the ‘meaning bearing structures’ and in terms of law films the key relationship is often that between the formal process of law and the eventual outcome: ‘This can be narrowed down to the issue of whether the legal system is fundamental to the delivery of justice and whether it can be discarded

⁴⁹ Greenfield (2009, 139).

⁵⁰ There are obvious parallels with the approach of Atticus Finch who ignores formality in favour of a more holistic view of ‘justice’, in this the case the apparent murder of Bob Ewell by Boo Radley.

if it obstructs the pursuit of justice.’⁵¹ *Solstorm* contains a number of common syntactic elements the centre of which is the relationship between the formal processes of law and the attainment of justice. The wrongs that need to be righted are clear, less obvious is who is to pay for which ones? Perhaps a key perspective is the extent to which law, as a process, is sophisticated and flexible enough, to achieve justice in a complex set of circumstances. Here there is not one victim in the form of the murdered Viktor but a number who have suffered at the hands of the community including Rebecka herself. The film does pose questions around what justice might be and how it is best achieved outside of a legal framework and set within a religious context that provides an alternative set of values. The article did develop a slightly different approach and the separation of the semantic issues and identification of the syntactic components was, in retrospect, a useful exercise in advancing my thinking. At the very least I had some terminology to apply to the structure. The interaction of law with religion was also an additional dimension that expanded the small field. However in retrospect the attempted application of Altman’s method ultimately provided little long term resolution of the genre problem. It did make me think more closely and deeply about the different elements and more crucially the importance of their interaction.

There have been other approaches considering Altman’s semantic/syntactic framework that provide an opportunity to contrast with law films. Two in particular are of value; Eisele’s deconstruction of ‘eastern’ films and Grindon’s analysis of boxing cinema. Eisele argues the case for an eastern genre with various sub genres (the Sheikh, Arabian Nights, Foreign Legion, foreign intrigue and terrorist) arguing that ‘almost all Hollywood films made about the Middle East share an easily discernible set of features.’⁵² The geographical location is very broad; The Middle East including Turkey, Iran and Israel which combined with the breadth of narrative attributes creates a potentially large body of films a point that Eisele acknowledges but argues that compared to other genres (and most obviously the Western) the eastern is: ‘more varied (both synchronically and diachronically), and is less coherent in its

⁵¹ Greenfield (2009, 144).

⁵² Eisele (2002, 90).

themes, locales, and costumes.⁵³ Contemporaneously he also notes that there are overlaps with films set in the Far East suggesting that the category of films could be widened beyond the already broad boundaries. Herein lies the problem of applying the idea of genre to an ever increasing and diverse body of work. Commonality, in terms of semantic conventions, needs to be traced through historical periods when different sub genres appear, for example the 'arab as terrorist' is a relatively recent addition.⁵⁴ The same issue can be seen with law films particularly with respect to the courtroom drama, as the moral identity of the central character becomes more varied and subtle, with clear-cut lines of good lawyer/bad lawyer being replaced by nuances. Those who hark back to the golden age of screen lawyers rather miss the point as such figures would not survive the level of audience expectation. Eisele also identifies 10 'narrative attributes' that define the genre when combined with the place and characterization; '..(1) transgression, (2) separation, (3) abduction, (4) reduction, (5) induction, (6) seduction, (7) redemption, (8) revelation, (9) reaffirmation and (10) mutilation.'⁵⁵ This approach has some commonality with law films and most obviously transgression for the vast majority of films that draw upon the criminal law. There may also be elements of induction, seduction, redemption, revelation and reaffirmation but it is the combination of the visual, oral and plot conventions that provide the essential framework.

In his work on boxing films Grindon (2007) sub divided the group into both cycles and clusters. He draws upon Altman's idea but also identifies specific disputes; 'at the foundation of the boxing film is a series of dramatic conflicts that integrate the genre's semantic markers with relatively stable syntactic relations.'⁵⁶ He identifies 6 fundamental conflicts though not all are present in all films.⁵⁷ These first four are: 1) body and soul or material v spiritual; 2) competition v cooperation; 3) masculine v feminine; 4) mainstream society values v marginal groups. The last two are

⁵³ Eisele (2002, 90).

⁵⁴ The latest variant as seen in *Homeland* (based on the Israeli drama *Hatufin*) is the domestic convert posing an internal threat.

⁵⁵ Eisele (2002, 73)

⁵⁶ Grindon (2007, 406).

⁵⁷ In his earlier work he identified 4 broader conflicts that were: 'body versus soul; opportunity versus difference; market values versus family values; and, finally, anger versus justice' (Grindon 1996, 54).

described as: 'a problem for male emotion arises from two related conflicts that characterize the boxing film: anger at injustice conflicts with powerless to alleviate oppression, and a stoic discipline in the face of life's cruelty conflicts with sensitivity towards others.'⁵⁸ Anger at injustice is frequently found within legal films as the protagonist battles on a number of different fronts. An important point that Grindon notes is that these conflicts are not fixed with a pre-determined outcome but; 'allow for a range of resolutions and attitudes, assuring the flexibility and evolution of the form'.⁵⁹ Interestingly this idea of conflicts being used as points around which to organize the semantic elements works effectively for law films. The adversarial nature of law, or at least the trial phase, automatically establishes potential conflicts; prosecution/defendant, guilt/innocence, prosecutor/defence lawyer, expert witness/expert witness. However in addition to these process specific dualisms there is an additional set of broader conceptual dichotomies:

1) *Professional ethics versus justice, Law versus justice*

Professional ethics are often seen as conflicting with the pursuit of justice, limiting the ability of the central character to achieve a just outcome. However it is often fundamental for the heroic lawyers to put their career at risk in order to achieve justice, breaching ethical practices is often portrayed as necessary. For example in *Cape Fear* Sam Bowden fails to disclose evidence that he knows will assist his client's case who he strongly suspects is guilty of a violent sexual assault. In *The Verdict* Galvin fails to put an offer, that has been made by the defendants, to his client provoking a furious response when the client eventually finds out. In *Suspect* public defender Kathleen Riley embarks on an improper relationship with one of the jurors to help demonstrate the innocence of her client running the risk of being accused of jury tampering. All risk disbarment and Bowden's colleague, who he confesses to, is particularly scathing informing the viewer that these lawyers are risking professional ruin. In *..And Justice for All* Kirkland sacrifices his legal career by breaching confidentiality to ensure his client, a judge, is convicted. A variation of the

⁵⁸ Grindon (2007, 406).

⁵⁹ Grindon (2007, 406).

ethics/justice conflict emerges as lawyers attempt to achieve a just result with or without the help of the process of law. In *The Verdict* Galvin manages, against all odds, to find evidence that demonstrates a cover up and prove his client was injured by negligence however the judge refuses to admit the evidence on a technical point. This idea of the rules as a barrier to justice can also be seen in ...*And Justice for All* and *Suspect* with hostile judges using the law to weaken the case.

2) *Outsider v Establishment/Community*

The idea of the main figure as an outsider can be seen in a number of situations. The outsider may be a rookie lawyer trying his first case; *A Few Good Men*. Or the outsider may originally part of the establishment but now discredited; *The Verdict*. The idea of an outsider as the protagonist permits women to be cast in the leading role outside of the masculine hegemony; *Suspect*, *The Client*. The lawyer can also become an outsider by stepping into the given role thus placing him at odds with the community as with Atticus Finch in *To Kill a Mockingbird*. Finch moves from someone with high community status to an unpopular figure because of his role as the defendant lawyer. A similar though more complex example can be seen in both *A Dry White Season* and *Philadelphia*. The latter has the additional dimension of lawyer who becomes an outsider because of his sexuality represented by a black lawyer (albeit a homophobic one at least initially) who is not part of an establishment law firm.

3) *Innocence v Guilt (life v death)*

Criminal issues and cases dominate with a few examples of civil cases such as *A Civil Action*, *Erin Brockovich*, *Philadelphia*. Interestingly the former two examples involve toxic tort litigation and the death of some claimants and in the latter Beckett is shown to be dying. So death remains an important dimension even in the civil cases. In the criminal cases there is often the prospect of the death penalty thus increasing the dramatic stakes and the pressure on the (rookie) lawyer. This is seen most obviously in *To Kill a Mockingbird* and *Twelve Angry Men* and most brutally in *Let Him Have It*.

4) *Law v Politics/Corruption*

Law can be seen as intimately bound up with politics but also as a solution to corruption. In both *Suspect* and *...And Justice For All* judicial corruption has to be uncovered by the crusading lawyer. Similarly in *A Dry White Season* and *In the Name of the Father* the emphasis is firmly on political influence over the judicial process. Lawyers have to fight both for their client and for the legal system against outside (or inside in the films noted above) interference. This can be extended into other areas such as *The Firm* or *A Civil Action* where the conspiracy is by corporate bodies to prevent the truth appearing. Courts martial films have their own distinctive versions of cover ups and corruption; *A Few Good Men*, *Mangal Pandey* both provide obstacles to be overcome in the pursuit of justice. Police corruption tends to be focused more within cop films where the wrongdoing is rooted out from within e.g. *Serpico*, *Training Day*, *L.A. Confidential*.

5) *Personal v Professional*

Lawyers lives are often shown as messy and complicated with broken or dysfunctional marriages; *The Verdict*, *Cape Fear*, *The Client*, drink problems, *The Client*. Even in earlier films there is the idea of the lawyer alone having suffered personal loss, for example Atticus Finch is a widower bringing up his children single-handedly. In *Young Mr Lincoln* the death of Ann Rutledge is a significant event in his decision to choose law as a career. Kathleen Riley complains of her loneliness highlighting the problems of maintaining a stable relationship whilst *In Witness for the Prosecution* Wilfred Robarts suffers from ill health. The personal struggles add to the challenges that the lawyer must conquer and resolve. This also permits the opportunity for redemption within their personal lives as well as achieving justice for their clients.

One of the other issues that arose as a consequence of engaging with Altman's ideas was to reconsider the role of the audience with respect to defining legal film. Altman revisited his semantic/syntactic framework reflecting on its limitations;

“Of all the possible semantic and syntactic elements in a given film how do we

know to which ones we should attend? Don't different spectators notice different elements?' ⁶⁰

Altman went a little further suggesting that this subjective analysis was a significant hurdle to constructing his fundamental theory of genre.

'Assuming stable recognition of semantic and syntactic factors across an unstable population, I underemphasized the fact that genres look different to different audiences, and that disparate viewers may perceive quite disparate semantic and syntactic elements in the same film. This blindness in turn kept me from fully investigating the possibility that genres might serve diverse groups diversely.' ⁶¹

This opens up a far more sophisticated idea of genre theory importing a multi layered approach to both creators and audience. This should have been more obvious to me at the outset with my work on the good lawyer/bad lawyer conundrum. It was practicing lawyers who were identifying the faults and especially the breaches of ethics. They were effectively a specialist audience concentrating on specific elements that were more important to them. For example Frank Galvin manages through his advocacy and little evidence to gain his client a huge settlement yet he would still be classified as a 'bad' lawyer for his handling of the case. My own perspective was very different concentrating on the holistic picture. The reason the two sides couldn't agree on what the portrayal looked like was precisely because we were interpreting the character in different ways because we were looking for different things. Michael Asimow was concerned with his professional conduct as a lawyer whilst I was seeing Galvin not as a lawyer but as an individual on a difficult journey of redemption. It was this dispute that led to the empirical study (Asimow *et al*, 2005) that:

'...was focussed more upon where first year law students themselves—

⁶⁰ Altman (1999, 207),

⁶¹ Altman (1999, 208).

hereafter law students, or students—obtained their ideas of law and to see whether popular culture had influenced their opinions at all. To this end a large number of first year law students, from six law schools across the jurisdictions indicated, were surveyed at the beginning of their legal education, to ascertain their perceptions about the law and lawyers, where they obtained this information, and what helped them form this opinion. In particular, the vexed issue of media effects informed the study—to what extent did law students draw their information and opinions from fictitious stories about law and lawyers in the movies or on television? Would it be possible to show that popular culture had influenced their opinions and would the results vary across the various countries?’⁶²

This sought to address the issue of media effects though the results were largely inconclusive.

‘An analysis of the findings of the study provided some interesting information in terms of correlations between students’ opinion of lawyers’ character (prestige, deserving and honour) with the sources of information they found helpful and with the news and pop culture media they consume. However, there were relatively few significant correlations overall’.⁶³

The survey was interesting but revealed the problem of establishing causal relationships. In retrospect we could have looked in a different place. Knowing what Asimow and I thought of the characters in terms of positive or negative those on alternative sides of the fence could have explored the factors underlying their perceptions demonstrating the idea of different audiences. Whilst the role of the ‘audience’ has been viewed as important for film studies in terms of my own law and film work the audience is essentially the student body and their role is explored in the second section. Although applying Altman’s framework was useful in terms of

⁶² Asimow *et al* (2005, 409)

⁶³ Asimow *et al* (2005, 428)

process, less I think in terms of outcome, the other work employing the same principles does perhaps open new pathways for comparison. It suggest others are struggling with the same issues and there are common threads. This engagement moved my thinking backwards, forwards and most interestingly sideways, boxing is such an obvious comparator.

The phases of justice

Having appreciated the limitations of prioritizing only the visual dimension a more comprehensive definition was devised to assist the classification of material. This divided the criminal justice process into three distinct phases that could be the source for legal films:

‘First there is the question of the *apprehension* of the alleged wrongdoer that will ordinarily involve the police in some way....Second there is the *deliberation* phase, which equates to the trial that may, or may not, feature prominently. Finally we have the *disposition*, whereby the convicted prisoner is sentenced.’⁶⁴

First it needs to be noted that although this progresses the definition from the visual dimension and the narrative conventions it is not all encompassing. Most obviously it is concerned with the criminal law although this does make up the overwhelming majority of law films largely because of the need for the dramatic. One problem in adopting a genre framework is that whilst a large group of films may be included it also means others are left out. The 2010 definition, noted above, divided justice into three phases with the final one being disposition of the offence, post-conviction. The pure disposition tends to be most recognizable as a prison film.⁶⁵ However the use of capital punishment in this phase highlights the tension and permits, in some examples, an extension of the film through a ‘wrongful’ conviction as seen by the

⁶⁴ Greenfield *et al* (2010, 47)

⁶⁵ For example *The Green Mile*, *The Shawshank Redemption*, *I am a Fugitive from a Chain Gang*, *Midnight Express*, *Papillion*, *Birdie* etc. On prison films specifically see Crowther (1989).

audience.⁶⁶

Having devised the concept of the 'phases of justice' specific types of film could be identified where the elements were combined. Here the offence, investigation, the legal deliberation and enforcement of the sentence are closely aligned and can be located in one central justice figure. This was originally constructed around a vigilante police officer as in *Dirty Harry* but was later expanded:

'The concept of street justice is taken a stage further by the *Robocop* series and *Judge Dredd* (1995). In terms of the fora in which the law is played out, this presents a marked shift in location.....The *Robocop* films and *Judge Dredd* can be considered as part of a move towards what might be termed 'techno law' films. These in turn could be seen as part of wider filmic depictions of 'futurescapes' that would embrace dystopian visions as portrayed by Kubrick and others.'⁶⁷

The primary feature is judicial enforcement and a formalist perspective that law is certain and untroubled by doubt.⁶⁸ Enforcement is simplistic in a system where strict liability dominates and there is no place for mitigation. Policing and judicial determination can thus be carried out by 'robotic' figures. However once an element of distrust in the trustworthiness of the law appears the edifice duly crumbles. It is this reemergence of humanity and doubt that provides one of the dramatic elements. The fallibility of law develops as a central feature. There are two other types of film where similar ideas/forms can be seen albeit in different settings. Law set within a broader context is identified by Glass as a sci fi sub genre, *the New Bad Future*, that encompasses a wide range of films.⁶⁹ Glass argues that; '..central to the concerns of

⁶⁶ The miscarriages of justice trope (based on real life events) includes *In the Name of the Father*, *10 Rillington Place*, *The Hurricane* (Rubin Carter sadly passed away on April 20th 2014 the victim of a terrible miscarriage of justice. http://en.wikipedia.org/wiki/Rubin_Carter (last accessed 28th April 2014). There are also films that leave open the possibility as there has no final declaration of innocence e.g. *Let Him Have It*, *Dance with a Stranger*.

⁶⁷ Greenfield *et al* (2001, 50-51).

⁶⁸ The trope has a degree of longevity or at least repetition. *Judge Dredd* was remade as *Dredd* in 2012 and *RoboCop* in 2014.

⁶⁹ Obvious examples are *Bladerunner*, the *Mad Max* series, *Outlands*, *Total Recall*, *The Road*,

the NBF is the question of what *is* human, with moral, political and philosophical discourses spinning around that axis.⁷⁰ There is also a legal discourse present in these films that is presented as a breakdown of law and order and the consequences for human behavior.⁷¹

The courts martial films carry the same unswerving obedience to authority and a need for justice to be highly formalized. Again individual circumstances are irrelevant within the framework of military operations. Following orders, regardless of the consequences, is everything and there is little room for compassion or humanity.

‘The very strictures on what kind of defence may be used in such a set-up means that the courts martial can be seen as a metaphor for the operation of the law itself. The rigid rules under which soldiers serve, and their need to adhere to these, provide a version of inflexible law, against which the interests of the individual can be counterposed. Further, the proceedings enable the viewer to see the political nature of law. The idea of pure disinterested pursuit of truth can be contrasted with the broader policy concerns of the state, the military or similar.’⁷²

Law is seen as a meddlesome tool and justice an unnecessary concept. There is however more to this trope of films than military discipline and state interest versus individual outcomes. There are consistently questions of class, ethnicity and imperialism and political issues which can provide an intriguing backdrop.⁷³

Children of Men. Amaago argues that *Children of Men* combines the dystopian vision with a high degree of realism so that it ‘functions as a dark distillate of the present.’ (Amaago 2010, 217)

⁷⁰ Glass (1990, 2).

⁷¹ Glass describes the typical scenario of authority; ‘The heroes, by themselves or with rebellious groups, go up against the corruption and power of the ruling corporations, which exercise a media-based velvet glove/iron fist social control.’ (1990, 2). The role of the corporations is significant within a privatized criminal justice system.

⁷² Greenfield *et al* (2010, 81).

⁷³ *The Rising: the Ballad of Mangal Pandey* contains many of these themes but also includes ‘problematic’ individual relationships including an officer becoming friendly with a sepoy who saves his life. There is also the question of indigenous culture and human rights. Although a typical Bollywood offering with song and dance it does explore many significant political points.

A third area with a truncated justice process is the 'vigilante' film. The classic civilian vigilante figure is architect Paul Kersey from the *Death Wish* series. He suffers personal tragedy and is left unsatisfied by the criminal justice system. The failure of the system to deliver justice is the theme that runs through this group whether the avenging individual is a wronged civilian, a 'rogue' police officer (*Dirty Harry*) or even a group of judges (*The Star Chamber*). Due process is ignored in favour of immediacy of determination and instant execution of sentence. In the *Death Wish* series this quest for personal vengeance becomes a wider strategy to clean up the streets. There is some variety in the initial operating cause:

'There is blurring at the edges where there is a connection between the legal system and the disaffected law officer. We move from police who take a cavalier attitude to the rights of suspects like Harry Callahan (*Dirty Harry* 1971) but still operates within the framework of police powers to instances where they operate as an extra-legal force like the renegade cops in *Magnum Force* (1973) or indirectly like the disillusioned judges in *The Star Chamber* (1983). *Magnum Force* thus illustrates that Callahan is casual about the use of violence but he is not a self-appointed righter of wrongs. He is just "doing his job". Cutting procedural corners is simply his way of enforcing the law for all not just looking to his own interests. Although, like Kersey, often perceived as a vigilante, Callahan in *The Enforcer* 1976, *Sudden Impact* 1983, *The Dead Pool* 1988 metes out justice in a way which is violent but within the framework of his police role. He meets deadly force with deadly force rather than engage in personal revenge. This is not to say that he does not accept the vigilante ethic when operated by others. His position, though, in the films in relation to the ethics of vigilantism varies. In *Sudden Impact* he is prepared to cover up the rape victim's revenge killings, whilst the theme of *Magnum Force* is his response to and rejection of vigilantism by police officers. Finally in *The Dead Pool* (1988) his victims are seeking to kill him and those he is protecting, and it is significant that the series ends when Callahan steps over

this line.'⁷⁴

One of the key elements of the vigilante film is engendering audience sympathy with the meting out of vengeance that returns the question back to Altman's pragmatic dimension. There are two significant elements to this process in the classic vigilante film; personal loss coupled with a failure of the legal system to provide any satisfactory measure of retributive justice. There is a natural empathy with the reluctant 'executioner' forced by the events and the systemic failures to take the law into his own hands. The comic book heroes such as Superman, Batman, Spiderman, Iron Man and Daredevil similarly work on the fringes or outside of the law in a quasi vigilante role.⁷⁵

These three types of film offer something quite different from the normal fare where the legal process is often all-important. In the vigilantes trope there is the absence of law or the initial failure of the legal process that creates the absence that in turn leads to justice being individualized. With the techno law group the process is flawless and can be mechanized and justice delivered without the need for human deliberation. Law is shown as a purely technical emotionless process that is the opposite of the vigilante to whom justice is entirely emotionally driven. Processes are all important to the courts martial films and failure to follow process (orders) is the central theme. This is shared with the techno films, process is not to be questioned nor deliberated upon but followed blindly. The broader context to all these films is the politics of law enforcement and in courts martial the politics of war. They provoke interesting questions around what happens when legal processes are reduced to formality or indeed absent and contribute in a limited way to our understanding of the constituent elements of legal film more generally but are worthy of study in their own right.

⁷⁴ Greenfield *et al* (unpublished)

⁷⁵ There may be an element of semi-official status notably Gotham City's Police Force using the bat signal to summon Batman's help in times of crisis. It features in *Batman Begins*.

Interdisciplinary approaches

There has always been a desire to consider multi-disciplinary approaches to the area; 'this involves a move to embrace subjects such as psychology, literature, sociology or even film studies.'⁷⁶ Of course logically this should be integrated with the definitional dimension otherwise the idea and purpose of genre may be subverted.⁷⁷ An attempt to broaden the multidisciplinary dimension was made with the 2013 piece *State Executioner Pierrepoint: A Cinematic Portrayal of Moral Disengagement?* that focused on the 2005 film *Pierrepoint*.⁷⁸ The central character of the film, Albert Pierrepoint, is linked through real life events to several other legal films.⁷⁹ As noted above in the section on methodology employing the framework of moral disengagement drawn from social psychology was a deliberate attempt to take legal film in a different direction. Rather than add the film to the list of cinematic capital punishment offerings the piece strives to perceive the film from an alternative viewpoint. Aside from the analysis of the film itself it demonstrates how other disciplines can be fruitfully applied. Having continually stressed the need to encourage innovative approaches it seemed appropriate that I should at least attempt to engage from the direction of my other discipline. This approach also provides an opportunity to question not only the legitimacy of capital punishment but more interestingly the consequences for those involved in it. Pierrepoint's relationship to the law and the legal process is a significant but minor one enabling him to minimize his own role and action in the execution process. The law and other legal personnel justifies his conduct, he is merely carrying out someone else's sentence. This type of multidisciplinary approach sidesteps issue around genre and

⁷⁶ Greenfield *et al* (2010, 48).

⁷⁷ However it was suggested that the approach to multi-disciplinary approaches and genre theory could be complementary and broader; 'First we need to engage with the elements of the construction of film and, more specifically, legal film. A starting point is to incorporate ideas and theories that have been developed in cultural studies generally and more specifically film studies. As we note below, there is an increasing interest in the law and culture relationship and this needs to be directed by law and film scholars into those other areas that may prove fruitful. What we are proposing is taking the film out of law and film and interrogating the essential features of film theory.' Greenfield *et al* (2010, 49).

⁷⁸ The film was originally entitled *The Last Hangman*.

⁷⁹ 'Amongst others Pierrepoint hanged Timothy Evans, Derek Bentley and Ruth Ellis who have themselves featured in films; *10 Rillington Place*, *Dance with a Stranger* and *Let Him Have It*. respectively. Pierrepoint features in two of the films as the executioner of both Evans and Bentley. *Dance with a Stranger* doesn't show Ruth Ellis' trial but ends with the murder of David Blakeley though the viewers subsequently learn of her fate.' Greenfield (2013, 392).

the question as to whether *Pierrepoint* can be considered a law film. It does have clear links to the legal process but is primarily connected to the punishment phase of the criminal justice system, as it does not concentrate on any individual case.

Although this chapter was very innovative in law and film terms there is a considerable volume of work covering the many aspects of the psychology/film relationship.⁸⁰ An interesting approach interrogating one character across different media is Langley's *Batman and Psychology: A Dark and Stormy Night*. There is an element of moral disengagement identifiable within one of the legal figures; Two-Face.⁸¹ 'This Two-Face never acts torn between right and wrong. He always wants to do wrong. Leaving his decisions to a coin toss merely absolves him of responsibility for his actions.'⁸² Cox and Levine also use *The Dark Knight* to explore deontology and consequentialism. The view is of Batman as an individual prepared to sacrifice his reputation to promote faith in constitutional power:

'Once more Batman comes to the rescue. But this time he does so by originating a lie: he colludes with Gordon to pretend that it is Batman who has been turned by the Joker into a rampaging, murdering force of vengeance, not Dent. Batman already operates outside the law. To lose faith in Batman is not to lose faith in the law and the legitimate exercise of power. Batman becomes the Dark Knight. Social order and social hope are preserved by means of a lie: a noble lie.'⁸³

⁸⁰ The work covers a huge variety of standpoints. At one end there is individual film analysis through the portrayal of aspects of human behavior and the audience reception and the potential consequences and effects of films. Young's book *Psychology at the Movies* provides a detailed introduction to a whole range of issues including a chapter on The Psychology of Filmmakers. Young notes: 'Movies are not just about people, they are made by people-brilliant, egocentric, passionate, and maybe a little crazy' (2012, 64).

⁸¹ Two-Face is the former District Attorney of Gotham City, Harvey Dent who moves from law enforcement to law breaking. In *The Dark Knight Rises* it transpires that Dent has given his name to a piece of legislation, *The Dent Act* that has led to the suppression of crime gangs. The covering up of Dent's crimes is a central part of the plot.

⁸² Langley (2012, 16-17). See also Two-Face making a decision <http://www.youtube.com/watch?v=dJma8pVAvH4> (last accessed 02/05/2014).

⁸³ Cox & Levine (2012, 241). Noble lies are present in a number of films; Bowden's suppression of evidence in *Cape Fear* to send Cady to prison and Finch's collusion in the death of Bob Ewell and the protection of Boo Radley are obvious examples.

Other concepts that adopt a collective perspective can also be applied to law and lawyers. A forthcoming piece analyses the portrayal, in the television series *Oz*, of Tobias Beecher a lawyer incarcerated within the Oswald State Correctional Facility. It adopts a theoretical framework drawn from social psychology exploring the relationship between identity, self-determination and group norms. Beecher's identity as a lawyer and the consequential adherence to law itself is in direct conflict with the new group norms. The issue is the extent to which group norms and behaviors overpower his previous identity and its inherent ethics and values. This whole area of interdisciplinary work has the potential to be developed in numerous ways. Whilst I have started with psychology, there are obvious possibilities for sociology, criminology and philosophy to be applied.

Integrating Film and Law Scholarship into Law Teaching

The original pedagogical aims

Film clips and films themselves have long been used in a variety of ways to support and enhance the teaching of law and many other subjects. If clips are used to illustrate or clarify specific points of interest there is no need for detailed film analysis but this then became a central feature:

‘It is the development of law and film courses that have provided the impetus for a more elaborate critical comment on films and the struggle to deal with issues related to film theory.’⁸⁴

At the very outset it seemed that the whole concept of film and the law offered an exciting range of possibilities. It promised a new teaching and learning perspective for law students in addition to innovative scholarship. The synthesis of research and teaching was of paramount importance and bold claims were made about student participation:

‘The central tenet of our argument, and indeed the underlying rationale for our course is that film is an effective agent for provoking critical development and expression. This is due in part to the issues which are raised in popular films, and partly to the receptiveness of students to the medium itself’.⁸⁵

At the time student centred learning was developing as an idea, even within law, to shift the focus of the teaching and learning strategy.⁸⁶ Student ‘engagement’ is now

⁸⁴ Greenfield *et al* (2001, 8).

⁸⁵ Greenfield & Osborn (1995b, 33).

⁸⁶ One of the earlier initiatives to attempt to alter the parameters of the teaching and learning experience introduced the concept of ‘student centred learning’. For an outline of the concept at the time see Smith and Brown (Eds) (1993).

a much broader and indeed contested term.⁸⁷ Exploring the law through cinema seemed both new and exciting with the visual material enabling teaching through the application of works specifically designed for an audience. A key argument was the accessibility, familiarity and democratic nature of the medium itself in stark contrast to the sometimes impenetrable academic articles. It was claimed that film allowed students to fully participate; 'without having to feel that their own answer is in some way peripheral to the traditional academic perspective. A crucial factor that has emerged, as the course has developed is the ability of students to draw upon **their own store of knowledge** (my emphasis).'⁸⁸ As technology developed ripping the films and cutting scenes became more straightforward so analysis could be concentrated on key issues.⁸⁹ The medium, it was argued, was instinctive to students and they had inbuilt prior knowledge of other films and television shows that could enhance the 'new' knowledge that was gained through watching more films, making links and connections. This process could work in a nonlinear fashion with older unknown films being viewed e.g. *Young Mr Lincoln* or *Witness for the Prosecution* being added to the existing store. Genre was a key part of this accrual of links, common themes and disparities, it provided the interconnections. Student understanding could also be built quickly and easily both inside and outside the classroom. I advocated not only the use of film as **an** alternative to traditional substantive teaching delivery, but also explored how film could itself be the source of analysis.⁹⁰ Students were placed at the forefront of the analysis as active learners. This methodology was explored in both the *Journal of the Law Teacher* (1995b) and

⁸⁷ 'Whilst all agree it is important, there is a debate over the exact nature of the construct; a key problem is a lack of distinction between the state of engagement its antecedents and its consequences' Kahu (2013, 758). She also notes four different approaches to unravelling the term: 'the behavioural perspective, which focuses on effective teaching practice; the psychological perspective, which views engagement as an internal individual process; the socio-cultural perspective, which considers the critical role of the socio-cultural context; and finally a holistic perspective, which strives to draw the strands together.' (2013, 758). Whatever the debate it's certainly the new policy driver for much in HE even if there is no real clarity about what it means. The original film and law approach was rooted firmly in the behavioural dimension.

⁸⁸ Greenfield *et al* (2001, 9).

⁸⁹ This has now become even easier. For example a key scene from *Young Mr Lincoln* illustrates his understanding of 'the law' and motivation to practice; 'By jing that's all there is to it- right and wrong'. The entire film can now be found on YouTube and downloaded and that scene (5.30 – 6.30) copied in a few minutes. <http://www.youtube.com/watch?v=BJKWgugabUU> (last accessed 15/04/2014). The primary use of clips was for conference presentations but these could then be used for classes.

⁹⁰ Many students were generally surprised when informed that the content of the course was the films themselves, there was no textbook and little written work.

the *American Bar Foundation Focus on Legal Studies* (1995a). This latter piece indicated the international appeal of the area in both research and teaching terms. Coupled with the development of a taught module, this represented a synthesis between research and teaching to found a new area for student interaction. The dedicated module at Westminster, the first in a law school, has been at least partially the inspiration for developments elsewhere.

At Westminster two films were viewed per week one in the lecture and one independently. Thus by the end of the module students might have watched around 20 films possibly more. These were added to their own memory bank that could be unlocked through application of content analysis. In short the development of genre was fundamental in providing a framework for identification and evaluation. The material could be varied most obviously for skills teaching but also substantive issues e.g. discrimination on the grounds of sexuality in *Philadelphia* or at the other end of the spectrum it seemed to present the chance for a dynamic critical analysis of cinematic law from a research enhanced teaching perspective. The differences between the two courses run at Westminster and Strathclyde demonstrated the breadth of the possibilities:

‘As the film and the Law course has developed at Westminster themes or groups of films have been used to provide integrated links. For example miscarriages of justice are well represented and can provide an excellent focus for detailed discussion of whole questions of innocence, guilt and the criminal justice system. ...Robson’s course has as one of its goals the use of film to provide a comprehensible introduction to concepts which impact on, but are outwith traditional legal theory, like feminism and postmodernism. Again the possibility of this developing a critique of the legal process and its operation is by no means automatic. Whilst the concepts within feminism and postmodernism may not be subjected to a rigorous critical analysis this approach makes space for the development of theoretical perspectives’ (Greenfield *et al* 2010, 30-31).

A bold development seemed in the offing, enthusiasm coupled with challenging content. Courses could operate at different levels with a range of aims to enhance legal education.⁹¹

New media and a new audience

There have however been two significant changes to the delivery of law and film studies. First the medium itself has shifted significantly. At the start of the original work on cinematic law films the DVD was emerging from the shadow of VHS as a key component in the field with the ability to easily locate scenes and chapters.⁹² A distinction was also drawn between film and television material, partly pragmatic given the volume but also on the basis, it was thought, that film had more longevity and greater significance. Whilst that was clearly justifiable at the outset of this project it is no longer tenable. Enhanced quality of images with the move to HD and the development of digital surround sound and increased screen size have altered even the physicality of television. It is not clear that screen size is as crucially important as once considered and mobility offers a significant trade off. Portable devices manage to combine high definition images and digital sound. Just as DVD emerged as the foremost digital medium it is itself now being eclipsed. Benzon describes the DVD as a medium in 'rapid flux between cultural dominance and obsolescence'.⁹³ This is not though the same type of physical technological advancement as VHS to DVD as Blu-ray has not replaced the DVD. This is a fundamental shift, primarily in distribution and effective consumption, that brings with it a subsequent alteration of expectation. DVDs require a physical space to watch with an appropriate player whilst material distributed through the Internet can be watched at any time either through a Wi-Fi connection or via a download.⁹⁴ As the medium has altered so have

⁹¹ Ashford in addition to the 5 specific aims allied to Westminster course, added the notion of 'justice education' at Sunderland. Ashford (2005,3)

⁹² The Director's Cut or additional Director's Commentary also became available that can provide some interesting insights into creation and production.

⁹³ Benzon (2013, 89).

⁹⁴ Part of this technological shift can be seen in the wider integration of different forms of the entertainment industry both in terms of software and hardware. Computer games have developed more intricate plots and stories whilst the hardware as become more expressly dual purpose with the PlayStation 3 marketed as not just a Games console but also a Blu-ray player.

the fundamentals of consumption. From a teaching and learning perspective it is not just understanding the consequences of constant connectivity but the shift from web 1.0 to web 2.0. and what students can do with the sourced material. Arguably web 2.0 increases the democratization of teaching and learning. As Newland and Byles note:

‘The difficulty for academics in introducing Web 2.0 into their teaching is that it requires a different pedagogical approach. Web 2.0 enables the social construction of knowledge and this has implications for the role of the academic. The academic is no longer perceived as the expert imparting knowledge but a facilitator in its social construction.’⁹⁵

This mirrors the original approach to the film and law teaching where existing knowledge and perspectives were viewed as valuable resources and the academic no longer the sole gatekeeper to knowledge.⁹⁶ However there is a fundamental difference in that the essence of Web 2.0 is its interactivity whereby watching films can be viewed as a passive experience.⁹⁷ Tan and Pearce found that students valued the use of videos where the content was; ‘properly facilitated into the lesson’.⁹⁸

An important element of how to use audio-visual works is the placement in the

⁹⁵ Newland and Byles (2014, 319).

⁹⁶ The Independent Committee of Inquiry into Higher Education in a Web 2.0 world went further: ‘It could, and arguably should, be much broader so that the relationship becomes more akin to a partnership, if not of equals in learning, then of near equals – at any rate, a relationship in which each recognises and values the other’s expertise and capability and works together to capitalise on it. This implies a flatter hierarchy than that currently in place between tutor and student in HE, and represents a situation with which neither party may be entirely comfortable, at least initially. The involvement of students in the development of tools for learning and teaching cannot be achieved by fiat and immediately; rather it is a position to be developed over time. However, we believe that the resulting outcomes for tutors, students and HE overall stand to be highly positive and rewarding’. (2009, 38)

⁹⁷ It is an over simplification to classify viewing films as purely a passive experience and there is a wealth of literature on the role of the audience in film. As Biocca notes: ‘Over the last 40 years of theory and research, a kind of theoretical tug-of war has emerged. On one end of the rope we find the active audience: individualistic, "impervious to influence," rational, and selective. On the other end, we have the passive audience: conformist, gullible, anomic, vulnerable, victims. Huffing and tugging at each end is an assorted lot of key media theorists championing their perception of the social reality.’ (1988, 51).

⁹⁸ Tan & Pearce (2011, 6).

overall curriculum and how the material can be used to stimulate interest and provide support for understanding ideas and issues. Miller notes that audio-visual work can act as an initial stimulus but the work has a more vital pedagogic purpose:

‘... their most critical function in terms of cognitive learning appears to lie in their capacity to serve as representational applications for key course ideas. Whether in the form of news story, movie clip, interview, or documentary, information and illustrations afforded by media are particularly valuable in helping students acquire the initial mental imagery essential for conceptual understanding. Such resources are therefore likely to have greatest teaching value in those courses providing first exposure to a discipline.’⁹⁹

Audio-visual material could certainly be used to plug the gaps left by the lack of ethics teaching as well as making a clearer and more positive impact across different subjects. However film and the law teaching was fundamentally construed as being an accessible vehicle to construct a better understanding of law and justice. Full length films are far harder to integrate both in terms of interaction but also the limitations of a two hour period that offers little additional time for discussion. There is a need to think backwards from the current methodology that is watching films and drawing upon existing knowledge. One potential starting point is a series of small clips that link a small scene within a broader theme or idea though consideration needs to be given to the length of clips used. Tan and Pearce found that students on a Sociology Foundation course, that incorporated YouTube videos, had no agreement as to most appropriate length however ‘it was felt that short ‘taster’ videos were preferable’.¹⁰⁰ There is an issue about how the clips can be used to build a larger critique and whether shorter clips reduces the ability to offer a more holistic appraisal of legal portrayals.

⁹⁹ Miller (2009, 396).

¹⁰⁰ Tan & Pearce (2011, 3). They also note the perceived advantages of watching the videos in a classroom to initiate discussion. An interesting point raised is students being able to identify suitable material; ‘..in future some form of video literacy could be included within key skills provision, to encourage the kinds of critical thinking that students are already being encouraged to develop with text-based resources.’

Developing a new critique

If the issue of incorporating video material can be resolved there remains the question of how, with a new approach, the critical dimension can be retained or expanded. I have a certain degree of scepticism as to the continuing value of the teaching of cinematic law at least within the boundaries of the original thinking. However this is perhaps common across much legal teaching as the entire framework of Higher Education and the vocational dimension to law are subject to fluctuation and insecurity.¹⁰¹ Furthermore there are serious questions around not just the substantive content of undergraduate law courses but also the teaching and learning methodologies employed.¹⁰² In short, the whole enterprise is riven with doubt and uncertainty. The key issue is then how the original aims of an accessible critique of law and its participants can be created from within this new environment. The most important dimension is the switch from the passive to the active in terms of the learning approach. As part of this there is the need to rethink the idea of content essentially a new approach to the genre question and ways in which the material can be used.

A crucial aspect in maintaining a critical approach to law using video is to have clarity around the aspirations of the course. What is it about law that is being critiqued? Is this legal practice, the role and impact of law or a combination of these? As previously noted much of the earlier work in law and film concentrated on the portrayal of legal practice and great delight has been evidenced by lawyers pointing out inaccuracies and misconceptions. The video elements need to be clearly

¹⁰¹ This is on the back of yet another review of legal education, the Legal Education and Training Review (LETR) see the special issue of *The Law Teacher* (Duncan, 2014)

¹⁰² Perhaps one of the most worrying contemporary critiques which is empirically based comes from Maureen Fitzgerald she notes: 'This research suggests that the combination of first year teaching practices causes many students to feel isolated, disoriented, disengaged, and ultimately resigned to having no control' (2008, 60.) Her data touches upon 'new' teaching methods: 'Several students mentioned one professor who used unique and different teaching methods – like novels and videos. Each said they did not appreciate the value of the methods at the time, but now realize they were useful and practical. At the time they felt that learning through such things as novels and videos were not as effective.' (2008, 68).

directed to illustrate different perspectives or issues to form the basis of a discussion. I believe it is now a significant mistake to leave the films in isolation and linked only back to other films. Accordingly the session using film needs to be dynamic and interactive and not based around the passivity of film viewing. Aside from the pedagogy there is also the question of prolonged student engagement with the film. Simply put at what point does boredom set in? More specifically there is the distraction of ever present social media accessible wirelessly and effortlessly through smart phones.¹⁰³ There is a growing body of evidence that multi-tasking and engagement with social media can be detrimental to studying and results.¹⁰⁴

Miller also argues that audio visual material can be used in a more critical fashion; ‘...media resources have also proven of value for analysis and criticism. Analysis

¹⁰³ The debate around student accessing social media sites during lectures originated with the emergence of laptop use. What is clear from the work developed so far is that there is mixed use by different students that requires a holistic strategy. As Gaudreau *et al* note: ‘As a result, laptop utilization behaviors should be considered as an important target that should be part of psycho-educational prevention programs on our campuses. Students should be informed about and learn the socially, educationally, and ethically appropriate ways of using their laptops, tablets, and smart phones during class time. Professors need to be informed about both the potential benefits and challenges resulting from the proliferation of wireless classrooms in higher education. Administrators need to support professors by creating training programs and pedagogical services that could help interested professors to adopt teaching behaviors that would match the ever growing usage of technological devices in our classrooms. In summary, this study contributed to a pressing need for a novel line of psychosocial research that will examine how universities can prepare themselves for the upcoming generation of multitasking students who were raised using emerging technologies in most areas of their daily lives.’ (2014, 253). McCreary in a thoughtful and detailed account of the issue concluded: ‘Accordingly, based on these survey results, I plan for my future courses to include a week or two of no laptops. In doing this, again, I will talk honestly, openly, and directly with my students about this process. I will share with them the considerations to weigh during that trial, and I will encourage them, ahead of time, to access and review information on good note-taking (reminding them, of course, of the benefits of being able to take good notes by hand, such as when they interview clients in the future).’ (2009, 84)

¹⁰⁴ See for example Kirschner *et al* (2010), Sanaa, F. *et al* (2013), Junco 2012, Junco & Cotton (2012). Junco and Cotton note the different effects of different types of interaction: ‘Results from this study showed that, indeed, frequency of multitasking with certain ICTs (Facebook and text messaging) were negatively predictive of overall college GPA. While this finding was congruent with research on multitasking, multitasking while using email, IMing talking on the phone, and searching for information not related to class were not related to overall GPA. This discrepancy can either be explained by characteristics of the technologies themselves or by qualitative differences in how the technologies are used by students- Facebook and texting are used for social purposes while emailing and searching are used for academic purposes. However, based on prior research on multitasking, it would seem that use of these other ICTs would also impact academic achievement as they would cause the student to switch between their studies and other tasks, thereby overloading their ability to process information and to engage in deeper learning’ (2012, 512-3)

can range from the simple to complex'.¹⁰⁵ There is room for theoretical concepts to be explored using legal film as well as primary concerns around miscarriages of justice by using relevant films. If the audio-visual material is developed to incorporate a wider range of sources and integrate relevant other written and on line material it will need to be clearly thought through. The advantage of the 'whole film' approach was that less integration was required and indeed less planning.¹⁰⁶ This of course presupposes that there is a room for this type of socio-legal approach within a law degree. Guth and Ashford suggest that the recent Legal Education Training Review has the potential to impact upon undergraduate law degrees even though the primary focus was professional training. If the change is driven by the concerns of legal practice socio-legal and 'law in context' approaches could conceivably become more marginalized.¹⁰⁷

Rather than search for more law films either new or old an alternative approach is to look for portrayals of law and lawyers in other sources. An obvious place to locate material is within the range of high quality television series largely broadcast by HBO.¹⁰⁸ There are arguments that this type of work is more closely linked to cinematic works than the more traditional TV fare.¹⁰⁹ Jamarillo notes in *The Sopranos*

¹⁰⁵ Miller (2009, 396).

¹⁰⁶ Jones & Cuthrell (2011) outline both the potentials and pitfalls associated with using YouTube. As they note '...teachers must be cautioned against using the technology simply because it is there. Verifying the credibility of each video that is viewed and evaluating each one for quality is a must when maximizing the YouTube experience for students.' (2011, 83).

¹⁰⁷ Guth & Ashford (2014) argue that one consequence could be that: 'Students will therefore be robbed of the opportunity to engage with the rich socio-legal **writing** (my emphasis) on a wide variety of topics and will not be pushed to explore the variety of angles and stories which are influenced by law and indeed influence law.' (2014, 13). Whilst many academics see socio-legal approaches as essential to an understanding of the impact and operation of law students may, certainly at the start of their studies, see law and legal study in a far more limited way. This begs the possibility of an unholy alliance between students and the profession to pursue a largely doctrinal black letter course ignoring claims for a wider liberal legal education. Harnessing audio-visual materials as outlined here, in addition to academic work, provides the opportunity to promote and develop student engagement with what is quite clearly a socio-legal approach to ideas about law.

¹⁰⁸ The list is quite astonishing in terms of quality, quantity and diversity.

http://en.wikipedia.org/wiki/List_of_programs_broadcast_by_HBO (last accessed 16th April 2014)

¹⁰⁹ Interestingly on May 3rd 2014 the author Stephen King tweeted about the quality of movies versus films. Thanks to Dr Stephanie Roberts for drawing my attention to this.

that there are obvious links to the cinema through both authorship and the textual reference points that are used.¹¹⁰ Penfold-Mounce *et al* suggest *The Wire* could be a useful vehicle for teaching sociology; ‘..we could take the show as a model for doing sociology, a way forward, or as a useful exemplar of sociological themes and issues that can be shown to our students to help them understand the more mainstream sociological texts we ask them to read.’¹¹¹ It is though possible to go further than this and treat *The Wire* as the text itself the vehicle to explore ideas and thinking, generated by the students themselves, about law, lawyers, the legal process, the politics of law and the criminal justice system. Students can then be empowered to link these portrayals to a whole host of different sources and materials to provide an informed, analytical critique something that film and the law promised but never quite fully delivered. A number of fundamental themes that have been identified, through



¹¹⁰ ‘The notion of authorship links *The Sopranos* to cinema (and not just movies) and therefore to a more solidified notion of “quality” than that of television.’ Also, ‘The texts that *The Sopranos* references are not television texts. That would be impossible given the absence of a gangster heritage on television. *The Sopranos* owes its very existence to the cinematic gangster canon, and it advertises this through blatant and veiled intertextual references. The pilot episode contributed a small portion of screen time to a discussion of how Tony ranks *Goodfellas* (directed by Martin Scorsese, 1990) and each of the three installments of *The Godfather* (directed by Francis Ford Coppola, 1972, 1974, and 1990).’ Similarly ‘Its aesthetic elements—including its serial format, large cast of individuated characters, and self-reflexive awareness of its ancestors in movies and TV—are part of its commodity status, features that appeal to an educated, upscale demographic’. (2002, 67-68).

¹¹¹ Penfold-Mounce *et al* (2010, 152).

film and the law scholarship, can be analysed through *The Wire*. It offers the possibility of a multi-level critique of law and not merely in a naturalistic way.¹¹²

Conclusion

This entire project started out over 20 years ago with two distinct aims that formulated the two questions in the introduction. Establishing the essence of a law film has proved both challenging and problematic; definitions have contemporaneously both broadened and narrowed. There is neither a clear linear path nor agreement amongst those working in the area. The more films are brought under the cover of a 'law film' the greater the analytical issues. Whilst the limits to using 'courtroom drama' are obvious a narrow ring fenced definition through the place of the activity does have its attractions. Problems are easily excluded. However the more sizeable the courtroom element and therefore the more it resembles a law film the less room there is for other contributory aspects. In order to address these issues I have adopted a wide range of methods including individual film analysis, character surveys, historical review and contrasts, genre theory, visual imagery and iconography as well as incorporating aspects of legal and film theory. The outcome has been a highly significant range of publications that have set out not just the material but also the overall framework to the subject.

In terms of teaching the original caveat was that the whole experience should be dynamic and enjoyable for staff and students. What is now apparent is that the moment for this type of static fixed course has largely passed. The learning environment and indeed the broader surroundings have, quite simply, shifted into a different technological future. As Brew notes:

'It is increasingly a world of video on demand, podcasts, DVDs; not scheduled TV and radio, but TV and radio on demand wherever and

¹¹² There is clearly interest in using *The Wire* in a variety of ways. Also of interest is Wallace's use of *The Spiral* to teach French law (Wallace, 2014). This also brings with it the use of subtitles that might encourage greater concentration for non French speakers.

whenever it is wanted. Knowledge now comes in sound bites; chaotic and unplanned. If students want to know something they have instant access to answers through the Internet. This challenges who are the students and who the teachers because students are free to decide what knowledge they want and they are free to contribute to it through websites such as 'Wikipedia'. Added to this is the uncertainty and ambiguity of living in a fearful, perplexing and pluralistic world.¹¹³

Film and Law scholarship needs to recognize this change both in terms of the teaching medium (and student reaction to it) and the content. There is however a great opportunity to develop the next stage of this work by applying the understanding and knowledge of law films and lawyers into different media. The strands of critique that have been drawn out through the sometimes difficult interrogation of genre theory now provides a bedrock on which to build a new form of the original scholarship. The very weakness of many law films, the limitations of the portrayal in terms of length and depth, now become strengths as the small elements can be used to draw upon and link to different portrayals. Kathleen Riley's personal life in *Suspect* and its relationship to practice (along with Reggie Love, *The Client*, and others) can be juxtaposed with Rhonda Pearlman's career, in *The Wire*, and easily compared with male counterparts. Similarly the political judge can be readily discovered, linked and analysed. It is no longer a comparison between films but a far more distinctive critique of elements of law built in a vertical rather than horizontal fashion. Students need to be moved into the centre more than I originally anticipated. A set of emerging divergent factors, outlined here in part, can offer new and potentially rich possibilities to resurrect the original ideas.

¹¹³ Brew (2010, 150). She persuasively argues the case for a research-enhanced educational approach.

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Appendix 1: Work Submitted

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