The Orthodoxy of Format: Some Sketches on Legal Scholarship

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The Orthodoxy of Format: Some Sketches on Legal Scholarship

William J. Aceves, James M. Cooper, Alejandro González, and Pedro Egaña Marshall
Some Sketches on Legal Scholarship

Do you think they'll publish it?

I don't know. Would you?

Do you think they'll get it?

It depends how old they are.

Come on. Let's be honest. This project is somewhat unconventional.

What's that supposed to mean?

But that's the point! Legal scholarship has become too conventional. It's stagnant. It's predictable. It hasn't changed in over 150 years! Take a look at the first law review articles published in the 1850s. They look the same as articles published today. Structure, headings, footnotes, format - nothing has changed.

Well, my parents read my law review note.

And face it. How many people even read law review articles?

Okay. That's two people.
And with the Internet, my law review note is accessible to millions of people around the world.

You're kidding, right? How many people can afford Lexis or Westlaw? For all the talk about this being the information age, the fact is that legal scholarship is inaccessible to most people.

And you think this would all change if they published our Article?

Wait. Can we even call this an Article? And this looks suspiciously like a footnote. I thought we said no footnotes!

I don't know if things would change. But they would certainly be more interesting.

But is the legal community ready for this?

Why wouldn't it be ready?
Let's see. First of all, law review editors won't know what to do with this.

Okay. Who else would have a problem with this?

Why?

I say low about low professors?

No paragraphs. No text. No footnotes. And how do you edit an illustration?

Why would they care?

Think about it. If this Article gets accepted by a low review, it means that illustrations have scholarly value. It means that pictures are worth as much as words.

Why shouldn't pictures have scholarly value? Why should it matter how the message is conveyed?

Hey, I agree with you. Legal scholarship needs to change. But how do we respond to critics?

We have to address them in a language that they understand.

How ironic!
First, we need to emphasize that the method chosen to present an argument is itself conveying a message. A painting conveys a visual message, a song conveys an auditory message. But the contents of the painting and the song are only part of the message. The format is also descriptive.

You mean the medium is part of the message.

I see what you're saying.

Second, we need to emphasize that pictures offer a powerful method of communication. They allow us to express ideas in ways that just aren't possible using traditional formats.

And aren't words just metaphors for the images they describe?
Third, we need to emphasize that pictures allow us to speak to a broader audience.

I get it. Even pop culture images offer a valid form of communication. And they are simply more accessible.

Only you can prevent forest fires.

Think:

Video killed the radio star 🎶 Video

And then there’s my favorite: Schoolhouse Rock.

Hey, I remember that!

I’m just a bill. Yes, I’m only a bill. And I’m sitting here on Capitol Hill.
But it's not just in the United States. Using pop culture images to convey ideas is a global phenomenon.

People pay attention to images that speak to them.

It's not just what we say to people; it's also how we say it that matters.

So all we're trying to do is to suggest another format that scholars and students can use to talk about the law.

That's all we're trying to do.
What do you think will happen if they publish this?

Who knows? If it’s like most law review articles, few people will ever read it.

But maybe someone will read it. Maybe someone else will draw a law review article.

Maybe Lexis or Westlaw will publish an illustrated law review.

Okay. Now you’re being ridiculous.

Do you think they’ll publish it?

I don’t know. Would you?
The idea that legal scholarship should include visual elements is not a new one. Early student work blazed a trail some thirty years ago. More recent contributions have been produced by scholars such as Keith Aoki. And, in 2006, the Center for the Study of the Public Domain at Duke University published a comic book addressing copyright law and the fair use doctrine.

Despite these efforts, there does not appear to be any systematic attempt to use graphic art in legal scholarship. This project makes such an appeal. It challenges the conventional format for legal scholarship that has been used for over 150 years and offers an alternative approach. Our project is interdisciplinary in nature and incorporates numerous fields of study. It is influenced by the work of Susan Sontag, Umberto Eco, Marshall McLuhan as well as Derek Bell and Richard Delgado. Our project is also informed by the work of Art Spiegelman and Osamu Tezuka.

From the photographs of abuse at Abu Ghraib to the cartoons depicting the Prophet Mohammed, graphic art can be compelling and descriptive. It can also provide an extraordinary opportunity for discourse across a wide range of issues. Its imagery is not limited by language and is, therefore, more accessible and less likely to be lost in translation. And yet, this format has not been fully explored in legal scholarship. In light of recent challenges...
to the continuing relevance of the law review, legal scholars would do well to explore new formats for presenting their work. Indeed, the growing popularity of Internet blogs on legal topics suggests that the movement away from orthodoxy is already in progress.

As this Postscript reveals, graphic art cannot replace text. But it can offer scholars a different format for addressing legal issues. We hope this project encourages others to challenge the orthodoxy of format that infuses all legal scholarship.⁸


⁸ Visit <www.cwsl.edu/aceves/sketches> for further information on the Law & Graphic Art Project.