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## Multisensory Law, A "Legal Rebel" with a Cause

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# Lawyers as Changemakers

THE GLOBAL INTEGRATIVE LAW MOVEMENT

J. Kim Wright

## Other books by J. Kim Wright

*Lawyers as Peacemakers: Practicing Holistic, Problem-Solving Law*  
(ABA, 2010)

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concluding that the complexity of contracts and language barriers (South Africa has eleven official languages) were prominent reasons. He designed a prototype of a contract that evolved to something he calls “comic contracts.” The comic contract uses colorful graphics. For example, for a domestic worker’s employment contract, he uses cartoon images of a vacuum cleaner and the parties can check a box or circle the image to illustrate the tasks to be performed.

## Comics as Contracts

By Rob de Rooy

What if . . . you could have a comic as a contract, with the parties represented by the main characters in the comic and the content of the contract captured in the interaction and dialogue between them? What if the parties then signed that comic as their binding contract?

This is the core concept of comic contracts. The illustration is not merely an explanation or example of something in or about the written contract—it *is* the contract.

Is it legal? Will it be binding? The bar should be no higher than for any other written agreement. If it is adequate evidence of the required terms to constitute an agreement, why not? Since you are literally seeing the same picture, in many cases, it comes closer to the concept of the “meeting of the minds” than most written agreements.

It is an idea that aims to make contracts easier and more fun to read (and to create). To start, it aims to make contracts more accessible to people who are vulnerable to “contractual oppression”—people who are illiterate or semi-literate or are not first language speakers of the local contract language. It’s an exciting journey; the first ones have been created.

The comic contracts are colorful and don’t fit into these pages. Rob hopes to put the prototype online and translate it into South Africa’s languages to facilitate clear communication and agreements between domestic workers and employers. It is also being used with other workers, including agricultural pickers.

## Colette R. Brunschwig: Mother of Multisensory Law

Through Susanne and Helena, I was introduced to Colette Brunschwig, a Senior Research Associate, at the University of Zurich (Switzerland), Department of Law, Legal Visualization Unit. She was described to me as the Mother of Multisensory Law. What a delightful woman! As the reigning expert in multisensory law, it goes without saying that she is also a brilliant scholar.

On my second European tour, I decided to take the train from Amsterdam to Zurich and meet her. In my world, she was an icon, a celebrity, a rock star. That very idea was nearly impossible for her to comprehend. Her humility and sweet

personality immediately endeared her to me. Every memory I have of her includes a big smile on her face.

We walked together through Zurich and then went to her office where she showed me pictures of the earliest examples of the use of visuals in legal documents: beautifully illuminated medieval gilded and calligraphed documents. How did we get so far away from such works of art?

It honors me that Colette agreed to write two pieces specifically for this book. Due to space concerns, we had to cut one. Here, in the main text, is a shorter piece with her story. We hope the longer piece will be published elsewhere, and the link will appear on the [www.lawyersaschangemakers.com](http://www.lawyersaschangemakers.com) website. As a professor, her natural style is academic and very precise. Any edits for style are the editors and should not be held against Colette.

## Multisensory Law, A “Legal Rebel” with a Cause

By Colette R. Brunschwig<sup>7</sup>

### Introduction

#### *A Fictional Conversation*

J. KIM WRIGHT, the editor of this volume and the author of *Lawyers as Peacemakers*,<sup>8</sup> has kindly invited me to write a conversational piece about multisensory law and its various branches, such as visual law and audiovisual law (henceforth MSL). So let us imagine that we are discussing MSL seated in a park or a nearby café.

#### *Three Caveats*

I need to begin with the following caveats about this conversational approach: First, what follows does not claim to be a “typical” scholarly paper.<sup>9</sup> But to be credible in your eyes, I refer to literature that you might find helpful when you return to your office. Being a Swiss lawyer based in German-speaking Switzerland, I draw on German-speaking literature while also glancing sideways at the English-speaking discourse. Second, I cannot provide a complete picture of MSL within the limited scope of this conversation. Third, “MSL” is used here as a working term. At this fledgling stage, it would be presumptuous and premature of me to apply the term rigidly, as if

<sup>7</sup> I would like to express my sincere gratitude to Dr. Mark Kyburz for his editorial assistance.

<sup>8</sup> See J. Kim Wright, *Lawyers as Peacemakers: Practicing Holistic, Problem-Solving Law* (Chicago: ABA, 2010).

<sup>9</sup> For a more scholarly discussion of multisensory law and its branches, see Colette R. Brunschwig, “Multisensory Law and Therapeutic Jurisprudence: How Family Mediators Can Better Communicate with Their Clients” (2012) 5 (4) *PHOENIX L. REV.* 705-46; *id.*, “Law Is Not or Must Not Be Just Verbal and Visual in the 21st Century,” in Dan Jerker B. Svantesson and Stanley Greenstein, eds., *Nordic Yearbook of Law and Informatics 2010-2012: Internationalisation of Law in the Digital Information Society* (Copenhagen: Ex Tuto, 2013) at 231-83; and *id.*, “On Visual Law: Visual Legal Communication Practices and Their Scholarly Exploration” in Erich Schweighofer, Meinrad Handstanger, Harald Hoffmann, and Franz Kummer, eds., *Zeichen und Zauber des Rechts: Festschrift für Friedrich Lachmayer* [Signs and Magic of the Law: Festschrift for Friedrich Lachmayer] (Bern: Editions Weblaw, 2014) 899-933.

it could be “bent without breaking.” I have little doubt that MSL offers us ample room for further debate. But that is for another day.

#### *Guiding Question and Purpose*

Assuming that you are not yet familiar with MSL or are only vaguely familiar with it, let us start with this fundamental question: How might legal actors benefit from MSL? I thought we might consider one example—multisensory legal education—to help answer that question and give you a clearer sense of MSL.

Let me outline our journey. First, we will look at how legal education has approached visual, audiovisual, and multisensory learning and teaching. Then we will consider how legal actors might benefit from MSL to advance multisensory legal education. This last epistemological step first requires comparing MSL with legal education.

You might be wondering how this squares with “orthodox” legal scholarship. Well, I suppose more conventionally minded scholars might object that legal education explores questions and issues that MSL claims for itself. They even argue that MSL might very well prove to be expendable. I disagree with this view, as will become clear.

### **Multisensory Legal Education: The Why, and Overcoming Irritation**

#### *The Why*

“Why multisensory legal education?” you might ask. Well, learning is more effective if learners are provided with experiences involving their various senses.<sup>10</sup> So legal educators might consider helping their students to *sense* the law. This would mean using a more holistic teaching style, one tapping students’ sensory learning styles.<sup>11</sup> We would then have a different classroom. Classes would extend beyond the verbal to the visual, audiovisual, and even to the tactile-kinesthetic dimensions hailed by MSL. Just imagine moving law students beyond the page to embodied, haptic, physical learning.

#### *Overcoming Irritation*

More often than not the adjective *multisensory* irritates people, although, as PAGLIANO emphasizes, “[. . .], we are multisensory beings and we live in a multisensory world.”<sup>12</sup> We are capable of seeing, hearing, tasting, smelling, and touching, provided that our senses are intact and our brain is functioning normally. Precisely this irritation and the fact that too little sensing

<sup>10</sup> See, e.g., Margret Arnold, “Brain-Based Learning and Teaching: Prinzipien und Elemente” [“Brain-Based Learning and Teaching: Principles and Elements”], in Ulrich Herrman, ed., *Neurodidaktik: Grundlagen und Vorschläge für gehirngerechtes Lehren und Lernen* [Neurodidactics: Fundamentals and Suggestions for Brain-Oriented Teaching and Learning] (Weinheim: Beltz Verlag, 2009) 182 at 190.

<sup>11</sup> See Eric A. DeGroff and Kathleen A. Mckee, *Learning Like Lawyers: Addressing the Differences in Law Student Learning Styles*, 2006 *BYU EDUC. & L. J.* 499-549; and Jörn Lüdemann, “Grundrechte anschaulich” [“Illustrating Constitutional Rights”] (2013) *ZEITSCHRIFT FÜR DIDAKTIK DER RECHTSWISSENSCHAFT* [JOURNAL FOR DIDACTICS OF JURISPRUDENCE] 80 at 81-2.

<sup>12</sup> Paul Pagliano, *The Multisensory Handbook: A Guide for Children and Adults with Sensory Learning Disabilities* (New York: Routledge, 2012).

happens in current law classes urges me to discuss some of the many multisensory approaches to legal education.

### **Visual Legal Education**

#### *Using Existing Legal Visualizations*

Already in 1979, LACHMAYER, a pioneer of what I tentatively call *visual law*, promoted visual legal education in his coauthored book *Computergraphik und Rechtsdidaktik* [Computer Graphics and Legal Education].<sup>13</sup> Other publications followed his initiative and explored how law teachers might use existing legal visualizations for educational purposes.<sup>14</sup> Donning my MSL cap, I need to stress that visualization is but one of our sense-based opportunities for enriching the teaching and learning of law.

#### *Producing Legal Visualizations*

Visual legal education goes beyond merely using available legal visualizations to examining how these might be produced for educational purposes.<sup>15</sup> So, how would you visualize the following case (which HOLZER claims ought to be visualized)?<sup>16</sup>

<sup>13</sup> Karl Garnitschnig and Friedrich Lachmayer, *Computergraphik und Rechtsdidaktik* [Computer Graphics and Legal Education]. (Vienna: Manzsche Verlags- und Universitätsbuchhandlung, 1979).

<sup>14</sup> See, e.g., Vincent Robert Johnson, “Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors,” (1987) 37(1) *J. LEGAL EDUC.* 97 at 101; Thomas Langer, *Die Verbildlichung der juristischen Ausbildungsliteratur* [Visualization in Legal Textbooks]. (Berlin: Tenea, 2004); Klaus F. Röhl and Stefan Ulbrich, *Recht anschaulich: Visualisierung in der Juristenausbildung* [Law Made Visually Accessible: Visualization in Legal Education]. (Cologne: Halem, 2007); Bernhard Bergmans, *Visualisierung in Rechtslehre und Rechtswissenschaft: Ein Beitrag zur Rechtsvisualisierung* [Visualization in Legal Education and Jurisprudence: A Contribution on Legal Visualization]. (Berlin: Logos, 2009) at 7-32; and Werner Unger, “Ansichtssache Recht: Concept Maps für juristisches Lernen und Lehren” [“Law as a Matter of Sight: Concept Maps for Legal Learning and Teaching”], in Vereinigung Deutscher Rechtslehrer, ed., *Jahrbuch der Rechtsdidaktik 2011* [Yearbook of Legal Education 2011] (Berlin: Berliner Wissenschafts-Verlag, 2012) 175-202.

<sup>15</sup> See, e.g., Markus J. Sauerwald, *Mind Mapping in Jurastudium und Referendariat: Wissen aufnehmen, einordnen und dauerhaft verankern* [Mind Mapping in Law Studies and Legal Internships: Assimilating, Integrating, and Anchoring Knowledge Permanently]. (Cologne: Carl Heymanns, 2006); André Niedostadek, “Optische Rhetorik: Visualisierung als Teil der Rechtsdidaktik? [“Visual Rhetoric: Visualization as Part of Legal Education?”] in Vereinigung Deutscher Rechtslehrer, ed., *Jahrbuch der Rechtsdidaktik 2011* [Yearbook of Legal Education 2011] (Berlin: Berliner Wissenschaftsverlag, 2012) 141 at 152-68; Werner Unger “Ansichtssache Recht: Concept Maps für juristisches Lernen und Lehren” [“Law as a Matter of Sight: Concept Maps for Legal Learning and Teaching”] in Vereinigung Deutscher Rechtslehrer, ed., *Jahrbuch der Rechtsdidaktik 2011* [Yearbook of Legal Education 2011] (Berlin: Berliner Wissenschafts-Verlag, 2012) 175-202; Florian Holzer, “Juristisches Zeichnen” [“Legal Drawing”] in Judith Brockmann, Jan-Hendrick Dietrich, and Arne Pliniok, eds., *Methoden des Lernens in der Rechtswissenschaft: Forschungsorientiert, problem-basiert und fallbezogen. Schriften zur rechtswissenschaftlichen Didaktik 3* [Methods of Learning in Jurisprudence: Research-Oriented, Problem-Based, and Case-Related. Publications on Legal Education 3] (Baden-Baden, Nomos, 2012) 259-75; and Jörn Lüdemann, “Grundrechte anschaulich” [“Illustrating Constitutional Rights”] (2013) *ZEITSCHRIFT FÜR DIDAKTIK DER RECHTSWISSENSCHAFT* [JOURNAL FOR DIDACTICS OF JURISPRUDENCE] 80 at 82.

<sup>16</sup> See Florian Holzer, “Juristisches Zeichnen” [“Legal Drawing”] in Judith Brockmann, Jan-Hendrick Dietrich, and Arne Pliniok, eds., *Methoden des Lernens in der Rechtswissenschaft: Forschungsorientiert, problembasiert und fallbezogen. Schriften zur rechtswissenschaftlichen Didaktik 3* [Methods of Learning in Jurisprudence: Research-Oriented, Problem-Based, and Case-Related. Publications on Legal Education 3] (Baden-Baden, Nomos, 2012) 259 at 270.

One cold winter, A offered to sell B his worn-out winter jacket for 200 euros. B accepted the offer and received the jacket from A. B intended to give A the money shortly afterwards. Meanwhile, time passed. A and B did not meet until four years later, and A claimed the money from B. B replied that A's brother C owed him more than 200 euros. He said he would set off his own debt against C's. Moreover, said B, "the whole story is water under the bridge."<sup>17</sup>

I would be curious to see *your* legal visualizations of this case in comparison to HOLZER's (who used symbols such as arrows, circles, lines of different forms, and length, squares).<sup>18</sup> Coming back to our conversational line: In 2011, MUSUMECI and SCHMIDT offered a pioneering course at the Department of Law, University of Basel, Switzerland. They encouraged law students to visualize various legal terms, such as *damage*, *agency*, and *rescission* (of a contract).<sup>19</sup> This exercise implies that legal visualization also includes one's mental images of legal concepts. Accordingly, visual legal education studies how law teachers might do imagination exercises with their students.<sup>20</sup> Thus, law teachers could motivate their students to imagine themselves as judges and/or as A's or B's lawyer in the *winter-jacket case*. So what kind of legal knowledge and skills would they need for this assignment?

They could create a visual legal game. I remember the late LOTHAR PHILIPPS, Professor Emeritus of Criminal Law, Legal Informatics, and Legal Philosophy, giving me a verbo-visual legal card game entitled *strafbar [punishable]*.<sup>21</sup> Looking at the first card, you would see a man strangling a woman to death, saying, "Ich will das Geld!" ["I want the money!"] The image caption explains that killing a person for greed amounts to murder,

<sup>17</sup> My translation (which slightly adapts the original).

<sup>18</sup> See Florian Holzer, "Juristisches Zeichnen" ["Legal Drawing"] in Judith Brockmann, Jan-Hendrick Dietrich, and Arne Pliniok, eds., *Methoden des Lernens in der Rechtswissenschaft: Forschungsorientiert, problembasiert und fallbezogen. Schriften zur rechtswissenschaftlichen Didaktik 3* [Methods of Learning in Jurisprudence: Research-Oriented, Problem-Based, and Case-Related. Publications on Legal Education 3] (Baden-Baden, Nomos, 2012) 259 at 272-3.

<sup>19</sup> Lukas Musumeci and Mareike Schmidt, "Lernen durch Visualisierung: Ein Erfahrungsbericht aus der Lehre" ["Learning through Visualization: A Report from Teaching"] in Vereinigung Deutscher Rechtslehrer, ed., *Jahrbuch der Rechtsdidaktik 2011* [Yearbook of Legal Education 2011] (Berlin: Berliner Wissenschafts-Verlag, 2012) 169 at 171.

<sup>20</sup> See, e.g., Arnd-Christian Kulow, "Stellen Sie sich mal vor [sic] Sie seien der Richter . . . : Imagination als Kompetenzressource in Lehr-Lernsituationen" ["Imagine Being the Judge . . . : Imagination as a Resource of Expertise in Situations of Teaching and Learning"] in Vereinigung Deutscher Rechtslehrer, ed., *Jahrbuch der Rechtsdidaktik 2012* [Yearbook of Legal Education 2012] (Berlin: Berliner Wissenschafts-Verlag, 2013) 47-69.

<sup>21</sup> See Jochen Leffers, "Jura-Quartett: Mord und Totschlag à la carte" ["Law Quartet: Murder and Manslaughter à la carte"] SPIEGEL ONLINE: UNISPIEGEL [SPIEGEL ONLINE: UNIVERSITY MIRROR], May 25, 2005, [s.p.], <http://www.spiegel.de/unispiegel/wunderbar/jura-quartett-mord-und-totschlag-a-la-carte-a-355755.html>.

not manslaughter. One area worth exploring more closely in this respect is visual digital legal games (visual legal gamification).<sup>22</sup>

## Audiovisual Legal Education

### Using Existing Legal Films

Audiovisual legal education looks at how law teachers might explore the educational value of existing legal films,<sup>23</sup> such as motion pictures,<sup>24</sup> documentaries,<sup>25</sup> television movies,<sup>26</sup> and films on the Internet (*YouTube*). As you may have discovered for yourself already, these films concern substantive law (e.g., family law, labor law, administrative law, and criminal law), procedural law (e.g., evidence, courtroom rhetoric, and expert testimony), and basic legal disciplines (legal psychology: attorney-client relation, legal philosophy: professional ethics, and legal informatics: application of technical media).<sup>27</sup> DENONCOURT, for instance, explains how law teachers might use *The Social Network* to illustrate intellectual property law.<sup>28</sup> This helps "the law lecturer [ . . . ] to demonstrate the relevance of IP law to modern society." Working with this kind of legal film, law students "will be more amenable to reading the black letter law of the legislation, cases and textbooks [ . . . ]."<sup>29</sup>

<sup>22</sup> See, e.g., Open Law Lab, "The Potential of Law Games," blog entry by Margaret Hagan, November 1, 2013, [www.openlawlab.com/2013/11/01/potential-law-games/http://www.openlawlab.com/2013/11/01/potential-law-games/](http://www.openlawlab.com/2013/11/01/potential-law-games/http://www.openlawlab.com/2013/11/01/potential-law-games/).

<sup>23</sup> See Paul J. Mastrangelo, "Lawyers and the Law: A Filmography," (1983) 3 (4) LEGAL REFERENCE SERVICES QUARTERLY, 31-; Vincent Robert Johnson, "Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors" (1987) 37(1) J. LEGAL EDUC. 97-122; Philip Meyer, "Visual Literacy and the Legal Culture: Reading Film as Text in the Law School Setting" (1993) 17 (1) LEGAL STUDIES FORUM, 73-93; James R. Elkins, "Popular Culture, Legal Films, and Legal Film Critics" (2007) 40 LOYOLA OF LOS ANGELES LAW REVIEW 745-92, and Lüdemann, "Grundrechte anschaulich" ["Illustrating Constitutional Rights"], 81-2; and Jörn Lüdemann, "Grundrechte anschaulich" ["Illustrating Constitutional Rights"] (2013) ZEITSCHRIFT FÜR DIDAKTIK DER RECHTSWISSENSCHAFT [JOURNAL FOR DIDACTICS OF JURISPRUDENCE] 80 at 81-2.

<sup>24</sup> See, e.g., James R. Elkins, "Popular Culture, Legal Films, and Legal Film Critics," (2007) 40 LOYOLA OF LOS ANGELES LAW REVIEW 745-92; Steve Greenfield, Guy Osborn, and Peter Robson, *Film and the Law*, 2nd ed. (Oxford, UK: Hart Publishing, 2010); "New Copyright Ruling & Movies in Law School," Albany Law School, accessed August 11, 2016, <http://albanylawtech.wordpress.com/2010/08/12/new-copyright-ruling-movies-in-law-school/>; and "Lawyers and Film," James R. Elkins, accessed August 11, 2016, <http://myweb.wvnet.edu/~jelkins/film04/>.

<sup>25</sup> See, e.g., Vincent Robert Johnson, "Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors" (1987) 37(1) J. LEGAL EDUC. 97 at 102.

<sup>26</sup> See, e.g., Christine Alice Corcos, "Columbo Goes to Law School: Or, Some Thoughts on the Uses of Television in the Teaching of Law" (1993) 13 LOY. L. A. ENT. L. REV. 499-544; and Peter Robson and Jessica Silbey, "Introduction" in Peter Robson and Jessica Silbey, eds., *Law and Justice on the Small Screen* (Oxford: Hart Publishing, 2012) 1-11.

<sup>27</sup> See, e.g., James M. Spiro, "Law Students and Audio-Visual Aids" (1953-1954) 6 J. LEGAL EDUC. 382-85. Similarly, see Vincent Robert Johnson, "Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors" (1987) 37(1) J. LEGAL EDUC. 97 at 114.

<sup>28</sup> See Janice Denoncourt, "Using Film to Enhance Intellectual Property Law Education: The Social Network" (2013) 4(1) EUROPEAN JOURNAL OF LAW AND TECHNOLOGY 1-28 [page numbers from the printout].

<sup>29</sup> *Id.*, at 9 [page numbers from the printout]. On teaching criminal law audiovisually, see, e.g., Julian Hermida, "Teaching Criminal Law in a Visually and Technology Oriented Culture: A Visual Pedagogy Approach" (2006) 16 (1/2) LEGAL EDUCATION REVIEW, 1 at 7-10.

### Producing Legal Audiovisualizations

Like visual legal education, audiovisual legal education is not limited to existing legal films. On the contrary, it studies how law teachers might produce legal films, particularly legal education films.<sup>30</sup> In the German-speaking world, HAFT was among the first law teachers to produce legal instructional films about specific penal law issues. For example, his film *Fahrerflucht* [*Hit and Run*] concerns § 142 of the German Penal Code (hit-and-run offenses). Unfortunately, this film is not available publicly.<sup>31</sup> BERGER audiovisualized § 823 of the German Civil Code (damage liability).<sup>32</sup> RUSCH, a senior law lecturer in Switzerland, produced legal education films, audiovisualizing two cases ruled by the Federal Supreme Court of Switzerland.<sup>33</sup> Various universities provide their students with online video lectures on different branches of the law.<sup>34</sup> You might enjoy watching the MIT online video lectures on copyright law.<sup>35</sup>

What I find fascinating is that audiovisual legal education also deals with how law students might produce legal education films themselves. Especially in high-tech countries, this makes sense. HERMIDA, for instance, encourages his students to create “productions dealing with criminal matters.”<sup>36</sup> Audiovisual legal games (audiovisual legal gamification) might further enrich legal education.<sup>37</sup>

### Multisensory Legal Education

You might have been wondering which phenomena could be subsumed under the rubric “multisensory legal education.” I believe DEL MAR was one of the first to use this term.<sup>38</sup> But although he uses the word *multisensory*, his paper focuses mainly on *visual* legal education. I wonder what causes such oculocentrism even in so-called multisensory legal education. Is it the

<sup>30</sup> See, e.g., Jörn Lüdemann, “Grundrechte anschaulich” [“Illustrating Constitutional Rights”] (2013) ZEITSCHRIFT FÜR DIDAKTIK DER RECHTSWISSENSCHAFT [JOURNAL FOR DIDACTICS OF JURISPRUDENCE] 80 at 82-3.

<sup>31</sup> Haft has kindly provided me with a DVD copy of his film.

<sup>32</sup> See Prof. Berger, Uni Köln, “823-Rap” [“823 Rap”]. YouTube video. October 13, 2010. [www.youtube.com/watch?v=d4KS5vKLNmg](http://www.youtube.com/watch?v=d4KS5vKLNmg).

<sup>33</sup> These legal education films can be downloaded at Arnold Rusch’s personal website. See “Aktuelles” [“Current Issues”], Arnold F. Rusch, accessed August 11, 2016, [www.arnoldrusch.ch/](http://www.arnoldrusch.ch/).

<sup>34</sup> On designing legal video lectures, see Paul Maharg, *Transforming Legal Education: Learning and Teaching the Law in the Early Twenty-First Century* (Burlington, VT: Ashgate, 2007).

<sup>35</sup> See “Video Lectures,” Massachusetts Institute of Technology, accessed August 11, 2016, <http://ocw.mit.edu/courses/electrical-engineering-and-computer-science/6-912-introduction-to-copyright-law-january-iap-2006/video-lectures/>.

<sup>36</sup> Julian Hermida, “Teaching Criminal Law in a Visually and Technology Oriented Culture: A Visual Pedagogy Approach” (2006) 16 (1/2) LEGAL EDUCATION REVIEW 1 at 11. See also Teresa A. Miller “Encountering Attica: Documentary Filmmaking as Pedagogical Tool” (2012) 62 (2) J. LEGAL EDUC. 231-41.

<sup>37</sup> See, e.g., Open Law Lab, “The Potential of Law Games,” blog entry by Margaret Hagan, November 1, 2013, [www.openlawlab.com/2013/11/01/potential-law-games/](http://www.openlawlab.com/2013/11/01/potential-law-games/).

<sup>38</sup> See Maksymilian T. Del Mar, February 13, 2010. *Thinking with the Senses in Legal Playgrounds: A Sketch Towards Multisensory Legal Education*. SSRN *Social Science Research Network*. Accessed August 11, 2016 [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1552349](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1552349).

oculocentric trap lurking at the heart of our “visual” culture, restraining and controlling us, hampering our efforts to move beyond the eye?

### Role-Playing

Role-playing simulates future professional situations that law students face in their careers (e.g., negotiating; meeting with clients, opposing counselors, judges; and being a judge).<sup>39</sup> Role plays appeal to all our senses, whether they are acted out in the “real” world or online: “In the age of multimedia, it is possible to have sensory (and not just sensory-erotic) experiences on the Internet.”<sup>40</sup> I could imagine law students role-playing the *winter-jacket case* or even scripting and performing it as a stage play.<sup>41</sup>

### Practicing Mindfulness

One helpful multisensory practice for enhancing legal education is *mindfulness*. There are various definitions of *mindfulness*. According to RISKIN, it “means being aware, moment-to-moment, without judgment and without commentary, of whatever passes through the sense organs and the mind—sounds, sights, bodily sensations, odors, thoughts, judgments, images, emotions.”<sup>42</sup> We can develop “the ability to be mindful through ‘formal’ practices such as meditation and mindful yoga.”<sup>43</sup>

Law teachers can practice mindfulness for themselves<sup>44</sup> and/or invite their students to do so.<sup>45</sup> ROGERS, for example, motivates law students to do the following exercise involving their hands and breathing:

<sup>39</sup> Albrecht Hatzius, e-mail message to the author, [n.d.]. Hatzius generously sent me a brochure about role plays in legal education. Unfortunately, I do not remember when he sent me this leaflet. On role-playing in legal education, see also David S. Day, “Teaching Constitutional Law: Role-Playing the Supreme Court” (1986) 36 (2) J. LEGAL EDUC. 268-73; Anne Scully-Hill, Paul Lam, and Helen Yu, “Beyond Role Playing: Using Drama in Legal Education” (2010) 60 (1) J. LEGAL EDUC. 147-56; and Nicola Lettieri et al., “Emerging Paradigms in Legal Education: A Learning Environment to Teach Law through Online Role Playing Games” in Patrick Felicia, ed., *Handbook of Research on Improving Learning and Motivation through Educational Games: Multidisciplinary Approaches*, vol. 2, (Hershey, PA: Information Science, 2011), 1019-35.

<sup>40</sup> Robert Jütte, *A History of the Senses: From Antiquity to Cyberspace*. Translated by James Lynn (Cambridge, UK: Polity Press, 2005).

<sup>41</sup> On theatrical legal education, see, e.g., Gillian Calder, “Embodied Law: Theatre of the Oppressed in the Law School Classroom,” (2009) (1) MASK: AN ONLINE JOURNAL FOR LAW AND THEATRE 1-35.

<sup>42</sup> Leonard Riskin, “Awareness in Lawyering: A Primer on Paying Attention” in Marjorie Silver, ed., *The Affective Assistance of Counsel: Practicing Law as a Healing Profession* (Durham, NC: Carolina Academic Press, 2007) 447 at 448. See also Leonard Riskin, “The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients” (2002) 3 HARVARD NEGOTIATION L. REV. 1 at 23-4.

<sup>43</sup> Leonard Riskin, “Awareness in Lawyering: A Primer on Paying Attention” in Marjorie Silver, ed., *The Affective Assistance of Counsel: Practicing Law as a Healing Profession* (Durham, NC: Carolina Academic Press, 2007) 447 at 448-49.

<sup>44</sup> See, e.g., Katherine Larkin-Wong, “A Newbie’s Impression: One Student’s Mindfulness Lessons” (2012) 61 (4) J. LEGAL EDUC. 665-73 and Richard C. Reuben, “Bringing Mindfulness into the Classroom: A Personal Journey” (2012) 61 (4) J. LEGAL EDUC. 674-82.

<sup>45</sup> See, e.g., Leonard Riskin, “The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients” (2002) 3 HARVARD NEGOTIATION L. REV. 1 at 38-40; and Rhonda V. Maggee, “Educating Lawyers to Meditate?” (2011) 79 (3) UMKC L. REV. 535 at 559-60.

1. Sit in a chair—hands resting on your lap, each in a gentle grip. 2. Bring awareness to your hands and to your breathing. 3. Inhale and extend your fingers fully to the count of *four*. 4. Hold your breath and keep your fingers extended to the count of *seven*. 5. Exhale and close your hands to the count of *eight*. 6. Repeat this exercise two to four times.<sup>46</sup>

Mindfulness can have many cognitive and emotional benefits. It relieves stress.<sup>47</sup> It improves concentration.<sup>48</sup> It induces “positive feeling and reduces anxiety.”<sup>49</sup> It increases “brain and immune functioning.”<sup>50</sup> Mindful law teachers, I believe, are more receptive to the cognitive *and* emotional needs of their students.<sup>51</sup> So mindfulness certainly has the potential to improve instructor-student communication.<sup>52</sup>

#### Other Multisensory Approaches

PHILIPPOPOULOS-MIHALOPOULOS encourages law students to walk through their city and to ask themselves where the law manifests itself and whether it determines where in the city they are (or are not) allowed to walk or not. He invites students to use their various senses *actively* while moving through town.<sup>53</sup> In this way, multisensory—indeed multisensorized—law students would learn building law, environmental law, property law, and spatial planning law by sensing their surroundings.

Referring to ANNA HALPRIN and SIMONE FORTI, LYCOURIS and TIMMONS suggest movement improvisation and imagination “as a way of finding solutions to [legal] problems.”<sup>54</sup> Lawyer and artist MIRIAM AZIZ has done some fascinating projects in this area.<sup>55</sup> While writing this section, I discovered that “Aberdeen University students’ association has introduced a new

<sup>46</sup> Scott L. Rogers, *Mindfulness for Law Students: Using the Power of Mindful Awareness to Achieve Balance and Success in Law School*. (Miami Beach, FL: Mindful Living Press, 2009).

<sup>47</sup> See, e.g., Leonard Riskin, “The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients” (2002) 3 *HARVARD NEGOTIATION L. REV.* 1 at 38.

<sup>48</sup> Leonard Riskin, “The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients” (2002) 3 *HARVARD NEGOTIATION L. REV.* 1 at 7.

<sup>49</sup> Rhonda V. Magee, “Educating Lawyers to Meditate?” (2011) 79 (3) *UMKC L. REV.* 535 at 541.

<sup>50</sup> *Ibid.*

<sup>51</sup> See, e.g., Richard C. Reuben, “Bringing Mindfulness into the Classroom: A Personal Journey” (2012) 61 (4) *J. LEGAL EDUC.* 674 at 675, 677, and 679.

<sup>52</sup> Richard C. Reuben, “Bringing Mindfulness into the Classroom: A Personal Journey” (2012) 61 (4) *J. LEGAL EDUC.* 674 at 676.

<sup>53</sup> See Andreas Philippopoulos-Mihalopoulos, “Mapping the Landscape: Spatial Law and the Body” in Zenon Barkowski, Maksymilian Del Mar, and Paul Maharg, eds., *The Arts and the Legal Academy: Beyond Text in Legal Education* (Burlington, VT: Ashgate, 2013) 119 at 124-30.

<sup>54</sup> Sophia Lycouris and Wendy Timmons, *Physical Literacy in Legal Education*, in Zenon Barkowski, Maksymilian Del Mar, and Paul Maharg, eds., *The Arts and the Legal Academy: Beyond Text in Legal Education* (Burlington, VT: Ashgate, 2013) 52 at 58.

<sup>55</sup> See, with further references to her projects, Miriam Aziz, “Were You with Me? Creativity, Dialogue and Self-Expression in the Legal Process Narratives,” in Zenon Barkowski, Maksymilian Del Mar, and Paul Maharg, eds., *The Arts and the Legal Academy: Beyond Text in Legal Education* (Burlington, VT: Ashgate, 2013) 175-87.

exam welfare scheme” by providing “a puppy room to help students deal with stress.”<sup>56</sup> I was quite impressed watching students touching LILLY, the therapy dog.<sup>57</sup> Let me also mention WEBB’s “The Body in (E)motion,” a paper providing a theoretical foundation for how embodied studying might be implemented in legal education.<sup>58</sup> Much more can be said about multisensory legal education, but I hope to have awakened your interest in this intriguing field.

#### Multisensory Law and Legal Education

Let us now consider how MSL relates to legal education and vice versa. Comparing their respective qualities would lead too far.<sup>59</sup> So let me concentrate on how MSL goes beyond the scope of legal education in terms of visual, audiovisual, and multisensory legal phenomena (quantitative comparison).<sup>60</sup>

Multisensory legal education is obviously “just” one area within legal education and MSL. It is helpful to listen to other voices in the conversation. JOHNSON, for instance, observes that

[m]any law firms, particularly those which represent personal injury plaintiffs, are beginning to resemble recording studios because audio and video equipment is increasingly being used in the negotiation and litigation of cases. Students should be made aware of these developments. To the extent that they have had some experience with hands-on use in their courses they will be better prepared to succeed in practice.<sup>61</sup>

If I understand JOHNSON correctly, he is claiming a subject matter for legal education which actually falls into another legal area—visual and audiovisual legal advocacy<sup>62</sup>—or what FEIGENSON and SPIESEL call “multimedia [legal] advocacy.”<sup>63</sup> AUSTIN posits that “law schools should teach the production and critical reception of documentary or nonfiction films as a

<sup>56</sup> BBC News, Scotland, “Puppy Room for Aberdeen University Student Exam Stress.” BBC News, May 13, 2014, accessed August 11, 2016. [www.bbc.com/news/uk-scotland-22514562](http://www.bbc.com/news/uk-scotland-22514562).

<sup>57</sup> *Ibid.*

<sup>58</sup> See Julian Webb, “The Body in (E)motion,” in Paul Maharg and Maughan, Caroline, eds., *Affect and Legal Education: Emotion in Learning and Teaching the Law* (Burlington, VT: Ashgate, 2011) 211-33.

<sup>59</sup> On Conducting a Qualitative Comparative Analysis, see Alfred Brunswig, *Das Vergleichen und die Relationserkenntnis [Comparing and Understanding Interrelations]*. (Leipzig: Teubner, 1919).

<sup>60</sup> On Conducting a Quantitative Comparison, see, e.g., Antoine Arnauld and Pierre Nicole, *Die Logik oder die Kunst des Denkens [Logic or the Art of Thinking]*. Translated by Christos Axelos, 2nd rev. ed. (Darmstadt: Wissenschaftliche Buchgesellschaft, 1994) at 303-4.

<sup>61</sup> Vincent Robert Johnson, “Audiovisual Enhancement of Classroom Teaching: A Primer for Law Professors” (1987) 37(1) *J. LEGAL EDUC.* 97 at 118.

<sup>62</sup> On visual and audiovisual legal advocacy, see, e.g., Regina Austin, “The Next ‘New Wave’: Law-Genre Documentaries, Lawyering in Support of the Creative Process, and Visual Legal Advocacy” (2006) 16 *FORDHAM INTELL. PROP. MEDIA & ENT. L.J.* 809-68.

<sup>63</sup> Neal Feigenson and Christina Spiesel, *Law on Display*. (New York: NYU Press, 2009), 131. On visualizing legal briefs, see Adam L. Rosman, “Visualizing the Law: Using Charts, Diagrams, and Other Images to Improve Legal Briefs,” (2013) 63 (1) *J. LEGAL EDUC.* 70-81.



component of a program of instruction in visual legal advocacy.<sup>64</sup> She also argues that “law schools should take the lead in increasing the legitimacy of visual forms of argumentation and in producing models for the delivery of visual legal advocacy services to clients of limited means.”<sup>65</sup> Mindfulness helps or might help practicing lawyers “to deal better with stress and to develop a calm state of mind that will foster the ability to think clearly.”<sup>66</sup> Even clients suffering from emotional turmoil during legal disputes might benefit from relaxation techniques.<sup>67</sup>

Which questions does or might MSL explore more deeply than legal education and possibly other legal disciplines? Referring to the *winter-jacket case*, how could B’s lawyer visualize the legal aspects of the case to help his or her client understand whether he or she has a point? If you were an e-government officer assigned to audiovisualize labor law and unemployment law provisions, what would your legal film look like?<sup>68</sup> Imagine you were a legislator drafting a bill regulating the production of legal norm visualizations and audiovisualizations. What would your bill look like? How would you interpret audiovisual legal norms, which will no doubt emerge in the legal landscape over time? Neither legal theory nor legal methodology has so far developed adequate methodological approaches—at least not as far as I know.

## Results, Conclusion, and Outlook

### Results and Conclusion

MSL has the potential to make legal education actors (among others, law teachers) aware of the many phenomena involved in visual, audiovisual, and multisensory legal education. MSL attempts to systematize and establish connections between these phenomena. It draws attention to visual, audiovisual, and multisensory legal phenomena falling within but also beyond the scope of other established legal disciplines.

In light of the questions just raised, I am convinced that other legal actors (legislators, addressees of legislation, judges, government officials, legal scholars, and other legal and nonlegal actors affected by the law) could also benefit greatly from MSL.

<sup>64</sup> Regina Austin, “The Next ‘New Wave’: Law-Genre Documentaries, Lawyering in Support of the Creative Process, and Visual Legal Advocacy” (2006) 16 *FORDHAM INTELL. PROP. MEDIA & ENT. L.J.* 809 at 868.

<sup>65</sup> *Ibidem*.

<sup>66</sup> Leonard Riskin, “Awareness in Lawyering: A Primer on Paying Attention” in Marjorie A. Silver, ed., *The Affective Assistance of Counsel: Practicing Law as a Healing Profession* (Durham, NC: Carolina Academic Press, 2007) 447 at 449. See also Rhonda V. Maggee, “Educating Lawyers to Meditate?” (2011) 79 (3) *UMKC L. REV.* 535 at 555–59.

<sup>67</sup> See, e.g., Evan R. Seamone, “The Veterans’ Lawyer as Counselor: Using Therapeutic Jurisprudence to Enhance Client Counseling for Combat Veterans with Posttraumatic Stress Disorder” (2009) 202 *MIL. L. REV.* 185 at 228–29.

<sup>68</sup> For a possible audiovisual legal solution to this assignment, see, e.g., “Employment Contract,” accessed August 11, 2016, [www.ch.ch/en/employment-contract/](http://www.ch.ch/en/employment-contract/).

In sum, not only legal research and education but also legal practice and legislation are well advised to consider the findings and insights of MSL.

### Outlook

How might MSL be considered a “legal rebel,” as my title boldly suggests?

RÖHL, a fierce opponent of MSL,<sup>69</sup> observes on the beginning of legal sociology that it constitutes a “Wissenschaft mit eigener Fragestellung, spezifischen Methoden und einer besonderer Wissenschaftsorganisation” [“discipline with a distinctive issue, specific methods, and a particular academic organization”].<sup>70</sup> He thus argues in terms of both the theory of science and the sociology of science.

I hope to have shown that MSL is a discipline with issues and methods that distinguish it from other established legal disciplines. What it lacks, however, is institutional recognition. So it is fair to call it a “legal rebel.” Its cause is to erect an epistemological roof over *all* uni- and multisensory legal or legally relevant phenomena. Only the future will tell us whether this turns out to be successful. It does hinge on MSL gaining more recognition than it is presently “enjoying.” My humble view, at the end of this conversation, is that *ignorantia iuris multisensualis nocet aut nocebit* [not knowing multisensory law is or will be harmful].

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## Legal Design: More Than Aesthetics

By Margaret Hagan

One of the most common misconceptions about design’s potential is that it is only applicable to how we lay out and format our communications. Certainly design skills and mindsets can help us create a better PowerPoint presentation or lay out clauses on a piece of paper in a more intuitive and pleasing way.

But design is about more than aesthetics. It is a problem-solving approach, just like law is. Design is a set of mindsets, tools, and process that anyone (whether trained formally in design or whether traditionally creative) can deploy when faced with a challenge. Just like law school teaches “thinking like a lawyer,” I advocate that we should also be learning how to “think (or better yet act) like a designer.” This entails having a deep focus on serving the needs

<sup>69</sup> See Klaus F. Röhl: “Zur Rede vom multisensorischen Recht: Ein kumulativer Tagungsbericht” [“On the Talk about [sic] Multisensory Law: A Cumulative Conference Report”] (2012/2013) 33 *ZEITSCHRIFT FÜR RECHTSZOLOGIE: THE GERMAN JOURNAL OF LAW AND SOCIETY* 51–75.

<sup>70</sup> Klaus F. Röhl, *Rechtssoziologie: Ein Lehrbuch [Sociology of Law: A Textbook]*. (Berlin: Carl Heymanns, 1987) at 15.

<sup>71</sup> See [www.rwi.uzh.ch/oe/zrf/abtrv/brunshawig\\_en.html](http://www.rwi.uzh.ch/oe/zrf/abtrv/brunshawig_en.html), accessed August 11, 2016.