

# **THE NEED FOR TEACHING MEDIA LITERACY AT THE UNIVERSITY LEVEL: THE CASE OF LEGAL EDUCATION**

**Dr. Julian Hermida**

The revolution in media and global communications in the last few decades has transformed the very basic foundations of knowledge and education. Global citizens of today and tomorrow need to be equipped with the necessary skills to both interpret and produce media texts. North American universities, with a teaching philosophy built during an exclusively print-centered era, have not yet fully opened their classroom doors to media literacy. In order to foster the development of global citizens, we need to teach our students the conventions of media language so that they can be effective interpreters and producers of media texts.

The objective of this article is to highlight the importance of helping students develop media literacy at the University level and to offer some examples of student-centered activities informed by visual pedagogy aimed at fostering media literacy in a Law School context. The article starts by briefly examining the evolution of media literacy and its current marginal role at the University level. It then stresses on the importance of teaching media literacy in a legal education context. Finally, it discusses some activities aimed at fostering the development of media literacy in a Law School course.

## **II. Media Literacy and the margins of University and Law School education**

The rapid expansion of global communications media and visual culture in this digital era has shaken the structure of societies globally and has radically altered the dissemination and production of information and knowledge.<sup>1</sup> This revolution is fundamentally transforming our notions of education and learning, and at the same time, it is altering the way we apprehend reality. It has changed the means people, particularly those who have grown up in this paradigm, use to communicate with one another, the concepts they form, and the structure of their thought.<sup>2</sup>

Media literacy places audiovisual languages at the forefront of classroom teaching<sup>3</sup> and not as mere supplements to traditional classroom and print-based education.<sup>4</sup> Media

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<sup>1</sup>Brian Goldfarb, *Visual Pedagogy: Media Cultures in and beyond the Classroom*. Durham, NC: Duke University Press, 2002, p. 1.

<sup>2</sup> Dan Lacy, Print, Television, Computers, and English (1982) ADE Bulletin 072 <<http://www.adfl.org/ade/bulletin/n072/072034.htm>> at 26 October 2006.

<sup>3</sup> Rohnda Hammer and Douglas Kellner, Multimedia pedagogy and multicultural education for the new millennium (2001) Current Issues in Education Volume 4 <<http://cie.ed.asu.edu/volume4/number2/>> at 26 October 2006.

<sup>4</sup>Goldfarb, above n 1, 59. Visual Pedagogy rejects the two predominant views – the Frankfurter school and Postmodernism – about the role of visual media in society. The Frankfurter School (Adorno, Horkheimer, Habermas References) considers popular culture and the mass media that produces it as one of the means of

literacy recognizes the unique advantages that audiovisual media have as powerful transforming tools. For Goldfarb, when used as a tool in the classroom, the power of audiovisual media enables a level of interactivity and critical thinking not seen in traditional schooling.<sup>5</sup> Media literacy has been conceptualized as the ‘the process of critically analyzing and learning to create one’s own messages – in print, audio, video, and multimedia, with emphasis on the learning and teaching of these skills through using mass media texts’.<sup>6</sup> It includes the cognitive and affective processes involved in viewing and producing audiovisual materials. According to Keller, a media literate person is skillful in critically analyzing and creating media message, examining media codes and conventions, identifying and criticizing stereotypes, values, and ideologies, and competent to interpret the multiple meanings and messages generated by media texts<sup>7</sup>.

While there is a history of media education in Europe and North America that dates back to the end of the Second World War, media education has been at the margins of formal university teaching. Media literacy was developed in primary and secondary schools, as well as in vocational schools. In the last two decades, pedagogical authors have been advocating for the development of media literacy across the university curriculum,<sup>8</sup> and as part of a plan that is sensitive to the diverse concerns, knowledge, and experiences of students.<sup>9</sup> Keller argues that just as education was transformed with the progress from oral to print literacy and book culture, the current technical revolution requires a radical transformation of education to give room to new literacies, curricula, and teaching goals.<sup>10</sup> However, at the University setting, media literacy was relegated to some communications or film studies programs. It has not yet entered the curriculum in the majority of disciplines.

The patterns of modern Law School education were also laid in an era of nearly total print dominance.<sup>11</sup> The educational concepts articulated were print-centred, where the main objective of Law School has been to dissect published edited appellate court decisions, and then to use this skill to achieve mastery of legal thought over a body of

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oppression by the power elites. The postmodernist view shifts responsibility from the makers and distributors of popular culture to the users who supposedly are able to critically read it and pick from it what they want and need for their social emancipation and sub-cultural identification. Visual Pedagogy shows that the use of media can have emancipatory effects in the short run as well as recuperative effects in the long run. Goldfarb posits that learning to critically read media texts is insufficient to take the ideological sting out of the message, but rejecting the use of media altogether is to deprive students of fundamental tools to apprehend the world surrounding them and to transform and affect it.

<sup>5</sup> Goldfarb, above n 1, 1.

<sup>6</sup> Hobbs, above n 2, 32.

<sup>7</sup> Douglas Keller, “New Technologies/New Literacies: Reconstructing Education for the New Millennium” *Teaching Education*, Vol. 11, No. 3, 2000, 250.

<sup>8</sup> Renée Hobbs, ‘The Seven Great Debates in the Media Literacy Movement’ (1998) 48 *Journal of Communication* 16.

<sup>9</sup> Goldfarb, above n 1, 20.

<sup>10</sup> Douglas Keller, “New Technologies/New Literacies: Reconstructing Education for the New Millennium” *Teaching Education*, Vol. 11, No. 3, 2000, 246.

<sup>11</sup> Molly Warner Lien, ‘Technocentrism and the Soul of the Common Law Lawyer’ (1998) 48 *American University Law Review* 85, 85.

learning that itself had been shaped and disciplined by its reduction to print.<sup>12</sup> Media literacy occupies a very limited and marginal role in North American Law Schools and no Law School teaches its students the conventions of media language.<sup>13</sup>

### **III. The importance of teaching media within the disciplines. The case of Legal Education**

Media texts are pervasive in the legal professions. At a general level, for example, media texts influence and even define the public notion of crime.<sup>14</sup> There is a perceived expectation among criminal justice professionals and the general public that criminal proceedings must conform to the processes and actions routinely shown on Hollywood films and television shows. TV and radio news programs play a substantial role in determining the culpability of the accused and suspects. News programs and TV documentaries shape policy on virtually every legal area –from sentencing to Tort reform.

At a more specific level, lawyers and other justice professionals must increasingly resort to the production of media texts in a variety of contexts in their every day professional practice. These include videotaped depositions, videotaped crime scenes, a day-in-the-life of videos, progressive videos, settlement brochures, and living plaintiff documentaries. Depositions are increasingly videotaped, particularly where the aim is to preserve testimony for trial.<sup>15</sup> Criminal Justice professionals also routinely tape crime scenes and also resort to filming while investigating crimes in an undercover fashion. A Day-in-the-Life video is an audiovisual text aimed at accurately recording the injured party's activities of daily living. This video focuses on a daily routine, which is then edited to a 10 to 30-minute tape. For instance, a tort lawsuit may involve a plaintiff who now must live his or her life being blind, deaf, or with a severe muscular injury, or constantly under mental anguish. The elements of pain and suffering, mental anguish, and loss of wages often are the most difficult aspects of a case for a jury to picture. Video is the most effective way to show pain and suffering or mental anguish. A Day-in-the-Life Video can be shown in a torts lawsuit or as a part of a victim impact statement at sentencing hearings in criminal justice processes. The Progressive Video is a modified type of Day-in-the-Life Videos, which shows the pain and suffering of the plaintiff or victim over an extended period of time. Settlement brochures are more elaborate videos showing interviews of plaintiff's family and friends affected by the harm caused to the plaintiff.

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<sup>12</sup> Steven D Smith, 'Believing Like a Lawyer' (1999) 40 *Boston College Law Review* 1041, 1048.

<sup>13</sup> As put forward by Goldfarb, 'writing and reading occupied a space of privilege in the Western tradition of education and literacy for the most of the twentieth century, making these skills key factors in subjects' identity and status relative to community'. Goldfarb, above n 1, 20.

<sup>14</sup> Michael Asimow & Shannon Mader, *Law and Popular Culture*, New York, Peter Lang Publishing, 2004, 3.

<sup>15</sup> Experts consider that presenting videotaped deposition testimony at trial is the most effective alternative, and preferred over reading transcripts to the jury. Paul Tauger, "The Ultimate Video Deposition Skinny" available online at: <http://dvinform.net/articles/business/tauger1.php>.

They present a chronological narration of the life of the plaintiff before and after the tort. They are used as a settlement strategy. Living plaintiff documentaries are also used to induce settlements. The documentary shows interviews with family members, employers, and friends along with edited photos and home videos, depicting plaintiff's life prior to the injury and the changes produced by the tort.

Justice system agencies, such as the courts, legislatures, and police have issued rules, laws, and regulations, which must be followed for media productions to be legally valid, particularly before the courts. These laws determine what types of camera movements, shots, angles, and even editing are permitted. As a matter of illustration, California Law contains extensive regulations dealing with the accepted ways of videotaping a deposition.<sup>16</sup> It clearly establishes the accepted procedures that must be followed, such as instructions to the video operator not to “distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques”<sup>17</sup>. It also regulates the possibility of offering parts of a deposition as evidence in trials. Similarly, the Royal Canadian Mounted Police (RCMP) has adopted regulations on crime scene photography. These regulations include a series of rules dealing with camera movement, lighting, and camera angles so that the photographs may be admitted in courts<sup>18</sup>. Court practice has also invalidated day-in-the-life videos that show scenes filmed during more than a single day or which are too one-sided, giving the impression to jurors that the plaintiff is constantly in pain or that she is constantly suffering mental anguish. Legal scholars have been analyzing the specific film language of media texts used for legal purposes. For example, the literature has examined the film language of video depositions. Video depositions have a very unique language, which substantially differs from the film language used in other media contexts, such as feature films, documentaries, or anthropological interviews. For instance, the camera must show the witness's face and upper body (medium close up), the backgrounds must be simple, such as a neutral gray backdrop, or a simple textured backdrop, the lightings may not focus directly on the witness' eyes, and the camera may not move.<sup>19</sup> This has resulted in a film language that is unique to the legal arena.

Because of the severe legal consequences of producing a video or another media text in the legal field, the lead lawyer in charge of the trial has full responsibility over the final product and thus assumes the role of director of the media text. As illustrated by Paul Tauger, “I –the lawyer- direct [a videotaped deposition.] ... I don't care if the videographer thinks it will look better with the camera in one place or another. *I* decide where it goes, and I will live with the results. ... It's the lawyer's rear end that's on the line. If my client wins, it's my doing. If my client loses, it's my doing. I'm the director, the producer ... I the god of the deposition.”<sup>20</sup> For these reasons, it becomes important that law students acquire media literacy and develop the skills necessary to interpret and

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<sup>16</sup> California Civil Code, section 2025.

<sup>17</sup> California Civil Code, section 2025.

<sup>18</sup> RCMP, Crime Scene Photography, available online at <http://www.rcmp-learning.org/docs/ecdd1004.htm>.

<sup>19</sup> Paul Tauger, “The Ultimate Video Deposition Skinny”

<sup>20</sup> Ibid.

produce media texts used in their future professional practice. These skills must be taught along side substantive curricular contexts. Law school professors should make them part of their core classes.

## V. CLASS ACTIVITIES AIMED AT DEVELOPING MEDIA LITERACY

In order to achieve a high level of media literacy,<sup>21</sup> as part of my Criminal Law and Criminal Justice courses, I ask my students both to interpret and create media productions dealing with criminal matters. For this purpose, I expressly teach them the conventions of film language, including camera movements, angles, editing techniques, and sound effects, the meanings they can convey, media narrative structure, and media discourse. I also provide them with the skills necessary to realize how media construct legal meanings, influence and educate both legal and lay audiences, and impose their messages and values in every dimension of the legal world. We analyze video scenes dealing with legal matters from popular TV shows, such as *Friends*, *Seinfeld*, *The Simpsons*, *Beverly Hills 90210*, or even *Beavis and Butthead*, and commercial motion pictures depicting criminal events. We also analyze news programs and professional criminal law and criminal justice audiovisual texts, such as videotaped depositions, day-in-the-life videos, crime scene pictures, and undercover videotaped investigations of crimes. We also examine the laws and other rules regulating the specific camera movements, backgrounds, lighting, and editing for videotaped depositions and other media texts to be admitted in a court proceeding.

For example, in one of these activities, I show scenes that I select from the movie *Speak*, which tells the story of a high-school student, Melinda Sordino. In a party, during the summer, a friend has sex with her, even when she does not want to. First, we analyze whether this constitutes the crime of sexual assault. We focus on whether there was consent and whether Melinda's friend knew she did not give consent to the sexual intercourse. Then, I show them a Day-in-the Life of video, which I produce from the movie. The video has both legal problems and editing mistakes. Students have to identify these problems. As a matter of illustration, the scenes take place in several days, and they only show situations where Melinda is depressed. Students usually point out that the video should contain scenes filmed over a single day and that it should paint a complete picture of Melinda's life. It should also show her when she is not very depressed, which takes place when she connects to her Arts teacher.

I also show students videotaped depositions for them to analyze. These depositions also have problems and students spot them. For example, in one deposition the camera moves from the deponent to the lawyer, then to the library that is behind the deponent, and then back to the deponent. In another deposition, there are several close-ups of the deponent, particularly when the lawyer believes that the deponent is lying. These camera movements and the close ups do not follow the film language conventions of depositions, and, for this reason, they may be legally challenged.

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<sup>21</sup>Hobbs, above n 2, 32. Hobbs argues that 'media literacy is incomplete unless students get a lot of experience "writing" as well as "reading" media texts'.

Teaching the conventions of film language and the actual analysis of these conventions, alongside the analysis of substantive disciplinary contents, gives students the necessary tools to make their own film productions. As an example, a group of students made a documentary based on criminal events that took place in the neighborhood surrounding the school campus. They re-enacted those scenes, which included sexual assault, drug possession, and white-collar crimes, such as fraud, and possession of stolen property. Students also showed police officers and prosecutors treating low class visible minority immigrants more severely than middle class white Canadian college students. The students showed the video to the whole class and we analyzed its substantive criminal content as well as the film language and structure that students used.

Another group produced a video about marital rape in the early 1980's prior to Canada's amendment of sexual offences and sexual assault today.<sup>22</sup> Students resorted to black and white to show the 1980's scenes where the husband forced his wife into sexual intercourse. The wife made a complaint and students recreated the criminal trial in an actual courtroom in Halifax, Nova Scotia. The judge ends up discharging the prosecutor's case on the grounds that common law rape excluded the possibility of a husband's rape of his own wife. Then, a similar scene takes place nowadays. Students change to the use of color to show the new time. There is a videotaped deposition shown during the trial. Now the case ends up with the husband's conviction for sexual assault as the marital exception has been abolished in Canada. The use of music and fast paced editing conveyed the emotions and feelings of the victim as experienced in both situations, and the film language of the deposition follows the laws and rules governing the admissibility of depositions in court.

These practices serve several purposes in Pedagogy, Criminology, and Literacy. From a pedagogical point of view, as held by visual pedagogy theory, these activities relate to the way students are used to looking at the world without diluting the quality of learning. They cater to learners who are immersed in a visually and technologically oriented culture. These activities also motivate students to read the articles, cases, and books which are necessary for the analysis of the video segments and integrate these readings into a comprehensive analysis of all (visual and print) texts dealing with criminal matters.

From a criminological viewpoint, these activities help students demystify the traditional image of crime as occurring between strangers on the streets and where the perpetrator is generally a marginalized member of society. This helps them see that crimes take place in all social classes and milieus and that most of the times victim and offenders know each other very well.

From a media literacy standpoint, these activities help students to critically analyze media texts and to create their own media messages on criminal matters. They help students acquire the skills necessary to interpret and produce their own media texts in the legal context.

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<sup>22</sup> Julian V. Roberts and Renate Mohr (eds) *Confronting Sexual Assault: A Decade of Legal and Social Change* (1994) 1.

## **VI. CONCLUSIONS**

Lawyers and other justice professionals are currently involved in the production and analysis of media texts. These texts have a specific language, which is unique to the world of law and justice. Furthermore, these media products must show a strict adherence to the rules governing the language of media texts so that they may be used in court.

Because of the importance that media has in the every day practice of lawyers and other justice professionals, the Law School curriculum should include the teaching of media literacy.