
SEMIOTIC DIALECTICS OF LEGAL COURTROOM ATTIRE AND THE CROSS-CULTURAL EROSION OF PROFESSIONAL IDENTITY

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Abstract

This paper studies legal courtroom attire for advocates in two major common law cultures (England and Wales and the United States), in the light of the shifting visual semiotics of professional and cultural belonging. Originally encoded to vector the primacy of a monocultural professional identity, legal court wear, whether dedicated or not, is increasingly enmeshed in the dialectics of professional identity and affirmations of individual alterity. The paper analyses the parallel semiotic subtext of individual cultural otherness responsible for the erosion of legal court dress as a representamen of professional identity in the light of the three major cultural tropes of ethnicity, gender and generation.

1. Introduction

Given the *sui generis* nature of legal language and the fundamental importance of text in law, English for Legal Purposes (ELP) has traditionally privileged a language- and text-based approach focusing on form (the specialized language of law) and content (the law itself) as evidenced by the objectives Riley (1991: xix) outlines in the introduction to her classic coursebook:

The purpose of this book is to teach native speakers of other languages to understand the *language* of the law in English. In particular it aims to teach foreign law students and lawyers how to choose, read and use *original legal materials* of any kind in English in the course of their studies, research or work. Through a wide variety of exercises based on *authentic legal texts*, readers will gradually learn the *reading, vocabulary and study skills (abilities)* necessary to work independently on *legal materials* of their own choice. (my italics)

Over the years, growing interest in the specialized culture that generates and shapes the specificity of legal discourse, thinking and functioning has added a new ethnological dimension which studies the institutions, professionals and functioning of the legal community as a form of professional culture. In this respect, the forging of a collective identity through the different visual, aural, kinetic and discursive rituals of professional self-representation has generated particular interest (McQueen 1991; Reeves 1998; Yablon [1995] 1999; Isani 2006).

This paper focuses on the visual semiotics of professional dress code, arguably one of the most powerful vectors of professional identity, and analyses visual self-

and hetero-representation of legal professionals and the erosion of traditional courtroom vestimentary norms through growing ethnic, gendered and generational cross-cultural hybridization.

2. Purpose of dress code

All forms of clothing are governed by the ancestral triangulation of protection, modesty and adornment of which the latter two are fundamentally related to communication as acts of self- and hetero-representation. In this perspective, the basic function of dress code is to identify and classify and, in so doing, establish a form of visual taxonomy designed to categorize members of a society into differentiated socio-professional communities according to anthropological (age, sex, marital status, etc.) or social (nobility, bourgeoisie, peasantry, etc.) or professional criteria.

With regard to such codification of apparel, the semiotic triangulation of representation – addresser/encoder + representamen + addressee/decoder (Chandler 2002) – makes for a relatively unexplored line of enquiry with regard to the dialectics of adoption and imposition, or self- and hetero-representation. Colour coding of apparel provides an historical instance of such classification: by restricting the wearing of Tyrian purple (also known as royal or imperial purple) to the elite, the noble encoders of ancient sumptuary laws in Rome adopted it as a form of entitlement and positive self-representation for themselves and imposed its denial on the lower and middle classes as an implicit expression of unfavourable hetero-representation. A more explicit example of negative vestimentary hetero-representation concerns the imposition of stripes – *l'étoffe du diable*¹ according to French historian Michel Pastoureau – as a representamen of stigmatization in the dress code designed for convicts, buffoons, prostitutes, servants, etc. (Pastoureau 1991).

The primary purpose underlying the encoding of apparel as a representamen may thus be considered as founded on the antonymic premise of belonging and otherization, inclusionary for ‘the happy few’ and exclusionary for the rest, a visual reminder of the distinction between ‘insider’ and ‘outsider’, between ‘us’ and ‘them’.

Professional dress code is not, however, monolithically standardized. Coded into the apparently uniform façade of collective apparel are subtle signs of variation. In this context, French semiologist Roland Barthes’ theory of clothing as a form of “vestimentary linguistics” (2006 [1960]: 30) provides a highly relevant construct presented in terms of Saussure’s theory of *langue* and *parole*:

I would suggest developing [the Saussurian distinction between *langue* and *parole*] in the following way: dressing (*parole*) would include the individual dimensions of the clothing item, the degree of wear, of disorder or dirtiness, partial absences of items (buttons not done up, sleeves not rolled down, etc.), improvised clothes (ad hoc protection), the choice of colours (except those colours ritualized in mourning, marriage, tartans, uniforms), the incidental derivations of how an item is used, the wearer’s particular way of wearing clothes. Dress (*langue*), which is

¹ Loosely translated as *the cloth of the devil*.

always abstract and only requiring a description that is either verbal or schematic, would include the ritualized forms, substances and colours, fixed uses, stereotyped modes, the tightly controlled distribution of accessories (buttons, pockets, etc.), obvious systems ('ceremonial' dress), the incongruences and incompatibilities of items, the controlled game of undergarments and overgarments (*ibid.*: 27).

Such "vestimentary texts" (*ibid.*: 29) are encoded at levels of multiple import according to the situation of communication and the intra-, inter- and extra-professional status of the addressee. Professional dress code represents a standardized and homogeneous collective identity (*langue*) for the extra-professional lay interlocutor on whom the nuances and variations (*parole*) subtly encoded to translate rank and status, for example, are largely lost while these same lexicons of *parole* are decoded by 'insiders' without difficulty. As Lurie (1981: 17) says, "These costumes only look like costumes to outsiders; peers will be aware of significant differences".

Professional dress as such generates a dialectical discourse of collective belonging and individualized otherization expressed through what Barthes called "vestemes" (2006 [1960]: 56). Comparable to ever-narrowing concentric circles of identity or Feldman's concept of "nested identities" (cited in Leeds-Hurwitz 1993: 125), army generals may all wear the uniform of the same corps but can be one, two, three or five star; pupils in traditional English schools wear the same uniform but carry the distinctive marks of the House they belong to; national football team uniforms are discreetly but nevertheless visibly coded to highlight their status as winners, or not, of the World Cup, not to mention the academic gowns of English faculty members with their highly colourful variations according to disciplines.

Of the myriad of dress codes that exist to represent different walks of profession-related activity, this paper focuses on legal courtroom attire. Although this particular professional dress code varies greatly according to the historical, cultural and ideological parameters that shape a nation's ethos, there is cross-cultural consensus that dress code for part or all of the professionals of law should be consistent with the universal representations of the dignity and authority of Justice. In a framework that encompasses court attire of the two major common law cultures, England and Wales and the United States, and with reference to civil law cultures (France), this paper analyses the semiotic processes which undermine primacy of legal dress code as a representamen of professional identity by assertion of individual cultural belonging and otherness.

3. Courtroom attire for advocates: comparative overview

Although England and Wales, the United States and France are generally considered in many respects as close-culture countries, they differ considerably in legal court dress tradition. These variations may first be described as dedicated (British and Continental) or 'business' (the United States), and, second, on a continuum of elaborate, simple and non-existent: the wigs and gowns of advocates from the Eng-

lish and Welsh Bar are clearly situated on the elaborate end of the continuum, followed by the comparatively plain robes of Continental lawyers situated in the middle, while the absence of dedicated court dress which characterizes the American Bar defines the other end of the continuum.

3.1. *Dedicated bar court wear*

English courtroom attire has long been the locus of controversy both inside and outside of the profession. The focus of the debate today resides less with the notion of dress code itself as with the highly elaborate and anachronistic nature of a dress code first codified by the Judges' Rules of 1635.

As discussed elsewhere (Isani 2006), if the encoders of the representamen are clearly identified – the judiciary and barristers – identifying the addressee is a more complex issue. If the primary and overt target addressee is clearly the lay public, there exists a secondary and covert target addressee which is none other than the inter- and intra-professional interlocutors of the community².

The Lord Chancellor's 2002 survey of public opinion regarding barristers' courtroom attire highlighted the rejection of the representamen by the target addressee (61% of respondents) who considered these obsolete symbols of professional identity as 'fancy dress' and 'antiquated'. Inversely, a report compiled in 2006 and released in 2007 revealed that 70% of court workers – i.e. the legal professionals themselves – wished to retain wigs and gowns, an unsurprising reaction from the encoders and principal stakeholders of dedicated court dress. This hiatus between the desired and received code of interpretation underlines the failure of English and Welsh court wear as a vector of professional identity with regard to its primary and overt target addressee.

If bar court wear is a dead representamen with regard to its primary target addressee, it retains its identity dynamics within the legal community itself, the secondary and covert target addressee. Within this closed community, court wear is a visual benchmark of professional rank and status and as such the object of active interpretation and decoding. One manifestation of the active dynamics of the representamen in this context is reflected in the multi-level internecine tensions *inter pares* regarding advocates' courtroom attire which serves to visually distinguish QCs from junior barristers, all barristers from solicitor-advocates, solicitor-advocates from solicitors, and the Solicitor General from solicitor-advocates and solicitors (not to mention all advocates from the judiciary).

Of particular interest in this context and in view of the fact that imposed dress

² On the basis of the Lord Chancellor's foreword to the 2002 public opinion survey on English court wear, it is possible to establish a law-related illustration of such situations of communication: inter-professional communication refers to interaction between members of the different branches of the broad community of professionals exercising in the field of law, such as judges, barristers, solicitors, ushers, etc.; intra-professional communication refers to interaction between members of a same body of professionals, such as barristers amongst barristers, solicitors amongst solicitors, etc.; and finally, an extra-professional situation of communication relates to interaction between the professionals of law and the lay public.

code and hetero-representation is often designed to underline inferiority, the court wear attributed to the relatively newer ranks of solicitor-advocates is highly significant. When created by the 1990 Courts and Legal Services Act, solicitor-advocates were granted rights to plead in higher courts but were denied the sartorial distinction of barristers: their gowns were to be shorter than those of a barrister and, more visibly, they were not entitled to the highly symbolic wig. In so doing, the encoders of solicitor-advocate dedicated court wear – all most certainly one-time senior members of the Bar – sought to visualize their own superiority and dominance by highlighting the inferior status of the solicitor-advocate through the vestimentary representamen. It is little wonder then that solicitor-advocates protested against such discrimination as early as 1982 as evidenced by the New South Wales Law Reform Commission Report:

In our [the Commission's] view, the present distinction between solicitors and barristers in relation to court dress is inappropriate and unfair. It is an undue deterrent to solicitors who are competent and willing to act as advocates in appropriate cases, and it increases the possibility of some judges, jurors and others being less favourably disposed towards solicitor-advocates than towards barristers. These consequences can have adverse effects for clients as well as for their solicitors. And whether or not unfairness actually results, many people whose advocates are solicitors, not clad in special dress, cannot but feel that they are disadvantaged if their opponents are represented by barristers who are clad in special dress, particularly when the judge is in similar attire³.

On the other hand, bar courtroom attire in the civil code tradition of Continental Europe – *la robe noire* – is a more standardized and less eccentric representamen and may be considered a successful one in that it is received by target addressees as encoded by its addressers. However, in spite of its overall homogeneity, there are minor variations – Barthes' "vestemes" – which speak to the initiated as, for example, with regard to French lawyers' attire, the unadorned *épitoge* worn by Parisian lawyers in contrast to the ermine-bordered *épitoge* which identifies lawyers practising in the provinces, or again, the three bands of ermine which decorate the *épitoge* of the lawyer who is also a *Docteur en droit*, all signs which generate a subtle semi-otic discourse of difference. In contrast to the rejection of English court attire by its primary addressee, and in view of the relatively minor nature of the intra-professional sartorial indicators of status encoded into French court wear, *la robe noire* is a strong representamen which is clearly understood and decoded by the single target addressee, the general public.

Another issue regarding dedicated court wear is its 'covering' nature and the contradictory purpose of apparel that seeks simultaneously to "display and mask". (Barthes 2006 [1960]: 26). The rationale behind such an oxymoronic construct is the primacy of institutional over individual identity, a depersonalization of the wearer in keeping with the proverbial 'professional detachment' of the barrister, as Lurie (1981: 18) confirms with regard to all forms of dedicated professional dress: "The

³ <http://www.lawlink.nsw.gov.au/lrc.nsf>.

uniform acts as sign that we should not or need not treat someone as a human being, and that they should not or need not treat us as one". To this is often added the sometimes contested (Yablon [1995] 1999) justification that such covering apparel allegedly provides a certain anonymity which preserves the principle of parity amongst peers while at the same time affording protection from potentially hostile members of the public.

3.2. *Non-dedicated bar court wear*

If some form of dedicated court wear is largely the norm in Europe, it is contrastingly conspicuous by its absence with regard to American advocates⁴. Accordingly, members of the American bar possess no unified sartorial representamen of professional identity. This does not, however, imply that courtroom wear is a matter of personal taste. To pre-empt any uninhibited transgressions of court wear decorum, Bar Councils issue dress code guidelines, as illustrated by the following extract from the *State of Texas Midland County Rules of Practice* which stipulate:

Male attorneys shall be dressed neatly in business suits or sportcoats, with appropriately contrasting slacks, dress shirt and tie. The shirt collar shall be buttoned. Blue jeans, resort wear, sportswear and similar clothing are not considered appropriate courtroom attire⁵.

Such broad guidelines give rise to diverging appreciations as to what is appropriate, as the law-related film parody *My Cousin Vinny* (1992) illustrates in this exchange between Vinny Gambino, a novice New-York lawyer, and Judge Chamberlain Haller, the punctilious presiding judge of an Alabama court:

Vinny	My clients...
Judge	What are you wearing?
Vinny	[wearing a black leather jacket] Um... I'm wearing clothes.
Judge	[stares angrily and ominously at Vinny]
Vinny	I don't get the question.
Judge	When you come into my court looking like you do, you not only insult me, but you insult the integrity of this court.
Vinny	I apologise sir, but, uh... this is how I dress.
Judge	Fine. I'll let you slide this one time. The next time you appear in my court, you will look lawyerly. And I mean you comb your hair and wear a suit and tie. And that suit had better be made out of some sort of cloth. You understand me?
Vinny	[not comprehending] Uh... yes. Fine, Judge, fine.

The latitude that the terms 'business' or 'lounge' suit afford the American trial

⁴ Mindful of Barthes' (2006 [1960]: 27) warning that "The absence of elements can play a role which is meaningful [...] and that the vestimentary sign can be expressed as the degree zero but is never null", absence of dedicated courtroom attire for counsel in America may be interpreted as a powerful semiotic representation of the will to assert American independence from the English judicial system. Curiously, the judiciary continues to display the "robes of office" representamen inherited from the colonizer.

⁵ <http://www.co.midland.tx.US/dcourts/Rules/rules.asp>.

lawyer is widely exploited to influence perceptions according to the specificity of the situation of communication and the target audience. In a reflection of reality, fictional representations usually portray the American lawyer ‘dressed up’ in the trappings of branded luxury befitting his status as a successful attorney-at-law, as we observe in Janice Law’s portrayal of a high-flying defence lawyer in her short story *The Snake Charmer* (2001: 503-504): “Now Brent was sitting across from him with all the appurtenances of the successful lawyer, his leather encased yellow legal pad, Mont Blanc pen, Rolex watch, and subtly striped silk suit.” If the semiotic ‘branding’ of legal – and other – professionals in the United States is undoubtedly linked to the absence of dedicated court dress, it must nevertheless be placed in the broader framework of the American culture-specific ethos of “conspicuous consumption” and “invidious consumption” as theorized by Veblen (1899).

Real life provides us with the opposite example of a Florida lawyer using ‘dressing down’ as a vestimentary strategy designed to promote an honest lawyer persona for the jury, as reported by the online edition of the *Palm Beach Post* after opposing counsel filed a motion to compel his adversary to wear proper shoes in court:

It is well known in the legal community that Michael Robb, Esquire, wears shoes with holes in the soles when he is in trial. Part of this strategy is to present Mr. Robb and his client as modest individuals who are so frugal that Mr Robb has to wear shoes with holes in the soles. Mr Robb is known to stand at the sidebar with one foot crossed casually beside the other so that the holes in his shoes are readily apparent to the jury⁶.

In view of such strategies, it becomes apparent that in the absence of dedicated court wear as a marker of collective professional identity, American lawyers have succeeded in transforming the visual semiotics of ‘everyday’ business wear into a highly adaptable means of communication used to vary identity representations in accordance with the nature of the addressee in question as, for example, projecting the image of a successful lawyer through visible status symbols of “invidious consumption” or, inversely, wearing shoes with holes in the sole when seeking empathy for the ‘victim’. As McQueen (1999: 54) remarks, “[...] in the United States, the form and style of dress adopted by the advocate will become a whole new ‘science’. [...] Obsessiveness with tradition is clearly replaced here by obsessiveness with image management”.

To sum up this brief overview of advocates’ courtroom attire, it is clear that whatever the legal culture and whether dedicated or ‘civilian’, elaborate or plain, as a statement of professional identity and status, court wear is a strategy of communication which targets stakeholders both inside and outside the courtroom.

4. Semiotic dialectics of professional/individual identity

This discussion now proposes to examine a paradigmatic shift in the visual semiotics of court dress as observed in England and Wales and the United States.

⁶ http://palmbeachpost.com/opinion/content/local_news/epaper/2009/06/27/alb_bino_0628.html.

Encoding of visual markers of variance related to status and degree of professional belonging *inter pares* has always existed as a secondary semiotic discourse of difference. This paper focuses on the paradigmatic shift operated by the emergence of visual markers of *non*-professional and individual alterity which propose a parallel sub-text in appearance unrelated to professional considerations⁷. In other words, to go back to the Barthesian construct of vestimentary linguistics, dress (*langue*) is modified by individualized dressing (*parole*) through the adjunct discourse of personalized vestimentary lexicons, thereby proposing a vestimentary text decoded at multiple levels. It is this subtext of individual belonging which is analysed here with regard to the three primary cultural tropes of ethnicity, gender and generation.

4.1. *Ethnicity*

If the clerical origins of the medieval law-givers made the basic *tunica* a cross-cultural form of dedicated courtroom attire throughout Europe, its evolution in Britain became markedly culture-specific when English bench and bar retained the full-bottomed and tie wig as a distinctive feature of their professional identity. Thereafter, these distinctive vestemes vectored a dual discourse of difference, first with regard to the primary function of distinguishing legal professionals from other professionals and, secondly, with regard to distinguishing English legal professionals from those of other countries, as underlined by McQueen (1999: 32-33):

English regulations on legal attire were [...] pre-eminently concerned with ensuring that what was worn distinguished English lawyers from those in the non-common law states of Europe. [...] The Englishness of the Church and the legal system was to be unquestionable. It is thus not surprising that some considerable effort went into establishing costumes for both institutions which were quite different from continental fashions [...].

The demise of the cultural homogeneity and specificity of English court wear can be dated to the 1976 Race Relations Act which made direct and indirect discrimination on grounds of colour, race, nationality or ethnicity illegal. With the increasing number of bar and bench members from minority communities, certain aspects of traditional court wear were perceived as incompatible with the religious precepts or cultural identity of such members and led to the ethnicization of traditional English court attire, a phenomenon documented by Lurie (1981: 7):

The appearance of foreign garments in an otherwise indigenous costume [...] can be a deliberate sign of national origin in someone who otherwise, sartorially or linguistically speaking, has no accent. Often this message is expressed through headgear. The Japanese-American lady in Western dress but with an elaborate Oriental hairdo, or the Oxford-educated Arab who tops his Savile Row suit with a turban, are telling us graphically that they have not been psychologically assimilated; that their ideas and opinions remain those of an Asian.

⁷ In appearance only, since it is obvious that displaying the visual markers of individual belonging is also an effective means of signalling non-professional cultural tropes and thus targeting addressees representing a potential client base, as would be the case in immigration litigation, for example.

Headwear, in the form of the prized barrister's wig became the focus of this culture clash when legal professionals of Sikh origin practising in English courts asserted the primacy of religious and community identity over and above that of collective professional identity by substituting the wig for the turban. Subsequently, in 1978, Mota Singh became the first barrister to appear in court wearing the traditional barrister's gown topped by a Sikh turban. This early example of the ethnicization of traditional court headgear was followed, a few years later, by female Muslim barristers who also chose to privilege cultural and gender identity above collective professional identity by assorting their barrister's gown with a black headscarf in lieu of the wig⁸.

If turban/headscarf-gown court wear may be seen as a compromise that seeks to preserve both professional and individual belonging, more recent developments in the area of conflicting identities have called the entire construct of a visual professional collective identity as vectored by a more or less standardized dress code into question: in November 2006, Shabnum Moghul, a female Muslim barrister arrived at a Stoke-on-Trent, Staffordshire, court to plead an immigration case dressed in a full-faced black veil, thus endowing the advocate's traditional claim to professional anonymity with a new significance⁹.

As the legal workplace and professionals in Western countries become more diversified in terms of national, ethnic and religious belonging, the trend towards ethnicization of traditional court dress through adoption and adaptation of visual markers of cultural alterity may be seen as an inevitable part of the intercultural processing of multiple identities. It also represents a reversal of the historical de-ethnicization processes which lay behind the imposition of English wig and gown on the legal professionals of a number of Britain's former colonies with total disregard for traditional indigenous dress and tropical climates and today, contradicting Woodcock's (2003: 37) claim that "Apart from coachmen of the royal household, the wig remains the prerogative solely of the British legal profession", the erstwhile inherently English wig continues to be donned as a signifier of professional identity in a number of former British colonies.

4.2. Gender

In England, women came late to the Bar. Dr Ivy Williams was the first woman to be called to the Bar in 1921 while Helena Normanton and Rose Heilbron were the first women to be appointed KC in 1949. In matters of dress code, female barristers were required to comply with the existing court wear prescribed for their male 'learned friends' with the notable exception of the 'trouser ban': in spite of the obvi-

⁸ Such ethnicization of court wear is not limited to dedicated court dress, as illustrated by the 1992 denial of District of Columbia Superior Court Judge Robert M. Scott to permit lawyer John T. Harvey III to wear the African *Kente* cloth in court on grounds of seeking to influence African American members of the jury.

⁹ In February 2007, the Judicial Studies Board subsequently issued guidelines which, while not banning veils in court outright, expressed a preference for full veils not to be worn in court.

ous breach created in the visual façade of equality *inter pares*, given the prevalent norms of decorum, the Bar imposed a visual discourse of gender difference by requiring female barristers to wear skirts.

Though the adoption of trousers as a symbol against sartorial gender marking began to challenge the norms of sartorial propriety as early as the late 19th century¹⁰, female barristers were slow to reject the male-enforced professional dress code and its imposed discourse of gender difference, no doubt in deference to the fact that appropriateness of court wear is subject to the presiding judge's discretion and, given the conservatism of the male-dominated Bench, few female advocates were prepared to hazard the outcome of a trial by braving established vestimentary norms. It is only in 1995 that the Lord Chief Justice finally lifted the 'trouser ban' and permitted 'tailored trousers' as an acceptable option for female barristers in England and Wales.

If allowing women to cover their legs was the point at issue regarding female courtroom attire in Britain, in North America the subliminal heart of the matter hinges on no less than the Original Sin and the attendant question of female sexuality, as the following incident which took place in Windsor, Ontario, in 2002 illustrates:

Lawyer Laura Joy went to work on Monday in the pin-striped suit she's worn repeatedly in court and found herself frozen out of one judge's courtroom for not dressing conservatively enough. "I cannot hear you unless you change your clothes," Ontario Court Justice Micheline Rawlins told Joy. When Rawlins refused to tell her what was wrong with her attire, Joy decided to stick to her guns and continue wearing her navy pin-striped pant suit over a white V-necked, long-sleeved shirt. [...] Joy, whose blond hair and stylish wardrobe are well-known in Windsor courts, said she suspects the V-neck was the reason for Rawlins' refusal to hear her¹¹.

This incident is not an isolated affair. In 2008, a group of 16 attorneys and judges gathered in the Tennessee Supreme Court chambers for a discussion that resulted from "[...] judges being offended by too-short skirts, too much cleavage or too much arm being shown in the courthouse", as reported by Bill Dries in the online version of the *Memphis Daily News*. A similar issue arose in 2009 when US federal judges, both male and female, complained that female attorneys came into court wearing "skirts so short that there's no way they can sit down and blouses so short there's no way the judges wouldn't look", according to journalist Lynne Marek on *Legal.Com*.

The issue of professional dress code and female sexuality is not limited to female advocates practising in courtroom cultures with no dedicated court wear. On the surface, the 'trouser ban' that marked female court attire in England till 1995 and the current preoccupations with revealing attire may seem to be on the opposite ends of the sexuality continuum, the former seeking to reveal and the latter to conceal. However, when viewed in the light of the semiotics of female sexuality, both trends

¹⁰ Sarah Bernhardt is generally acknowledged to be the first woman to appear in public dressed in trousers in 1876.

¹¹ http://www.canoe.ca/CNEWSLaw0203/26_joy-cp.html.

converge in that, contrary to skirts, trousers are ‘revealing’ of the outlines of the crotch, that most sacred of sexual taboos.

Gender issues with regard to dress code are not restricted to women only and today there is a blurring of gender dress roles with the feminization of male dress, such as the wearing of earrings by men. While fairly widespread in Western urban environments, professional court attire has yet to accept male lawyers wearing earrings, prompting the *ABA Journal*, in its online issue dated July 17, 2008, to publish a caution:

Should male lawyers [...] in courthouses refrain from wearing earrings? A career adviser from the University of Minnesota Law School is advising caution. “In the same way that women still must be careful about very short skirts, and in some courts they may still find that pants are frowned on by senior judges, guys and their earrings may still be fraught with peril,” writes Susan Gainen, director of the law school’s career and professional development center [...] in response to a judicial extern who said a male clerk had assured him that earrings were acceptable¹².

In view of the above elements, it becomes clear that, in spite of the progress made in the area of the law itself towards establishing equality between men and women in all fields of life, professional institutions continue to uphold a discourse of conservative gendered difference regarding professional courtroom attire. In this perspective, it may nonetheless be noted that it is now women who enjoy greater vestimentary liberty than men with regard to courtroom attire in that they may wear articles of men’s apparel in addition to conventional female dress code which male advocates may not, a situation which Leeds-Hurwitz (1993: 116) transposes into a linguistic framework and analyses in terms of Bernstein’s theory of restricted code (courtroom attire for men) and elaborated code (courtroom attire for women who dispose both of their own code and the restricted code reserved for men).

4.3. *Generation*

The historical three-generation gap is no longer representative of the contemporary workplace which is increasingly defined in terms of a multigenerational workforce composed of four generations: Traditionalists born between 1901-1945; Baby Boomers born between 1946-1964; Generation X born between 1965-1980; and finally, Generation Y, also known as the Millennials, born between 1980-1999¹³.

The rise of professionals who work beyond conventional retirement age has resulted in cross-generational co-habitation between employees separated by a 50-year gap working in the same workplace, resulting in a profound modification of generational and power dynamics of the workforce, as illustrated by this extract entitled “Elder underlings” from Letters to the Editor in *The Economist* (February 20, 2010: 14):

Sir – Schumpeter wrote about coping with an ageing workforce (February 6th). I am 72 and work at a ski resort that employs seniors in positions from the execu-

¹² http://www.abajournal.com/news/article/earrings_for_male_lawyers/.

¹³ Time span brackets vary according to sources.

tive office to the parking lot. [...] But we have our share of whippersnappers as well, many of them in leadership positions. When I was taken on [...] our boss was very young. In fact, the strangest thing about the new job was asking a 19-year old kid if it was okay to go pee.

David Alston, Salt Lake City.

Lawyers being professionals who not infrequently work beyond the Biblical three score and ten, such cross-generational interaction is fairly common in law firms and generates resulting cross-generational vestimentary interaction. Like certain other professionals, lawyers possess two professional dress codes, one for attending court and another for meeting clients in office. Kathleen Brady, writing for the *ABA Journal* online, provides a brief overview of the evolution of office dress code and culture in legal firms over three generations:

When [the Traditionalists] first joined the workforce, the practice of law was described as “a noble profession”, men wore suits and ties to work, while women wore hats and white gloves. Attorneys were addressed by their surnames using the titles of Mr. or Miss. The hierarchy was clear and everyone obeyed the rules. [...] Boomers “dressed for success” with both men and women wearing navy or gray pinstriped suits, and the title Ms. was introduced to the lexicon as people talked about “law as a business.” [...] Gen Xers entered the work force during the dot com explosion. Technical competence rather than seniority defined the hierarchy and the rules appeared open to interpretation. The workplace became more casual and relaxed. Suits became optional and everyone was addressed by their first names¹⁴.

If the Generation X’s introduction of Casual Friday contributed considerably to the erosion of traditional dress code in office, certain bounds of decorum were nevertheless maintained. The arrival of the Millennials on the professional scene has shattered all existing norms, replacing the ‘casual chic’ of Fridays with an all-week, cross-gender, ‘ultra-casual’ dress code which includes flip-flops, Bermudas, emblazoned T-shirts, body art (tattoos and piercings), male jewellery, and the indispensable hi-tech accessories (iPod earbuds, Blackberries, mobile phones and laptops) of a generation also known as the Net or Media Generation. For the intrinsically individualistic Millennials, the question of donning a dress code to convey collective professional identity simply does not arise since the primacy of their allegiance is wholly and unquestioningly generational and individual. Absence of vestimentary markers is, as Roland Barthes affirmed, never “null”, and in this context, the refusal of such a highly visual professional identity representamen clearly marks the rejection of values that ‘traditional’ professional dress code was seen to vector.

On the other hand, given a judge’s discretionary power to expel an advocate in the event of inappropriate dress, and the repercussions of such an event on the outcome of the trial – as illustrated by the 2008 ruling by a New York federal judge in the case of *Bank v. Katz 08-CV-1033* – court attire invites conformity even from Millennials. As a result of this dichotomy, the blogosphere is rife with discussion regarding the dialectics of alienation and allegiance as expressed through court attire,

¹⁴ <http://www.abanet.org/lpm/lpt/articles/y105081.shtml>.

and the limits of transgression. If there is a large degree of consensus regarding the fact that dress (*langue*) must be complied with, it is also agreed that accessorizing (*parole*) is a form of subversion which does not exceed bounds of appropriateness egregiously enough to warrant a sanction, as Leeds-Hurwitz (1993: 113) confirms: "The fact that extreme variation occurs only in a minor sign, [yellow socks] rather than consistently [the entire suit is yellow], indicates that the wearer not only knows the rules but also knows just how far they can be bent before the variation is labeled inappropriate." Hence, if Millennial advocates conform, *grosso modo*, to expected courtroom attire, they subvert the code through a metonymic choice of discreet but nevertheless visible vestemes of otherness strongly entrenched in their generational culture such as sporting iPod cufflinks, wearing a bracelet with tiny skull charms or again, defiantly placing their iPhones on counsel's table as a substitute timepiece in lieu of a watch.

5. Conclusions

As clearly evidenced by the above discussion, there has been considerable evolution regarding the original function of courtroom attire, whether dedicated or not, as a representamen of the unified professional collective identity of the so-called learned professions, the visual primacy of professional identity being steadily eroded by the shifting semiotics of cultural otherness. A new set of dialectics tergiversates between professional and/or cultural identity and results in the fragmentation of the traditional semiotic triangulation of encoder + representamen + addressee, each adjunct to the representamen generating a new encoder/addressee tandem. Such is the diversity of variables that even within the confined limits of the elaborately defined court wear of the English Bar, the overall scene sometimes results in a semiotic cacophony, as suggested by the array of intra-, inter- and multicultural headwear reported by *The Daily Telegraph* of 13 May 2004:

Of the three counsel at the High Court this week representing Iraqis whose families allege they were unlawfully shot by British troops, only Michael Fordham was wearing a barrister's wig. Rabinder Singh, QC, sported his usual white turban, while Shaheed Fatima modestly covered her hair with a striking black silk scarf. Meanwhile, David Price, appearing in a nearby courtroom for a man accused of slander, had to tell the jury that, as a solicitor-advocate, he didn't wear anything on his head – unlike many of the Orthodox Jews who were witnesses in the same case¹⁵.

If the basic black gown remains a relatively stable cross-cultural representamen of professional identity which is successfully interpreted as encoded by target addressees, the presence, absence and variations of courtroom headgear designed to target narrower segments of addressees generate a shifting and discordant semiotic discourse which is diversely interpreted by the larger, non-initiated population. In this respect, the Lord Chancellor's wish to 'modernize' traditional court attire in England and Wales by abolishing the wig and simplifying the gown along the lines

¹⁵ <http://www.telegraph.co.uk/news/uknews/1461679/Brief-encounters.html>.

of the 'Continental' gown – a step already undertaken with regard to certain members of the judiciary in England and Wales – opens up fresh lines of enquiry in relation to the professional/cultural dialectics of courtroom attire.

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