object, including generic framing, and concentrates solely on the legally related content. In Law and Popular Culture and Law and Media work, this pattern is repeated when multimodal texts are treated like prose narratives and analyzed in terms of their plot forms and the legal issues they represent.

A Model for the Analysis of Popular Law

The tripartite method of media analysis I feature here was suggested to me by discussions of media research in the work of Douglas Kellner and Jeremy Butler.[34] I have subsequently adapted their research to create a triangular structure (Figure 2.1) for interpreting the cultural work done by televisual and other popular media texts, also in terms of attitudes about law. Each part of the triangle represents one area of critical media analysis that can be performed under the rubric of a leading question. Ideally, all three corners of the triangle and all three aspects of media analysis should be addressed. This is a "critical" analysis in the sense of the Frankfurt School's emphasis on study of the negative effects of mass production in consumer societies.[35] Yet "critical" also references the Marxian analysis of political economy and Kantian epistemology. Further, critical analysis involves "a skeptical, politically activist approach to analysis that seeks to denaturalize relations that are presented as self-evident by demonstrating how they are constructed."[36] It references the analyst's standpoint as by no means universal or binding, but as situated and partial.[37]

This type of media analysis rests on insights garnered from cultural and visual culture studies. The aesthetic cannot be seen from a narrow sociological viewpoint as the reflection of sociolegal reality. Rather, every work must be seen as participating in a circle of signification and participation. The work emerges out of a specific material setting and informs that setting, along with the fissures within it. The form of the aesthetic work expresses its sociological setting, technologically and in terms of the aesthetic principles that govern it. The popular media text, like

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[34] Douglas Kellner, "Toward a Critical/Media Cultural Studies," in *Media/Cultural Studies: Critical Approaches*, ed. Rhonda Hammer and Douglas Kellner (New York: Peter Lang, 2009), 5–24; Jeremy G. Butler, "Critical Research and Television," in *Television: Critical Methods and Applications* (Mahwah, NJ: Lawrence Erlbaum, 2007), 425–62. Kellner and Butler are not alone in employing a triangular model as the basis for media analysis. See, e.g., "Navigating the Media Triangle," EveryLibrary, 5 Feb. 2019, https://medium.com/everylibrary/navigating-the-media-triangle-a62811d9c1a0 and Steven Miraglia, "Media Literacy: 5 Key Concepts and the Media Triangle," Media Literacy and Social Studies, 17 Sept. 2008, http://stevesmedialiteracy.blogspot.com/2008/09/media-literacy-5-key-concepts-and-media.html.

[35] Max Horkheimer and Theodor W. Adorno, *Dialektik der Aufklärung. Philosophische Fragmente* [1948] (Frankfurt a.M.: Fischer, 1972).

[36] Greta Olson, "Reading 9/11 Texts through the Lens of Critical Media Studies," in *New Theories, Models and Methods in Literary and Cultural Studies*, ed. Greta Olson and Ansgar Nünning (Trier: WVT, 2013), 161–85, 166.

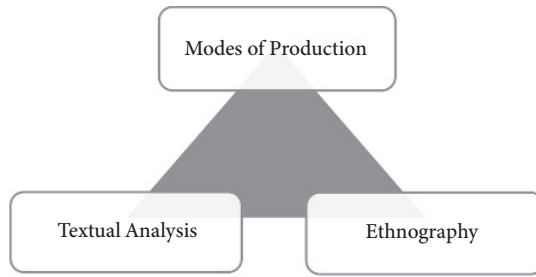[37] Butler, "Critical Research and Television," 426.

Fig. 2.1 A tripartite model for the analysis of media texts.

the "literary" one, for that matter, emerges in an economy of attention in which every cultural artifact competes to be noticed. Hence, questions of who produces the artifact, for what format and audience, and with what expectation of gain, are crucial in elucidating cultural impact as well as how the text interacts with cultural-legal mores. The conditions of dissemination also influence what we see in popular media, including social media formats.

Modes of Production: Who Creates the Text, and Who Profits from It?

To analyze the political economy of a media artifact, one must ask who made it and who will profit from its distribution. Media texts are produced in competitive market situations. How much buzz they receive and how much they are seen or interacted with depends on the perceived attractiveness of the producers and the power of their distribution networks. Thus, the analysis can be opened by asking: Who stands to profit from the television series or serial, the blockbuster novel, or the film that interacts with law?[38]

Questions about who contributes to the making of the media product also belong to the analysis of modes of production. Participants include the producers, directors, actors, and screenwriters, and all of the people whose work contributes to how the series looks and feels and sounds. If they appear at all, the names of lighting and sound technicians, camera operators, make-up artists, boom operators, and key grips appear in the end credits. Since the majority of media artifacts are produced by large-scale multinational producers, one can also ask about the politics of these corporations, their founders, their CEOs, and the politics of their products. Thus, the pro-Trump, Murdoch-founded Fox Network was recently

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[38] My questions here are analogous to those posed by Gérard Genette to determine the narrative situation of a text: Who speaks the story? Who sees (focalizes) the story? See Gérard Genette, *Narrative Discourse: An Essay in Method*, trans. Jane Lewin (Ithaca, NY: Cornell University Press, 1980).

characterized as the political adversary of Netflix, with its pro-Obama and progressive political orientation.[39] Further questions concern the gender, religion, age, ethnicity, and other identity factors of the actual people behind texts about law. If these people are able-bodied white, middle-aged, cis hetero men who live in the post-secular, wealthy global north, then the products they produce are more likely to reinforce the social structures that helped people like them to dominate media and the law. By contrast, if the people behind the texts are more diverse and have license to give voice to their particular, minoritarian viewpoints, then the media products they create are more likely to challenge prevailing structures.

Questions about the status of media producers in terms of profit structure and ownership are reminiscent of Law and Literature scholarship on literary works and copyright. This type of research has been at the forefront of discussions of how changing legal conditions and definitions of literature influence one other.[40] It should now be expanded to grapple with the legal structures of a globalized and digitalized media era. I wish to push Law and Literature forward by asking practitioners to concentrate on the subjective relations to law that are co-determined by new formats for medially transmitted images and narratives, for instance digital ones.

Questions can also be posed about the role of legal actors in creating or acting in legal television, or the closeness of the depiction to what it presents. For instance, *The Wire* (2002–8) was widely praised for its verisimilitude concerning the conditions of the systemic inequality caused by urban poverty. Formal qualities like the series' use of lay actors, who spoke Baltimore English, and its reliance on only diegetic (naturally occurring) sounds, added to its documentary style. In turn, *The Good Wife* (2009–16) was praised for distorting the workings of law less than other legal procedurals. This was credited to the series' reliance on writers and producers who had had experience in internal legal culture.[41] The assumption here is that the greater the degree of referential correspondence between the depiction of law in television and its actual practice is, the better (except that no one in or outside law looks as good as Julianna Margulies in her role as Alicia Florrick). Yet valuing legal accuracy recurs to CSI related theories that assume that viewers are unable

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[39] Christian Buß, "Mr President, ich weiß, Sie müssen zurück ins Oval Office!" Der Spiegel, 12 Jan. 2018, http://www.spiegel.de/kultur/tv/david-letterman-netflix-comeback-mit-barack-obama-a-1187448.html.

[40] Work on copyright issues has been expanded by a comparative focus on the individual circumstances in which literature came to be seen as independent of the censure of law in individual legal systems, rendering censorship void. See Gillis Dorleijn, Ralf Grüttemeier, and Liesbeth Korthals Altes, *The Autonomy of Literature at the* Fins de Siècles *(1900 and 2000): A Critical Assessment* (Leuven: Peeters, 2007); Ralf Grüttemeier, *Literary Trials:* Exceptio Artis *and Theories of Literature in Court* (New York: Bloomsbury, 2016); Ted Laros, *Literature and the Law in South Africa, 1910–2010: The Long Walk to Artistic Freedom* (Madison, WI: Fairleigh Dickinson University Press, 2017).

[41] Raha Naddaf, "How 'The Good Wife' Got the Law Right: 'Don't take the easy way out, don't take shortcuts,'" The Marshall Project, 5 May 2018, https://www.themarshallproject.org/2016/05/05/how-the-good-wife-got-the-law-right.

to distinguish between fictional representations and generic framings as such and the "real thing" of law. The emphasis on accuracy discounts the role of the legal imaginary as a site for negotiating attitudes about state-centered law, other forms of "living law," and contentious cultural-legal issues.

Text Analysis: How Does the Text Function, and What Formal Means Shape the Content?

Text analysis of media artifacts asks: How is the story told and shown and what is its specific form? As I have discovered from teaching Media and Law, answering this type of question about the popular legal text at hand proves to be the most familiar aspect of the model of analysis presented here. Answering these questions is similar to conducting formalist analysis of a literary text. In the first instance, one must distinguish between the text's plot, what in narratology is called the story level of the text, and how it is told, its discourse level. Here, analysis depends on the medium in which the text is articulated. In television, this entails the interaction of visual modes, moving images as well as stills and lexical elements, as in credits, titles, and intertitles, with sound tracks. Therefore, the following basics need to be accounted for: the *mise en scène*, cinematography, light, sound, focalization, and narrative perspective.

To look at the visual and sound levels of television, I follow Jeremy Butler in advocating a process called "reverse engineering."[42] Thereby, the analyst reconstructs how a given television scene was constructed in terms of cinematography. She asks, for instance, about the number of cameras and the angles from which a given scene is shot, as well as how many shots make up the scene, and how they follow out of each other (match cuts, J-cuts, wipes). This may be easier to discern if one separates out the sound or the visual track to perform initial analysis.

In classes, I begin by doing a multimodal analysis of a series' opening credits. This can be initiated by separately analyzing and interpreting the sound and visual tracks in terms of central images, tropes, narratives, and generic conventions.[43] Opening credits invoke the conventions of horror, comedy, drama, dramedy, reality television. They tell viewers whether to expect a crime drama or a legal comedy or a police procedural or some mixture of these. They also suggest greater and lesser degrees of fictionality. Television credits are short, usually about a minute

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[42] Jeremy G. Butler, *Television Style* (New York: Routledge, 2010), 6, 10, 23; as based on David Bordwell, *Figures Traced in Light: On Cinematic Staging* (Berkeley: University of California Press, 2005), 250.

[43] For examples of this work, see my descriptions of the title credits in *Homeland* in Greta Olson, "Visual Unreliability and the Questioning of Security Measures in *Homeland*," in "Security and Visibility," special issue, *InVisible Culture* 25 (2017): n.p., and *Orange is the New Black* in Greta Olson, "Feminist Perspectives on Criminal Justice in Popular Culture," in *The Oxford Encyclopedia of Crime, Media, and Popular Culture*, ed. Michelle Brown (New York: Oxford University Press, 2017), n.p.

and a half, or less, and can be more narrative or atmospheric. A now iconic example can be found in the credits to *The Sopranos* (1999–2007). The representation of Tony Soprano's drive out of Manhattan to his New Jersey home, over bridges, through a toll booth and a variety of neighborhoods, while he is smoking a cigar, to the tune of "Woke Up This Morning" by Alabama 3 (1997), informs viewers about the protagonist's movements between his role as a mafia boss in an urban environment and his role as suburban dad. These credits are more narrative. By contrast, the series of extreme close-ups of actual inmate women's faces, as set to the music of Regina Spektor's "You've Got Time," makes for more atmospheric credits in *Orange Is the New Black* (2013–19). Shown in staccato cuts that are interspersed with images of finger-printing, barbed wire, and pay phones on a prison wall, the faces confront the viewer with the variety of women who are currently incarcerated, adding to the series' reality effect. The credits also emphasize the various practices by which a prisoner is marked as an inmate and ritualistically separated from the outside world, as she enters the prison, in what might be considered a contemporary form of branding.[44]

Further analysis of form–function elements includes taking the following steps. These are derived from film analysis and applied to television series.

1) Divide the television text into scenes.
2) Consider the setting of a scene, its *mise en scène*, and what this tells you about what you can expect to take place.
3) Consider the scene's marked elements, for instance, intertitles, unusual cuts or sounds or lighting and why these elements stand out.
4) Consider how costume and props contribute to setting the scene and furthering the action.
5) Consider how lighting affects the images. For example, how does a move away from traditional three-point lighting contribute to the action?
6) How does the acting further the story? This includes staging in the scenes and the spatial arrangement of the actors in the frame.
7) What recurring (visual) motifs punctuate the scene? Are these visual metaphors that stand in for dominant themes in the story level of the text?
8) Analyze the shots and their contributions to the scene. Start by breaking down the scene into individual shots and determine how the shots were made—from which camera angle, from which distance, and slant. Then put them together in succession and identify the kind of cut that was made between them.

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[44] See also "'Orange Is the New Black': Opening Credits Feature Real, Formerly Incarcerated Women (VIDEO)," Huffpost, 20 Aug. 2013. https://www.huffingtonpost.com/2013/08/20/orange-is-the-new-black-opening-credits_n_3786127.html?guccounter=1%26guce_referrer_us=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8%26guce_referrer_cs=QmnC6qHu8jpt0iWOkNawPw.

9) Consider the totality of the scene's formal elements and how they contribute to the larger text.[45]

An important part of television analysis includes "genre literacy."[46] Genres, such as police procedurals, have histories, evolve, comment on themselves, grow exhausted, and sometimes also renew themselves. Typically, police procedurals concentrate on crimes and the investigation thereof and stop at the moment of arrest. Plot segments include the heightening action as the investigation is undertaken, and missteps in this detective work as more crimes then occur; a crisis or confrontation with the criminal/s marks the highest point of action, and this is followed by a resolve in the arrest or failed arrest. Lawyer shows have different structures. They generally follow a case from its introduction into a law firm to its conclusion in a trial or a settlement, to comment on the controversial sociolegal issues the case brings up as well as its personal impact on lawyer-protagonists' lives.

Genre also strongly influences series' narrative arrangements. To determine a series' narrative structure, the media analyst asks from whose perspective or perspectives the story is told. Who appears to be the hypothetical person behind this story? Is the story told straightforwardly, that is, chronologically, as in *David Copperfield* (1850), beginning with childhood and ending in older age, or does it commence in the middle of the telling, *in medias res*? How is the episode's plot framed for the viewer? Quite typical in stories taking place in the past is to frame them via a conversation between people in the present, one of whom remembers the past, in a flashback as in *True Detective* (2014–15). Combining form–function interpretation with narrative analysis contributes to determining the types of messages about law that a television series is invested with, often conflicting ones. It does not, however, account for how media users negotiate these forms and meanings.

Not paying enough attention to the formal arrangements of the television text sometimes results from the simplistic assumption that television does not have a style.[47] Yet individual style informs a series' content and contributes to its effects, including viewers' felt sense of sociolegal issues. In summary, "Form-related interpretation constitutes an effective type of political analysis, and narratological concepts and models can be used to articulate the form-function specifics of complex political situations so as to better understand them."[48] The same holds true for instances of "popular legality."

[45] Adapted from David Bordwell and Kristin Thompson, *Film Art: An Introduction* (New York: McGraw-Hill, 2010), 184–9.
[46] Chandler Harriss, "The Evidence Doesn't Lie: Genre Literacy and the CSI Effect," *Journal of Popular Film and Television* 39, no. 1 (2011): 2–22, 5.
[47] See Butler, Television Style.
[48] Greta Olson and Sarah Copland, "Towards a Politics of Form," *European Journal of English Studies* 20, no. 3 (2016): 207–21, 214.

Ethnography: How Do Audiences Interact with Media?

In the sense I am using it, "ethnography" involves analyzing media users' habits, often by observing how they interact with media. Asking how individuals and groups experience media is a move away from a linear model of cultivation. This is to follow Stuart Hall in understanding that audiences are not neutral in terms of the ideological commitments that inform media artifacts. Rather, audiences can resist the dominant, hegemonically infused messages of a given television text, negotiate them, or have reactions consistent with these messages, in "preferred readings."[49]

A response-oriented ideological critique is necessary to comprehend how individual and group interactions contribute to an affectively experienced sense of legal identity. As discussed in the previous chapter, depending on one's position in a given legal environment, one experiences oneself as being before, or with, or against the law.[50] Such experiences determine people's sense of the legitimacy of the legal and their responses to it. Therefore, not only does ethnographic analysis need to be added to work on law as a cultural process, but so does intersectionality theory, which notes that categories of identity concerning, for instance, gender have to be seen as conjoined with other categories including race and ethnicity, class, religion, and sexuality. Taking account of how individuals are raced, gendered, classed, and categorized as abled or disabled in multiple, overlapping ways helps to understand how they are placed in and engage with their respective legal environments and the medial expressions of that environment in popular legality.[51]

Like work on legal consciousness, intersectional analysis helps us come to grips with differences of experience and perspective within a given legal order. Individuals will have more or less negotiated relationships to legal television, subject to their cohort's positioning within the legal environment and their own individual *Rechtsgefühle*.

Taking audience participation seriously is vital to determining how a given text interacts with viewers' legal identities. Does this interaction produce an alternative normative order, as in the legal pluralistic work that Law and Literature(s) can perform more generally? Is this interaction more likely to support dominant sociolegal narratives or to negotiate with them? Ethnographic work also accounts for the modes in which people interact with media. Do they binge-watch series or watch them in isolated episodes? Do they watch *Criminal Minds* or *How to Get*

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[49] Stuart Hall, "Encoding and Decoding in the Television Discourse," in *Culture, Media, Language*, ed. Stuart Hall, Dorothy Hobson, Andrew Lowe and Paul Willis (London: Hutchinson, 1980 [1973]), 51–61, 57.

[50] Patricia Ewick and Susan Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998); Susan Silbey, "After Legal Consciousness," *Annual Review of Law and Social Science* 1 (2005): 323–68.

[51] Olson, "Intersections of Gender and Legal Culture."

Away with Murder at home, as was once always the case, or in public on laptops or mobile phones? Do they comment on content in online forums as they watch? Do they give pushback to media producers about what they want to see as in vehement audience responses to *Game of Thrones*? Nuanced work on media challenges theories about the Americanization of television law by pointing out that viewers interact variously with programming on local levels. Audience members can interpret series that are intended to be highly dramatic quite ironically, also in terms of their perceived, sometimes humorous and over-the-top Americanness.[52]

Comparative Case Studies of Similar Television Series: An Argument for Cultural and Systemic Specificity

I want to demonstrate how the model I have just presented works in practice, and what kind of general ideas about law and subject identity can be garnered through performing this type of analysis. I compare two virtually identical generic types of series to show how they interact with their legal settings in radically different ways. In the case of the courtroom shows, I concentrate more on *Judge Judy* as the best known of the series discussed here, and, for reasons of balance, on *Danni Lowinski*, as an instance of the single-women lawyer dramedies. Simultaneously, this is an argument for contextualization and analytical specificity.

Case 1. *Judge Judy*'s and *Richterin Barbara Salesch*'s Contrasting Legal-Ideological Projects

Courtroom shows (see Figure 2.2) have been said to be "*cultural* legal text[s]" that have more impact on their viewer than "*official*" legal texts do, due to their enormous popularity.[53],[54] They are products both of the 1980s introduction of "reality television" formats and of decisions such as the Supreme Court decision *Chandler et al. v. Florida* (1981), which overruled *Estes v. Texas* (1965), and allowed states

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[52] Ien Ang, "Television Fictions Around the World: Melodrama and Irony in Global Perspective," *Critical Studies in Television* 2, no. 2 (2007): 18–30.

[53] This section reviews and expands on my analysis of women judge shows; see Olson, "Intersections of Gender and Legal Culture"; Greta Olson, "Recht und Moral in TV-Gerichtsshows mit vorsitzenden Richterinnen: Judge Judy und Richterin Barbara Salesch," in *Recht und Moral. Zur gesellschaftlichen Selbstverständigung über „Verbrechen"vom 17. bis zum 21. Jahrhundert. Schriften zur Literaturwissenschaft*, ed. Hans-Edwin Friedrich and Claus-Michael Ort (Berlin: Duncker & Humblot, 2015), 476–506.

[54] Steven Kohm, "The People's Law versus Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV," *Law & Society Review* 40, no. 3 (2006): 693–725, 694. Emphasis in the original.