

# The Representations of Law in Cinema:

## Movies as a Predictive Tool for Legislation

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This article was originally submitted as a seminar paper as part of the Philosophy of Law study-unit (CVL1024) and is being reproduced on the OLJ with the author's permission. In it, **Ella Micallef Darmenia** delves into the intriguing realm of the representations of law in cinema, specifically examining how films can serve as predictive tools for legislation.

**TAGS:** Philosophy of Law

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## **1. Introduction**

In the realm of law, the analysis and understanding of legal principles, systems, and their societal impact has traditionally relied upon legal texts, judicial decisions, and scholarly discourse. However, the emergence of cinema as a powerful medium of storytelling has provided a unique avenue for exploring and representing various aspects of law in a visually compelling and narrative-driven manner. Films have the ability to captivate audiences, provoke emotions, and convey complex ideas through their artistic depiction of legal issues, courtroom dramas, and ethical dilemmas.

This research paper delves into the intriguing realm of the representations of law in cinema, specifically examining how movies can serve as predictive tools for legislation.<sup>1</sup> By analysing the themes, narratives, and characters depicted in selected films, we aim to explore the influence of cinematic portrayals of legal scenarios on the shaping of legal frameworks and public perceptions of the law. Furthermore, this research seeks to investigate the potential impact of cinematic depictions of law on legal practice, policy-making, and societal attitudes towards the legal system.

Drawing upon philosophical theories of law and communication, this research paper engages with the contrasting perspectives of Jürgen Habermas's 'Communicative Action Theory' and Niklas Luhmann's 'Autopoietic Systems Theory'. Habermas argues that effective legal systems require open and rational dialogue among citizens, emphasising the importance of communicative action and discursive legitimacy in the development of just laws. On the other hand, Luhmann posits that legal systems are autonomous and self-referential social systems that operate through their own internal rules and codes, largely independent of external influences.

To contextualise the historical evolution of legal representation in cinema, we will explore landmark films that have tackled the theme of racial injustice, such as 'To Kill a Mockingbird' and 'A Time to Kill'. These movies vividly portray the challenges and struggles faced within the legal system in the context of racial discrimination, highlighting the power of cinematic storytelling to shed light on societal issues and inspire public discourse. By analysing the narratives and cinematic techniques employed in these films, we can gain insights into the evolution of legal representation in cinema and its impact on public perceptions of law and justice. We will also use these films as examples which in and of themselves show the possible predictive elements of cinema.

By investigating the representations of law in cinema and engaging with philosophical theories of law, this research aims to contribute to our

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<sup>1</sup> David Black, *Law in Film: Resonance and Representation* (University of Illinois Press 1999).

understanding of the intricate relationship between law, media, and society. It seeks to uncover the potential of movies as predictive tools for legislation, exploring how cinematic narratives and visual storytelling can inform public perceptions, shape policy discussions, and impact the evolution of legal systems. Through this exploration, we hope to shed light on the dynamic interplay between art, philosophy, and law, and the ways in which cinema can both reflect and influence the ever-evolving field of legislation.<sup>2</sup>

## **2. Philosophical Perspectives**

The philosophical perspectives regarding the relationship between law and cinema provide valuable insights into the nature of law as well as the potential impact of cinema on legal discourse. Two prominent theories that have contributed to our understanding are Luhmann's 'Autopoietic Systems Theory' and Habermas's 'Communicative Action Theory'.

Luhmann's theory posits that law is a self-contained system, distinct from other societal systems, and operates based on its own internal rules and mechanisms.<sup>3</sup> According to Luhmann, this self-containment keeps the law isolated from the society it is intended to serve.<sup>4</sup> This perspective suggests that the traditional legal canon, which views law as exclusively confined to legal texts and spheres, may be an outdated concept. It emphasises the need to consider law as an autonomous system with its own dynamics and intricacies.

On the other hand, modern legal perception recognises law as a consciousness that permeates the global culture, is subject to varying interpretations, and is understood through different mediums. Habermas's 'Communicative Action Theory'<sup>5</sup> offers insights into the role of cinema in fostering democratic deliberation and participation in legal decision-making. By portraying legal themes and issues in films, cinema contributes to a broader understanding of the role of law in society. Films provide a platform for public discourse about legal issues and enable marginalised voices to be heard. This engagement with legal issues through cinema has the potential to shape legal norms and values, promoting a more just and equitable legal system.

The combination of Luhmann's theory and Habermas's theory sheds light on the complexities and nuances of the relationship between law and cinema. While Luhmann's theory underscores the self-contained nature of law, Habermas's theory highlights the potential of cinema to foster democratic dialogue and influence legal decision-making processes.

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<sup>2</sup> Stefan Machura, Peter Robson, 'Law and Film: Introduction' (2001) 28 *Journal of Law and Society* 1.

<sup>3</sup> Niklas Luhmann, *Introduction to Systems Theory* (Polity 2012).

<sup>4</sup> *ibid.*

<sup>5</sup> Jürgen Habermas, *The Theory of Communicative Action: Reason and the Rationalization of Society* Vol 1 (Beacon Press 1981).

Another school of thought which is frequently mentioned with regard to the study of law and cinema is Legal Realism.<sup>6</sup> This is a doctrine which emerged in the early 20<sup>th</sup> century as a response to Formalism, a legal theory that focused on applying legal rules and principles in a rigid and mechanical manner. Legal realists rejected the idea that the law was a set of fixed and immutable principles, and instead suggested that the law is a dynamic and evolving institution that is shaped by the social and political context in which it operates.

Cinema, as an art form, often reflects and critiques social and political issues, and can be a powerful tool for conveying ideas and perspectives about the legal system. In this way, there is a natural relationship between legal realism and cinema, as both are concerned with understanding and representing the complex and dynamic nature of society.

### **3. History of Legal and Cinematic Intersection**

The emergence of law as a subject in cinema gained momentum in the late 1960s in the United States, culminating in a proliferation of lawyer-centred television series and motion pictures in the 2010s. Remarkably, a parallel can be drawn between contemporary cinema and Ancient Greek plays with regard to the relationship between law and cinema.

An example of this connection is Sophocles's 'Antigone', an Ancient Greek tragedy dating back to 441 BC, which delves into the interplay between divine law and human law. This dramatic work illuminates the conflicts that arise when personal convictions clash with state laws, prompting inquiries into the role of conscience and moral principles in legal decision-making. 'Antigone' serves as an early example of drama employed as a medium for legal discourse and critique.

'To Kill a Mockingbird' (1962),<sup>7</sup> directed by Robert Mulligan and based on Harper Lee's novel, unfolds a narrative set in Alabama, where a lawyer defends a wrongly accused black man in a rape case involving a white girl from a privileged family. The film aptly illustrates the intersectionality of law, racism, and socio-economic disparities exacerbated by the prevailing political climate of the confederacy and conservatism in the southern United States.

Another film that explores the theme of social justice within the legal system is 'A Time to Kill' (1996),<sup>8</sup> directed by Joel Schumacher and based on John Grisham's novel. Set in 1980s Mississippi, the plot revolves around the trial of Carl Lee Hailey, an African-American father who seeks vengeance after

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<sup>6</sup> John Denvir, *Legal Realism: Movies as Legal Texts* (University of Illinois Press 1996).

<sup>7</sup> Lee Pfeiffer, 'To Kill a Mockingbird' (*Encyclopaedia Britannica*, 11 January 2023)

<<https://www.britannica.com/topic/To-Kill-a-Mockingbird-film-1962>> accessed 16 May 2023.

<sup>8</sup> 'A Time to Kill' (IMDb, 24 July 1996) <<https://www.imdb.com/title/tt0117913/>> accessed 16 May 2023.

his young daughter is brutally raped by two white men. Jake Brigance, a young white lawyer, takes on the challenging task of defending Carl Lee in court, encountering opposition and peril from the Ku Klux Klan and other members of the community. As the trial unfolds, racial tensions in the town escalate, casting uncertainty on the trial's outcome. The film delves into themes of justice, morality, and racial prejudice, featuring a notable ensemble cast including Matthew McConaughey, Samuel L Jackson, Sandra Bullock, and Kevin Spacey.

Subsequently, legal cinema embraced a more postmodern stance within the media landscape, notably manifested in workplace dramas centred around the legal profession. A prime example is the television series 'Suits', which aired from 2011 to 2019 and is set in New York City. Its relevance lies in its portrayal of the fast-paced and competitive realm of law, shedding light on the challenges lawyers face in maintaining a balance between their personal and professional lives.

As we venture into the 2020s, the genre continues to thrive, with a discernible inclination towards exploring European perspectives. Notably, Netflix series like 'The Law According to Lidia Poet' delve into the Italian feminist history of the legal profession, adding a distinctly European dimension to the genre. The examination of these films demonstrates the evolving nature of legal cinema, as it tackles a broad range of themes and narratives across different periods and cultural contexts. These cinematic works provide insights into the complexities of the legal system, shedding light on societal issues, and prompting critical reflections on the law's role in shaping justice and equality.<sup>9</sup>

#### **4. Cinema as a Predictive Tool for Legislation**

The law can be defined as a set of rules enforced by social or governmental institutions to regulate behaviour. Cinema is an instrument for the expression of thoughts and reflections but also a sufficiently rich practice from which one learns and acquires new knowledge. The film is made in relation to the culture that secretes it and the historical and social context from which it emerges. Thus, one can reach the conclusion that law and cinema are indirectly interdependent when considering a law to be permeated by culture, defining minimum standards of behaviour and social expectations. The law and cinema discourse rests on the observation that both the law and the cinema share a social domain which is that of culture.<sup>10</sup>

A natural relationship between law and cinema occurs since they are both concerned with understanding and representing the complex and dynamic

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<sup>9</sup> Stefan Machura, Peter Robson (n 2).

<sup>10</sup> Richard K Sherwin, 'Imagining Law as Film (Representation without Reference?)' [2009] Law and the Humanities 241.

nature of society. The concept of cinema coexists with a larger commonality of political perspective towards law, legal institutions, and questions of justice. The evolution of legal procedure is being influenced by general developments in visual culture and film. This echoes concerns raised by the Legal Realist school of jurisprudence in the '20s and '30s.

Law is no longer a concept limited to law reports and legal texts; it is a consciousness permeating the global culture.<sup>11</sup> Similarities between films and the traditional legal canon are found in the fact that they are both cultural artefacts which are open to warring interpretations both on the descriptive and normative levels. One can say that the debate on the comparison between legal concepts represented in films and actual legal concepts frames the human tendency to be rational and raises the importance of film as a cultural artefact through the simple act of discussing it when using Habermas's 'Communicative Action Theory'.

It can be argued that these films are themselves legal texts,<sup>12</sup> with the ability to communicate legal concepts to the general population in a digestible manner, albeit sometimes blurring the line between legal precision and fictional drama, which in itself poses an interesting challenge. This act of communication with dramatic productions as a medium dates back to Ancient Greek times with plays like Aristophanes's comedies.<sup>13</sup>

If the films mentioned above, 'A Time To Kill' (1996) and 'To Kill A Mockingbird' (1962), had been made use of as a predictive tool for legislation, our current society would be wildly different. If they had been considered as legal texts at their time of production and discourse on their portrayal of racial injustice taken as legal canon, the legislator would have been able to pick up on the systemic injustice and prevented a number of gruesome hate crimes and human rights abuses that took place. Thus, implementing and advancing this avenue of research could largely benefit society and its many areas of law.

## **5. Recommendations and Conclusions**

The exploration of the relationship between law and cinema has highlighted the blurred line between legal precision and fictional drama, leading many legal professionals to approach the subject cautiously. It is understandable that legal scholars hesitate to embrace cinema as a vehicle for legal communication, given its nature as a precise art form. However, by acknowledging the limitations of legal cinema, we can develop a more nuanced understanding of its potential contributions to legal discourse.

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<sup>11</sup> John Denvir (n 5).

<sup>12</sup> *ibid.*

<sup>13</sup> Harris et al. (eds), *Law and Drama in Ancient Greece* (Bloomsbury 2013).



One significant aspect that warrants further investigation is the issue of misrepresentation in legal cinema. The portrayal of legal concepts in films often involves exaggeration or falsification for dramatic effect. While there is an argument for making complex legal concepts more digestible to the public, it is crucial to recognise that technicality forms the foundation of the law. Future research could delve deeper into the implications of misrepresentation and examine how it affects public understanding and perceptions of legal issues.

Moreover, the study of law and cinema is still in its early stages, presenting ample opportunities to shape legal norms and values. Further research is needed to explore the complex relationship between law and cinema and address the many unanswered questions that persist. Additionally, investigating how legal cinema influences public perceptions of legal issues and the legal system is crucial. Can films truly alter the way people think about legal matters and inspire greater engagement in legal decision-making processes?

Furthermore, it is important to consider the impact of the American monopoly on legal films, particularly in a globalised context. The prevalence of legal cinema centred on the United States creates confusion for viewers outside the US as they may rely solely on their media exposure to form their understanding of the law. This phenomenon raises questions about the public's perception and comprehension of the law, particularly in Europe. Future research should examine the influence of the American monopoly on legal films and explore the potential emergence of a 'European Movement of Legal Films'.

In conclusion, the study of law and cinema offers valuable insights into the dynamic interplay between these two domains. Recognising the limitations and complexities of legal cinema can enhance our understanding of its role in legal discourse. Further research is necessary to deepen our understanding of the impact of legal cinema on public perceptions, the potential for cinematic narratives to shape legal norms and values, and the influence of the American monopoly on legal films. By addressing these questions, we can foster a more informed and nuanced approach to the intersection of law and cinema, ultimately contributing to the development of a more just and equitable legal system.



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