WORDS TO ICONS: WHAT WILL HAPPEN TO THE LAW IN THE WIRED WORLD?

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According to the Christian Old Testament version of Creation, in the beginning, there was The Word: "And God said, Let there be light: and there was light." Then God made the Garden, and man to inhabit it, and created the first law: "And the LORD God commanded the man, saying, Of every tree of the garden thou mayest freely eat: But of the tree of the knowledge of good and evil, thou shalt not eat of it: for in the day that thou eatest thereof thou shalt surely die." 1

Perhaps in modern times, this warning would have been expressed thus:

Traditionally, men have attempted to define law with words, with varying degrees of success -- this is thrust of much jurisprudential debate. According to Thurman Arnold, writing in The Symbols of Government "Obviously, 'law' can never be defined. With equal obviousness, however, is should be said that the adherents of the legal institution must never give up the struggle to define law, because it is an essential part of the ideal that it is rational and capable of definition....Hence the verbal expenditure necessary in the upkeep of the ideal of 'law' is colossal, and never ending." 2 It is the fear of the decline of the Rule of Law which has kept lawmakers wedded to the word.

But, how simple and forceful is the icon, compared to the statute!

We communicate laws, warnings and hazards today by means of non-verbal symbols. This is largely in response to the need of lawmakers to communicate laws in a way that the public can understand. Take children, for example. According to the UK Department of Environment, Transport and the Regions instruction to Secondary Schools, Road Safety taught as part of the English Curriculum has, as it's first objective "Communication - non verbal, signs and symbols, rules ...debate on transport issues ...bringing about change through use of different media." 3

According to the UK Health and Safety Executive, the use of warning signs within Europe is governed by EU statute: "The Health and Safety (Safety Signs and Signals) Regulations 1996 specify minimum requirements for safety signs at work. They implement a European Directive aimed at encouraging the standardisation of safety signs throughout Europe." 4

At a basic level, this non-verbal communication overcomes the language barriers possible in the protection of EC citizens who have freedom of movement throughout the Member States, who at the same time require equality of treatment in the protection of personal Health and Safety, whether or not they speak the language of the country in which they find themselves.

Today, legal reliance on the word is diminished in a way that seemed to be anticipated by the jurisprudential philosopher, John Austin, who said in one of his lectures collected and published in 1832, "The ideas or notions comprehended by the term command are the following. (1) A wish or desire conceived by a rational being, that another rational being shall do or forbear. (2) An evil to proceed from the former, and to be incurred by the latter, in case the latter comply not with the wish. (3) An expression or intimation of the wish by words or other signs." 5

Symbols, since Cro-Magnon times, have been used to communicate, from simple warnings to complex social and religious concepts. "Both the exclamation mark and the triangle are often used for warnings. The combination of them is definitely a sign warning for a danger.

is a traffic warning sign, but this ideogram is also used, for instance, in Oxford dictionaries to warn for taboo words." 6 On the other hand,

"Fu is the name of a sign in Chinese symbolism for authority, divine power and the ability to judge what is right and wrong. Thus it is a symbol for justice. It is used in many Western countries today." 7

The normative aspect of law, according to jurisprudential thinker, HLA Hart is taught, in contrast to Austin, as identified in public acceptance of the badge as the symbol of authority or power behind the barrel of the gun. Again, according to ancient use of symbols,

"The five pointed star without crossing lines is one of the most common and important Western ideograms.... the most widely used military symbol and... found on the tanks and fighter jets of all the superpowers, as well as in the armed forces of all other countries on officers and petty officers' uniforms." 8

In his pamphlet, Trading Identities, Wally Olins identifies the tendency of nations to adopt the multinational corporate practice of branding, symbols which represent intangible values, in order to compete for scarce inward investment resources, tourism revenues, and to establish shared values amongst their stakeholders: citizens, business investors and tourist consumers. Historically, nations have used brands to build a new ethos after national upheaval following revolutions, changes in government, and emergence from violent or anarchic regimes into new nationhood. Branding is a tool for ordering society and communicating values. 9

A current example is the recent launch of Scotland the Brand , 10

which ties in the attempt to attract export revenues with the rise of national identity expressed in the devolution of the Scottish Parliament. 11

In branding, the modern method of communication melds with the traditional role of law. According to Thurman Arnold, symbols are essential to the function of law in society; "law can be considered a mechanism of social integration based on the interpretation of societal values, despite the diversity of individuals' beliefs and aspirations. In Arnold's view the proclamation and maintenance of symbols -- values, ideals, and ways of thinking about government and society -- to which individuals can adhere, is a fundamental task of law by which it promotes social integration." These symbols are concepts embodying the rule of law and justice, which in practice are contradictory: "it is through the art of law... that abstract ideals are manipulated to disguise the impossibility of realising them in practice. Thus law proclaims symbols so vague or all-embracing that most members of society can accept and support them in some interpretation." 12

This urgency of expression through brands is magnified by the global interactivity enabled by the Internet. Market definition becomes a matter of populist communication, as anyone who is connected to the Internet has the same power of choice and communication, and e-commerce spans national boundaries.
The management guru Tom Peters, is an expert on branding, and has been deliberately promoted in Scotland by the official organisation, Scottish Enterprise as a speaker.
13Writing in the journal, "Fast Company", he explains, "Today brands are everything..., the Web makes the case for branding more directly than any packaged good or consumer product ever could", as Web surfers are faced with myriad choice of unfiltered information of varying quality. "So how do you know which sites are worth visiting...? The answer: branding. ...The brand is a promise of `the value you'll receive." 14

Within the commercial practice of law in the Internet age, branding is the key to commercial success. According to Peters, "Nobody understands branding better than professional services firms....Almost every professional services firm works with the same business model. They have almost no hard assets -- my guess is that most probably go so far as to rent or lease every tangible item they possibly can to keep from having to own anything. They have lots of soft assets -- more conventionally known as people, preferably smart, motivated, talented people. And they have huge revenues -- and astounding profits." As the clarity of jurisdiction erodes with Internet connectivity, the reputation of legal firms will need new, branded, modes of expression to attract clients. 15

Finally, the role of icons, of symbols in the law, is now becoming a tool of legal analysis. According to Pamela Gray, in her paper with video, "Three Dimensional Maps of Legal Logic", the proliferation of statute and reported caselaw in the modern beurocratic administrative state at once adds to information overload and the ability of linear logic to decode. "As the judiciary embraces integrated databases that will permit speedy cut and paste judgements, mixing extracts from black letter law with extracts from transcripts of evidence, the legal system is likely to produce faster justice that might be more complex and more chaotic." 16

She expounds a three dimensional approach to mapping legal logic, which defines each element emblematically, with tree structures and one-to-many relationships. The benefits of this system "allow a legal knowledge engineer to distinguish and manage " not only the "pathways of reasoning" but also "the adversarial and hierarchical aspects of the rules of law". 17

Traditional, paper-based methods of collation and reference are inadequate: "The graphical representation of legal logic requires the three dimensional cyberspace of virtual reality." 18

In conclusion, as the word becomes icon, becomes brand, in the globally-networked, multi-glot world of the Internet, law will thrive. Not just because of the proliferation of legislation arising out of e-commerce disputes, or because of the expansion of markets for traditional legal firms used to trawling for clients only within the compelling media of their Law Society membership lists, but because the modern adoption of icons for legal expression will enhance communication, enfranchise citizens and facilitate analysis. If text is required, there will be reams of it on-line, bringing hitherto obscure sources of statute and case law to the public view. But the flexibility of interpretation which icons allow, most importantly, will permit the law to evolve at the speed which is required in the digital era.

"After this, God gave the creatures of the earth to Adam to name: "And out of the ground the LORD God formed every beast of the field, and every fowl of the air; and brought them unto Adam to see what he would call them: and whatsoever Adam called every living creature, that was the name thereof." 19

In the branded world, things morph. 20 And the boundaries between words and icons are blurred. 21

1 http://bible.gospelcom.net/cgi-bin/bible

2 The Symbols of Government (1935) pp36-37, quoted in Lloyd's Introduction to Jurisprudence, 6th Edition, MDA. Freeman, Sweet & Maxwell Limited, London 1994, p. 47.

3 http://www.detr.gov.uk/roads/roadsafety/rs/secondary/rsss10.htm

4 http://www.hse.gov.uk/spd/spdsigns.htm

5 The Providence of Jurisprudence Determined, p 17, quoted in Legal Philosophies, JW Harris, Butterworths, London 1997.

6 http://www.symbols.com/encyclopedia/24/2438.html

7 http://www.symbols.com/encyclopedia/10/1026.html

8 http://www.symbols.com/encyclopedia/28/2825.html

9 "Trading Identities", Wally Olins, London 1999.

10 http://www.sti.org.uk/stistb.htm

11 http://www.scottish.parliament.uk/

12 The Sociology of Law, Roger Cotterrell, Butterworths, London, 1992., pp 102-103

13 http://www.scottish-enterprise.com/networkevents/?id=957194275

14 http://www.fastcompany.com/online/10/brandyou.html

15 http://www.abanet.org/

16 "Three Dimensional Maps of Legal Logic", Pamela N Gray, Law Lecturer, Charles Stuart University - Mitchell, 1998

17 Ibid.

18 Ibid.

19 http://bible.gospelcom.net/cgi-bin/bible

20 http://www.nike.com/

21 http://www.geocities.com/SunsetStrip/Frontrow/1304/fuk.html