International Journal of Law in Context (2018), **14**, 475–478
doi:10.1017/S1744552318000186

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Introduction

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Two frequently cited observations that link visual culture to the delivery of justice in rule-of-law democratic regimes provide a useful point of departure for this special edition of the *International Journal of Law in Context* devoted to work that explores judicial images. One is from the pen of Jeremy Bentham:

> 'Publicity is the very soul of justice. It is the keenest spur to exertion and the surest of all guards against impropriety. It keeps the judge himself under trial …. It is through publicity alone that justice becomes the mother of security. By publicity the temple of justice is converted into a school of the first order.' (Bentham, 1844, p. 139)

The second is by Lord Hewart: 'that justice should not only be done, but should manifestly and undoubtedly be seen to be done.'[1] Both have inspired a wide variety of stakeholders and scholars involved in building and critiquing rule-of-law democracies around the world and their judicial institutions in particular. Both suggest the link between judges, visibility and accountability have a long duration. Bentham's comments locate it in the early years of the nineteenth century. Lord Hewart, in the course of his judgment, potentially extends the pedigree of the origins of the fundamental requirement that justice must be seen to be done further back – to a long line of unspecified cases. Bentham's comments link the visual to institutional discipline and accountability. Self-consciousness generated by being watched by '1,000 eyes' orientates the judge to perform the role in compliance with rules and procedures of the institution in order to avoid the opprobrium that will inevitably follow as 'a thousand mouths' broadcast any judicial failings (Bentham, 1844, p. 139). Contemporary debates about 'transparency', which the retired Chief Justice of Canada, Beverly McLachlin (2014), described as the current 'buzzword', also work with a strong link between the visible, governance and accountability (Hansen *et al.*, 2015). Bentham's model in particular works with what Mathiesen (1997) describes as a synoptic structure: the many watch the few.

Seeing justice is a central theme of this collection of papers. There is an element of seeing justice associated with the written word. In the judicial context, this takes the form of the published texts containing the reasoning that leads to the judgment and the written rationale behind a sentencing decision, which are examples of objects or activities associated with judicial visibility. But neither Bentham nor Hewart stopped at what for many scholars still remains the dominant form of legal objects that 1,000 eyes might subject to scrutiny. Likewise, the scholars who have contributed to this special edition do not limit their focus to the word. A common denominator is a resistance to reducing the study of law in general and courts and judges in particular to the word. All explore other aspects of the visual culture of judges and judging.

All the papers in this collection challenge seeing and the visual as what Thompson describes as 'pure vision' (2005, p. 36). They all draw attention to the way in which the visual and the experience of seeing are shaped by cultural assumptions, frameworks, practices and organisational interests and priorities as well as by a variety of mass-media technologies. Because of this focus, all have a keen interest in exploring the making and management of judicial images. The consumption of judicial images, which brings into the picture the role of the audience in making the meaning of the visual representations, is also a common theme.

[1]Lord Hewart C.J., *The King v. Sussex Justices. Ex parte McCarthy* [1924] 1 K.B. 256, 259.

The special edition begins with a paper that is set in the courtroom, or, more specifically, backstage in the theatre of justice. Aoife Monks, a theatre-studies scholar, who has a particular interest in the role of costume, in this paper, explores the role of costume in shaping the judicial performer's sense of their role and their performance of it in the theatre of justice: the courtroom. More specifically, she explores the work of one of the forgotten but crucial players in this process: the dresser. Central to her study is an interview with Christopher Allen, the Court and Ceremonial Manager at Ede and Ravenscroft, a company that has been designing and providing judicial robes since the eighteenth century. Using extracts from the interview, Monk explores Allen's practice and his insights into the way costume shapes the role and performance of the subject of judicial office. Unlike as in Bentham, where people in the court act as the eyes and voice that shape the performance of the judicial officer, here it is the eye and mouth of the dresser that shape the body of the new judge to perform – scrutinising and managing the transformation of the newly appointed judge from a natural subject into an institutional subject. This unique study provides an opportunity to think about the role of the dresser in the production of the judicial image and not only draws attention to the function that dress plays in the law, but also foregrounds the process of *dressing up* as a key aspect of the performance of the judicial image.

This is followed by a number of papers that explore the role of the judge and other players in the judicial institution more generally in fabricating and managing the visibility and transparency of the court. Dikgang Moseneke's paper, 'The courtroom as TV studio: the case of the Oscar Pistorius trial', explores the role of the judge in the fabrication of the visibility of the court in the context of South Africa. The trial of Oscar Pistorius in 2014 opened up the criminal courts in that jurisdiction to a frenzy of national and international media interest in the proceedings. Everything about the trial – the judge's rulings, the witnesses who gave evidence and especially the verdict – clogged screen media. Moseneke argues that the case has changed irreversibly the manner in which the media, the justice system and the public converge in South Africa. His analysis is a case-study in the way judges past and present have managed and produced the visibility and transparency of proceedings within the theatre of justice. It also demonstrates how competing audiences, fellow judges, participants in the case and the public shape the question of visibility and its management.

Rowden and Wallace, in the paper 'Remote judging: the impact of video links on the image and the role of the judge', explore the role the judge plays in shaping the publicity and visibility of the court in general and the judge in particular in the courtroom in a very different context – through in-court video. Increasingly, judges use video conferencing where either they, or other participants, are located away from the courtroom. Rowden and Wallace examine data generated by a three-year empirical study of courtroom use of video. The paper argues that the introduction of video-conferencing technologies in court has had a profound impact on the production, management and consumption of judicial images, with implications for the role of the judge. Video links challenge cultural assumptions about how the role of the judge is performed, and what the image of the judge should be. They argue that greater congruence needs to be achieved over video links between that image and the role of the judge.

Jane Johnston's paper, 'Three phases of courts' publicity: reconfiguring Bentham's open justice in the twenty-first century', takes as her point of departure Bentham's call for publicity and examines its trajectory and ongoing significance in a rapidly changing world. A common thread is the fact that, contrary to Bentham's assumption about the presence of people in the courtroom, it has long been the case that courtrooms are not filled with 1,000 eyes observing what judges are doing. The first of the three phases of court publicity Johnston explores is to consider Bentham's call for publicity in the context of the news media as the 'eyes and ears' of the absent public. An important assumption and expectation here is the objectivity of the experience of 'seeing' and the activity of broadcasting what has been seen to the public. The second phase places Bentham's call for publicity in the context of the establishment of a new 'backstage' figure in the courts: Courts Information Officers. The origins of the role are in part concerned with the better management of the news media and to improve reporting to the public. In part, the office is to facilitate a different form of media communication: direct communication between courts and the public. The third and final reflection puts Bentham's call for publicity in the context of the world of digital communications such as the Internet, including social media.

The remaining papers examine judges and judging in the context of the wider visual culture. A common thread is an interest in the impact of visual representation of court and judges upon popular legal consciousness.

The themes of making, managing and consuming judicial images are at the heart of Leslie Moran's paper, 'A previously unexplored encounter: the English judiciary, carte de visite and photography as a form of mass media' – a study of a now largely forgotten but revolutionary form of photography known as carte de visite. It was the first type of photographic image capable of being mass produced. He examines examples of carte portraits of judges that were made for sale to the public by photographic studios in the mid-nineteenth century. Drawing on his earlier work on portraiture as a form of self-fashioning and institutional publicity, his first objective is to explore the impact the chemical and technological developments that come together in carte photographs had on what appears within the frame of judicial portraits. One important conclusion he makes is that these small photographic portraits generated new experiences of institutional transparency and proximity between senior judges and the public who consumed these pictures. In examining how these pictures were consumed – they were collected and displayed in albums – his study draws attention to the role of the audience who made the meaning of the pictures by organising their display. The pictures were used to produce a variety of narratives about the nature and role of judges in the society of the day. His study draws upon a number of archives, including the library of Lincoln's Inn, London's National Portrait Gallery and his own personal collection.

The focus of Linda Mulcahy's paper, 'Revolting consumers: a revisionist account of the 1925 ban on photography in English and Welsh courts and its implications for debate about who is able to produce, manage and consume images of the trial', is the debates that have surrounded the introduction of a ban on photography in the courtrooms of England and Wales in 1925. Her paper offers 'a revisionist history' of this limitation on publicity based upon new research into the media context of the ban. Her paper offers the first comprehensive analysis of photographs used in media reports of trials in the decades leading up to the ban. She argues that new technologies and reporting practices exposed the courts and judges to unprecedented scrutiny by the press and public. While the parliamentarians claim that the purpose of the ban was to protect vulnerable members of the public, Mulcahy argues that it actually did a much better job of preserving the interests of the legal, political and social elite, including judges, against a backdrop of fears about an increasingly disrespectful populace. More particularly, she argues, the data suggest that the ban allowed the state to take back its monopoly over the production, management and consumption of images of judges and other key actors in the courtroom.

Helen Wood's paper, 'From *Judge Judy* to *Judge Rinder* and *Judge Geordie*: humour, emotion and "televisual legal consciousness"', focuses on a media revolution that has thrust 'judges' into the limelight like never before: the invention of reality-TV court shows. The judge is at the centre of these shows. Unlike most of the published research on the topic of reality-TV judge shows, Wood does not focus on US shows, the most popular of which is *Judge Judy*. *Judge Rinder* and *Judge Geordie* are two British, and rather different, manifestations of the reality-TV judge-show format. Another important and distinctive dimension of her paper is her approach to this topic. She challenges much of the existing research and scholarship by foregrounding the particular form and characteristics of the media that generate this visibility. She argues that starting with an understanding of these representations of courts and judges *as* television, rather comparing them to 'real courts', is essential if they are to be understood. A key goal of her paper is to examine how the text's *form* establishes particular kinds of 'televisual legal consciousness'. Paying attention to form, address and genre, she generates a deeper exploration of the relationship between television, law and the everyday.

In bringing these papers together in this special edition, one of my hopes is that it will encourage readers to think differently about the enduring issue of publicity and seeing justice done. Another goal is to draw attention to new approaches to thinking about and doing research on the judiciary. Last but by no means least, I hope the papers brought together in this collection showcase the value of multidisciplinary and interdisciplinary research using a variety of methods.

https://doi.org/10.1017/S1744552318000186 Published online by Cambridge University Press

Acknowledgements. The subject of this special edition is closely linked to a network project, *Judging images: the making, management and consumption of judicial images,* supported by the Arts and Humanities Research Council grant reference AH/L007290/1. Linda Mulcahy was the co-investigator in the project. The original proposal was developed while she was a colleague at Birkbeck. When she moved to take up a post of Professor in the Law Department of the London School of Economics we continued to work closely on the delivery of the network objectives. She played an invaluable role throughout.

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Cite this article: Moran LJ (2018). Introduction. *International Journal of Law in Context* **14**, 475–478. https://doi.org/10.1017/S1744552318000186