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The Extreme Makeover Effect of Law School: Students Being Transformed by Stories

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Abstract

The relationship between law and popular culture has caused great interest among scholars over the years. It is a field that invites the merging of disciplinary boundaries and allows for plurality in the ways that law can be viewed. This paper seeks to view this relationship from the vantage point of the first year law student and to explore the representation and transformation of meaning about law and lawyering within the social and academic context of law school. Situated within the expanding scholarship on law and popular culture, this paper examines how the image of the lawyer is constructed and interpreted by law students. Of particular concern are the stories that are interpreted and produced *through* the medium of television and *within* the context of law school.

Keywords

Extreme, Makeover, Effect, Law, School, Students, Being, Transformed, Stories

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THE “EXTREME MAKEOVER” EFFECT OF LAW SCHOOL: STUDENTS BEING TRANSFORMED BY STORIES

Cassandra Sharp*

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I. INTRODUCTION

The relationship between law and popular culture has caused great interest among scholars over the years. It is a field that invites the merging of disciplinary boundaries and allows for plurality in the ways that law can be viewed. This paper seeks to view this relationship from the vantage point of the first year law student and to explore the representation and transformation of meaning about law and lawyering within the social and academic context of law school. Situated within the expanding scholarship on law and popular culture, this paper examines how the image of the lawyer is constructed and interpreted by law students. Of particular concern are the stories that are interpreted and produced *through* the medium of television and *within* the context of law school.

Although various authors have examined the way in which “a popular understanding of the law and lawyers is constituted by interpretive references and devices employed in the

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communicative mediums of television, film and literature,”¹ this paper progresses a step further to examine how students draw on popular stories to produce their own storytelling methods.² This paper therefore is an attempt to bridge an empirical gap in the existing scholarship.³ That is, unlike the abundant scholarship that has been produced in the area of media effects⁴ which shows that public opinion is influenced by fictitious popular culture, evaluating public perception of the *law* through this medium has been minimally attempted. Although much has been discussed about the various ways in which law is depicted in visual media, very little empirical research has been utilised to explore the impact on actual audiences and their response to the law.⁵

Consequently, the study discussed below shows that popular legal fiction does play an important part in constructing the first-year law students’ understanding of what lawyers are like and what they do.⁶ It is argued that contemporary first year law students are accustomed to the

¹ Robin Paul Malloy, *Law and Humanities: Symposium on the Image of Law(yers) in Popular Culture*, 53 SYRACUSE L. REV. 1161, 1162–63 (2003).

² By storytelling methods, the Author is referring to two ways in which students tell stories: (i) to describe their future identities; and (ii) to describe how they currently perceive law.

³ This belief—that there is somewhat of a void in research about the connections between television representations and law student perceptions, particularly in the area of empirical research—forms the groundwork for research the Author has conducted in this area towards a PhD—due to be completed Dec 2005. For a completed analysis from this research, see the Author’s other articles. Cassandra Sharp, *Changing the Channel: What to Do with the Critical Abilities of Law Students as Viewers?*, 13 GRIFFITH L. REV. 185 (2004) [hereinafter *Changing the Channel*]; Cassandra Sharp, *Scarlet Letter or Chastity Belt? What Legal Dramas of the Twenty-first Century are “Telling” Law Students About a Career in Law*, 5 LEGAL ETHICS 90 (2002) [hereinafter *Scarlet Letter or Chastity Belt?*].

⁴ This is a very large disciplinary avenue and encompasses various methodological approaches and supportive theories. For a quick foray into this area see JENNINGS BRYANT & DOLF ZILLMAN, *MEDIA EFFECTS: ADVANCES IN THEORY AND RESEARCH* (2002); LAWRENCE GROSSBERG ET AL., *MEDIAMAKING: MASS MEDIA IN A POPULAR CULTURE* (1998) (providing a quick foray into the area).

⁵ For a recent exception, see Kimberlianne Podlas, *The Tales That Television Tells: A Quantative and Qualitative Analysis of Syndi-Court’s Narrative* (Jul. 25, 2005) (presented at *The Power of Stroies* conference in Gloucester, England).

⁶ This research is also enhanced by an international quantitative research project of which the Author was a part, that sought to compare what first-year law students in different countries thought about the character of lawyers, and also where they obtained the information that helped them form this opinion. In particular, the group’s focus was on media effects and the extent to which first-year law students draw their information and opinions from fictional representations of law and lawyers in popular culture, with a comparison of these opinions and information sources across the various institutions: the United States (UCLA), England (Westminster), Scotland (Strathclyde), Germany (Bochum), Argentina (Buenos Aires) and Australia (Wollongong). The project involved conducting the same survey among first-year law students during their first week of law school, before the students could be influenced

nature of popular stories and thrive when given the opportunity to discuss issues raised by popular cultural texts. They are visually literate “story-addicts” who are hungry for context,⁷ and it is on this basis that two main assertions will be explored in this paper: first, that law school places students on the cusp of transformation, and second, that law students utilise popular stories to transform understandings about the practice of law and, in doing so, tell their own stories about the uses they make of this media.

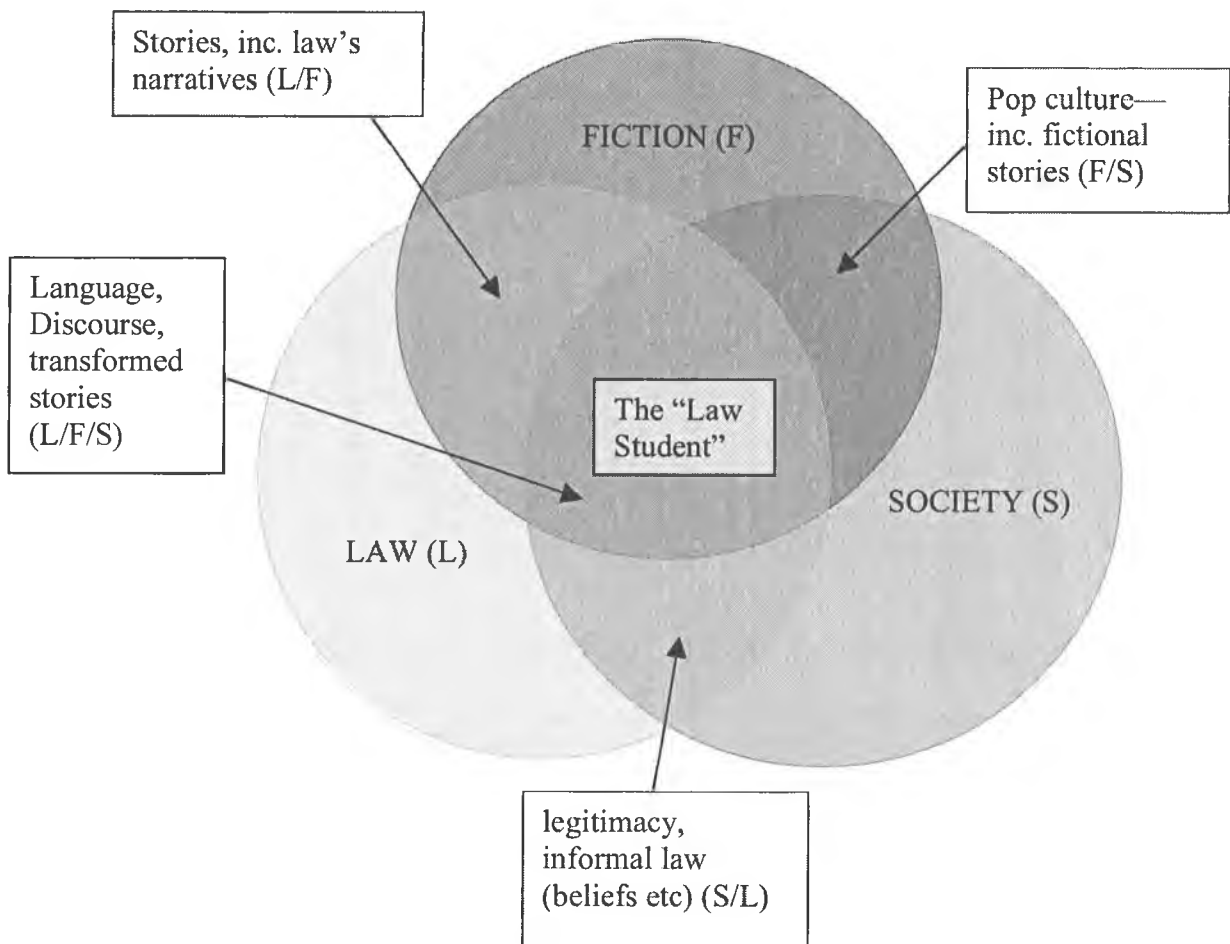
II. THE UNIQUE POSITION OF THE FIRST-YEAR LAW STUDENT

Most first-year law students begin their immersion into the legal world with the commencement of their studies. As a group, they are in a significant stage of transformation—they are not yet lawyers and have little or no legal experience, and yet their cumulative involvement within law school culture invites them to take a step away from the culture of the public and into the domain of the legal. They are becoming immersed in a sea of new language, new stories of law, and new perspectives of legal texts; and yet they are still, if not more so, drawn to the stories of law as told in the texts of popular culture. As the law student starts to experience legal education they begin a shared involvement with learning traditional legal texts, and with reading and responding to the stories of lawyers in literature, in movies, and on television, and effectively negotiate the spheres of social and legal from a straddle position—as if they have a foot in each camp.

by their legal education. This trans-national media effects study found that a large number of law students in all countries report that movies and television shows do help to form their opinions about lawyers. News and pop culture media were generally more helpful than having lawyers as friends or family members, personal experience with lawyers, conversations with family and friends and classes in school. Indeed, Australian students seemed to consume the most popular culture, with 48% of our students watching one or more legal television shows regularly, and 76% having seen three or more of the movies listed. Both of these figures were substantially higher than students in the other jurisdictions (even more than the U.S. students). For further information, see Michael Asimow et al., *Perceptions of Lawyers—A Transnational Study of Students Views on the Image of Law and Lawyers* (2004) (unpublished manuscript, on file with the Texas Wesleyan Law Review).

⁷ Phillip N. Meyer, *Using Non-Fiction Films as Visual Texts in the First Year Criminal Law Course* 28 VT. L. REV. 895, 897 (2004).

It is this shared involvement with the elements of law, society, and fiction that places students, as a cultural entity, quite centrally amidst these three domains. The diagram below was devised to illustrate this unique intersection:⁸



Given that the boundaries between law, fiction, and society are ever permeable, and their porous nature allows their interaction to occur in any direction, of particular interest here is the transformed understanding and production of stories by law students who are placed at the

⁸ My thanks to Dr. Rick Mohr for this diagrammatical inspiration and assistance.

central site of intersection. In other words, first-year law students within the context of law school are a perfect microcosm in which to study the intermingling of law, society, and fiction. For example, through the students it is possible to explore how law influences fiction by inspiring stories about human nature, morals, and values; and how, conversely, fiction influences law by providing narratives of right and wrong (L/F on the diagram). Further, students can help to illuminate societal issues that are reflected in popular fiction, or highlight expectations that stories may engender in society (F/S); and they can utilise popular stories to comment on and evaluate law's legitimacy in a given area (S/L).

The first-year law student is, therefore, in a unique position as they begin to experience and understand the world of lawyering: individually and jointly, students form a site of intersection between the cultures of law and popular media and point to the fact “that discursive communities have permeable and ever-shifting borders.”⁹ It is these permeable boundaries that allow students, as part of the discursive community of law school, to actively engage in the production of their own stories—stories which reflect the form they are imagining their legal lives will take. By their own admission, it is for this reason that many students watch representations of the law and legal system on film and television. By taking up the study of law, and adopting the stories of legal culture, they automatically begin reinventing their internalized stories.¹⁰

III. GETTING A “NEW LOOK”. . . HOW LAW SCHOOL IS LIKE AN EXTREME MAKEOVER

This paper recognises that law students are in this position of change, and places importance on the role of the law school with its own distinct language and storytelling methods,

⁹ Jessica M. Silbey, *What We Do When We Do Law and Popular Culture*, 27 *LAW & SOC. INQUIRY* 139, 166 (2002) (reviewing RICHARD SHERWIN, *WHEN LAW GOES POP*, 325 (2000)).

¹⁰ “When we replay filmic text on the screen of our imagination, we imaginatively reinvent the text, grafting the images onto internalised story-structures that make the story our own on subsequent interior viewing.” Meyer, *supra* note 7, at 897.

through which students navigate a journey of meaning making and exchange. As legal culture is a mixture of social phenomena, each “shaped by local knowledge and practice, through which symbols such as ‘law’ or ‘court,’ understandings of ‘rights’ and ‘wrongs’ . . . take on particular, locally relevant meanings,”¹¹ it enables law to be “variously interpreted, negotiated, or transformed in local settings.”¹² Law students are a part of this differentiated and dynamic local culture through their law school. As they begin a transformation of personal identity that would not occur outside the law school setting, they participate in a cultural exchange of ideas, perceptions, and stories about lawyering.

In one sense, we could liken the role of the law school to the transforming work of an extreme makeover. In the world of popular television, *Extreme Makeover*¹³ is the epitome of the “reality” genre and follows the stories of men and women who are chosen for a once-in-a-lifetime chance to completely change their lives via an overhaul of their looks. This dream transformation is made possible through the refining work of external professionals and aims to bring about a change that the individuals could not bring about themselves. To view law school in this way is to recognise its enormous propensity for transformation. Law school provides a myriad of circumstances where students can experience the dynamic forces of legal culture, and these situations test students’ understandings forcing them to actively interpret and produce meanings. Just like the candidates on *Extreme Makeover*, the law students’ access to both the internal and external legal culture gives them a once-in-a-lifetime opportunity to bring about

¹¹ Barbara Yngvesson, *Popular Legal Culture: Inventing Law in Local Settings: Rethinking Popular Legal Culture*, 98 YALE L.J. 1689, 1690 (1989).

¹² *Id.*

¹³ *Extreme Makeover* (ABC) (first airing in the U.S. on April 23, 2003 and airing in Australia on the Nine Network).

personal change. Through the exchange of knowledge, the challenging of perceptions and the developing of values, students are able to take part in a transformation of self.¹⁴

The law school becomes the “semi-professional enclave which has its own distinct language, ways of thinking and socialisation process,”¹⁵ through which students navigate this transforming makeover. In this way, legal education provides the means through which students can construct an understanding of, and in their own way contribute to, legal culture—they are transforming and producing stories of law through a utilisation of both popular cultural texts and legal texts. But unlike the extreme makeovers depicted on reality television, the students’ burgeoning “new look” is not a superficial or fanciful approach to change where the alterations are really only skin-deep. Rather, it is a transformation process that enables students to stand “in a different place to view the same world”¹⁶ and is cumulative, evolutionary, and has the potential to enable self-reflection and identity development. It is important, then, to consider the ways in which law students through their discussions and interactions with popular culture (among other influences) challenge, transform, and reinvent understandings of lawyers and law through the interpretation of stories.

IV. STORIES INTERWOVEN THROUGH CULTURES: HOW STUDENTS TRANSFORM POPULAR FICTION INTO STORIES OF THEIR OWN

The connection between storytelling and law is no longer a novelty: “we are well into—and may be nearing the zenith of—an era in which ‘legal storytelling’ and ‘narrative jurisprudence’ have become a focal interest in contemporary jurisprudence”¹⁷ Many scholars have argued that there is a place for stories within the legal profession, with a growing

¹⁴ James R. Elkins, *Becoming a Lawyer: The Transformation of Self During Legal Education*, 66 *SOUNDINGS* 450, 451 (1983).

¹⁵ KATHY LASTER, *LAW AS CULTURE* 6 (1997).

¹⁶ Elkins, *supra* note 14, at 451.

¹⁷ James R. Elkins, *Reading/Teaching Lawyer Films*, 28 *VT. L. REV.* 813, 826 n.67 (2004).

recognition that lawyers operate in a predominantly narrative culture and can be easily seen as storytellers in their own right.¹⁸ Entering law school from an extremely visual storytelling culture, students, too, exhibit a certain level of comfortability in developing aesthetic sensibilities as future legal cultural storytellers.¹⁹ Students are extremely active in the process of consuming stories of law and are constructing “their own realities out of the . . . material provided by the cultural product”²⁰ of the legal drama.

Story is one way that we deal with our experience and understanding of the world and ourselves in the world. And we can actively engage in our own experience—in which case we become the teller of stories, our own or the stories of others. . . . We find out who we are as persons by the story we tell, by the conversations we have with others, the way we imagine ourselves, and the way we are able to understand and reflect on the way our lives unfold.²¹

For each new batch of first-year students, this is exactly the journey of self-discovery and story production that is activated by the commencement of their legal education. As they encounter the intersection of law and society from within the porous walls of law school, they are actively engaging in a transformation of stories: as they participate in classroom discussions, conduct informal conversations with friends, and engage in legal writing tasks, law students are describing how they individually conceive of law, value law, and pursue law.

But what is the source of the popular stories that underlie and inform the students’ understanding of the law and lawyering activities? As television has been described as the

¹⁸ James R. Elkins, *Lawyers and Film: Narrative & Storytelling*, <http://myweb.wvnet.edu/~jelkins/film04/story.html> (last visited Sept. 18, 2005).

¹⁹ Cassandra Sharp, Data from research conducted over the 2002 and 2003 academic year among Wollongong University first-year law students [hereinafter Research]. (Research was conducted as part of the Author’s work on her doctoral dissertation which has a focus on the role of television representations of lawyers on the transforming the identity of first-year law students. The research involved dividing the students in to focus groups [hereinafter “FG”]. The data is reported by focus group number, student identification letter (if needed), and page of the transcript where information occurs. (on file with author).

²⁰ Asimow et al., *supra* note 6, at 9.

²¹ James R. Elkins, *On the Emergence of Narrative Jurisprudence: The Humanistic Perspective Finds a New Path*, 9 LEGAL STUD. F. 123, 141 (1985).

“central medium of cultural expression,”²² it is probably the most substantial source of lawyer representation within popular culture and stories of law within this medium can be found within any of the various legal dramas that have been recently injected into prime-time viewing. In fact on Australian television, in any given week, you can view at least seven specifically legal shows and several others that contain characters that are lawyers.²³ During the ratings periods, a customary “fix” of legal dramas for the week could involve tuning in to *Boston Legal*,²⁴ *JAG*,²⁵ *Judging Amy*,²⁶ (Australian produced) *MDA*,²⁷ and three versions of *Law & Order*.²⁸ As a substantial part of today’s popular culture, law students are inundated with images of lawyers navigating their profession, and indeed there are lawyers on television being represented with a wide range of characteristics, both positive and negative. It is important then to explore the stories our law students experience in these dramas, and more specifically to identify how they utilise them to begin constructing expectations and identity. But how can we explore the interpretive framework within which the students transform these stories into their own individual expectations of life as a lawyer?

V. METHODOLOGY

This paper discusses the analysis of some of the focus group discussions conducted with a sample of first year law students at my university.²⁹ The central methodological aim was to present opportunities for new law students to talk informally about television lawyers and to

²² *Id.*

²³ These usually include sitcoms that satirise lawyers *The Simpsons* (FOX), or use the occupation to comedic effect, *Will & Grace* (NBC), *Dharma & Greg* (ABC).

²⁴ *Boston Legal* (ABC) (first airing in October 2004).

²⁵ *JAG* (CBS) (first airing in 1995 and the longest running military drama in television history).

²⁶ *Judging Amy* (CBS) (first airing in 1999).

²⁷ *MDA (Medical Defense Australia)* (ABC) (premiering on Australian television on Jul. 23, 2002).

²⁸ *Law & Order* (NBC) (premiering on Sept. 13, 1990). The longest running crime series is now in its sixteenth season on NBC and was first aired in 1980. The spinoffs *Law & Order: Special Victims Unit* (NBC) and *Law & Order: Criminal Intent* (NBC) first aired in 1999 and 2001 respectively.

²⁹ Research, *supra* note 19.

explore from their perspective what it means to “be” a lawyer. As a way of gaining insight into the transformed and shared meanings of our students, focus group discussions of television lawyers provided a mechanism for story articulation and development in a mutually stimulative and spontaneously reactive environment. When students made comments on television lawyers’ actions and motivations they revealed the stories that inform their views on lawyering. The focus group discussions about popular stories on television provided an opportunity to observe part of the transformative process enrolling law students are experiencing.³⁰ The way that they interpret and understand the television stories of law has important implications for the way they transform that understanding into expectations and identity construction.

Methodologically, this research has a basis in cultural studies theory, which advocates the interpretive fluidity of making meaning and supports the “active audience” paradigm, contending that audiences are not cultural dopes but instead are active producers of meaning from within a cultural context of their own.³¹ From this perspective it is understood that the viewer does not receive images passively—but actively; and although authors may have a message or theme that they want to communicate, viewers nevertheless decode the meaning for themselves and transform it through the use they make of it in their lives.³² The legal stories on television provide opportunities to contribute to an individual’s subconscious expectations and attitudes in relation to lawyers. The various characterisations of lawyers in the show will convey certain

³⁰ *Id.*

³¹ See DAVID MORLEY, TELEVISION, AUDIENCES AND CULTURAL STUDIES (1992) (centering on the notion of the active au also centres on this notion of the active audience and responding to the “assumption that watching television was passive in character with the meanings and messages of television unproblematically taken up by audiences.”).

³² Spitz argues that all signals and images we experience have an impact on our subconscious and that fictional television has the inevitable effect of informing our psyche. See David M. Spitz, *Heroes or Villains? Moral Struggles v. Ethical Dilemmas: An Examination of Dramatic Portrayals of Lawyers and the Legal Profession in Popular Culture*, 24 NOVA L. REV. 725, 735 (2000). Asimow has also acknowledged strong empirical evidence that viewers constantly form opinions, attitudes and ideas that are based on material extracted from television, and more broadly popular culture. Michael Asimow, *Bad Lawyers in the Movies*, 24 NOVA L. REV. 533, 551 (2000). See generally SONIA M. LIVINGSTONE, MAKING SENSE OF TELEVISION: THE PSYCHOLOGY OF AUDIENCE INTERPRETATION (2nd ed., 1998) (discussing further the concept of audience reception).

messages that are transformed and renegotiated into ideas and perceptions within the subconscious mind.³³

The analysis of the students' discussions is philosophically based in hermeneutics and concentrates on the interactive relationship between text and audience.³⁴ This perspective, which recognizes the individual transformative process and allows for the exploration of student articulations of their interpretations of the television stories, involves an interpretive literary analysis where the discussion or "talk" becomes the text from which to unpack the understandings of our law students. As such, the transcripts of their text are seen as an interactive and social narrative, which "effects a transformation of events and sentiments into the present, into story."³⁵ "The narrative consists of the cumulative effects of these separate stories as their aggregate meaning comes to light. By organising discrete stories and constructing their 'point', narrative . . . represents one collective way of knowing things, one communal way mechanism for grasping the world."³⁶

As narrative signifies a broad enterprise that involves both the reception and production of stories,³⁷ it is a way in which the law student actively experiences transformation. That is, by discussing their responses to popular law stories they are learning about their own beliefs, values, dreams and fears,³⁸ and are mutually helping each other to give the legal world they are encountering some sort of meaning. The culture of law school allows for the communal generation and reproduction of meaning about law through the student's own storytelling. This

³³ Spitz, *supra* note 32, at 736.

³⁴ See MORLEY, *supra* note 31, at 271 (explaining that the reader is taken to approach the text with "certain expectations and anticipations which are modified in the course of reading to be replaced by new 'projections'"); HANS-GEORG GADAMER, *PHILOSOPHICAL HERMENEUTICS* (David E. Linge ed., trans., 1977); WOLFGANG ISER, *ACT OF READING: A THEORY OF AESTHETIC RESPONSES* (Johns Hopkins Univ. Press 1991) (1976).

³⁵ Elkins, *supra* note 21, at 135.

³⁶ Jane B. Baron & Julia Epstein, *Is Law Narrative?*, 45 *BUFF. L. REV.* 141, 148 (1997).

³⁷ *Id.* at 147.

³⁸ It is in narrative, which "suggests a whole world of experience", that we learn these things. Elkins, *supra* note 21, at 135.

synergism of storytelling in law is an element that Elkins relies on in his pedagogic use of legal fiction:

Stories take on a social or collective dimension. They show how we are both distinctive and share something with others. . . . Stories define boundaries (which are the lifeblood of academic learning) and pull us together (across personal and social boundaries). Finally stories mediate the inner subjective world and the outer, objective world, the private and public aspects of our lives.³⁹

For the law student, becoming “a lawyer involves coming to grips with a set of stories (imagined and lived) and seeing how these stories are going to hold up out in the world.”⁴⁰ Therefore their position at the intersection of law, society, and fiction already gives them an involvement in storytelling, evident as they express to each other and their teachers their values, concerns and understandings via anecdotal stories. As they read, interpret, and pursue the narratives around them during their time at law school, students begin a story production of their own, thus enabling them to make a place for themselves within various legal communities. Indeed this research shows that student discussions about television representations of the law are one of the opportunities we can seize upon to engender critical response to stories and encourage narrative persuasion dexterity.⁴¹

In acknowledging the narrativity of the students’ discussions, a second method has been used in this research to augment the hermeneutic analysis described above. Critical discourse analysis is a tool “by which to demonstrate the place of language in the constitution and regulation of cultures and cultural identities”,⁴² and acknowledges that the “talk” of the groups is discursively constructed through language. This technique involves identifying a number of

³⁹ *Id.* at 143.

⁴⁰ James R. Elkins, *Lawyers and Literature: Thinking About Our Lives as Stories* (2005), http://myweb.wvnet.edu/~jelkins/lawyerslit/exercises/story2_2.htm (last visited Sept. 19, 2005).

⁴¹ Research, *supra* note 19; see also *Scarlet Letter or Chastity Belt?*, *supra* note 3.

⁴² CHRIS BARKER & DARIUSZ GALASINSKI, *CULTURAL STUDIES AND DISCOURSE ANALYSIS: A DIALOGUE ON LANGUAGE AND IDENTITY* 27 (2001).

aspects of language that can be systematically identified in the data (for example, rhetorical devices and linguistic elements) to identify socially shared understandings and explore the occurrence of discourse as a constitutive part of its local context. In this sense, the students' talk is understood "not as representing pre-formed ideas but as formative of them in the context of constructing and maintaining social relationships."⁴³ Particularly for this research, discourse analysis is used to enrich understandings of how first-year law students view themselves culturally, ethically, and professionally,⁴⁴ and to explore the identity that is constitutive of their talk. This research explores legal identity on the basis that it can be seen as "a fluid accomplishment, instantiated in the procedural flow of verbal interaction",⁴⁵ and as the students discuss, they reveal their participation in the "ever unfolding process of meaning production"⁴⁶ that they utilise to continually negotiate their newfound position within the legal world.

⁴³ Chris Barker & Julie Andre, *Did you see? Soaps, Teenage Talk and Gendered Identity*, YOUNG: NORDIC J. OF YOUTH RES., Nov. 1996, at 21, 23.

⁴⁴ For this project, the "text" of student discussions was coded and analysed in line with an understanding that viewers have distinct patterns of involvement with the programs—primarily in what is termed the critical and referential realms. See TAMAR LIEBES & ELIHU KATZ, *THE EXPORT OF MEANING: CROSS-CULTURAL READINGS OF DALLAS 100* (1993). That is, viewers may use the program referentially as a connection to real life (including their own); utilising it to form expectations and ideas about certain aspects of their lives; or they may use it more critically by showing an "awareness of the program as separate from reality and concerning themselves with the accuracy of that relationship." Tamar Liebes & Elihu Katz, *On the Critical Abilities of Television Viewers*, in *REMOTE CONTROL: TELEVISION, AUDIENCES, AND CULTURAL POWER* 204, 209 (Ellen Seiter et al. eds., 1989). Of course, "[a] sophisticated viewer should be seen as a commuter between the referential and the critical." *Id.* at 208. Indeed, the data from the primary study (a study of the influence television representations of lawyers has on the students in terms of professional expectations and development—conducted 2002/2003) reveals that law students constantly commute between the two realms. For example, they make "critical" statements about the stereotyping of Bobby Donnell on *The Practice* as an assertive male lawyer, and in the next breath speak "referentially" as if he is real, and personally react to his behaviour as if the show was actually a documentary. But what do "critical abilities" involve? Liebes and Katz, in the context of comparing cross-cultural readings of *Dallas*, have argued that the "critical" includes an ability to discuss programs as "art" or constructions—that is to recognise or define genres and formulaic conventions and an ability to perceive a "theme" or "message" in the fictional narrative. *Id.* at 204–05. Further, they argued that "critical" viewing also encompasses the viewer's "pragmatic awareness" of the program by their cognitive, affective, and social self. See *id.* Following their lead, the Author has utilised the same understanding of criticism to code student perceptions in terms of the ways in which they critically negotiate with and use legal programs.

⁴⁵ SUE WIDDICOMBE & ROBIN WOOFFITT, *THE LANGUAGE OF YOUTH SUBCULTURES* 218 (1995).

⁴⁶ Barker & Andre, *supra* note 43, at 23.

VI. THE STORIES THAT STUDENTS TELL

The key objective in the focus group analysis has been to determine not what the narrative in the legal fiction tells students about law, but instead how that story is actively deployed in their lives.⁴⁷ In this way, first-year students produce stories on two levels: first, they tell stories of how they construct a “reality” of what being a lawyer involves; and second, their discussions uncover stories of how they construct and project identities for themselves as lawyers, and how this effects a transformation of self.

A. *Construction of “Reality” through Narrative*

As the students discuss aspects of the fictional lawyers’ world, they reveal a clear understanding of component elements of the genre of television legal dramas, and the dramatic function of the narrative and characters. As they take turns challenging and rejecting the various “versions” of reality that are presented within television narratives, the students are developing an understanding about what they perceive as the “true” nature of lawyering. Together they produce a narrative whose central concern is defining what “real” lawyering must be. Consider the following extract:

A. Well every single show has some major fantastic new issues . . . where I think in real practice it’s probably just lots of paperwork every day and maybe occasionally they’ll get something really juicy but you know *they don’t have to cater to audiences* . . .

C. [real life] is not just one interesting case after the other . . . [on television] they’re always the kind of cases that actually set precedents . . . there’s always something new and exciting that hasn’t really been looked at before . . .

F. And you never actually see them doing any sort of research . . .⁴⁸

The stories of law on television portray exciting legal work through weekly plot development, and in acknowledging this element of television production the students challenge themselves to question the representation in light of their own assumptions about reality. By

⁴⁷ Research, *supra* note 19.

⁴⁸ *Id.* at FG 1, 4.

critically evaluating the formula of television stories in this way, the students are piecing together a picture of what they believe (and expect) lawyering to be. It is a naturalist approach to realism where the students use their own judgment to determine whether a given activity does and will occur in “real life.”⁴⁹

One recurring aspect of this naturalistic realism for students was the consistent refrain that lawyering must be mundane and completely lacking in excitement. The students frequently made reference to the absence in television stories of the more dreary aspects of lawyering.⁵⁰ In acknowledging the requisite dramatic function and narrativity within television stories, the students reveal their belief that because television does not show it, the mundane parts of lawyering *must be* part of reality.⁵¹ To the students, if what is shown is a “constructed” version of what a lawyer’s day is like, then a real lawyer’s career could not possibly involve such constant excitement, drama and workload.⁵² This can be seen in the following extract where the students question the exciting court-based resolution of legal conflict portrayed in legal fiction:

You know it’s all exciting and . . . there’s no such thing as you know people suing one another over their neighbour’s dog or something stupid like that—it’s all big dramatic stuff and you know there’s a big difference. [N]o-one’s going to want to watch an hour of me going through books and researching and going: ‘hey I found the solution, I found a case, I found the legislation’ . . .⁵³

Students recognise quite easily that television does not depict reality, and they reject most of what is represented as a result. In this way, the television narrative works in a negative sense, defining not what reality *is* but what reality *is not*. To the students, practising law must involve a completely oppositional stance from the stories of lawyers on television. In describing what

⁴⁹ Naturalism or literal realism is one use of the concept of realism that Barker and Andre identified in their work on the role of soap opera in teenagers’ identity projects. Naturalism involves questioning the appearance of reality and the plausibility of action and linear construction in terms of everyday life. Barker & Andre, *supra* note 43, at 33.

⁵⁰ Research, *supra* note 19 (referring to these aspects collectively as “paperwork”).

⁵¹ *Id.* This was an issue that was directly raised for discussion in every group.

⁵² As one student describes: “I mean they’d die of, like, you know, stress-induced diseases because, like, the amount of pressure that they’re under every day.” *Id.* at FG 1, 4–5.

⁵³ *Id.* at FG 4, 16.

being a lawyer will mean for them, students picture the opposite of what is told in television stories. Note that the tasks of this “real lawyering” are referred to by student E as “stupid” in comparison to the exciting activities of lawyers on television.⁵⁴ In the students’ hurry to completely separate reality from fiction, the students reveal very low expectations in terms of the varied nature of their daily tasks. This negative work of the television narrative also plays on the self-confidence of some students to match the hyper-perfect abilities and skills of television lawyers: “[Y]ou can’t imagine any barrister that goes into court being so confident and so ready for every move⁵⁵ . . . [Television lawyers have] an understanding of every facet of the law that could be called into question [in] any given case and it seems unrealistic.”⁵⁶

One student tells the story of her lack of self-confidence based on the knowledge that real lawyers could not attain to the same level as television lawyers: “the way they’re represented sort of makes me think . . . what if I couldn’t do this, because you think it’s obviously all scripted so they know what all this means.”⁵⁷ It is because of and not despite the fact that the television lawyers’ abilities are scripted that forces students to actively question their potential to act in certain ways once in the real world of lawyering.

A secondary aspect of this narrative of expectation is the notion that as lawyers the students will inhabit the space of the *happy medium*. According to student discussions, legal dramas only ever present two extremes of lawyering.⁵⁸ On the one extreme, students identified the portrayal of lawyers who were economically driven and morally inept, but competent and successful. On the other extreme, the students described lawyers who, despite being possessed of high morals and altruistic desires, are quite often seen as incompetent or unsuccessful because

⁵⁴ *Id.*

⁵⁵ *Id.* at FG 4, 11.

⁵⁶ *Id.*

⁵⁷ *Id.* at FG 8, 12.

⁵⁸ Research, *supra* note 19.

they earn a pittance and their workloads often demand that they spread themselves thinly across their clients.⁵⁹ Take this comment for example:

It's usually the one or the other—they're either the hard-nosed, hard lines you know just pains in the backside, or they're the nice people that love everyone and they're in the law for the community aspect of it rather than to make money so you get both extremes but you don't seem to . . . get a happy medium.⁶⁰

Students do not identify a middle ground in the types of lawyers presented on television. By critically evaluating the dichotomous representations of lawyers on the television screen, the students indicate that they are actually looking for the happy medium. Finding no middle ground on television, they transform this critical evaluation into an expectation that as “real” lawyers they would fit somewhere in the middle. Again, the students are constructing their version of reality by what is left undefined by the television narrative.

B. *Using Their Constructed Reality to Form Legal Identity and Transformation of Self*

Interestingly, it is despite the students' cynical recognition that the television narratives have a disparate connection with reality that these first-year law students convert their understandings of television lawyers into storied projections about the legal identity that they are looking to assume. Even though they will declaratively argue that television lawyer stories are not real, students nevertheless consistently recount desires towards emulating the television lawyers' lifestyles or characteristics.⁶¹ Student discussions reveal a propensity to transform television lawyers' behaviours and characteristics into aspirations and expectations.⁶² It is argued that students begin to weave together a story of their expected future careers through a deployment of television narratives in this way. Sitting on the site of intersection between law

⁵⁹ Interestingly, the students often described this dichotomy by referring to the contrasting images of the “corporate” lawyer and the “legal aid” lawyer. *Changing the Channel*, *supra* note 3, at 193.

⁶⁰ Research, *supra* note 19, at FG 1, B, 10–11.

⁶¹ *Scarlet Letter or Chastity Belt?*, *supra* note 3, at 98–100.

⁶² Research, *supra* note 19.

and popular culture, law school offers first-year students the chance to actively deploy lawyer stories as a means of constructing for themselves an evaluative framework for determining what is “good” or “ethical” lawyering.

So what is the story the students tell of these aspirations and expectations? Even though the story may not take the form of explicit narratives, students’ comments on the values and ethics reflected by television lawyers paint a picture of professional legal identity that is idealistic and extremely desirable—it is a life where social altruism is an active goal, involving (among other things) human empathy and a high standard of ethics.⁶³ This idealistic identity can be seen in the following examples, where the students comment on the character of Ed⁶⁴ as a lawyer whose life and work represent the ideal:

I love Ed, I think he has the best life . . . I *know that it’s not realistic* but that would be ideal I think . . . Like he’s helping people and he’s making sure justice is done and they’re interesting quirky cases . . . Ed would probably be seen as a good lawyer because there’s always these people coming in and they’re . . . people who’ve been hard done by, and often it might just be smaller cases too and . . . it’s not about the money it’s just these little injustices that he knows he might be able to change and help them have a happier life.⁶⁵

Students often referred to altruism as an important motivation behind entering into the legal profession⁶⁶. When discussing the television lawyer’s admirable qualities, the students revealed that their emerging legal identity is confluent with ideals of “making a difference” through their work.⁶⁷ Using the television lawyers as a springboard for personal story production, the students seemed to share an understanding that lawyers should have a basic interest in helping others.⁶⁸ One student tells how this altruistic requirement is evidenced in

⁶³ *Id.*

⁶⁴ Ed is a lawyer who practises law in his concurrent business, a bowling alley, in the American television show of the same name.

⁶⁵ Research, *supra* note 19, at FG 2, 14.

⁶⁶ Research, *supra* note 19.

⁶⁷ *Id.*

⁶⁸ *Id.*

many television shows including *The Practice*⁶⁹ and *The Guardian*⁷⁰ where the lawyers are always trying to do the “ultimate” good.⁷¹ Another student relates that “the fact that they’re actually making a difference, that’s a big thing for me . . . you know there’s not that many jobs I guess where you can go out there and make a real difference in people’s lives.” Yet another romanticized expectation is expressed in this disclosure: “I mean the money would be good but not to compromise what you really want to do and help people . . . if you have to compromise that to earn money then sometimes it’s not really worth it.”⁷² Such an expectant narrative is also reflected in comments from a student who, despite the pure enjoyment, watches legal dramas to satisfy idealistic aspirations:

Yeah, I watch shows like *The Practice* for entertainment purposes but also, . . . I have this idealistic notion of you know, somebody taking on a case and getting through it by themselves, and having to . . . face moral conflicts and then solving it, and I really like that sort of thing.⁷³

Within this altruistic legal identity of course is the notion that “good” lawyers must have a strong ethical stance, be passionate about the profession, and understand people with empathy.

Elsewhere the Author has critically analysed the students’ use of language when describing the identity of a lawyer, and she has argued that the students describe the actions of lawyers in the way they want to see themselves.⁷⁴ With that in mind, the focus here is on the broad narrative framework that students collectively piece together about the legal identity they are constructing for themselves—they do not want to be identified with lawyers who they

⁶⁹ *The Practice* (ABC) (airing from 1999–2004).

⁷⁰ *The Guardian* (CBS).

⁷¹ Research, *supra* note 19, at FG 8, 5.

⁷² *Id.* at FG 1, A, 17.

⁷³ *Id.* at FG 6, C, 2.

⁷⁴ See *Scarlet Letter or ChastityBelt?*, *supra* note 3, at 100–01. Sharp, for example, describes students using second and third person pronouns (“you” and “they”) to, respectively, associate themselves with positive, and dissociate themselves from negative, examples of lawyering.

describe as disorganised, unethical, incapable, immoral, untrustworthy, and unsuccessful.⁷⁵ Instead, it seems that students today are transforming the actions of television lawyers into stories of expectation that personally and morally satisfying lawyering necessarily involves commitment to particular ideals.⁷⁶ Despite an obvious lack of specificity in relation to effecting “difference”, the students convey the strong ideal that to *be* a lawyer *is* to “make a difference”, and it is this ideal which helps students to construct positive expectations of their future careers and an idealistic legal identity.⁷⁷

C. Transformation of Self

Although students utilise the television narrative to define what lawyering is not, they also interestingly use it to positively reinforce the stories they are telling each other about what becoming a lawyer will mean. It is through this reconstruction of stories that legal identity is being crafted and a transformation of self is kick-started. As the students make comments about the behaviour of television lawyers, they are disclosing the very nature of the transformative process they are undergoing:

I never really thought about whether [legal dramas] influenced me or not until I actually did law. I didn't really think about law as law—I thought about it as just another job. . . . [Now] I've found that I'm watching it more and analysing what they do more, so I'm finding it's been influencing me a lot But now that I'm watching it I can see that they're pretty unrealistic⁷⁸

To this student, his involvement with law school has prompted him to critically examine the way that law is presented on television, and to challenge his own perceptions about the way it

⁷⁵ Research, *supra* note 19; see also *Scarlet Letter or Chastity Belt?*, *supra* note 3, at 95–102.

⁷⁶ Research, *supra* note 19; For further discussion and examples of the student's construction of meaning about the motivation of lawyers, and its connection with Sarat and Scheingold's concept of cause lawyering see *Scarlet Letter or Chastity Belt?*, *supra* note 3 and CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES (Austin Sarat & Stuart Scheingold eds., 1998).

⁷⁷ Research, *supra* note 19; See also *Scarlet Letter or Chastity Belt?*, *supra* note 3, at 98–102.

⁷⁸ Research, *supra* note 19, at FG 2, 8.

is practised. In the next account, one student presents a self-reflective story of how studying law enabled an unmasking of television's romanticised versions of reality:

I had this remote romanticised . . . idea of what a lawyer would do and then I came here (law school) and I found out that they don't do all this sort of stuff—which is fine by me, I don't mind—but obviously I had a different idea of what lawyers were before I came here and learnt the *real world*.⁷⁹

This is such an interesting disclosure—it would appear that law school has the effect of debunking any mythical impressions of the law that students initially possess. Yet, despite this particular student's apparent enlightenment, what is the “real world” that they have learned in comparison to the stories on television? To this student the real world is law school, and it is in this statement that we can see encapsulated the unique position of the first-year law student. As an active member of the audience in both narrative realms of law and popular culture, first-year law students are ripe for transformation and exhibit fervour to develop pragmatic criticism.⁸⁰ This can be seen in the way that students utilise television stories to test their understanding, to feel good about their learning and increased knowledge, and to provoke thought on the efficacy of the law in relation to various legal issues.⁸¹

VII. CONCLUSION

The process of becoming a lawyer is a fascinating transitional phase in which students use *all* legal texts at their disposal (including “the law” and popular legal stories) to make sense of legal culture, and to contribute to it. Law students are not yet a part of the “norms and values that underpin the working of the law,”⁸² but they have stepped out of the “public” or “non-lawyer” culture and into the law school. As we think then of the stories (both heard and

⁷⁹ *Id.* at FG 5, 11.

⁸⁰ This is an awareness in the viewer of the “ways in which the structure of the program captures and occupies their imagination.” Liebes & Katz, *supra* note 44, at 216.

⁸¹ For example, watching the U.S. shows in particular they acknowledge that it makes them question its consistency with Australian law.

⁸² STEVE GREENFIELD, GUY OSBORN & PETER ROBSON, *FILM AND THE LAW* 86 (2001).

produced) that are actually put to use in our students' legal education, it is easy to show that legal fiction can stimulate self-reflection and critical evaluation skills while providing a connection for students to some sort of legal identity. As Elkins argues, "[legal fiction] offers a glance at where we are going . . . [and] it connects the law student viewer to an imagined [feared] future"⁸³ It is clear that the students' unique transformative state can encourage self-reflection, awareness, and the challenge of perspectives, and first-year law students have indicated that through discussing television stories of law they are able to take part in a type of self-reflection that they might not otherwise have the time or the inspiration to do.

It was not that long ago that, without realising it, I myself stood on this cusp of transformation. I have fond recollections of orientation activities that were aimed at challenging any preconceived notions that I might have been harbouring. Now that I am teaching first year students I find myself encouraging similar enthusiastic high school graduates to be committed to a challenging learning process. Yet I do not instruct them to let go or deny their preconceptions, instead I encourage them to evaluate and reflect on the transformative process that their cultural self is undergoing. This paper has recognised the interweaving of ideas, attitudes, beliefs and perceptions that occurs within this transitional stage of first year law, and has argued that it is important to illuminate the potential that students have for developing "subjective cultural storytelling voices."⁸⁴ As first-year law students assume their place within law school, they are "discovering how to use stories effectively as tools for communication and rhetorical persuasion"⁸⁵ and they begin an interesting process of identity construction and self-transformation. What an exciting time it is for them!

⁸³ Elkins, *supra* note 17 at 863–64.

⁸⁴ Meyer, *supra* note 7, at 897.

⁸⁵ *Id.* at 91.