

# Law and Popular Culture



Law and Popular Culture:  
International Perspectives

Edited by

Michael Asimow, Kathryn Brown  
and David Ray Papke

**CAMBRIDGE  
SCHOLARS**

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P U B L I S H I N G

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# TABLE OF CONTENTS

Introduction ..... 1  
*Michael Asimow, Kathryn Brown and David Ray Papke*

## **Part One: Lawyers and Mediators**

Chapter One..... 11  
*Ally McBeal* and Subjective Narration  
*Michael Asimow*

Chapter Two ..... 27  
Comedic Critique: The Pop Cultural Divorce Lawyer  
*David Ray Papke*

Chapter Three ..... 43  
*Fairly Legal: A Canadian Perspective on the Creation of a Primetime Mediator*  
*Jennifer L. Schulz*

Chapter Four..... 57  
Grisham vs. Solmssen  
*Richard H. Weisberg*

## **Part Two: Crime, Criminals and Criminal Justice**

Chapter Five ..... 79  
Gender, Human Rights and Cybercrime: Are Virtual Worlds Really That Different?  
*Kim Barker and Olga Jurasz*

Chapter Six ..... 101  
Honor Matters Most: Judging Law in the “Spenser” Novels of Robert B. Parker  
*Anthony Bradney*

Chapter Seven.....	121
Seeing the Big Picture: Why Law Fails in <i>The Wire</i> <i>John Denvir</i>	

Chapter Eight.....	141
Legal Transplants and Legal Drama: A Comparison between the US and Italy <i>Elena Falletti</i>	

Chapter Nine.....	153
Justice with a Vengeance: Retributive Desire in the Popular Imagination <i>Cassandra Sharp</i>	

### **Part Three: Portraying the Courtroom**

Chapter Ten .....	177
A Mobile Judge: An Analysis of a Dutch Television Hit <i>Odile Heynders and Philip Paiement</i>	

Chapter Eleven .....	195
Managing the “Critical Independencies” of the Media and Judiciary in the United Kingdom <i>Leslie J. Moran</i>	

Chapter Twelve .....	219
Popular Culture and the European Court of Justice: The Anonymous Engine of the European Integration Process <i>Stefano Montaldo</i>	

Chapter Thirteen.....	233
The Law through the Eye of Courtroom Comedy: The Light Legal Procedural in Context <i>Peter Robson</i>	

### **Part Four: Pop Cultural Jurisprudence**

Chapter Fourteen .....	253
Renegotiating the West in Joel and Ethan Coen’s <i>True Grit</i> <i>Kathryn Brown</i>	

Chapter Fifteen .....	269
Affirmative Cinema: When Film-Makers Defend Minorities <i>Pedro R. Fortes</i>	
Chapter Sixteen .....	285
“It’s my culture, stupid!”: A Reflection on Law, Popular Culture and Interdisciplinarity <i>Jeanne Gaakeer</i>	
Chapter Seventeen .....	305
Film and Mass Tort Litigation in the United States: <i>A Civil Action</i> and <i>Erin Brockovich</i> <i>Byron G. Stier</i>	
Chapter Eighteen .....	323
<i>Engrenages</i> : Antilegalism and French Realism <i>Barbara Villez</i>	
<b>Part Five: Teaching Law and Popular Culture</b>	
Chapter Nineteen .....	337
Popular Culture in the Classroom and Beyond: Using <i>Harry Potter</i> as a Portkey for Civics and Community Involvement <i>Kelly E. Collinsworth</i>	
Chapter Twenty .....	357
State-Sanctioned Violence, Beethoven and Kubrick’s <i>A Clockwork</i> <i>Orange</i> <i>Terri Mester</i>	
Chapter Twenty-One .....	369
More Media and More Countries: New Approaches to Teaching Law and Popular Culture <i>Donald Papy</i>	
Chapter Twenty-Two.....	383
Teaching a Writing Intensive Law and Popular Culture Freshman Seminar <i>Gary E. Peter</i>	
Contributor Biographies .....	401
Index.....	409



## INTRODUCTION

MICHAEL ASIMOW, KATHRYN BROWN  
AND DAVID RAY PAPKE

This book draws together scholars from Australia, Europe, North America, South America and the United Kingdom to analyze intersections between law and popular culture within and across a range of cultures and nations. While much scholarship in this field has provided significant insights into the ways in which cultural products can shape expectations about legal systems and contribute to critical debates about lawmakers, justice, and the exercise of state power, discussions have often remained confined to examples within individual countries. Furthermore, they have tended to focus primarily on the portrayal of lawyers and court proceedings in common law jurisdictions. In light of the increasingly global circulation of cultural products, however, it has become necessary to expand this discussion to consider a wider sample of publics and cross-border critical exchanges. While the present volume certainly does not purport to offer global coverage, it does seek to broaden the current debate by considering ways in which popular representations of law mediate legal practices and conceptions of justice locally, nationally, and internationally. The chapters therefore examine the representation of lawyers and judges in contrasting practice settings and ask what can be learned from the study of popular representations of justice in systems that are not one's own.

In addition to drawing on examples from a range of cultures and nations, contributions to this book also adopt a broad view of the genre "popular culture." While paying close attention to films, television series, and novels, chapters explore new intersections between law and multiplayer online games, the reporting of cases in mass media publications, and the implementation of public communications strategies by legal authorities. The constant development of new cultural products and more complex networks of their dissemination makes the study of law in and around popular culture a dynamic area for both research and teaching. Accordingly, contributions to this book also seek to highlight various

methodological innovations that have developed in response to a subject-area in constant evolution.

The chapters comprising this study are organized under five headings. Legal practitioners routinely emerge as the protagonists or most important characters in law-related popular culture. Part one therefore examines portrayals of legal practitioners at work and compares various narrative strategies that are designed to reinforce or challenge popular stereotypes. Michael Asimow begins by analyzing narrative conventions and innovations in the US television series *Ally McBeal* (1997–2002), focusing in particular on the show’s comic and often controversial treatment of issues relating to gender, sexuality, and personal relations in the workplace. The unrealistic portrayal of lawyers in the series gave primacy to the turbulent inner lives of the characters and, by refreshing a staid genre, it developed ingenious techniques to open up a branch of legal drama for a new and wider demographic. If *Ally McBeal* shattered conventions relating to legal narratives and types, popular portrayals of divorce lawyers have, by contrast, tended to reinforce audience expectations. David Ray Papke examines the recurring characteristics of divorce lawyers in film and television and locates their portrayal in the context of the wider aims and profit-making strategies of a successfully functioning culture industry. Neither a “brainwashing” exercise nor a social critique, cultural products that perpetuate myths about the prototypical divorce lawyer are seen to be in alignment with public expectations about this branch of the legal profession and are analyzed as part of the culture industry’s profit-seeking aims. In this case, the popularity of a legal-cultural product is enhanced by its audience’s familiarity with “type.” Jennifer L. Schulz then turns to an unusual character in legal fictions, namely, the figure of the mediator. Taking the US series *Fairly Legal* (2010–2012) as her subject, Schulz pays attention to the impact of the series across geographical boundaries, suggesting that the “pro-mediation” message of the series found an increased resonance in Canada rather than in the, arguably, more litigious environment of the United States. She also acknowledges, meanwhile, that this show’s chief mediator takes on the characteristics of a lawyer-like trickster. Richard Weisberg concludes this section with a chapter about character development in the legal fictions of John Grisham and the lesser-known writer, Arthur Solmssen. Weisberg offers a detailed interpretation of the narrative strategies employed by each author to convey lawyer-client relations and the machinations of day-to-day work in a law firm. Contrasting these writers’ use of dialogue and plot structure, he shows how legal fiction can subtly invoke familiar tropes for the purpose of addressing complex psycho-

logical and social themes that extend beyond the parameters of the law firm or the courtroom.

Part two of the book shifts attention to the role of cultural products related to crime, criminals and criminal justice in a wide range of cultures and nations. More so than other varieties of law-related popular culture, these works in general invite reflection on fundamental socio-cultural normativity. Kim Barker and Olga Jurasz begin by examining a new intersection of law and popular culture that has a genuinely global reach, namely the legal and regulatory challenges that arise from massively multi-player online role-playing games. Barker and Jurasz closely analyze types of role-playing enjoyed by gamers and examine forms of gender violence that players are able to enact online. Locating their analysis against conventional definitions of “harm” and “crime,” Barker and Jurasz argue that new legal concepts and techniques of enforcement are needed for the purpose of dealing effectively with the increasing prevalence of “gender-based cyber violence.” The chapter highlights the failure of law to keep pace with a swiftly developing branch of popular culture and points to some of the difficulties of developing a cross-border legal framework to address the issues raised by online gaming on a global scale. Anthony Bradney develops the theme of crime by considering a familiar figure in legal fiction, the “hard-boiled” detective. Taking the “Spencer” novels of Robert B. Parker, Bradney identifies innovative narrative developments in this genre and, like several other chapters of this book, shows how familiar tropes can be used to invoke pressing ethical questions about self-knowledge and human behavior within a structure of state-imposed laws.

While Bradney’s chapter addresses the “fragility” of legal rules, John Denvir shows how the television series *The Wire* (2002–2008) revealed outright failures in the US criminal justice system. Aiming at goals beyond broad popularity and lively story-telling, the show is interpreted by Denvir as a forceful drama that exposes key bureaucratic and economic problems hindering the effective administration of criminal justice in the United States. In its ability to point to such failings and to bring them to the attention of a wide audience, *The Wire* becomes, in Denvir’s analysis, a powerful political statement capable of motivating positive social and legal change in the jurisdiction it seeks to criticize. Elena Falletti develops this theme by arguing that popular culture has had a direct influence on recent changes made to the Italian Criminal Code. In a chapter dedicated to the “transplant” of legal concepts from one jurisdiction to another, Falletti examines how developments in Italian courtroom procedure and popular conceptions of legal practice in Italy have been shaped by films and television series set in the United States. The result, she argues, is the creation

of a hybrid system in Italy that imports aspects of common law procedure into a civil code tradition in ways that sit uneasily with the historical roots of Italian criminal justice. Cassandra Sharp concludes this section by shifting the discussion to popular conceptions of criminal justice in Australia. Using evidence drawn from media reports and opinions about punishment expressed in focus groups, she argues that cultural artifacts (including, for example, newspapers, popular symbols, images and narratives) have contributed to widely held misconceptions about crime and sentencing in Australia. Her chapter highlights the importance of “everyday stories”—as opposed to carefully crafted legal fictions—in influencing both the popular perception of law and criminal justice and public expectations about the role of retribution in the wider social function of punishment.

Part three examines contrasting portrayals of courts and judges in a range of media. If lawyers are the most common protagonists in law-related popular culture, courtrooms with judicial officials presiding are the most common settings for high drama. Odile Heynders and Philip Paiement open the section with a discussion of a popular Dutch reality television program, *The Mobile Judge* [*De Rijdende Rechter*]. Far from a “courtroom” in the familiar sense, the series brings judicial decision making directly into local communities as the judge visits complainants and rules on disputes in situ. Conceptually as well as physically, law is “on the move” in this series, a factor that separates judicial administration from the symbolic anchor of the courtroom and serves the more practical purpose of injecting variety into the show. In Heynders and Paiement’s analysis, “reality” is turned into a “human comedy” (reminiscent of Balzac), and a figure of legal authority is propelled directly into the community not only for the purpose of adjudicating on disputes between neighbors but also with the aim of repairing wider social fractures. Taking up ways in which popular culture can form a bridge between an impersonal legal system and members of the local community, Leslie J. Moran examines new communications initiatives undertaken by the judiciary in the United Kingdom. Considering strategies undertaken for the purpose of improving the public’s perception of the law and its administrators, Moran examines why a “deference deficit” has become apparent in recent years and why popular culture is being used as a means of redressing this balance.

The theme of communication between judges and the public is given cross-border treatment in Stefano Montaldo’s discussion of the European Court of Justice. While the court was established as part of an ideal vision of European political integration, Montaldo asks how much people actually know about the court’s function, structure and decision-making. In contrast to the “deference deficit” discussed by Moran, we have here a wide-

spread “knowledge deficit” that, in Montaldo’s account, might be ameliorated by greater coverage of the European Court and its workings in popular culture. In the final chapter of this section, Peter Robson examines the portrayal of lawyers and judges in novels written by Hastings Draper (the pseudonym of barrister Roderic Jeffries) from the late 1950s to the early 1960s. Although taking the form of “light fiction,” Draper’s novels are, according to Robson, capable of offering significant insight into social and class problems that beset the legal profession in a beleaguered post-war Britain. At a time when deference to judges was still very much in evidence, Draper’s novels were a subtle means of critiquing the judicial system while avoiding direct confrontation with the dominant academic discourse of the period. In this case, popular culture is seen to slip free of prevailing ideologies and serve as an important outlet for critical engagements with law and its practices.

Part four considers ways in which popular culture offers the public ways to think about law and legal institutions, a type of “pop cultural jurisprudence.” While many chapters in this volume offer perspectives on the migration of legal ideas between countries, Kathryn Brown’s contribution considers ways in which a single narrative can address social issues relevant in different historical periods. Taking Joel and Ethan Coen’s *True Grit* as her example, Brown examines how the film deviates from the familiar format of the Western to explore the role that voluntary agreements can play in different forms of social organization. With its origins in Charles Portis’s novel of the 1960s, the film speaks to a variety of civil rights issues and notions of personal autonomy that are identified as relevant to ideals of civil society from the nineteenth century to the present. Pedro R. Fortes takes up the themes of law, popular culture and civil society by considering ways in which cinema (particularly Hollywood films) can protect or undermine minority rights. He discusses examples of “affirmative cinema” in which film-makers create works that aim to transform dominant ideologies and stereotypes. In Fortes’s account, it is through the creation of “counter hegemonic narratives” that popular culture may be able to empower minorities and effect a form of social emancipation.

If Brown and Fortes take an optimistic view of the positive social potential of pop cultural jurisprudence, Jeanne Gaakeer’s chapter offers a more skeptical account. She examines the possibilities and limitations of interpreting cultural products as jurisprudential artifacts and identifies various methodological and practical issues that lawyers and cultural theorists face in their attempts to do so. She advocates a more stringent approach to fundamental questions concerning the meaning of “law” and “culture” in

this interdisciplinary field and stresses the need to address and challenge the assumptions that researchers bring to this subject. She argues that researchers need to pay greater attention to the legal and popular culture in which they are embedded (including its history) before seeking to judge and analyze ideas across disciplines and jurisdictions. Byron Stier's discussion of two films about mass tort litigation in the United States (*A Civil Action* and *Erin Brockovich*) highlights the severe problems of litigation finance confronted by plaintiffs' lawyers and the difficulties they encounter in striking a proper work-life balance. The films suggest a model of lawyering (morally infused pragmatism) that may deliver the best outcomes for both clients and lawyers. Barbara Villez concludes the section with a discussion of *Engrenages*, an internationally popular television series set and produced in France. She describes how the series has evolved since its first broadcast in 2005, highlighting its increasing stylistic divergence from British and US legal drama. She identifies ways in which the series addresses a widespread skepticism about the legal profession in France, one that relates specifically to the embedding of legal administration in an institutional political hierarchy. The "antilegalism" expressed in the show is, Villez argues, the extension of a core set of ideas expressed by Edgar Quinet in the mid-nineteenth century. Appreciating the historical roots of this concept underscores core themes of the television series and points to a separation in France between the expression of democratic freedoms through political processes rather than through the law.

The teaching of courses about the intersection of law and popular culture is perhaps most predictable in university-level legal education, but courses involving this intersection can prompt critical thought in other settings as well. For this reason, Part V includes four chapters offering approaches to the teaching of law and popular culture in a range of educational environments. They demonstrate the breadth of material used in this subject and the variety of learning outcomes that this branch of study can achieve. It would be difficult to find two more widely diverging narratives—as regards both content and target audience—than those discussed in the opening chapters of this section: *Harry Potter* and *A Clockwork Orange*. While Kelly Collinsworth shows how proceedings brought before the "Ministry of Magic" in J.K. Rowling's *Harry Potter* novels can provide a trial model that stimulates students' interest in, and understanding of, issues relating to law and government, Terri Mester uses Stanley Kubrick's film *A Clockwork Orange* to examine dramatic conflicts between individual agency and state control. In her search for a law film that goes beyond the familiar structure of the "righteous outsider vs. state-sanctioned legal machine," Mester draws attention to the aesthetic density of Kubrick's

film while also acknowledging the challenges of teaching undergraduates through a work that some think celebrates violent eroticism and misogyny. Mester also discusses the signifying power of music in film, exploring the problematic manner in which Kubrick uses Beethoven's Ninth Symphony at every stage in the narrative.

Gary Peter shows how the study of law and popular culture can be structured in the context of a writing-intensive freshman seminar. Like Collinsworth, his approach to the subject highlights ways in which the study of law from an interdisciplinary perspective can stimulate active learning on the part of students, in this case encouraging their creative as well as analytical skills. Taking up the idea that there remain stimulating new ways in which to develop the study and teaching of law and popular culture, Donald Papy encourages the examination of a wider range of media in this subject. Reinforcing a core theme of this book, he also identifies the advantages of a cross-border approach to the subject, showing the benefits of examining the mediation of legal concepts across cultures and considering how popular culture from one country can influence, for better or worse, conceptions of law and legal systems in other countries. The enhancement of cross-border study remains one of the most valuable attributes of law and popular culture studies.

The present study developed from a conference co-organized by the editors in 2012 and held at Tilburg University (Netherlands). The editors are grateful to the University's School of Humanities and to the Tilburg Law School for the use of their facilities and for their generous funding of the event. The chapters comprising this volume are versions of only some of the papers presented at the conference. The editors would, therefore, also like to take this opportunity to thank all of the participants in the conference for their presentations and lively contributions to debates about the expression of legal themes in cultural products that are subject to ongoing exchange across time and geography.



# **PART ONE**

## **LAWYERS AND MEDIATORS**



## CHAPTER ONE

### *ALLY McBEAL* AND SUBJECTIVE NARRATION

MICHAEL ASIMOW

For thousands of years, human beings have tried to understand their world by telling mythological and religious stories. Stories remain an essential part of human communication because they still help us to make sense of our environment and the people we encounter. More important, perhaps, everyone takes pleasure in telling and consuming stories. This creates a market for story that the popular culture industry exploits. All of us consume (or struggle to avoid) an endless flow of story material in the form of movies, television, books, songs, computer games and other media.

Most discussions about pop culture stories focus on the representation of characters, institutions or events in the story. Alternatively, we can discuss a story by focusing on the way that the story is told. Thus, it is important to distinguish story content (or narrative) from storytelling (or narration). Part one of this chapter discusses the conventions of film and television in general and the conventions of the legal television genre in particular. Part two discusses innovations in both narrative and narration that push the boundaries of the legal television genre. It focuses on *Ally McBeal* as a genre buster. In terms of narrative, the show is unique in the legal television genre for the way it treats issues of gender and sexuality and the way it decenters legal materials. In terms of narration, *Ally McBeal* focuses heavily on the inner life of its characters. It is also anti-naturalistic and makes creative use of music and technical innovations such as computer graphics.

#### **1. Narration in Film and Television**

##### **(a) Conventions in film and television drama**

Numerous conventions relating to narration apply across all pop cultural genres, including legal ones.<sup>1</sup> A story generally involves a departure from the ordinary and expected course of events (such as a murder or a betray-

al). The story is built around characters who seek to achieve goals. The characters encounter trouble and try to overcome obstacles (either within themselves or involving others) that stand in the way of reaching goals and getting out of trouble. Events are connected by chains of reasonably plausible cause and effect. The story must establish psychological motivation for the actions taken by the characters. Each important character should provoke a response from viewers. The response might be sympathetic, empathetic, or antipathetic. The story should produce reactions like surprise, laughter, pleasure, suspension of belief, escapism, or arousal. And, of course, a good story requires an imaginative storyteller (for our purposes, a writer) who is skilled in manipulating these basic tools.

A good story has a beginning, in which matters break away from the ordinary, characters are introduced, and the story is situated in place and time. It has a middle, in which characters struggle to overcome the obstacles that stand in the way of reaching their goals and getting out of trouble. And it has an ending (or “closure”), in which characters reach or fail to reach their goals and most or all of the loose ends are tied up. Most films and television programs contain more than one story line (often referred to as the A and B stories), and both stories are resolved in the ending.

In feature films and dramatic television, most stories strive to produce the illusion that they are “realistic” or possess “verisimilitude” or “naturalness” (of course, some genres such as horror films or cartoons do not strive for verisimilitude, and viewers do not expect it). Verisimilitude means that the story seems to deal with events and characters that viewers believe might actually occur in the world. Naturalistic storytelling promotes the audience’s suspension of disbelief. Of course, this sense of reality is an illusion produced by skillful writing, editing, acting and direction. The events and characters in pop culture stories are completely unrealistic, as they must be to function as entertainment and meet the various artistic and commercial constraints imposed by the medium.

Film and television are visual media. One implication of the visual character of film and television is that the inner lives of characters (such as their undisclosed thoughts, feelings, dreams, fantasies, desires and emotions) are difficult to show on the screen. Yet good storytelling requires that the viewer understand the motivation of the characters. Moreover, audiences are unlikely to empathize with a character unless they understand the character emotionally. Consequently, the storyteller must find a way to convey information about the inner lives of the characters.

To some degree, the inner lives of characters can be inferred from what they do and from skillful acting that reveals emotionality. Inner life can be explicitly described in dialogue in which characters say what they are feel-

ing, but such passages tend to slow the action down. Narratologists sometimes refer to visual texts as objective (meaning that the text discloses relatively little about the characters' inner lives) or subjective (meaning that the text discloses a relatively large amount of information about the characters' inner lives). Sometimes, the extent of disclosure of inner life is referred to as "depth of characterization." Soap operas, for example, tend to be quite subjective and dwell heavily on emotionality and romance.

### **(b) Conventions of narration in the legal film and television genres**

Since the 1930s, countless movies have told stories about law, lawyers, and courtrooms.<sup>2</sup> The same is true of television. Since the 1960s, each television season brings a new crop of lawyer-oriented stories. It seems fair to identify these bodies of material as film and television genres, like westerns, musicals or detective stories. Genre means a body of texts that share common themes and formal styles. The creators of films and TV shows rely heavily on genre to predict what ideas and images might prove marketable. Spectators rely on genre to predict what types of stories and characters the cultural product is likely to contain. Thus, genres contain conventions that involve both narrative (what the stories are about) and narration (how the stories are told). This chapter focuses on the television legal genre, meaning TV shows that tell stories about lawyers or judges functioning primarily in their professional capacities.

Legal stories strive to produce the illusion of verisimilitude by using familiar locations like law offices, jails and courtrooms, and familiar courtroom procedures such as cross-examination and closing argument. Story telling is naturalistic rather than surreal or absurdist. Of course, this sense of reality is purely artificial and induced by technique. A realistic account of a trial might take six days and would be unutterably boring. Viewers willingly accept that film or TV lawyers don't care about getting paid, criminal cases come to trial within days after the arrest, cases are never settled or plea bargained, discovery of the opponent's case does not exist, closing arguments are rendered in sixty seconds, witnesses confess to ghastly crimes under cross examination, and similar nonsense.

Most legal stories in both movies and television are objective, meaning that relatively little is disclosed about the inner lives of the characters. In this respect, legal drama resembles the well-worn detective story genre with which it shares common ancestors. Typically private eye stories in pop culture are only about solving cases, and little is disclosed about the lives or emotional states of the detective. The same is true of most legal

shows. Although we understand the motivation of the characters, we learn little about their inner lives.

Most legal stories on television are stand-alone episodes in a series that may extend over one or more seasons. They can be viewed in any order. A few legal stories have been serials, meaning that a single story is told over numerous episodes, perhaps an entire season. These shows must be viewed in sequence to make sense. Some legal stories are hybrids between series and serials, meaning that they contain character arcs (that is continuing stories about the characters) that develop over numerous episodes. These episodes can be viewed out of sequence, since each contains some stand-alone material, but most viewers prefer to watch them in sequence so that the character development makes more sense.

### **(c) Narration in classic televised legal drama**

**(1) *Perry Mason*.**<sup>3</sup> The most influential televised legal drama of all time was *Perry Mason*, which ran on CBS from 1957 to 1966. The televised series, consisting of 257 episodes, and starring Raymond Burr, was adapted from a long line of novels by Erle Stanley Gardner and a highly successful radio show. After the series went off the air there were thirty made-for-TV movies employing exactly the same format. There is even talk about reviving this ancient and hackneyed show on contemporary TV.

If you've seen one *Perry Mason* episode, you've seen them all. The narrative structure remains precisely the same in every televised episode and made-for-TV movie. In each episode, a murder is committed and the police arrest a suspect who is always innocent. The suspect becomes Perry's client. Perry's withering cross examination causes the true killer to confess.

*Perry Mason* originated the narration conventions for the televised legal genre. The story is told in naturalistic and chronological style. It resembles a generic detective story, in that the identity of the real killer is always concealed. Perry and his staff (investigator Paul Drake and secretary Della Street) spend most of their time sleuthing out the real killer. Perry's legal work, usually in a California preliminary hearing, comes in only at the end of the episode.

The narration in *Perry Mason* is naturalistic, striving to produce a feeling of verisimilitude. There is no character arc, meaning that none of the characters ever change or sustain continuing personal stories. As a result, each episode is freestanding, and the episodes can be viewed in any order. Having freestanding episodes is a great advantage when it comes time to

syndicate the show. As a result, *Perry Mason* reruns have been a staple on cable for many years.

The narration on *Perry Mason* is objective, meaning there is no treatment of the inner life of the characters. Indeed, the show never disclosed anything about the personal lives of the key characters or considered any social, political, ethical or legal issue outside of the bounds of the particular case. So far as you can tell from movies and TV, *Perry Mason* had no private life at all and lacked any emotions (except that he wanted to win whatever case he was working on).

(2) *The Defenders*.<sup>4</sup> The classic show *The Defenders*, which ran back-to-back with *Perry Mason* on CBS from 1961 to 1965, was different from the latter show in nearly every way. The creators deliberately avoided *Perry Mason*-type plotting. Instead, they used each episode as a vehicle to explore a particular legal or social issue through the prism of the legal process. The father and son law firm of Lawrence and Kenneth Preston tackled abortion, women's rights, the insanity defense, racism, defending the free speech of Nazis, the anti-Communist blacklist, and dozens of other hot button issues, many of them far ahead of the times.

Despite the cutting-edge narratives, the narration on *The Defenders* was conventional and naturalistic. There was no character arc, so each episode was freestanding. The two lawyers appeared to have no personal life outside the office, and their relationship never changed. The father, Lawrence Preston, was cautious and calculating. The son, Ken Preston, was more impulsive and wanted to change the world. Other than disagreements about how to handle a particular case, however, neither lawyer appeared to have any emotions or inner life.

(3) *L.A. Law*.<sup>5</sup> *L.A. Law* was a hugely successful series that ran from 1986 to 1994 on NBC. The show created a new set of narrative conventions for the legal genre. *L.A. Law* was about a good-sized law firm consisting of partners, associates, and staff. Prior to *L.A. Law*, television lawyers practiced solo or in very small firms. The firm of McKenzie, Brackman, Chaney and Kuzak was a profit-maximizing entity and the partners lived well on the earnings. Prior to *L.A. Law*, the economic aspects of law practice were ignored on television. The shows frequently tackled thorny issues of legal and social policy, as well as legal ethics, although not with the seriousness of *The Defenders*. The characters had personal lives, professional conflicts, and romantic relationships with each other, so it was helpful (though not essential) to view the episodes in sequence.

*L.A. Law* was moderately creative from the point of view of narration. One important innovation was the use of ensemble casting, so that different combinations of lawyers and staff were involved in each episode. The program pioneered in the legal genre the formula of including two stories in each episode—the A and B stories—and intercutting between them. The narration was considerably more subjective than *Perry Mason* or *The Defenders* since the personal lives of the characters were an essential part of the stories. As a result, they had inner lives and emotions, although they seldom discussed them directly. In addition, some of the lawyers were relatively antipathetic and rather unethical, such as the family lawyer Arnie Becker (who often became sexually involved with clients) and the profit-maximizing but socially inept managing partner Douglas Brackman.

**(4) *Law & Order*.**<sup>6</sup> *Law & Order* holds the record for the longest-running TV show of all time—an amazing twenty years (actually it tied with *Gunsmoke* for the duration record.) Each *Law & Order* story involved exactly the same structure—the first half involved the cops catching the suspect and the second half involved the prosecutors trying to put the wrongdoer away.

From the point of view of narration, *Law & Order* was consistently naturalistic, even documentary-like. It augmented the sense of reality by using identified New York locations and often employed hand-held cameras. Each show was freestanding and employed no character arcs. The characters of the police and prosecutors never changed. The stories were quite complex and demanded the viewer's entire attention (if you got up to go to the bathroom, you'd lose the thread of the story).

*Law & Order* stories were also extremely objective. Neither police nor prosecutors appeared to have any private life. Viewers occasionally got tantalizing glimpses of their lives outside the office, such as alcohol problems, busted marriages, or McCoy's affairs with the female prosecutors who worked for him, but never in any detail. The characters seem to have no emotions, except for a desire to catch the perps and put them away. The prosecutors often struggled with difficult moral dilemmas about the nature of justice and prosecutorial discretion, but all of their emotionality seemed to be wrapped up in their jobs.

Indeed, *Law & Order* is quite puzzling. What accounts for its remarkable twenty-year tenure? Why did so many millions of people watch stories that often dwelt on legal technicalities of interest mainly to lawyers? There was no sex or violence on *Law & Order*. All of the characters were replaced over the twenty-year life of the show, but that didn't seem to matter to audiences. The answer to why the show was so successful is elusive, but

certainly audiences appreciated the sophistication of the stories (often “ripped from the headlines”) and the consistently strong acting. Perhaps viewers really liked to see competent professionals doing their jobs well.

## 2. Storytelling on *Ally McBeal*

### (a) *Ally McBeal* refreshes the genre

*Ally McBeal*<sup>7</sup> was a show originated by David E. Kelley that ran from 1997 to 2002 on the Fox network. The talented actress Calista Flockhart starred as the eponymous protagonist. The show was commercially successful and developed a large fan base, but was also quite controversial.<sup>8</sup> Many young professional women identified strongly with *Ally McBeal*’s character and appreciated the show’s treatment of gender issues and the conflicts between personal and professional life. Other women despised the show because it suggested that women professionals are emotional and incompetent, cannot balance their personal and professional lives, and act inappropriately at work such as by wearing very short skirts.<sup>9</sup> The range of viewer interpretation of the show and its characters was remarkable.<sup>10</sup>

Part two of this chapter addresses the significant changes in both narrative and narration that occurred on *Ally McBeal*. To some degree, these changes reflect Kelley’s efforts to refresh what might be viewed as a somewhat stale genre. The changes seem to reflect his belief that television viewers would no longer be satisfied with dry and analytical legal story lines. They wanted more emotionality. They were looking for characters with inner lives who engage in romantic affairs and other non-professional pursuits. The changes also reflected a need to compete with technological advances in television production (such as vastly improved animation techniques). Kelley sought to make legal television shows less cerebral and talky, again because of the action-packed competition from other channels.<sup>11</sup>

It is also noteworthy that *Ally McBeal*, as well as many other later shows including *Damages*, *Drop Dead Diva*, *Harry’s Law*, *Judging Amy*, *Fairly Legal*, *JAG* and *The Good Wife*, center on female lawyer protagonists. This is unsurprising, given that about half of all new lawyers in the United States are female. It also reflects a perceived need to provide programming of greater interest to the female viewing demographic.

## **(b) Subjectivity on *Ally McBeal***

**(i) Subjectivity and character arcs in legal drama.** As discussed earlier, subjective narration discloses copious information about the inner lives of the characters, while objective narration discloses relatively little. *Perry Mason*, *The Defenders* and *Law & Order* bump up against the objective end of the spectrum, as the characters in these shows have no private lives and no emotions. *L.A. Law* was slightly more subjective, since its characters had personal lives and their emotional lives were somewhat accessible, but most of the narrative consisted of characters doing objective and analytical work.

Most legal dramas now disclose information about the inner lives of the characters. In *Boston Legal* a good part of the attractiveness of the show was the buddy relationship between Alan Shore and Denny Crane, two opposite personalities who were the best of friends.<sup>12</sup> Alan and Denny ended each episode schmoozing over drinks, and sometimes disclosing their emotions and feelings, but there was relatively little character arc and not much information about their personal lives aside from affairs they were having with other lawyers. In *Harry's Law*, most of the screen time was concerned with lawyers doing their jobs. However, the characters had personal lives, romantic relationships and emotions and feelings, and there was some character arc.<sup>13</sup>

In *The Good Wife*, character arcs are the heart of the show. The ups and downs of Alicia's marriage to the unfaithful Peter Florrick and her affair with her boss Will Gardner are developed throughout the four seasons of the show (as of the time this chapter is written, the series will continue for at least a fifth year). Other main characters, such as Eli Gold, Kalinda Sharma, Diane Lockhart and Alicia's teenage children, also experience political and personal character arcs that span numerous episodes. Thus, the characters definitely have private lives and a good deal of information about their life outside the office is disclosed. However, the show is not very subjective. The characters seldom reveal their feelings and emotions. They are quite reserved when it comes to disclosing personal information. Their emotions can be inferred from their actions; obviously when Alicia decides to have an affair with Will Gardner, we can guess at her feelings about her life and her marriage and her sexual attraction to Will, but Alicia is very guarded about discussing these feelings with anyone.

**(ii) Innovation in narrative and narration on *Ally McBeal*.**

(1) Narrative. *Ally McBeal* was quite innovative in stretching the narrative conventions of the legal drama. For one thing, it was a comedy (sometimes called a “dramedy,” to signal the mixture of drama and comedy), itself a rarity in the genre. Most strikingly, the show was notable for its candid treatment of issues of gender and sexuality.<sup>14</sup> Consider just a few of the many issues relating to gender, sex, love, dating and marriage, all occurring during the first season:

- Do men and women have different attitudes toward casual sex? How about men who are treated as boy toys?
- Is it appropriate for the firm to make use of Ally’s sex appeal to attract clients?
- What are the consequences of married professors having affairs with their students?
- How should a law firm senior partner deal with his wife’s unreasoning jealousy of a beautiful associate?
- What are the problems of working in an office with your first love (now married to your friend who is also working there) when you still have feelings for each other? Should you have honest discussions about these feelings?
- Why are dirty jokes funny? Which ones are just gross? Do men and women have different attitude about dirty jokes?
- Is sexual harassment law (particularly its hostile working environment branch) vital for the protection of working women or does it represent the victimization of women? When the men in the office stare at a particularly sexy-looking woman, are other women in the office victims of sexual harassment? On the other hand, is the sexy-looking woman harassed if the other women are mean to her because she draws attention from the men?
- Does a woman who is sexually assertive deserve her bad luck with men?
- Does penis size matter to women?

The characterizations on *Ally McBeal* were completely different from other legal shows. To start with, Ally herself has a miserable personal life, plenty of neuroses, and a heavy dose of narcissism. She is always in search of true love, but it always escapes her. As a lawyer, Ally is thoroughly incompetent. She has no impulse control and loses her temper or makes wildly inappropriate remarks in court or while negotiating. She is nearly disbarred because of inappropriate behavior. At one point, Ally remarks

that she helps her clients forget their problems by giving them even bigger ones.

The other characters are equally cartoonish and inappropriate. Richard Fish is the personification of every lawyer joke; he cares only about making piles of money and specializes in politically incorrect statements (known as “fishisms”). John Cage is a capable lawyer but has eccentric and obnoxious personal traits, such as nose whistling, shoe squeaking and stomach gurgling during client meetings or in court. Elaine is a nosy secretary who adores gossip, craves attention, and describes herself as a slut. And the list of crazy and dysfunctional characters goes on from there.

Although set in a law office, the drama focuses almost entirely on the personal lives of the characters. In a typical episode of *Ally McBeal*, only a few minutes are devoted to legal matters. These bizarre cases are treated superficially and often for laughs. The legal disputes usually blend into the personal problems of the characters. For example, in one episode Ally’s client is a Jewish woman who has been civilly divorced and wishes to remarry. Her ex-husband is in a coma and has failed to give her a Jewish divorce (a “get”), which is necessary for her to remarry. Ally’s negotiation with the client’s rabbi is disastrous. She loses her temper and makes all sorts of inappropriate remarks about Jewish customs. This antagonizes the rabbi, who expels the client from the synagogue. It is obvious that Ally’s insecurity about whether she will ever marry has rendered her professionally unable to negotiate an issue relating to marriage.

In respect to narrative, *Ally McBeal* is sharply different from all other shows in the legal genre. Indeed, *Ally McBeal* could have been situated in any type of work environment. Because the show dealt far more with universal personal and emotional issues than with law or legal disputes, it was accessible and attractive to viewers who find legal shows boring.

(2) Narration. *Ally McBeal* shattered the narration conventions of the legal genre. The show is situated at the far reaches of the subjective end of the spectrum.<sup>15</sup> Each episode discloses a large amount of personal information about Ally, including her emotions, dreams, and fantasies. The writers developed numerous techniques to convey this information to viewers.

Ally and other characters constantly engage in dialogue about their feelings. Thus, Ally takes a job at a small firm, only to discover that another associate is her former lover Billy, now married to Georgia, who also becomes an associate at the firm. Ally and Billy discover that they still have strong feelings for each other, which they discuss in numerous episodes. All of the other characters, male and female, freely discuss their inner lives. Much of this conversation takes place in the firm’s unisex

bathroom, itself an interesting and original narrative device with endless comedic possibilities. In addition to copious dialogue about feelings, Ally often discloses her inner life through voice-over narration, speaking directly to the audience about how she feels. The scripts also include depictions of Ally's fantasies as well as flashbacks to her past experiences, for example, having sex with Billy or with one of her law school professors.

Ally frequently discloses her inner feelings during trials or negotiations, because many of them concern the same issues that have arisen in her personal life. For example, she handles a number of cases involving marriage. In addition to the rabbi story discussed above, these stories include the refusal of a conservator to agree to the conservatee's marriage or the refusal of a warden to permit the marriage of a prisoner under a life sentence. When Ally argues for the right to get married (or has tantrums in court), she is really dealing with her own desire to find a husband before she reaches thirty.

(3) Music and special effects. Many *Ally McBeal* episodes include pop music that reinforces the emotional messages.<sup>16</sup> The theme music at the beginning and end of the episode summarizes Ally's inner life.<sup>17</sup> In addition, the action is frequently interrupted by songs whose lyrics are carefully selected to reinforce our understanding of Ally's feelings and heighten the emotionality of the narrative. Some of the music is actually heard by the characters (so-called diegetic music, such as songs performed in the bar where they gather for drinks at the end of the day) while other music is heard only by the audience (so-called non-diegetic music).

Most strikingly, the shows frequently utilize whimsical clips prepared with digital technology. These clips illustrate directly how Ally or other characters feel. For example, when Billy asks Ally to join him for coffee, the screen flashes a clip of the two of them making love in a giant coffee cup. When Georgia reveals her (false) pregnancy, we see Ally with a big hole blown through her stomach. When characters are ditched by a boyfriend or girlfriend, we see them being picked up with the trash by a garbage truck. A picture of a horse's ass or horse poop summarize Ally's opinion of opposing counsel's arguments. Most notorious is the recurring clip of a dancing baby, with a big "ooga chaka" beat, that symbolizes Ally's intense concern with the ticking of her biological clock.

(4) Verisimilitude. One consequence of the highly subjective approach taken in *Ally McBeal* is a loss of the sense of reality or verisimilitude. With few exceptions, legal dramas are told in rigorously naturalistic style to create the illusion that the viewer is seeing what lawyers really do. This

is definitely not the case on *Ally McBeal*. Although the show makes use of familiar signifiers of the legal genre like law offices and courtrooms, it is far from naturalistic. In real law firms, people don't stand around discussing their innermost feelings in the bathroom (and certainly not in a unisex bathroom). The voice-over narrations and non-diegetic musical numbers interrupt the flow of the action, and real life certainly includes no dancing babies.

Yet, the commercial success of *Ally McBeal* suggests that many viewers enjoy stories that make little or no pretense at verisimilitude. Hard-core lovers of legal drama may well have disliked *Ally McBeal* because of the silliness of the legal plots, but the show more than made for the loss of such purists by attracting a wider demographic of people who probably also enjoyed soap operas, family comedies and other staples of television fare. I, for one, disliked *Ally McBeal* and didn't watch it much while it ran from 1997–2002, but I have since come to appreciate the show for its technical artistry and its cutting-edge treatments of gender and sexuality. I like the fact that *Ally McBeal* tackled hot-button personal and gender issues in every episode. I also find it much funnier now than I did the first time around.

(5) “Cro-Magnon.” “Cro-Magnon” is a classic and very funny episode from the first season of *Ally McBeal*<sup>18</sup> that includes all of the elements discussed above. In this episode, the legal story involves the successful criminal defense of a young man who punched out (and severely injured) another man who called his date a “slut.” John Cage and Ally handle the defense which is based on the idea that men by nature are warriors and are hard-wired to protect the honor of women. Women also expect men to use violence to protect their honor, so the client acted appropriately in throwing the punch. Needless to say, not much time is wasted on the court proceedings, and Cage clowns around a lot in court. But the courtroom scenes nicely illustrate the gender issues that are the real subject of the episode.

In this episode, Ally and her roommate Renee are taking a sculpture class. Glen is a male model with an enormous penis. After numerous jokes and sight gags about Glen's dimensions, Glen asks Ally for a date. After the trial victory, the episode turns to scenes of a brutal boxing match greatly enjoyed by the male lawyers (as well as the horny secretary Elaine). The fight scenes are intercut with tender and erotic scenes of Ally and Glen making love. This episode introduces the famous dancing baby, who at first terrifies Ally. At the end of the episode, Ally embraces the fantasy by dancing with the baby. In another scene, we see Ally's fantasy in which she imagines herself undressing with her nineteen-year-old client. In the