

# A Review of Visualizing Law in the Age of the Digital Baroque

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] **By**

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Book: Visualizing Law in the Age of the Digital Baroque

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Visualizing Law in the Age of the Digital Baroque is not for the faint of heart. This text is not only broad in the exploration and inquiry into the topic it is quite deep in the manner in which the author takes on the subject. These opening lines are merely a reflection of the deft and skilled artistry of the craftsman who carved out the work. The expertise, deep-thinking and insightful reflections are symbolic of the nature of the work of Richard K. Sherwin. He is truly a master of his craft and a leader in a field that is growing more rapidly than we are able to measure the growth.

Sherwin is not only a legal scholar, he is a leader in the field of law and technology. While most lawyers are happy to have electronic resources at their disposal, Sherwin is delving into the implications of what it means to have <http://digilifelearn.com/images> presenting critical aspects of litigation and evidence. This recent book appropriately follows his other work. From prior writing (When Law Goes Pop, University of Chicago Press, 2000), Sherwin laid the groundwork by exploring the impacts and influence of popular culture on the justice system. His inquiry formed a natural introduction to this current work in that he addressed very important questions that many legal scholars asked relative to how the integrity of the legal system is intimately related to the norms of the day.

In more specific terms, Sherwin's work actually supports the commonly used term, 'court of public opinion.' When one considers the thin line between that which happens on the screen in movies and on television and how it is a reflection of (or an interpretation of) real life situations, the work of Sherwin that unpacks the nature and essence of the <http://digilifelearn.com/images>, one can begin to see that the world of the image requires further examination.

There is a term that Sherwin has a particular fondness for using. That term is simulacrum. It is of Latin origin. 'Simulacra - in the era of television - are copies of things that no longer have an original (or never had one to begin with).' [St Lawrence Law] Abstraction today is no longer that of the map, the double, the mirror or the concept. Simulation is no longer that of a territory, a referential being or a substance. It is the generation by models of a real without origin or reality: a hyperreal. The territory no longer precedes the map, nor survives it. Henceforth, it is the map that precedes the territory - PRECESSION OF SIMULACRA - it is the map that engenders the territory....(Baudrillard, 1994, p. 1)

Sherwin is very clear that there is a challenge that we face in discerning where to draw the line between reality, created <http://digilifelearn.com/images>, the image creator and the purpose for which the image has been created. This is where he moves into his latest work that expands upon prior efforts.

### **Visual Jurisprudence: The New Paradigm**

Visual presentations are not necessarily new in courtrooms, but now we have interactive video and more. It was not the case in the not too distant past that a courtroom could actually see the action unfold. It is more often the case now that we are disappointed if there isn't some form of visual presentation. Sherwin makes a compelling strong case that we have not only reached a point of having visual and video evidence as acceptable elements in the courtroom, it is almost a requirement. This is only the beginning of the point that Sherwin is making here.

Consider that perhaps one of the recent additions to the class of the 'expert witness' category has become professional videographers. That may at first sound like a joke, but in reality in the presentation by Sherwin, this is a real consideration. Consider a professional videographer as an expert witness. This is because he or she can provide close-up shots of crime scenes. They are able to provide insights into why certain things look the way they do on video that would not occur to the untrained eye when looking at the very same <http://digilifelearn.com/images>. These new 'expert witnesses' would also be able to walk observers through the stages of actions unfolding and further clarify what is being seen.

Sherwin paints a compelling picture as he cites other aspects of today's technology that further supports some of the considerations and outcomes of this new technology and the implications of visual aids. There is further consideration of the nature of those visual imagery presentations that are interactive. We are all familiar with how that works whether it is with an ATM, or with an automated check-out at a local supermarket. That interactive interface with <http://digilifelearn.com/images> has become a part of our culture. But how does that happen with respect to legal matters.

The interactive nature of technology allows views to become engaged with the action as it unfolds. Sherwin uses an interesting example of courtroom proceedings taking place. People are physically watching the proceedings in the courtroom. There can also be an audience watching remotely from wherever there may be an opportunity to log in. If the connection is web based, there may be the opportunity to download visuals from the court's website.[1]

Using this example is a demonstration of Sherwin's contention that the 'court of public opinion' may be gaining traction. In pre-releasing <http://digilifelearn.com/images> that may seem as if it is evidence begins to shape opinions and thinking. Sherwin's premise is that there is a powerful platform that can be established by pre-staging and shaping image messages such that these situations begin to form the context for a particular case.

Sherwin is clearly on the cutting edge of this ever unfolding aspect of the cross-roads of technology and the law. We have almost come to expect that most if not all things are being recorded. The news as is now presented on television, seldom has a story without a visual presentation of either the crime or the things that occurred shortly before or shortly after. Visual evidence is similarly becoming an expected element in trial proceedings. This is where Sherwin really goes to work in *Visualizing Law in the Age of the Digital Baroque*. In this work, Sherwin presents a compelling case for how a visual presentation can make all the difference in the world depending upon several critical factors.

One of the factors that he raises is the difference between visual meaning and the meaning that is the result of words. His premise is that the human experience and how we interpret visual presentations is more aligned with the way in which we experience the world. In other words, our experience of the world influences the way in which we experience visual presentations. So much of the broad domain of 'the law' is based upon words. With the introduction of other elements such as visual presentations and meanings, the field is compelled to revisit how to engage these new elements.

Another factor presented by Sherwin is that there is a 'visual culture.' He believes that we must study and assess the various visual cultures with an eye to and understanding of how to apply the law. Without making such an assessment, we would be missing a huge insight into what the variables are which are operating and how those variables can impact outcomes. When analyzing the visual culture of law, it requires that one has an understanding of the media that produced the product. In Sherwin's opinion, 'a rational assumption of modern jurisprudence is inadequate to the demands of the times.'

In his own words, 'this book argues for the cultivation of visual literacy and for a renewal of confidence in the world-maintaining power of human inventiveness.'

...we need to 'revitalize legal imagination.'[2]

It is Sherwin's impression that we have become overwhelmed with media <http://digilifelearn.com/images> that have become ingrained in our thinking and embedded in our memory. There have been so many <http://digilifelearn.com/images> repeatedly presented to us that we need not be reminded in any great detail about an event because the <http://digilifelearn.com/images> have become part of our

thinking. We are left with indelible <http://digilifelearn.com/images> of various types from war scenes to police dash cam videos. His point is that many of these <http://digilifelearn.com/images> we hold have now become forever etched in our memory.

To this point, he presents one powerful example. Many reading his book may not have been old enough to remember one picture from the Vietnam War. It is one example of an historical event that has become etched in memory. He uses the example of the young naked girl running down a road with her skin hanging off after being hit with napalm. It is interesting that the girl in the photo only turned 40 in June of 2012. (Napalm Girl)

The image of this young girl will extend beyond her lifetime and will go on as an historical artifact of the Vietnam war. Clearly most of us were not there and it is certain that those reading about it in the future will only have this artifact as an indicator of the 'visual culture' of the times. This type of image reflects and may cause an emotional reaction. That representation becomes a 'visual' reality held in history.

Sherwin is clear that little research has been done to investigate the implications of this area. It would be fair to speculate that his work may make him the leading authority in many circles. The real point of it is that this is a rapidly growing area that demands attention with a new mindset.

Sherwin does a wonderful job of stirring thought and reflection. He brings to light a great number of points that cause deep reflection and not a simple consideration. He is most brilliant in his ability to present many unanswerable questions that would settle many of the issues. At the same time, his unwillingness to answer the question is just as brilliant in that he is smart enough to allow space for the process of the law to be the process. It is essential that these issues and topics be explored. At the same time, it is just as important not to predispose an outcome that jumps the gun on the evolution of this technology.

Richard Sherwin is right on target with his inquiries regarding video culture. In one respect he is saying that the image presented could be influenced by the videographer and in turn that will determine the thinking of the viewers. This is absolutely true. At the same time, he is saying that there should be consideration for that which is not included in these presentations. Basically, he is suggesting that there be broad, inclusive and expansive thinking/assessments. None of this should be taken at face value.

In closing, Sherwin's work is most impressive. It is not necessarily written with the general public in mind but the message is most certainly of value to the general public. The challenge this presents in the law is obvious at least to this reader. The challenges will become more intense in that there will be greater details to sift through in the course of working on cases. There will be benefits, but they will not be realized without substantial heavy work that will be required in defining the ever evolving new visual culture.

[1] Justice Antonin Scalia, announcing the Supreme Court's decision in *Scott v. Harris*, 550 U.S. 372 (2007)

[2] Visualizing Law in the Age of the Digital Baroque, page 5