

The Media Method

The Media Method

Teaching Law with Popular Culture

Edited by
Christine A. Corcos



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Editor's Introduction

Welcome to what we believe is a unique publication: the first formal book length collection of essays on teaching law with popular culture. Some of legal academia's most inventive teachers have written these chapters, in which they explain their uses of popular culture to teach law.

Using the humanities, and more recently popular culture, to examine and interpret law is not a recent phenomenon. Legal scholars have been studying the interaction of law and literature for at least a century,¹ although literary scholars have been involved in law and literature studies for at least as long. Using popular culture to study the intersection of law and society began about twenty years ago, but it quickly gained adherents, and teaching law with pop culture is now an accepted pedagogical approach in many law schools.

The first section of the book introduces various integrated approaches to the teaching of law and popular culture, either as a general view of the subject or as an approach. Michael Asimow is one of the deans of the law and popular culture movement, and in his *Teaching Law and Popular Culture* he takes the position that law students *should* learn about law and pop culture, precisely because of the importance of both the legal system and popular culture in our society. Further, the public's opinion of law and lawyers directly influences what it thinks about law and justice. As he says, such interdisciplinary studies are important, although even today some colleagues might still need some convincing. Many of our other contributors make the same point, each in his or her own discipline.

Cynthia D. Bond offers us some interesting empirical information concerning the spread of the use of popular culture in the teaching of law through her very interesting survey, and a guide to successful uses of pop culture in the law school classroom. As she says in her chapter *Top Five Tips for Using Pop Culture in the Law School Classroom*, it is important for professors to keep up with trends, and to remember that students may not. Alex Glashauser keeps up with trends. His approach to teaching law, which he describes in *Law School of Rock*, offers us a way to connect with students twenty, thirty, even (for some of us, forty) years younger than we—by using popular music.

1. John H. Wigmore first published his celebrated list of legal novels in 1907. See John H. Wigmore, *A List of Legal Novels*, 2 ILL. L. REV. 574 (1907–1908). But he was not the first legal scholar to take an interest in the subject. See, e.g., IRVING BROWNE, *LAW AND LAWYERS IN LITERATURE* (Boston: 1883). For a comprehensive bibliography, see CHRISTINE A. CORCOS, *AN INTERNATIONAL GUIDE TO LAW AND LITERATURE STUDIES* (William S. Hein, 2000), two volumes.

As he says, “Songs energize the room, thus winning half the teaching battle. The real challenge, of course, is using that energy productively. One effective way to incorporate music into teaching is to spin the songs into hypotheticals for discussion.”

Abigail Perdue’s essay *Pop Culture Pedagogy* gives us a way to think about how to integrate pop culture in many different kinds of law school classrooms, using many different kinds of legal texts and media. For the instructor needing to provide the justifications that a curriculum committee or faculty colleagues might still be requesting, Professor Perdue offers several, including those of increased media literacy, creativity, and student engagement.

Australian legal scholar Cassandra Sharp shows us how effective narrative can be in teaching essential legal skills in *Why Law Students Should Watch More TV . . . Reflections on the Deliberate Use of Popular Stories in Training Future Lawyers*. As she notes, “The utilisation of popular stories as a vehicle for student referential analysis allows for the generation and reproduction of meaning about law through the student’s own storytelling, both in personal writing and in communal class discussion. Through discussion, much can be explored by students about the conditions that affect the life of a lawyer and about the ethical concerns they may have about legal practice.”

Turning to the legal curriculum typical of U.S. law schools, we find that pop culture has found a place in every required first year course. Criminal law and practice scholar Deborah Ahrens tells us that a criminal law course is an obvious choice to introduce pop culture, and students embrace a multimedia approach, from scripted film and TV to documentaries and news clips. Her own preference is for musical theater, and she demonstrates the usefulness of songs to make important points about consent and intent, for which she makes her case in *Giving Tough Criminal Law Topics the Musical Theater Treatment*.

Susanna Fischer’s essay *Teaching Property Law With Popular Culture* reveals that property law is everywhere, lurking in comedies and dramas, from the classic show *I Love Lucy*, which most of today’s students will probably have never seen, to *The Descendants*, which requires the class to contend with the Rule Against Perpetuities. If students have to learn it, they may as well have some fun with it!

Constitutional law takes to the stage in Marybeth Herald’s chapter *Connecting Popular Culture and Constitutional Law*, which uses *Hamilton* as well as older pop culture icons such as *Star Trek: The Original Series* to trace constitutional historical themes. Students who usually avoid legal history might well find Professor Herald’s approach more palatable than the usual “dates and facts” approach.

Both criminal law and constitutional law have the merit of being lively subject areas that offer “real world” examples of law at work. And instructors can find many pop culture examples to use in both of these courses. Contract law, while just as important in the legal education curriculum, is not as exciting, and finding pop culture examples to illustrate contract law can be more of a challenge. Stacey Lantagne has found a way to meet that challenge in her chapter *Using Reality Shows as Contractual*

Fodder in the 1L Classroom by using reality shows, in the form of *Flip or Flop*, *Property Brothers* and *Fixer Upper*, programs that a number of law students might well have seen. She notes that, for example, “[B]ecause the contractor’s initial estimate on *Flip or Flop* is almost always incorrect in some way, this becomes an opening to debate who should bear the cost of these mistaken estimates and when a party ‘should have known’ about a unilateral mistake.”

Richard Peltz-Steele takes us on a dazzling journey in *Torts Through the Looking Glass* as he demonstrates all the different ways in which pop culture illustrates the torts around us. Because students begin law school with at least a passing familiarity with tort law derived from popular culture, and certainly an interest in the subject, torts teachers have a plethora of examples available to assist them in introducing future lawyers to doctrine and legal thinking. As Professor Peltz-Steele points out, no approach will suit all instructors, but luckily, scripted TV and film, fiction, viral videos, photographs, the local and national news, and other media provide us with sample scenarios.

Like Professor Sharp, Jeffrey Thomas points out that narrative is obvious in lawyering and that law students need to learn narrative skills in order to become effective advocates. In his essay *Civil Procedure and Popular Culture: Bringing Narrative Context to Rules*, Professor Thomas explains how pop culture can emphasize narrative. Using films such as *A Civil Action*, he shows how pop culture can bring one of the more esoteric areas of legal doctrine to life for the law student.

Legal research and writing is a crucial part of the first year U.S. legal education curriculum. Law schools normally teach legal research and writing courses only in the first year, even though law students need these skills throughout their law school years, and throughout practice. All of the contributors to our section on legal research and writing make the point that research and writing skills are fundamental to success in law school and as an attorney. Law school faculty and law schools need to spend more time and resources devoted to legal research and writing, so that students have more opportunities to do many different kinds of research and writing throughout their years in law school. However, law students, like most students, find learning research and writing tedious at best. Legal research can be dry. It’s not an activity we often see depicted in pop culture. Film and TV are more likely to show us pop culture lawyers dramatically breaking down lying witnesses on the stand (think of all those Perry Mason episodes) or Tom Cruise confronting Jack Nicholson in the courtroom (“I want the truth!” “You can’t handle the truth!”).² Two of the few examples of lawyers doing legal research in film are of Paul Biegler (Jimmy Stewart) and Parnell McCarthy (Arthur O’Connell) in *Anatomy of a Murder*³ and of Andrew Beckett (Tom Hanks) in *Philadelphia*.⁴ Pop culture is one way to bring the necessary work of legal research and writing a little more into focus.

2. *A FEW GOOD MEN* (Columbia Pictures, 1992).

3. (Columbia Pictures, 1959).

4. (TriStar Pictures, 1993).

Professors Brandon Beck, Catherine M. Christopher, DeLeith D. Gossett, Brie D. Sherwin, and Nancy Soonpaa's *Pop Culture in the LRW Classroom* suggests ways that pop culture can challenge law students to think differently about legal texts. For example, a YouTube video that depicts an arrest offers law students the opportunity to see the police officer and the suspect interact, rather than read about the result of the arrest as the appellate court views it as a matter of a Fourth Amendment interpretation.

Beginning law students have difficulty selecting words with precision; both legal vocabulary and rules are completely new to them. In her essay *Using Fiction to Teach Word Choice and to Teach How to Write an Effective Fact Statement*, Professor Sha-Shana Crichton demonstrates how to use the work of the great French novelist Albert Camus to help students learn to select *le mot juste*.

Closing out our section on LRW, JoAnne Sweeny and Stephen Parks show how to use film clips, card games, and in-class exercises to teach students to complete basic legal research and to work through the fundamentals of crafting a legal argument.

To start off our section on using popular culture in upper level courses, the well-known evidence and law and pop culture scholar Paul Bergman offers us an engaging and workable method to incorporate film and TV into evidence classes and from there into law practice in *Academic "Clip Joints": Using Pop Culture to Enrich an Evidence Course*. Like other authors in this book, he notes that pop culture can misrepresent legal principles, so alerting students to these kinds of legal missteps is important, even though pop culture images can be oh, so seductive.

In my essay, *Teaching Advanced Torts with Popular Culture*, I present a few ways to use popular culture to assist students in their exploration of defamation and privacy law. Tortious behavior is everywhere in pop culture, so film and TV offer us just two of many media choices. Others include newspapers, which students enjoy looking at, because they then have the opportunity to try out their knowledge of the rules of law on real-life examples.

As Robert Jarvis points out, students rarely have any background at all in admiralty law. Pop culture can keep them interested and alert as they tackle what is an unfamiliar and rarely encountered area of practice. While students often find environmental law speaks to them more directly, they may still find that pop culture images help them understand both legal and societal messages.

Madeline Kass's chapter on using public service announcements shows us how such direct messages can have an impact on both individuals and policy makers. She explains how students who understand how such outreach works can eventually employ it in their own work.

Like other scholars, Kellyn McGee observes that there are a number of ways to integrate pop culture examples into various courses. In her essay *Pop/Life: Integrating Pop Culture in Courses on Professional Responsibility and Other Courses*, she demonstrates how professors can use scripted television and film and real cases "ripped from

the headlines” to teach legal principles in both civil procedure and professional responsibility, two foundational law school courses.

Geraldine Moohr introduces the themes of white collar crime and pop culture in *Looking Both Ways: Popular Culture, Movies, and Criminal Law*. A surprising number of scripted films and documentaries take somewhat dry subject matter—for example, securities fraud and embezzlement—and turn it into excitement on-screen. Law professors can use this material to liven up their advanced criminal law courses. After all—who wants to be one of the only law profs in the building who doesn’t use movies, TV, video games, or commercials to spice up her class sessions?

Jennifer L. Schulz tackles the teaching of alternative dispute resolution in *Using Film to Teach ADR*. Law students can easily fall into the trap of believing that nearly every legal dispute must necessarily end in court; a course in ADR is one avenue toward showing them another way to resolve those disputes. Professor Schulz particularly likes to use film in her ADR course, because as she writes, films that show ADR at work give students the opportunity to see legal problem-solving that they might not otherwise have the chance to observe while in law school.

While Kate Sutherland also uses the law and poetry approach to teach torts, the unique method she describes in her seminar is one that many instructors will find fascinating. In *Law, Poetry, and Pedagogy: Reading and Writing Poems in the Law School Classroom*, she explains how she conveys the fundamentals of mastering both a difficult technique and the understanding of a new discipline to her students and boosts their confidence to the point that they can produce serviceable works of poetry.

In the last section of the book, our contributors present various law and pop culture approaches that instructors can use across the law school curriculum and teaching law to non-law students. U.S. law schools are now much more focused on integrating experiential learning in the curriculum, a process that is important but difficult.

Co-authors Priya Baskaran, Laila Hlass, Allison Korn, and Sarah Sherman-Stokes tackle different but equally challenging pedagogical concepts in their essay *Experiential Learning Through Popular Multimedia*, showing us that this approach works in both clinics and seminars. In addition, like other authors in this volume, they show that pop culture can help students “bridge the gap” between doctrinal learning and practical skills, a leap that is so necessary if lawyers are to succeed in practice.

In *Deciding to Incorporate Pop Culture in the Law School Classroom: Preliminary Considerations*, Nancy Soonpaa, Brie Sherwin, Wendy-Adele Humphrey, and Catherine Martin Christopher introduce a number of important principles that apply in law school teaching, whether or not one is dealing with first year or advanced students. I have placed this piece in the final section of the book even though it contains the phrase “preliminary considerations.” Once you’ve read through the other chapters that show you how to incorporate pop culture in your courses and various reasons for doing so, this one brings together in a uniform fashion the ways in which such pedagogy has a direct effect on your students.

Terri LeClercq, one of the best-known legal research and writing scholars in the U.S., offers us an essay showing us how using social justice projects can make advanced legal research and writing a more interesting and engaging experience. *Bringing Social Justice into Your Classroom: Allowing Students to Personalize Their Writing Assignments* shows students how to apply advanced research and writing skills as they move into upper level courses.

Kelly Collinsworth uses the Harry Potter books as the inspiration for teaching legal analysis to undergraduates interested in learning something about law and the legal system. She points out that they already know at least something about Harry Potter, so are interested in the subject matter. Professor Collinsworth uses an event from the fifth Harry Potter book in which the Ministry of Magic charges Harry with violating the rule against using magic in particular circumstances to teach students how to read a statute, understand its elements, apply the facts to the rule, determine what, if any, defenses might be available, and then come to a conclusion to see whether Harry has violated the law.

Introducing middle-school students to legal principles is both challenging and rewarding. Rebecca Bratspies uses a comic book, in class exercises, and video to show young people how they can influence environmental policy makers. Her essay, *Mayah's Lot: Teaching Environmental Justice with Comic Books*, shows that law professors can reach beyond the legal academy by using pop culture materials written for a non-public audience. In the case of *Mayah's Lot*, the audience itself helps write the materials. Professor Bratspies' essay brings us full circle. We've moved from the first day of law school, through the upper level courses, to a consideration of a course for the undergraduate curriculum, and now to a course specifically for young people interested in law and justice.

The pop culture examples that we have summoned up come with fact patterns that instructors can use either "out of the box" or with some alteration to suit circumstances.

We hope they suggest others to you that you can adapt for your classroom, whether you teach a course like one of those discussed in this volume or not. The tax professor who wants to use pop culture might start with the "Dick and Taxes" episode from *3d Rock From the Sun*, in which Dick Solomon invents non-existent deductions and then finds that the IRS calls him in for an audit,⁵ as well as the "April Fool's Day" episode from *Roseanne* in which the Connors rush to the IRS office to get needed tax forms to file their returns.⁶ The *Roseanne* episode presents the IRS agents in a rather unflattering light, and the actors on the show apologize to the agency after the episode ends, in a satiric attempt to avoid retribution. Immigration law professors have a wealth of material

5. "Dick and Taxes," *3D ROCK FROM THE SUN* (NBC, first broadcast Feb. 2, 1999).

6. "April Fool's Day," *ROSEANNE* (ABC, first broadcast April 10, 1990).

to draw on, including the premise of the film *Men in Black*,⁷ as well as other films like *Green Card*⁸ and shows like *Cristela*,⁹ in which a Latinx law student works at a Dallas law firm. In the first episode, her employer makes a joke about her immigration status; she points out that she was born in the U.S. By contrast, the reboot of *Murphy Brown* introduces Miguel, a Mexican-born college student, who came to the U.S. as an infant, and who is worried about his DACA status.¹⁰ These are just two other substantive areas in which a law professor could use pop culture examples to help illustrate legal principles.

We believe the many media methods we suggest here, and others you may develop for yourself after reading through this book, are admirably suited to teaching law with popular culture in the 21st century classroom. Whether you already use pop culture as part of your pedagogy or would like to try adding some pop culture to your classroom routine, we invite you to try out some of the examples and methods we present in these pages.

7. (Columbia Pictures, 1997).

8. (Buena Vista Pictures, 1990).

9. *CRISTELA* (ABC 2014–2015).

10. “#MurphyToo,” *MURPHY BROWN* (CBS, first broadcast October 11, 2018).

