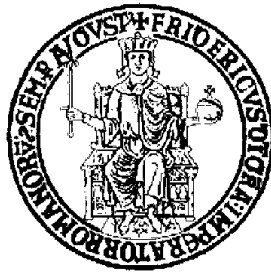


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Legal drama and popularization: a macro and micro-linguistic analysis
of the genre

CANDIDATO:

dott. ADRIANO LAUDISIO

RELATORE:

prof. PAOLO DONADIO

COORDINATORE:

prof.ssa GABRIELLA DI MARTINO

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INTRODUCTION

1.1. Premises, research questions and objectives

In a society where rhythms are getting more and more hectic and objectives more and more ambitious and where technology and science are moving forward faster than the human mind can follow, the need to spread knowledge in an efficient way has become impelling. Whether it concerns medicine, science, technology, finance, business or simply leisure activities, the demand to circulate knowledge about new products and new forms is growing day after day.

Consequently, the means whereby, and the contexts in which, doors are opened to novel knowledge have grown in both number and quality. The pivotal role of technology and media in the popularization of knowledge is undeniable, with radio, TV and Internet allowing us to stay up-to-date 24/7. The media have adapted to these new needs by fulfilling their two main functions, to inform and to entertain, in a combined way: *infotainment* genres have emerged and are now developing and spreading, making it possible to catalyze information by means of entertainment and therefore attracting a wider audience. Likewise, entertainment can benefit from information, since some entertainment forms are perceived as innovative and more attracting if they involve new contexts, new contents, unexplored realities and take the audience to the discovery of worlds only known from the outside. This, of course, can be done with the (unavoidable) mediation of the filter represented by the *fiction* element.

Even genres which are traditionally only considered to be entertainment, like TV series, have proved to adapt to the current need to create hybrid forms blending information with entertainment. In particular, this trend is embodied by TV series based on specialized contents and professional backgrounds.

The recent interest in research in these forms of entertainment based on professional expertise witnesses their growing importance in today's society. In her seminal work on FASP (*Fiction à Substrat Professionnel*), for instance, Isani (2004: 28) provides an insightful overview of the main forms of novel fiction based on specialized professions and also sees in medical and legal drama the two forms enjoying the most considerable success among the general audience.

It is against this background that this research project aims to explore a genre with mainly entertainment purposes, but built on the knowledge of specialized concepts and procedures such as those of the US law: legal drama. TV series based on fictional reproductions of courtroom activities *per se* are not a novel genre, but it can be said that they have undergone a process of radical transformation, gradually moving from a clearly fictionalized, standardized and predictable narrative of an always-winning lawyer's deeds to an almost documentary representation of courtrooms.

More specifically, the focus of this research is on the way the knowledge mediation function of legal dramas is reflected in the language used.

The first aim of this investigation is to confirm a basic truth without which the whole linguistic analysis loses its meaning:

1) Can TV series be a means to popularize scientific, technical or specialized knowledge?

The corpus of legal dramas collected will be analyzed with the purpose of identifying to what extent knowledge about the United States law, the legal profession and the American courtroom procedures is mediated to the non-expert audience through legal dramas.

2) If so, how do they do it?

Once the basic assumption above has been confirmed, a subsequent analysis of the way language can be exploited is needed: what strategies do the authors of legal drama use to convey specialized knowledge to a non-expert audience? What devices do they use to reproduce and represent the trial phases? Are these strategies a faithful reproduction of the way language is used in real courtrooms?

3) What effects does the popularizing aim of specialized TV series have on the language used in them and in the way they are structured?

This last question arises as a consequence of the previous one: if specialized knowledge has to be transmitted to the audience through language, what is the relationship established between language and knowledge communication? On a wider level of analysis, reflections are also needed on legal drama as a hybrid form between the entertaining and the specialized/popularizing genre, with a focus on the way its duality of purposes affects its generic features.

1.2. Outline

Chapter 2

In order to answer the questions driving this research, I have collected and analyzed a corpus of texts made of selected scenes from three legal dramas: *The Good Wife*, *Suits* and *Boston Legal*. Chapter 2 describes in detail the features which distinguish the three legal dramas from each other but most importantly puts in evidence what they have in common and makes this corpus potentially representative of the whole genre. Then, the plots of the three series are summarized and the main characters are introduced. This preamble is necessary for a complete understanding of the linguistic analysis of the excerpts drawn from the corpus and in particular to have personal and power relationships between the characters and the context of communication clear in mind.

The modalities of analysis of the corpus are then explained, with particular attention to the most significant literature produced so far on the linguistic strategies of popularization in other genres and in other communicative contexts. This overview helps build the methodological framework of reference for the analysis of the scenes, since in the micro-linguistic analysis of Chapter 6 the same strategies are spotted out in legal dramas, demonstrating that they can be compared to other traditional genres intended to popularization.

Chapter 3

expanded in Chapter 3, which introduces the reader to the of Knowledge Communication in general. The overview

starts with the description of the concept of Knowledge Communication both as a process and as an independent discipline: in the first case, the attempts of many scholars have been collected, who tried to provide a satisfying definition of the process (Kastberg 2011a, 2011b; Engberg 2009, Eppler 2006).

A fairly different perspective is adopted in the analysis of the communication process as a device of knowledge transfer, gathering the different viewpoints of those who dealt with it in the past years (Bühler 1934, Lasswell 1948, Shannon and Weaver 1949, Bryant and Wallace 1947, Schramm and Osgood 1954, Dance 1967, Kincaid 1979, Roelcke 1994). This overview in a diachronic key aims to emphasize that the conception of communication as a linear exchange from a sender to a receiver is reductive and that it actually requires a mutual exchange between the interactors, namely a necessary feedback and mutual construction (*convergence*).

As they are the element catalyzing the communication of knowledge, the focus is shifted to Knowledge Asymmetries, in order to underline that the gap in the interaction between the expert sender/producer and the less expert or lay receiver is not to be seen as a hindrance to Knowledge Communication (Kastberg 2011a, 2011b). An excursus on different types and different contexts for Knowledge Asymmetries aims to provide a definition which encompasses their main features (Günthner and Luckmann 2001, Alrøe and Noe 2011, Jacobsen 2012, Risku et al. 2011).

The scope is finally narrowed down to popularization as a specific form of Knowledge Communication. Starting from the first theoretical reflections on the phenomenon and its linguistic expression, all the main attempts to classify specialized texts according to their level of specialization have been collected (Cloître and Shinn 1985, Hilgartner 1990, Bucchi 2008). This diachronic insight into popularizing genres allows to come to the conclusion that no clear distinction can be made between specialized and popular genres, underpinning the view of legal drama as a *trait d'union* between information and entertainment. An ultimate definition of popularization is finally provided (Whitley and Shinn 1985, Calsamiglia and van Dijk 2004), which is not limited to the merely linguistic expression, but includes the whole communicative context concerned, seeing popularization also as a form of recontextualization (Linell 1998).

This focus on popularization as a form of Knowledge Communication triggered by Knowledge Asymmetries provides a tool to a deeper understanding of the dynamics behind the conversations taking place between the characters of the legal drama: when the (fictional) interaction takes place between an expert and a lay person (for example lawyer and client), language is modified in function of the Knowledge Asymmetry between the two and is driven by the speaker's intention to communicate knowledge. It is also important to underline that feedback from the interactor is necessary and that feedback cannot be obtained if the message is not expressed in a form which is suitable to the interlocutor's competence.

Moreover, as all the interactions are based on principles of US law, courtroom procedures or similar themes, and as most of them are set in a courtroom or in law firms, all the elements making up the context of the communication can be deemed fundamental. It must also be borne in mind that the excerpts analyzed, though realistic, are a fictional product and that the trial and all the interactions presented are the outcome of the recontextualization of a specialized genre within an entertainment genre.

In fact, it is to the *genre* perspective that Chapter 4 is dedicated. Given the premise that popularization does not only consist in linguistic choices and strategies of adaptation to the less expert receiver, but can also be expressed by the *recontextualization* of a specialized genre in a new context, an analysis of legal drama as embedding *real* legal genres is required. It is my opinion, in fact, that an analysis of the popularization through legal drama would be incomplete if it were limited to a micro-linguistic analysis of the strategies used by expert speakers and if it did not take in consideration that the fictional reproduction of the genre is itself part of the process transferring knowledge to the audience.

Chapter 4 sets off from the definition of the concept of *genre* it dismantles the traditional view of genre as stable and easily defined (Todorov and Berrong 1976), but sees it as connected to speech events (Hymes 1974) and to their typification (Bakhtin 1986, Miller 1984). A definition of *genre* is finally provided on the basis of its main features (Berkenkotter and Huckin 1993) and from the perspective of Systemic Functional Linguistics (Halliday 1978) and of English for Special Purposes (Swales 1990, Bhatia 2004).

In particular, the Critical Genre Analysis proposed by Bhatia (2004a) is taken as framework of reference for the definition of legal drama as a genre. The analysis developed in Chapters 5 and 6, in fact, does not only take in consideration *text-internal* factors (textual, such as vocabulary and morpho-syntax, intertextual and contextual), but also *text-external* factors, which include disciplinary culture, disciplinary procedures and discursive practices.

It is also on the basis of Bhatia's theories that legal drama is defined a *hybrid* genre: the fictional frame and the episodic structure of the TV series (typically an entertainment genre) is used as a template to give expression to other genres, in this case all the specialized genres included, such as the various phases of the trial or the different interactions between the characters.

After analyzing the concept of genre and of genre hybridity from a Media Studies perspective as well (which includes other factors, such as audience pleasure and the economic motives), an overview of legal drama as a genre is finally provided, focusing on its history, its structure and its function. This specific focus underpins two fundamental hypotheses formulated in this research:

- 1) that contemporary legal dramas (belonging to what Villez 2005 calls *third phase*) tend to a representation of courtroom which is as realistic as possible;
- 2) that legal dramas can be a means of transmission of knowledge, as research showed they can be exploited in language learning contexts (Isani 2004, 2006a, 2006b, 2010, Chapon 2013, O'Connell 2011, 2012).

Chapter 5

Chapter 5 opens the analysis of the collected data, focusing on the definition of legal drama as an example of *genre embedding* (Bhatia 2004a). I refer to this part as *macro-linguistic analysis* because it essentially consists in a comparison between the main discursive features of the legal genres included in legal drama and those that were identified in *real* examples of such genres.

It sets out with a comparative analysis of each trial phase (opening statements, witness examinations, closing arguments, jury instruction, verdict etc.) as independent legal genre reproduced and embedded in legal drama, but also includes the analysis of the different kinds of

judge-lawyer, lawyer-lawyer) and those between an expert (expert-client). The latter are particularly useful as they stage a situation in which the knowledge asymmetry favors the explanation of a specialized principle to the audience; the former, instead, underline the importance of the persuasive intention in this kind of interactions and can also contribute to an analysis of power relationships between the interactors.

Chapter 6

The final section of this work is a micro-linguistic analysis aimed to provide a complete answer to the research questions. The popularization strategies observed in literature and collected in Chapter 2 (explanation, definition, reformulation, scenarios, metaphors etc.) are also found in the legal drama corpus: scenes from the three TV series have been selected and commented to bring evidence their popularizing function.

Moreover, this section includes some further strategies observed in legal drama which are typical of this genre, such as the shift from the narrative to the paradigmatic mode (Heffer 2005) or the crime + punishment pattern. Particular attention is given to the concepts and legal procedures which are explained directly by their staging (*concrete realization*).

CORPUS AND METHODOLOGY OF ANALYSIS

2.1. Corpus

For the purposes of this research, presented in the Introduction, a corpus has been collected which might be representative of legal drama as a genre and large enough to allow for an investigation of its linguistic aspects, to find examples of interactions exploited as means of a popularization of specialized knowledge and to grant a certain degree of regularity of the strategies and the patterns identified.

Practical reasons led me to choose only TV series which could be easily accessed via internet streaming and in particular, whose subtitles and/or scripts could be easily downloaded from the internet¹. A sample check of the fan-made subtitles downloaded allowed to verify that they were in almost 100% of the cases a simple written reproduction of the whole scripts played by the actors, and not edited versions conforming to the rules of subtitling, such as reading speed and constraints in the number of types displayed. Anyway, all the scenes analyzed in this work faithfully reproduce the words pronounced by the actors in the video. The video and the subtitles/scripts of the three legal dramas selected, *The Good Wife*, *Suits* and *Boston Legal*, were fully available online.

The three series were also chosen on the basis of other common criteria:

- 1) they are all produced and set in the United States;
- 2) they are more or less contemporary and were all produced in the last 15 years (*Boston Legal* aired from 2004 to 2008, *The Good Wife* has aired since 2009 and *Suits* since 2011);
- 3) they were successful both to the critics~~ø~~ and to the audience~~ø~~s eyes.

Further details on each of the series are given in the next sub-sections.

The scenes have been selected while watching the three TV series and according to some specific criteria:

- 1) the interaction takes place in a courtroom, in a legal office or in any other place destined to the resolution of a lawsuit;
- 2) the interaction takes place between two experts of law (judge, lawyer~~í~~), or between an expert and a non-expert character (jury member, client, witness);
- 3) the conversation includes references to legal concepts and procedures or to lawsuits which are the focus of the episode.

All the other scenes have not been included in this analysis.

The scenes included in the compiled corpus have been read again and manually analyzed, taking notes of the focal points in which specialized contents were reformulated in favor of the audience~~ø~~s comprehension. Each of these scenes has then been ~~tagged~~ on the basis of the popularization

¹ The main source for the subtitles is <http://www.opensubtitles.org/it>.

The difference between fan-made subtitles (especially their translations and adaptations in other languages) and the script has recently been the subject of one of my investigations (Laudisio, forthcoming b, presented at the International Conference *Linguistic and cultural representation in audiovisual translation*, Rome, 11-13 February 2016).



identified and classified according to a classification built on
arse and popularization strategies used in other genres,
which can be found in Section 2.2. This procedure also allowed to identify and tag some further
popularization strategies which were not observed in the previous literature and which are therefore
considered typical of the genre here in analysis.

2.1.1. *The Good Wife*



*Peter: When I get out, it will all go back to normal.
Alicia: Nothing will ever go back to normal.
(The Good Wife, 1x01)*

The plot and the characters

The Good Wife is a legal drama set and produced in the United States of America by Michelle and Robert King, broadcast on the US TV channel CBS since September 22, 2009 and still on air today².

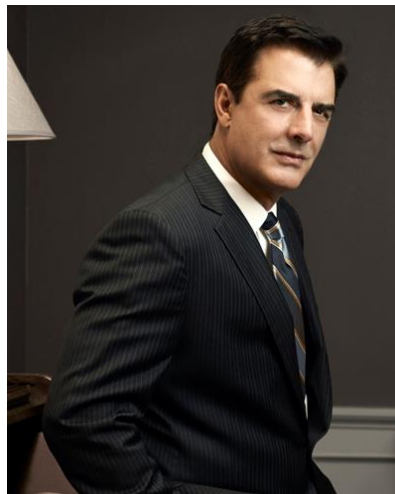
It can be considered a third phase legal drama (Villez 2005, see 4.4.1.), featuring many characters and representing the legal profession in a mainly realistic way. It is heavily serialized (see 4.4.2.), with many story arcs that carry over several episodes, but also stand-alone procedural story lines that are resolved or concluded by the end of each episode. For this reason, *The Good Wife* is a rarity among CBS's shows, which tend to be procedural³.

² Last update: March 31, 2016. The finale of the last and seventh season is planned for airing on May 8, 2016.

³ <http://articles.latimes.com/2013/mar/13/entertainment/la-et-ct-good-wife-20130313>. Last access: March 06, 2016.

Alicia Florrick, played by the Emmy Award winner actress Julianna Margulies, is a lawyer who is involved in a corruption and prostitution scandal involving Alicia's husband Peter Florrick (Chris Noth), who resigns as Cook County, Illinois State's Attorney and is jailed. Therefore, after having spent thirteen years as a stay-at-home mother, Alicia returns to her old job as a litigator to provide for her two children, the 14-year-old Zach (Graham Phillips) and Grace, aged 13 (Makenzie Vega).

One of the authors of the series, Michelle King, explained that the series was inspired by some American political and sex scandals such as those involving Dick Morris, Eliot Spitzer, John Edwards and Bill Clinton, and showing a husband apologizing and a wife standing next to him. In particular, Alicia was inspired by the "good wives" Hillary Clinton and Elizabeth Edwards, both lawyers, who supported their husbands during the scandals⁴.



Chris Noth as Peter Florrick in *The Good Wife*

Season 1

After being publicly humiliated for the sex scandal involving her husband Peter Florrick, Alicia is hired by one of the most prestigious law firms in Chicago (where the drama is set), thanks to her longtime friend and former law school classmate Will Gardner (Josh Charles), who is one of the partners of Lockhart, Gardner & Sterne (later Lockhart-Gardner) and is interested in rekindling their former relationship. However, Alicia is put in a trial period in competition with a young and ambitious lawyer, Cary Agos (Matt Czuchy) because the firm can only award one full-time associate position. While Will supports Alicia, the other firm partner, Diane Lockhart (Christine Baranski) seems to be inclined to hire Cary. At the end of the first season, however, Diane Lockhart is persuaded by the quality of Alicia's work and her connections, so she and Will award Alicia with a full-time associate position, whereas Cary takes a job in the State's Attorney's office, becoming Alicia's rival in most lawsuits.

Alicia finds an ally and a friend in Kalinda Sharma, the firm's mysterious in-house investigator, and transforms herself into a self-confident career woman.

The season closes with Peter being released, going back home and planning to run for office again with help from Eli Gold, his image consultant and crisis manager⁵.

⁴ <http://www.bitterlawyer.com/the-good-wife-non-lawyers-behind-that-lawyer-show/>. Last access: March 06, 2016.

⁵ www.cbs.com/shows/the_good_wife. Last access: March 06, 2016.

In the second season, Will and Alicia feel increasingly attracted to each other and are close to engaging in a secret affair, though Alicia's husband, Peter, is back home with her and is running as State Attorney against current State Attorney Glenn Childs. Peter's campaign manager Eli Gold finds it out by listening to a voicemail from Alicia's phone in which Will talks about their secret affair and deletes it. Therefore, Alicia thinks that Will doesn't want to start a secret relationship with her and suppresses her feelings for Will. From this moment on, the workplace environment becomes awkward when they are in vicinity of each other. Moreover, Cary has been hired as a State attorney and Lockhart-Gardner often find him battling against them in court.

In the meantime, at Lockhart-Gardner, Derrick Bond is made the new partner, and he sides with Will in a feud against Diane. A new investigator, Blake Calamar, is brought to the firm by Bond and he investigates on Kalinda's past, while Kalinda investigates on Will and Derrick's. Blake discovers that Kalinda had changed her name from Leela and that she had slept with Peter Florrick when she used to work for him in the State attorney's office. Alicia finds out about their affair and is disappointed by both Kalinda and Peter; she separates from Peter and begins to have sexual relations with Will.

Will finally discovers that Bond was deceiving him, so he and Diane work together to remove him as a main partner.

Season 3

Alicia is now a third year litigator and is on track to become partner while having an affair with her boss Will. Moreover, Peter Florrick's crisis manager, Eli Gold, joins the firm to prepare for Peter's campaign for Governorship of Illinois, with the aim of using Alicia acts as a bridge between Lockhart-Gardner and his campaign. Cary accepts to join Lockhart-Gardner again, but he will be working as first-year associate again.

Lockhart-Gardner begins to get a short-term liquidity problem. Diane tries lobbying to become the States Attorney's Civil Defender and she begins to suspect the affair between Will and Alicia. By the half of the season, however, Alicia interrupts her affair with Will because she feels she is putting her needs before those of her children.

The second half of the season focuses on Will Gardner being indicted for a crime he committed in his old law firm and being suspended for six months. In the meanwhile, something else is discovered about Kalinda's past when her ex-husband Nick Savarese turns to Lockhart-Gardner as a client to threaten her.

Season 4

Season 4 focuses on Lockhart-Gardner trying to come out from bankruptcy after rival lawyers Louis Canning and Patti Nyholm team up to take them down. A trustee, Clarke Hayden, is appointed to watch over the firm, but Will and Diane are not happy once he starts getting in their way. Trying to gain money, the firm offers partnership to some associates, among which Alicia and Cary, because they need their initial payment. When the debt is cleared, Alicia is the only one to be made partner.

ther fourth-years to start a new firm. Meanwhile, Peter in leading his campaign, although things get complicated

when he finds out he is being investigated.

In the meanwhile, Nick Savarese is threatening people in Kalinda's life and she needs to get rid of him. The firm also hires a new investigator to help her at work: Robyn Burdine.

Alicia suppresses her feelings for Will and is back with Peter, who wins the race as Governor of Illinois. At the end of the season, Alicia decides to quit Lockhart Gardner and join Cary Agos in forming a new firm.

Season 5

Alicia, Cary and the other fourth-year associates are opening a new firm and try to poach some of Lockhart/Gardner's clients.

Marylin Garbanza, Director of the Governor's Ethics Commission, endangers Peter's governorship. Moreover, the investigation of a ballot box, full of fake votes for Peter, may ruin his career.

During a trial in courtroom, Will Gardner is fatally shot by his client and dies. Will's sudden and early death brings Alicia, Diane and Kalinda to reconsider the course of their respective careers. Alicia decides to split up with Peter but will stay married in the public eye, as it benefits both of their careers. Ex-rival Louis Canning joins Lockhart Gardner as a partner, but he sides with the firm's partner David Lee (Family Law) to kick Diane out. The new ASA Finn Polmar becomes Alicia's friend. At the end of Season, Diane joins the new Florrick-Agos with her 38 million dollars in clients and Eli asks Alicia if she would run for State's Attorney, which she will do in Season 6.⁶

Main characters

1. Alicia Florrick (Julianna Margulies)



After spending more than ten years as 'the good wife', Alicia finds herself at the bottom of the career ladder and at the same time has to deal with the ongoing scandal surrounding her husband Peter, and her children. Throughout the series, she proves to be more than just a 'good wife', she is a good lawyer, a good friend, a good mother. Thanks to her intelligence, to her excellent ability at

⁶ https://en.wikipedia.org/wiki/The_Good_Wife. Last access: March 06, 2016.

With her words for maximum impact⁷ she soon becomes an attorney, starting her own firm with Cary and finally running for State's Attorney. On the private side, Alicia often finds herself divided between mind and heart: she stands by Peter's side during the scandal, though she is deeply hurt and deceived. When she separates from Peter, she has a sexual affair with Will but she breaks it off and she is torn between Peter and Will.

After Will's death, she goes into a period of mourning and definitively separates from Peter, once again maintaining their marriage for the sake of their careers.



2. Will Gardner (Josh Charles)

Will is a named senior partner at Lockhart-Gardner; despite some periods of crisis and internal conflicts, he holds his good working relationship and friendship with Diane Lockhart, his co-managing partner at the firm. He puts the firm in trouble because of his habit of playing basketball with some judges, since he has friendships with the players that are being investigated for corruption. For this reason, during Season 3, he is suspended from practicing law for six months.

Though the constantly returning feelings for Alicia, throughout the series Will has various love affairs and girlfriends. Despite rarely admitting to it, he deeply loves Alicia and he takes Alicia's departure from Lockhart-Gardner as a personal betrayal.



3. Diane Lockhart (Christine Baranski)

⁷ https://en.wikipedia.org/wiki/The_Good_Wife. Last access: March 06, 2016.

the firm. She is liberal and has strong opinions on many ns and violence. Nonetheless, she engages in a romantic relationship with a conservative ballistics expert, Kurt McVeigh, whom she eventually marries. Although initially skeptical of Alicia Florrick's abilities, Diane becomes a sort of mentor to her.



4. Cary Agos (Matt Czuchy)

Cary is a young Harvard-educated lawyer who enters into competition with Alicia since the first episode. After Will and Diane prefer Alicia, Cary goes to work for the State Attorney's office. The rivalry with Alicia is strengthened by the current State's Attorney's (Glenn Childs) competition with Alicia's husband Peter Florrick. In season 3, after being appointed Cook County Deputy State's Attorney, he accepts an offer to return to Lockhart Gardner.

Similarly to Will, Cary is shown as a playboy and has various girlfriends. Among these, he has an initial crush on Kalinda Sharma, the firm's investigator, which later evolves in a complicated secret affair, which Kalinda often exploits to get information from Cary, as her usual.

After being disappointed for not getting the partnership at Lockhart Gardner he forms a new firm with Alicia: Florrick-Agos.



5. Kalinda Sharma (Archie Panjabi)

Kalinda, Lockhart-Gardner's in-house private investigator previously worked for Peter Florrick, with whom she had slept. She is mysterious, inscrutable, cynical and occasionally physically violent. She is exceptionally good at her job, although her tactics are not always strictly legal, and she often finds evidence which overturn the outcome of the cases.

little is known about Kalinda; her past life and her true six seasons. For example, the audience discovers that she

is bisexual and has a series of relationships with women, which she exploits to be helped with her investigations. Her true identity as Leela is revealed by Blake Calamarø's investigations in the second season, while her past is revealed when her abusive husband, Nick Saverese, finds and threatens her. She is always faithful to Will and Diane and becomes Aliciaø's good friend, though Alicia finds out her past story with Peter. She also grows romantically close with Cary and in order to save him from a malicious prosecution on drug-related charges, she fakes a "Brady violation" through computer hacking to have Caryø's charges dropped; she disappears for her own safety in Season 6, after setting up drug dealer Lemond Bishop.



6. Eli Gold (Alan Cumming)

Eli Gold is introduced into the series as Peter Florrickø's campaign strategist, image consultant and crisis manager. His style of management is blunt, often rude, and his ambition acts as driving force for Peterø's success. In particular, he always struggles to secure Aliciaø's support to Peterø's campaigns. He gradually becomes one of the central characters of the drama, whose private life is also staged, but is rarely directly involved in the cases discussed by Lockhart-Gardner or by the Stateø's Prosecution.



7. David Lee (Zach Grenier)

Similarly to Eli Gold, at the beginning of the series David Lee is only one of the many recurring characters. He is a divorce lawyer and an equity partner at Lockhart-Gardner, where he is the Head of the Family Law division. David is misanthropic, often sarcastic and rude, and more than

ing money. The Family Law division is responsible for a , so David has more sway than Diane or Will would like and is often involved in the firm's internal fights.

The recurring characters also include some of the firm's clients, like the drug dealer Lemond Bishop, whom Diane and Will accept to represent because of his money and with the initial intention to only defend his legitimate business interests, the bizarre, disturbing and repugnant Colin Sweeney, who is accused more than once of killing women he is involved with and is attracted to Alicia, and Neil Gross, founder of the successful research engine Chumhum.

Critical reception

As announced by the presence of a client who is an expert of technology (Neil Gross), *The Good Wife* often deals with themes connected to new generation technology: it explores the relationship between technology and the law, including topics such as the digital currency Bitcoin, Anonymous, viral marketing and videos in political campaigns and NSA surveillance. For this reason, the series was described by Clive Thompson of *Wired* as "the most tech-savvy show on TV"⁸. Moreover, *The Good Wife* has received significant praise for facing social, political and law themes.

In general, the show has also received critical acclaim for its quality, testified by prestigious awards, such as five Emmys and the 2014 Television Critics Association Award for Outstanding Achievement in Drama. Julianna Margulies's performance as Alicia Florrick was particularly praised and awarded with a Golden Globe for Best Actress in Television Series Drama in 2010 and two Primetime Emmy Awards for Outstanding Lead Actress in a Drama Series, in 2011 and 2014.

In total, the series and its cast have been nominated for 35 Primetime Emmy Awards in its first five seasons.

Metacritic rated the second and sixth seasons with 89 points out of 100, indicating "universal acclaim"⁹. The show was named among the Top 10 TV series of 2010 and 2011 by the *Time Magazine*¹⁰ and was ranked No. 3 of 2011 by the *Salt Lake Tribune*¹¹. In 2013, *TV Guide* included *The Good Wife* among the "60 Best Series of All Time"¹².

The audience has also welcomed *The Good Wife* with enthusiasm: the first two seasons were viewed by more than 13 million people in average, ranking up to No. 16 in the most viewed TV shows. The sixth season (2014-2015) globally ranked at No. 22, with more than 12 million viewers¹³.

2.1.2. Suits

⁸ <http://www.wired.com/opinion/2013/09/screen-smarts/> Last access: March 06, 2016.

⁹ <http://www.metacritic.com/tv/the-good-wife/season-2>, <http://www.metacritic.com/tv/the-good-wife/season-6>. Last access: March 06, 2016.

¹⁰ http://www.time.com/time/specials/packages/article/0,28804,2035319_2034052_2034042,00.html; http://www.time.com/time/specials/packages/article/0,28804,2101344_2101126_2101135,00.html. Last access: March 06, 2016.

¹¹ <http://www.sltrib.com/sltrib/lifestyle/53068700-80/family-drama-friday-2011.html.csp> Last access: March 06, 2016.

¹² <http://www.tvguide.com/news/tv-guide-magazine-60-best-series-1074962/> Last access: March 06, 2016.

¹³ <http://tvbythenumbers.com/2010/06/16/final-2009-10-broadcast-primetime-show-average-viewership/54336>; <http://deadline.com/2015/05/2014-15-full-tv-season-ratings-shows-rankings-1201431167/>. Last access: March 06, 2016.



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*Harvey: The only time success comes before work is on the dictionary.
(Suits)*

The plot and the characters

Suits is a legal drama set and produced in the United States of America, written by Aaron Korsh. It was broadcast for the first time on the cable network USA on June 23, 2011 and is still scheduled on TV today, with a sixth season coming in 2016.

Like *The Good Wife*, it is a shining example of the third-phase legal drama, since it blends the legal profession with the characters' private lives and the intrigues of the firm in which they work.

Season 1



Patrick J. Adams as Mike Ross in *Suits*.

The pilot episode shows the incredibly talented college dropout Mike Ross (Patrick J. Adams) trying to run away from some policemen after being unconsciously involved in an illicit drug traffic by his best friend Trevor.



Gabriel Macht as Harvey Specter in *Suits*.

He is noticed by chance by one of the most successful lawyers in town, Harvey Specter (Gabriel Macht), who is looking for a new associate. Harvey decides to hire him despite Mike has never actually attended law school because of the boy's natural intelligence and eidetic memory: he is able to learn by heart and remember everything he reads only once. In fact, he makes a living taking the test for the admission to law school for others. The problem is that the boss at Pearson-Hardman, Jessica Pearson (Gina Torres), has imposed Harvey to hire a Harvard educated lawyer.



Gina Torres as Jessica Pearson in *Suits*.

From this moment on, the series focuses on Mike and Harvey trying cases for the firm while maintaining Mike's secret.

While working at the law firm, Mike meets the lawyer Louis Litt (Rick Hoffman) who is in competition with Harvey and tries to get Mike in trouble, and Rachel Zane (Meghan Markle), the firm's paralegal, with whom he gradually starts a friendship, which will later evolve into a love affair.



Rick Hoffman and Meghan Markle as Louis Litt and Rachel Zane respectively in *Suits*.

Mark helps Rachel study for the LSAT and despite the growing intimacy between them, he hides the fact that he used to take the LSAT for the others and that he did not graduate. Then he forgives Trevor for setting him up and helps him stop dealing marijuana but at the same time he falls in love with Jenny Griffith, Trevor's girlfriend.

Season 2

Jessica Pearson finds out that Mike has not attended the law school, but she lets him work at the firm, which is going through a bad patch: the co-founding partner Daniel Hardman (David Costabile), who had never appeared during the first season, returns to the firm after a five-year-long absence and wants to take revenge of Jessica and Harvey. He disagrees with Jessica's management of the cases and wants to challenge her for the position of managing partner.



David Costabile and Sarah Rafferty as Daniel Hardman and Donna Paulsen respectively in *Suits*.

Pearson-Hardman is charged with fraud and Harvey is personally charged with burying evidence. Harvey's secretary Donna Paulsen (Sarah Rafferty), who is secretly in love with him, finds and destroys the evidence buried by Harvey and for this reason is fired from the firm. Donna's sentiment for Harvey is discovered during a mock trial organized by Zoe Lawford, one of Harvey's



Louis Litt takes the role of the counterpart and asks Donna to pass her business examination.

Louis Litt is promoted to senior partner and has the deciding vote in the firm's future. Harvey tries to convince him to support Jessica, while Daniel Hardman tries to convince him that he is not the same person he was in the past. Hardman finally wins the partners' vote, including the vote from Louis, and replaces Jessica as managing partner.

Meanwhile, Donna returns to the firm, Rachel passes her LSAT and Mike's only relative, his grandmother, dies.

Daniel and Louis make Harvey and Mike's work lives miserable, but the two are able to find some evidence of Hardman embezzling the firm's money with the complicity of his ex-lover Monica Eton. They also prove that he set up Donna, Harvey and Jessica, so Hardman is finally fired.

Mike wants to live his love with Rachel, but she asks him to wait. When she changes her mind and goes to his apartment, she finds him in bed with Mike's first love Tess, who is now married.

In the meantime, Harvey wants to celebrate Hardman's dismissal with Zoe Lawford, with whom he is growingly falling in love, but finds out that Zoe's brother has just dropped off his daughter on short notice.

After returning in the managing position, Jessica makes up a hiring freeze and does not allow Louis to hire a Harvard-educated law to avoid that someone could reveal Mike's Harvard secret. Louis, instead, thinks it's a punishment for supporting Hardman.

In the last part of the season, Robert Zane, Rachel's father, is introduced: he helps Pearson-Hardman negotiate a settlement offer. Jessica proposes to Zane to join the firm as a partner, but he refuses.

After being removed from his office, Daniel Hardman returns, bringing a sexual harassment lawsuit against Pearson-Hardman on behalf of his ex-lover Monica, who had been fired because of the embezzlement. Harvey and Jessica are tactically limited because of a non-disclosure agreement that Jessica signed when Hardman left. The season ends with Mike confessing his Harvard secret to Rachel and winning over Daniel and Monica¹⁴.

Critical reception

Despite being globally less successful than *The Good Wife*, *Suits* has received critical and audience acclaim as well.

The critics on *Metacritic* rated the first two seasons with 61 and 75 points respectively, while the audience's average rating is as high as *The Good Wife*'s (8.7 and 8.8, universal acclaim).¹⁵

Suits has been nominated for several awards, such as Best Drama at the *2014 TV Guide Awards* and Favorite Dramedy at the *2014 People's Choice Awards*.

Gina Torres was nominated for Favorite TV Actress in a Supporting Role at the *2012 ALMA Awards* and as Best Supporting Actress in Television at the *2013 Imagen Foundation Awards* for her role as Jessica Pearson, while Patrick J. Adams was nominated for Outstanding Performance by

¹⁴ [https://en.wikipedia.org/wiki/Suits_\(TV_series\)](https://en.wikipedia.org/wiki/Suits_(TV_series)); [https://en.wikipedia.org/wiki/Suits_\(season_1\)](https://en.wikipedia.org/wiki/Suits_(season_1)); https://en.wikipedia.org/wiki/List_of_Suits_episodes#Season_2_.282012.E2.80.9313.29. Last access: March 17, 2016.

¹⁵ <http://www.metacritic.com/tv/suits> Last access: March 18, 2016.



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2012 Screen Actors Guild Awards for his performance as

The first two seasons were viewed by more than 3 million people in average, ranking between the 9th and the 23rd most watched TV shows and even reaching No. 1 on cable¹⁷.

¹⁶ [https://en.wikipedia.org/wiki/Suits_\(TV_series\)](https://en.wikipedia.org/wiki/Suits_(TV_series)). Last access: March 18, 2016.

¹⁷ https://en.wikipedia.org/wiki/List_of_Suits_episodes#Season_2_.282012.E2.80.9313.29
[https://en.wikipedia.org/wiki/Suits_\(TV_series\)](https://en.wikipedia.org/wiki/Suits_(TV_series)), Last access: March 18, 2016.



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Alan: How about trying a case with me? I've got a guy charged with trying to help his brother get away with murder.

Denny: Is he guilty?

Alan: 100 percent.

*Denny: Count me in.
(Boston Legal, 3x19).*

Boston Legal is a legal drama set and produced in the United States, created by David E. Kelley and produced in association with 20th Century Fox Television. It is the only one among the three series chosen to compose the corpus of this research which is no longer broadcast on TV: it aired on ABC from October 3, 2004, to December 8, 2008, when it was concluded with a two-hour-long series finale.

Moreover, *Boston Legal* is often considered a legal dramedy because of the comic feature given by the bizarre personalities of two protagonists, Alan Shore and Denny Crane, which pervades the whole series.

Another difference between *Boston Legal* and the other two series is that it was born as spin-off of the another legal series written by Kelley, *The Practice* (1997-2004), focusing on the former character Alan Shore, who moved to the legal firm Crane, Poole & Schmidt.

Boston Legal is characterized by an unusual instability in the cast: the cast presented in the first season is radically changed during the second one, with female lawyers Lori Colson, Sally Heep and Tara Wilson suddenly disappearing from the plot. Immediately after Lori's departure, a new character of the firm is shown, Denise Bauer, who is presented as a senior associate, but had never starred in any episode before. Two senior partners, Jerry Austin and Edwin Poole, are only introduced at the beginning of the first season and then only make sporadic appearances, while one of the main characters lasting until the end of the series, the name partner Shirley Schmidt, is only introduced in the second half of the first season. The only three main characters starring in all five

and Shirley Schmidt. In the first two seasons, managing partner (later associate) Brad Chase are also regular characters.

The final difference between *Boston Legal* and the other two legal dramas in this research concerns the narrative style and structure: *The Good Wife* can be labelled as 'serialized series' (see 4.4.2.), built on a sequence of episodes connected by a double plot: a 'vertical' one resolved within the episode and a 'horizontal' one developed along the whole season and along the various seasons. The horizontal development of the plot is even stronger in *Suits*, where the intrigues involving Pearson-Hardman gradually take over the single cases to be settled or debated in courtroom.

Season 1



William Shatner as Denny Crane and René Auberjonois as Paul Lewiston respectively in *Boston Legal*.

The story begins with the senior partners at Crane, Poole and Schmidt and the managing partner Paul Lewiston (René Auberjonois) trying to oust Denny Crane (William Shatner) from the firm: Denny is more than 70 years old and is often inopportune in the management of the relationships with the firm's clients or in courtroom. He shows all the symptoms of Alzheimer's disease, but he keeps justifying himself with people by ironically telling around that he has 'mad cow disease'; he explicitly talks about sex, even in formal contexts, and during the first season is even arrested for solicitation. The two junior partners Brad Chase (Mark Valley) and Lori Colson (Monica Potter) try to avoid Denny's departure.



Mark Valley as Brad Chase and Monica Potter as Lori Colson respectively in *Boston Legal*.

At the same time, another name partner of the firm, Edwin Poole, is victim of mental insanity and proves incompetent in courtroom, so he is sent to a mental hospital.

Alan Shore (James Spader) gradually engages in a love relationship with the first-year associate Sally Heep. In the meantime, Denny keeps working on the firm's cases, which are always "saved" thanks to the intervention of the other lawyers at the firm, especially Alan's, who gradually becomes Denny's best friend and confessor.



James Spader as Alan Shore in *Boston Legal*.

The eleventh episode sees the arrival of the third name partner, Shirley Schmidt (Candice Bergen), a charming 60-year-old woman who had had a love affair with Denny and now has to handle the whole firm on her own, since the other two name partners, Crane and Poole, are unable to do it. She has to bring order to the firm and while making herself known, she has to deal with Denny who does not want her there, and learns that she has to keep her eye on Alan, who always acts on his own initiative.



Candice Bergen as Shirley Schmidt in *Boston Legal*.

A series of tragicomic events starts when Alan ends up defending Bernard, a man who claims to have killed his old mother by accident, and later his neighbor who could testify against him. Moreover, Catherine Piper, an old lady who had made her first appearance in *The Practice* and who has known Alan since he was a child, appears at the firm. Bernard and Catherine become friends and make a funny couple, almost grotesque and often inopportune. Sally is fired from the firm and Alan starts dating Tara.

Denny officially acknowledges being sick after arguing a case where a doctor is being sued for prescribing a drug that has not been approved: Alan understands that Denny had taken the case as a personal mission to prove that he is a competent attorney and that the case has reflections in Denny's own life.

Tired of the quantity of problems caused by Denny, Lori files a complaint for sexual harassment about him with Shirley and Paul and the two managing partners seriously consider doing something about it, especially when they suspect he performed an unethical act on his recent case.

Season 2

The second season opens with a new character, Denise Bauer, a senior associate at the firm, who is served with divorce papers. Alan, Denny and Brad represent a client, Kelly Nolan, who is called "the black widow" by the media and is charged with poisoning her husband. Catherine worries about Bernard's reaction to the Nolan trial and, afraid that he could kill her like the "black widow" allegedly did with her husband, she kills him.



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Julie Bowen as Denise Bauer and Rhona Mitra as Tara Wilson respectively in *Boston Legal*.

While in courtroom, Tara finds that the opposing counsel is her former lover. She realizes she is still in love with him and breaks up with Alan just when he had admitted loving her, and leaves the firm.

Denny's mental status growingly worries the other senior partners: he shoots a homeless man in the head with a paintball gun and then again, a man with a rifle he keeps in his office. But, most importantly, he falls in love with Beverley, a woman he meets at a charity event and marries in a short time. In fact, Denny cheats on her on the wedding day, she files for divorce and demands half of his assets, throwing the firm into trouble.

Alan tries to convince the senior partners to promote his colleague Jerry Endenson, known as 'Handsø' to partner. Jerry is taken by a violence burst after he finds out he is not made partner of the firm and threatens Shirley with a knife. After this event, Alan finds himself alone against the firm when he decides to defend Jerry from charges of attempted murder, torture and terrorist threats.

The other two managing partners of the firm are suddenly shocked by the comeback of some relatives in their lives: Shirley's ex-husband Ivan asks her to be his 'best man' at his wedding, but confesses to be still in love with her, while Paul tracks down his estranged daughter, who has problems with drug addiction. He asks for Brad's help to get her out of this addiction and get her into rehab but Brad ends up falling in love with her.

Denise closes her relationship with a lawyer who is affected by cancer, while Brad stops seeing Paul's daughter and another woman working at the office. The two end up finding consolation in each other.

When Denny shoots his therapist, the senior partners, fed up with his behaviour, begin to enact plans to remove him from the firm.

The final episodes of the season focus on the friendship between Denny and Alan, who go together to Los Angeles, where they meet a beautiful celebrity who shot a paparazzo and needs their defence.

-Bizarreø cases

The strong presence of comic elements in *Boston Legal* can already be perceived from this short summary of the first two seasons. Denny Crane's mental instability, Alan Shore's strong personality

tribute to bestow the series a comic which is developed with an almost realistic representation of the legal profession. The meeting point between the legal and the comedy can be found in the huge amount of bizarre cases that the lawyers at Crane, Poole & Schmidt have to deal with. Most of them stage borderline or uncommon situations, often dealing with thorny social themes, such as:

- use of stem cells (e.g. when Lori helps a colleague who wants access to his son's frozen umbilical cord to treat his leukemia);
- mad-cow disease (Shirley and Denny represent a man whose steakhouse is being put out of business because red meat in the town has been banned due to fear of mad-cow disease);
- political alliances and human rights (Lori has to defend a business man who is originally a Sudanese native wants to sue the U.S. government for the lack of action taken against the civil war in his country);
- education (Lori, Denny and Shirley defend a school superintendent who fired three science teachers because they refused to teach creationism and is now being sued by them; Alan argues against a prestigious private school that turns away a child prodigy because she lacks the facial muscles for smiling);
- censorship (Alan defends a high school student who accuses his teacher of censorship when he blocks out a news station on the school's televisions; he also defends his friend Irma when she is charged with a sex crime after protesting topless);
- the relationship between business and legality (for example when Alan's client is accused of being a slumlord and is forced to do a despicable act from an infuriating judge);
- sexual preferences and taboos (Alan defends a man who was fired from being a department store Santa Claus because he is a gay cross-dresser; Shirley dumps a bizarre bestiality case on Denise, in which a woman wants to divorce her man because he is in love with his cow).

Of course, many other cases deal with much more frequent and traditional themes of both civil and criminal law, from divorce to fraud to murder. The presence of these bizarre cases, however, makes *Boston Legal* more similar to some other legal series, such as *Ally McBeal*, also written by David E. Kelley and broadcast on Fox between 1997 and 2002, just before the beginning of *Boston Legal*.

Though they can be considered belonging to the same generation, the one of the legal dramas tending to a realistic representation of the legal profession (see Villez 2005 in Section 4.4.1.), *Boston Legal* partially differs from *The Good Wife* and *Suits* in the themes proposed, in the general tone, in the narrative structure (less serialized) and in the depiction of characters, whose psychology is rarely analyzed (with the exception of Alan Shore and Denny Crane) while it is central in the other two.

Alan Shore is perhaps the only character whose psychology and personality are deeply investigated. He is initially depicted as a brilliant lawyer, who is nevertheless prone to use unethical means, such as illicit computer hacking, blackmail, disguise and bribery are all tools he uses without hesitation. He does not take anything seriously, he is always unpredictable in his professional choices. The managing partners of Crane, Poole & Schmidt do not fully trust him and he will never be made senior partner, yet they do recognize his talent as an attorney and will often allow him to exploit his unorthodox means if this can benefit the firm. He is a playboy, is sarcastic and sometimes cynical.

deep moral values, which are just discovered along the personal reflections he makes while defending his clients in courtroom. In the second season, he falls in love with Tara and when she leaves him and the firm, his weakness is gradually shown: he has to face night terrors, his fear of clowns and even temporarily suffers from word salad. Moreover, his friendship with Denny Crane, mainly represented by scenes in which they chat while smoking a cigar at the end of a workday, reveal their feelings, thoughts, fears and reflections about life and denounce the world they live in.

Critical reception

Boston Legal has been incredibly successful, both with the critics and with the audience. It won 14 awards and was nominated for 62. Among these:

- four Primetime Emmy Awards (two of which were won by James Spader for the Outstanding Lead Actor in a Drama Series as Alan Shore; the other two, for the best Outstanding Supporting Actor in a Drama Series, went to William Shatner as Denny Crane and Christian Clemenson as Jerry HandsøEspenson);
- a Golden Globe in 2004 for Best Supporting Actor in a Series, Miniseries, or TV Movie to William Shatner for his performance as Denny Crane;
- a Peabody Award in 2005 to David E. Kelley Productions, in association with 20th Century Fox Television.

The first season was watched by more than 12 million people (season rank: No. 28); the second one gathered more than 10 million viewers (ranking 47th).

The critics on *Metacritic* rated it 69, but the audience gave it a rating of 8.2 (universal acclaim)¹⁸.

2.2. Methodology of Analysis and Theoretical Framework

The theoretical framework of reference for the analysis conducted on the macro-linguistic level is the one of Critical Genre Analysis, presented in detail in Chapter 4. The Critical Genre Analysis aims at identifying the diverse genres included within the fictional narrative frame provided by the legal drama, which make of it an example of genre embedding (Bhatia 1997, 2004a).

The theoretical framework of reference for the analysis conducted on the micro-linguistic level, instead, is built on the basis of all the major studies conducted on the linguistics strategies identified in corpora of specialized texts with popularizing purpose. These include Calsamiglia and van Dijk (2004), Gülich (2003), Heffer (2005), Ciapuscio (2003) and Garzone (2006). The literature on popularization discourse allowed me to build up an integrated classification which includes all the main linguistics strategies identifiable in texts with popularizing purposes to exploit in the analysis of the legal drama corpus collected.

One of the most innovative studies on popularization discourse is Calsamiglia and van Dijk's (2004) analysis of a corpus of texts about the sequencing of human genome taken from the Spanish press. Besides listing the strategies exploited by the Spanish press, the two scholars also provide an insightful account of the process of popularization in general (see Chapter 3).

¹⁸ <http://www.metacritic.com/tv/boston-legal>. Last access: March 18, 2016.

Denomination (also called designation), is described by Garzone (2006: 91-92) as:

introducing new objects, events or terms, for instance with neologisms or metaphors. (í) This strategy is often integrated into a sentence dealing with something else, often making recourse to expressions like *õcalledö*, *õknown asö*, *õmeaningí ö*, etc. or also *õso calledö*, *õtechnically calledö*, *õin other wordsö* etc.

Calsamiglia and van Dijk (2004: 375) do not provide such a precise definition of denomination/designation, but simply describe it as the popularizing strategy used by the journalists who want to write about a remarkable scientific fact and need to introduce a concept that is new to many people:

DNA sequencing, the process of determining the exact order of the 3 billion chemical building blocks that make up DNA (í)

This underlines that the categorizations already existing in literature were not thought to investigate a genre as legal drama and may not completely fit this purpose. The two Spanish scholars also observe that description plays a central role in the denomination of the scientific procedures to popularize and that it is connected to denomination as it is *õa part of itö* (2004: 375-6).

Garzone (2006: 91) includes in the category *denomination or designation* all the constructions aimed at *õintroducing new objects, events or terms, for instance with neologisms or metaphorsö*, as in the following example:

What makes people humanlike, and chickens poultrylike, is now thought to lie as much in the way their genes are expressed as in the actual composition of those genes. *The study of this type of regulation is called epigenetics.*

She also underlines that this strategy is rarely self-standing, but is rather found into a sentence dealing with something else, introduced by linguistic markers which act as connectors, such as *õknown asö*, *õso-calledö*, *õmeaningö*, *õtechnically calledö*, *õin other wordsö* etc. In fact, she identifies two main realizations of denomination: one consisting in an apposition and the other making recourse to a linguistic indicator (Garzone 2012: 82).

2. Definition

Definition is quite similar to denomination, but is distinguished by the form and the mental process behind it. According to Garzone (2006: 92), in fact, it is the *õconceptual delimitation of a term by a brief description of some general and specific properties of the thing the term is referring toö*:

The term *couvade syndrome* has been used to describe men who share the symptoms of their mate's pregnancy. (í) Symptoms of the syndrome commonly include indigestion, nausea, headaches and weight gain.

She also underlines that, as in the example above, it is often used combined with a denomination, generally following it or completing it.

technical term or in left-branching appositions and can
s:

- 1) separate sentences formulated as $\neg X$ is $Y \Leftrightarrow \neg X$ can be defined as $Y \Leftrightarrow \neg X$ is usually defined as $Y \Leftrightarrow$ or
- 2) by means of appositions of other forms of definition integrated as a component of a more complex sentence, as in this case:

With tolerance defined as the loss of efficacy with repeated administration, the data on the occurrence of tolerance are conflicting.

An interesting tendency noticed by Garzone is the one to give definitions *in installments* instead of just in one sentence which is juxtaposed to the technical term to be explained, i.e. by *returning* more than once to the same event or topic, each time providing more detailed information. As shown in the micro-linguistic analysis in Chapter 6, popularization *in installments* is often exploited by legal dramas, since it adapts to their structure and episodic nature.

Calsamiglia and van Dijk (2004: 379), instead, distinguish definitions from descriptions, stating that the first ones are used to explain unknown words, while the second ones explain unknown things. However, they see them as both based on the same process, namely the a discursive organization which explains the specialized concept by means of *analytical categories*. In an excerpt explaining the nature of life, for example, they identify several categories used to provide descriptions and definitions:

- a) Composition
- b) Quantity
- c) Size
- d) Localization
- e) Time
- f) Properties
- g) Process
- h) Context
- i) Functions
- j) Number
- k) Variation
- l) Generalization
- m) Comparison / pairing etcí

The categories used for definitions are not fixed and do not belong to a closed class, but are rather determined by the concept to explain and the scientific field to which it belongs.

3. *Reformulation or paraphrase*

Calsamiglia and van Dijk (2004: 383) also identify *other explanatory structures*, such as reformulation and paraphrases and refer to Ciapuscio's (2003) study on reformulation. Ciapuscio analyzed oral interviews held between specialized journalists and scientists as a previous step to writing a science popularization text intended for laymen, focusing on two discursive procedures: first, *formulation* proper or *illustration*, i.e. the procedures chosen by speakers to *put* knowledge

procedures by which speakers go back in the speech and on offered as more satisfactory.

The author also identifies four main possible linguistic devices instrumental to the realization of illustration/formulation:

- a) metaphor,
- b) exemplification,
- c) scenarios, and
- d) concretizations,

which will be analyzed later. As for reformulations, she identifies three main different types:

- a) paraphrasing,
- b) repetition, and
- c) correction.

However, repetition and correction only apply to studies investigating spoken interaction.

In general, Ciapuscio considers reformulation a procedure linguistically realized in a two-part structure: *referential expression + treatment expression*, generally being linked by markers. Gülich (2003: 237) actually considers it consisting of three parts: a reference expression, a marker and a treating expression. Paraphrasing reformulations are typically carried out because there is a source of conflict (the referential expression), which has to be overcome. Basically, the *treatment expression* refers to an already mentioned expression in such a way that it somehow changes, being reformulated or expanded. The *referential* and the *treatment* expressions are in a relationship of semantic equivalence, but also in a relationship of difference, since the treatment expression contains something new, a change in register, new words, etc. (2003: 214-5).

Garzone (2006: 94), in fact, defines it as *a discourse fragment that is easier to understand than the original discourse fragment, and that has more or less the same meaning*.

Linguistic markers connecting the two expressions are, for example, *that is to say*.

On the basis of their structure, paraphrases can be distinguished in three subtypes:

- a) expansion (the treatment expression is longer than the referential one)
- b) variation
- c) reduction (the treatment expression is shorter than the referential one) (Ciapuscio 2003, Gülich 2003: 240, based on Gülich and Kotschi, 1995, 1996).

According to their function in the text, instead, reformulations can be distinguished in:

- a) embedded sequences, which do not interfere with the overall thematic development and indirectly contribute to the comprehension;
- b) exposed sequences, in which the reformulation becomes the subject matter of the conversation (Ciapuscio 2003: 215).

Paraphrases can be embedded in the text in different ways:

- a) by means of an apposition, preceding or coming after the word it clarifies;
- b) in brackets;
- c) preceded by markers such as *that is*, *that is to say*, *i.e.*, *in other words* (Garzone 2006: 94).

ishes paraphrases according to both form and content, technicalö paraphrases, which reformulate the specialized term or concept with a colloquial, everyday expression or with other technical words respectively; this makes technical paraphrases very similar to definitions.

4. Analogy or association

Garzone (2006: 95-6) includes under the category ðanalogy or associationö any comparison with an area or an object that are certainly known to the layman or easier to understand, as in the case of similes and metaphors.

Similes are comparisons introduced by markers such as ðlikeö, ðasö, ðsimilar toö, ðnot different fromö, ðthe same asö, or other expressions as in the following case:

Dr. Gray's scanner can be held in the hand (*which inevitably invites comparison with the diagnostic tricorder scanners employed*)

Metaphors, instead, are cognitively based, more ðsubtleö comparisons, not expressed by an explicit linguistic marker, but perceived in the receiver's mind. Lakoff and Johnson (1980: 5) define metaphors the process of ðunderstanding and experiencing one kind of thing in terms of anotherö, where the ðotherö element is usually cognitively familiar to the reader, part of his background knowledge or everyday experience. They are also listed among the popularization strategies by Calsamiglia and van Dijk (2004) and among the illustration strategies by Gülich (2003: 241).

5. Generalization

Garzone (2006: 96-97) also includes ðgeneralizationö among the popularizations strategies gathered in her work, meaning a ðproposition that extends the validity of a proposition to all or most members of a setö or in more formal linguistic terms, ðthe substitution of an existential quantifier by a universal qualifierö, as in the following example:

Enzyme CYP2A6 is part of a family of toxin-destroying enzymes known as the cytochromeí

Generalization can therefore often correspond to the use of hypernyms to explain a technical term, or to the inclusion of an object within a wider and more general category, for example, in the case of legal language, by saying that ðmurderö is a ðcriminal actö

6. Exemplification

Exemplification is the inverse process of generalization: a more general expression is explained and expanded by means of one or more propositions that are instantiations of it. In other terms, it ðthe substitution of a universal quantifier by an existential quantifierö. It is typically introduced by expressions such as ðfor instanceö, ðfor exampleö etc.

Exemplifications are typical of written texts and spoken interactions whose popularization purpose is explicit. In legal dramas, where the popularization is mainly instrumental to the entertainment purpose, in fact, exemplifications are almost absent and replaced by a ðconcreteö example which shows the technical concept or procedure reproduced in the fiction.

7. Concretization

interaction and knowledge transfer between experts and) and Ciapuscio (2003) include among the formulation or

illustration strategies the following ones:

- 1) various types of metaphorical language (see above)
- 2) exemplifications (see above)
- 3) concretizations
- 4) scenarios

Concretizations are all the procedures which consist of rewording abstract information in a non-abstract manner (Gülich 2003: 244, Ciapuscio 2003: 213). In particular, they see it as an alternative mode of illustration, which does not use metaphorical language nor true examples, but rather as the exploitation and the creation of an everyday situations, thus bringing the concept to explain from an abstract level to a practical one as in the following excerpt in which a doctor explains the conditions of disposal of the blood:

This blood has to be stored and can only be kept for a very short time. It's not handled like blood kept for transfusions. It's only used for this operation, then it's thrown away and has to be disposed of. We had big disposal problems here. When we order blood it can't just be thrown into the rubbish bin, no way! (adapted from Gülich 2003: 245)

In this case, the expert speaker explains the procedures for the blood disposal by way of a universal, theoretical premise (*This blood has to be stored and can only be kept for a very short time*) and then goes gradually towards a more and more concrete level (*It's not handled like blood kept for transfusions; it's only used for this operation, then it's thrown away and has to be disposed of*). Ultimately, the procedures are explained by means of an example which shows one of the (im)possible forms of disposal (*blood can't be thrown into the rubbish bin*), which Gülich defines a concrete expression for the relatively abstract concept of disposal problems.

In another example, the expert doctor is explaining the patients the possible procedures to ask for their medical report and, once again, s/he makes use of a concrete reference to how they can do it:

You can all ask the operating surgeon for your medical report. If he hasn't already sent it, you can write to him and say 'I'd like to have my medical report' (adapted from Gülich 2003: 245).

Scenes based exactly on this pattern are not very frequent in legal dramas. However, the transfer of knowledge by means of concrete examples is still one of the features which characterize them. The difference between concretizations in the interactions analyzed in the previous literature and what I refer to as concrete realization in legal dramas is that in legal dramas specialized knowledge is expressed by the fictional reproduction of the situation *per se*. It is as if the description of a more common situation used in concretizations were brought to its maximum expression, by the representation of the situation itself. In practice, any fictional reproduction, every time a scene shows a particular concept, procedure, principle or practice of the United States law, a form of concrete realization takes place (see Section 6.8.).

8. Scenario

Ciapuscio (2003: 213) is the scenario, described as the drawing up of a possible but imaginary situation to explain a complex fact on the basis of Br  nner   (1987) theories. G  lich (2003), instead, defines it as the drawing up of possible situations, events or reactions and brings the example of a specialist addressing his audience by sketching out a possible situation and then listing the alternative actions:

Let   suppose it   Monday afternoon, I decide to go running, swimming, hiking or cycling for half an hour (  ). Then your metabolism would work ok. So now you stop, get back home or rather finish your training after half an hour, but that is not the end of it by any means. What happens next is your muscle cell says to itself   if he   going to run again tomorrow, I  ll start right now to split triglycerides and store them here so I have them when he starts running again tomorrow  . That means there   a so-called post-burning phase (adapted from G  lich 2003: 242-3).

This example contains two scenarios embedded in each other. The first one is the general hypothetical situation described by the speaker (*Let   suppose it   Monday afternoon  *); the second one is introduced by the personification of the muscle cells, which describe how they would behave if the person decided to go running again. G  lich (2003: 244) underlines that a scenario can also contain other procedures of illustration, as, in this case metaphors (the anthropomorphism of the muscle cell) and denomination (*That means there   a so-called post-burning phase*). Basically, scenarios represent a way to formulate hypothesis about potential conditions, potential actions and their potential consequences.

9. Explication proper

Of course, specialized contents can be popularized by the simple act of explaining them or their structures and their mechanisms: the reader (or, in the case of legal drama, the viewer) is offered information which enriches his/her knowledge of the subject matter treated, artificially increasing the degree of shared knowledge between the expert sender and the lay receiver:

Malaria, caused by a parasite that is carried from person to person by mosquitoes, infects up to 500m people every year.

Explication can be expressed by single appositions or with the already mentioned   instalment   method, whereby the author returns to one single aspect more than once, every time more in depth or every time providing some further information.

10. Quotation

A further strategy to introduce specialized contents is the use of different linguistic devices that attribute statements to researchers, scholars, scientists, experts or any official or reliable source. Quotations can have the following functions:

- emphasizing the authoritativeness of the sources;
- hedging, limiting the writer  s responsibility to a role of reporting something
- exploiting pre-formulation, i.e. to use someone else  s exposition of concept and information with no need for additional re-elaboration
- introduce a personal element in a piece of writing (Garzone 2006: 100).

Calsamiglia and L  pez-Ferrero (2003) distinguish:

...e a fracture between the content of the text and the
nt, in such a way that two different deictic centers are
created, which are syntactically independent from each other. The two segments can be
connected through juxtaposition and/or signaled by a graphic marker, such as :*ôí* *ö*.

- b) indirect citations *ó* in which the continuity of the discourse is not interrupted and a single deictic center is kept. The citation is generally embedded by means of a subordinate clause introduced by a conjunction and with the correspondent agreement of tenses and shifts in pronouns and verb forms (person, mood, tense):

Dr. Woolhouse argues that new pathogens cannot have been accumulating (*í*)

- c) integrated citations *ó* which are similar to the indirect, but with a segment signaled as being cited directly/literally with clear graphic marking, mixing syntactic traits of direct and indirect style:

Dr. Woolhouse says the world is changing very fast in *ôways* that matter to pathogens and ways that give them new opportunities to infect new host species*ö*.

This kind of quotation is generally used in journalistic or academic contexts.

- d) inserted citation *ó* where the cited words or sentences are brought into the main discourse by means of markers such as *ôin the words ofí* *ö*, *ôaccording toö*, which have the function of assigning explicit words to a particular agent (Garzone 2006: 98-100).

11. *¬Narrativeø and ¬Paradigmaticø mode*

One of the most significant contributions to research on the popularization of legal discourse is the work by Heffer (2005: 3), who investigated *ôlegal-lay discourseö*, that is the discourse found in courtrooms made of the interactions between an expert and a non-expert one:

[Legal-lay discourse] involves a complex dialogic play between two broad ways of making sense of the world: one based on the subjective reconstruction of personal experience; the other on detached analysis following logical principles.

These two different cognitive modes involved in legal-lay discourse are identified in the *¬narrativeø* and the *¬paradigmaticø* modes of meaning making.

The author uses this categorization to analyze all the courtroom genres, collecting a series of sub-corpora distinguished according to the trial phase (opening statement, witness examination, closing argument, summing-up, etc.). In particular, in his *¬Summing-upø* sub-corpus, he finds a particularly high percent of jurors making reference to their *¬common senseø* and *¬knowledge of the world and of lifeø*. These mental resources are defined *ôfolk psychologyö* by Bruner (1990: 35, in Heffer 2005: 17) and are connected to the narrative mode of constructing meaning. In a later study, in fact, Bruner (1996: 95) identified three *ôforms of human cognitive activity required for living under cultural conditionsö* which he organizes under an overarching *¬narrative modeø*

- a) the *actional* sub-mode, relating events, utterance, acts and so on to the argument of action: *¬who is the agent of what act toward what goal by what instrumentality in what setting with what time constraints etc.ø*(*í*);

- concerned with establishing, shaping and maintaining relations
 crucially depends on a coherent folk theory of other minds, for
 others are thinking that we are able to presuppose their
 communicative intentions, feelings and beliefs, to understand their implications (í). Our
 culture provides us with strategies for using our presumptions about other minds in discourse
 (í);
- c) the *normative* concerns meanings related to obligation, convention, custom and precedent. It
 establishes a culture's standards of fitness or appropriateness. (í) The normative mode
 imposes constraints on the other two modes, for the actional and the intersubjective are both
 shaped by canonical expectations.

For example, when jurors have to establish what happened in a crime they evaluate who did what to
 whom, how, when and where (actional mode) relying on the witnesses' narrations and on the
 counsels' reconstructions. To do this, they need to reconstruct what was in the mind of the person
 committing the crime, the intentions of the defendant and the lawyers' line of defense
 (intersubjective mode). Finally, they need to relate the facts to the standards of the society and to
 what is established by the law (normative mode).

The paradigmatic mode (or logico-scientific mode) is a later evolution of the narrative mode,
 generated by the possibility of writing what originally could only be narrated. This made it possible
 to view contents in terms of timeless logic and within universal rules and principles.

The narrative and paradigmatic modes were formulated by Bruner (1990, 1996) in relation to
 psychology. It is to Georgakopoulou and Goutsos (2000) that we owe their application to discourse
 and the possibility to apply these modes to their actual discursive expression. Basically, the use of
 narrative mode involves a *contextualization* of the concepts, objects or facts described; the
 paradigmatic mode, on the other hand, operates a de-contextualization, explaining concepts, object
 and facts in terms of universal categories and principles, or at least categories which can extend to a
 multitude of contexts. Georgakopoulou and Goutsos (2000) reformulate the two meaning making
 modes in terms of discursive strategies and also group them according to the three sub-modes
 identified by Bruner (1996). Moreover, they add a further group of strategies, the *evaluative* ones,
 which apply to all three sub-modes.

The following table, reproduced from Heffer's (2005) work, gathers all the main discursive
 strategies distinguished according to narrative and paradigmatic mode and classifying them
 according to the three sub-modes + the evaluative:

PARADIGMATIC MODE (de-contextualization)	
ACTIONAL STRATEGIES	
Focus on the dynamics of the events	Focus on categories deriving from events
Focus on human or human-like agency	Ignore agents, or class them as categories
Situate events in time and place	Abstract events from time and place
Sequence temporarily	Sequence logically
INTERSUBJECTIVE STRATEGIES	
Try to read internal consciousness of the others	Deny what is not publicly testable
Focus on subjectivity (intention, belief)	Focus on objectivity
Show dialogic potential	Aim towards monologic view of truth
Appeal to shared experience	Formulate and test hypotheses
NORMATIVE STRATEGIES	
Follow constraints set by cultural canons	Follow constraints set by logical or legal canons
Appeal to folk-psychological scripts and stories	Appeal to definition and logical deduction
Focus on epistemic probability (likely to)	Focus on epistemic possibility and necessity
Base validity on verisimilitude (lifelikeness)	Base validity on veracity (truth)
EVALUATIVE STRATEGIES	
Intensify the actional or intersubjective	Demonstrate logical or empirical truth
Compare actional and intersubjective with canonical	Compare demonstrable instance with definition of class
Use direct speech of narrative agents	Appeal to authority (e.g. through citation)
Comment subjectively on narrative events	Comment objectively on analytical results

Table 2.1. 6 Key strategies in the narrative and paradigmatic modes of reasoning (adapted from Heffer 2005: 23).

The table collecting all the main expressions of narrative and paradigmatic mode of meaning making in terms of discursive strategies with a particular focus to courtroom discourse represents a basic key to the interpretation of legal-lay discourse in general.

It will be used as reference point both for the macro-linguistic analysis of legal drama as example of -genre embeddingø and for the micro-linguistic analysis of legal drama as popularization genre. In the first perspective, the different courtroom genres (opening statements, witness examination, closing arguments, jury instructions etc.), as well as other legal-lay genres (lawyer-clients interactions etc.) are analyzed in the light of the possible behaviors and attitudes of the speaker. For example, in witness examinations, the narrative mode is present in the witnessø testimony, while the intersubjective sub-mode can be object of analysis in the lawyerø speeches to the jury (see Chapter 5 for more details).

In the micro-linguistic analysis, the popularization strategies described so far in this Section can be seen in the light of this view. For example, the intersubjective strategy exploiting the paradigmatic mode òformulate and test hypothesesö is the mental process behind resorting to a scenario; similarly, the òappeal to authorityö strategy drives the use of direct and indirect quotations of reliable sources (see Calsamiglia and López-Ferrero 2003, Garzone 2006) and the òappeal to definition and logical deductionö is linguistically expressed by the definition pattern identified by Calsamiglia and van Dijk (2004) and Garzone (2006).

to identify some patterns exploited in legal drama to in the explanations based on narration or in the frequent

passage from the narrative mode to the paradigmatic one, which allows the lay audience to connect a reconstruction of facts based on their experience of the world to a universal category defined by the professional community.

Bamford (2012: 37) also identifies other linguistic strategies which can be exploited in popularizing texts, such as selection, simplification, condensation, elaboration, re-arrangement, substitution, addition, deletion (Ciapuscio 2003, Gülich and Kotschi, 1995, van Leeuwen and Wodak 1999), which, however, can often overlap with the strategies listed so far and are often only applicable to written genres.

The literature on popularization collected here makes it possible to build a theoretical and methodological framework for the qualitative analysis of the legal drama corpus. The strategies identified in other popularization genres and contexts are looked for through the fictional lines of the three TV series, demonstrating that they are not far from the traditional popularizing genres such as journal articles, lectures and other expert-lay interactions.

In particular, Chapter 3 aims to provide an overview of the way knowledge can be transmitted, catalyzed by knowledge asymmetries, and of the effects that the knowledge transfer has on communication on the linguistic level.

3.1. What is Knowledge Communication?

3.1.1. Knowledge Communication as a process

The main purpose of this research is to show that legal dramas can catalyze the dissemination of specialized legal knowledge to a general audience. A successful demonstration of this hypothesis has to start from the description and detailed analysis of the processes behind Knowledge Communication (hereafter also shortened as 'KC') and a complete (though general) overview of the process and of the discipline focusing on this process. Basically, this research focuses on legal drama as a means to construct knowledge; we see experts interacting with each other or with laypeople to fill a 'gap' of knowledge (or Knowledge Asymmetry) and at the same time filling the gap with the audience's knowledge.

When using the term 'Knowledge Communication', it may not always be straightforward to make a distinction between the process of transferring some knowledge to a person to another and the theories and the studies which have this process as their main focus. Knowledge itself can be difficult to define, as is also the case with concepts such as 'communication' and 'interaction'. Moreover, it is impossible to aspire, and claim, to be able to gather all the reflections which have been made throughout history about the concept of knowledge, which has generally been investigated through sciences like philosophy and psychology (Porup Thomasen 2015: 60). As Kastberg (2011a: 141) states:

Due to the fact that the concept of knowledge has been pondered upon ever since the 'Thaetetus' I cannot do for obvious reasons do present a literature review with any claims of representativeness.

In his recent work about the Innovation Culture Initiative in the Novo Nordisk company, Porup Thomasen (2015) offers a valuable and up-to-date overview on Knowledge Communication, where he concentrates on the three parameters of Epistemology, Communication and Agency in some of the main definitions of 'knowledge dissemination' from 2002 to 2012. As a general introduction to it, however, he states that

If I were to know how researchers of knowledge communication defined the *process* they were focusing on, I had to know the *disciplinary* context in which they did so.
[emphasis in the original]

The first definition of Knowledge Communication is the one given by Reinhardt and Stattkus (2002):

We define knowledge communication as an intended and interactive construction and exchange of knowledge resp. experiences and skills on a verbal and nonverbal level. [...] Knowledge communication has three major goals: 1) diffusion of knowledge within the

of knowledge through building redundancies, and 3) creation of
 existing knowledge.

This definition reveals a constructivist perspective (see below), since it sees KC as based on a construction and on experiences and because it underlines its 'creative' function. The two scholars also focus on the interactional aspect of KC (they describe it as an 'interactive construction'). But most of all, they focus on the aspect of KC referred to by Porup Thomassen as 'Agency' by listing the purposes for which KC is intended.

Another definition of Knowledge Communication was provided by Kastberg (2007):

Knowledge communication is strategic communication. As 'strategic' it is deliberately goal-oriented, the goal being the mediation of knowledge across asymmetries. As 'communication' it is participative (interactive) and the communication 'positions' converge on the (co-)construction of (specialized) knowledge.

This definition, coming five years later than the first one, broadens and at the same time narrows the view on Knowledge Communication. Kastberg confirms the view of Reinhard and Stattkus seeing KC as 'strategic' (meaning that it is driven by particular goals), and 'interactive' but he also introduces two new elements.

The first new element introduced by Kastberg is the one of 'knowledge asymmetries'. As we will see more in detail in Section 3.2., some KC researchers, such as Jacobsen (2012) claim that knowledge asymmetries are

ever-present differences between the knowledges of people as well as, fundamentally, the *catalysts* for an instance of knowledge communication (Porup Thomassen 2015: 67, *emphasis added*).

The second aspect on which Kastberg focuses for the first time is the 'specialized' nature of the knowledge transferred. By doing so, he broadens the field described by Reinhard and Stattkus, who focused quite exclusively on Business Communication, to any type of specialized communication.

In one of his articles on the communication of legal concepts, when discussing his approach to Knowledge Communication, Engberg (2009: 225) describes knowledge as:

what I would term a 'socially inspired entity'. The idea is that the knowledge base of an individual is influenced and shaped by the interaction with others and by the social relations and conditions under which these interactions are performed. [...] Knowledge and meaning are thus not stable entities, but dependent on influences from social factors that change with time.

Though placing himself at the intersection between cognitivism (since he mentions a 'knowledge base of an individual') and constructivism, he tends to place emphasis on the 'constructivist' process of knowledge communication by focusing on the social-interactional nature of knowledge construction. In his perspective, the knowledge base of individuals is directly shaped by social interaction; knowledge is described as being social rather than individual, and thus it is shown as being an unstable, variable and dynamic entity.

communication as the (deliberate) activity of interactively; insights, assessments, experience, or skills through verbal and taken place when an insight, experience or skill has been successfully reconstructed by an individual because of the communicative actions of another. KC thus designates the successful transfer of know-how (e.g. how to accomplish a task), know-why (e.g. the cause-effect relationships of a complex phenomenon), know-what (e.g. the results of a test) and know-who (e.g. the experiences with others) through face-to-face (co-located) or media-based (virtual) interactions.

Besides adding some new elements to the previous ones, this last definition, originally formulated by Eppler in 2006, seems particularly consistent with the purposes of this work. The researcher shares the general constructivist approach displayed by the other scholars, talking of *co-constructing* and of *reconstructing*, but his most significant contribution to the definition of KC is certainly the representation of knowledge as categorized in four different aspects (know-how, know-why, know-what and know-who).

By doing this, the gradual process of describing knowledge as a less *abstract* entity is finally accomplished: in the first definition knowledge was described as different from, or even opposed to skills and experience; the element of specialization of knowledge was then added by Kastberg, while Engberg underlined the socially inherent nature of knowledge. In the most recent view, given by Eppler ([2006] 2012) knowledge is finally presented as a *more concrete concept*, which needs a *certain degree of materialization* (Porup Thomsen 2015: 69).

However, for the purposes of this research, the most significant contribution made by Eppler is the emphasis he places on types of different interactions: he distinguishes between *co-located*, direct, face-to-face interactions, and media-based, virtual interactions. This distinction is probably due to the natural, historical difference between this definition and the previous ones: due to the constantly rising importance of the *new* media in communication, and especially in Knowledge Communication in all fields (from academic and professional to private ones), to neglect the aspect relating to media communication would result in the risk of not considering some aspects that are fundamental in the definition of the object of a global, all-encompassing and critical analysis. By broadening his definition to communication through media and distinguishing between face-to-face and media-based interactions, Eppler paves the way for my research, which starts from the assumption that Knowledge Communication is reached through media and new media genres.

In the light of the aforementioned definitions and without the very least ambition of providing an ultimate definition of Knowledge Communication, I hereby propose to *summarize* the aspects which cannot be overlooked if we aim at a general, though complete view, on the process of Knowledge communication:

- 1) Knowledge Communication is the exchange of knowledge and skills, both on verbal and non-verbal level, via face-to-face or media-based interactions.
- 2) Knowledge Communication is intended / goal-oriented / strategic / deliberate.
- 3) Its goals may be: to mediate between/across knowledge asymmetries; to co-construct or reconstruct specialized knowledge, assessments, experience or skills, such as know-how, know-why, know-what and know-who;

wledge is influenced and shaped by interaction, by social
 is a ðsocially inspired entityð).

3.1.2. Knowledge Communication as a discipline

If on one side there is a general consensus about the definition of Knowledge Communication as a process, at least on some main common aspects, the same cannot be claimed for Knowledge Communication as a discipline.

Knowledge Communication as a ðdisciplineð was born heterogeneous, as a point of convergence and of shared interest between various distinct disciplines which somehow handle the topic of knowledge communication, such as Linguistics, Education, Management, Business Communication, etc. It can be stated then, that it is a way of focusing on a phenomenon from a range of different, though mainly converging, viewpoints. It can be considered a recent discipline, as it began to be ðtheorizedð as such just a few years ago, but at the same time, one has to take into account that speculation and reflection about knowledge and knowledge communication are as old as humanity.

On the basis of Humboldt's classical categorization of disciplines into ðfirst orderð disciplines ó the ðtraditionalð subjects, the object of which is studied according to a sanctioned and fixed number of theories and methods ó and ðsecond orderð disciplines ó which examine different objects of study by the use of one particular theory or method ó (Porup Thomasen 2015: 77-78), Kastberg (2007: 21) defines KC as a ðthird orderð discipline:

A third order discipline comes into existence when not one overarching theory and not one pervading method is common denominator. The common denominator is the object of study itself and unto that object (in principle), any theory and any method may be applied.

Kastberg does not aim to come to an ultimate definition of ðKnowledge Communicationð as a discipline, but rather limits himself to underlining its complexity, heterogeneous nature and *in fieri* status:

Rather than being destructive, I see the challenges posed [í] as being productive; of being impetus of new insights (Kastberg, 2011b: 5).

In particular, he sees it as the result of the convergence of several theories, such as LSP (Language for Specific Purposes), KM (Knowledge Management), learning theory and communication studies, which have mainly focused on three dichotomies:

- 1) Communicative dynamics as transmission *vs.* as interaction
- 2) Cognitivist epistemology *vs.* Constructivist epistemology
- 3) Knowledge asymmetries as barriers and noise *vs.* Knowledge asymmetries as ever-present catalysts (Kastberg 2010, in Porup Thomasen 2015: 76).

Eppler's (2012) attempt to define Knowledge Communication as a discipline, instead, moves in the opposite direction. Unlike Kastberg's stance of ðopennessð on the subject, Eppler underlines the results obtained in the field of KD and classifies it as a prominent, standardized discipline:

...witnessed influential knowledge communication research in management, education, applied linguistics, computer science and public policy studies, the creation of several competence centers focusing on KC, several conferences dedicated to the topic, the creation of a chair in KC, at least 6 funded research projects on KC in different contexts.

By giving a date of beginning (2002, corresponding to Reinhard and Statkus first definition) and a series of results, Eppler (2012) seems to situate KC among the disciplines in the second phase of Kuhn's circular process of disciplines¹⁹.

3.1.3. Communication as knowledge transfer

As I have shown in the previous sections, there is a general consensus in defining KC an interactive process, involving two or more parties and primarily aimed at a transfer of knowledge, for different reasons and to satisfy different intentions. It has also been described how knowledge can be shaped by interactions and social interactions, which, together with Epistemology (the general stance towards knowledge making, e.g. constructivist vs. cognitivist), and Agency (the actions and the activities involved in KC), represent one of the aspects at the basis of Knowledge Communication theory (Porup Thomasen 2015).

Communication has been the object of study for decades, with continuously developing and innovating theories and models concerning its underlying mechanisms. Language as a human ability has developed because of the need to instruct and from there to inform, to get some information or to share it with a community. It represents one of the basic elements which allow communication and interaction, and, consequently, social development and progress. Language and civilization can be seen as inherently connected to each other: along with social progress and the birth and the settlement of new sciences and scientific methods, language has developed and specialized into different micro-languages, or specialized languages. Already in 1916, in his *Cours de linguistique générale*, de Saussure stated that *«un degré de civilisation avancé favorise le développement de certaines langues spéciales (langues juridiques, terminologie scientifique...)»*.²⁰

Therefore, it would be reductive to see communication as a linear exchange between two individuals, without taking into account factors such as the differences in knowledge between the participants, the context in which the participants are set, the number (quantity) and the features (quality) of the participants involved in the communication. It is impossible to establish a borderline distinguishing what is general communication and what is specialized communication since, as we will see later on more in detail, most communication takes place in a context of knowledge asymmetry and consequently all kinds of specialized communication presume an effort by both the sender and the receiver to

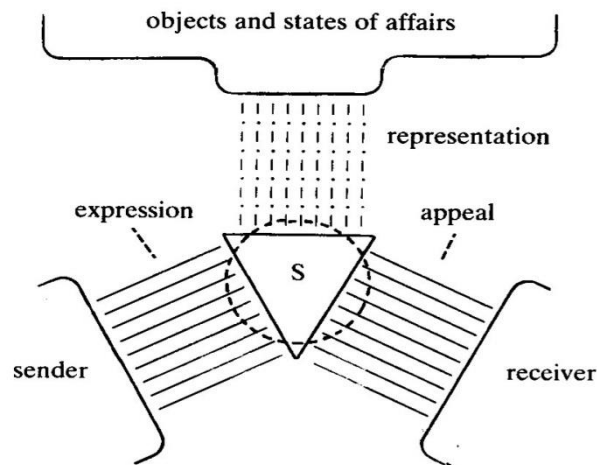
¹⁹ Kuhn states that disciplines can be categorized in three phases according to their institutional state: 1) pre-paradigmatic; 2) normal science (a relatively stable situation in which a paradigm and a corresponding terminology dominate explicitly) and 3) revolutionary, when the paradigm of a science is falsified making way for the proposal of a new paradigm (Porup Thomasen, 2015: 73).

²⁰ A degree of advanced civilisation favours the development of certain special languages (legal languages, scientific terminology). (My translation).

language and specialized language are part of the same specialization is not given by the language itself and by its features, but by the interactors, their knowledge and the communicative situation in which they interact.

It is due to such assumptions that the linguistic sign has no longer been seen as univocal, but as an element bearing different meanings, according to its use. Signs do not only fulfill their function of designating an objective reality, but they are seen as prisms able to reflect different viewpoints and to be used for various communicative functions (this is also the presumption that Jakobson's (1958) 'linguistic functions' theory, see below, or Austin (1962) and Searle's (1975) 'Speech Act' theory stemmed from).

In the light of this perspective, Karl Bühler represented, for the first time in his *Sprachtheorie* (1934), a view of text (as an instance of linguistic sign) like a prism fulfilling multiple functions:



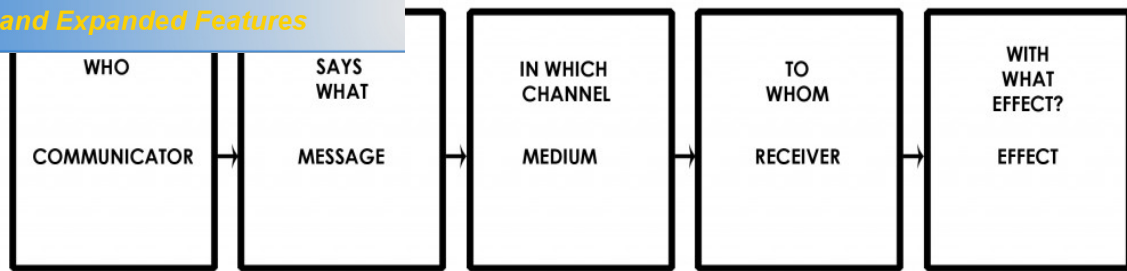
Picture 3.1: Bühler's model of the linguistic sign (1934)

This model, showing the function of representation just as one of the possible functions and of the possible purposes of the sender, and focusing on the importance of the 'sender-receiver mediation' function of the linguistic sign, paved the way to the reflections on language(s) and their different purposes.

The attempts to represent language as a transfer of knowledge from a sender to a receiver have since then been the object of study of several researchers, and has become quite a controversial issue, each time involving different aspects in the purpose of achieving an 'ultimate' all-encompassing model of knowledge communication.

In the 1940s, the first models which were elaborated to 'schematize' communication saw it as a 'linear' process. Lasswell (1948), for example, proposed a linear model, composed of small and analytical variables:

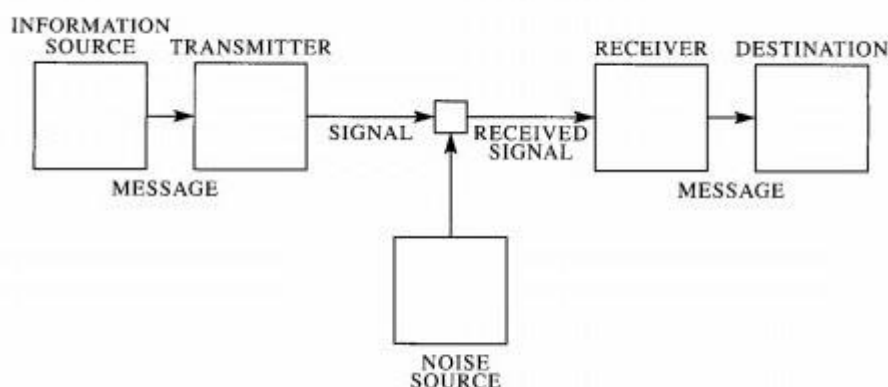
²¹ See also the concept of 'accommodation' and the Accommodation Theory in Heffer (2005: 29), 'negotiation' in Whitley (1985: 12) and the Communication Accommodation Theory (CAT) in Cavalieri (2009).



Picture 3.2: Lasswell's model of communication (1948)

This model was built on the argument that each variable presented should be examined through a corresponding analytical perspective: the communicator (who) by means of control analysis; the message (what) by means of content analysis; the channel by media studies; the audience (whom) with audience analysis and the effect with effect analysis (Lasswell 1948, in Porup Thomasen 2015: 85). The main flaw in the applicability of this model (in comparison with the current state of Knowledge Communication studies) is that it represents communication as a one-way process, where the message is only sent from a Communicator to a Receiver without considering the receiver's feedback and the elements composing the context.

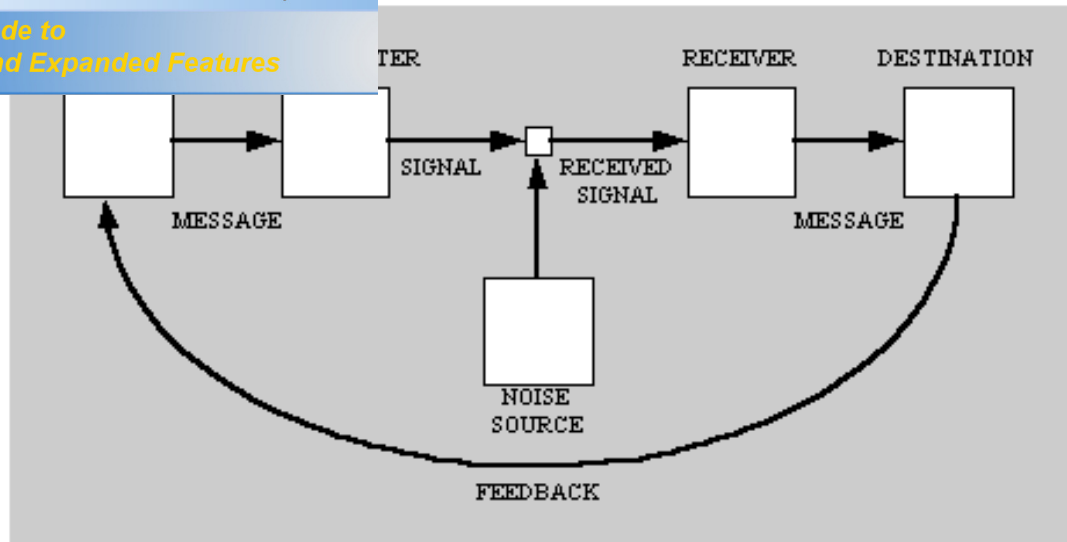
The model proposed by Shannon and Weaver (1949)²², though contemporary and essentially similar in structure to Lasswell's, is more generally cited and acknowledged by researchers. It is also constructed on the basis of a linear, sender-receiver communication, but apart from its intended field of application (it was conceived for communication technology research and aimed at representing telephone communication, while Lasswell's work was placed in Sociology) it includes two new elements. The first one is noise which was embedded in Shannon's 1948 version, applied to telephone communication and at that time considered as any kind of disturbing element in any form of communication:



Picture 3.3: Shannon's model of communication (1948)

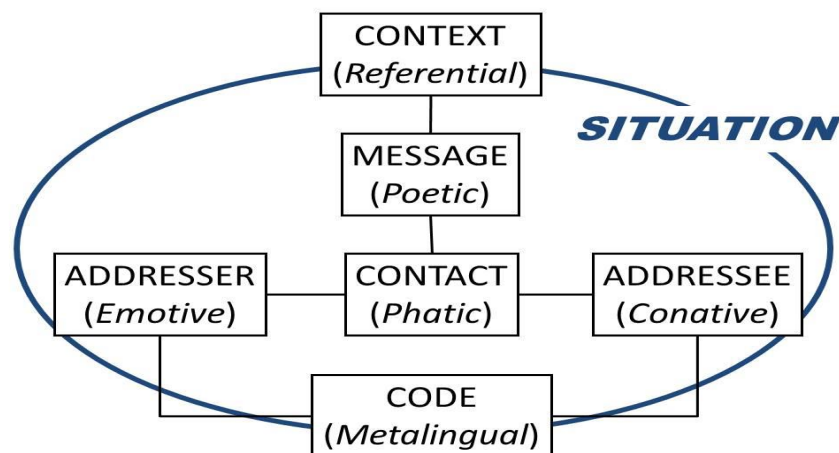
The second element was added by Weaver in the 1949 edition and is the feedback loop which represents a first, important shift away from the view of communication as one-way and linear and towards Knowledge Communication seen as interactive:

²² It was proposed by Shannon alone for the first time in 1948 and then re-proposed in *The mathematical model of communication* with Weaver in 1949.



Picture 3.4: Shannon and Weaver's model of communication (1949)

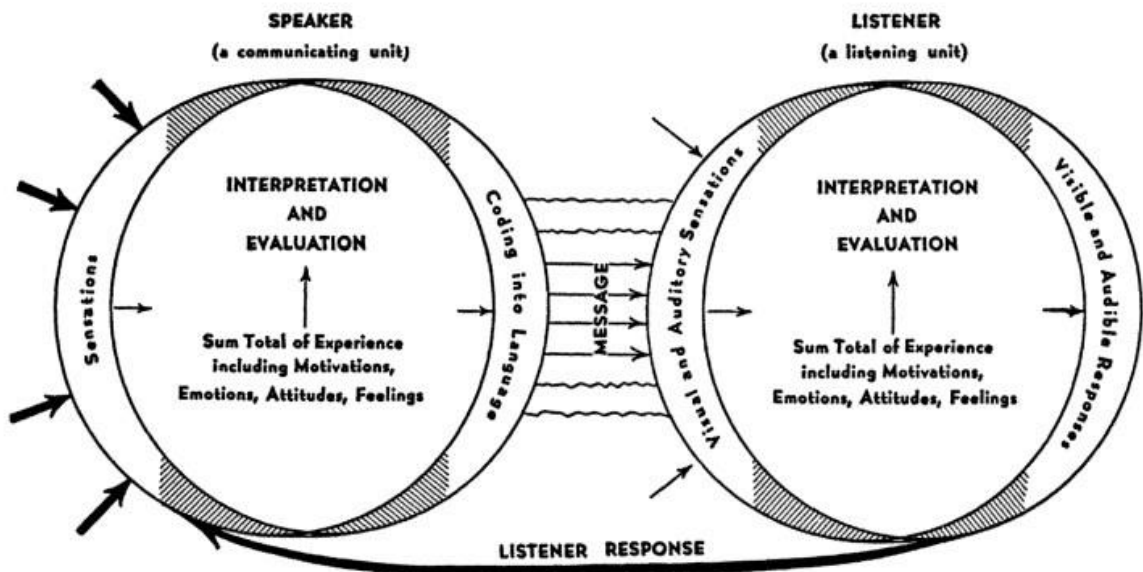
Basically, Jakobson's theory of the language functions (1958), in which a function is assigned to each of the elements involved in the communication, is a re-elaborated version originating from Shannon and Weaver's model of communication, in which Jakobson identified and assigned a 'linguistic function' to each of the elements present in the 'communicative situation':



Picture 3.5: Jakobson's model of communication and of language functions (1958)

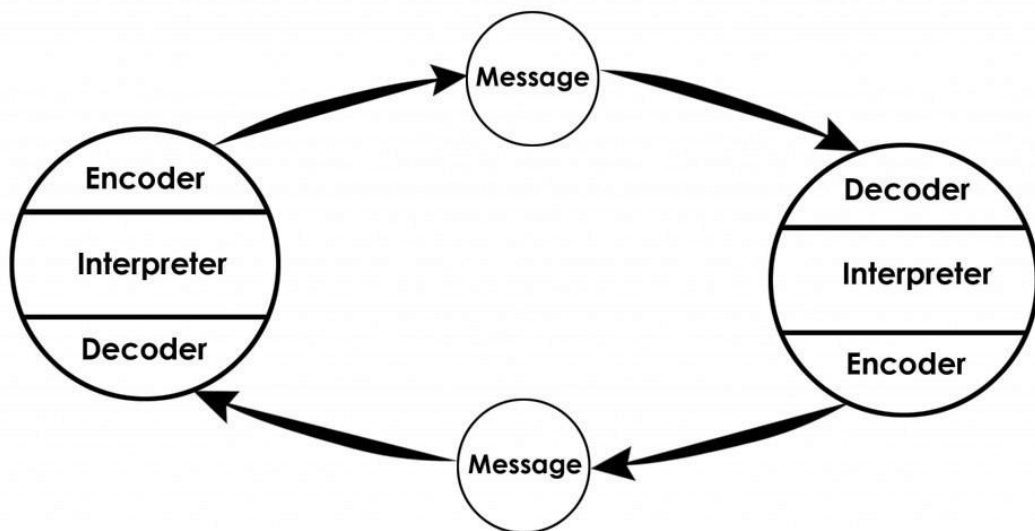
Some years before, Bryant and Wallace (1947) had tried to represent interaction with a model structured in quite a different way, which did not much take into account the 'external' factors, such as the medium of communication and noise, but had somehow opened the door to reflections on the interactors' feedback. Bryant and Wallace's model, indeed, focused on the 'internal' factors of the individuals who interact, by highlighting that there is a process not only *between* speaker and listener, but also *within* each one of them and by stressing the importance of their perceptions. The information source is not a general, abstract entity (possibly representing the minds of the interactors), but is conceived as any type of external stimulus ('sensations'), which goes through the speaker's and the listener's

(which are the fruit of their experience, including feelings) and result in a listener's "Response".



Picture 3.6: Bryant and Wallace's model of communication (1947)

But the actual shift from a linear to a "circular" view of the communication process was made by Schramm and Osgood (1954), who eliminated the notions of "sender" and "receiver" and started looking at the communication participants just as such and as "equal" interactors, who decode, interpret and encode in turn:

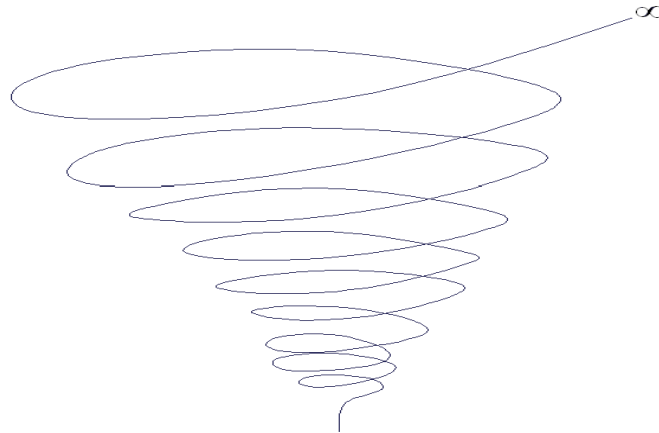


Picture 3.7: Schramm and Osgood's model of communication (1954)

For the first time, communication was seen as circular, rather than linear, and as a two-way rather than a one-way process (Porup Thomasen 2015: 114; Frandsen et al. 2002).

The view of communication as circular and as continuously self-constructing reaches its acme with Dance's (1967) model of communication, generally referred to as the "helix-model" or the "transactional model", as it was re-named by Barnlund (1970).

entionally challenging, perhaps provocative, and surely
 ation as a non-ending spiral, completely expunging the
 representations of both a sender and a receiver, of any process interweaving between them
 and of any other context element which could (or does) affect the communication:

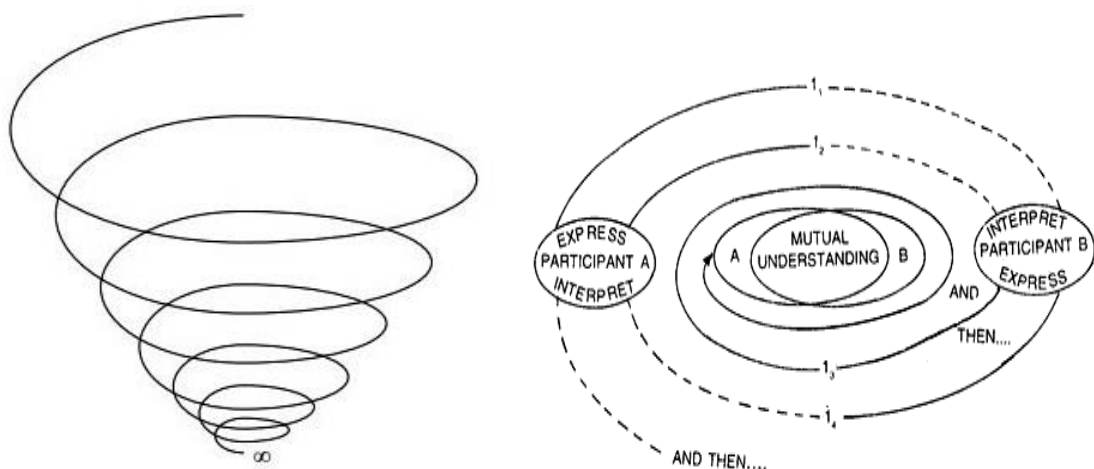


Picture 3.8: Dance's model of communication (1967)

However, this does not mean that Dance did not take into account all the above mentioned factors which influence communication:

If you extend the spring halfway and compress just one side of the helix, you can envision a communicative process open in one dimension, but close in another. At any and all times, the helix gives geometrically testimony to the concept that communication while moving forward is at the same moment coming back upon itself and being affected by its past behavior, for the curve of the helix is fundamentally affected by the curve from which it emerges (Dance, 1967: 295-6).

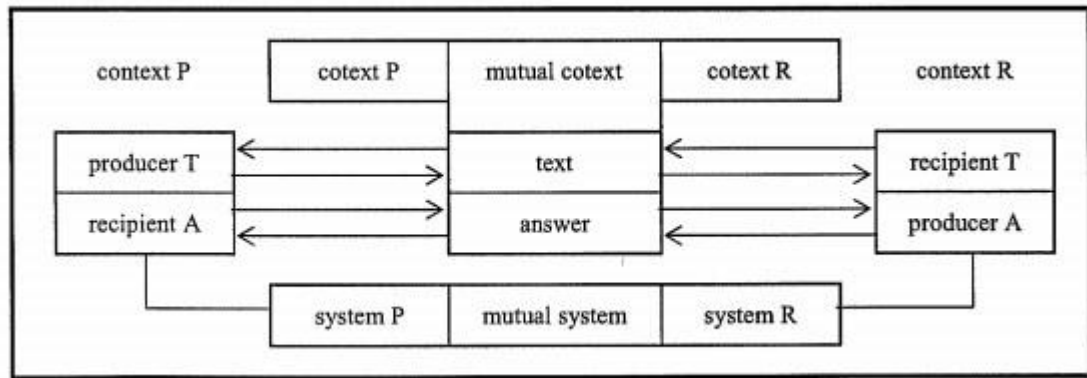
The helix model was readapted by Kincaid (1979), who, however, inverted the perspective of communication, by emphasizing that what is infinite is the mutual understanding of the participants to the communication, who converge towards a single point of mutual understanding in a continuous process of meaning-sharing and meaning-making:



Picture 3.9: Kincaid's convergence model of communication (1979)

vergenceö view of communication (Kincaid 1979), the only engage in a process of discursively constructing meaning, but are also simultaneously and mutually engaged in a process of discursively constructing one another (see also 3.2.: the concept of ödouble contingencyö in Kastberg 2011a: 143).

Finally, a particularly interesting model is the one provided by Roelcke (1994):



Picture 3.10: Roelcke's (1994) model of communication (P: Producer, R: Recipient, T: Text, A: Answer).

Despite taking its distance from the convergent/spiral representation of communication proposed by Kincaid (1979), Roelcke's (1994) model is illustrative of the whole set of elements which are to be contemplated in communication. The 'convergence' aspect of mutual agency enacted by a sort of input-output pattern is here represented by the arrows moving in two directions, both from and to producer and recipient, in a communication which includes not only a text (T) produced by a producer (P) and of which a producer receives feedback, but also an answer (A) provided by the recipient (who in turn becomes a producer, and vice versa). Most interestingly, this model also stresses the importance of contexts, meant as composed of all the non-linguistic or textual elements, and of 'cotexts' i.e. the textual elements that affect communication, here intentionally referred to in the plural form: the co(n)text of the Producer and that of the Receiver intersect in a 'mutual cotext' which is identifiable in the message itself (whether text or answer). The same happens for the systems used by both Producer and Receiver, which meet at an intersection point ('mutual system'), where communication occurs.

The overview of the development of studies on communication provided so far aims to show that communication is essential to Knowledge Dissemination: knowledge is constructed only thanks to the relations which are constructed between the participants and to their mutual understanding and 'converging' attitude. In this view, communication becomes a means of knowledge creation and knowledge transfer: 'we construct knowledge by communicating with the world around us' (Porup Thomasen, 2015: 121).

In the cases presented in this work, in which the type of knowledge to be conveyed is a specialized one (legal terminology and content), and the communication involves an expert speaker and a non-expert one, mutual accommodation is essential to successful communication and to subsequent knowledge transfer. Knowledge Asymmetries (see

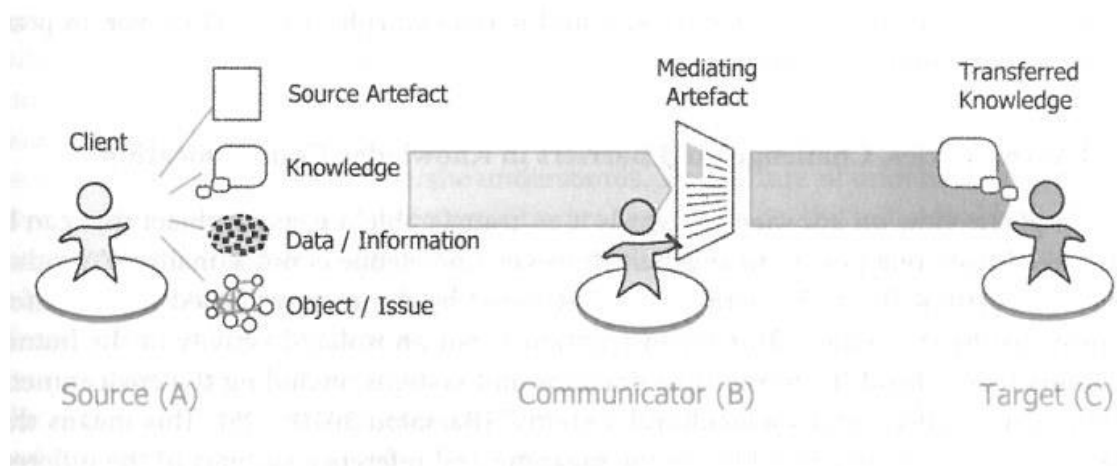
in the communication can be the driving force towards knowledge transfer (from one side) and acquisition (from another).

3.1.4. Models of Knowledge Transfer

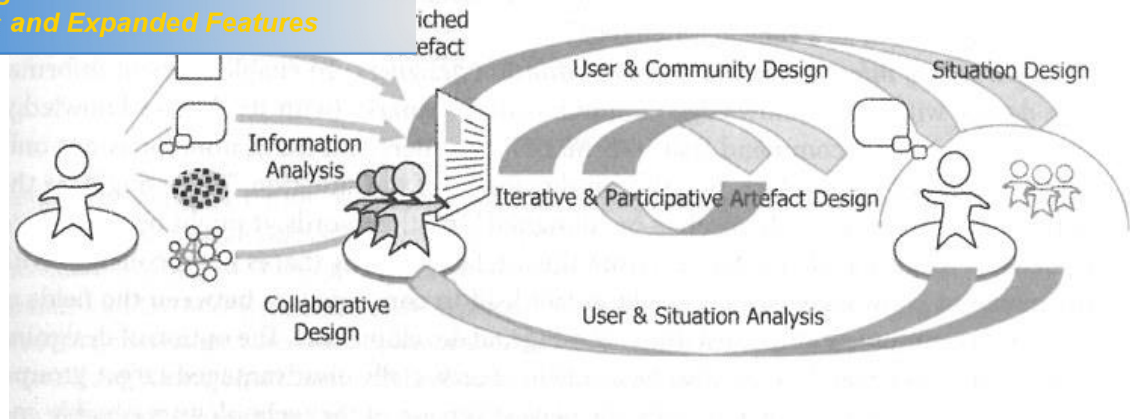
Knowledge Transfer, as a matter of fact, is based on the success of communication. More or less simultaneous to the rise of Knowledge Communication as a discipline, researchers also tried to theorize Knowledge Transfer, focusing on the aspect of Knowledge Communication referred to as *Agency* (see *above*). Similarly to the models representing the communication process presented above, the models aiming at representing knowledge transfer moved from a basic and conventional way of seeing this transfer as linear to much more complex models, which included a series of other factors.

Kumar and Ganesh (2009), for instance, just represented *Agent A* (being an individual or a cluster of multiple people) as linearly transferring his/her knowledge to *Agent B*. In such a model, Agent A is an active sender, supplying knowledge to a passive receiver, as if knowledge were a mere package of data and the transfer were immediate and never affected by a multitude of other external (and internal) factors (Porup Thomasen 2015: 88).

In stark contrast with this view, Risku et al. (2011) propose a much more complex model of knowledge communication (specifically for translators and information designers), which distinguishes from the previous one especially in the presence of at least another element in the communication:



Picture 3.11a: Risku et al.'s model of Knowledge Transfer (2011)

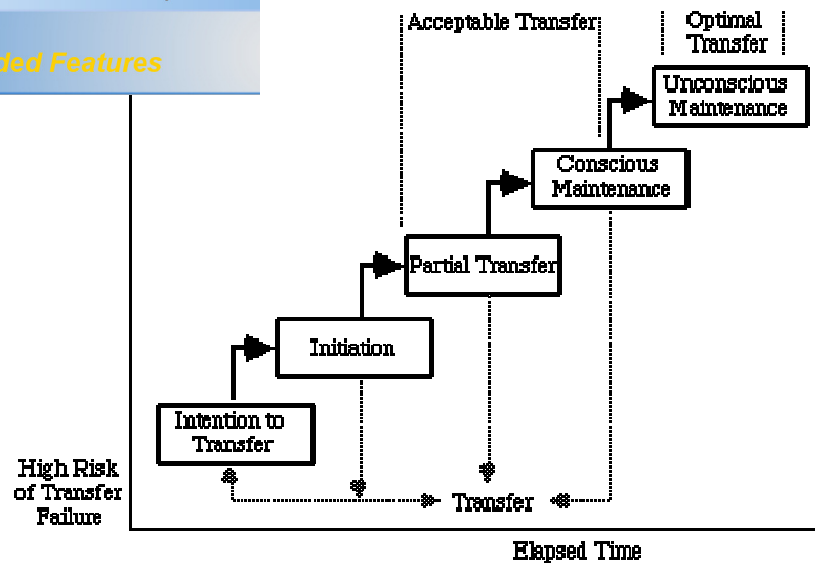


Picture 3.11b: Risku et al.'s extended model of Knowledge Transfer (2011)

Risku et al. (2011: 169-170) consider Knowledge Communication as a process of transfer from Agent A (Source) to Agent C (Target), as communication is often necessarily mediated by Agent B (Communicator). That is because in the transfer process a number of asymmetries and barriers are involved, which represent "challenges" for the communication participants. Such challenges are dealt by entrusting agents who are or have been part of the source and of the target community, so that they can mediate between the two. In this view, co-construction is more easily accomplished in a face-to-face communicative situation, while in media-based situations the transactional transfer process has to be consciously reproduced. The agents called "Communicators (B)", who can be represented, for instance, by information designers or translators, have to adapt to the target community, by evaluating the knowledge held by the senders and making assumptions about the knowledge of the recipients and the asymmetries in knowledge (Risku et al. 2011: 181). This kind of adaptation to the target group is called "audience design" by Clark and Murphy (1982).

This model of Knowledge Transfer fits well within the context of the present research: in legal dramas, the transfer of specialized knowledge to the general audience is all but direct. It is obtained by means of a "Communicator (B)", which is clearly represented by the legal drama itself, or better, by the authors hiding behind the scripts of legal dramas. The communicators/scriptwriters accomplish a "User and situation analysis" (as it is referred to in the model above) and adapt their knowledge ("enriched artefact") in such a way that it can be enjoyed by the product consumers ("collaborative design").

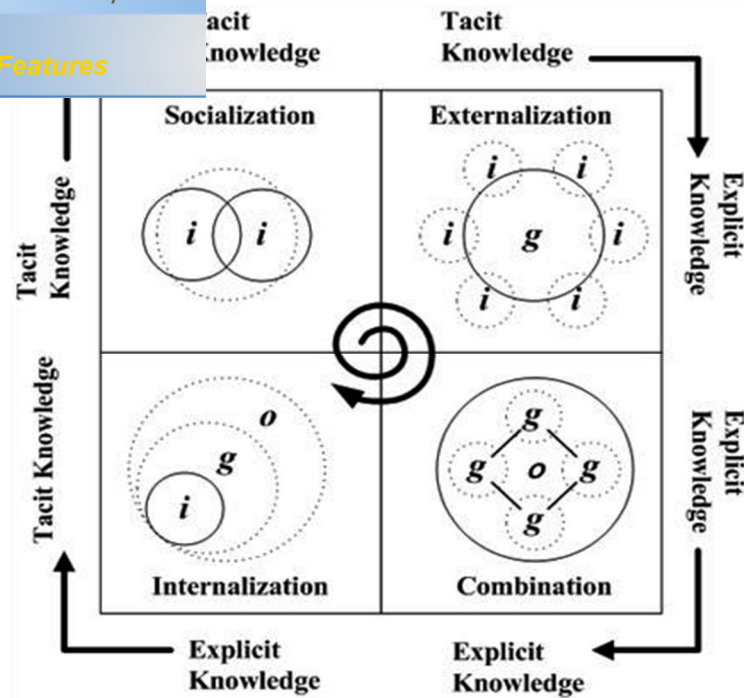
While this view may be perceived as corresponding to (or at least befitting) the actual process of knowledge transfer, other studies on Knowledge Transfer have seen the process in a much less linear way, or, at least, as embedded in a context influenced by other variables. Foxon (1993), for instance, shows how the risk of failure in the Knowledge Transfer process can be reduced in time.



Picture 3.12: Foxon's model of Knowledge Transfer (1993)

She distinguishes five phases of the Knowledge Transfer process in long time spans, based on her field of study: higher education. The initial phases, in which the 'intention to transfer' and the 'initiation' are the central concerns, also represent the phases in which the risk of a transfer failure is higher. Moving forward in time, instead, the process gradually involves a 'partial transfer' and subsequently a 'conscious maintenance' of knowledge and the risk of transfer failure decreases. The optimal transfer is obtained when the maintenance of knowledge becomes 'unconscious' and the risk of failure almost expires. However, we have to bear in mind that this model still sees agency in this process as a simple transmission of knowledge from an 'active sender' to a 'passive receiver', and not in a transactional perspective.

Nonaka's model (1994), also known as the SECI-model of knowledge conversation, similarly depicts the knowledge transfer as composed of more phases (four) in a time succession. The criterion whereby the phases are distinguished, however, is not the risk of failure transfer, but the 'internalization' and the 'externalization' of 'tacit knowledge' (see below):



Picture 3.13: Nonaka (1994) SECI model of Knowledge Transfer (i: individual, g: group, o: organisation)

According to Nonaka's model, knowledge is transferred in a *continuum* made up of four phases, in which a 'continual dialogue between tacit and explicit knowledge' is created.

In order to understand the model proposed by Nonaka, then, an introduction to the concepts of 'tacit' and 'explicit' knowledge is necessary. This classification was introduced by Polanyi (1966: 4), who, arguing that 'we can know more than we can tell', distinguished between the 'knowledge that is transmittable in formal, systematic language', called 'explicit' or 'codified', and the knowledge which 'has a personal quality, which makes it hard to formalize and communicate, (i) [is] rooted in action, commitment, and involvement in a specific context', i.e. 'tacit' knowledge. Nonaka adds that 'tacit' knowledge involves both cognitive and technical elements. Cognitive elements are the models elaborated in the mind (such as schemata, paradigms, beliefs and viewpoints) that help individuals to perceive and define the world. The technical elements, instead, are represented by 'concrete know-how, crafts, and skills that apply to specific contexts' (Nonaka, 1994: 16). Finally, Tsoukas (2002) contributes to the definition of tacit knowledge by stating that it 'consists of a set of particulars of which we are subsidiarily aware as we focus on something else' and that it 'cannot be captured, translated or converted but only displayed, manifested in what we do' (Tsoukas, 2002: 15).

In his model, Nonaka identifies four different patterns of interaction between tacit and explicit knowledge, which explain how existing knowledge can be converted into new knowledge by means of social interaction (Nonaka 1994: 18). The first mode of knowledge conversion is called 'socialization': it is the process of creating tacit knowledge through interaction between individuals. Interaction does not necessarily mean language (for example, craftsmen do not need to speak to gain their ability, but can learn by imitating). The key to acquiring knowledge, indeed, is experience.

ationö, that is to say the conversion of tacit knowledge

The third mode is a process of making explicit knowledge from explicit knowledge, called öcombinationö and concerns the öreconfiguring of existing information through the sorting, adding, recategorizing, and recontextualizing of explicit knowledgeö and how these can lead to new knowledge.

The forth mode, called öinternalizationö, is the conversion of explicit knowledge into tacit knowledge, and bears some similarity to the traditional notion of ölearningö (Nonaka 1994: 15).

Moving across the four modes there is a *spiral*, representing the creation of a new concept as a continual dialogue between tacit and explicit knowledge:

As the concept resonates around an expanding community of individuals, it is developed and clarified. Gradually, concepts which are thought to be of value obtain a wider currency and become crystallized. (Nonaka 1994: 15).

However, this model is about twenty years old and Nonaka has later introduced the notion of a ötacit-explicit continuumö, in place of the merely dualistic approach of the ötacit-explicit dualityö (Porup Thomasen, 2015: 99).

As we can see, in time the view of the process of KT has been mainly constructed as a sequence of phases (Foxon 1993, Nonaka 1994) and later began to consider the influence of other elements and participants on the process and to encompass them in their models (as in Risku et al. 2011). However, Sun (2009) shifted the focus on other factors impacting the knowledge transfer which had previously been neglected or underestimated, such as the öEase of Transferö and the öMotivation to Transferö.

The Ease of Transfer is öthe amount of time and effort spent in helping others understand the source of knowledgeö and depends on three factors:

- a) the complexity of the tacit knowledge transferred;
- b) the intelligent cooperation of the recipient to comprehend and absorb the knowledge conveyed;
- c) the ability of the source to transfer such knowledge.

Motivation to Transfer is definable as the öwillingness of the source to be involved in the transfer processö. Indeed, if the source of knowledge derives no satisfaction from the transfer process, tacit knowledge transfer does not take place. Consequently, the two factors influencing the Motivation to Transfer are:

- a) how the source feels that the locus of control of his/her knowledge is affected;
- b) reciprocal appreciation with the recipient, which includes other factors such as interpersonal connections, trust and commitment to the organization they work for, in the case of business knowledge communication.

As stated above, the process of Knowledge Communication is not as linear as it is sometimes depicted and involves numerous factors in addition to the *Source* and the *Recipient* of knowledge (borrowing Sun's 2009 terminology). Such factors can be both *internal* and *external* to the participants in the communication. *Internal* factors include the constitutive features of the interactors, their *knowledge* and the amount and the type of knowledge that they share. *External* features include every other element affecting or influencing the communication, for instance the medium or channel of communication, or spatial, temporal and cultural distance between the participants. However, this distinction of the factors influencing Knowledge Communication into *internal* and *external* to the participants must not be seen as categorical, but rather as placed along one single *continuum*: the participants' previous knowledge, indeed, is necessarily based on the experience of the external world and so is the knowledge the interactors share.

Source and *Recipient* can be very distant, in terms of both the *amount* of shared knowledge, and of the *type* of previous life experiences and backgrounds, but this *Knowledge Asymmetry* (hereafter also shortened as *KA*) is a constitutive factor in Knowledge Communication. If there were no difference in the knowledge possessed by the individuals participating in communication, there would actually be no motive (nor motivation) to share or convey a piece of knowledge to the other:

If communicatively relevant inequalities of knowledge were non-existing, there would be little or no need for most kinds of communication (Linell and Luckmann, 1991: 4).²³

The fields in which Knowledge Asymmetries have been analyzed are various and numerous: the difference in both *quantity* and *quality* of knowledge affects an extraordinary number of domains, ranging from business and company communication to education and learning, media and communication studies, translation and linguistics, and even medicine. However, Knowledge Asymmetries are also understood differently in each of these fields, according to the function or the *role* that they play in the area which is under investigation. This is one of the reasons for my terminological and methodological choice to switch between *Knowledge Asymmetry* and *Knowledge Asymmetries*: by the singular form I mean it as a specific status existing between two or more interactors in a specific communicative context, whereas by using the plural form I intend to encompass the phenomenon in general, including all the different meanings and facets that a *Knowledge Asymmetry* can acquire according to the different contexts: the *asymmetry* can be in the expertise of the interactors, in their power or in their culture, and this implies that it would be reductive to assume the existence of just one *Knowledge Asymmetry*.²⁴

In the following section, I will try to provide a multifaceted overview of Knowledge Asymmetries across different disciplines and time, with the purpose of reaching a general definition of *Knowledge Asymmetry*, which is fundamental to the understanding of the analysis of the communicative situations drawn from my corpus of legal dramas and of the influence that Knowledge Asymmetry has on language.

²³ In Jacobsen (2012: 18).

²⁴ Jacobsen (2012:77), instead, uses the terms almost indifferently.

The notion of Knowledge Asymmetry is indeed a fixture in many research fields. Knowledge Asymmetries seem to exist between people, between organizational units or functions, between companies, between different strata of society and even between nations or continents. And different though the examples may be, they seem to resonate with a wish to overcome, to fill, to reduce, to rectify whatever Knowledge Asymmetry is in question. (Kastberg 2011a: 138).

Kastberg highlights the need for an interdisciplinary view of Knowledge Asymmetries, which may allow to look at them from multiple points, but most importantly, underlines the desire of all the research fields to *öovercome, fill, reduce and rectifyö* Knowledge Asymmetry. As will be shown later on, this statement, in reality, only applies to traditional reflections on Knowledge Asymmetry and to some particular fields which consider it as detrimental.

Early reflections on *öKnowledge Asymmetryö* and the first attempts to define it date back to long time ago: in his work on the interaction between physician and patient, the sociologist Talcott Parsons (1975) analyzes the relationship between the two, which is *öbasically asymmetrical because of the physicianø expertise in health matters, gained through training experienceö*, and therefore *öcomparable to the relation of teacher and student in higher educationö*. In his paper, Parsons uses the term *öKnowledge Asymmetryö* to denote *öthe knowledge difference that *a priori* exist between experts and laymenö*, acknowledging at the same time the universality of Knowledge Asymmetry, the existence of different *øtypesø* of KA and their comparability.

Similarly, Pilnick (1998) analyses *öknowledge-based asymmetriesö* between patient and doctor. However, she stresses the *öinteractiveö* nature of asymmetries and describes how *öinteractively achievedö* knowledge-based asymmetries between patient and doctor appear to diminish over time and hold the potential to change through the process of verbal interaction.²⁵ According to her, asymmetries are not *ösimply givenö*, but are *öcreated through the period of interactionö*:

Rather than being imposed, [asymmetries] may be interactively achieved by both participants to an interaction, and specifically to the doctor/patient encounterö (1998: 32).

Ericsson and Smith (1991) have collected a series of studies made by scientists on expert performance in different areas (physics, medicine, sports, performing arts, music, writing, and decision-making), aiming to identify characteristics of expert performance that could be generalized across many different areas of expertise and to list the general characteristics of expertise. In their view, Knowledge Asymmetry is represented by the difference between *öexpertsö* and *önovicesö* and *ödistinguishes outstanding individuals in a domain from less outstanding individuals in that domain, as well as from people in generalö* (Ericsson and Smith, 1991: 2)²⁶. Through this definition, they contribute to give a *øscalarø* view of

²⁵ This view is in full opposition with the *ögapö* or *ödeficitö* models stating that the asymmetry cannot be neutralized or that it even tends to widen in time (see *infra*).

²⁶ In Jacobsen (2012: 3-4).

the "experts" (or "outstanding") prevail over the "less general". In this view, Knowledge Asymmetry is thus considered as a "skill" asymmetry.

Towards an interdisciplinary definition of Knowledge Asymmetry

Similarly, in his paper on successful student learning groups, Barker (2005) describes KA as a condition where "one group member is more expert on a topic than another" (2005: 276)²⁷ and the same view is often presented in studies on teaching and education (see Lee and Sharin 2004, who see KA as "obstructive" for teaching and learning).²⁸

In areas like Business Communication and Organization, the concept of Knowledge Asymmetry is generally associated with negative meanings: knowledge is considered an asset to the company and the shared knowledge among the "parts" that constitute a company is a desirable advantage, as it can speed up processes and avoid time dispersions and extra costs:

Knowledge Asymmetries between client and vendor can lead to extra costs for the client organization (Dibbern et al. 2008: 334, in Jacobsen 2012: 81).

In particular, in Knowledge Management, the size of the Knowledge Asymmetry between organizational units, functions or personnel is considered "inversely proportional to how profitable a company may expect it to be" and the "structural holes" represented by KA need to be filled. (Oliver/Garrigós/Porta 2008, in Kastberg 2011a: 138).

Eppler (2004: 684) explicitly defines Knowledge Asymmetry as a "problem" (in Jacobsen 2012: 86) and, focusing on the differences between domain experts and decision makers, he calls it a "hindrance for optimal knowledge transfer inside the organization" (2006: 195, in Kastberg 2011a: 137).

In their article on knowledge management in health organizations, Gupta et al. (2007), discussing "knowledge translation" as "knowledge transfer", even consider Knowledge Asymmetry one of the five problems in the transfer of knowledge from one community or organizational unit to the other (the other four being knowledge access, incompleteness, valuation and incompatibility).

In the same field, the concept of KA is also often associated with the one of "dispersion of knowledge". According to Rönkkö and Mäkelä (2008: 3), who view it as a professional difference between "the marketing people" and "the engineering people", Knowledge Asymmetry is defined as a "relative lack of common ground" created as a result of the "uneven dispersion of different types of knowledge within the organization". The concept of "dispersion" is borrowed from Becker (2001: 1039), who considers KA as an undesirable condition: "drivers of organizational problems that dispersed knowledge leads to are knowledge asymmetries".

Moreover, several models for the "knowledge-gap" have traditionally been proposed, e.g. Thunberg et al. (1982), or Bensaude-Vincent's model (2001), according to which the gap between the two parties involved tends to widen over time. Bauer, Allum and Miller (2007)

²⁷ Jacobsen (2012: 81).

²⁸ Jacobsen (2012: 80).

based on the contrast between a lay person (seen in a t (in a öknowledge surplusö)²⁹. According to this model, the actions made by external agents (such as political, societal or other authorities) to diminish the ögapö or reduce the ödeficitö would be useless, as the agent in knowledge surplus would also benefit from them, leading to a permanent Knowledge Asymmetry. Such views are challenged by Kastberg (2011a), who considers them simplistic and explains why Knowledge Asymmetries are not only a matter of öto haveö or öto have notö (see below).

Such views are completely opposed by studies conducted in reference to different aspects of organizational studies. In a study on organizational learning, for example, Lines (2005: 160) showed the positive side of KA, by discovering that the division of the tasks, leading to the development of knowledge asymmetries, öcreates a potential for improving performance by improving problem solving, decision making and the performance of other tasks (í) that favour the sharing of knowledgeö³⁰.

Finally, in many cases, KA can be an equivalent of Power Asymmetry:

Wherever there is specialized knowledge developed to provide services for other people, there exists a situation where there is asymmetry of knowledge and hence asymmetry of power, which gives rise to a dependency relationship (i.e. one person will have to depend on the word and advice of the other, because they lack the knowledge). With such asymmetry of knowledge comes the potential to abuse one's position of power and take advantage of the other person. (Duska and Duska, 2003: 68-69, in Jacobsen, 2012: 82-83).

This view is particularly close to the theoretical framework of Discourse Analysis and Critical Discourse Analysis, in which factors such as power, knowledge and the belonging to a discourse/specialized/professional community are seen as central to the construction of language and communication³¹.

As Kastberg (2011a: 138) observes,

Knowledge asymmetries are by no means limited to the relative abstract levels of international relations, business and industry, organizational studies and Knowledge Management. Knowledge asymmetries are also to be at the mundane level of day-to-day communicative interaction ó e.g. between the knowledges of the expert and the layperson with regards to a specific knowledge domain.

In the context of the studies on intercultural communication, Knowledge Asymmetries are mainly seen as cultural differences. According to Günthner and Luckmann (2001: 57), öthe social stock of knowledge of various societies differs significantlyö and this can give rise to misunderstandings in cases of intercultural communication. From this perspective, then, the asymmetry concerns more the -qualitativeø aspect, the ökindsö of knowledge possessed by the interactors, than the -quantitativeø aspect, that would rather concern the ödegreeö of

²⁹ See also Bucchi (2008) and Einsiedel (2008), in Porup Thomasen (2015: 104).

³⁰ In Jacobsen (2012: 80).

³¹ The relationship between power asymmetries and knowledge asymmetries in legal drama has been recently analyzed and discussed (Laudisio, forthcoming c, presented at the 3rd Linguaging Diversity Conference, Macerata, March 3-5 2016). The study demonstrated the possibility of exploiting power asymmetries between the character of legal drama and their persuasive intentions as a device catalyzing the communication of knowledge to the audience.

le in a communication between a more expert and a less in a specific discipline.

In their study on how KA concerning the appropriate use of communicative genres pose problems in intercultural situations, Günthner and Luckmann do not only provide an in-depth insight into the KA created by the different perception of genres along different cultures, but also a useful framework of reference for further investigation in intercultural communication, which analyses KA from three different levels:

- 1) the 'internal structures' level: overall patterns of diverse elements, such as lexico-semantic elements (words, phrases), phonological and prosodic devices, syntactical patterning (e.g. formulaic and rhetorical expressions), the selection of specific linguistic varieties, register and style, regulations in dialogicity and even expression and gesture;
- 2) the 'situative' level: elements which are part of the ongoing interaction, i.e. the interactive organization of conversation including turn-taking rules, rules of listening, preference and agreement organization, participation patterns;
- 3) the 'external structures' level, namely that of communicative genres and patterns, consisting of definitions of communicative milieu and situation, the actor type (according to age, gender, status etc.) and relationships between actors.

In their investigation on cross-disciplinary projects, Alrøe and Noe (2011) focus on the growing differentiation and specialization of science, which paradoxically leads to a fragmentation of knowledge and subsequently to what they call 'perspectival knowledge asymmetry' and to negative consequences on the communication of scientific knowledge. Stating that 'all knowledge comes from a certain perspective. All learning happens in concrete perspectives in the world' (2011: 155) and that it is a condition for cross-disciplinary approaches that 'different perspectives observe the same things' (2011: 158), Alrøe and Noe adopt a 'perspectivist' view of science and see all KA as 'perspectival'. They also suggest a framework for researchers engaged in cross-disciplinary work to engage in work practices that promotes 'polyocular communication', that can be used to handle 'perspectival' knowledge asymmetries. In particular, they also focus on the linguistic/communicative asymmetry in cross-disciplinary projects, underlining that 'special languages of scientific disciplines and schools are not generally shared' and that 'the communicative paradox of cross-disciplinary science is that the common language is not sufficiently precise to handle the immediate objects of specialized perspectives'.

As announced above, Kastberg (2007, 2011a) challenges the oversimplistic dichotomy between 'expert' and 'lay' (which he refers to as the perspective distinguishing between the 'haves' and the 'have nots') and looks at the two parties as complementary. He emphasizes the interdependence relationship between the two, highlighting that 'without domain laymanship there would be no domain expertise' (2011a: 147).

In his attempt to (re)define KA, Kastberg decomposes the concept itself in order to analyze it from more perspectives. In particular, he decides to focus on knowledge asymmetries:

- 1) from the perspective of basic assumptions of the concept of 'asymmetry'
- 2) from the perspective of basic assumptions of the concept of 'knowledge'

c assumptions of the concept of communication, based on the geometries of knowledge are important only when they are made communicatively salient (Linell and Luckmann 1991: 5) and that Knowledge Asymmetry becomes communicatively salient when it is discursively constructed (Kastberg 2011a: 145).

His investigation on the concept of asymmetry leads to the conclusion that it is often seen as negative and undesirable (as in the case of Business Management, see above), but it is indeed just a difference. More interestingly, he puts into evidence the substantial interdependence of the parts, specifying that no one entity holds an *a priori* hegemonic position and that the parties have a cohesive common denominator. Asymmetry is thus considered as a relation, without any judgments or evaluation: without domain laymanship, there would be no domain expertise and vice versa (2011a: 147).

Building on a constructivist approach where knowledge is seen as the product of a knower, Kastberg also underlines that knowledge is never context-free, never mere representation, but rather the product of a knower's collated experiences and inferences. For this reason, he looks at knowledge as embedded in a context which is itself the determining factor in the existence of any form of knowledge:

Human communicative interaction is the medium in which we may appreciate knowledge, as well as knowledge asymmetry. What remains for us, then, is to approach knowledge and knowledge asymmetries as discursive constructions. (í) In order to gain access to and appreciate knowledge asymmetries we need to enter into the flux of communication (Kastberg 2011a: 143).

For this reason, he focuses on the element of communication, which is essential for the concept of Knowledge Asymmetry to be relevant. Starting from a brief overview of the models of communication and the evolution from the sender-receiver model to communication seen as interactive first and transactive later, and as a joint meaning-making process (see 3.1.1. and Kastberg 2011b: 3), Kastberg focuses on the interactional relationship and in particular on the Parsonian notion of double contingency (Parsons and Shils, 1951):

When interacting with the other, I recognize the other and at the same time I recognize that the other recognizes me (Kastberg 2011a: 144)

He takes this assumption as a starting point for the proposal of a novel sight of the relationship between the communicators seen no more as interactional, but as transactional. The double contingency becomes a *double* double contingency, because communication is no longer seen as sender-oriented, but involves the receiver's perspective and perception just as much as the sender's.

Given the example of a communication between an expert and a layman, as in the case of a doctor speaking to a patient, the doctor expects to be in command of the clinical knowledge and expects the patient to expect so. Vice versa, the patient expects the doctor to be in command of the necessary clinical knowledge and is conscious of the fact that the doctor expects the patient to expect so. In this transactional view of communication, a

face, from both the perspectives of the *ösenderö* and of the *öexpertö* and of the *ölay personö*.

Moreover, given the view of communication as possibly *ömediatedö* or involving third parties, the Knowledge Asymmetry between the participants, as well as the *double double* contingency relationship between them, can be observed and perceived by a third party (be it internal or external to the communication process) as well (*ölivedö* vs. *öobservedö* knowledge asymmetries, Kastberg 2011a: 144). A communicative situation matching this description is, for example, the one displayed in legal dramas, when a lawyer (expert) is speaking to a customer (layman) and the audience (third part) is watching the scene. Between lawyer and customer a relationship of *double double* contingency is established (fictional though it may be) and a clear Knowledge Asymmetry is presented. The third party, represented *in casu* by the external, non-participating audience, perceives Knowledge Asymmetry and acknowledges it from outside.

Kastberg concludes that *öperturbationsö* such as knowledge asymmetries are created to *ömotivate the interactors to re-establish the equilibrium of the cooperative communicative fluxö*, thus demolishing the concept of a *ögap to be filledö* and, as a motivational device, KA are seen as one of the prerequisites to communicate:

All knowledge is unique to its knower, and we will never know the exact same thing. When we perceive such an ever-present difference of knowledge, it is (í) an asymmetry. The ability to appreciate and to evaluate such knowledge asymmetries is what catalyzes us to communicate on the basis of what we know. We communicate with each other, because we do not know the exact same thing (Porup Thomasen 2015: 120).

Finally, Jacobsen (2012) provides an all-encompassing view and a detailed definition of Knowledge Asymmetries reached by means of a multi-faceted theoretical framework, which draws upon ethnography. Starting from the assumption that *öif Knowledge Asymmetries exist in multiple locations, then they may also be studied simultaneously in multiple locationsö*, Jacobsen adopts a *ömulti-sited inquiryö*, analyzing knowledge asymmetries in:

- 1) a training course on climate change in Denmark, where the lectures and the presentations given were considered as an example of *öone way communication from experts with knowledge to publics without itö* (Trench 2008: 119);
- 2) a museum exhibition in Denmark which displayed tapestries and handicrafts from Swaziland;
- 3) a pool of academic publications on *öknowledge asymmetriesö*, representing researchers writing their knowledge about *öknowledgeö*, and cross-referencing.

In particular, Jacobsen finds that the latter do not only create a sense of KA between themselves and the readers, but when tables and curves of KA between people are presented, she recognizes a *öpictoriabilityö* of KA, i.e. the ability to be fixed in pictures.

When the concept of KA between people was related to learning or power asymmetries, she recognized an *öentanglabilityö* of KA (Jacobsen 2012: 19). The latter feature emphasized by Jacobsen sheds light on the unbelievable *öconcretenessö* of KA.

Knowledge is looked at from all the possible angles, not only as an abstract, undefinable entity which varies with individuals yet stays somehow universal and indivisible. It is

is embedded in real situations: Knowledge Asymmetries between students and teachers, or in universities between academics of different degrees), as well as in companies and organizations, and they place the people involved in such institutions in the face of a tangible disparity.

Jacobsen shows that anecdotes drawn from three (apparently) completely dissimilar contexts are, in reality, all expressions of KA. This is explained by the fact that KA can be expressed by the difference in the amount of information possessed by the participants in the communication, by their expertise, but also simply by other features of the participants (such as their cultural background) and even by external factors (see Sun 2001: ease and motivation of transfer).

Günthner and Luckmann ([1995: 5] 2001) notice that knowledge 'disparities' can be distinguished according to 'kind' and 'degree':

Although a certain amount of generally and specifically communicative knowledge must be shared by everybody in any society, the amount of the knowledge may differ significantly not only from one type of society to another, e.g. from nomadic-pastoral to modern industrial, but even with the same general type, e.g. Japan and the USA. Even more significant than the differences in the amount of common knowledge is the variation in the extent to which specialized knowledge has evolved in different societies. (í) Social interaction in general and communication in particular require a definable (as to type and level) amount of shared knowledge. Much of that knowledge is derived from the same social stock of (unequally distributed) knowledge, or, in the case of intercultural communication, from different (í) social stocks of knowledge.

On the basis of the assumptions above, Risku et al. (2011) come to provide an insightful classification of the different kinds of Knowledge Asymmetries in:

- 1) *individual asymmetries*, provided by the difference in the attitudes, personality, abilities and especially prior knowledge of the individuals involved in the communication and the different way they accordingly construct knowledge. For example, in specialized communication, an asymmetry can be caused by the fact that experts' knowledge is necessarily organized more efficiently than that of laypeople (or of novices);
- 2) *community and culture-based asymmetries*, generated by the belonging to social groups or discourse/practice communities and by the way people understand an artefact to the communication: a certain artefact can be known to the groups of a specific community and serve as a common ground for knowledge communication between them, while acting at the same time as a barrier for people outside the community.
- 3) *situational asymmetries*, depending on the environmental cues and the situational factors (like 'the occasion, the task, the aim, the physical environment, what was said before, and the people involved', Risku 2002³²), as communication does not only depend on knowing some preconceived concepts and meanings, but also on circumstances and on contextual elements which help reconstruct knowledge: 'we delegate knowledge to our environment' (Risku et al. 2011: 172).

To conclude this overview on Knowledge Asymmetries, one cannot avoid underlining the most basic and straightforward distinction to be made about them. Are they an advantage or

³² In Risku et al. (2011: 172).

? More traditional views, mostly focusing on certain (management) see KA as a hindrance, an obstacle to free communication of data and information, a *ōgapō* to be filled, a distance to be covered by means of a bridge. Indeed, disparity on the amount (or level) of specialized knowledge possessed can cause wasting of time, resources and money; it can mean *āextra effortō* to do and can cause misunderstandings or breakdowns in communication. At the same time, the desire for knowledge, the curiosity which is inherent in human nature, and the ambition of getting to the same degree of knowledge as another person, push towards the filling of KA by means of communication.

And what I will describe in the next sections is just how KA can influence communication, the strategies that experts use to convey their knowledge to a person with a different degree of knowledge, or, as in the case of TV products, to a whole audience.

3.3. Popularization

3.3.1 Against a *āpolarizedō* view: popularization as a specialist-lay continuum

Traditional views of popularization showed a trend towards considering popularized knowledge as a *ālow levelō* type of knowledge, modified, manipulated or even distorted, polluted or degraded (Hilgartner 1990: 519). *āReal scienceō* and *āscience productsō* used to be strenuously distinguished from *āpopularized scienceō* and *āproducts of popularizationō* and the *āpureō* *āgenuineō* scientific knowledge represented the *ōepistemic gold standardō* that was *ōthe exclusive preserve of scientistsō* (Hilgartner 1990: 520). Such a stance towards the knowledge *āmodifiedō* in order to be *āexploitedō* by the general audience is partly due to the distance, mainly in terms of forms, between the *original*, specialized knowledge and its popularized version.

Moreover, popularization has traditionally been seen as not being connected to the actual creation of new knowledge, nor to sharing it with the *élite* comprising scientists or experts in the specific domains to which the new knowledge belongs. In a never-ending race towards new discoveries, the invention of new technologies, the progressive hyper-specialization of knowledge (and of knowledge fields), the scientists' principal purpose was to *āfind outō* new stocks of knowledge, developing information and disseminating it *within* their own community. Dissemination *outside* their community was mostly perceived as a *ōlow status activity unrelated to research work, which scientists are often unwilling to do and for which they are ill-equippedō* (Whitley 1985: 3). It was thus never part of the knowledge production process and was not considered important in the validation process (i.e. the process validating knowledge as universally recognized as true); it was rather something external to research, *ōwhich can be left to non-scientists, failed scientists or ex-scientists as part of the general public relations effort of the research enterpriseō* (*ibid.*).

As necessary only as a means to enhance the reputation of the enterprise, dissemination outside the specialized community was considered a *āsubsidiary activityō* which could even decrease a researcher's prestige. A two-stage model, made up of a first phase in which *ōscientists develop genuine scientific knowledgeō*, and a second phase, in which *ōpopularizers disseminate simplified accounts to the publicō* (Hilgartner 1990: 519), dominated. Dissemination to the public was only subsequent to the discovery of knowledge, and was completely separated from it and could not

zation from scientific research to a general audience was
().

While describing the debated view of the two separate discourses (one ðwithin scientific institutionsð and one ðoutside themð), Myers (2003: 266) provides an insightful synopsis of the traditional view of popularization discourse from the scientific communitiesø standpoint, whose main assumptions are:

- 1) That scientists and scientific institutions are the authorities on what constitutes science;
- 2) That the public sphere is, on scientific topics, a blank slate of ignorance on which scientists write knowledge;
- 3) That this knowledge travels only one way, from science to society;
- 4) That the content of science is information contained in a series of written statements;
- 5) That in the course of translation from one discourse to the other, this information not only changes textual form, but is simplified, distorted, hyped up and dumbed down³³.

Such assumptions are also shared by Bucchi (2008: 58) in his introduction to the traditional view of popularization, but he nonetheless adds some other factors considered important for a complete view of popularization in the society:

- 1 the media as a channel designed to convey scientific notions, but often unable to perform this task
- (í)
- 5 knowledge as being transferable without significant alterations from one context to another, so that it is possible to take an idea or result from the scientific community and bring it to the general public.

As we will see later on, this view has thoroughly challenged and is now outdated: first, scientists or experts in general do not need to share knowledge only with the community they belong to. The increasing interdisciplinarity of sciences, especially if economic aspects are involved, make it necessary to be able to communicate specialized new knowledge to communities different from oneø own (see, for example, in the case of market placement of pharmaceutical products, or in the case of legal debates concerning medical-scientific experimentation etc.), and very often to the general audience (e.g. the request for research funding):

There is a new, more sophisticated view of the popularization process and its consequences for intellectual developments in different scientific fields. It is a complex phenomenon, involving a variety of actors and audiences that impinges upon the research process and cannot be totally isolated from it (Whitley 1985: 3).

The traditional view of popularization is directly connected to the (erroneous) picture of communication as a linear process moving from a Source/Producer to an Addressee/Recipient, without taking account of the recipientø feedback and of the interactional aspect of communication, especially when focusing on knowledge transfer (see 3.1. and 3.2.). As shown before, indeed, knowledge transfer happens in a context, made of a series of elements which influence the process, and needs a feedback from both sides in order to be effective, productive and to generate new knowledge and new communication. In opposition to a background built on the ðdeficit modelsð in

³³ See also popularization as ðtranslationð (*discours-traduction*) and as ðdistortionð (*discours-trahison*) in Moirand (2003: 175).

to be filled (if possible, see 3.2), Hilgartner (1990: 525-528) distinguishes between the possibility of separating 'pure' specialized knowledge from 'contaminated' popularized knowledge:

One could define genuine scientific knowledge as that which is presented by scientific experts to scientific audiences in scientific forums; all the rest, then, would be defined as popularization (í). But this manoeuvre produces new ambiguities about how broadly to define these categories. (í)

A second strategy for defining the boundary between genuine and popularized knowledge would be to look at the content (í) by looking at the nature of the claims. But the precision with which a claim is stated is clearly a matter of degree. (í)

A third strategy relies on identifying the 'original' knowledge and strictly distinguishing between its creation and its spread (í). Following this line of reasoning, one might maintain that only the original report of new scientific fact constituted genuine knowledge and that everything downstream was popularization. But (í) because facts emerge only as they stabilize and are accepted in downstream representations, this strategy for drawing the boundary between genuine and popularized knowledge relies on selective hindsight.

By invalidating every possible criterion for an artificial distinction between what is 'specialized' and what is 'popularized' Hilgartner endorses the assumption of a *continuum* between the two. His conclusion is that 'popularization is a matter of degree' (1990: 528) and that there is always a certain degree of overlapping between the diverse (more or less) specialized genres. He also proposes a diagram including the different contexts where specialized knowledge can be communicated, in which the different genres are distributed along a *continuum* according to the 'upstream/downstream' criterion:

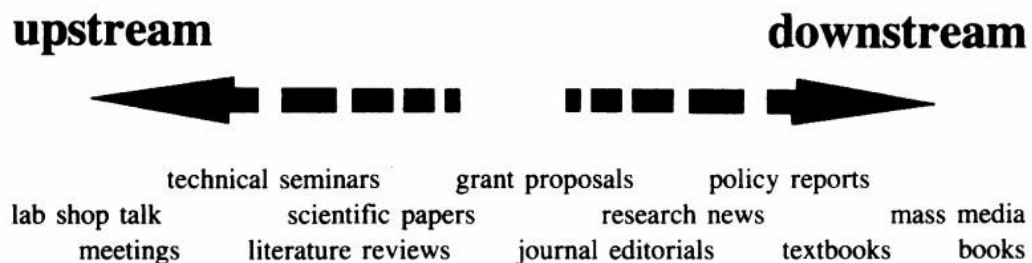


Figure 3.14: Different contexts of knowledge communication (Hilgartner 1990: 528)

The side of a publication Hilgartner defines as 'upstream' is concerned with informal talk with colleagues, writing proposals that can be accepted and persuasive and communicating with the other members of a specialized community. What he defines as 'downstream' instead, includes being cited, featured in review articles, in the media, in textbooks etc.

Cloître and Shinn (1985) also give a crucial contribution to theorizing a specialist-lay continuum. By identifying three main parameters of evaluation (referent, image and argument), the two scholars classify scientific exposition in four types, in a continuum going from 'specialist' to 'being popular':

- 1) Intraspecialistic level: communication from specialist to specialist within the same disciplinary field, e.g. economist to economist, physician to physician;

- alist to specialist across disciplinary fields, e.g. from
emist to physician etc.; they contain many references to
both phenomena and research in neighboring fields and depend heavily on reification;
- 3) Didactic/pedagogical level: communication from specialist to a pupil or trainee, e.g. from professor to student, from tutor to apprentice, e.g. textbooks, lessons, lectures, etc.
 - 4) Popular level: communication from specialist to layman, e.g. from scholar/expert or from journalist to the general public (cf. Garzone 2006: 11, Bucchi 2008: 61).

The first parameter considered in the classification concerns the kind of *referent* which is the topic of the texts analyzed and can fall within one of these five types:

1. Phenomenon
2. Experimental protocol or technique
3. Research in neighboring fields
4. Historical accounts of former research
5. Industry (including technology and economic factors)

The second parameter considers drawing upon certain kinds of *imagery* to popularize scientific research, such as:

6. Graphs
7. Icons
8. Schemas
9. Reified imagery (i.e. individual mental representation of material, forces, theoretical entities etc.)
10. Metaphoric imagery.

Finally, a more ðelusiveö criterion is considered in the classification, that of *argument*, which is distinguished in:

11. Quantitative (use of statements based on numerical values)
12. Qualitative (argument rooted in intuition and subjective perception)
13. Restrictiveness, which consists of the degree to which problems are circumscribed to achieve an analysis, and of the degree to which the propositions are tightly bound to one another in the text.

Thanks to this classification, Cloître and Shinn (1985: 32-51) are able to provide a visual representation of the specialized-popular text continuum which also includes a synthetic description of the features of each genre level, although the ðweaknessö of this scheme is that it is only applicable to written forms of scientific popularization:

	REFERENT					IMAGERY					ARGUMENT		
	1 Phenom ena	2 Exper.Prot ocol/ technique	3 Neighbo ring fields	4 Histo ry	5 Indus try	6 Grap hs	7 Ico ns	8 Sche mas	9 Reifi ed	10 Metaph ors	11 Restrictive ness	12 Quantita tive	13 Qualitat ive
1 Specia list			-						-				
2 Inter-		-				-		-			-	-	-

= low presence

Myers (2003: 272), for example, underlines the limit of this model of communication (and, by extension, of much of the first studies on popularization, limited at the analysis of written forms of scientific communication), by arguing that traditional written genres (such as textbooks) are undergoing a constant process of change (the use of more pictures, more complex and multimodal layouts) and, most of all, that all forms of oral communication of science, such as classrooms, lectures, but also television products, are ignored.

Similar models had been proposed in the previous years, such as Widdowson's (1979) classification distinguishing among "scientific journalism", "scientific instruction" and "scientific exposition" on the basis of both the levels of competence of the "senders" and the "recipients", and Freddi's (1979) model proposing a distinction between the "general description" (i.e. popularization), "specific description" and "specialized treatise" that is the level of formulation and formalization (Garzone 2006: 10).

However, it is on Cloître and Shinnø continuum that Bucchi (2008) laid the foundations for his funnel model of science communication. In his contribution, the Italian sociologist observes that the passage from one level to the following implies a series of social causes and consequences, which gradually filter specialized knowledge into popularized knowledge:

73

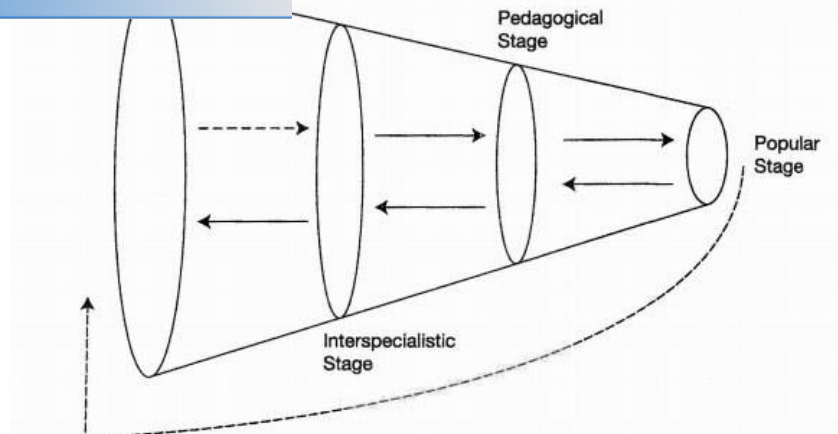


Figure 3.15: Bucchi's (2008: 62) funnel model of science communication as a continuum

However, this model too tends to an oversimplification of the concept of a *continuum* existing among the various genres, which entails that within each genre there is a whole range of registers and repertoires, which are adaptable to different communicative purposes (Myers 2003: 270). The assumption of this continuum is that popularization is not to be seen only at a micro-linguistic level, focusing on features of a single text (use of terminology, discourse organization), but at a broader one, considering genres as a whole as connected to each other, mutually dependent and influencing, and therefore implying, genre hybridity (Myers 2003: 271-272)³⁴. Any objective, universally valid evaluation of the quality of the knowledge contained in a text is thus impossible, as the transfer of knowledge depends on several factors constituting the context of communication (see 3.2 and 3.4):

What emerges is a view of scientific discourse as a complex cluster of genres, registers, repertoires, which some authors conceptualized as a continuum from the most technical specialized scientific research articles and reports to the most widely accessible forms of popularization (í). This wide range of scientific discourses are embedded in and intertwined with other discourses in society, and, at any given time have an intense relationship with contemporary culture as well as a degree of incidence on scientists' work and decisions (Garzone 2012: 77-78).

3.3.2 Towards a definition of popularization

This overview of the traditional conceptions of popularization and the categorizations proposed over the years (mainly of written forms of popularization), showed the risk of underestimating the scope of the phenomenon. However, the representation of the process of popularization as a continuum or as a 'funnel', as well as the acknowledgement of the need to investigate it in terms of text genres and focusing on the contextual elements has demolished the traditional view of popularization as a phenomenon of 'translation' or worse, of 'distortion' of knowledge, for purposes usually considered secondary to the evolution of sciences.

³⁴ The idea of a continuum is supported by the progressive 'fragmentation' of knowledge in more and more specialized fields, which makes specialists automatically specialized in more and more limited areas and make them 'less experts' as soon as they step outside their very limited specialism. Moreover, if popularization is successful, the 'lay' audience becomes gradually more informed about the state of the art of the specific domains in which knowledge is produced, contrary to what is assumed by 'gap' or 'deficit' models presented in 3.2. (Myers 2003: 268).

ction aims to investigate popularization in greater detail / focusing on the causes underlying this phenomenon and

its manifestations, including participants in the popularization process and the different forms or contexts of popularization and even aspects such as consequences of and influences on popularization.

One of the earliest and most complete contributions on the phenomenon of popularization which did not assume it to be a process of 'degrading' specialized knowledge is the one given by Whitley's introduction to a volume published in collaboration with Shinn (1985). In his essay, Whitley points out the four elements involved in the popularization process, and tries to provide a detailed analysis of the process according to each of the following dimensions:

- 1) The audiences for knowledge
- 2) The producers of knowledge
- 3) The knowledge itself and its transformation
- 4) The effects of popularization upon the production and validation of new knowledge.

1) The audience and

2) the producers of knowledge

The first aspect on which a study of popularization needs to focus is that of recipient of knowledge, namely the audience. As we can easily imagine, audiences can be incredibly various: knowledge can be communicated to a very small number of experts in a specialized/academic context, as well as worldwide to a heterogeneous, potentially endless audience, via mass media such as internet and television. In the traditional view of popularization, the audience is generally conceived as 'large, diffuse, undifferentiated and passive, excluded from the process of knowledge production and validation' while the scientists are seen as 'an elite group with highly specialized and extensive training who produce 'truth' which can be translated into ordinary language for public dissemination' (Whitley 1985: 4). However, it has been shown that the central role of the receivers in such processes and place them at the centre of an interactional model (see 3.2.), dismantling the idea of the audience as passive receiver of stocks of knowledge.

3) Knowledge transformation

Undoubtedly, the form in which knowledge is transferred between experts or from experts to laypeople is different: knowledge is produced by 'esoteric' sources, generally specialized communities, similar to elites, and has to be somehow 'explained' to an audience with a lower degree of expertise in the specific field, so the linguistic features of specialized discourse are necessarily different from those of popularized discourse. But, while for what concerns the 'form' we assume that a kind of adaptation is required, the matter of the transformation of knowledge is much more complex: when adapting the form to a less specialized audience, do we also lose something of the content? According to Whitley (1985: 7) knowledge is assumed to remain unchanged throughout the linguistic transformation process, which 'cannot affect the truth status of scientific knowledge'. If knowledge is produced within an autonomous community and it is determined by those who generated it, then 'the transformation of knowledge produced by one community into the language and concepts of another is very difficult, if not impossible'. If we consider this as a necessary and irrefutable feature of specialized knowledge, then we have to admit

from one discourse system to another involves some re-
 orientations to it (*ibid.*).

4) Feedback

The last element considered constitutive in the process of popularization is the feedback from the recipient. As stated before, the traditional view of popularization tended to see popularization as separated from knowledge production and the audience as a passive receiver, often not involved in the production or in the validation process. In this view, feedback from the audience is not even contemplated. However, knowledge dissemination has, in fact, an impact on audience and vice versa. Knowledge can be popularized to the rest of the specialized communities, to other (semi)specialized communities or to a lay public and each one of these may influence the process of knowledge production and validation. Indeed, in most cases, popularization arises from the necessity or the desire to gain social and economic support: in intra-scientific popularization (popularization of research within the sciences, so to other experts), for example, scientists or experts aim at obtaining a collective assertion and a validation of their results. Similarly, external agencies willing to invest in some new products (semi-experts) need to be convinced that the product is worth it and usually need peer-review methods to be sure of it. Or else, research on cancer or other diseases can depend on the support of associations or the general lay public, which are both external to the scientific processes, methodologies and experimentations behind the research, but are willing to be informed about its results. As a matter of fact, the closer specialized fields are to everyday concerns, the stronger the feedback from the lay audience is likely to be. In humanities and social sciences, for example, issues concerning everyday life are hinted at (for example in law, political science, finance, education, communication and media studies etc.), and as a consequence, such fields will probably raise greater public interest, and terminology, concepts and methodologies of such sciences are more likely to be absorbed by a lay audience (Whitley 1985: 8). As Bamford (2012: 28) points out, economics is one of the fields which is most linked to everyday life:

Popular economics discourses play a significant role in shaping most people's view on government, economy policy, taxation, banks, industry, level of employment, house prices, or inflation since these aspects influence their lives most closely. (í) Popularization involves presenting economics to a non-specialist audience and it is widely accepted that writers have to interact with the reader and display an orientation and sensitivity to his/her needs through lexical choice, topic selection and conventions of argument.

Law is also a topic of particular interest to the audience. TV shows staging true-life (or better, potentially or artificially reproduced) legal issues attract the audience because they touch upon topics which might happen to anybody: family law (divorce, spousal support, wills and inheritance etc.), criminal and civil law, but also topics at the heart of numerous social debates, such as taxation, immigration, internet law and bioethics. Hence, my interest in investigating an entertainment form, such as legal dramas, and the legal issues staged in them, the way they are dealt with and reformulated in the scripts in order to catch the audience's interest and to keep the audience watching the series.

On the premises of these elements constituting popularization, Whitley also proposes a model for the classification of the diverse possible forms of popularization:

		Degree of formalization and technical precision	
		Low	High
Degree of controvertibility of arguments	Low	Discursive accounts of certain knowledge, e.g. mass media presentation of high status science	Technical accounts of certain knowledge, as in textbooks
	High	Discursive accounts of conclusions presented in considerable detail and with extensive reasoning, as in many human sciences seeking general recognition	Technical account of detailed conclusions and reasoning, e.g. general review articles for other scientists and professionals

Table 3.2: Adaptation of Whitley (1985: 16) types of popularization

Here Whitley proposes a series of formal criteria according to which the forms of popularization can be classified:

- 1) *degree of formalization* and technical precision used to communicate the results: the more the forms of popularization rely on diffuse, discursive means of communication, the lower the degree of formalization;
- 2) *degree of controvertibility of arguments*, corresponding to the tendency to be *apodictic* i.e. to present conclusions as universal, stable and incontrovertible truths (the higher this tendency, the less space is left for the audience to participate in knowledge production);
- 3) *context factors*, i.e. the circumstances in which the forms of popularization can affect research strategies and intellectual standards, such as:
 - a) the nature of the *audience* addressed, which can vary in size and heterogeneity and so impinges upon the form of popularization (large, autonomous audiences cannot be assumed to have a high level of technical competence, and are typically addressed in *everyday terms*, vivid imagery, diffuse, discursive linguistic structures, while if audience are small and composed of intellectuals who have a certain familiarity with the field, knowledge will be presented *in a technical manner and in formalized language*. The more heterogeneous audiences are, the more simplified and apodictic popularization is likely to be); this aspect is particularly relevant in the case of legal drama, given the heterogeneity of the audience, which is basically not expert of the themes presented and of the terminology used, and its influence on the way specialized knowledge about law is transferred;
 - b) the nature of the *knowledge production system* ó factors such as the degree of standardization of procedures and the general social prestige of the field can also influence the way knowledge is popularizes (e.g., if the procedures are not standardized within and across specialized communities, the degree of technical precision and formalization of language cannot be high, and knowledge will tend to be expressed in everyday terms and discursive language. Similarly, the higher the social and scientific

knowledge is likely to be presented in an apodictic and

- c) major relationships between producer and audience ó considering the acknowledgement of the importance of the audience's feedback on the whole process of popularization, it can be stated that the dependence of the specialized community on the audience has a great influence on the form of popularization: the more influential an audience for a further production of knowledge, the more the knowledge producers have to demonstrate the validity and the importance of their results by tailoring it to both the audience's knowledge and concerns.

The contextual factors include what Whitley (1985: 20) refers to as 'cognitive distance' vs. 'cognitive commonality' and is defined as 'the extent of common experiences, competences and interests between specialist scientists and their audiences' and 'incorporates differences in intellectual background, research skills and intellectual goals', and secondary factors such as private controversy and public consensus³⁵.

To sum up, Whitley's contribution sheds light on the endless nuances of the phenomenon, which can be manifested in a plethora of different forms, along a continuum between 'upstream' and 'downstream' genres (see Hilgartner 1990). The configuration of popularization is determined by numerous factors, mainly social and contextual, which include the participants in the process (knowledge producers and audience), their features, their relationships, their intentions and the socio-historical context in which popularization takes place.

The need to 'adapt' to a receiver confirms the reflections by Risku et al. (2011) on Knowledge Asymmetries (see 3.2.) and on Knowledge Transfer, which emphasize the fundamental role played by the context and the need to 'mediate' between knowledge producers and receivers by adapting knowledge to the latter (see their model in 3.1.). Whitley also paved the way to a more extensive view of popularization, focused on the receiver's role as equal to the producer's one, in an interactional process in which the parties are complementary to the process of knowledge transfer and to the cyclical production of new knowledge by intersecting at a convergence point (cf. Bryant and Wallace 1967, Dance 1963, Kincaid 1979, Roelcke 1994 in 3.1).

It is also on such background that in her investigation on popularization, Moirand (2003) proposes a 'triangular communication model'. Whitley's categorization of the forms of popularization, indeed, does not highlight the possibility of a 'mediated' popularization, and does not consider the mediator as a factor influencing the form of popularization. Moirand's contribution to a more complete representation of the phenomenon of popularization is based on premises similar to those listed in Whitley, but is built on the assumption that the participants in the popularization process are three (and not two) and focuses on the relationships between the three participants on the basis of their pragmatic functions:

³⁵ Whitley (1985: 22-23) also stresses the importance of the consequences of popularization: besides its 'overt' purpose of extending knowledge to a larger audience, popularization is in fact also a means to a higher social and intellectual prestige of the field of knowledge production, since it makes it possible to 'conquer' a wider share of audience which can develop an interest in the subject, take account of and evaluate the progresses made in the field and develop a higher consciousness of the problems and the social implications of some fields.



M(ediator) explains [that which S(cience) SAYS] to P(ublic)

Figure 3.16: Moirandø (2003: 176) òthird actorö of popularization

The mediator is in a communicative position between the knowledge producers and their original, linguistic output and the audience concerned by it. This means that when knowledge is reported to the audience, it has previously been òlifted from [*the scientists*ö] written workö, often quoted and drawn from more than one source, sometimes and somehow modified and simplified. In this view, the mediator is òtorn between several different enunciative polesö. Furthermore, the ñmonological intertextö (i.e. the voice of a particular specialized/scientific community) is replaced by a ñplurilogal intertextö in which the mediator calls upon the different voices of the different communities and re-elaborates knowledge for the audience (Moirand 2003: 179).

In the case under investigation here, it is legal drama which acts as mediator of knowledge. In particular, the scenes in which knowledge is communicated directly from one person to another (generally from an ñexpertö like a lawyer or a judge) to another act as a mediating device. In this sense, we can state that a ñdouble transferö takes place: the first is the one between the expert characters and their interlocutor, which is generally the ñunmediatedö outcome of a direct exchange between the two; the second is the ñmediatedö popularization from the authors of legal drama (who own the ñspecialized knowledgeö and aim to transfer it for the plotö's sakes) and the audience:

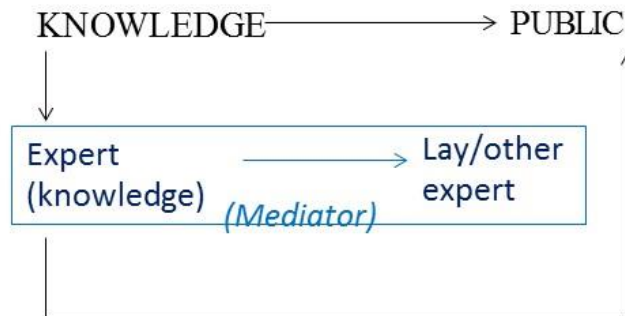


Figure 3.17: Adaptation of Moirandø (2003: 176) model of a òthird actorö in popularization to legal drama.

In such a perspective, not only *cognitive* dimensions are constitutive of the popularization process, but also *communicative* ones and considering their interrelation is substantial to reach to a complete view of the popularization process:

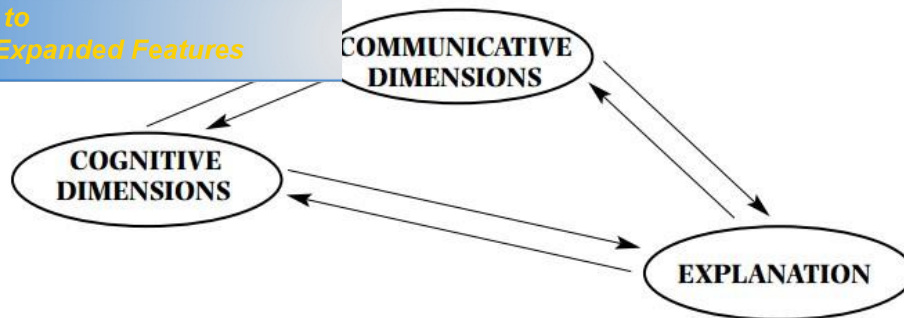


Figure 3.18: Moirand's (2003: 177) triangular model of popularization

Communicative dimensions include the *enunciative standpoints* of the mediator, the utterer and the addressee (i.e. their intentions in communicating) and the representations of other groups' discourse (e.g. quoting or mentioning, framing reporting extracts etc.). Cognitive dimensions, instead, are concerned with *the description of designations, denominations and reformulations, as well as thematizations which transform objects and states of knowledge of the world of science into the object of media discourse* and with *the representations of the types of knowledge conveyed and of the cognitive operations used in the scientific or technical domains concerned*. The cognitive and communicative dimensions are linked to each other not only by natural logic, but also by some discursive types or categories, such as description, narration and explanation, which, as we will see in Chapters 5 and 6, are constitutive of the popularization process. In this view, the mediator is in a state of *permanent discursive insecurity*, meaning that s/he cannot verify all the information, which anyway has to be conveyed.

Moirand raises the issue of the questionability of the popularization models built upon a linear, bipolar scheme, proposing a *circular* representation in which *speech communities* are both source and consumer of the different media messages they generate and by which they are, in turn, kept informed (2003: 197). A new dimension of popularization is now displayed, one of a *knowledge co-production* (as Bucchi 2008: 68 refers to it). In this perspective, the non-expert audience participates in the definition and the accreditation of new, specialized knowledge because it contributes to defining the priorities of research. The focus is finally shifted to non-experts, conceiving their knowledge neither as an *obstacle to overcome*, nor as *an additional element that simply enriches professionals' expertise*, but rather as *essential for the production of knowledge itself* (*ibid.*).

A great contribution to this shift in the perspective of popularization has been given by two main factors: the institutionalization of research (and its increasing specialization) and the growing importance of mass media, both as means of communication of specialized knowledge and as media of general communication and entertainment (Bucchi 2008, Garzone 2006).

Based on Gregory and Miller (1998) and Allan (2002), Garzone (2006) retraces the change of the social role in popularization, bringing to the fore the adaptation to the view of knowledge dissemination to social changes and evolution, and moving from the *original*, *Victorian*, *patronizing* view of it towards the basic social role that it has nowadays. As science and technology are moving fast forward in new directions, *the popularization process has to work, relentlessly, for the quick spread of new ideas and information* (Garzone 2006: 81). The birth and expansion of the Internet and the constantly developing genres and formats characterizing other media (first and foremost television, but also newspapers and more *traditional* forms) make it

h information following different routes. The growing
 at the political and economic level, the interconnection
 of numerous disciplines and of institutions of research are all reasons for the existence and growing
 importance of popularization. On the basis of the studies carried out by Henriksen and Frøyland
 (2000), Allan (2002: 55) lists some of the arguments in favour of an expansion of the knowledge to
 a larger public:

- 1) the practical argument: people need an understanding of science and (even more)
 technology to handle everyday life in a science- and technology-dominated world;
- 2) the democratic (civic) argument: people need an understanding of science to relate to the
 many complex science-related issues that confront citizens of modern democracies;
- 3) the cultural argument: science is part of our cultural heritage and has profoundly
 influenced our view of the world and of humankind's place in it; thus one needs a grasp
 of what science is in order to understand culture;
- 4) the economic (professional) argument: a scientifically literate work-force is necessary for
 a sound and flourishing economy in most countries. (Garzone 2006: 83).

To such arguments, Garzone (*ibid.*) adds the importance of the role of mass media on the public
 perception of scientific and technological issues (such as environmental/climate issues, temporary
 crises, epidemics, natural disasters etc.), which is ultimately based on the representation offered by
 newspapers, magazines and TV, which are not to be seen as neutral, passive mediators of
 knowledge, but as actively contributing to the opinion that the audience has on such issues (cf.
 Bamford 2012).

The change in the view of popularization as a socio-cultural phenomenon is reflected, in
 particular, in the way studies in linguistics approach the discourse of popularization. The first
 studies on the linguistic features of popularization were characterized by a more traditional
 approach to the analysis of language, mainly focused on the lexical aspect. However, limiting the
 analysis of such a broad and complex phenomenon, which basically depends on the way language is
 constructed, is definitely insufficient to explore all its sides. As Caliendo (2012: 9) notes:

It is indeed not only a question of the form used to refer to a specialized concept, but rather
 of the different ways in which the signified is introduced and foregrounded, made the object
 of a definition, illustrated and explained (í), the way a unit of knowledge is selected and
 transformed to be presented to non-experts.

To have a complete view of popularization, then, an analysis of the mere linguistic features on a
 micro-level would probably result inadequate. Certainly, the lexical level is the one where
 differences between the discourse intended for experts and the one intended for a lay audience are
 more evident and noticeable, as opaque, specialized terminology is avoided as much as possible to
 make the content clear to the receiver. Similarly, the morpho-syntactic level is characterized by
 some features and recurrent structures which make an analysis of popularization discourse quite
 immediate. But such levels of analysis tend to be limited to the pure form of the text, and not the
 processes behind the formulation of the text and the re-formulation of knowledge according to that
 text, to text genres, to the cotext and, in particular, to context (see 3.4.).

It is not by chance that Bamford (2012: 23) introduces popularized discourse by defining it as
 including a wide variety of types of communicative genres, both written and oral, in which
 specialist knowledge is transformed or mediated for the layman.

of the phenomenon of popularization, giving particular
ays taken into account before, such as the possibility of

different channels of popularizing communication ó not only written, as in the studies mentioned
above by Whitley 1985, Cloître and Shinn 1985, Hilgartner 1990, and Bucchi 2008, but also oral,
and, actually, even hybrid, e.g. communicated orally but not spontaneous (óplanned speech eventsö
see Salvi 2012) or multimodal communication etc. Moreover, the focus is not on the formal and
linguistics features of popularization discourse, but on knowledge and how it is mediated and
transformed for a layman, which makes popularization öinteresting to investigateö:

Because they [*popularizations*] show how texts originally produced by experts are presented
using different linguistic and rhetorical choices for different audiences according to whether
they consist of experts, students, layman or governments. In each case, the mediation
involved offers different ways of understanding discursive practices (Bamford 2012: 24).

Finally, one of the most comprehensive definitions of popularization is the one provided by
Calsamiglia and van Dijk (2004: 370-371) in their study on the strategies used to popularize new
scientific discoveries about the human genome in a corpus of newspaper articles:

Popularization is a vast class of various types of communicative events or genres that
involve the transformation of specialized knowledge into ‘everyday’ or ‘lay’ knowledge, as
well as recontextualization of scientific discourse, for instance, in the realms of the public
discourse of the mass media or other institutions. This means that popularization discourse
needs to be formulated in such a way that non-specialized readers are able to construct lay
versions of specialized knowledge and integrate these with their existing knowledge. Thus,
various strategies of explanation, (í) are the *semantic means* that allow language users to
relate *new knowledge* to old knowledge [*my emphasis*]

To this general view, they add a brief list of the main, universally accepted tenets on popularization:

1. popularization is a social process consisting of a large class of *discursive-semiotic practices*, involving many types of mass media, books, the internet, exhibitions and other genres of communicative events, *aiming to communicate lay versions of scientific knowledge*, as well as opinions and ideologies of scholars, *among the public at large*.
2. Popularization (í) is not characterized by specific textual structures, but rather by the properties of the *communicative context*: participants and *participant roles* (í); their respective *purposes*, beliefs and *knowledge*; as well as the relevance of such knowledge in the everyday lives of the citizens;
3. (í) these context properties of popularization discourse are relevant for the linguistic analysis of the ‘textual’(verbal) structures of such discourse;
4. Popularization involves not only a *reformulation*, but in particular a *recontextualization* of scientific knowledge and discourse that is originally produced in specialized contexts to which the lay public has limited access (í)
5. The mass media are not passive mediators of scientific knowledge, but *actively contribute in the production of new, common knowledge* and opinions about science and scientists (í)
6. The role of new knowledge production by the mass media needs to be further contextualized in relation to the other, especially the entertainment functions of the media [*emphasis in the original*]

is in-depth investigation of popularization is the new
 passing all aspects of the phenomenon: besides describing

its purposes (to communicate lay versions of scientific knowledge) and its addressees (among the public at large), this definition includes some features providing a more complete overview on popularization.

To begin with, I would like to focus on the first adjective used to define popularization: rather than a merely linguistic phenomenon, it is shown as a social one, and as such, all the following statements and reflections on popularization deriving from this *incipit* describe it a socially situated phenomenon, with a particular emphasis on context: points 2 and 3 of the definition focus on the major role of participants, of their knowledge, purposed and of the whole communicative context.

Secondly, in full harmony with what has been stated above, it is considered a large class of discursive-semiotic practices, thus specifying both the quantitative width of the possible expressions of popularization, and the qualitative one, referring to them not as merely linguistic but as discursive and semiotic, and, as such, relating them to the social aspect (see Discourse Analysis) and communicative/meaning aspect of linguistics respectively.

Thirdly, the variety of media through which popularization is catalyzed is finally underlined: being this definition quite recent, it could not avoid including new forms of communication (such as the internet) and the plurality of mass media which have acquired a growingly more pivotal role in today's society. Media are considered not passive mediators of scientific knowledge and a particular reference is made to their other roles, above all the entertainment function. This point is of particular significance to my research: Calsamiglia and van Dijk pave the way for future research perspectives on popularization by underlining for the first time the need for further studies on the contextualization of popularization in the mass media seeing them as means of entertainment and the object of the present research is the way a genre which was born as a form of entertainment (legal drama) can more or less indirectly and more or less intentionally represent a form of popularization of specialized contents to a lay audience. This brings us back to the last aspect of Calsamiglia and van Dijk's definition to be underlined: the opinions and the ideologies of scholars transmitted through popularization. As shown in previous studies, the popularization of science (or of any specialized field), especially when it takes place via new, multimodal forms of communication, may be led by purposes other than the mere dissemination of knowledge, such as the promotion of one's own field of research in order to obtain a greater amount of external funding (see the internet genre TED talks in Compagnone 2014, Compagnone and Caliendo 2014, Compagnone 2015, D'Avanzo 2015), or, as in the case of legal dramas, to keep the audience glued to the screens, ravished by the intrigues and the plots of fictional courtrooms.

3.4. Popularization as recontextualization

In the definition of popularization provided by Calsamiglia and van Dijk (2004) and commented on in section 3.3.3., context is considered one of the major factors influencing the mechanisms of popularization, and popularization is often defined as coming about through a recontextualization. Already in 2003, Calsamiglia had argued in favour of a rethinking of popularization not as vulgarization, debasement, translation, transposition or reformulation (2003: 142), but in a broader view, which considered it in the perspective of a *recontextualization* of knowledge: notions

pe, cannot be excluded from a multi-perspective analysis limited to micro-discourse features deriving from the

canonical situation of asymmetry between interlocutors (ibid.). The recontextualization of scientific knowledge is considered as playing a pivotal role in the study of popularization, which implies a cognitive dimension (the transformation of 'established' knowledge into 'new' knowledge), a situational dimension and a social dimension, which include the participants to popularization, their role in the society and, according to their purposes and features, determine the manifestation of popularization (see 3.3.3).

But what does the term 'recontextualization' entail? What is the meaning which is given to the phenomenon by discourse analysts, linguists and all those who consider it as substantial for popularization to take place?

In her study on recontextualization 'from' academic sources 'into' newspaper articles for the popularization of economics, Bamford (2012: 28) defines recontextualization as the process of 'the knowledge in a source text being removed from its original context and repositioned while at the same time undergoing a change in its communicative purpose'. In fact, a change in the context means a change in the very nature of a text because it implies a different interpretation of it and as a result, a different meaning: text and context are interconnected and mutually dependent. No communication (and even more so no communication of science) can be seen as occurring in a vacuum:

No discourse (or text) is conceivable without relevant contexts. (í) Discourses and their contexts presuppose and imply each other and (í) a piece of discourse cannot be taken out of a given matrix of contexts without changing its interpretations, or its potential of being interpreted in specific ways. (í) No linguistic message, no thought or intention, exists first without a context (í). For the human subject, there is always a contextual embedding of a thought, a discourse or a text (Linell 1998: 144-145).

Moreover, contexts are inevitably also linked to each other ('intercontextuality') and the participants in the communication do not have the same relationship to the communicative context. Such premises make it even more difficult to limit the concept of 'context' to a list of countable elements; on the contrary, they contribute to make it even more blurred and fuzzy. By 'context' we hereby mean both the aspects connected to the specific context of interaction between the specialist and the non-specialist ('context of situation') and the broader context of the society in which the communication takes place ('context of culture', Halliday (1978, Halliday and Hasan 1989, 1991), cf. Bucchi 2008: 68).

Many studies have been conducted and many models have been proposed to represent context (see, for example the 'SPEAKING' model, by Hymes 1974³⁶). However, in the field of the theories on recontextualization and popularization, a useful, synthetic overview is proposed by Linell (1998: 144), who lists the 'contextual resources' determining the contexts in which texts or discourses can be embedded, i.e.:

³⁶ This model includes eight components of linguistic interaction and takes its name from the initials of each of the components, forming the acronym 'SPEAKING': S (Setting and Scene), P (Participants), E (Ends), A (Act sequence), K (Key), I (Instrumentality), N (Norms), G (Genres).

physical environments, people (and assumption about
 onal relations, various kinds of background knowledge,
 situation definitions (frames), models of topics talked about.

These contextual resources are not to be seen as fixed, but rather as mobilized, used and negotiated in different ways according to the kind of communication, with different value and different potential of exploitability. Against this background conceiving context as mobile, dynamic and even undefinable, Goffman's notion of 'frames' (1974) seems to adapt to its description. 'Framing' involves the creation of a set of concepts seen as structured in potential situations, on the base of which an individual perceives reality. The construction of frames is based on both an individual's 'internal' perception of reality and on the influence of 'external' factors (such as the mass media, for instance). In this perspective, a recontextualization can also be seen as 'reframing' (cf. Linell 1998: 145 and Sarangi 1998: 306).

The very first appearance of the term 'recontextualization' and its theorization as a 'passage' from one context to another dates back to Bernstein's work on discourse in education ([1971] 1990: 191-192, in Bamford 2012: 29-30), where he grounded the concept of recontextualization on a three-stages model of contexts:

- 1) the primary context, the one of the production of knowledge (i.e. its 'primary contextualization');
- 2) the secondary context, where a 'decontextualization' takes place and is performed by means of a transformation and a selective reproduction of knowledge;
- 3) the recontextualization context, concerned with the actual 'movement' of texts from primary context of discursive production to the secondary context of discursive reproduction.

In this view, the information of a discourse genre is appropriated and manipulated to reappear in another genre: the specialized text (as expression of knowledge) undergoes a process of *decontextualization*, after which it is no more the same text, and subsequently, of *recontextualization*. More precisely, Bernstein (1996: 47) defines recontextualization as the process in which 'unmediated discourses are transformed into mediated, virtual or imaginary discourses'.

A significant, all-encompassing contribution to the definition of recontextualization is provided by Linell (1998: 144-145), who defines it as

the dynamic transfer-and-transformation of something from one discourse/text-in-context (the context being in reality a matrix or field of contexts) to another. Recontextualization involves the extrication of some part or aspect from a text or discourse, or from a genre of texts or discourses, and the fitting of this part or aspect into another context, i.e. another text or discourse (or discourse genre) and its use and environment.

Though being very detailed and encompassing different aspects of the phenomenon, this definition may sound too general because of featuring words such as 'something' and 'some part', which, however, can be disambiguated. Linell's linguistic choice of using 'something' is probably motivated by his intention to refer to the many linguistic/communicative levels at which recontextualization can take place. In particular, this view is based on the importance of 'discourse' as the unit of communication considered, and not only a text or a part of the text, is reflected in the distinction made between *intratextual*, *intertextual* and *interdiscursive* recontextualization:

intratextual, within the same text, conversation, or focused
distinguish between, on the one hand, *intertextual* phenomena,
discourses and conversations, each anchored in its specific
contexts, and, on the other hand, *interdiscursive* phenomena, occurring at more abstract and
global level and concerning relations between discourse types (í) rather than between
specific text tokens (Linell 1998: 146-147).

Moreover, in this definition, particular attention is paid to the ðextricationö of ösome partö of the
text or of the discourse.

Attempts to define more in detail this process of ðextricationö taking place in recontextualization
have been made, e.g. by Silverstein and Urban (1996) who, drawing upon the theoretical
assumptions introduced in anthropology by Bauman and Briggs (1990)³⁷, used the term
ðontextualizationö to refer to the extraction of meaning from one discourse through a process of de-
contextualization or ðdecenteringö and its ðre-centeringö in another context (Garzone 2012: 80; cf.
Sarangi 1998: 307). In particular, Garzone (2012: 86) points out that

the process of decontextualization (or de-centering) and re-centering inherent in
popularization has the most pervasive and critical impact on the discursive presentation of
knowledge.

The conception of decontextualization as de- and re-centering sees popularization from another
point, where the focus is on knowledge and the way it is transferred and re-positioned in a new
light.

Finally, the centrality of recontextualization in popularization and knowledge communication is
also highlighted by Sarangi (1998: 307), who makes the word ösomethingö used by Linell less
ambiguous by listing the different thematic strands associated with recontextualization. He sees it
above all as a ötransfer and transformation of information³⁸ö, especially in institutional settings,
and, as such, as a ötransformation of discourse into texts (í) divorced from the social interaction
that created themö (Mehan 1993: 246, in Sarangi, *ibid.*). In his view, context is redefined and
knowledge is creatively and strategically re-presented:

Recontextualization is not ðrepresentationö but ðre-presentationö or ðre-productionö
which implies creativity (í). It is a matter of redefining the context through strategic
use of text within a framework of social constructionism (Sarangi 1998: 307).

This closing definition embeds a little bit of all the observations on recontextualization, and, more
in general, on popularization.

In this chapter, I have tried to give an overview of the current state of the art of the studies on
popularization and to shed light on this phenomenon, and, at the same time, to introduce the
potentially endless number of fields, communicative situations and linguistic aspects involved.

First, an insight into Knowledge Communication, both as a phenomenon and as a web of studies
constituting a new discipline, has been provided. Emphasis has been given to the non-linearity of

³⁷ öPutting something into context (contextualizing it), putting something out of context (decontextualizing it) and
putting something into a different context (recontextualizing it) are both every-day and scientific activitiesö (Sarangi
1998: 306).

³⁸ The other thematic strands of recontextualization identified by Sarangi (1998) are: the construction of self/identity,
the salience/silence relationship of text and context, recontextualization as a communicative resource and as
metacommunication and display of professional competence.

ons of knowledge communication as a circular system, knowledge and the *receptor* play an important role and the feedback from the receiver can be decisive in the production of new knowledge, in a potentially infinite exchange between the participants.

Then, all the other factors impinging on Knowledge Communication have been shown, such as motivation and ease of transfer, and particular attention has been paid to the knowledge relationship between the parties involved in knowledge communication and to the nature of their *asymmetries*, seen both at the personal, cultural level, and as a difference in the possession of knowledge in a specific field and/or of expertise.

The analysis of Knowledge Asymmetries has provided new instruments to see them not as a negative factor (as a *deficit* to be overcome or a *gap* to be filled), but as part of naturally occurring and physiological differences between the parties involved in knowledge communication.

The polarized view in which an expert person, as an esoteric source, transfers stocks of information to a passive, homogeneously ignorant audience has been demolished in favour of the idea of a continuum of expertise, where experts and non-experts cannot be opposing entities separated by some kind of formal, externally determined criterion, but merely as the simplifications of two different positions in a specialized communicative context. This continuum made of nuances is reflected in the forms that popularization can take. It has been shown, indeed, that any classification of the text genres into *specialized* and *popular* is based on the wrongful assumption that the contexts in which popularization happens are limited.

Finally, popularization can potentially be expressed by everything and in ever new forms. This is true insofar as popularization entails a recontextualization of knowledge, meaning de-centering from a (specialized) context (or *de-contextualization*) its creative transformation and a re-centering into a new (less specialized) context. And, since the contexts of communication are infinite, so are the possible forms of manifestation of popularization.

A *recontextualization* of knowledge means that popularization is not traceable only at a micro-linguistic level, but also at a macro-linguistic one, and thus includes the analysis of texts, discourses, genres as extracted from the specialized original level where they were created and embedded in another context. This implies a deeper insight into the nuances of discourses and genres, connections between different genres and the web of relationships among them, which results in phenomena as genre hybridity. The latter is dealt with in the next Chapter, which will show how the popularization of knowledge coming from the specialized field of law can happen through its recontextualization into a hybrid, mainly still unexplored genre: legal drama.

4.1. The concept of *genre* in linguistics

The socio-cognitive perspective

Attempts to classify texts and literary forms according to universal categories date back to the Classical Age, with the distinction between comedy and tragedy. Such a distinction, mainly applied to literary and artistic forms of writing, persisted over time and resisted all the variations imposed by different cultural backgrounds. For example, William Shakespeare classified textual genres into tragedy, comedy, historical, pastoral and hybrid forms such as tragical-historical, tragical-comical etc. (Chandler 2000: 1). Pioneering works propelling towards a definition of genre, according to Swales (1990: 34), were those conducted in folklore and literary studies (starting with the Grimm Brothers, who classified German myths, legends and folktales), followed by rhetoric, linguistics and later intertwining with film studies (see Neale 1980).

Basically, for centuries, classifications of texts have been proposed on the basis of structural analyses and criteria, connected to the formal features of texts or on their topics, as Allen (1989: 44) notes:

For most of its 2000 years, genre study has been primarily nominological and typological in function. That is to say, it has taken as its principal task the division of the world of literature into types and the naming of these types ó much as the botanists divide the realm of flora into varieties of plants.

However, the assumption introduced by folklorists that literary genres were built on some cognitive deep structures, which pushed them to focus on the classic exemplars of myth and legend to be traced back into pre-history, later evolved in a socio-cognitive perspective looking at genres as socially constructed. At the same time, the permanence of form was not universally accepted by the folklorists, some of which saw the evolution of genres as a necessary response to a changing world, which would later be of main concern to literary critics (Swales 1990: 34-35).

Todorov (1976: 161), for example, de-emphasized the stability of genres, rejected the idea of a close set of genres and showed how conventions could be broken with genre becoming anachronistic:

A genre is always the transformation of one several old genres: by inversion, by displacement, by combination (í). In a society, the recurrence of certain discursive properties is institutionalized and individual texts are produced and perceived in relation to the norm constituted by that codification. A genre, literary or otherwise, is nothing but this codification of discursive properties.

In the last thirty years, some branches of linguistics have started being concerned with providing a definition of *genre* some valid criteria for its determination and the distinction of different genres.

From an ethnographic perspective, Hymes (1974) theorized that genre coincides with *speech events*, i.e. activities, or aspects of activities, that are indirectly governed by rules or norms for the use of speech (for example, the *sermon* genre corresponds to the church service) but the two are nonetheless independent. Similarly, Saville-Troike (1982) connects a genre to the type of

ture, greeting, conversation (Swales 1990: 38-39) laying
on of genre as based in communicative events.

Rhetoric has pioneered the first reflections and research on the definition of a genre, collected in Miller's widely cited paper *Genre as a social action* (1984). However, it is in Bakhtin's essays on speech genre (only published posthumously in 1986) which pave the way to genre studies and genre analysis.

Bakhtin's essays, in fact, do not see genres as a universally accepted concept and does not deal with them alone. His reflections on how language (expressed by utterances) is shaped by the context of communication led Bakhtin to see genres as not only existing within language, but rather in a communicative perspective. Starting from the assumption that utterances are to be seen under three distinct aspects (the thematic content, the style and the compositional structure) and that they are *equally determined by the specific nature of the particular sphere of communication* (1986: 98, *my emphasis*), the Russian scholar defines the *relatively stable types* developed by people within some specific *spheres* as *speech genres* and underlines the connection between the genres and the *sphere*

Each sphere of activity contains an entire repertoire of speech genres that differentiate and grow as the particular sphere develops and becomes more complex. Special emphasis should be placed on the extreme *heterogeneity* of speech genres (oral and written). In fact, the category of speech genres should include short rejoinders of daily dialogue (i.e. everyday narration, writing (in all its various forms) (i.e.). And we must also include here the diverse forms of scientific statements and all literary genres [*emphasis in the original*].³⁹

The main innovations brought by Bakhtin are represented by:

- 1) a new criterion for the definition of genre, distancing from a traditional, *formalistic* perspective and moving in the direction of a sociological and cognitive determination of what a *genre* is: the speaker *chooses* the speech genre (p. 102) according to the *sphere* since we own a repertoire of *fixed* genres from which we choose and in which we have competence without even suspecting that they exist:

the forms of language and *the typical forms of utterances, that is, speech genres*, enter our experience and our consciousness together, and in close connection with one another (p. 103, *my emphasis*).

Typicality is thus placed at the centre in Bakhtin's representation of the idea of genre, in which genres correspond to *typical* communicative situations according to which words change their meaning and their connection to the extra-linguistic reality. In addition to the *typical* communicative situation recognized by the speaker, the genre is also defined by the speaker's typical conception of the addressee, depending on whom s/he will mold his/her own utterance;

- 2) on this same ground, a first, basic classification of genres is proposed which allows to distinguish *primary* and *secondary* genres: *primary* or *simple* genres are forms of

³⁹ However, despite the declared openness towards the *heterogeneity* of speech genres and the intention to include in his reflection all kinds of communication, which makes him a pioneer also in the interest in specialized communication genres, in this essay Bakhtin mainly focuses on literary genres.

- the activities and therefore strictly depending on the shaping it by being performative (as in the case of greetings, farewells, congratulations, wishes or providing information). These genres are compulsory meaning that they are particularly fixed in their form and can only vary in the personal stance, emotion or individuality of the speaker. Secondary or complex genres, instead, are subject to creative reformulation (Bakhtin 1986: 104), they are removed from the contexts of activities in which primary genres are embedded (í) and codify activity in situations occurring over time and in distant locales (Berkenkotter and Huckin 1993: 482). Secondary genres include conversations about everyday, social, aesthetic and other subjects and rise in more complex and relatively highly developed and organized cultural communication (ibidem), like the artistic (novel, dramas), scientific and sociopolitical and therefore include specialized communication and specialized genres (Bakhtin 1986: 103-104), e.g. scholarly and scientific articles and written forms of organizational communication. They absorb and digest various primary (simple) genres that have taken form in unmediated speech and rise when the primary genres lose their immediate relation to actual reality and to the real utterances of others (Berkenkotter and Huckin 1993: 483);
- 3) laying the bases for the development of the idea of genre hybridity and interdiscursivity. Bakhtin recognizes the variability of secondary genres, that can be expressed by a re-accentuation of the genre, e.g. when the sad is made joyful and gay, as in the case of comical epitaphs, where something new is achieved, or when some authoritative utterances are cited, imitated and followed and the experience of each individual is shaped by the others utterances with which there is interaction (p. 105). Moreover, Bakhtin sees genres are possibly deliberately mixed from different spheres (p. 103), somehow foreseeing the ideas of genre hybridization, which will be discussed more in detail in Section 4.2.

The socio-cognitive intuitions concerning the determination of genres expressed by Bakhtin are confirmed by Miller's (1984) essay, which is not only a detailed overview of the studies conducted on genre in the field of rhetoric, but also a milestone in the construction of the concept of genre which is looked at from the viewpoint of cognitive models built on the basis of social interactions, instead of being limited to the similarities in audience, modes of thinking and rhetorical situations and with an eye to avoiding reductionism, rules, formalism and tiresome and useless taxonomies (p. 151).

Similarly to Bakhtin, central in Miller's view is the connection between a genre and the context, and the way the recurrence of a communicative situation, i.e. the typification of a rhetorical action, is connected to the construction of genres. She criticized the contemporary attempts to provide a genre classification, but at the same time exploits their good as a point of departure. Campbell and Jamieson's (1982) inductive method is appreciated, but leaves the question of genre as an oversimplification resulting in an open class, with new members evolving and old ones decaying (p. 153). To Harrell and Linkugel (1978) she attributes the merit of defining genres as stemming from organizing principles found in recurring situations that generate discourse characterized by a family of common factors, but to them is also imputed a lack of consideration for the dynamic nature of interactions (and, subsequently, of genres). According to Miller, these theories, as well as Fisher's (1980) model of four levels for the genre construction, all present two shortcomings:

le, clearly defined principle of classification that could
oretical clarity;

- 2) they do not ground genre in situated rhetoric action.

Miller provides for situating genre within the rhetorical action when she describes *exigence* (an *objectified social need*, p. 157) as the social motive for the occurrence of a communicative situation, which subsequently creates the genre. The individual perception of similarities in the different communicative situations (which *per se* are unique and can never really recur, but only be similar to others) makes us define or determine a situation, which become constituted as a *type*. This process is defined as *typification* and is at the basis of the creation of a mental set of genres:

It is through the process of typification that we create recurrence, analogies, similarities. What recurs is not a material situation (í) but our construal of a type. The typified situation, including typification of participants, underlies typification in rhetoric. Successful communication would require that participants share common types; this is possible insofar as types are socially created (p. 157).

Starting from the premise that typification is necessary to the construction of genres, Miller provides a method for a potential classification of genres, based upon a recurrent situation and the exigence as social motive and upon the fusion of a *substance* (represented by the common sensations, concepts, images, idea and attitudes that we build via the similarities) and a *form* (p. 159). In this innovative view, genre does not lend itself to taxonomy, since it *changes, evolves and decays*. Recurring situations, in fact, only resemble each other in certain ways and only to a certain degree. As the world changes and the individual perceptions of it change, the types produced by typification are also subject to change (Berkenkotter and Huckin 1993: 480).

To sum up, in Miller's understanding of genre as a *social action* (1984: 163):

1. Genre refers to a conventional category of discourse based in large-scale typification of rhetorical action; as action, it acquires meaning from situation and from the social context in which that situation arose;
2. Genre is distinct from form: form is the more general term used at all levels of hierarchy (í)
3. A genre is a rhetorical means for mediating private intentions⁴⁰ and social exigence. It motivates by connecting the private with the public, the singular with the recurrent.

This socio-cognitive approach aimed to *lay out the implicit knowledge of the users of genres* (Ryan 1981: 112) produced further results in the research on the definition of genre, such as Berkenkotter and Huckin's (1993, 1995) attempts to provide some theoretical principles constituting a framework for genre analysis. The two American scholars share Miller's view of genre as acquired via the participation in a field's or profession's knowledge-producing activities and confirm that *genre knowledge is best conceptualized as a form of situated cognition embedded in disciplinary activities* (1993: 477). However, they contribute to the analysis of genre focusing on Miller's admission that the world changes and that the typifications and the subsequent genres change accordingly. In fact, she defines genres as *inherently dynamic rhetorical structures that can be manipulated according to the conditions of use* and considers them *inherently dynamic, constantly (if gradually) changing over time in response to the sociocognitive needs of individual users* (pp. 480-481). This is the first principle on which their framework is based: dynamism.

⁴⁰ The role of the speaker's/writer's *private intentions* in the definition of a genre is also underlined by Bhatia (1997, 2004a) in relation to genre hybridity, see Section 4.2.

Berkenkotter and Huckin (1993) are:

- ...sitedness, i.e. the already discussed feature of genres of deriving from one's participation in the communicative activities and professional life, which makes them define genre as a "situated cognition" (p. 482). This deduction largely relies on Brown et al. (1989: 33), who stated that "acquiring conceptual knowledge is both situated and progressively developed through activity". On this basis, Berkenkotter and Huckin (1993: 485-487) conclude that the acquisition of a genre knowledge happens by means of an "enculturation" to the oral and written "forms of talk" of the concerned communicative environment and is directly connected to "procedural" and "social" knowledge
- Genre knowledge embraces both *form and content*, meaning that the knowledge of a genre is not only given by a knowledge of some formal conventions, but to the connection of these to some topics and to the appropriateness to a particular purpose in a particular situation at a particular point in time.
 - *Duality of structure*, which is a concept borrowed from sociology and applicable to the linguistic conception of genre. According to Giddens (1984: 6-17, in Berkenkotter and Huckin 1993: 493), a "structure" is something "external to human action, a source of constraint on the free initiative of the independently constituted subject" deriving from "historical, institutional contexts constituted by the collaborative work of people adjusting to changing times and technologies" (Berkenkotter and Huckin 1993: 496). Structures exist in society and influence the constitution of agents and of social practices; at the same time they are "medium" and "outcome" of the reproduction of practices, since practices are determined by structures and *vice versa*. Similarly, our use of genres is constitutive of social structures (because we observe the genre's rules, forms and conventions to reproduce it) and generating social and professional practices and at the same time is shaped by the changing of the social (e.g. technological and demographic) conditions.
 - *Community ownership*, meaning that genre conventions signal the norms, the ideology and the "social ontology" of a discourse community. The connection between discourse communities and the genres "owned" by them has been particularly investigated by Swales (1990, see below) but it was Bazerman (1988) who introduced and demonstrated the connection between the formation of a scientific discourse community and the development of appropriate discursive strategies for making claims about the objects of a community (for example, a student's socialization into a field of study and his acquisition of text conventions and generic conventions alongside with his learning of a research methodology).

Their analysis considering genres the "intellectual scaffolds on which community-based knowledge is constructed" (p. 501) highlights the need for a new, sociocognitive view of genres, which are dynamic and capable of modification according to the situation, yet keeping the stability given by their recurrence. Moreover, it is underlined how they involve both form and content and how much the professional practices constitute them and are in turn constituted by them, which underpins the link between discourse communities and genres. Therefore, they paved the way for new reflections on genre as connected to ESP.

ESP and Systemic Functional perspectives

three different perspectives from which genres have been viewed: in addition to the socio-cognitive one given by the New Rhetoric, she includes the Australian Systemic Functional Linguistics and ESP and focuses on how these three different perspectives face aspects such as the role of context in the construction of genres and the creation of an instructional framework to be used in teaching students how to acquire knowledge of genre.

After specifying that according to the North-American New Rhetoric (Miller 1984, Berkenkotter and Huckin 1993, Bazerman 1988) it is necessary to understand the assumptions and the aims of a community in order to better spot out its rhetorical habits, she observes the influence that New Rhetoric had on ESP and on its focus on becoming a member of a community more than simply -being taught the formal conventions of a genre. Both Bhatia (1993) and Swales (1990), in fact, take Miller's reflections on genre as their point of departure and take account of contextual and functional issues in their investigations of genre. The three perspectives present some points in common, but they differ on the focus they choose as a criterion for the definition of the genre.

The Australian -school-based on the Systemic Functional Linguistics (Halliday 1978, Halliday and Hasan 1989), for example, stems from the interest in investigating the relationship between language and its functions in social settings and sees the forms of language as shaped by the surrounding social context. The elements of the social context influencing language are defined by Halliday as *field* (the type of activity in which the discourse operates, its content, ideas and institutional focus), *tenor* (the status and role relationship of the participants) and *mode* (the channel of communication, e.g. speech or writing) which together determine the *register* of language, i.e. a contextual category correlating grouping of linguistic features with recurrent situational features (Halliday 1978 in Swales 1990: 40).

However, the first definition of genre as disentangled from register in the systemic-functional perspective is the one given by Martin et al. (1987), who specified that genres are realized *through* registers and defined them as 'staged, goal-oriented social processes, structural forms that cultures use in certain contexts to achieve various purposes' (in Hyon 1996: 697)⁴¹.

What distinguishes this approach from the sociocognitive-rhetorical one introduced above is the concern with text forms and their pedagogy. For example, the LERN (Literacy and Education Research Network) provided a model aimed at the students' understanding of genres based on a teacher-guided activity of reproduction in three phases:

- 1) Teacher-led presentation of text types and their features, functions, schematic structure and lexico-grammatical features;
- 2) A 'joint negotiation' in which the teacher shapes the students' contributions into a text which approximates to the genre under focus;
- 3) The students' construction of an instance of the genre;

to which an 'extra' phase can be added, aimed at the explicit building of knowledge of the field providing students with knowledge of the social context and content topic of the genre (Hyon 1996: 704-6).

⁴¹ A clarifying distinction between register and genre is provided by Couture (1986), according to whom registers impose constraints at the linguistic levels of vocabulary and syntax, whereas genres constraints operate at the level of discourse structure; genres are completable structured texts, while registers represent more generalizable stylistic choices (in Swales 1990: 41).

to genre in ESP as the most concerned with the formal social contexts, at least up to that time, when studies had mostly been investigating sentence-level grammatical features. From a pedagogical perspective as well, Hyon sees ESP scholars as more interested in teaching genre on the basis of structures and grammatical and stylistic features and providing linguistic conventions so that students could follow them and recognize these features in texts and use them in the texts they produce. It is true, in fact, that both Bhatia (1993) and Swales (1990) offered some models to recognize and analyze genres, though Flowerdew (1993: 309) specified that there is no way to predict the wide range of possible genres students will need to participate in (Hyon 1996: 703). Moreover, in his work on Genre Analysis, Swales (1990: 33) makes his stance clear specifying that:

Genre has in recent years become associated with a *disreputably* formulaic way of constructing (or aiding the construction of) particular texts or a kind of writing or speaking by numbers. This association characterizes genre as mere mechanism and hence is inimical to the enlightened concept that language is ultimately a matter of choice [and] (it) is doomed to encourage the *unthinking* application of formulae. (it) An oversimplification [is] brought about for pedagogical convenience. [my emphasis]

His words express disagreement toward an ‘oversimplified’ and merely ‘pedagogical’ view of genre, reducing it to a set of formulae and his reflections on genre are all based on the embedding of genre within social practices. The principles elaborated by Swales (1990: 45-57), in fact state that:

- 1) genre is a *class of communicative events*, which can vary in their occurrence from extremely common to relatively rare;
- 2) a collection of communicative events is turned into a genre by a *set of communicative purposes*: agreeing with Miller’s claim that it is the shared purpose to determine genre-membership, he defines genres as communicative vehicles for the achievement of a goal or better, of a set of communicative purposes⁴²;
- 3) examples of genres vary in their prototypicality, and, apart from the communicative purpose, genre membership can be determined on the basis of:
 - a) a definitional approach (by means of a set of properties that are necessary and cumulatively sufficient to identify all the ‘members’ of a genre category)
 - b) family resemblance (membership is not necessarily a shared list of defining features, but can also be the result of inter-relationships of a somewhat looser kind. Networks of similarities overlapping; sometimes overall similarities, sometimes of detail;
- 4) discourse communities use a genre to realize the goals of their communication; for this reason, genres establish constraints on allowable contributions in terms of their content, positioning and form;
- 5) discourse communities have a nomenclature for their genres and knowledge of the conventions of a genre.

⁴² Also legal drama has a whole set of communicative purposes, rather than a single one. It is the product of the intention to entertain the audience, of course to obtain economic advantages, but it also moved by rhetorical and artistic motives. In order to develop original plots staging characters mostly working as lawyers in law firms and courtrooms and involving the cases they work on, the authors need to make the audience more familiar with these specific contents. Hence, the popularizing and informative purpose that legal drama acquires.

nected to ESP's concern with language used within and
nent for shaping relationships. As a matter of fact, Swales

(1990: 57-58) attributes a higher expertise of and familiarity with genres to 'active discourse
community members' and the 'ultimate' definition he reaches is formulated in function of the
relevance of genres within discourse communities:

A genre comprises a class of communicative events, the members of which share some set of
communicative purposes. These purposes are recognized by the expert members of the
parent discourse community, and thereby constitute the rationale for the genre. This rationale
shapes the schematic structure of the discourse and influences and constraints choice of
content and style. (í) Exemplars of genre exhibit various patterns of similarity in terms of
structure, style, content and intended audience. If all high probability expectations are
realized, the exemplar will be viewed as prototypical by the parent discourse community⁴³.

Regarding genre classification, he lists three parameters whereby genres can vary (Swales 1990: 62)

- 1) complexity of rhetorical purpose (simple vs. complex)
- 2) prepared or constructed in advance vs. spontaneous
- 3) mode/medium (speech vs. writing).

Lastly, on the issue of genre acquisition, he draws upon the sociocognitive assumption that
genres can be acquired on the basis of a person's prior knowledge of interactive procedures (mental
'schemata', also called 'scripts', 'scenarios', 'routines' or 'frames', of typical communicative
situations such as visiting the doctor or going to the restaurant and their relative linguistic and
verbal expression) along with the individual interpretation of facts and concepts (Swales 1990: 84,
Chandler 2000: 6-7).

In the light of the background provided by Swales, Bhatia (1993) elaborated his own analysis of
genre, both as an overall, theoretical framework to rely on for future studies and in terms of
'concrete' analysis of a corpus of texts representing specific 'unfamiliar' genres within professional
settings. Such approach, exploited in Applied Linguistics and ESP studies, was mainly aimed at
developing pedagogical solutions for ESP classrooms or for research on textual features of genres in
various professional and academic contexts, mainly business, law and science.

However, as acknowledged by himself, this early approach to the study of genre was
methodologically connected to the previous, 'traditional' studies, and looked at genre as 'an
instance of rhetorical analysis' (Bhatia 2012: 19). It is in his more mature book *Worlds of Written
Discourse* (2004), that the linguist develops a 'more comprehensive, multi-perspective and
multidimensional view of genre analysis' (*ibidem*). He 'dips' genre analysis into Discourse
Analysis and retraces the evolution of studies on discourse which started with a focus on sentence
level and later expanded to the textual one and then to contextual factors, culminating in the
concern of Critical Discourse Analysis in social relations and identities, power asymmetries and
social struggle. In particular, he distinguishes three phases in the development of studies on
discourse (Bhatia 2004a: 11-12):

- 1) a 'first phase' looked at lexico-grammatical features and patterns, schematic and information
structures, with a lack of attention to the functional variation of discourse forms. In these

⁴³ The concept of 'prototypicality' of genres theorized by Swales (1990) is also quoted in Chandler (2000: 3) in
reference to Media genres (see 4.3).

- Intosh and Strevens (1964), who analyzed the connection of texts associated with a particular discipline; de Beaugrande and Dressler (1981) and van Dijk (1985) works on Text Linguistics focusing on authentic texts and instances of language use in real contexts, and all the research on lexical and morpho-syntactic features and patterns in specialized discourse, including Bhatia's investigation of the nominal functions in legal provisions (1983);
- 2) the studies undertaken in the second phase, instead, looked at larger stretches of discourse, more global structures, and the contexts in which discourses are embedded. This view allows to explore both the patterns of discourse organization and text genres. It is therefore in this phase, when the relations between discourse structures and communicative purposes were identified, that the studies on genre started to thrive. These studies highlighted the sociocognitive construction on genres (cf. Miller 1984, Berkenkotter and Huckin 1993), in particular for the members of discourse communities who used genres to construct and interpret discourse (cf. Swales 1990, Bhatia 1993). These studies have later started to move towards two different directions represented by the two interrelated factors of discourse and context:
 - a) the analysis of real discourse, seen as complex dynamic and developing;
 - b) the analysis of social factors such as power and ideology.

The first gave birth to the literature on *hybridization* in discourse (starting with Bhatia's theories on mixed and embedded genres in 1995 and 1997, see below), on the development and changes in genres and historical development and system of genres (Bazerman 1988). The second evolved into Critical Discourse Analysis (Fairclough 1989, 1993, 1995, van Dijk 1985, 1993, Wodak 1989).

- 3) the third phase is represented by Bhatia's new "contextualization" of discourse (see below).

According to Bhatia (2004a: 21), discourse can be analyzed from a pedagogical point of view, a socio-cultural one, and from the genre perspective. Therefore, Critical Discourse Analysis is connected to Genre Analysis because genre is one of the different levels from which discourse can be looked at. More specifically, Bhatia (2004a: 19-22) lists the different perspectives from which to look at discourse, which are not mutually exclusive, but rather complementary:

- 1) discourse as *text*: the analysis of language use that is confined to surface level properties of discourse (lexico-grammatical, semantic, theme/rheme, information structure, general particular, problem-solution etc.), not necessarily having interaction with context. Discourse as text operates into *textual space* where knowledge about language structure is exploited to make sense of the text.
- 2) discourse as *genre*: the analysis is extended beyond the textual products, to incorporate context to account not only for the way text is constructed, but also how it is *interpreted, used and exploited in specific contexts to achieve specific disciplinary goals*. Genre knowledge (the awareness and understanding of the shared practices of professional discourse communities) makes sense of the text at this level. The analysis of discourse as a genre allows established members of discourse communities to exploit generic resources to respond to often-occurring or to novel situational contexts.

this view extends to the notion of genre use to relate it to require professional knowledge in addition to genre knowledge. It operates in what could be regarded as *professional space*.

- 4) discourse as *social practice*: the focus is shifted from the text to the interaction with context, including aspects such as identities of the participants, social structures and professional relationships, so it functions within a broader *social space*.

This multi-perspective and all-encompassing view of genre, which considers it a part of discourse analysis essential to the interpretation of the linguistic behaviors of the members of discourse communities and of the mutual construction of professional practices and social identity, leads Bhatia to a more complete definition of genre, which portrays it both from the formal point of view and as the part of social mechanisms. Genres are:

- recognizable communicative events characterized by a set of communicative purposes, identified and mutually understood by members of the professional/academic community in which they regularly occur;
- highly structured and conventionalized constructs not only in terms of intentions, but also of lexico-grammatical resources (í);
- all professional/disciplinary genres have integrity of their own. They are a combination of textual, discursive and contextual factors (Bhatia 2004a: 23).

On the basis of the literature quoted above and of Bhatia's work, in their detailed overview on genre and genre hybridity, Mäntynen and Shore (2014: 739) give a definition of genre which covers all the different perspectives from which it was analyzed:

From a linguistic point of view, a genre is a class or type of (spoken or written) text. From a social and collective point of view, a genre is a linguistically realized action or activity type or area of human activity (í). From an individual and cognitive point of view, texts representing the same genre have a similar communicative purpose (or purposes) (í) [which] arise in (social) communities.

The main innovative aspect in Bhatia's work, however, is represented by his emphasis on the dynamism of genres. Although he acknowledges the feature of being "highly structured and conventionalized constructs" and the "integrity" given by each professional/disciplinary/discourse community, he also states that

Expert members can exploit generic resources to express not only "private" but also organizational intentions. (í) People who have expertise and power can exploit conventions to create new forms (making discourse more complex and dynamic) (Bhatia 2004a: 24).

This means that although genres are associated with typical socio-rhetorical situations (and in turn shape them) they are not static and that although we tend to identify genres with pure forms, they continually develop and change. On the other hand, many scholars have focused on "typicality" or "prototypicality" as constitutive of genres: Systemic Functional linguists interested in the pedagogical applications of genre theory, for instance, placed at the center of genre analysis some texts considered "typical" of a particular genre (Rose and Martin 2012), while Sarangi (2016, cited

thcoming) fairly observes that the notion of -hybridity being blended, mixed etc., that would be the -typical or -prototypical genre. Also Paltridge (1997: 106, cited in Mäntynen and Shore 2014: 741) definition of genre relies on the notion of prototype:

A genre is based on prototypical idea(lization)s of human communication patterns; these idealizations are derived from our knowledge of the interactional and conceptual properties of similar events.

The framework for the analysis of genre

Ultimately, Bhatia's work (2004a) provides a complete and concrete framework of reference to conduct a genre analysis, which goes beyond the attention for the textual features, and includes aspects related to the context of use of genres. After identifying the limits of genre analyses based solely on -text-internal aspects, such as lexico-grammatical, rhetorical and discourse organizational features, Bhatia specifies that these aspects contribute to the identification of a genre, but need to be interpreted in the context of -text-external aspects of the genre, such as the goals of the specialist community and the broader institutional and disciplinary contexts in which the genre is likely to be constructed, interpreted and used in real-life situations.

For him, the *text-internal indicators* of genre hybridity are those aspects connected to the text itself, to the references to other existing texts (*intertextuality*) and to those contextual aspects concerning the communicative situation from a -close viewpoint:

1) Textual indicators:

- Statistically significant aspects of lexico-grammar
- Text patterning or textualization of generic purposes and concerns
- Cognitive patterning or discursive structuring of the genre

2) Intertextual indicators:

- Texts providing a context (a letter to which is a reply e.g.)
- Text within and around the context
- Texts explicitly referred to in a text (e.g. references, quotations)
- Texts embedded within the text
- Texts mixed with the text

3) Contextual indicators:

- The speaker /writer of the text and the audience, their relationship, attitude, social distance/proximity, their goals
- The network of surrounding texts and linguistic traditions that form the background of the particular genre-text
- The complexities of the medium in use
- The extra-textual reality which the text is trying to represent/change/use and its relationship with the text.

The textual aspects, such as vocabulary, morpho-syntactic patterns and the discursive organization, as well as intertextual and contextual ones, are observed and commented in particular in the micro-linguistic analysis of Chapter 6

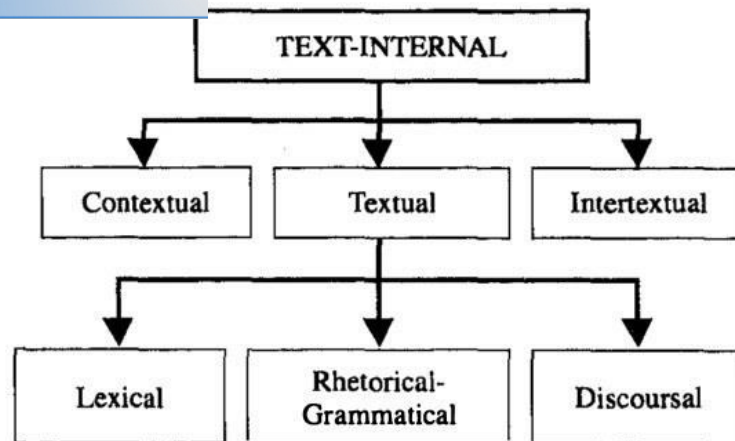


Figure 4.1: Text-internal indicators of generic integrity, Bhatia (2004a: 125)

The contextual factors concerning the prior experience and encyclopedic/background knowledge of the conventions of the professional culture, the relationships and the goals of the participants, the knowledge of the historical, socio-cultural, philosophic and occupational background of the profession which uses the genre, the network of surrounding texts, genres and systems of genres that may have some impact on the reconstruction of the genre in question, as well as the recipients of the genre, whether individuals, groups, organization or institutions are considered *text-external*. In particular, an analysis of text-external indicators of genre takes account of the discursive procedures, the disciplinary practices and the disciplinary culture:

- 1) *discursive procedures*:
 - who contributes what, to the construction of specific genre actions
 - at what stage and by which means one participates in the genre construction
 - the contributing genres which allow to choose the appropriate and relevant generic knowledge
- 2) *disciplinary practices*:
 - what kind of genres are typically used for what kind of disciplinary goals?
 - what modes of communications are conventionally employed to achieve these goals?
 - what organizational constraints operate on these practices?
- 3) *disciplinary culture*:
 - professional goals and objectives
 - generic norms and conventions
 - professional and organizational identity.

It is on the basis of these indicators that my analysis of legal drama as a genre is conducted: the discovery of the different legal genres is carried out in parallel with a view into the disciplinary practices and culture, such as the norms and conventions of the legal profession, represented in the fiction (Chapter 5).

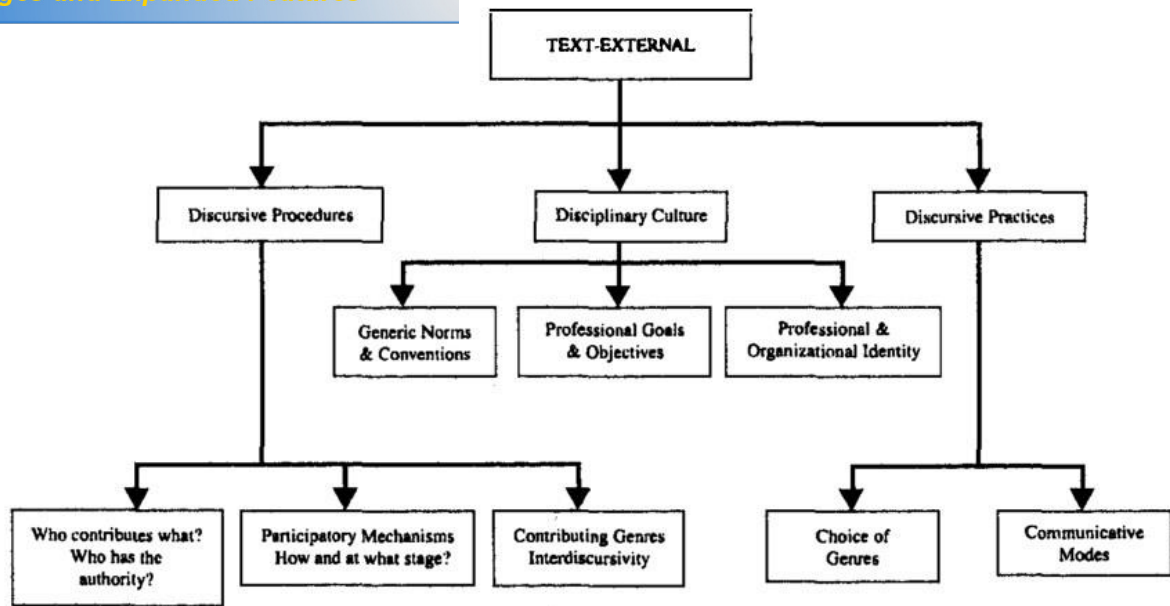


Figure 4.2 Text-external indicators of generic integrity, Bhatia (2004a: 127)

This theoretical approach is defined ‘Critical Genre Analysis’ by Bhatia and investigates genre integrity with the awareness that the genre integrity is not the only possibility. On the contrary, it is imbued of a new awareness of the dynamism of genre and of the hybridity which derives from it.

4.2. Genre hybridity

Bhatia (2004a: 30) sees genres as ‘unstable’ especially when in relation to other genres, with which they can overlap at a certain degree and sometimes even conflict. He confirms Berkenkotter and Huckin’s (1993, 1995) assumption that genres are ‘far from static’, because ‘they can be exploited to respond to novel rhetorical contexts and tend to innovation and development’ (Bhatia 2004a: 30). Accordingly, he proposes a multi-perspective and multi-dimensional view of genre analysis, in which genres are seen as dynamically influenced and shaped by other genres. Therefore, *intertextuality* and *interdiscursivity* are two factors included in his framework.

In relation to the construction of a genre, interdiscursivity includes processes such as:

- Genre mixing
- Genre embedding
- The use of a set of generic conventions to exploit another (e.g. parodies)
- Systems of genres
- Change and development in genre
- Appropriation of genres.

On the basis of his studies on academic and professional genres, Bhatia (1997: 187) infers that genres can undergo the influence of the ‘private intentions’ of the authors (in case of written texts) or speakers (for oral genres), for example academics writing books not only to spread knowledge

use it and therefore adapting the genre to their \neg private purposes. This necessarily produces changes on the genre:

This phenomenon of mixing \neg private intentions with \neg socially recognized communicative purposes is not a characteristic of academic introductions alone; it is widely used in other professional genres too, resulting in a *mixing of genres* [my emphasis].

The introduction of this novel element brings to a δ demystification of genre analysis, which is now conceived as less linked to the formal and theoretical constraints of the previous literature. From this moment on, a Critical Genre Analysis is suggested that is δ an attempt to extend genre theory beyond the analyses of semiotic resources used in professional genres to understand and clarify professional practices or actions in typical academic and professional contexts (2012: 22).

CGA is distinguished from Critical Discourse Analysis (CDA) by the concern that CDA has in social relations, power and domination, including aspects such as class relations, race, gender, since the focus of CGA is on the artefacts of genre, like professional practices, and in particular δ as much as on what is explicitly or implicitly said in genres as on what is not said, as much on socially recognized communicative purposes, as on \neg private intentions that professional writers tend to express (Bhatia 2012: 23). In other words, CGA looks at the members of a discourse or professional community while continuing to follow the conventions shared with the community and tries to δ explain, clarify and demystify professional practice, to understand how specialized language can be used to achieve the personal objectives of those who use it (δ professional writers).

Professional writers thus operate at the same time δ within and across generic boundaries and give rise to \neg hybrid genres to serve their private intentions within the context of the discursive practices of the community they belong to. The appropriation of \neg text-internal resources have been researched within the notion of \neg intertextuality that is to say δ the use of prior texts transforming the past into the present often in relatively conventionalized and somewhat standardized ways (Bhatia 2004b: 392). \neg Interdiscursivity instead, refers to the appropriation of \neg text-external resources, namely genre, professional practice and professional culture. Bhatia (*ibidem*) defines interdiscursivity in reference to δ more innovative attempts to create hybrid or relatively novel constructs by appropriating or exploiting established conventions or resources associated with other genres and practices. Basically,

Appropriations across texts give rise to intertextual relations, whereas appropriations across professional genres, practices and cultures constitute interdiscursive relations (Bhatia 2004b: 393).

Therefore, the centrality of \neg purity in the analysis of genres is undermined by the awareness that genres \neg interact with each other and though being the result of particular recurring settings and communicative purposes, they do not always correspond univocally to one communicative purpose, but can either be the δ result of a mix of communicative purposes, often complementary, though conflicting are also possible (Bhatia 2002: 10), or respond to the \neg private intentions communicated in the context of another, \neg socially recognized purpose.

Interdiscursivity is realized via four possible processes of appropriation of generic resources: recontextualization, reframing, resemiotisation and reformulation, and can result in three main phenomena: *genre mixing*, *genre embedding* and *genre bending*.

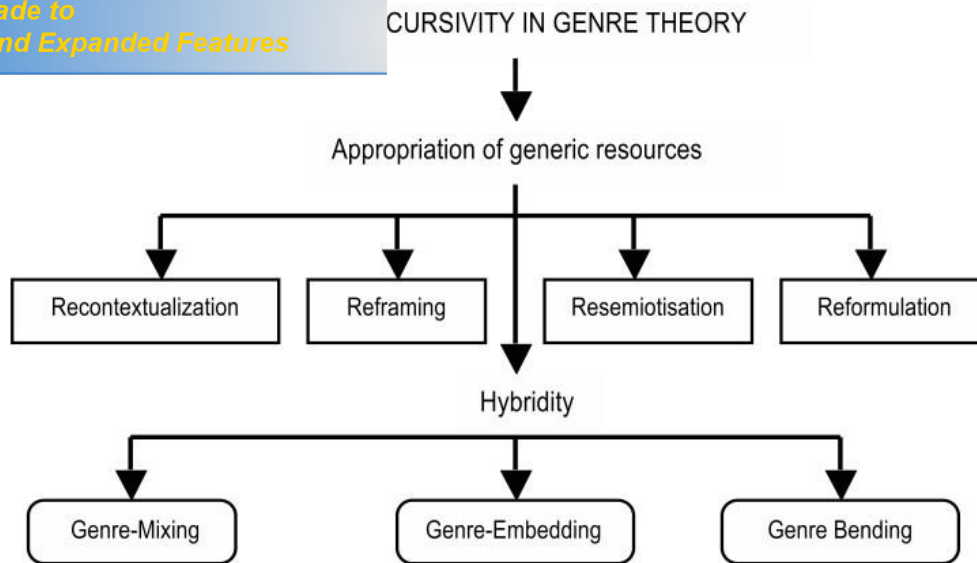


Figure 4.3. Interdiscursivity and hybridity in genre theory (Bhatia 2012: 25).

The concept of ‘recontextualization’ has already been discussed in 3.4. in relation to the way popularization can take place when knowledge is ‘taken’ from its original context of production and ‘recontextualized’ in a different framework, aimed at a different audience. Specialized knowledge is, in fact, one of the generic resources that can be the object of recontextualization in genre hybridization. However, when referred to genre hybridization, recontextualization is mainly conceived as connected to the discursive and generic features. Bernstein (1996) coined the term referring to academic research and the way it was transformed (‘selected, simplified, condensed, explained and refocused’) for pedagogical purposes. It was Linell (1998: 144-148) who extended the concept to the ‘shifting across time and space that happens in all discourses’. In his view, recontextualization is ‘the dynamic transference and transformation of some part or some aspect of a text (or text type) tied to a particular context to another text tied to another context’. Recontextualization can apply on a merely textual level as well as to genres, distinguished by Linell into *intertextual* and *interdiscursive recontextualization* (Mäntynen and Shore 2014: 741-2). However, intertextuality and interdiscursivity play different roles and have different relevance in genre hybridization: the references to other texts does not imply the hybridization of the genre (as shown by Revotas and Berkenkotter 1998, cited in Mäntynen and Shore 2014: 750). Interdiscursivity, instead, is constitutive of genre hybridity. In fact, Fairclough (1992, cited in Mäntynen and Shore 2014: 750) also refers to interdiscursivity as ‘constitutive intertextuality’.

A genre is considered ‘mixed’ or ‘hybrid’ when it ‘serves two or more communicative purposes through the same generic form’ (*ibidem*). As an example of *genre mixing*, Bhatia (2004b: 394-398) shows how text-internal resources and text-external resources can act on ‘pure’ genres, such as annual reports and arbitration, generating hybridity in them. In the first case, he demonstrates that the ‘private intentions’ of Hong Kong companies (in this case the company promotion) are expressed via the corporate reports, in which the stakeholders were not only informed of the economic trend, but were also convinced of the company’s stability and financial health. In this hybrid genre, Bhatia sees the fusion of two different discourses: the accounting one and the public relations one, with the latter being concealed behind the apparent primary accounting purpose. He also quotes *infomercial*, *infotainment* and *advertorial* as hybrid genres deriving from this process.

aper, instead, displays the ‘colonization’ of the arbitration
 on is a practice intended as an alternative to litigation but

the recourse of the parties (who are supposed to come to a mutual agreed settlement on the basis of their free wills) to legal experts made this practice more and more similar to litigation. Bhatia calls this ‘interference’ of a genre on another ‘colonization’, which happens in this case because of the interaction of two different professional practices, rather than on the discursive level.

Other interesting examples of genre hybridity are provided by Mäntynen and Shore (2014): hybridity in spoken interaction (Ventola 1987, Hasan 1989) is represented by the genre-switching that can often occur and result in the embedding of other genres (for example, small talk embedded in a conversation between a client and a shop assistant during the payment).

Another instance of genre hybridity is represented by what Fairclough (1993, 1995, in Mäntynen and Shore 2014) refers to as ‘sequential intertextuality’. In this case, the mutual influence of genres on each other is given by the circumstances of production of the single genres, which necessarily connect them to each other, as in a chain:

Sequential intertextuality means that a text can contain more or less easily distinguishable snippets from different genres and the snippets may even occur in a predictable sequence (in Mäntynen and Shore 2014: 744-5).

The hybridization phenomenon referred to as ‘genre embedding’ instead, has been introduced Bhatia’s analysis of academic introductions (1997: 191):

Genre embedding can be distinguished from what I have called genre-mixing in the discussion of academic introductions here by looking at the nature and extent of involvement of one genre within the other. In genre embedding for example, one often find a particular generic form, it may be a poem, a story or an article, used as a template to give expression to another conventionally distinct generic form

though Fairclough refers to a similar phenomenon as ‘embedded intertextuality’ (1992: 118). Examples of genre embedding are provided in Bhatia (2004a), who listed letters, dialogues, reports, reviews etc. as commonly embedded in advertisements. Following Bhatia, Lähdesmäki (2009: 378) shows examples of genre embedding in Finnish schoolbooks of English as Foreign Language containing (more or less) fictional letters from teenage magazines and states that ‘genre embedding’ involves a recontextualization of a genre to which a change of meaning is connected. A ‘genre appropriation’ instead, takes place when ‘a text appropriates the schematic structure of another genre’ as in the case of the creative production of a music review written in the form of a recipe shown in Mäntynen and Shore (2014: 746-747). Similar examples have also been defined ‘pretend genre’ (Hasan 1989) and ‘contextual metaphor’ (Martin and Rose 2008).

In such cases, the texts can mix different genres but they all keep their original ‘genre identity’. When the appropriation of genre resources happens in such a way that the boundaries between the genres are no more clear-cut, instead, we can define it ‘genre mixing, blurring or blending’. Genre blending, in Mäntynen and Shore’s words (2014: 748-750) results ‘not only in texts that combine features of two or more genres, but generally results in texts with an ambivalent genre status and/or results in the development of new genres (í) which in turn can gradually become established and conventionalized’.

illustrate that legal dramas can be considered an instance of the *template* as TV series provided by its entertainment purpose to display a whole range of different genres borrowed (in Bhatia's words, an *appropriation* of generic resources) from the legal profession, as well as a significant amount of dialogues (the legal drama's text) built on legal discourse (*appropriation* of textual and discursive resources).

4.3. Genre and genre hybridity in the media

The previous sections aimed to provide an overview of the development of research in genre theory and the viewpoints from which genre analysis in linguistics has evolved. Of course, not all the aspects presented apply to the specific object of this study, i.e. legal drama, which is not a prototypical example of specialized/professional genre. Besides, its media-connected function and its hybrid nature require an analysis from a double perspective, which includes that of Media Studies. This work focuses on the linguistic features of legal dramas and on their role as a genre on the *continuum* between the *specialized* and the *popularizing* ones, but the analysis of this genre cannot be abstracted from its nature as an entertainment, media genre, which is what he was born like, before potentially acting as a *specialized* and *popularizing* genre.

The theoretical frameworks for genre analysis proposed above mainly rely on the idea of a *set* of communicative purposes (Swales 1990, Bhatia 2004a) of the text producer, which in time is recognized and familiarized with by the members of the discourse community concerned with that genre. However, getting to a definition of media genres implies a combination of perspectives. As we will see in this section, the genre is shaped by those who *receive* the *text* (which in the case of TV fiction or cinema is *multimodal*, made of a combination of images, sounds, texts etc.), that is to say the audience, which construct them with their *expectations*.

The need for different approaches for *literary* genres and *media* genres is underlined by Feuer (1992: 105), who found that the considerations made up to that moment in reference to genres in literature could not apply to the much more diversified field of television. The traditional literary categories, mainly grounded in the formal structure of texts, are too broad and include diverse works throughout centuries and cultures (for example, lyric, tragedy, comedy etc.). The nature of television, instead, is *historically transitional* and *culturally ephemeral*, and the attempts to measure the mass media genres by means of such traditional norms are therefore *doomed to failure* (Feuer 1992: 140, in Akass and McCabe 2007: 285). In other words, the main reason why such categorizations cannot apply to TV products is that film and television are *culturally specific* and *temporally limited*.

Moreover, literary genres tend to be theoretical (*deduced* from a preexisting theory of literature, Todorov 1975 in Feuer 1992: 105) while TV genres need a historical basis of determination. The literary model of genre construction classifies them according to a principle of coherence, starting from a formal study of examples and then building a *conceptual model* of the genre, which is later used to be applied to other examples (Feuer 1992: 106). This classification reflects Todorov's (1976: 102, in Neale 1990: 51) view of genres as *classes of texts* that have been perceived as such in the course of history and sees a new genre as a *transformation* of one or

Chandler 2000: 3 and Swales 1990: 36). The inapplicability of the model to their already argued extreme dynamism and volatility

in time, in addition to their very recent nature, which does makes it impossible to trace such specific patterns back through time.

However, attempts to provide classifications of media genres in a literary-like way have been made. Schatz (1981) move towards semiotics as a means to analyze film genres brought to his postulation of an analogy between language and the cinema semiotics and led him to state that a genre can be studied as "a formalized sign system whose rules have been assimilated (often unconsciously) through a cultural consensus" (in Feuer 1992: 107). Such observation is close to the principle of the media genres as constructed by the audience's perception, which will be discussed later in this section.

To the different approaches that can be taken in the analysis of media genres, a fundamental assumption has to be added, namely that "a genre is ultimately an abstract conception rather than something that exists empirically in the world" (Feuer 1992: 144, in Chandler 2000: 1). This "relativity theory" applied to genres means that what for some media or literary critics is a "genre" might not represent a genre on its own for another, or rather be considered a *super-genre* or a *sub-genre*.

Proposed classifications of media genres

Most of the classifications proposed concerned film genres and were made on the basis of various criteria: period, country, director/star/producer, technical process, cycle (e.g. the "fallen women" cycle), series (e.g. the "007 movies"), style, structure, ideology, purpose, audience, subject or theme, racial identity, budget, sexual orientation or of their intertextual nature, for example when they "borrow" from literature (comedy, melodrama) or from other media (musical) (Chandler 2000: 1).

An interesting overview of the distinctive textual properties of a genre used for classifications is provided by Chandler (2000: 13):

- 1) Narrative, i.e. similar plots and structures, situations, sequences, episodes, conflicts and resolutions
- 2) Characterization, i.e. similar types of characters, personal qualities, roles, motivations, goals etc.
- 3) Themes, e.g. social, cultural, psychological, professional, political, sexual, moral, or subject matter, e.g. detective
- 4) Geographical and historical setting
- 5) Iconography, i.e. the set of images or motifs, of connotations, including décor, customs and objects, some performers, filmic techniques, use of colour and editing etc.
- 6) Mood and tone, which, for example distinguish a *film noir*
- 7) Text-reader relationship, i.e. the mode of address, the "inbuilt" assumptions about the audience, such as that the "ideal" viewer is male (or female) etc.

However, all those categorizations can only be valid for some specific purposes and contexts and cannot take into account more than one "formal" criteria for the definition of a genre. Moreover, they are flawed by the limiting view of media genres as pure.

000: 2) identifies four main problems regarding such

- a) their *extension*,
- b) their *normativism*,
- c) the *monolithic* definitions of a genre on which they are based, and
- d) their *biologism*, i.e. their view of genres as evolving through a standardized life cycle: genres are not discrete systems consisting of a fixed number of items and there are no rules of inclusion or exclusion of texts.

Just like the professional genres discussed above, the conception of genre in media studies has to deal with their *hybridity*: Fairclough (1995: 89, in Chandler 2000: 2), for example, in reference to mass media, notes that mixed-genre texts are far from uncommon and Abercrombie (1996: 45, in Chandler 2000: 3) notes that 'the boundaries between genres are shifting and becoming more permeable' and that the economic pressure to pursue new audience is bringing to a 'dismantling of genre'.

All these premises have brought to a universally agreed multi-perspective view of media genres: it is necessary to go beyond the mere formal aspect represented by the analysis of their structure (whether synchronic or diachronic) and to include the 'contextual' factors affecting the production of TV fiction, such as the audience (in particular their perception of TV genres) and those who produce TV genres, together with the related commercial practices and institutional demands. Feuer (1992: 145, in Akass and McCabe 2007: 289) summarizes these different perspectives in an approach which includes three categories:

- 1) an *aesthetic* approach, corresponding to all the attempts made to define genres in terms of systems conventions (as in the examples provided just above in this section)
- 2) the *ritual* approach, which sees genre as an 'exchange' between industry and audience through which 'culture speaks to itself', and
- 3) the *ideological* approach, which views genre as an instrument of control, referring to the control that the companies producing TV products need to have over their users.

More specifically, Feuer (1992: 108) also argues for three elements connected to the three approaches, which have to be brought into play in the process of genre construction:

- 1) the structural analysis of the text
- 2) the system of production
- 3) the reception process, with the audience conceived as an 'interpretive community'.

The influence of these three elements is acknowledged by most of the researchers concerned with the topic of genre analysis in Media studies in the recent years. It was Neale (1980: 20, in Chandler 2000: 5 and Feuer 1992: 108), in fact, who defined genre as a 'system of orientations, expectations and conventions that circulate between industry, text and subject', opening the doors to a more complete view of media genres as the result of multiple co-operating factors.

The relevance of such a multi-perspective view on media genres is confirmed by Mittell (2004: xv, in Akass and McCabe 2007: 289), who stated that the identification of media genre concerns the various methods by which television is produced, consumed and theoretically studied, thus

rs simultaneously acting on the determination of media

Classifications based on the formal aspects, following an aesthetic approach have already been shown and discussed above with their contribution and limits. The focus is now on the aspects concerning the reception of TV genres by the audience which, in turn, shapes the rules of production: media genres are determined by the audience's reception, by the expectations they build in time on the basis of their receptions, and on the pleasure they derive in recognizing a genre which suits their expectations.

As it has been demonstrated for the specialized genres in linguistics, the producers of a text and those who interpret it are both factors contributing to the creation of a genre: Kress (1988: 183, in Chandler 2000: 5) defined a genre as a "kind of text that derives its form from the structure of a (frequently repeated) social occasion, with its characteristics and their purposes" while Tolson (1996: 92 in Chandler 2000: 5), in relation to media studies, defines genre as "a category which mediates between industry and audience".

An interesting representation of the relationship between audience and industry is provided by Chandler (2000: 5), who sees media theory as based on a "triangular model" of interaction between text, its producers and its interpreters:

Genres first and foremost provide frameworks within which texts are produced and interpreted. Semiotically, a genre can be seen as a shared code between the producers and interpreters of texts included within it.

The relationship between the text producer and the audience is definitely more "indirect" than the one connecting the producer of specialized texts and their "receiver" since it also involves a market logic connecting the product to the audience. In fact, Kress and Hodge (1988: 7, in Chandler 2000: 6) also add that genres can "control the behavior of producers of such texts and the *expectations* of potential consumers". From this perspective, genre can be considered a useful means, a tool for a "mass medium to produce consistently and efficiently and to relate its production to the *expectations* of its customers" (McQuail 1987: 200, in Chandler 2000: 5, my emphasis). For example, it is instrumental in maintaining a certain audience loyal to a particular kind of genre and therefore to the production of other examples from the same genre.

Media genres are acquired gradually in time, usually through an unconscious familiarization. Studies have shown that children at the age of 2 start recognizing when their favorite characters disappear from the screen, perceiving it as a form of consternation, which in time brings to the recognition of the advertisement genre (ads usually signal the end of a show). In the years to follow, they learn how to sort out the confusing elements of the television world and to distinguish the shows, before learning how to "classify" them in genres (Jaglom and Gardner 1981a, 1981b, Buckingham 1993, cited in Chandler 2000: 7). Such studies have shown how children's repertoire of genres increases in time and confirm that categorization is a socio-cognitive process (see Miller 1984, Berkenkotter and Huckin 1993 in 4.1.).

The cognitive perceptions of the genre that the receivers have built of the genre can be either challenged or confirmed. If they are challenged, the audience can see the film, fiction etc. as interesting and innovative, though the breach of their familiarity with a particular genre can also result in the audience's disappointment:

ety of *pleasures* from reading texts within genres which are ent. -Uses and gratificationsø research has identified many of dia. Such potential pleasures vary according to genre, but they include the following. One pleasure may simply be the recognition of the features of a particular genre because of our familiarity with it. (í) Cognitive satisfactions may be derived from problem-solving, testing hypotheses, making inferences (í) and making predictions about the events. (í) Audiences derive pleasure from the way in which their expectations are finally realized (Chandler 2000: 8-9).

Other pleasures perceived by the audience are represented by empathy and escapism, as well as the possibility of moral and emotional judgements and the pleasure derived from sharing the experience of a genre with others members of the -interpretive communityø(*ibidem*).

Neale (1980: 57) who, like Feuer, sees genres as an interaction of three levels; one of expectations, one of the generic corpus, and the level of the rules and norms that govern both, also acknowledges the importance of expectations, which derive from the memories of films from within a corpus. In particular, he sees the concept of 'overisimilitude' as central to an understanding of genre: if genres are considered 'specific systems of expectation and hypothesis which spectators bring with them', then it is the audience's recognition and understanding which render genres applicable to the film/fiction they watch. These systems of expectation and hypothesis involve a knowledge of various systems of plausibility, motivation, justification and belief which can be raised in the audience according to different degrees of verisimilitude. Verisimilitude is thus understood on two levels: the first level sees verisimilitude in relation to the 'rules of the genre' meaning that 'for a work to have verisimilitude, it must conform to these rules' (e.g. for a comedy to be considered 'probable' it has to end happily). The second level of verisimilitude, instead, is represented by the relationship of the fictional facts with reality (Neale 1980: 45-47).

Jauss (1982: 56) metaphorically states that whenever a new (media) text is presented to a receiver, it will evoke in him/her the 'horizon of expectations' and 'rules of the game' which are familiar to him from earlier texts, which can also be transformed, extended and corrected. Expectations in the audience can also be created by means of the 'narrative image', that is the idea of a film (or of any fictional media product) which is widely circulated and promoted, which creates anticipation about that product. Akass and McCabe (2007) see this kind of pleasure as coming from the 'intertextual references' that assure the audience that they will like what they see, since it corresponds to their idea of that genre. This also makes them feel 'superior' because they know how the textual genre works.

However, the recognition of the generic features by the audience does not evoke pleasure *per se*. It is the interplay between the 'known' expected and familiar elements and the 'unknown' novel elements that attract the audience.

Just like unlimited originality of TV shows would be a disaster for the television industry, since it would not guarantee a share of audience which appreciates that particular genre (Feuer 1992: 108), their complete predictability can be as counterproductive. Neale (1980: 48, in Chandler 2000: 2) in fact, contends that 'genres are instances of repetition and difference' and that 'difference is absolutely essential to the economy of genre but it is the work of narrative to regulate such logic' because mere repetition would not attract an audience. In regards to the repetition-difference interplay, Akass and McCabe (2007: 296) also highlight the important role played by narration in it and the role of the deriving hybridization in media genres (see the sub-section on *Hybridity* below).

Media genres is instrumental for the companies producing and use forms and formats for commercial practices and manage their production. For example, a classification of media genres is useful for the combination of programs in TV schedules, providing the broadcasting companies with formulae on which they can rely to decide the production or the launch of new programs according to the popularity of genres or to their presence or absence in the TV schedules, driven by the pleasure that these could guarantee to the audience (Akass and McCabe 2007: 287-288). A genre is part of the process of targeting different market sectors (Chandler 2000: 5), and as such, it permits the creation and the maintenance of a loyal audience watching programs that they identify as being within a genre, determining their perpetuation (Abercrombie 1996: 43 in Chandler 2000: 5). This means that products to be put on the market are chosen on the basis of popular culture. The market is differentiated in order to cater to various sectors of consumers and this is done by repeating some specific commercially successful patterns, ingredients and formulae (Neale 1990: 63). This is why the view on media genres cannot be complete without an eye to the economic context in which the genres are produced and the economic imperatives that operate within specific institutions and industries.

While emphasizing how the interplay between novelty and difference is essential in the determination of the audience's needs, Neale (1990: 64) and subsequently, on the industry's response to the demand and refers to TV genres as 'aesthetic commodities':

It is important to stress the financial advantages of film industry of an aesthetic regime based on *regulated difference*, contained variety, pre-sold expectations, and the re-use of resources in labor and materials. It is also why it is important to stress the peculiar nature of films as *aesthetic commodities*, commodities demanding at least a degree of *novelty and difference* from one to another [my emphasis].

Hybridity

In relation to the exploitation of the interplay between the repetition of already established and known genres and 'novel' elements, some final reflections are necessary on hybridity in media genres.

Reference has already been made to the possibility of recombining 'old' elements with new ones, resulting in the hybridization or new media genres. But more specifically, Feuer (1992: 118-119) distinguishes between the genres which develop 'by recombining and commenting on earlier instances of their own genre' (í) thus keeping generic boundaries relatively distinct, which keep their ideological function for the interpretive community, and the 'new' genres which stem from a recombination across the genre boundaries. In particular, most of the cinema genres belong to the first category (westerns, musicals etc.), while TV shows tend to develop absorbing features of other genres. Feuer denies the generic purity of the most recent and popular TV genres and underpins the thesis of a 'horizontal recombination' against the traditional 'vertical' consideration of the evolution of TV genres. Such a view of evolution draws upon the concept of *intertextuality*, which can also be retraced in Media studies.

Intertextuality in media genre evolution includes not only the reference to elements borrowed and absorbed from other genres, but also the social, cultural and historical changes varying internally to the genre. As a matter of fact, intertextuality is included among the factors accounting for genre hybridity by Nelson (2006: 82, in Akass and McCabe 2007: 289-290), who develops the

he defines 'flexi-narrative'⁴⁴ in relation to intertextuality which is postulated as 'media-savvy'

The 'interaction' between genres is also sustained by Chandler (2000: 3-4) who considers it one of the forces which contribute to changing genres and shares Neale's (1995) and Feuer's (1992) view of media genres as 'historically relative' and therefore 'historically specific'. Quoting Tudor (1974: 225-6), Chandler also lists the factors which affect the genre changes and which characterize them:

- 1) the innovations are added to an existent corpus instead of replacing redundant elements (which opens up to the creation of new genres)
- 2) these innovations are consistent with what is already present and therefore evolutionary change is at the same time conservative
- 3) the resulting crystallization of specialist sub-genres involves a further differentiation in the classification.

The general academic agreement on hybridity in media genres opens up once again to the issue of the classification of genres. Corner's (1991: 276) distinction of the media genres interestingly proposes the opposition of classes of genres according to purpose, e.g. information vs. entertainment. Basically, the application of such a criterion led to the distinction between what is 'fictional' generally equivalent to what is 'entertainment' and what is 'non-fictional' generally meaning 'informative'. However, Chandler (2000: 11-12) challenges this classification noting the existence of various hybrid forms, such as 'docudrama' and 'faction'.

Even within genres acknowledged as factual (such as news reports and documentaries) 'stories' are told. The purposes of factual genres in the mass media include entertaining as well as informing.

And it is in the light of such premises and background that the present analysis of legal drama is conducted, challenging the distinction between entertaining and informative genres. It is undeniable that we, as an audience, all have an idea of what legal drama is, its features, its characters, its language. We have built our expectations on legal drama and are therefore entitled to like or dislike it, as well as to appreciate some and not other instances of the genre. But what is that defines it as a genre? This study aims to demonstrate that it is its hybrid nature itself, which places it between the position of a fictional/entertainment genre and an informative one (to draw on Corner's distinction), that makes it an interesting genre. The intertwining between its informative (or better 'popularizing') function, which is not explicitly displayed by the genre, and its 'official' entertainment function as a media genre will be object of interest in Chapters 5 and 6. However, before the analysis of the 'legal drama' corpus collected, I will now focus on the studies made on legal fiction, which help us reveal its dual function.

⁴⁴ Flexi-narrative is a hybrid form in between series and serial, since it involves the closure of one story arc within an episodes, like series, and other, ongoing story arcs involving the regular characters, like a serial.

In the light of the literature reported so far, it can be stated that legal dramas represent an example of hybridity from more than one point of view: with reference to their function of popularizing/specialized genre, they are a clear instance of genre embedding, since they contain scenes staging the various practices of the legal profession and the genres connected to and deriving from them. As a media genre, however, they represent an example of a hybrid both because of their structure and their content. In these last sections, I would like to provide a complete picture of legal drama as a media genre, as well as an overview of the studies made on legal fiction, with an eye to the features that make it a potential tool for the popularization of specialized knowledge, in this specific case of the law of the United States.

4.4.1. The evolution of legal dramas

Villez (2005: 10-31) counts about 120 TV legal fictions in the United States from 1948 to 2008, to which all the other series created and produced since 2008 have to be added. Her diachronic analysis of the genre allowed to identify three phases in the evolution of legal fiction:

First phase

The roots of legal drama lie in the very first reconstructions of real trials broadcast under the format of debates organized as trials between the Fifties and the Sixties (*The Court of Current Issues*, *On Trial*). Such reconstructions gradually made room for dramas, which began to dominate after the Sixties. The prototypical example of legal fiction belonging to the first phase is *Perry Mason*, which first aired in 1957 and was produced until 1974 (with a break between 1966 and 1973).

The TV fictions belonging to this period all had the same structure: they started with a mysterious murder, a person is accused of it despite being innocent and becomes Mason's client. Perry Mason was an excellent lawyer who defended innocent people and always won his trials because the true offenders would stand up in court to admit their guilt or confess it on the witness stand. The lawyer's private life was completely unknown; the only other characters were his secretary Della, a private investigator, and the villains, his counterpart: the District Attorney Hamilton Burger and the Police Lieutenant Tragg.

The jury's psychology was never portrayed: the members just sat and listened, just like the audience. The elements of the cases would change, but not the setting. The regularity of the setting and of the structure, however, would contribute to the progressive familiarization of the audience with trials, fostering their unconscious education about criminal procedure, the roles of lawyers and judges etc.

To this same category belong *Willy* (1954-1955), the first one with a female protagonist, and *The Defenders* (1961-1965) which represents a turning point in the genre: it did not have a single protagonist, but a whole firm, Preston & Preston, belonging to a father and son and including a whole team of lawyers; the cases to be argued were not only murders; private life and romantic distractions were included in the plot and the firm did not always win the cases. These aspects made the series more realistic and reinforced the interest in the audience, which was motivated to find new patterns of narration and new themes within the legal sphere. The search for answers, the

ters questioning themselves and the introduction of new, Asia, civil rights and abortion awakened the interest of the

audience and their learning through fiction.

Since *Perry Mason*, several legal fictions were produced every year, though none was able to reach the same success. *Matlock* (1986-1995), however, was based on a structure similar to *Perry Mason* (each episode starting with a crime, Matlock accepting to defend an innocent client, a last-minute revelation and the case winning) and this formula, with the addition of some details about the protagonist's private life, turned out to be effective, since the image of the efficient, brilliant and friendly lawyer was very reassuring (Villez 2005: 18).

Experimentation on the themes and constitutive elements of legal drama followed: all the possible situations were examined (lawyers working for legal aid, law students, even lawyers studying law in prison), new viewpoints were introduced (as the judges' and the real people's one), and new narrative techniques (as in *Petrocelli*'s multiple perspectives on the facts provided by the flashbacks with the reconstructions of every single witness). However, it was in *L.A. Law* that legal drama found its actual turning point.

Second phase

In a political environment marked by Reagan's administration (aiming at a higher control by the states and based on the value of the family but also characterized by less trust in the institutions), legal dramas started moving towards new directions: the clients were often families, who, after a catastrophe (an illness, the arrest of a family member, financial difficulties) turned to an institution but could not find a remedy. In such a climate of disappointment towards the institutions, the formula showing the lawyer as a guardian angel and justice being done did not fit the audience's expectations and feelings.

L.A. Law contributed to a more complex vision of the legal system. This series featured many main characters and many recurring characters, such as specialized lawyers, new associates and interns etc. But the most important change in the narrative structure is the intertwining of an 'open narrative' running through all the episodes, and a 'closed' narrative, represented by the independent story narrated in each episode. Moreover, the mix of professional and private lives gave birth to themes that would last for weeks and mixed feelings and professional issues in an explicit way, making an important step towards realism. Further new elements bestowing verisimilitude to the legal fictions of this phase are the way money is represented and the way justice is seen as a lucrative activity rather than only as an ideal.

Third phase

The 'third generation' legal dramas include the 'quality TV series' and a further diversification in the genres and features. The starting point is identified by Villez in *Law and Order*, which deals with the preservation and reestablishment of 'law and order' in society by means of a schematic structure in which the police investigate on a committed crime. The new element in the fiction is the focus on the legal apparatus instead of the crime itself, represented by the discussions on what the law authorizes or forbids, in particular when the law protects the rights of the accused. Legal questions are placed at the heart of the episodes, being also discussed in court during trials. This

pattern showing a witness being confronted with the same in the audience.

However, no single narrative structure is possible and new forms have been experimented: *Murder One*, for example, dealt with a single case of murder throughout the entire season and showed the legal proceedings from the beginning to the end, from many different perspectives, for example the jury's perspective in the jury selection (see Chapter 6). Basically, what distinguishes this last generation of legal dramas is the application of law principles to real society and to real social issues. This genre evolved into the "quality" series to which we are used now, which feature a plethora of other novel elements of entertainment. Series like *Ally McBeal*, *Picket Fences* and *The Practice* (from which *Boston Legal* was born as a spin-off), are examples of the introduction of bizarre elements and strange, borderline cases, which, besides entertaining with laughter, also aim to discuss "serious" topics such as cloning, the sale of human organs and other ethical issues. A demystification of the figures of the lawyer, and sometimes even of the judge takes place: lawyers are represented as on the verge of nervous breakdown (*Ally McBeal*) and full of vices and/or personal weaknesses (*Boston Legal*, cf. Chapon 2013 and the section below). To sum up, legal series of this period have increased the angles from which the legal system is observed.

The three legal dramas in this research, *The Good Wife*, *Suits* and *Boston Legal*, all belong to this phase, in terms of both the year of production and their constitutive features: they all tend to a realistic representation of the legal profession and courtroom activities, combined with plots and sub-plots focusing on the characters' sentimental life.

This overview of the development of American legal series aimed to provide an account of the transformations that the audience perceived in the genre throughout the years, with a particular insight into the way legal content is displayed and organized into an ever-changing narrative framework. The conclusion is that such developments lead to a progressive "familiarization" of the audience with law, favored by the more realistic way in which the legal profession is pictured, despite the growing complexity of the narratives. This familiarization also coincides with the construction of a consciousness of the genre and the birth of a series of expectations in the audience (see 4.3.):

These programs are particularly efficient because they combine content (good stories) with form (the open narrative) and a popular medium (television) to reach the public. [í] The public develops interest in the law, acquiring knowledge about the legal system through the experiences of characters they enjoy watching. The content and form of these stories correspond to the public tendencies as well as to changes in contemporary society. [í] These programs do not simplify artificially, they organize the elements of a story about the law in time, through well-thought-out segmentation, associating this to entertainment and thus favoring the discovery of the mysteries of the system (Villez 2005: 82-84).

One must always bear in mind, however, that the complexity of the specific legal contents communicated via legal drama is "diluted and sterilized", sometimes even "belittled" (Villez 2005: 86), since legal dramas intentionally delegitimize law and adapt it to their main function of entertaining a lay audience with a fictional, engaging story.

Setting and characters

Today's legal dramas, therefore, are characterized by complex plots, a plurality of characters and an innovative selection of themes and narrative techniques. In particular, Corcos (2003: 504) includes among the features of courtroom drama the presence of some thematic 'conflicts' like 'fairness vs. unfairness' and 'justice vs. injustice', as well as the use of irony and storytelling (see also 2.2. on narration in legal dramas and 6.1.1. on explanation by narration), which, of course, are added to their typical form which reproduces a courtroom:

The most successful films use a combination of method (storytelling), tone (irony) and form (courtroom drama) to engage viewers successfully in that discourse.

As noted in Section 4.4.1., the audience develop *expectations* about what they are going to see, the setting, the characters and the development of the plot: the story revolves around the contraposition of guilt and innocence, of good and bad characters and expect a vindication of the innocent, or a dramatic turn of events which surprises them. Consequently, the authors tend not to reveal all the evidence or some details about the story until the end of the episode, or insert a change in the situation that affects the trial exactly when it seems to be almost concluded and the verdict seems obvious (Corcos 2003: 510).

Regarding characters and setting, fictional courtrooms are mainly populated by archetypal characters, though the legal dramas belonging to the last generation tend to a much wider characterization and differentiation. The protagonists of the legal dramas which are object of this study are mainly lawyers hired by the defendant or by the plaintiff, but sometimes also prosecutors, District Attorneys and similar figures can be protagonists of some episodes or of horizontal plots (see, for example, Cary Agos working at the State's Attorney's office in *The Good Wife*).

Villez (2005: 34-35) notes that the wide range of characterization covered by the lawyers protagonists of legal drama contributes to bring the audience towards a discovery of this figure, since lawyers are shown in 'all the places they work and going about all their possible activities. [í] They plead in courts, but it is in the offices of the firm that they meet clients, listen to and advise them, negotiate with other parties, do research in case law and prepare arguments'.

Moreover, lawyers are also represented in different ways in reference to their personalities and respective private lives. Corcos (2003: 511), for example, lists some stereotyped lawyers which can often be portrayed in legal fiction, such as the ambitious one who would stop at nothing, the honorable and idealistic one who wants to defend an innocent client, or the underpaid and overworked one. While on one side some of the characters can be associated to these categories, on the other side a certain trend towards avoiding stereotypes can also be noticed: the dissatisfied lawyer Jerry Espenson in *Boston Legal*, for example, suddenly evolves in a man ready to threaten his boss for a promotion (see episode 2x11 in Section 6.5.2.). Similarly, in the first seasons of *The Good Wife*, Alicia is depicted as morally irreprehensible, naïve and dedicated to her job and her family, different from the young and ambitious Cary, while in the following seasons she turns into a combative and competitive lawyer, running for State Prosecutor first and later founding her own

l in Mike Ross's evolution from first-year associate to

Judges are represented with personal conflicts or tormented by ethical troubles as well. A surprising insight into the 'demystification' of law figures, in particular of judges, via legal dramas is provided by Isani (2010: 186-189), who notices the recent trend to 'demonize' judges counterbalancing the traditional idealization of this figure. Lawyers and judges can be represented as corrupted, ignorant of law and lacking in personality and backbone. Or, simply, in between these two opposite tendencies (*idealization* vs. *demonization*), they can be represented as 'flawed heroes' i.e. a figure in which the 'professional hero' and the 'personal anti-hero' meet.

Examples of morally or personally flawed judges are very frequent in the legal dramas collected in my corpus: for example, in *Boston Legal*, the lawyers convince an old, virgin judge to rule in favour of his client by making her flirt with him; in *The Good Wife*, instead, judges are often seen as hostile to the lawyers for personal reasons (for example political reasons in the case of Alicia, who is the State Prosecutor's wife) and as influenced by their personal relationships with the lawyers. For example, Will often plays basket with a group of judges who therefore tend to side with him during trials and in an episode has to argue a case in front of a judge who is biased against him because of a foul received during a basketball match).

Even paralegals, interns and secretaries have recently acquired growing value in legal dramas: they are indispensable for the effective administration of justice, help the lawyers with research, documents, contacts with clients etc. (Villez 2005: 34). An example is Rachel in *Suits*, who is the best paralegal at Pearson-Hardman and even has her own office and introduces Mike Ross (who is thought to be a beginner lawyer) to the legal profession. Similarly, Harvey Specter's secretary Donna is fundamental for his activity as a lawyer, to the point that Louis Litt's desire is to have her as his own secretary. In *The Good Wife*, a similar role is played by the investigator Kalinda, who does essential work and research both for private purposes (Diane hires her more than once to find out about matters not concerning the firm's clients) and to find evidence or find new ways of defense for the clients of the firm.

The multiplicity of perspective provided by the progressive introduction of more characters also contributes to recreate fictional situations in which the communication between the characters catalyzes the popularization of technical knowledge. Moreover, the representation of lawyers and judges in legal drama also influences the audience's perception of these professionals and of the legal practice in general (see Isani 2010).

Non-expert characters, on the other hand, are instrumental to the audience's self-identification and are particularly useful to the narrative because they lend themselves to scenes staging the communication of specialized content to a person who, just like the audience, is external to the professional and discourse community (for example, when asking for an explanation of the law). They allow the introduction of a further point of view provoking further discussion and confrontation, reinforce the audience's reflection and allow for repetition, which brings to the acquisition of knowledge (Villez 2005: 33).

⁴⁵ See also O'Connell (2012: §17) on Alicia's evolution in *The Good Wife*.

As regards the structural features of legal drama, one reference framework for an analysis is provided by Bernardelli (2012: 23-36), whose work on TV fiction describes all the different forms and formats. The basic distinction to understand the genre in analysis is the one between *series* and *serials*. Such distinction is operated on the basis of the *continuity* factor: *serials* are characterized by a content continuity throughout the segments which compose it and are basically the narration of one plot along a linear chronological development. They can feature a *close* or an *open* plot, the latter being potentially endless. *Series*, instead, are based on the discontinuity of the episodes composing them. The episodes are not necessarily sequential to each other, they usually feature the same narrative structure without radical changes in the characters (*circular* or *reiterative* development of the plot). According to Villez (2005: 47), series lend themselves better to the audience's familiarization with legal contents (in the case of legal fiction) because they run longer and on a regular basis, thus favoring a better acquisition of legal concepts through time, while serials do not last long enough to offer sufficient practice.

However, the distinction between *serials* and *series* is not as clear as it is described here. In between the two, many other forms have developed in time. For example, Newcomb (1999, in Bernardelli 2012) defines *cumulative narrative* the structure of series organized in independent episodes in which the authors *leave traces* of connections and references to previous episodes, which are not always necessary to the understanding of the plot, but contribute to the construction of a *historical memory* in the spectator. Among these *intermediate* forms between *series* and *serials*, we also find the *serialized series*, a category to which the legal dramas which are object of this study belong: the episodes of serialized series are connected to each other by a narrative thread which creates a continuity and a plot running across more episodes or seasons. At the same time, each episode also features its own narrative thread which finds its conclusion within the episode. The first narrative thread is referred to as *running* or *horizontal* plot; the second as *anthology* or *vertical* plot. The use of *horizontal* plots often relies upon the technique called *multistrand* in which multiple *vertical* plots are developed in a single episode in parallel. This is the case of the series based not on a single protagonist, but on a team of protagonists, just as in the case of the legal dramas analyzed here.

In *The Good Wife*, for example, a narrative strand is developed for each of the main characters: Alicia's private life is narrated starting from her husband Peter's scandal and their break-up, going through the secret relationship with her boss Will. Contemporarily, her comeback to the legal profession is staged, starting with the competition against Cary as junior associate and then going through her promotion to name partner and culminating in the last seasons in her campaign to State Prosecutor and the foundation of her own law firm. Similarly, Cary is first hired by the State's Prosecution, then from Lockhart-Gardner again and finally teams up with Alicia, while his friendship with the firm's investigator Kalinda goes through moments of intimacy and misunderstanding. The personal lives of the protagonists are shown while developing in parallel to their careers, as well as to Lockhart-Gardner's destiny. At the same time, each episode leaves space for at least one case to be discussed in court (or in the law firm), often two or more, assigned to different lawyers (vertical plot).

Suits and *Boston Legal* are examples of serialized series, too. However, while *The Good Wife*'s structure seems to *balance* between the time dedicated to the vertical and to the horizontal plots

more towards one of the two. Starting from the second concerning Daniel Hardman's comeback to the Pearson-

Hardman law firm and his attempts to ruin Jessica Pearson and the other senior partners (Harvey Specter and Louis Litt) ends up prevailing over all the vertical plots and the client's cases to be discussed in court almost disappear. Series like this, in which the segmentation in episodes becomes secondary in order to emphasize the chronological continuity of the plot and its horizontal plot are also called serial series (serie serialiö, Bernardelli 2012: 39).

Boston Legal, instead, represents the opposite trend: being it in between a legal drama and legal comedy, the strength of this series is represented by the strange nature of the cases discussed and by the singular personalities of the characters (sometimes even grotesque and ridiculous). This aspect works against the development of a horizontal plot, which is detectable (for example in the firm's crisis due to Denny Crane's mental disease, in the evolution of Shirley Schmidt's and Alan Shore's private lives etc.), but progresses very slowly and not continuously, leaving more space for the episodic nature of the series. It could be argued indeed, that *Boston Legal* is in between the series based on cumulative narrative (i.e. episodes independent from each other where only traces of the connections to previous events are left) and serialized series.

The structure of the series is not the only criterion whereby TV fiction can be classified: two other important factors are the tone (comic vs. tragic) and the spatio-temporal setting, the world represented in them. And also in reference to these further two criteria, hybridization is possible and characterizes most cases.

With reference to the tone, a basic distinction is usually made between *comedy* and *drama*. Aristotle defined as tragedy plays with characters who belonged to a higher social status than the world surrounding them and the facts narrated culminated with an unhappy ending. Comedy instead, showed inferior characters and the facts usually took a comic, funny connotation and ended with a positive denouement. Nowadays, the comedy fiction is mostly represented by *sit-coms* (abbreviation of situation comedy), based on a fixed setting and a fixed cast of characters and a variable situation introduced in each episode. The situation is often unlikely and complex, often generated by *quid-pro-quo*s and misunderstandings and giving rise to humorous sketches. In dramas, instead, the tone is more serious, though it is difficult to find a recurrent pattern which characterizes them.

Drama genres are in most cases TV adaptations of some narrative book genres such as thrillers, crime novels, detective stories, etc. or, otherwise, can be distinguished according to their settings. It is in such perspective that one can classify drama in legal, medical, teen, scientific, etc. In legal drama the protagonists are lawyers (attorneys, solicitors, barristers), judges and other similar law professionals (for example coroners, see Isani 2011) who have to handle with problems, often trespassing into the detective or thriller genre. Actions usually take place in courtrooms or law firms; social themes are often faced and sometimes emphasis is given to the rhetorical skills of the protagonists. Bernardelli (2012: 53) mentions as some of the most famous instances of this genre: *Perry Mason* (1957), *L.A. Law* (1988) and *Boston Legal* (2004), which is part of the corpus analyzed here.

However, this study conducted on legal drama is based on the assumption that all these categorizations are only theoretical and relatively stable and mainly cover the function of providing a framework of reference, for example for pedagogical or commercial purposes. As stated above, all the genres move along a continuum and are to some extent hybridized. In reference to the structure,

at there is no clear distinction between ‘serialized series’ and ‘declination’ of a structural form.

Even the distinction operated on the basis of the ‘tone’ of the series (comedy vs. drama) is not so straightforward, as in the case of ‘dramedy’ (drama + comedy). *Ally McBeal*’s setting in a law firm and its plot developing around the young lawyer Ally and her lawsuits would make it an example of legal drama. However, the paradoxical cases presented in the episodes, the unbelievably odd habits of the people working with her (and of herself), together with the focus on Ally’s tormented private life could lead us to consider it a sentimental-psychological comedy⁴⁶. *Ally McBeal* could thus be considered a ‘psychological-sentimental legal dramedy’ (Bernardelli 2012: 56). Likewise, *Boston Legal*’s twofold hybrid nature must be taken into account: it is not only hybrid in its structure because it is between ‘serialized’ and ‘cumulative narrative’ but also hybrid in its tone, since it is in between legal drama and comedy.

4.4.3. Legal dramas as ‘FASP’ and their application to language learning

In recent years, legal dramas have been object of interest of relatively few studies within English for Special Purposes, mainly associated with language learning, which, however, have brought the academic world to a higher awareness of and interest in the features of this genre, as well as to a quite universal acknowledgement of its applicability to ESP.

The earliest steps towards the introduction of fictional products in ESP teaching have been moved by Petit (1999), who called *FASP* (*Fiction à Substrat Professionnel*) all the fiction set in a professional milieu⁴⁷. Petit’s idea of FASP, however, was originally connected to his research on professional novels and their application in English language courses and in ESP courses in lieu of the traditional/canonical literature. The FASP novel he focused on were suspense-based, contemporary bestsellers (Isani 2010: 183-4) which featured a professional background (*substrat professionnel*) as source of the creative processes, corresponding to a specific domain or profession, which defines the writing of the genre, its characters and influences the plot development (Isani 2006b: §14)⁴⁸. This means that the plot, the characters and the source of literary inspiration are *defined by* and *dependent on* a specialized professional environment. The professional fields possibly representing a background for FASP include medical, scientific, military, political, legal ones and also domains such as media and environment. The legal FASP includes in turn fiction set in the courtroom, where the protagonists are mainly lawyers, but can also focus on police activity (procedural FASP) and on the judge’s activity (judiciary FASP) (Isani 2010: 183-4).

Interest in FASP stems from the need for a new perspective in language learning: though ‘canonical’ literature has always been used as a support to English teaching, the difference between literary language and everyday language has recently come to the fore as an issue in language

⁴⁶ See also Chapon (2013) on the representation of mental health in *Ally McBeal* and *Boston Legal* and Isani (2010: 184) on the openness of the debate on *Ally McBeal* and its validity as *Fiction à Substrat Professionnel* for English learning purposes.

⁴⁷ Translations of this acronym have been proposed, among which PBF (Professionally-Based Fiction).

⁴⁸ Original quotation:

Un domaine propre à une profession (médecin, avocat, journalisme ou informaticien) ou à une discipline (le droit, la médecine, la géophysique ou la finance) qui se situe à la source des processus créatifs et imaginaires de l’écriture et ainsi nourrit l’intrigue, définit les personnages et influe sur le dénouement.

the use of authentic texts or, in the case of ESP courses, of specialized texts, a compromise represented by the integration of specialized literary texts in English teaching, instead, can act as a "centripetal force" to "plunge learners into a world of fiction whose gravity and ethos are embedded in their very own field of specialization" (Isani 2006a: §7).

Petit investigates the genre starting from the "external" features of specialized novels (such as the "para-text" represented by the information on the author and the description of the novel as bestsellers on the cover) which contribute to the identification of the genre and to the construction of its role in society, but also identifies some "internal" features which distinguish them:

- 1) The telling of a story
- 2) Suspense
- 3) A case from the protagonist's professional life.

The introduction of the audiovisual element represented by specialized drama into language teaching, however, was only proposed later (Isani 2004, 2006a, 2006b, 2010, 2011, Chapon 2013, O'Connell 2011, 2012). Díaz-Santos (2000: 222 in Isani 2006a: §13), for example, argued for the pedagogical value of TV FASP in language learning listing the reasons for it:

- 1) The protagonists are people in scientific and/or high-tech fields of activities
- 2) The setting described or mentioned are actual research facilities (if any)
- 3) The characters usually discuss in their jargon scientific concepts, conjectures and theories (if any)
- 4) The plots contain references to the goals, researching trends, concerns and ethics of particular discourse communities.

As regards the motivational aspect connected to the introduction of specialized TV series in English courses, Isani (2006a: §3, 13) noticed that the audiovisual products could participate in the learner's language acquisition even more than specialized novels:

Our students, sophisticated consumers of sound and image, interact with aural and visual text in the same way that students of previous generations interacted with written text. In the new pedagogical dynamics of aural and visual literacy, the use of filmic text as a teaching support goes beyond the traditional "entertainment" added-value often cited to justify the use of cinematic legal FASP not only in ESP but in subject domain teaching as well. (if any) FASP is a particularly appropriate resource material for ESP teaching owing to its oxymoronic fusion of specialty-related fact and fiction, authentic document and literary text, literate/orate spoken/written language registers⁴⁹.

In particular, Isani (2006a, 2006b) identifies three levels on which the FASP can be helpful in ESP teaching: the content level, the culture level and the one of language and specialized discourse.

Content

The "professional background" which characterizes the FASP is a source of information about a specific field (in this case law) and helps build a "capital of knowledge" related to that domain. If on

⁴⁹ In particular, the role of legal fiction has been underlined by Michael Asimow, Professor of Law at the UCLA School of Law (in Isani 2006a: §15).

content level seems obvious and undeniable, on the other
 content is also questionable.

Isani (2006a, 2006b: §21) studies try to give an answer to such question and find that in most cases the answer is encouraging because several elements converge in legitimizing a FASP's authenticity. First, the authors of FASP are usually not only TV authors but ex-professionals who turned towards TV fiction writing later in life, which underpins the unquestionability of the contents. Most of them not only graduated in the field they are writing about, but also practiced their profession for years⁵⁰. Otherwise, the "technical advisors" or the team of professionals consulted while writing the episodes are usually cited and acknowledged in both novels and TV fiction. Petit (1999: §51-52) had already argued the "documentary value" of FASP in Grisham's novels in the description of the professional activities in the law firms where the fiction was set or in the account of the selection of the jury. In his opinion, fiction can be taken as a "*représentation d'une pratique authentique*" (representation of an authentic practice), which is particularly instrumental in showing oral specialized discourse. This essential component of specialized fiction implies the transmission of documentary and linguistic importance which could make fiction an instrument for teaching (see the sub-section *Language and specialized discourse*) and is defined "*présomption d'authenticité*" (presumption of authenticity). This presumption is also confirmed by Isani (2006b: §38-40), who underlines the way specialized documents are reproduced under fictional form in FASP and acquire "authenticity" insofar as they are embedded into a professional and specialized context.

The "reliability" of FASP, however, is not only determined by the use of authentic elements and documents which make it realistic, but also by the way the audience sees it. Petit (1999: §63), Villez (2005) and Isani (2006a, 2006b) in fact, all sustain that the audience is able to distinguish between what is embedded in the fiction in order to be looked at as likely, realistic and reliable, and what is not; they know the "rules of the game":

Watching the legal series will not always give viewers the correct information for the European context, but it does help them to develop opinions about what they see. With more experience, they can even judge the exactitude of the legal information provided. [í] They can perceive the essential questions pertaining to law and justice. [í] Most viewers today can judge the contents of the narratives and the representation of the legal system in the various shows thanks to the experience they have acquired of this domain; experience coming from television (Villez 2005: 62).

In the light of the interviews carried out with some students of the University of Grenoble, Chapon (2013) demonstrated the capacity of the audience to look at FASP in a critical way, distinguishing some parts of legal fictions that could not be considered as realistic. Whenever the characters of specialized series have some ethically objectionable or professionally unlikely behaviours, the audience understands that that is "part of the fiction" and not necessarily part of the professional practices which are portrayed in it. The authors of fiction include some narrative elements belonging to the "*feintise ludique*" (Schaeffer 1999 in Chapon 2013: §22), the "playful fiction" which sometimes creates a break in the professional "reality" represented in the fiction.

⁵⁰ This is true of novelist Robin Cook, who had a degree in Medicine, John Grisham and John Mortimer who worked as lawyers and barrister respectively before writing legal thrillers, or Kathy Reichs, who worked as a forensic anthropologist before writing her novels (Isani 2006b, §21-22). Petit (1999) analyzed the way the credentials of the authors of specialized novels are established in the "paratexte" represented by the book covers.

at the fact that the audience is 'media-savvy' enough to direct specialized discourse and what is not does not mean

that the audience has knowledge of the specialized terms or concepts embedded in the fiction. The 'absence of knowledge' (Isani 2006a) of the audience is, instead, the basis on which FASP are based: they gradually attract the audience with new elements which are introduced step by step in the plot⁵¹.

Culture

The second aspect to which FASP can contribute is that of cultural representation. This level sees culture from many different viewpoints, including not only the cultural differences connected to the other language, but also aspects connected to the professional culture.

Isani (2011) lists different types of culture which are the object of study and teaching in L2 learning. The first is 'high culture' in the most traditional sense, i.e. the whole of 'human activities related with intellectual refinement of the mind through the fine arts of the humanities, more specifically Art, classical music, classic literature etc.'. Specialized TV fiction, however, is far from this traditionalistic view of culture and has therefore constituted an object of discussion and skepticism. Nevertheless, the shift from 'canonical literature' to the use of authentic texts in language teaching, for example, is undeniable. The learning- and learner-centred approaches supported in recent years tend to 'reverse the hegemonic top-down orientation of teacher-centred classes' in favour of an approach which is closer to the learners' culture. Therefore, the introduction of FASP in learning could also represent a fair compromise in the demand for the transmission of 'high' culture to students.

The second kind of culture which can be shown via FASP is 'societal culture' intended as the 'way of life as shaped by the geographical, historical, political and institutional environment in which it functions, and the related values and preoccupations of its members' (Isani 2011: §13). In this perspective, English for specialized and professional purposes has to engage with a familiarization of the learner with the societal culture of the language they are learning.

Finally, professional culture, intended as the 'intra-, inter- and extra-professional interlocutors who interact with a particular professional community, its relevant institutions, basic values, modes of functioning, history and traditions and the issues it is confronted with' can be also accessed via FASP. It is thanks to the display and the transmission of this kind of culture that the learners are allowed to acquire a 'professional cultural competence' (Isani 2011: §36):

Professional cultural competence may be simply defined as the capacity to function in a given professional environment. In addition to the specialist knowledge which defines the community, this capacity also includes familiarity with its history and institutions and the symbols, heroes, rituals, values and expected behaviors recognized and shared by all members. As such, developing cultural professional competence in ESP seeks to provide learners with the *cultural* awareness and skills necessary to communicate and interact as active members of a given professional community.

⁵¹ In some cases, the vacuum created by the audience's absence of knowledge and the professional world reproduced in specialized fiction can even be the cause of a wrong enculturation, as in the case of the 'French paradox' (French audience, sometimes even Law students, believing that some practices of the US legal system are also valid in their legal system; see Isani 2006a: §30-32 and Villez 2005, or the so-called 'CSI effect' Cole 2013).

ganizational or corporate culture, i.e. the artificially
essionals external to the organization, which is imposed

top-down by management with the aim to forge a sense of collective identity and belonging
amongst the diversified employees of a given organization (ibid., §17).

Professional culture and *locus*-related culture (Isani 2011: §51) are strictly connected to each
other: while hard sciences are typically universal and inter-cultural, as it is for many specialized
fields, law is completely dependent on the country in which it is in force. The culture-specificity of
law makes the transfer of professional culture necessary and implicit, together with other forms of
culture.

Shortly, if viewed as concentric circles, the legal drama would contribute starting from a core
culture which is the specific culture of the profession depicted (mainly lawyers and judges), and at
the same time contribute to a transmission of the culture of the legal community and gradually
widening to larger levels, including the regional and national culture represented in the fiction and
of which the audience acquires knowledge.

The possibility of acquiring competence about the professional culture is confirmed by O
Connell (2012), who experimented with the use of *The Good Wife* and of another legal drama,
Damages, as instruments of learning in a course of English for Specialized Purposes. In particular,
she focused on some aspects that could be conveyed via legal dramas concerning both some legal
principles and concepts portrayed in the episodes (e.g. class action in *Damages* and all the genres
embedded in legal drama such as depositions, judge hearings, jury selection, witness examinations,
but also different branches of law ranging from divorce to bank and company law), and broader
aspects such as the sociolinguistic and cultural dimensions. According to OConnell, besides the
acquisition of specialized linguistic competence, a FASP-integrated approach to an ESP course can
be instrumental in the acquisition of knowledge about the professional environment, the
organizational culture (*culture d'entreprise*), deontological matters and, according to Villez (2005:
75), even civic education.

Deontology is also at the centre of Chapon (2013) study, which starts from the lack of
deontology in the lawyers who are protagonists of American legal FASP. Among the series that
were object of her investigation, *Boston Legal* is also mentioned, in which Alan Shore appears as an
ethically challenged character ready to do anything to bring money into the law firm. Actually,
the same happens in the other legal dramas examined in this research (*The Good Wife* and *Suits*),
where some characters are driven only by their greed for money (for example David Lee in *The
Good Wife*) and ethical issues or breaches are constantly represented (for example, Donna hiding a
document, which causes an investigation on Harvey Specter, or the cynical Daniel Hardman who
steals money from his own firm, both in *Suits*). This means that the way professional culture is
depicted in FASP also contributes to the construction of the characters' identity in the audience's
eyes. These examples contribute to putting the audience in touch with the ethical aspect of the legal
profession, which is a part of the professional competence that students are supposed to acquire.

Language and specialized discourse

The aspect which is probably the most directly concerned in the acquisition of competence by
means of FASP is the one connected with specialized language. It is from this level, in fact, that
Petit (1999) started to investigate the educational implications and applications of specialized
fiction, whose language features a high use of technical terminology. In fact, it is impossible to

professional background that the authors want to portray, of professional fiction: specialized terms are not only a stylistic choice, but are naturally present in the text because they are required and justified by a narration implying characters interacting within their professional milieu.

Another element which characterizes the language of FASP is the use of professional dialogues, intended both as *procedural* and as *non-procedural* exchanges. *Procedural* exchanges are necessary to carry out a procedure (e.g. as a surgery in medical drama or a trial in legal drama) and usually also contain specialized terminology. They can take place between experts (e.g. doctors during surgery, lawyers during a trial) or between an expert and a layperson. In both cases, the fictional nature of the dialogues implies the involvement of someone who reads them and therefore communication is extended to a third, external participant, which is generally a non-expert reader, or, in the case of TV FASP, the watching audience.

Such exchanges can be considered a valid reproduction of instances of professional and specialized discourse, conferring a certain degree of *reliability* to the content of the FASP. The *presumption of authenticity* and the *documentary value* of FASP, in fact, have been considered exploitable in domains of ESP such as specialized translation, for example by creating a multi-language micro-corpus of the translations of FASP works in multiple languages and drawing upon it for terminological research purposes. Of course, all the applications of FASP to language teaching do not claim that a course of introduction to ESP can rely exclusively on texts drawn from specialized fiction, but that a wise use of such texts, for example accompanied by an explanation and commentaries, can be useful to identify a number of formal features pertaining to vocabulary, style and pragmatics of the specialized discourse being examined analysis.

Villez (2005: 75), in particular, underpins the importance of experience in learning legal terminology, which is acquired by mentioning, explaining and then mentioning the legal terms, principles or concepts in other situations:

One can find about twenty legal terms in an average episode. Using these terms in context helps the audience to grasp their meanings. If a term is too technical, the writers arrange discussions so that the term is reused in different conversations or situations, giving the audience several opportunities to hear and associate the legal vocabulary to narrative events. [í For example] the fictional client immediately repeats the term questioningly, which allows the fictional lawyer to take it up again, repeat it a third time and explain it. [í] Reuse in different conversations in varied contexts of the limited number of terms in each episode favors familiarization.

Besides the terminological aspect, the pragmatic dimension could also benefit from the introduction of FASP: the study of conversational patterns, for example, could benefit from the fictional conversation set in the professional milieu and help the learners get an idea of the realities constituting specialized discourse.

The diverse points of application of FASP in the acquisition of specialized language are summed up by Villez (2005: 75) who notes:

First, they offer a complementary course of *information* directly useable at school [í]. By watching the American legal series, European students, *like audiences*, discover a legal *culture*, a different *society* and even some of the *history* of the United States. Watching these programs in English would offer the additional advantage of allowing them to work on oral comprehension and learn currently used idiomatic expressions, as well as conversation at normal speed [í]. Furthermore, practice in semiotic decoding of images and analyzing



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olistic approach to learning a common material and favor the objects studied in school.

It is precisely in the light of these premises that I sustain the possibility of being “educated” by legal dramas and will argue that they serve a popularizing function in parallel with their entertaining one. The “techniques” used by the authors to help the audience familiarize with specialized contents are investigated in detail in Chapter 6.

MACRO-LINGUISTIC ANALYSIS: LEGAL DRAMA AS A HYBRID GENRE

5.1. Genres and types of interactions in legal drama

The previous Chapter provided a view on the concept of ‘genre’ and in particular of ‘genre hybridity’ focusing on legal drama, its evolution and its features.

The studies conducted by Villez (2006) on legal drama in a diachronic perspective made it possible to arrive at a classification of legal dramas based on the approach the authors had towards the reality of courtroom, underlining a gradual variation from a ‘first phase’ of legal dramas (repetition of a standard format, only one main character who always wins his cases or discovers who is guilty etc.) to a ‘third phase’ aiming at a representation of courtroom which is as close as possible to reality.

The objective of the last generation legal dramas to provide a representation of trials and other contexts which ‘sticks to’ the reality of the legal profession strongly influenced the evolution of the genre, which has moved towards a more realistic rendering of the facts, including more characters, more plots, faithful reproductions of more or less fictional trials and more and more references to really discussed cases and to real crime and political news.

One of the most evident variations throughout the evolution of legal drama concerns the way trials are represented: first, lawyers discuss them in the courtroom and work on them in their offices and all the ‘work’ which is behind them is often shown. Second, they work in collaboration with other people, which come to have a main role (see paralegals and secretaries in *Suits*, or detectives in *The Good Wife*). Third, cases are not always discussed in front of a judge or jury, but often ‘resolved’ by means of Alternative Dispute Resolution (mediation, arbitration etc.), and especially settlements, which are a valid alternative to legal action and are often at the heart of entire episodes. Fourth, as a consequence, cases are not always won by the protagonists. On the contrary, their losses in court and the ‘victory’ of the villain can often favour further developments and complications to the plot.

All these changes in the structure of legal drama contribute to the transformation of the genre from a reproduction of the trial as more similar to a ‘fairytale’ or of a ‘morality story’ to a genre placed on the boundary between fiction and reality and gradually closer to genres as documentaries and docu-reality.

The tendency towards the ‘realitization’ of legal drama will be confirmed in this chapter, which focuses on each trial phase, as well as on all the possible interactions between the characters involved in the fictional cases, and compares them to studies conducted on the language used in real trials, focusing in turn on each of the main trial phases. This will provide evidence of the ‘appropriation’ of text-internal and text-external resources of all the sub-genres corresponding to each phase of the trial: not only terminology, formulae and rhetorical structures (text-internal resources) typical of trials are ‘appropriated’ in their fictional reproduction, but also discursive and professional practices, such as the choice of certain generic modes, norms and conventions, as well as aspects related to the identity of the speakers and their role in communication.

schematization of the trial phases, each of the following trial phase (corresponding to different genres related to the

legal profession) is represented in legal drama. The typical trial is divided into three main phases: a preliminary one, an evidentiary one and a judiciary one. Every macro-phase of the trial includes one or more "moments" in which different functions are performed. The participants and their roles in the communication vary according to the function of the trial phase. In particular, some phases see a "unidirectional" interaction, in which only one person speaks and the others listen (monologic address), while other phases see a dialogic interaction between the participants.

TRIAL PHASE	PARTICIPANTS AND INTERACTIONAL DYNAMICS
1) Preliminary phase	
Jury selection	Judge \leftrightarrow Jury pool Lawyers \leftrightarrow Jury pool
2) Evidential phase	
Opening Statements	Lawyers \rightarrow Jury
Witness Examinations	Lawyers \leftrightarrow Witnesses
Closing Arguments	Lawyers \rightarrow Jury
3) Judicial phase	
Jury Instructions and Summing up	Judge \rightarrow Jury
Jury Deliberation	Juror \leftrightarrow Juror
Verdict	Jury Foreperson \leftrightarrow Judge
Sentencing/Release	Judge \rightarrow Defendant

\rightarrow monologic address

\leftrightarrow dialogic address

Table 5.X: Trial phases and interactions between the participants (adapted from Cotterill 2003: 94 and Anesa 2011: 103).

This scheme refers, in particular, to criminal trials with jury. In bench trials (where only one expert judge has decisional power), on the other hand, phases like the jury selection and jury instructions are absent. Moreover, informative and persuasive speeches (like opening statements and closing arguments) can be addressed to the judge and not to a jury. Bench trials are in larger part consisting in interactions between lawyers and the judge, who is the center of the decisional power.

In jury trials, instead, the judge takes a passive role for most of the time. His power lies in the ability to intervene when required (for example in rejecting or sustaining motions and objections or informing and instructing the jury). The judge's interactional role is basically of a monologic nature: he addresses the jury when providing it with the instructions at the beginning of the trial or in other moments (generally after the closing arguments and before the deliberation) and pronounces the decision, sentencing or releasing the defendant. The judge can also be involved in dialogic interactions during the evidential phase, in which he "mediates" between the opposing counsels, and in some other cases, for example with the witness during examinations. Cotterill (2003: 95-96) also underlines the importance of other forms of interactions involving the judge, such as "objections sequences" where one of the parties "protests against the other side's line of questioning or application of the law" and "sidebar conferences" a form of "sotto voce" communication between the judge and the lawyers during which "the conflicting claims of narrative

lő. By means of such short exchanges at the sidebar, the ageø and what to leave -backstageø i.e. to keep from the

jurorsøears.

The lawyers, instead, are involved both in dialogic and in monologic communication: witness examinations, based on the Question-Answer pattern, are basically a dialogue between lawyer and witness, whereas opening statements and closing arguments are basically speeches they deliver to the members of the jury, who silently listen and draw their conclusions.

Cotterill (2003: 101-106) refers to lawyers as those occupying the øsecond place in the interactional hierarchyø, meaning that do not have the same control over the participants as the judge, but still have a considerable degree of control in communicative contexts of power asymmetry, namely over the jurors, the witness and any other lay interactor.

The fact that the lawyer can address the jury in the form of an uninterrupted monologue, such as opening and closing statements, is significant, especially in the light of the fact that these phases take place at the beginning and at the end of the evidential phase respectively.

In dialogic interaction with witnesses, however, the øsuperiorø position of the lawyer in the power hierarchy allows them to manage the turns and to negotiate the meanings and contents of the communication.

Moreover, the lawyers own the øpowerø during the evidential phase (in opening statement and closing argument they monologically address the jury; in witness examinations they øhandleø the communication imposing questions and controlling the form of answers) and the evidential phase not only occupies most of the trial, but is also the most decisive one. The influence of the preliminary phase, in fact, when there are no pretrial hearings, is only limited to the choice of the jurors and the subsequent composition of the jury. The judicial phase, instead, follows the evidentiary one and totally depends on what was established during the latter.

For this reason, legal dramas tend to stage the øgenresø embedded in the evidential phase much more than the others. Likewise, previous literature on the use of language in the courtroom has been produced in relation to opening statements, closing arguments and especially witness examination, while the other phases of the trial have basically been neglected. This is also due to the predictability of genres such as the jury verdict (which is based on formulae and standardized moves), or on the brevity and lower frequency of other genres, such as jury instructions. Another reason for legal dramas to ødwell onø these phases more than on others is that they imply greater involvement of the lawyers, who are generally also the protagonists of the drama.

The following sections, therefore, will focus on the fictional reproductions of genres constituting the evidentiary phase in chronological order (opening statement, witness examination, closing argument) and the comparison with studies conducted on them in ørealø trials. After this first øimmersionø in the fictional reproduction of trials, the focus switches the other øminorø genres which see lawyers involved for a more limited time or to a lesser extent in them. It will be shown that the legal dramas analyzed (*The Good Wife*, *Suits*, *Boston Legal*) tend to a faithful reproduction of these genres, involving an appropriation of both øtext-internalø and øtext-externalø resources.

Finally, the interactions between the main participants in the trial are analyzed, with a view to the power relationships built between them.

5.2.1. Opening statements in real courtrooms

Function and content

Opening statements have been defined by Chaemsaitong (2014: 757) as *“persuasive monologues”*. This expression underlines the two main aspects concerning this genre: first, it is a monologic oral speech, in which only one of the participants speaks (the lawyer), while the other participants, in this case the jurors, only listen to him. Secondly, it has a persuasive function.

Officially, the purpose of opening statements is to introduce to the jury the facts and the people involved in the case, providing an explicative and descriptive overview of the evidence which will follow (including the witness testimonies). However, this traditional view of opening statements evolved into the possibility for both parties to (more or less implicitly) express their positions and argue in favour of their version of the facts (see Mauet 2009: 84, in Anesa 2011: 142). This is why, even though it is not mandatory for the parties to deliver an opening statement, this right is rarely waived: it is an opportunity for each party to persuade the jury or the judge of *“their” truth*.

However, some constraints have been imposed on the exploitation of opening statements for other purposes. For example, lawyers are not allowed to offer purely argumentative statements, assert personal opinions or comment about the evidence or credibility of a witness, nor may they talk about inadmissible evidence or discuss the law (Anesa 2011: 142). It is demonstrated, in fact, that opening arguments can significantly influence the outcome of a trial.

Studies in Psychology of Law have shown that in many cases, the jury’s verdict coincides with the initial opinion that the jurors had made in their minds just after the delivery of the opening arguments⁵². Pyszczynski and Wrightsman (1981, in Anesa 2011 and in Spiecker and Worthington 2003), instead, concluded that opening statements can contribute to creating a *“schema”* according to which the jurors process and interpret the subsequent phases of the trial. This includes both *“role schemata”*, which organize jurors’ existing knowledge about what behaviors are appropriate to which social roles, and *“event schemata”* concerning the way the facts narrated could have taken place. Therefore, opening statements create a *“framework”* through which jurors filter the subsequent presentation of evidence⁵³ (Spiecker and Worthington 2003: 437).

Other studies even claimed that opening statements are decisive for the verdict (Anesa 2011: 142-3)⁵³ and Connolly (1982, in Spiecker and Worthington 2003: 437) even stated that *“lawsuits are won in the opening statement”*.

An investigation of this genre, therefore, cannot neglect the influence it has on the addressee: opening statements are the *“lens”* through which the rest of the trial will be seen and interpreted (Anesa 2011: 143) and therefore fulfill the lawyers’ *“private intentions”* (see Bhatia 2004) to convince the jury and win the case, more than their *“official”* expository/informative function.

⁵² Lindquist (1982, in Cotterill 2003: 65), for example, argued that 50% of all jury trials were decided by what is said in this phase.

⁵³ Jeans (1975: 305) interviewed the jurors after the verdict and over 80% confirmed that their ultimate decision corresponded with their tentative opinion after opening statements. According to Walter (1988: 224) opening statements can determine the outcome of the trial in 80-90% of the cases. The lawyers interviewed by Aron et al. (1996) feel that as many as 80% of jurors make up their minds by the end of the opening statement.

In order to serve their primary expository and informative function and simultaneously act as a persuasive means, opening statements should be organized in such a way as to present a *probable* overarching story that fits with the jurors' knowledge and experience of human behavior (Chaemsithong 2014: 757). The best way to do this is by means of a carefully structured narrative.

The analyses of the *opening statement* genre produced in literature identified a tendency for this genre to consist of five main rhetorical moves, each associated to a specific function:

- 1) introductory remarks;
- 2) introduction of witnesses, places, instrumentalities involved;
- 3) identification of major issues or contentions;
- 4) telling the story;
- 5) conclusion and request of a verdict.

These five stages identified by Tanford (2002: 162, in Anesa 2011: 145), however, are not mandatory. They are not detected in all opening statements⁵⁴ and do not have to figure in this order: Anesa (2011: 146) shows how in the Westerfield trial the prosecution's opening makes no reference to witnesses, places or instrumentalities involved in the plot before starting the storytelling, while the defense's opening statement starts with rhetorical exclamations instead of the traditional greetings (e.g. *Good morning, ladies and gentleman of the jury*).

The second stage, aimed at informing the jury on the parties and the witnesses involved in the trial, can also potentially be instrumental for persuasive purposes: the prosecution attorney, for example, can refer to their counterpart's client as *the defendant* instead of using his/her name (or *vice versa*, the defense can always call their clients by their first names), by activating a *dehumanization* process towards the counterpart (Anesa 2011: 150-156).

The central core of the opening statements is the stage dedicated to telling the story. Spiecker and Worthington (2003) identified two opposing trends in the choice of the expository mode in the opening statement: the *narrative* one and the *legal-expository* one. The latter emphasizes other functions rather than the narrative one, which are mainly argumentative (e.g. challenging, deconstructing or re-defining the counterpart's story). McCullough's (1991) research made it possible to conclude that the *narrative mode* is more effective in opening statements because it helps the jurors organize subsequent evidence according to a story schema, whereas the legal-expository structure is more effective in closing arguments.

Starting from these premises, the survey of Spiecker and Worthington (2003), applied to both parties, demonstrated that a *mixed* pattern, with a *narrative* opening and a *legal-expository* closing is the most effective for the plaintiff, but not for the defense. In this case, in fact, people called to judge a trial on the basis of the lawyers' speeches tend to rule in favour of the defense when they use a *legal-expository* structure in both the opening and closing arguments. This demonstrates that opening statements, traditionally based on a narrative structure, are currently

⁵⁴ Aron et al. (1996, in Anesa 2011: 145), for example, only identify three stages:

- 1) Introduction, where the lawyers introduce themselves and the client;
- 2) The development of the case
- 3) A conclusion.

their structure and that one single, universally applicable

Finally, the conclusions of opening arguments should include an unambiguous message that leaves the jury with a clear understanding of the lawyer's position and a basis for believing in him/her and even a recommendation of what conclusion they should reach (Anesa 2011: 150).

Discourse features

In this study, the focus will be on the statistically relevant discourse features of opening arguments on the basis of the literature which has explored this genre so far. Chaemsaitong (2014) is the author of a detailed overview of the linguistic features of opening statements, with special attention to the expression of power relations established between the participants in court communication. He identifies three main roles of the lawyer, namely the *storyteller*, the *interlocutor* and the *animator* (the latter meaning that the lawyer gives voice to inanimate evidence or absent people involved in the trial).

The role of the lawyer as *storyteller* is of particular interest, since it fulfills the *primary* expositive/informative function of opening statements, which is manifest and universally acknowledged, and at the same time can be instrumental to the *secondary* persuasive function.

As already set out in 5.1., the narration in the opening statement can be seen as *multiple* and includes the different stories reconstructed by the parties, on the basis of the different *individual* narrations presented by the witnesses. Each of the parties aims to offer the jurors a narrative that is the most acceptable version of facts and to do this, lawyers make use of a series of strategies aimed at making their own story more comprehensible and, consequently, more acceptable as the truth. Therefore, the jury's need for clarity and simplicity is at the basis of the stylistic features of opening statements:

- 1) a linear presentation of the events is preferred ó as Anesa (2011: 149) shows, the events representing an endpoint are emphasized, the diachronic sequence of events is clearly signalled, and causal links and temporal references are explicit and abundant. This bestows a higher level of acceptability on the narration contained in the opening arguments.
- 2) complex sentences are avoided in favour of syntactical simplicity and brevity and lack of subordination (in stark contrast with legal discourse among professionals, which, instead, abounds with passive forms, nominalizations and subordination, see Anesa 2011: 162-3).
- 3) repetitions, of both lexical terms and syntactic patterns (anaphors) are frequent. In particular Tannen (1987, in Anesa 2011: 163) identifies four functions of repetitions:
 - a) to favour a more efficient production of language (*production*);
 - b) to make discourse less lexically dense and easier to comprehend (*comprehension*);
 - c) to act as *cohesive devices* (*connection*);
 - d) to *tie* participants to the discourse and to one another (*interaction*);

Moreover, repetitions grant the lawyer a higher degree of understanding by the jurors, who may not have been paying attention and been distracted in some moments of the speech, as well as a means to create a rhythm and avoid tedium, which can be considered a *pragmatic* function.

This tendency to simplify can support the lawyer not only in his/her *storyteller* function, but also in the *interactor* one, represented by the ability to establish a relationship with the jury. In

their persuasion of the truthfulness and reliability of one linguistic choices, among which the use of personal pronouns plays a significant role. Chaemsaithong (2014: 767-773) provides a detailed analysis of the use of pronouns in opening statements and their implications in the establishment of a relationship with the jury, which is summarized in Table 6.1.

TYPE OF PRONOUN	FUNCTIONS
Second person: <i>you</i>	1. with mental verbs, to construct the jurors as experiencers: <i>∅You're going to ask yourself∅</i>
	2. underline the jurors's responsibility: <i>∅You cannot find that beyond a reasonable doubt∅</i>
	3. direct receivers of the discourse: <i>∅I'm here to tell you∅ ∅You remember Mr. Tipton∅</i>
	4. to tell the jurors to do something: <i>∅you must consider that∅</i>
	5. to relate experiences outside the courtroom with experiences inside of it to highlight the similarities: <i>∅If you've ever been in a hospital bed, you'll know that∅</i>
	6. impersonal, generic <i>∅you</i> <i>∅Lady Chatterley's Lover can teach you how to make love∅</i>
First person, singular: <i>I</i>	1. To refer to earlier statements: <i>∅I have already explained to you∅</i>
	2. To foreground the role of the speaker and help organize the information: <i>∅I'm going to give you another alias name∅</i>
	3. To refer to the lawyer's identity outside the courtroom: <i>∅I would get for my home phone∅</i>
First person, plural: <i>we</i>	1. To refer to lawyers as a professional group: <i>∅We'll present evidence∅ ∅we have a witness∅</i>
	2. To refer to the homogenous group listening and presenting the story: <i>∅We all have seen how the alleged suspect∅</i>
	3. To draw upon common social values: <i>∅This is because of who we are and what we stand for as a people and as a nation∅</i>
	4. To refer to no group in particular, like the pronoun <i>∅one</i> <i>∅Everyone of us in our life made mistakes∅</i>

Table 5.1. summarizes the functions of personal pronouns in opening statements (functions and examples adapted from Chaemsaithong 2014: 767-773).

lawyers can also express their attitude (for example on the value of the information presented) or their agreement or disagreement with someone's position. Similarly, they can use epistemic markers i.e. ways of linguistically expressing their attitude on the truth or on the value of something – for example with hedges such as *possibly*, *apparently*, *I think*, *I believe*, or conditionals, or with intensifiers such as *certainly*, *no question*, *no doubt*, *no way* (Chaemsaithong 2014: 764-6).

The aspect concerning the lexis is investigated by Cotterill (2003), whose analysis of the lawyers' strategic lexicalization in the O.J. Simpson trial led to the identification of some semantic prosodies – mainly negative connotations, which were exploited by each of the parties to depict the counterpart. For example, many linguistic choices relied on previous life experiences and legal precedents of the defendant, with a view to deconstructing his positive public image as a sports star and insisted on the negative connotations of words such as *encounter*, *control*, *cycle*, *incidents* and *discussion* to depict his tormented relationship with his ex-wife Nicole. Similarly, it is interesting to notice that lawyers make much recourse to metaphors (see 6.2.1.), which can be considered a sophisticated form of lexicalization (Cotterill 2003: 200).

The persuasive function of opening statements is often fulfilled thanks to some rhetorical strategies, such as the use of questions (which, however, cannot receive a real answer from the jury), and of reported speech, which are identified by Chaemsaithong (2014: 773-8).

The main purpose of the questions posed by the lawyer is to reduce the distance from the jury, by making the members feel involved in the speech; lawyers also exploit questions to leave the channel of communication open and at the same time to assume a position of authority. Chaemsaithong distinguishes four main types of questions:

- 1) Expository questions – whose function is to introduce a topic, which is chosen by the lawyer and turned into a question (*And the mastermind of the coal attack? Khallad, ladies and gentleman*).
- 2) Focus questions – meant to draw attention to a particular aspect of the discourse (*I think it fair to say that this was the largest criminal investigation in the history of those involved. The question is, did they get the right man?*).
- 3) Rhetorical questions – not meant to elicit an answer, but used as an argumentative device, to make an indirect statement (*People have always made mistakes and errors of judgment. Seriously, who in this room has not?*)
- 4) Embedded narrative questions – when the lawyer constructs a question and embeds it in the narration to orient the jurors' perception (*She wanted money and she didn't see it coming. Her reaction to this film was primarily -How do I profit? How do I get distribution rights?*).

5.2.2. Opening statements in legal dramas

All the features listed above can also be found in the opening statements staged in legal drama. As stated in Chapter 4, the embedding of genres, and the subsequent birth of a hybrid genre can take place by means of the appropriation of text-internal (lexical, grammatical, discursive etc.) and text-external features (namely discursive procedures, disciplinary culture and generic norms, as well as genres as discursive practices etc.). In this section I aim to provide an overview of the features found in the previous literature on real opening statements collected above and the fictional opening statements shown in legal dramas.

statements are usually organized according to a five-stage

- 1) Introductory remarks
- 2) Introduction of witnesses, places, instrumentalities involved
- 3) Identification of major issues or contentions
- 4) Telling the story
- 5) Conclusion and request of a verdict.

It has also been specified, however, that examples of texts belonging to this genre do not necessarily show the five-point structure. For example, nearly none of the opening statements contained in legal dramas contains the introductory remarks, which generally consist in greeting the jury or the lawyers' self-introduction. The examples below show that the fictional opening arguments tend to start with a very effective statement, plunging the jury directly into the story or presenting the people or the objects involved in the case:

- a) She came home that evening at 9:30 catching an early flight to surprise her husband. But it was the defendant who was surprised (*Boston Legal*, 1x10)
- b) Driving a cab is not very glamorous. But it's an honest day's work (*Suits*, 1x05)
- c) This is Tre Lawson. Tre was a 19-year-old college freshman, living his dream: attending Chicago Polytech on a water polo scholarship (*The Good Wife*, 4x04).
- d) This is the drink that killed our client. It's called Thief (*The Good Wife*, 4x14).

In a) the narration starts the opening argument directly and is followed by a more detailed account of the facts and the presentation of all the characters involved.

In b), the lawyer (who is the plaintiff himself) opens the speech with a quite universally accepted statement followed by a personal evaluation.

In c) and d) respectively, one of the people involved and an object (which can represent a piece of evidence or instrumentalities) are presented.

In all the examples, the introductory stage is absent and the opening statement is started by one of the other phases (introduction of people/objects involved, storytelling) or even by the lawyer's personal opinion and experience.

This difference between 'real' opening statements and fictional ones may be the result of the authors' intention to 'cut out' what is not necessary for plot development (greetings to the jury). They choose to play with the lawyers' utterances in a way which allows the construction of their identities, paces the rhythms of the episode and at the same time has a strong 'impact' on the audience.

Moreover, in about half the cases, opening statements are literally 'introduced' by the judge:

- a) **Judge:** Mr. Santana, your *opening statement*, please. (*Suits*, 1x05)
- b) **Judge:** Is counsel ready to proceed with *opening statements*? (*Suits* 1x07)
- c) **Judge:** Mr. Gardener, we've read your brief, and we're now prepared for *oral arguments*. You may begin.
Will: Thank you, Chief Justice. May it please the court (*The Good Wife*, 1x06)
- d) **Judge:** Plaintiff's lawyers ready for their *opening statements*?
Lawyer: Yes, Your Honor (*The Good Wife*, 4x14).

by the intention to focus the audience's attention on what constituted by the opening statements, underlining that it takes place at the beginning of the evidential phase of the trial and its persuasive value.

However, exceptions are made and scenes can be found in which the introductory remarks are included:

Louis Litt: *Ladies and gentlemen of the jury, guilty is not gray. You either are, or you aren't. And Harvey Specter is guilty of concealing that document (Suits, 2x07).*

Instrumental use of pronouns

The observations in Chaemsathong (2014: 767-773) on the use of personal pronouns in real opening statements, summarized in table 6.1, are in great part valid for the reproductions of this genre in legal drama. Fictional lawyers, in fact, make the same strategic use of pronouns as those demonstrated for real courtrooms, as the following examples will show:

Use of 'you'

1. with mental verbs, to construct the jurors as experiencers:

- Now, *you might ask* the prosecutor 'Why this is being prosecuted here at all? The murder didn't take place in Minooka. It took place in Chicago' (*The Good Wife, 4x10*)
- *Imagine*, if you can, as you prepare for your Christmas, having a loved one murdered. Add to that the horror that the police can't figure out who did it. And then, if you can possibly *fathom, imagine* they decide to arrest you (*Boston Legal, 1x10*).

2. to underline the jurors' responsibility / to tell the jurors to do something:

- That's your defendant, ladies and gentlemen (*Boston Legal, 1x10*)
- Because of the actions of this man, I've lost that opportunity. So *make no mistake*, this trial is not about a busted headlight. This is a trial about a broken dream. (*Suits, 1x05*)

3. direct receivers of the discourse:

- You will hear evidence that my client, Gary Kuharski, killed her. He didn't. You will hear evidence that he was obsessed with Brandi, that he stalked her after she broke up with him. He wasn't. You will hear evidence that he followed her to the Chicago concert. That is untrue. But what ASA Hellinger won't tell you is that Brandi had an ex-boyfriend [] I'll tell you why Gary's being prosecuted here. (*The Good Wife 4x10*)

4. to relate experiences outside the courtroom with experiences inside of it to highlight the similarities:

- they need to be held accountable, or they will do the same to your kids' (*The Good Wife, 4x14*).

Use of 'I'

1. To foreground the role of the speaker and help organize the information:

prosecuted here (*The Good Wife*, 4x10).

2. To refer to the lawyer's identity outside the courtroom:

- Ever since I started, I looked forward to a time when I could tell customers that they were riding in my cab. That I was an owner-operator. So I scrimped, and I saved, until I finally had enough put away to buy a medallion (*Suits*, 1x05).

A further function of the first person can be identified, i.e. when the lawyer wants to personally apologize or express personal commitment for facts related to the trial. This attitude can help appear more reliable to the jury's eyes and establish a trust relationship with them:

You people should be home with your families right now. I apologize for that. [í] I, too, would like to apologize for taking you away from your families during this holiday season (*Boston Legal*, 1x10).

Use of "we"

1. To refer to lawyers as a professional group:

- It is *our* contention that Clarence Wilcox did not receive a fair trial (*The Good Wife* 1x06)
- In that case, the TV movie didn't show the Peterson character murdering his victim. In "Cop Killer" *our* client is seen shooting the victim (*The Good Wife*, 1x06).

2. To refer to the homogenous group listening and presenting the story:

- So, *let's* look at the evidence (*The Good Wife*, 4x10)
- Yes, the body was transported here, but this is big-city business. Not *our* business. (*The Good Wife*, 4x10).

Repetition

The stylistic features characterizing opening statements, such as the quest for clarity, brevity and a simple syntax avoiding subordination are all reflected in the opening statements reproduced in legal drama. In particular, the exploitation of repetition allows a less lexically dense speech and for coordination and serves multiple functions (as demonstrated by Tannen 1987, in Anesa 2011, see 5.2.1.).

In this opening statement drawn from *Boston Legal*, for example, besides being instrumental to the comprehension of how the trial works and to establish interaction with the jury, repetition has a strong cohesive function:

She came home that evening at 9.30 catching an early flight to surprise her husband. But it was the defendant who was surprised. Susan May discovered her husband, Ralph, making love to a business associate, Marie Holcomb, and it was more than she could bear. The evidence will show that the defendant, retrieved a handgun from the kitchen, returned to the bedroom and fired six shots, three into her husband, three into Marie Holcomb. This is the holiday season. You people should be home with your families right now. I apologize for that. Marie Holcomb's mother and father fly here every December from the



attend the trial of their daughter's killer. Susan May destroyed a gun. [í] I, too, would like to apologize for taking you away holiday season. That's Susan's family seated over there. They would dearly love to be home with her. She would dearly love to be home with them. Imagine, if you can, as you prepare for your Christmas, having a loved one murdered. Add to that the horror that the police can't figure out who did it. And then, if you can possibly fathom, imagine they decide to arrest you.

That's your defendant, ladies and gentlemen. A law-abiding, loving, faithful advertising executive. An innocent woman whose whole life was just suddenly and wrongly destroyed. That's your defendant, and that's what the evidence will show (*Boston Legal*, 1x10).

The structure of this opening statement "steps out" of the typical scheme consisting of an introduction of people and objects involved, main themes followed by the storytelling and a conclusion. The initial lines of the speech provide an immediate insight into the defendant's version of the facts and introduce the main three people involved via a narration which also provides information on the place of the crime (Ralph and Marie's home) and the time (9.30).

The second step in this opening argument is a reference to the story that can be possibly reconstructed on the basis of evidence, which sounds definitely not in favor of the defendant. It is at this point that the tone and the theme of the speech change completely: the lawyer refers to the time of the year they are (*This is the holiday season*) and addresses the jury directly (*You should be home*), before personally apologizing for taking the jurors off their families and their holidays. The reason for this sudden switch lies in the lawyer's intention to make the jurors identify with the defendant, which he is arguing for (and not against, as it could seem from the beginning). He leverages on the importance of a Christmas spent with one's own family to involve the jury on the personal and sentimental level (lawyer as "interactor" see above) and to make them identify with the defendant, Susan.

This passage opens up to the final statements which represent the rhetorical turning point of this speech, the sentence *That's your defendant*. As already demonstrated, the use of *you/your* can trigger in the juror a feeling of identification in the person defended, which helps the lawyer "awaken" the jury's responsibility. It is from this moment, in fact, that the defence counsel chooses to lexically construct the identity of his client by means of a series of positively connoted adjectives (*law-abiding, loving, faithful, innocent*).

The climax of the opening statement is represented by the closing utterance, *that's your defendant, and that's what the evidence will show* – the repetition of "that's your defendant" functions to reinforce the concept expressed before and as a further instrument in the establishment of an interaction with the jury. The final words, *that's what the evidence will show*, instead, are the same as those used at the very beginning of the speech. They act as a cohesive device, because they connect the final phase (in which the client is described as innocent and the jurors should empathize with her and her family's situation) to the previous one, in which Susan is depicted as guilty on the basis of the evidence, by overturning the initial premise.

A final demonstration of the way the main features of the "opening statement" genre can be reproduced (or "appropriated") in legal drama is the following opening statement, drawn from episode 4x14 of *The Good Wife*, which is highly representative of the genre:

The Good Wife 4x14

Judge: Plaintiff's lawyers ready for their opening statements?

Alicia: Yes, Your Honor.

illed our client. It's called Thief. It contains 240 milligrams of caffeine, the equivalent of twelve cups of coffee. It also contains 200 milligrams of guarana, one of the highest caffeine-containing plants in the world. Now, you may have seen this drink on the store shelves. You may not have bought it, because this is how it's advertised: *This is your brain on reality. This is your brain on Thief*. It's advertised to kids. This is the kid who Thief advertised to. Bella Ward, [16] 16 years old. She died last year. She suffered from a massive seizure, caffeine toxicity. [16] Now, I know the opposition here. I know Will Gardner. He's a good lawyer [laughs]. Yes, he is. And I know what he's going to tell you. He is going to blame the victim. He is going to say that this 16-year-old should've known better. That Bella caused her own death. Then, he's going to blame the grandparents. It's unclear how both principles could be true, but all he has to do is tarnish one of them to make it work. So, I ask one thing of you: don't be fooled. You wouldn't let a crime victim be blamed. Bella, in many ways, is a crime victim. The only difference here is the assailant, and the assailant here is Thief. They advertised their drink to her and then they killed her. They need to be held accountable, or they will do the same to your kids. Thank you.

Starting from the textual structure of this opening statement, we can state that it basically mirrors the phases identified by Chaemsaitong (2014: 757, see above). This is also confirmed in the light of the fact that introductory remarks such as the greetings to the jury are not a necessary step and can be replaced by the judge's introduction to the opening statement, as in this case (*Plaintiff's lawyers ready for their opening statements?*).

In agreement with the persuasive purposes argued so far, Alicia stands up and walks in front of the jury with the 'accused' drink in her hands; she shows it to the members of the jury and starts her speech by introducing it in detail, with a focus on the features which are of interest in the lawsuit (*This is the drink that killed our client. It's called Thief. It contains 240 milligrams of caffeine. That is the equivalent of twelve cups of coffee. It also contains 200 milligrams of guarana, one of the highest caffeine-containing plants in the world*). Of particular interest is the choice of describing the drink as 'killing our client', a phrase which, despite not being placed in the 'persuasive' phase of the speech, acts as such.

The following phase in the opening statement is connected to the 'presentation of the object' as well: Alicia explains to the jurors that the drink can be found anywhere, though they probably do not know it or have never drunk it because it is mainly aimed at teenagers. Actually, this phase is the presentation of a further piece of evidence involved in the trial, i.e. the video advertisement which shows pictures of cartoon scenes representing a peaceful deer commented with the sentence *This is your brain on reality*, replaced by a bomb exploding and making way for athletes doing sports and aggressive animals commented as *This is your brain on Thief*. The strong impact of the video is then commented by Alicia, who specifies that the ad is primarily directed to kids.

The statement continues with a third piece of evidence, a picture of the girl allegedly killed by the drink, Bella. The presentation of this evidence corresponds to the introduction of a person involved in the lawsuit, as opposed to the company producing Thief and represented by Alicia.

After the presentation of the people and objects involved in the case (stage 2 in Chaemsaitong's model), Alicia goes to the 'storytelling' stage, which is briefly expressed by the sentences *She died last year. She suffered from a massive seizure, caffeine toxicity*, which are enough to link Bella's death to consumption of the drink.

function of the counterpart, one of the “secondary” (or its can serve besides informing the jury on the facts. As will be shown later in detail, this phase is characterized by a reference to the lawyer’s life outside the courtroom and her personal connection to the counterpart, Will Gardner. Alicia foresees Will’s defense strategy and, despite acknowledging his talent as a lawyer, she destroys his credibility and his professionalism in the jurors’ eyes (*He is going to blame the victim. He is going to say that this 16-year-old should’ve known better. That Bella caused her own death. Then, he’s going to blame the grandparents. It’s unclear how both principles could be true, but all he has to do is tarnish one of them to make it work*).

This stage opens the way to a very persuasive conclusion in which she addresses the jury directly, underlines her stance and Thief’s responsibility, and eventually connects the facts of this lawsuit to something that could potentially happen to the jurors themselves (*They need to be held accountable, or they will do the same to your kids*) before thanking them.

Alicia alternates the roles of lawyers as “storyteller” which helps her reconstruct the facts in such a way that her thesis is supported, and lawyer as “interactor” which aims at the jury’s personal involvement. The continuous use of personal deictics denotes this second intention: she addresses the jury directly when the product is introduced (*you may have seen this drink on the store shelves. You may not have bought it*), thus serving the function of the “you” pronoun identified by Chaemsaitong as “referring to the jurors as direct receivers of the discourse”. She eventually instructs the jury on what to do or not to do (*I ask one thing of you: don’t be fooled*). Similarly, she later uses the pronoun “I” to refer to her “identity outside the courtroom” (*I know the opposition here. I know Will Gardner*) as well as to “foreground her role as speaker” (*I ask one thing of you*).

Other rhetorical strategies used by Alicia are the use of the defendant’s proper name (*Bella Ward, 16 years old; i that Bella caused her death; Bella, in many ways, is a victim*) as opposed to the counterpart, which, instead, is never referred to by the names of the people who are directly accountable for the production of Thief, but are generally identified with the instrument of death (the drink Thief), or referred to as “they” (*They advertised their drink to her and then they killed her. They need to be held accountable or they will do the same to your kids*), a way to create further distance between the jury and the counterpart.

A huge contribution in the construction and the destruction of relationships with the jury is also given by the “semantic prosody” of the words chosen for the speech, which are often positively connoted when they refer to Bella and negatively connoted or belonging to a “negatively perceived” semantic field when they refer to the counterpart, as the following scheme summarizes:

Bella (plaintiff, Alicia’s client)	(crime) victim (3x)
Thief (defendant, Will’s client)	The opposition, (he is going to) blame (2x), unclear, tarnish, the assailant (2x), killed, do the same to it , accountable.

times, exploiting the image of a victim killed by an
 insists on providing a negative representation of the

counterpart with a series of adjectives, nouns and verbs evoking grim scenarios. Even when she explains the causes of Bella's death, she underlines that the seizure she suffered from was massive and that the caffeine had reached a toxicity level.

Finally, repetitive and coordinate syntax is exploited as instrument of persuasion. Most of the speech relies on anaphoric constructions, such as the following:

- *It contains milligrams of caffeine. (í) It also contains milligrams of guarana.*
- *You may have seen this drink on the shelves. You may not have bought it.*
- *It's advertised to kids. This is the kid who Thief advertised to.*
- *I know the opposition here. I know Will Gardner (í). And I know what he's going to tell you.*
- *I know what he's going to tell you. He is going to blame the victim. He is going to say that this 16-year-old should've known better (í). Then, he's going to blame the grandparents.*
- *You wouldn't let a crime victim be blamed. Bella, in many ways, is a crime victim.*
- *The only difference here is the assailant, and the assailant here is Thief.*
- *They advertised their drink to her and then they killed her. They need to be held accountable, or they will do the same to your kids.*

This final, detailed focus on one example of opening statement drawn from a legal drama demonstrates that the generic features observed in previous studies are basically mirrored by those written *ad hoc* by the fiction authors. The rhetorical functions and purposes of the speaker are taken into account in the writing process in which the fiction authors are involved and their reproductions of the genre contain elements which contribute to make them more realistic.

In the following sections, I will attempt to demonstrate that other genres are reproduced in all their text-external and text-internal features are reproduced, embedded and appropriated in legal drama.

5.3. Witness Examination

After the opening statements delivered by the lawyers, the dialogical phase of the trial takes place, the one consisting of witness examinations. The dialogical exchange which takes place in witness examinations follows the typical Question-Answer pattern and is more or less spontaneous according to the relationship between the witness and the lawyer.

Lawyers generally decide their line of questioning before the examination, in the hope that the witness's answers will correspond to the predictions. The witness's answers should allow lawyers to ask further questions, leading to demonstrate a certain version of facts.

If the witness is called to be in favour of the party represented by the lawyer, the degree of spontaneity of the *direct examination* is lower, since the lawyer and the witness may have come to an agreement on the answers to be given (witness preparation). However, every witness can also be questioned by the counterpart during the *cross-examination*, which means that a certain degree of spontaneous interaction is always guaranteed. In particular, Aron et al. (1996: 22.11, in Anesa 2011: 166) stated that cross-examination is perhaps the most unpredictable stage of the trial; this

of the witness being uncooperative, or even "hostile", and
rational role as evidence for the judge or the jury in the

reconstruction of facts.

The present section will give an insight on witness examination, on its rhetorical structure and main linguistic features and especially the way these are connected to the function which witness examination serves. As in the previous section, the main generic features of witness examination identified in the previous literature are described and compared to the fictional reproductions of witness examinations in legal dramas.

In carrying out the analysis of this complex genre, a distinction on two "levels" will be operated. The first level of analysis is the one distinguishing between "direct" and "cross" examination, where the first is meant to "construct" a narrative and the second to "deconstruct" the narrative and the credibility of the witness (5.3.1). The other level of analysis distinguishes between the examination of "lay" witnesses and the one of "expert" or "semi-expert" witnesses, where different power asymmetries between the lawyer and the witness can be found (5.3.2.).

5.3.1. Direct vs. Cross examination

According to Bhatia (2011: 107), witness examination is an essential phase because facts are constructed and established through questioning. In particular, he highlights the double function of witness examinations:

Courtroom questioning techniques (if) are primarily used to win cases, not necessarily to help the court to uncover the facts of the case. As a consequence, expert counsels do not present facts as they might be in reality, but as they want the court and the jury to see them.

The main distinguishing generic feature of witness examination is its structure, consisting of a series of micro-events, or turns, corresponding to each lawyer's question and each witness's answer. To the questioning, other sub-phases like the calling of the witnesses, their swearing and their dismissal must be added. Moreover, every witness is questioned a first time (*direct examination* or *examination-in-chief*), can be cross-questioned by the other party (*cross-examination*) and even be questioned again by both parties (*re-direct examination* and *cross-re-direct examination*).

Each of the examinations basically consists in the sequence of three "moves" in the exchange, identified by Cotterill (2003: 101) in:

- Initiation, (generally in the forms of directives, e.g. those given from the lawyer's questions to the witness),
- Response,
- and an evaluative Follow-up.

This I-R-F sequence will be taken into account in the analysis of the communicative moves in witness examinations.

A final observation concerning the overall structure of witness examination is that they tend to start and end with "strong points" (Anesa 2011: 166), because of the persuasive function that witness examination should have on the jury. Such a structure is hardly found in any other context. For example, police interrogations of suspected criminals or witnesses differ in the context where the interaction takes place, basically because of the absence of a jury or a judge to persuade and

and behavioral constraints imposed by the courtroom

In general, the distribution of the turns composing witness examinations is said to be *asymmetrical*, since the theme of the communication is decided by the lawyer. The latter is the only one who determines the development of the conversation, while the witness can only answer and is only allowed to do it according to some rules. For example, the witness's answers (just as the lawyer's questions) can be argumentative and the lawyer cannot narratively present a topic as if s/he were testifying (see also 6.8.1. on *Objections*).

However, according to Matoesian (1997: 140), these procedural constraints allow for some *ingenious* linguistic choices which are *superimposed* over the course of question/answer question (Anesa 2011: 168).

Essentially, this means that the narration in witness examination takes place via a series of micro-events framed into an asymmetrical *Question-Answer* model, in which the lawyer asks and determines topics and possible answers, and witnesses reply following some formal and content constraints.

To use Bhatia's (2011: 107) words, instead, the witness examination is like a game between the two counsels, in which the jury is the referee and these are the rules:

- a) All interactions should be carried out in formal language and turn-taking is pre-allocated and strictly controlled by the judge;
- b) Type of speaking that one engages in is also pre-assigned and controlled by the rules of the court; the counsel is allowed to ask questions that are relevant, answerable and designed to elicit the evidence or statements of facts and the witnesses are supposed to answer these questions appropriately and truthfully, often with a *yes* or *no*

Besides some legal requirements to be able to testify and the constraints imposed on the way the testimony can take place, Aron et al. (1996: 19.8 in Anesa 2011: 169) also identify some other criteria which make a witness more or less *acceptable* (or *reliable*) in the eyes of a judge or of a jury, such as the integrity, the credibility and the capacity to perceive, to recall and to communicate, including the one to understand and follow the lawyer's instructions. Even attractiveness and the general likability of the witnesses influence their credibility. The credibility factor is particularly important, especially in expert witness examinations, and 5.3.2. will show how lawyers can purposely act in order to impeach it.

In general, direct examinations are conducted by the party who *called* the witness or, however, who is interested in obtaining a reconstruction of facts according to the witness's perception and report. It is therefore a *construction* phase, in which the lawyer's aim is to provide the jury with a complete view of the scene of crime and all the related elements which are relevant to come to a final judgment.

Cross-examination, instead, is the *counter-questioning* phase, in which the other party's counselors are allowed to pose their own questions and therefore to *deconstruct* the version of facts previously *constructed* during the direct examination. Cotterill (2003: 126-155) offers a very detailed list of the constructive and destructive functions of direct and cross-examinations respectively.

In direct examinations, Cotterill (2003: 130) observes the lawyers' manifest quest for clarity, which is often obtained by means of linguistic strategies intended to over-explicitness of the witness's answers. In particular, she analyzes the degree of 'protraction' of the questions posed by the lawyer, which ensures that the content of the answers is explicitly and efficiently transmitted to the jury by restricting the amount of information contained in more micro-answers, for example:

Lawyer: Did he say something to you?
Witness: Yes, he did.
Lawyer: Was it connected with the bar?
Witness: Yes.
Lawyer: What did he say?
Witness: He told me that
 (adapted from Cotterill 2003: 131)

This strategy allows to focus on certain points of the questioning and to strategically place the jury's attention on them and on the information obtained from the questions.

Cotterill's analysis of the O.J. Simpson's trial also brought to the identification of other rhetorical moves enacted by the lawyer during the direct examination, such as the 'meta-talk' in which the lawyer explains her/his own linguistic acts (e.g. *I am going to ask you*), or questions which are posed as such but in reality imply a command (e.g. *Would you share with us*), which are instrumental to involve the jury and the other participants in the trial and at the same time to go straight to the information required.

The study conducted by Cavalieri (2009: 215-218) confirms some of the linguistic features and strategies identified by Cotterill and also finds some similar patterns. For example:

- the lawyer's apparent request for help to the witness (e.g. *If you can help us*), which has a similar function to the 'indirect' commands posed as questions identified by Cotterill;
- the use of the *óing* (or progressive) form as a means of self-mention or self-representation (e.g. *What I am suggesting; what I am trying to discover*);
- confirmatory questions (*It is right, is it, that you did not in fact tell Paul Mahon anything?*)⁵⁵;
- a strong use of interpersonal metadiscourse, which is reflected by a strategic and particularly dense use of personal pronouns and deictics.

In particular, the recourse to personal, spatial and temporal deixis is a direct consequence of an oral, semi-spontaneous interaction which takes place in a very specific context (courtroom), in the presence of other participants (the opposite counsel, jury, judge etc.) and makes frequent reference to the positioning of facts in space and time and to concrete evidence.

Cross-examination

Both Cotterill (2003) and Cavalieri (2009) focused on the differences (more than on the obvious similarities) between direct and cross-examination. As said above, the latter is found to have a

⁵⁵ A similar type of questioning is also observed in Cotterill, but with specific reference to cross-examinations (see 5.3.2.).

provided by the witness and oftentimes even toward the

The most striking difference between direct and cross-examination is that in the second one, lawyers really exercise their power over the witness and their linguistic choices reflect their dominant position. In her analysis of the linguistic construction of identities in trials, Cotterill (2003: 141-155), in particular, noticed the presence of 'multiple questioning', namely the embedding of multiple connected questions into one, which hides the purpose of incriminating the witness when he answer, by implicitly admitting all the premises of the questions:

With respect to Bronco [topic marker], if the blood had been observed on the lower portion of the driver's door of the Bronco [1] and someone had thought that was significant from a forensic science standpoint [2], if you had been out on the crime, at the crime scene as a criminalist [3], would you have wanted to remove that evidence at the scene [4] as opposed to removing it at some later point?

This example adapted from Cotterill (2003: 141) shows how the lawyer's attitude is clearly directed towards the incrimination of the witness, obliging him to answer to all the prepositions embedded in the question (see 'divergence' and 'convergence' below).

In her work, Cotterill (2003: 141-155) also observes:

- the lawyer's tendency to a control of both the content of the answers and the forms (see also Gnisci and Bakerman 2007 on the influence of the lawyer's use of language on the witness's answers);
- a use of 'strict' sequences which avoid the chance to give ambiguous answers and bring to the wished for answer;
- apparent and strategic changes of topic;
- use of evaluative feedback;
- the recurrent exploitation to 'summarizing' yes/no questions (e.g. *is it right?*), of a summarizing sentence introduced by 'so' and of question tags;
- reminder of the witness that s/he is 'under oath'.

The recourse to authority expressed by the 'oath reminder' is also observed by Cavalieri (2009: 218-221), who focuses on the ways lawyers 'hide behind' the authority to acquire more power and build an 'authoritative self', for example by including the Court in the formulations (e.g. *Would the tribunal be right to assume that?*).

One of Cavalieri's most significant contributions in her comparison between direct and cross examination, however, is the one deriving from her analysis of *reformulations*: it brought to the deduction that the lawyers' reformulations in direct examinations are 'collaborative' i.e. meant to help and support the witness in the communication, both in the production of his/her testimony and in the comprehension of the lawyer's questions. Reformulations in cross-examinations, instead, are 'combative' i.e. aimed to impede a free communication and to 'direct' and dominate the topic of the conversation.

Drawing on Gnisci and Pontecorvo's (2004) studies on the manipulation of meaning in hostile witness examinations on the basis of the Communication Accommodation Theory (henceforth CAT), Cavalieri contributes to identify some patterns in the linguistic construction of identity and authority in courtrooms. CAT, indeed, sees the interactors as using a strategic linguistic and communicative behavior to 'negotiate distance between themselves and the others' (Gnisci and



accommodation is typically expressed by *convergence* (efforts to become more similar to their interlocutor) and

divergence ones (interactors try to accentuate differences). A third stance in communication is represented by the *maintenance* strategies, i.e. those reflecting the speaker's intention to continue his/her own speech style without being affected by the interlocutors.

Some studies (Aronsson, Jönsson and Linell 1987, Linell 1991) demonstrated that lawyers tend to renounce or attenuate the formal aspects connected to their linguistic style and to legal discourse in favor of the creation of a 'middle ground' shared with witnesses or other lay people involved in a trial, or, at least, that they adopt different style according to the defendants they are talking to, for example being dominant and inquisitorial with serious offenders, as if they wanted to underline their distance from them.

In general, it can be said that both witnesses and lawyers use accommodation and maintenance strategies, but lawyers tend to maintenance and to self-directed communication, while witnesses tend to other-directed communication and accommodation (Gnisci and Bakerman 2007: 237). An analysis of turn lengths in Question-Answer sequences of witness examination brought Gnisci and Bakerman (2007: 254) to conclude that 'the more coercive the question, the shorter but less pertinent the answer', meaning that lawyers can influence the form of the witness's answer, but only affect its content in a much lesser degree.

Direct vs. Cross-Examination in legal drama

The following scenes, drawn from the legal dramas *Suits* and *The Good Wife*, show how the 'witness examination' genre and the 'direct' and 'cross-examination' sub-genres are reproduced in TV fiction, in the light of the observations made on the 'appropriation' of 'text-internal' and 'text-external' resources (Bhatia 2004a). In particular, the focus will be on the linguistic and stylistic features connected to the primary function of testimonies and to the secondary, 'private intention' of the lawyers expressed via the linguistic devices reported above.

Suits, 1x05: direct vs. cross-examination: Witness #1

Direct

Witness: Um, I'm sorry. Can you ask me the question one more time?

Mike: Take a deep breath. It's just you and me. We're just gonna have a conversation about your job, okay?

Witness: Yeah, okay.

Mike: How do you know the defendant Sydney Thompson?

Witness: We were coworkers. We started at the same level, and then I was promoted to be her immediate superior.

Mike: And do you know about the video in question?

Witness: Yes. I was at the party that night.

Mike: And what were you celebrating that night?

Witness: My promotion.

Mike: Same night. That's interesting. Miss Ginnesse, what did you think of the impersonation?

Witness: It was too far. It was mean.

Mike: So why do you think Miss Thompson did it?

Witness: Miss Lunders promoted me. Sydney hated it. And that's why she made the video.

Mike: Well, thank you, Miss Ginnesse. Nothing further, Your Honor.

that she hated your promotion?

Witness: Not exactly.

Kyle: Yes or no, please.

Witness: No.

Kyle: Well, then how do you know that she hated your promotion?

Witness: I could just tell.

Kyle: Can you tell what I'm thinking right now?

Witness: That you're wishing I would agree with everything you say?

Kyle: No. I was thinking that if you could actually read my mind, I wouldn't bother asking you the questions. But you can't read my mind, can you?

Witness: No, I'm not. I'm managing director, not a

Kyle: And I'm pretty sure you can't read Sydney's either. And you actually have no idea why she made that video. Correct?

Witness: I guess I don't. No.

In this first sequence, we can notice some of the generic features identified above in real trials, in both the direct and the cross-examinations. The scene is drawn from a mock trial, on the basis of which the two young lawyers Mike and Kyle, representing the opposing parties, will be evaluated by the name partner Jessica Pearson. The prototypicality of the generic structural features is thus guaranteed by the fact that the two lawyers are giving their best to win and show their ability to conduct a well-structured witness examination and destruct the opposing thesis by means of a well-reasoned cross-examination.

The direct witness examination sees the lawyer Mike Ross interrogating his friend Jenny, who is actually playing the role of one of the witnesses, Nora Ginnesse. His aim is to exploit her testimony in his favor and to show that the defendant Sydney Thompson willfully defamed her boss Lena Lunders (see more details about the plot of the episode in 6.6.2). The opposing counsel, Kyle Durant, will then cross-examine her.

The most evident difference between the two sequences is in the stance expressed by the two lawyers: in CAT terms, the first tends to have a convergent behaviour towards the witness: this attitude is not only expressed on the linguistic level by the use of a plain (rather than a technical) language, but also by the comprehension he shows towards her for being nervous (*Take a deep breath. It's just you and me. We're just gonna have a conversation about your job, okay?*).

The counterpart's stance, instead, is the opposite: he reflects the statistically demonstrated trend to a maintenance stance of lawyers during cross-examination, since he does not modify his language in order to create a closer contact with the witness. On the contrary, when Jenny answers 'Not exactly' he rebuts that she has to answer 'yes' or 'no'.

Indeed, another difference between the direct and the cross-examination is in the nature of the questions. The first lawyer leaves space to open questions, thanks to which the witness can answer more freely, engaging in narrative and producing longer answers to be used as evidence (*How do you know the defendant?; what did you think of the impersonation?; why do you think Miss Thompson did it?*), while the second mainly asks Yes/No direct questions, leading the witness in the direction of the answer he needs to prove his thesis (*Did Sydney ever tell you that she hated your promotion?; You can't read my mind, can you?; You actually have no idea why she made that video. Correct?*).

mination questions is the use of the “summarizing” or (can you?; correct?) used at the end of the lawyer’s statement, which is presented as a logical conclusion of his reasoning.

Similarly, this cross-examination also displays the typical use of rhetorical questions, whose answers are obvious but are only posed in order to support the lawyer’s thesis, or, in this case, to destruct the witness’s credibility:

Kyle: Can you tell what I’m thinking right now? (í)

Kyle: No. I was thinking that if you could actually read my mind, I wouldn’t bother asking you the questions. But you can’t read my mind, can you?

Witness: No, I’mí I’m managing director, not aí

Kyle: And I’m pretty sure you can’t read Sydney’s either. And you actually have no idea why she made that video. Correct?

Witness: I guess I don’t. No.

With the question “Can you tell what I’m thinking right now?” Kyle is not only operating an apparent shift of topic (they were talking about the defendant Sydney hating the witness for her promotion), but he also starts a “strict” sequence of obvious questions, almost repeating each other and implying each other, a feature named by Cotterill (2003) “protraction” of the questioning, usually obtained via over-explicit questions.

An example of direct and cross examination of another witness by the two opposing counsels in the same mock trial confirms the features observed in the scene above:

Suits, 1x05: direct vs. cross-examination: Witness #2

Direct

Kyle: Miss Thompson, what was the intent behind your impersonation?

Witness: I was just trying to be funny. Everyone in our office makes jokes, and as a matter of fact, Ms. Lunders encourages us to be informal. (í)

Kyle: [not clear, overlapping] í passed over for promotion.

Witness: But I expected it. I think everyone has the impulse to move up, but at a certain point, you just have to let it go. So that’s what I did (í) I’ve never held ill will for my boss.

Kyle: Thank you.

Cross

Mike: You say you expected to be passed over for a promotion, correct?

Witness: Yes.

Mike: And yet you applied three times?

Witness: Yes.

Mike: And you were never promoted?

Witness: As I said, yes.

Mike: And when Nora Ginnesse was promoted, you wrote scathing emails to the rest of your coworkers in response.

Witness (overlapping): No, no, not scathing. The intent was to be funny.

Mike: Oh, right, you like to be funny.

Witness: Who doesn’t like to laugh?

Mike: Someone whose reputation has been ruined.

Kyle: Objection. (í)

Mike: I’m sorry, Your Honor. Forgive me. I was just trying to be funny. On your performance review, Lena Lunders wrote “Good work ethic. Lacks skills” Do you think that’s a fair assessment?

Witness: Fair? If I don’t know.

were promoted, and your boss was calling you mediocre. Are

Mike: So why haven't you been promoted?

Witness: I don't know.

Mike: Do you think you deserve better?

Witness: Doesn't everyone?

Mike: So why haven't you tried?

Witness: I have tried.

Mike: Why haven't you improved?

Witness: I didn't say I haven't improved.

Mike: Well, your review did. Your five years without a promotion did. Look, you were so angry that you weren't moving forward that you lashed out at your boss!

Kyle: Objection! Testifying!

In this examination too, some of the typical features previously described can be identified, namely:

- the use of open questions (*what was the intent behind your impersonation?*) and narrative answers, sometimes even containing personal comments and feelings (*I was just trying to be funny. Everyone in our office makes jokes, and as a matter of fact, Ms. Lunders encourages us to be informal; But I expected it. I think everyone has the impulse to*) in direct examination;
- the prevalence of Yes/No questions (*And yet you applied three times?; And you were never promoted?*) in cross-examination, resulting in very short and constrained answers;
- the strict sequence of questions with tendency to over-questioning in cross-examination (*So why haven't you been promoted? Do you think you deserve better? So why haven't you tried? Why haven't you improved?*) resulting in the destruction of the witness's credibility and of the reliability of her testimony;
- the use of confirming/summarizing questions or question tags (*You say you expected to be passed over for a promotion, correct?*) in cross-examination.

The lawyer's control over the conversation in the cross-examination is evident. Moreover, this scene also shows another characterizing feature of cross-examination, i.e. the 'evaluative' *Follow-up* or the evaluative 'feedback' (see Cotterill 2003, in 5.3.1.) expressed by the lawyer toward the witness's answer. When the actress impersonating Miss Thompson admits sending e-mails to her colleagues, the lawyer defines them 'scathing', expressing his own evaluation; when she justifies herself saying that she wanted to be funny, he observes that it is not funny for someone being defamed by those e-mails. He also ends his questioning inferring that she was angry because she had not been promoted.

Finally, the lawyer's identity and his 'divergence' toward the witness is expressed by his use of reformulations. As we said before, Cavalieri (2009) noticed that reformulations can serve as collaborative instrument in the communication in direct examinations, whereas they are exploited as a means of a combative instrument in cross examinations. In this case, Kyle reformulates the witness's answers at least twice. The first time, he underlines that the witness is trying to provide an excuse for the e-mails that she found funny (*Oh, right, you like to be funny!*); the second time, he reformulates the assessment she received, 'Good work ethics. Lacks skills'. He first implies that she is being called 'mediocre' and then infers that having applied three times and never being promoted

doing so, the lawyer succeeds in his intention: he has
l and on the professional level.

Direct vs. cross examination: The Good Wife 1x01

Direct

Matan Brody: This is at 11:03 the night of the murder, Mr. North. And that's you making your hourly circuit of the lot, correct?

Witness: Yes, that's correct.

Matan Brody: And you saw no pick-up truck, no car-jacker racing past. Nothing the defendant claims she saw.

Witness: That's correct.

Matan Brody: Thank you. Nothing further, Your Honor.

Cross

Alicia: Can we get the monitors in, please? Thank you. Now, Mr. North, here are three images. The middle is the image of the surveillance from the 15th, the night of the murder. And the one over there on the left is the image from the 14th, the night before the murder. And the one on the right is from the 16th, the night after the murder. *Can you see the dates on those?*

Witness: Yes, I can.

Alicia: So as you said before, there you are the night of the murder at 11:03 making your circuit of the lot. And there you are the night before the murder. And the night after, doing the same thing. It must get old.

Witness: No, ma'am, my job doesn't pay as much as yours, but I still love it.

Alicia: Okay, good. Now, Mr. North, *let's fast forward, shall we?* Forty five minutes, the night of the murder. And there. *What do you see?*

Witness: Nothing.

Alicia: No? It's right there, *maybe you need to move in a little closer?*

Witness: Oh, it's a shopping bag. It looks like a shopping bag.

Alicia: Actually, it is. It's a plastic shopping bag. It was a very windy night that night, and it blew across the lot at 11:48. [í] Okay, so let's fast forward the other two monitors. The night before the murder and the night after the murder to the same time code. Here's the 14th. And the 16th. What do you see?

Witness: I don't know.

Alicia: *I think you do know*, sir. Either you have a plastic bag that blows across your lot every night at 11:48 or these are duplicates of the same tape.

Witness: No, it's not what it looks like.

Alicia: I understand, sir. You didn't willfully mislead the police.

Witness: Yeah, that's correct.

Alicia: No, it's just that it gets cold out there, and sometimes you don't make the circuit of the lot.

Witness: Yes.

Alicia: So on the nights that you don't go out, you don't record the actual surveillance image. You set your computer up to duplicate the night before just in case your manager checks it. Is that correct?

Witness: Yes.

Alicia: Just so I'm clear, there is no recording the night of the murder. And you were never there to see or not see the pick-up truck or the car-jacker.

Witness: I'm sorry.

Alicia: Yes. No further questions.

This example of direct and cross-examination drawn from *The Good Wife* shows some of the already discussed features typical of this genre, but also represents evidence of other features

g the already mentioned generic features, I would like to
ionsø used during direct examination instead of cross-
examination (as noticed by Cotterill 2003): *Thatø you making your hourly circuit of the lot,
correct?ø*

But the most interesting peculiarity of this sequence is the way the cross-examination is conducted. The witty lawyer Alicia repeatedly employs *rhetorical questions*, which are unnecessary for the collection of new information, but crucial in the *-destructionø* of the narration provided by the witness in support of the counterpartø thesis.

In this case the witness is a policeman who worked at the surveillance of a parking lot where the crime took place. The available evidence (a camera recording of the parking that night) does not support the reconstruction of the facts reported by Aliciaø client. Thanks to her investigations, however, she finds out that the tape did not record that night, but it had been replaced by the one of the previous night. She proves it by comparing the videos in the courtroom, while questioning the witness in front of this clear evidence. For this reason, Aliciaø cross-examination is replete with rhetorical questions, which have obvious answers.

She starts her *-destructionø* mission by ascertaining that the witness can see the videos and asking *-Can you see the dates on those?ø* though it is quite clear he can. In fact, she is pretending to care about the witness feeling at his ease. Similarly, when a plastic bag appears in both videos at the same time (demonstrating that they are the same videos with different dates on), she asks *-Maybe you need to move in a little closer?ø* feigning a *-convergentø* accommodation towards the witness, whereas, in reality, she is setting him up.

Other *-uselessø* questions are used, such as *-What can you see?ø* which is only meant to make the witness implicitly incriminate himself in front of everybody, and *-Letø fast forward, shall we?ø* by which she seems to look for advice or permission to fast-forward the video, whereas she perfectly knows she needs to get to the point when the plastic bag appears on both videos. Alicia even acknowledges she knows the witnessø answer when he states he does not know what to answer (*I think you do know*).

This scene also underlines the rhetorical moves which are generally identified in witness examinations, made of an Initiation (in this case the questions and showing the evidence), a Response from the witness and a Follow-up by the lawyer, who personally comments on the witnessø answers, draws conclusions from them (*Either you have a plastic bag that blows across your lot every night at 11:48 or these are duplicates of the same tape; I understand, sir. You didnø willfully mislead the police; itø just that it gets cold out there, and sometimes you donø make the circuit of the lot; it must get old*), or confirms them (*Actually, it is. It is a plastic shopping bag*), often in an ironic fashion. On the whole, irony dominates in the cross-examination: it is Aliciaø strategy to assume an apparently convergent stance towards the witness, while actually destructing his credibility.

Since evidence is directly involved in the examination, a continual use of personal and spatial deixis can be observed. In particular, personal deixis is instrumental to meta-pragmatic expressions (*So as you said before*) and to connect the video to the questions (*there you are the night before; Hereø the 14th. And the 16th*).

The final helping strategy used by Alicia for a successful cross-examination is in her last utterances, which contains an *-embeddingø* question with summarizing purpose, introduced by *-soø* (as observed by Cotterill 2003) and culminating in a confirming question:

you don't go out [1], you don't record the actual surveillance image [2]. You set your computer up to duplicate the night before just in case your manager checks it [3]. *Is that correct?*

Witness: Yes.

This type of question allows lawyers to obtain an answer from the witness which confirms a series of hypotheses, expected answers or deductions and can therefore contribute to underpin the lawyer's argument. It represents Alicia's *coup de grace* in the destruction of the witness's credibility and opens up to a final statement which leaves no doubt in the listeners (*There is no recording the night of the murder. And you were never there to see or not see the pick-up truck or the car-jacker*). As already said above, the 'strong points' of witness examinations are usually kept for the very beginning or for the end of questioning.

Moreover, for what concerns the conclusion of the examinations, I would also like to underline the concluding formulae which mark the end of the examination and also contribute to identify the genre 'embedded' in legal drama: all the scenes quoted here and analyzed in the legal drama corpus (with the exception of the ones interrupted by objections) representing witness examinations end with formulae such as: 'thank you', 'nothing further', 'no further questions' or 'I tender the witness' (in case of direct examinations which are followed by cross-examinations). These formulae help the authors reproduce the generic features of the examinations and the context in which they are set, the social roles of the interactors, the nature of the interactions and sometimes also the presence of other participants in the exchange – for example, when a reference to 'Your honour' is included.

5.3.2. Lay, expert and semi-expert witnesses

Structural differences within witness examinations, however, are not only observed between direct and cross-examination, but also on another level, the one of the witness's expertise. Anesa (2011) identifies three different type of witness: lay, expert and semi-expert, the latter generally represented by police. This section aims at offering a general overview of the different way witness examinations are constructed according to the witness's expertise, to identify the variation along these sub-genres and the way these are mirrored in fictional reproductions of the genre in legal dramas.

The main difference between lay (also called *eyewitnesses*, *ordinary* or *percipient witnesses*), and expert witnesses is that the first are not allowed and expected to testify according to their personal opinions, but on the basis of their 'personal knowledge', more specifically 'direct sensory perception information gained through sight, hearing, touch, taste and smell' (Lubet 2004: 314, in Anesa 2011: 168) and can include intentions, emotions and reputations of other people only up to a certain degree. Expert witnesses, instead, are intentionally summoned by one of the parties to express their opinion on the basis of their expertise (Anesa 2011: 170).

This premise puts the expert witness in a privileged position compared to that of the lay witness. Jackson (1995: 419, in Cotterill 2003: 157) noticed that such 'privileged' position is reflected in the lawyer's stance during the examination: fewer interruptions and less overlapping speech, less use of confirmation-seeking questions and longer narrative spans are observed. In general, it can be stated that more freedom of speech is granted to expert witnesses, especially in direct examinations, which

ished between an expert of law (the lawyer) and an expert

Cotterill (2003: 157-8) even provides numerical data in support of this argument⁵⁶: expert witnesses can talk freely as long as they talk in favour of the lawyer's argument (in direct examination), while the length of their answers is halved when their testimony has to be rebutted by the lawyer. This means that lawyers tend to dominate the length of the answers when the witness is an expert just like they do with lay ones.

But what is it that makes a witness an expert? The witness's expertise has to be certified by the judge according to some criteria, which are variable from one jurisdiction to another. The basic requirement is a higher level of knowledge of the matter than the other participants in the trial, especially the jury.

The Federal Rule of Evidence of United States of America (Cotterill 2003: 169) poses the following conditions:

1. the subject matter must be beyond the common understanding of the average juror or must assist the juror in understanding the evidence;
2. the expert must be sufficiently qualified, so that his or her opinion or inference will aid the jury
3. the evidence about which the expert testifies must be scientifically reliable and generally accepted in the scientific community
4. the probative value of the evidence must outweigh its prejudicial effect.

The acknowledgement of the witness's expertise means that the (asymmetrical) power relationship between lawyer and witness is not the same as when the lawyers question lay witnesses. Lawyers and expert witnesses, in fact, will both try to negotiate and somehow impose on the other their own power coming from their knowledge. As we will see, this can lead to a rhetorical fight which is even more fascinating than with a lay witness: experts struggle for establishing their authority, while lawyers try to destruct the witness's credibility and even dismantle the expert's opinions becoming informed about the specialized discipline in exam:

The Good Wife, 1x08

Cary: Did you ever visit dr. Whitton's lab, sir?

Keith Thomas: No. I'm an expert witness; I'm not an investigator.

Cary: Did you evaluate photos of the crime scene?

Keith Thomas: Yes, I did.

Cary: But ultimately, your assessment of the fire is based on pure conjecture.

Keith Thomas: I'm offering my theory based on years of

Cary: Which you're being paid for.

Keith Thomas: As are you!

Cary: Yeah, but only one of us is trying to sell their theories as truth. (í) Your belief is that a rag soaked in butane, a chemical which dr. Whitton never used in her work, somehow migrated across the lab and into her research area and then spontaneously ignited on a piece of discarded wax paper.

An analysis of expert witness examination starts from the premise that it is a form of interdiscursivity, since it implies embedding other specialized discourses (for example medicine,

⁵⁶ In her corpus, answers of lay witness do not exceed a total length of 52 words, while one of the answers of a witness expert in direct examination reached 433 words. The average number of words in lay witness direct examinations is 10,7; the expert's is 110,4. The average number of words in lay witness cross-examinations is 10,5; the expert's is 59.

...t and dealing with specific topics in legal terms and in
 ...y have. The role of interdiscursivity in the definition of
 the trial phases as genres is also underlined by Anesa (2011: 196-7), who quotes Smartø (1983: 72)
 observation:

A series of subsidiary authorities have achieved a stake in the penal process: psychiatrists, psychologists, doctors, educationalists, and social workers share in the judgment of formality, prescribe normalizing treatment and contribute to the process of fragmentation of the legal power to punish.

Similarly, Haack (2003: 57) analyzes the relationship between science and law by saying that
 "when science has the answer, the adversarial process can seriously impede or distort
 communication" (in Anesa 2011: 197). The following analysis of excerpts from legal dramas will
 show how some strategies to establish the expert witness' credentials and to destruct them are
 appropriated by the fiction products.

In her analysis of the O.J. Simpson trial, Cotterill (2003: 156-183) identifies the following main
 moves characterizing direct examinations of expert witnesses:

- 1) legitimization of the expert's knowledge, for example placing the credentials in favorable light;
- 2) indirect introduction to the expert witness;
- 3) drawing on the expert's qualifications and professional affiliations;
- 4) asking the expert for comprehensible testimony for the jury, in particular by means of:
 - the explicit request for lay words
 - reformulation
 - re-lexicalization
 - recontextualization and textual modification (e.g. simplification, condensation, elaboration or refocusing of specialized discourse).

Likewise, in her analysis of expert examinations in the Westerfield trial Anesa (2011: 194) observes:

- 1) the over-simplification of the specialized contents;
- 2) summarizing (see "condensation" in Cotterill);
- 3) exemplification;
- 4) use of rephrasing and colloquialism.

The same features can also be found in direct examinations of expert witnesses reproduced in legal dramas, as the following examples will show:

- 1) legitimization of the expert's knowledge, for example placing the credentials in favorable light / drawing on the expert's qualifications and professional affiliations:

Lawyer: *In your experience*, do spontaneous confessions such as this tend to be accurate?
(The Good Wife, 1x03)

- 2) explicit request for lay words:

ine toxicity which caused her to aspirate emesis into her lungs.
 ... (The Good Wife, 4x14)

3) lawyer's reformulation of the expert's words:

Lawyer: What is another odd artifact of lupus?

Doctor: Well, if you withdraw medication, it can change your blood type.

Lawyer: Hmm, so Mr. Salle could have O-negative blood one week, and if he changed his medication, B-positive the next? (*The Good Wife*, 2x01)

4) Recontextualization and textual modification, for example by means of simplification, condensation, elaboration or refocusing of specialized discourse and exemplification:

Boston Legal 1x10

Cross

Doctor: Well, it's possible she looked into this bedroom, saw her husband making love to another woman, and that threw her into a dissociative state. And in that state, she shot them.

ADA Shubert: I'm sorry. Are...You're now saying maybe she killed them?

Doctor: Well, I believe she found them dead as she says. But it's possible that she saw them making love, went into a dissociative state... Something we refer to medically as "automatism". And in that state, she may have killed them. Then her brain creates a false memory, of something less horrifying to her.

ADA Shubert: I have nothing further.

Re-direct

Brad: Her brain created a false memory?

Doctor: Yes. Sometimes if a person's actions are repugnant to them, they can actually create a false version that is more psychologically acceptable.

Brad: And they believe this as the truth?

Doctor: Absolutely.

Brad: So it's possible that she committed the murders?

Doctor: No. Murder suggests an intent she wouldn't have been incapable of. If she did this, and I'm not saying that she did, she wouldn't have likely lost all conscious control. She wouldn't have acted outside herself. And as a defense, her brain would have manufactured this other memory: that she walked in and found them already dead.

The sequence above, drawn from *Boston Legal*, shows the role of the lawyer as the one who reformulates specialized contents for the jury (in the first examination), or who tries to focus, elaborate and modify it in his own favor. ADA Shubert had not prepared the witness to introduce the possibility of the defendant shooting to her husband and his lover, causing their death, so when he hears a testimony which he can exploit in his favor, he asks for a confirming reformulation (*Are...You're now saying maybe she killed them?*). The expert witness draws upon his professional affiliations and "community membership" and to scientific terminology to support his testimony (*Something we refer to medically as "automatism"*) and then, in the lights of the new scientific elements introduced, he condenses and re-elaborates what he had stated above (*And in that state, she may have killed them*).

In the cross-examination, instead, it is the opposing counsel who starts with a reformulation, which is meant to focus on one specific aspect of the doctor's testimony (*Her brain created a false memory?*). The expert's answer is an exemplification expressed by a hypothetical scenario of a

ntal to an easier communication of knowledge just as
 actions are repugnant to them, they can actually create a
 false version that is more psychologically acceptable.

Finally, when Brad attempts to re-elaborate the expert's opinion in his own favor (*So it's possible that she committed the murders?*), the doctor clearly abandons his role of expert of psychiatry and underlines the legal implications of the woman's automatism (*Murder suggests an intent she would've been incapable of*), before he explains again his theory as a physician.

The construction of the witnesses' identities

This very last sequence is particularly interesting because it underlines how the experts can assume different identities according to the communicative context; similarly, as I will show below, lawyers can act as semi-experts. This aspect of the expert witness examination was studied by Matoesian (2001), who relied on Goodwin's (1981) concept of *footing* to analyze the way witnesses can construct their identity as expert or as a layman according to the lawyer's questions. In particular, he analyzes the William Kennedy Smith case of rape, where the defendant happens to be a doctor and to use his knowledge as a rhetorical instrument to sustain his own argument against the lawyer's.

Footing is the means of exploring linguistic negotiation of our social and conversational identities during the ongoing flow of talk. It basically refers to the metapragmatic process through which speakers/hearers position themselves relative to one another and to their utterances in the framing of experience and therefore represents the different *selves* that can be represented by linguistic expression. In this view, the identities are not seen as static, but rather as contextually situated and interactionally emergent (Matoesian 2001: 165-7).

Matoesian notices that when the defendant tried to present himself as an expert, he tended to use stylistic repetition, reported speech, epistemic modality, evidentials, sequential positioning, conditionals and, quite obviously, tokens of medical (or of any other specialized) discourse. When portraying himself as a layman, instead, he tended to use *partitive evidentials* i.e. a partitive construction expressing part of a whole and contributing to distancing the speaker from a complete knowledge of the facts (e.g. *what I can tell you*, or *when she was with me*).

On the lawyer's side, however, one of the most interesting points is represented by the passage from the reconstruction of facts to indirect accusation (for example: *You left a few things out of your story* – see below). The lawyer's divergent and destructive attitude in cross-examinations is obviously also found in expert witness examinations but, as Cotterill (2003) observes, it is often expressed in the lawyer's acquisition of expertise in the specialized field of which the witness is expert and, on the linguistic level, from borrowing the technical jargon:

The Good Wife 1x19

Lawyer: Mr. Thiessen, you covered the bombing at the Oak Lawn synagogue?

Expert witness: That's right.

Lawyer: And it's your opinion that this bomb was very similar to that one?

Expert witness: Identical. In both cases, the device was fashioned from a metal canister, densely packed with hydrazine nitrate explosive and a simple, remote-triggered circuit.

Lawyer: But this utilized a different triggering mechanism than the synagogue bombing?

Expert witness: No, no. It was identical.

Lawyer: A modified flashbulb?

camera. It's quite clever. It produces just enough flame to
 g. But when you reported on the synagogue bombing, you

never mentioned that fact.

Expert witness: It's kind of a technical detail. A little beyond the scope of a basic news article.

Lawyer: Of course. It's just that whoever planted the bomb at the Vindicator had to know the layout of the building, the dumbwaiters, Mr. Sanborn's schedule, and how to build a bomb exactly like the Defenders of Allah's. [í] And if you never reported on the triggering mechanism, Mr. Thiessen, the only person I can think of who possesses all of that knowledge would be you.

This scene, for instance, shows how deeply the lawyer was informed about the details of an explosive device, including the possibility of using a flashbulb as triggering mechanism. And it is exactly from his knowledge of the bomb (and of the facts) that he comes to the conclusion that the expert witness may have been the culprit. Basically, the lawyer moves from the statement and the ascertainment of the facts to accusing the expert witness, a pattern which is also highlighted by Matoesian (2001).

This last sequence is drawn from *The Good Wife* and shows both the direct and the cross-examination of a semi-expert witness, the general counsel for the *Thief* drink (see 5.2.2.) being interrogated on the process of approval to which all foods have to undergo before being placed on the market. Its analysis will show how the witness tries to negotiate his own identity between the one of a non-expert and the one of an expert of the process of food approval and marketization. Moreover, it will confirm the change in the lawyers' attitudes towards him on both the 'direct-cross examination' axis and the 'lay-expert witness' one.

Direct

Diane (Lawyer) As the general counsel of Thief, could you tell us how this beverage came to market?

Mr. Jaffer (Witness): Thief has gone through the most intensive, two-year FDA process of approval.

Diane: And do you believe that Thief is safe?

Mr. Jaffer: Oh, it's more than safe. It has adhered to the highest standards of safety.

Diane: Thank you. No further questions.

Cross

Cary (Lawyer): Mr. Jaffer, you spoke of the FDA's approval process. Was the approval of Thief as a food, or as a dietary supplement?

Mr. Jaffer (witness): I don't understand.

Cary: Did the FDA apply their food standards to Thief?

Mr. Jaffer: Oh. I see. No. No, they, uh, considered it a supplement.

Cary: I see. So there were no standards for Thief to meet. The FDA applies standards to food. It doesn't apply it to supplements, is that correct?

Mr. Jaffer: [Overlapping] Well, uh. More or less.

Cary: In what way less?

Mr. Jaffer: Excuse me?

Cary: You just said 'more or less'. In what way was I less right?

Mr. Jaffer: Um. I'm sorry. You're actually right. Um. It was a figure of speech.

Cary: Okay. So now according to your own records, you submitted Thief to the FDA more than once over this two-year process. Why did you submit it twice?

Mr. Jaffer: That's not unusual.

Cary: Yes, but the first time you submitted it as a food. Is that correct?

ingredient to the beverage. Didn't you? Here's the list of
mitted. You see that there?

Mr. Jaffer: Umí Yeah. Okay. I see. Looks like, uh B12.

Cary: That's correct. And once you added B12, that allowed you to claim the beverage was
a dietary supplement and therefore not subject to stringent FDA approval.

Mr. Jaffer: I would reject that characterization of our motives.

Cary: In fact, isn't Thief identical to Rockstar, an energy drink which recently was sent an
FDA warning letter for adding ginkgo?

Mr. Jaffer: I don't know anything about that.

Cary: And the only reason you weren't sent an identical warning letter is because you
gamed the system, so you are not considered a food.

Will: Objection, Your Honor. Prejudicial.

The direct examination opens with Diane, who is acting in defence of the Thief company, establishing the credentials of the witness (*As the general counsel for Thief*) and asking for information about how the drink was able to access the market. It is clear that her intention is to exculpate the company demonstrating that if the drink had passed such tests, then it cannot be considered harmful for someone's health.

Consistently with Diane's introduction, the witness presents himself as an expert of the subject and as the person directly responsible for the process, almost boasting about his work (*Thief has gone through the most intensive, two-year FDA process of approval*) and showing confidence in the product (*Oh, it's more than safe. It has adhered to the highest standards of safety*). Up to this point, the direct examination has therefore succeeded in presenting the witness as expert and in both letting him express clearly his version of the facts as a lay witness involved in the story and his opinion as an expert of the field.

Cary's cross-examination, however, overturns the witness's temporary state of 'power'. The style of the opposing counsel is definitely less 'convergent' than Diane's: he poses a series of 'closed' questions (*Was the approval of Thief as a food, or as a dietary supplement? Did the FDA apply their food standards to Thief? Why did you submit it twice? etc.*), some of which are in the form of a statement followed by a confirming question (*It doesn't apply it to supplements, is that correct?; the first time you submitted it as a food. Is that correct?*) or by question tags (*Then you added one ingredient to the beverage. Didn't you?*). The tone is aggressive and highlights the lawyer's 'maintenance' towards the witness. In particular, this can be observed when the witness asks for clarification twice, though the questions were formulated quite clearly, probably as an unconscious strategy of defense: in both cases, in fact, Cary reformulates the question in the same way, basically without trying to meet his interlocutor halfway:

Cary: Mr. Jaffer, you spoke of the FDA's approval process. Was the approval of Thief as a food, or as a dietary supplement?

Mr. Jaffer: I don't understand.

Cary: Did the FDA apply their food standards to Thief?

[í]

Cary: In what way less?

Mr. Jaffer: Excuse me?

Cary: You just said 'more or less'. In what way was I less right?

His strategy, in fact, follows one of the patterns identified in Matoesian's (2001: 177) analysis of the W. Kennedy Smith's trial, i.e. the already mentioned sudden 'transformation' of the facts into

mination, a strategy applied to impeach a witness

The prosecuting attorney departs from this factual, yes/no questioning format (í) with an accusatory puzzle, suggesting that Smith omitted some unspecified information. (í) She presents a partial solution in the form of (í) an allusion to the fact that he caused the injury. (í) It is thoroughly unremarkable in trial examination, even systemic, that accusations are structured indirectly at the syntactic surface.

The questions posed by Cary first, and his accusations then, bring Mr. Jaffer to a continual change in footing. In the direct examination, he showed himself as an expert, and he still constructs this identity in some points of the cross-examination: (- *Why did you submit it twice? - That's not unusual; Looks like, uh B12*). However, most of the time, he tries to depict himself as external to the facts, for example hiding behind the non-understanding of the lawyer's questions, by means of structures expressing the speaker's knowledge of a subject as limited (*I don't know anything about that*; similar to Matoesian's 'partitive evidentials') and by the use of hedging (*More or less*).

The short excerpts analyzed in this study, of course, only represent a sample of the legal genres which are embedded in legal dramas. However, they are sufficient to show how the fictional reproductions of these genres mirror the generic features of the 'real' trial phases, both on the 'text-internal' level (see, for example, the lexical choices, the morpho-syntactical patterns, the interactional strategies or the rhetorical organization of discourse) and on the 'text-external' level, which extends to the reproduction of the same professional and non-professional identities, the ways to construct them and the ways they interact with each other, with the context and within the legal profession and practices.

5.4. Closing arguments

Structure and functions

The final speech that the lawyers deliver before the jury receives the judge's instruction, gathers to reach a verdict and finally communicate it is generally referred to as 'closing argument' though it can also be called 'closing statement', 'final argument' or 'jury summation' (Anesa 2011: 173).

The term 'argument' however, underlines its nature, which is different from the opening statement in that it is overtly and intentionally argumentative and persuasive. As seen in 5.2., opening statements officially give an overview and inform the jurors on the pieces of evidence and/or the testimony which will be provided in order to support a thesis, but the persuasive intention in the lawyer's speech is perceived anyway. Similarly, witness examinations, though being a dialogic, and not a monologic genre, and despite being strongly determined by a series of formal constraints, can be exploited by the lawyers to influence the jury. Closing arguments are therefore similar to the opening statements in their monologic structure, but share with the examinations the 'constructive' and most of all, the 'deconstructive' function.

In particular, Burns (2009: 25-26, in Anesa 2011: 174) stresses this 'deconstructive' function stating that it is the trial phase in which 'the advocate can point out the incoherence and implausibility of the competing account and the opponent's failure to keep his or her premise to

tory told in the opening statementö. Bugliosi (1996: 194, that final summations are öthe most important part of the

trial for the lawyer, [1] the climax of the case, where the lawyer has his last and best opportunity to convince the jury of the rightness of his causeö.

Cotterill also underlines the theatrical quality of this phase of the trial and, most interestingly for the sake of legal drama, its entertainment value. Closing arguments also serve the function of summarizingö what the two opposing parties have demonstrated (or tried to demonstrate) during the trial.

According to Aron *et al.* (1996, in Anesa 2011: 173), four main phases can be identified in closing arguments:

- 1) An introduction, in which the crucial issues are emphasized
- 2) A development of the argument, including a review of relevant evidence
- 3) A discussion of the legal principles related to the case
- 4) A conclusion, which guides the jury towards a favorable verdict.

They also find that this phase, being the final attempt to gain the jury's favor, presents a significant tendency to explaining legal terminology and concepts to the jury: the communication with the jury and the establishment of a relationship of trust between the lawyer and the jurors largely depend on the way things are explained and made accessible to the jurors. Informing them about legal concepts, in particular, can prove strategically important in constructing the attorney's credibility. Therefore, explanatory strategies (see Chapter 6) are statistically relevant in this trial phase.

Metaphoric and explicative language

Likewise, and as already pointed out in 6.2., closing arguments can be the locus of analogies and metaphors, which usefully explain technical contents by an association with everyday situations which are closer to the jurors' experience. Anesa (2011: 177 *ff.*) focuses on the constitutive role of metaphors in closing arguments and refers to Morra's (2010: 387) observation that metaphors are ötools for denoting legal concepts through a shell permeable to social and economical evolutionsö. Metaphors offer the possibility to have öterminological transparencyö, i.e. to represent abstract concepts and situations disciplined by the law through images borrowed from the physical world, and also allow to do it in a concise way (Gotti 2008: 56-57 in Anesa 2011: 177). Moreover, the imagery evoked by metaphors can be strategically used to persuade the jurors, and in particular, metaphors characterized by a certain degree of novelty and introduced in an early stage of the speech have a greater impact. Consequently, closing arguments often show a metaphor (or a group of metaphors) in the initial phase, which is later re-employed and re-framed by the lawyer during the speech. This feature is defined by Anesa (2011: 179) öcircularityö and is labelled as one of the persuasive strategies that lawyers can use at their own advantage.

Cotterill's (2003: 199-219) study on language in the various phases of the O.J. Simpson trial underpins the importance of the coercive force of metaphors in closing arguments, specifying that the use of metaphor is not limited to the singular lexical choices, but öinvolves a systematic and sustained construction of a frameworkö according to which the lawyers can formulate all their speeches and utterances. In particular, her study brought to the conclusion that metaphoric expressions had a much higher incidence in defense's final summations (about three times the

st of the main lexico-semantic fields in which metaphors

Among these, the 'jigsaw puzzle' metaphor is a particularly appropriate one in trials in general: it displays all the evidence presented during the trial as the various pieces of the puzzle which can only outline one 'picture' the one which the lawyer is trying to show to the jurors:

They [lawyers] claim to have enough pieces to allow the creation of a clear picture, beyond reasonable doubt (Cotterill 2003: 214-5).

The concept of 'reasonable doubt' is also central in closing arguments. It basically means that if jurors have a minimum doubt caused by their reasoning after the evidence was shown and discussed that the defendant did not commit the crime, then they have to acquit him.

From the legal point of view, 'reasonable doubt' is not clearly defined and is highly subject to differing interpretations. Stoffelmayr and Diamond (2000, in Anesa 2011: 182) have acknowledged this difficulty and tried to provide a list of criteria to define 'reasonable doubt' though they specify that what is 'reasonable' always depends on the consequences of the decisions and has to be flexible to some degree. Many theorists argue that it is impossible to define 'reasonable doubt' quantitatively on the base of statistics and that the concept is 'qualitative' in nature. In the Westerfield trial, the Court instructs the jury telling them that reasonable doubt is 'not a mere possible doubt', but 'the state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge' (Anesa 2011: 183).

It is important to underline the meaning of 'reasonable doubt' for two main reasons:

- 1) the lawyers' intention is to create or to destroy reasonable doubt in the jurors; therefore all their words are aimed at this purpose;
- 2) in closing arguments reference to reasonable doubt is often explicitly made to the jurors, and this feature is also mirrored in legal dramas.

The second statement can also be explained by the lawyers' intention to accommodate legal specific content for the jury. In general, explaining technical concepts by way of examples, simpler words and everyday objects is a way to create a closer relationship with the jurors. The recourse to such explanatory strategies is even more common in case other disciplines are involved in the trial, such as various branches of science (see also 6.1.5.1. on reformulation of other specialized discourses). Anesa (2011: 195), for example, observes how science is discussed and rephrased, often 'reduced to its minimal terms' and can even undergo oversimplification, which is expressed by the use of colloquialisms. For example, in Westerfield trial, entomology is reformulated to its highest degree, where 'bugs' replaces 'larvae' most of the time and the entomologist himself is referred to as 'the bug guy'. Such linguistic devices can also be exploited strategically and used as a means to threaten the expert witness' credibility (see 5.3.).

In general, it can be stated that science is 'reified' and sometimes even 'distorted' to serve the professional intentions of lawyers:

Science doesn't always have the final answers the law wants, or not when it wants them; and even when science has the answers, the adversarial process can seriously impede or distort communication. (Haack 2003: 57, in Anesa 2011: 197).

f closing arguments is the persuasion of the jury and that se. Not only the metaphoric style and the accommodation

of specialized contents are instrumental to this purpose, but also other more general linguistic choices. Anesa (2011: 198-200), for example, observes the trend towards the use of words related to crime and of negatively connoted words (such as *bad*, *evil*, *terrible* and *horrible*) in the prosecution's closing arguments, as well as a high incidence of 'emotional language'. Emotional language can be traced not only in lexical items referred to feelings and striking mental images, but also in fake 'slips of the tongue' or in imaginary recalls of the victim (in the case of murder)⁵⁷.

Strategic use of personal pronouns

Like in opening statements, an important role in the jury's involvement is played by the choice of personal pronouns. The use of 'you' for example, is the most direct way of addressing the jurors and underlining their responsibility in making 'the right choice'; it helps invite the jurors to reflect on some central issues or aspects in the trial, or simply to 'move' them towards the wanted direction.

The use of the 'inclusive we' instead, is a more indirect way of establishing a personal connection with them, by evoking the scenario of one group to which both the lawyer and the jurors belong (see table 5.1.). The opposition between 'us' and 'him/her/them' in closing arguments, on the other side, can also act as a way to underline the opposition between what is fair and what is not, as if the speaker created a polarization between two morally opposed parties. The use of 'we' in fact, can also be interpreted as 'we, who share the same moral and ethical social values and principles'. In this view, common sense equals to law and lawyers leverage on the shared values and on the responsibility jurors were given to 'impose' their theses. As Goodwin (1994: 218, in Anesa 2011: 204) notes, 'rather than openly exerting force, then, lawyers use strategies of solidarity to entice others to accept their force'.

This excerpt from the Westerfield trial analyzed in Anesa (2011: 204) shows how lawyers emphasize the jurors' decisional role and their responsibilities as connected to the shared common values. Moreover, it shows the persuasiveness of drawing upon hypotheses of everyday life situations:

This is the single most, I submit to you, the single most difficult decision you'll ever have to make in your lives. Never, except as jurors, do 12 people have to go into a room who don't know each other, sit down and reach an accord. Can you imagine what life would be like at home? You got four children, 'Come on, let's go out to McDonald's'. We got to vote on it. Ah, somebody wants to go to, I don't know, Carl's Jr., somebody wants pizza. Somebody wants Chinese food. Now we got to negotiate. We don't make decisions in life like that.

The strategic use of the pronouns 'you' and 'we' can also be noticed: the lawyer first addresses them directly and identifies with them (*I submit to you; the most difficult decision you'll ever have to make in your lives*) and then he introduces the hypothesis set in everyday life trying to make them feel as if they were jurors every day (*Can you imagine what life would be like?; You got four children*). These strategies allow him to speak directly to and involve personally every member of

⁵⁷ For example, Anesa observes the intentional use of striking mental images of the baby victim as a kind of angel helping the prosecution solve the case.

the same "social group" characterized by common social
"I don't make decisions in life like that."

Comparison

Analogies between the case at trial and experiences of life outside the courtroom can be used in closing arguments as a way to simplify the facts and make them "closer" to the everyday reality of the members of the jury. For this reason, it is often used as a persuasive device, especially in closing arguments. Their popularizing function, however, is analyzed in detail in Section 6.2.3.

The following examples, drawn from *Boston Legal*, instead, show the way the features of closing arguments identified by Anesa (2011), Cotterill (2003) and other previous literature correspond to those of the fictional reconstructions in legal dramas.

In the episode 1x04 of *Boston Legal* the two closing arguments delivered by the opposing counsels are shown. In the first one, the prosecutor accuses the defendant of murder; in the second, on the other hand, the young lawyer Lori has to improvise her defence. Improvisation represents the element distinguishing the two speeches from each other. Only a joint analysis of these two excerpts can open the way to reflections on different aspects around which closing arguments can be built and show the whole range of features reproduced in fictional products:

Boston Legal 1x04: First closing argument

ADA Preston: You heard from witness Frank Simmons, who saw an S.U.V. speed by him a mile from the scene around the time of the murder, with a license plate beginning with 3-L-6. Mr. Litch's S.U.V. has a license plate beginning with 3-L-6. And when the police entered the defendant's apartment, what did he do? He didn't ask "What's this about?" He didn't say "Hey, what's going on?" He knew exactly why they were there, and he immediately began his escape. And then in the hospital, he confessed. It wasn't a delusional confession. He described a fact pattern which was completely consistent with the crime. The defendant admitted that he was afraid of yet another drug conviction that would land him a life sentence. He panicked, pulled out a gun and fired. Now, his lawyer suggests he was perhaps delusional when he confessed, or that he simply lied to protect the real killer, a friend or loved one. Desperate suggestions for a desperate client. It's insulting to this court, to you, and especially to that woman and her two children: Warren Litch murdered her husband. Warren Litch killed their father. He admitted to the police that he did so. Let's not waste any more time.

Boston Legal 1x04: Second closing argument

Lori: I don't know about you, but if I hear that someone confessed to a crime, then I just assume he's guilty. But if I hear the confession is coerced, then... For example, you could have a man bleeding out with a stomach wound, put him in a room with the police and clergy, who keep insisting to him that he did something, and he might actually come to believe it. And, gee, what if it was a friend or a loved one who was driving Warren's car that night? That would explain why Warren was trying to flee, wouldn't it? He likely knew the police were coming to mistakenly arrest him. Did the police investigate any of this? My God, we all assume Warren Litch is guilty. But what if he isn't? Now, let's turn to the other evidence. Wait. There is no other evidence. No gun, no witnesses, no fibers, no forensics. All they have is that coerced confession. Now, you might think he did it. And if you're determined, you can even still assume it, I suppose. But if you're to uphold the law and demand proof beyond all reasonable doubt... And if we don't demand that... Do we really want to send a message to the police: "Hey, forget the evidence. Just bring us that confession?"

example of the prototype of this genre. It is well built and follows the four-phase structure proposed by Aron *et al.* (1996),

with an introduction, in which the crucial issues are emphasized, a development of the argument with relevant evidence, the discussion of legal principles and a conclusion aimed at obtaining a favourable verdict, with a particular focus on a narrative reconstruction of the facts according to the prosecution:

Phase	Text
1. Introduction	You heard from witness Frank Simmons, who saw an S.U.V. speed by him a mile from the scene around the time of the murder, with a license plate beginning with 3-L-6.
2. Development of argument	Mr. Litch's S.U.V. has a license plate beginning with 3-L-6. And when the police entered the defendant's apartment, what did he do? (Narrative)
3. Legal issues	It wasn't a delusional confession. He described a fact pattern which was completely consistent with the crime. (í) Now, his lawyer suggests he was perhaps delusional when he confessed, or that he simply lied to protect the real killer, a friend or loved one.
4. Conclusion	Warren Litch murdered her husband. Warren Litch killed their father. He admitted to the police that he did so. Let's not waste any more time.

Table 5.2: Rhetorical moves in a closing argument in legal drama.

The four main phases are clearly identifiable in the speech, though often alternating with narrative reconstructions of the facts and other linguistic acts, such as directly addressing the jury or personal comments, globally contributing to the development of the argument.

Personal comments, in particular, are the moments of the closing argument aiming to destroy the counterpart's thesis, which, however, is a longer process taking place throughout the whole speech. First, ADA Preston emphasizes the opposition between the defendant and the other group, formed by himself and the jury and he does it by means of repeated use of the pronoun *he* (*what did he do? He didn't ask...; He knew exactly why they were there, and he immediately began his escape. And then in the hospital, he confessed*), as opposed to the jury (*You heard from witness*; *it's insulting to you*). The prosecutor strategically calls the counterpart *the defendant* and overtly discredits the strategy that *his lawyer* is using (*Now, his lawyer suggests*), proposing the alternative reasons that brought the man to shoot as improbable or even absurd. This is underlined with disdain in the sentence *Desperate suggestions for a desperate client*, stating that it is *insulting* not only to the jurors' intelligence, but also for the wife and the children of the victim, who are sitting in the courtroom and at whom he points during the speech.

In the conclusion of his closing, he keeps making reference to the jurors' responsibility, inviting them *not to waste any more time*, after listing the only conclusions he considers acceptable and pointing to the people who have suffered because of that murder (*Warren Litch murdered her husband. Warren Litch killed their father*). As observed by Anesa (2011), a strong use of emotional language is made here: the lawyer uses the words *the crime* and *the murder*, he refers to other

(drug conviction) and to the possible consequences of a life sentence). Moreover, he stresses the fact that the

defendant had ‘‘confessed’’ the crime: he repeats this verb twice, he uses the synonym ‘‘to admit’’ and it even associates it to the verb ‘‘to lie’’. In particular, he focuses on the ‘‘delusional’’ nature of the confession argued by the counterpart and destroys it by underlining that his confession was a ‘‘fact pattern completely consistent with the crime’’, as incriminating as the car plate seen by the witness. Shortly, he describes all the ‘‘pieces fitting into the ‘‘jigsaw puzzle’’ of the trial.

The structure of the second closing argument, instead, is definitely less prototypical, since Lori is obliged to improvise because she thought that her boss had prepared a speech. For this reason, she decides to count on the emotional involvement of the jury.

In her speech, it is possible to distinguish a clear conclusion aimed at gaining the jury’s favor, but the introduction is atypical and the legal issues discussed in the trial are mixed with the argumentation of her thesis, which is mainly based on the lack of evidence and the coercive nature of her client’s confession.

She opens her speech with a statement which seems to go against her own thesis, but which is gradually dismantled through the speech (*I don’t know about you, but if I hear that someone confessed to a crime, then I just assume he’s guilty. But if I hear the confession is coerced, then I*). Then, she connects to the prosecutor’s speech which had just been delivered to the jury and gradually demolishes all his statements by making a series of hypothesis on who else could have been driving his car that night and on other possible reconstructions of the facts. For the ‘‘reasonable doubt’’ principle, in fact, lawyers do not have to propose a valid and detailed story opposing to the one incriminating the defendant, but simply to prove that there is the possibility of not validity of the prosecution’s thesis, which is mainly demonstrated by contesting the evidence and the testimony gathered. This is exactly what Lori is trying to do in this case. She is doing her best to demonstrate that the evidence gathered by the counterpart is not sufficient and that the police only followed one ‘‘track’’ excluding *a priori* other possible hypotheses because of a confession that, according to her, was coerced and therefore implicitly biased.

Of particular interest is the fake mistake that she makes when she announces to the jury that they are going to listen about the other evidence: *‘‘Now, let’s turn to the other evidence. Wait. There is no other evidence. No gun, no witnesses, no fibers, no forensics’’*. As noticed by Anesa, devices such as a fake ‘‘slip of the tongue’’ can help the lawyer connote their words negatively and support their thesis, as in this case. Lori pretends she wants to look at the other evidence just to underline that, after all, the police did not have other evidence other than the coerced confession.

And from this point on, she concludes her speech with the typical address to the jury. First, she makes suppositions about their feelings and mental state (*You might think he did it. And if you’re determined, you can even still assume it, I suppose*); then, she leverages on their sense of responsibility (*if you’re to uphold the law and demand proof beyond all reasonable doubt*). Finally, she switches from the ‘‘you’’ pronoun to the inclusive ‘‘we’’ as a strategy to establish a connection with the jurors as belonging to the same group sharing common social values: *‘‘Do we really want to send a message to the police?’’*

The final example of closing argument is drawn from episode 2x02 of *Boston Legal*. It is not possible to see a clear-cut distinction in the phases identified by the model proposed by Aron *et al.* (1996), because it is delivered by a character, Alan Shore, who is all but traditional both in his private and in his professional life. He chooses to use rhetorical strategies with a strong persuasive

, such as the dismantling of the counterpart's hypotheses, a kind of 'refrain' which also bestows higher textual coherence to his speech.

Boston Legal 2x02

Alan: *Why are we here?* Certainly not because of evidence. There isn't any. Any witnesses see my client give her husband Viagra? Anybody see her put nitroglycerine into his wine? No, we're being asked to assume that evil. (...)

So *why are we here?* Because Kelly Nolan had a blank expression on her face when the police arrived at the scene? She was in shock, for God's sake. Her husband had just died right before her eyes. Fingerprints on the wineglass? It was her house. She was having wine with her husband. Is it so inconceivable that she would touch his glass? And if she were guilty, don't you think she would have wiped the glass clean or washed it, so the nitro wouldn't have been detected?

Why are we here? Because her husband allegedly threatened to cut her out of his will two days before? According to Kelly, that never happened. The housekeeper says it did, but this is a witness who admittedly loathed my client, who admittedly concealed information from me so that she could do more damage at trial. She has a bias, and the prosecution offered nobody to corroborate her.

So *why are we here?* The coronary joke made to the boyfriend, suspiciously coincidental, but that was something she said, not did, and she said it in jest. Let's remember, there is no suggestion that either the boyfriend or the housekeeper took this remark seriously for a second. If they did, why did they not contact the police? There is simply no evidence that would allow you to conclude beyond all reasonable doubt that Kelly Nolan killed her husband, so *why are we here?*

But as long as we are, what about the police? They admittedly didn't investigate any other theory, including suicide. (...)

I have no doubt that you want Kelly Nolan to be punished. She married for money. She had an affair. She carried on naked in the pool with her boyfriend. She's cold, materialistic, unlikable. And it might bring you all pleasure to see her go to jail, but as for evidence to establish that she committed a murder beyond all reasonable doubt, it just isn't there.

The case discussed in this episode is inspired by the film *Black widow* (1987), telling the story of a woman marrying men and then killing them in order to get their money. The legal firm Crane, Poole and Schmidt accepts to defend Kelly Nolan, a beautiful woman named 'the black widow' from the press because she married a rich older man and is accused of his death. The only witness involved in this case is the housekeeper, an older lady who testifies against the defendant but who is also clearly biased. The other person questioned is the black widow's lover, who admitted having a relationship with her. The case has become object of gossip and public interest and most people believe the woman intentionally killed her husband, though the proof is not enough to demonstrate it and she immediately called an ambulance when her husband had a stroke.

Alan Shore, the lawyer who defends her, leverages on the lack of evidence incriminating her and gradually dismantles the counterpart's thesis by demonstrating that each piece of evidence or testimony brought by the prosecution is somehow biased. At the same time, he keeps playing on the jurors' feelings.

The crucial issues of the lawsuit are not highlighted in the introduction, but are gradually 'presented' throughout the whole text, which is divided into topic sections by the repetition of the sentence 'Why are we here?' This sentence acts like a refrain, being repeated regularly, but most of all it serves a double function:

the use of the *we* pronoun, which acts as a means for people in the courtroom, including the lawyers and the jury, as a whole group with the same purpose: judging the case;

- 2) it supports the defense's argument by stressing the groundlessness of the charges.

Alan decides to open his speech with this sentence as a kind of summarizing introduction to all the points that he will gradually discuss dismantling the counterpart's thesis, which are all introduced (and terminated) by the same sentence. This strategic repetition allows for the progressive corroboration of the lawyer's hypothesis.

In the first phase of his speech, Alan underlines the lack of evidence: there is no witness able to testify to seeing the lady putting some drugs or chemical substance in his glass. In the second one, he justifies her fingerprints on her husband's glass saying that they were at their own house, and her blank face when the police arrived, arguing that she was just shocked.

In the following phase, he starts the destruction of the counterpart's thesis and testimony. First, he underlines that it is just the housekeeper's word against Kelly's (*According to Kelly, that never happened*); then, he specifies that the housekeeper "admittedly loathed" the defendant and "concealed information", therefore showing a clear bias. Moreover, he attacks the prosecution's thesis and their professionalism again, observing that they could not offer any other witness or evidence to confirm the housekeeper's statements. The lawyer even dismantles the hypothesis that a joke that the widow made to her lover and was overheard and witnessed by the housekeeper concealed her plans to kill her husband.

Finally, he summarizes all his statements: *There is simply no evidence that would allow you to conclude beyond all reasonable doubt that Kelly Nolan killed her husband, so why are we here?* It is at this point of the closing argument that Alan Shore starts speaking about the "reasonable doubt" which, as shown above, is a typical topic and recurring term in closing arguments. It represents the final strike in the fight against the prosecution, which aims for the jury's conscience and responsibility.

The four "functions" expressed by each of the phases which compose prototypical closing arguments are here served simultaneously: the main issue is immediately brought to the fore by the lawyer's incipit (*Why are we here? Certainly not because of evidence. There isn't any*), which also acts as a prelude to the development of his argument. This is basically expressed by the dismantling of all hypotheses and by the gradual and detailed invalidation of the value of all the evidence presented by the prosecution.

The last phases of the closing arguments, on the other hand, are more clearly identifiable: as regards the legal principles to be applied to the case, the defense is essentially based on the lack of evidence and on the consequent "reasonable doubt" which, in fact, is mentioned after all the evidence dismantling (*There is simply no evidence that would allow you to conclude beyond all reasonable doubt that Kelly Nolan killed her husband*). The term is used again in the very last words of the summation (*as for evidence to establish that she committed a murder beyond all reasonable doubt, it just isn't there*), which also represent the climax of the conclusion.

The beginning of the conclusion can be identified in the topic shift (*I have no doubt that you want Kelly Nolan to be punished*) in which the lawyer draws upon his identity as an individual and not as the defence lawyer. It is right in the separation he makes between his personal beliefs and his professionalism that he finds a secret weapon to persuade the jury. Just as he did, the jurors have

not enough to convict the woman, despite she could
e style and choices.

On the stylistic level, this closing argument confirms the trend to the strategic use of emotional language (e.g. *She was in shock, for God's sake; I have no doubt that you want Kelly Nolan to be punished*), and of vocabulary expressing negative or positive connotations. In particular, Alan intentionally uses negatively connoted words in reference to his own client (*She's cold, materialistic, unlikable*), but only to underline the counterpart's attitude towards her (*we're being asked to assume that evil*), or in negatively-constructed sentences (*There is no evidence that would allow you to conclude that Kelly Nolan killed her husband*).

Besides the general tendency to repetition of words and of the same morpho-syntactic structures, the lawyer makes extensive use of rhetorical questions (*Any witnesses see my client give her husband viagra? Anybody see her put nitroglycerine into his wine?*) and hypotheses formulated in question form (*And if she were guilty, don't you think she would have wiped the glass clean or washed it, so the nitro wouldn't have been detected?*).

Questions like the last one are often explicitly directed to the jury, which is addressed by the use of the pronoun 'you' as in this last case, or, more often, by the pronoun 'we'

The 'inclusive we' is another main feature of this speech and is used:

- a) as opposed to the 'they' of the prosecution (*we're being asked to assume that evil*);
- b) as referred to actions to be carried out by the jury, but on the lawyer's advice (*Let's remember*);
- c) as generally referred to all the people in the courtroom (*Why are we here?*).

The analysis of this further example of a fictional closing argument demonstrates that although some formal features like the textual organizational structure can undergo some general variation (mainly because of the fictional character of the legal drama genre and its additional entertainment purpose), the single legal genres embedded within the fictional trials mainly present the same stylistic, lexical and morpho-syntactic features identified in the genre when it is not embedded in fictional contexts, which are also connected to the rhetorical functions for which these genres are reproduced.

5.5. Other genres and professional practices

After the closing arguments, the judge usually provides the jury with the final instructions about the way they must judge and acquit or incriminate the defendant. The verdict follows and determines the end of the trial. But in addition to these phases, which are those on which legal dramas most frequently focus, trials also include other phases (as seen in 6.1.) which can be as influential on the final result as the others. For example, pretrial hearing allows (or does not allow) evidence and witnesses in the trial and is home of substantial motions from the lawyers. Similarly, the selection of the people who will take part in the jury can determine the final judgment. This section will show how these phases can be represented in legal dramas and the pivotal role they can play in the fictionalization of legal practice.

5.5.1. Jury Instructions

the jury to explain what to do next, or, in more technical juror decision making (Lieberman and Sales 2000: 587, in Anesa 2011: 128). Every interaction between the judge and the jury meant to fulfill this purpose is referred to as 'jury instruction'. The only function of this interaction can be to inform and instruct the jurors about legal principles and procedure to be applied to the case, or about a 'specific issue that has been raised or a relevant procedure that the judge deems necessary to illustrate' (Anesa 2011: 128).

Anesa (2011: 127), however, specifies that 'jury instruction' is the 'comprehensive expression for the process of instructing the jurors', while the plural form 'jury instructions' includes all the specific texts delivered by the judge to the jury. In particular, the judge generally instructs the jury before the lawyers' closing arguments or immediately after them, as final phase of the trial before the verdict. Pre-instructions, instead, can be delivered before the opening arguments and contain instructions about very basic procedural and legal matters. Most legal professionals welcome positively the instruction of the jury after the closing arguments, since it allows the jurors to listen to the instructions just before gathering to deliberate. Moreover, if the judge is the last person speaking to them after the two opposing counselors have presented their theses, the last words the jurors listen to come from a neutral participants in the trial and should grant a more objective deliberation.

The comprehensibility of jury instructions is a traditional object of discussion and efforts have been recently made to favour the jurors' comprehension of the legal practices and of their role during the trial. In particular, the most recent evolutions of this genre moved towards the following features:

- 1) avoidance of extensive use of legal jargon;
- 2) avoidance of intricate syntactical patterns;
- 3) clear organizational structure (e.g. numbered lists);
- 4) tailoring to the individual case, such as including the proper name of the parties instead of definitions (Anesa 2011: 129).

Moreover, it has also been noted that it can be unreasonable or even counterproductive to provide the jurors with instructions related to basic principles (for example the one of 'reasonable doubt') at the end of the trial and appeals to the verdict have been made, claiming that the legal principles at the basis of the lawsuit were not appropriately formulated to the jury.

In the *California v. Westerfield* trial, Anesa (2011: 130-142) points out the role of the judge as 'facilitator of understanding' and identifies the following features pertaining to his style:

- 1) use of humour to create a more familiar and relaxed atmosphere for the jurors;
- 2) use of examples involving everyday themes and objects;
- 3) personal references to the judge's private life and family issues;
- 4) intertextual references;
- 5) establishment of the judge's credentials through reference to his past career;
- 6) repetition of a same concept as a way to explain it and be sure it is conveyed;
- 7) use of scenarios (see 6.6.), e.g. *When I overrule the question, that means the lawyer made the objection, I overruled it, you will hear the question and the answer. If I sustain the objection, you're going to hear the question, but not the answer.*

–Overruledø means that you get to hear the question and

The judgeø use of technical language, instead of granting the transmission of an unequivocal message, could backfire and result in the jurorsø lack of understanding. Hence, the explicative nature of jury instructions and their hybridity. In fact, as Anesa (2011: 136) notices:

A myopic insistence upon the use of legal jargon, without any clarifications regarding specific terminology and procedures, is more likely to fulfill the objective of preserving correctness and precision [í]. However, an approach of this type may fail the other essential objective of this phase of the trial, which is to provide clear and understandable instructions for their users, i.e. the jurors. This tension leads to an interesting blend of technical and specific definitions and ordinary language (even combined with colloquialisms).

The analysis of some excerpts of the Westerfield trial conducted by Anesa (2011: 133) also allowed to distinguish the typical textual structure of this genre, consisting of these rhetorical moves:

- a) a preamble to the instructions;
- b) a recapitulation of the previous phases of the trial;
- c) a reference to the jury instruction itself, its modality and its function, often spiced with humor;
- d) reference to the possibility of further clarifications and explanations;
- e) reference to the following phases.

Jury instructions in legal drama

In legal dramas, jury instructions are rarely represented, despite the high popularizing potential that this interaction can have when an expert (the judge) explains the trial procedures and legal principles to non-expert characters (the jurors). The reason for the statistically low incidence of this genre may lie in its lower entertaining potential if compared to phases such as opening statements, witness examinations, closing arguments and the verdict. It is understandable that the audience does not draw any particular pleasure from the judge giving instructions to the jurors, since this interaction does not concretely and significantly affect the outcome of the trial.

But above all, in jury instructions the judge and the jurors are in a collaborative relationship with each other: the jurors see in the judge a figure who will guide them in the difficult decision role they are called to serve, and the judge sees in them the potential realization of justice. Witness examinations, instead, play on the hostility of the witness (in case of cross examination) or, anyway, allow the audience to listen to the different reconstructions of the facts and to attend the trial. Opening and closing arguments, instead, share with jury instructions the direct address to the jury, but are made more engaging by their more or less overt persuasive function and the lawyerø efforts to gain the juryø trust. Moreover, in legal drama, the representation of all these phases is instrumental to the depiction of the different characters involved in the case and in the narration of the story, while jury instructions are not.

However, the judge is often represented while addressing the jurors and giving them short instructions about the doø and donøts, explaining technical terms or introducing the next phases. For example, in episode 1x04 from *The Good Wife*, the judge closes the session hinting to the jury instructions and letting the jury know in advance what will happen:

Your Honor.

he trial testimony. *We*ll finish the day with summations and
lies and gentlemen of the jury, the trial moves into your hands.

Similarly, in episode 4x17 of *The Good Wife*, the judge addresses the jury to communicate them a change in the investigations and the introduction of a prosecutor:

Judge: Ladies and gentlemen of the jury, as you know, we are now considering not only a theory of accidental death as well as a theory of suicide, but also a theory, potentially, of homicide. Which is why Assistant State's Attorney of Lake County Shirley Mann has joined us for the duration.

In both cases, the judge uses the expression *Ladies and gentlemen of the jury*, which is considered typical of any direct interaction with the jury. Besides, a trend to a mix of technical terms and everyday/metaphorical language, just like the one identified by Anesa (2011: 136), can be noticed. For example, in the first excerpt, the judge lists the phases of the trial calling them by their technical names, while when he addresses the jury, he uses the metaphor of the trial "moving into their hands". In the second case, instead, he starts by a brief recapitulation of the previous phases of the trial and of its development (*as you know, we are now considering not only a theory of accidental death as well as a theory of suicide, but also a theory, potentially, of homicide*), contextualizing the reasons for the introduction of criminal law and of a State's Attorney in the trial.

An interesting case is an episode in the fifth season of *The Good Wife*, in which Will and Diane find themselves against Alicia and Cary after the latter plotted to found their own firm. They are in the odd situation of defending a couple accused of drug smuggling, consisting of a beautiful young woman, Darla Riggs, and a bizarre mathematician, Howard Lampe, who choose to be defended respectively by Lockhart-Gardner and by the newly founded firm, Florrick-Agos. Since every American citizen has the right to an individual trial, the judge allows for two trials, but in the same courtroom and with two different juries, one for each defendant:

Judge: Since the defendants are entitled to separate trials, I have no choice but to grant a severance. (1) But I am severing cases, not courtrooms. It will be a double jury trial.

The situation becomes almost funny in the audience's eyes since the four lawyers, divided in two teams, argue their own cases in defense of their own client and to the detriment of the other, despite the two being a couple in love. This also means that every testimony which could potentially incriminate the other defendant or which is inconsistent with the defence of one of the two parties cannot be heard by the jury called to judge on the other defendant. This brings the judge to continuously letting the juries alternatively enter and exit the courtroom during the witness examinations, culminating in a paradoxical trial and in the final decision to let both juries in.

The Good Wife 5x12

Judge: Each jury should concern itself only with evidence pertaining to its defendant. You will not consult with the other jury. I realize these are cramped quarters, but we're all going to have to make do. Please inform the court if you have any questions or concerns by raising your hand. Uh, yes, sir.

Juror: Do we have to sit in the folding chairs the entire time?

Judge: Yes, if that's where you've been empaneled.

Juror: But the other jury gets to sit in the box in the good chairs?

Judge: Okay. Perhaps we can alternate.

ernate? You already said that we get the jury box.
, no, no. Everybody calm down. I have decided that we will

[í]

The jury will disregard Mrs. Florrick's entire cross-examination, completely lacking in foundation. You will pay it no mind.

This excerpt has been chosen as representative of the genre. First, it serves the main functions of jury instructions, that is to inform the jurors about technical/procedural aspects which concern them directly, focusing in particular on what they have to do (be concerned with evidence pertaining to their defendant; raise their hands to pose questions, alternate on the chairs etc.) and what they must not do (consult with the other jury, take in consideration Alicia's cross-examination in their judgment etc.). At the same time, these instructions are built in such a way to ease the jurors' integration in the new context of the court: the judge declares himself available for further explanations, cares about practical issues (the way the jurors should sit etc.) and also acts as a mediator by taking decisions on issues connected to the concrete difficulties encountered during the trial (*Everybody please calm down. I have decided that we will alternate*).

On the linguistic side, this scene mixes technical language (e.g. *evidence pertaining to its defendant*) and popularized versions of the same content by means of reformulation. In the last instruction, for example, the judge addresses the jury in a style which fits the institutional value of his utterance, involving technical terms and a formulaic construction (*The jury will disregard Mrs. Florrick's entire cross-examination, completely lacking in foundation*). However, the same content is later repeated and reformulated in everyday words to facilitate and confirm the jurors' understanding of the instruction just provided: 'the jury' is addressed now directly (*You willí*) and the verb 'disregard' is replaced by the colloquial expression 'pay no mind'.

Other colloquial expressions are used in the first part of the instruction which make the instruction tone almost humorous (*cramped quarters; we're all going to have to make do*) and thus reflect the judge's intention to familiarize with the jury. In particular, he explicitly acknowledges that he identifies with them and their feelings (*I realize these are cramped quarters*), he creates proximity with the jurors using the inclusive 'we' and constructs his own identity as belonging to the same group as them (*we're all going to have to make do*).

5.5.2. The verdict

The oddness of the 'double jury' situation is emphasized until the end of the episode, which corresponds to the jury's verdicts (Darla is acquitted, while Howard is condemned to two years of reclusion). When the judge asks the jury for the verdict, in fact, he erroneously addresses Darla's jury believing it to be Howard's:

The Good Wife 5x12

Judge: And has the jury reached a verdict?

Jury Foreperson: We have, Your Honor.

Judge: In the matter of Howard Lampe, what say you?

Jury Foreperson: Um...Actually, we're the Darla Riggs jury.

Judge: Oh...What say you?

Jury Foreperson: *On the charge of felony possession of a controlled substance with intent to deliver, we find the defendant not guilty.*



(depending on the trial being a jury trial or a bench trial)

the case discussed⁵⁸ as well as one of the turning points of

the whole episode, which also contains narrative threads external to the courtroom. In any case, for the audience it usually represents the moment of highest suspense, in which the –villainø can be punished or get away with it, or *vice versa*, justice is not done for an innocent defendant.

Sometimes the jurorsø decisional process is shown in legal drama: people with different opinions usually argue and the reasons bringing to their decision are brought to the front, but in reality the decisional process is protected by particularly strict rules of privacy and this does not allow a linguistic study of the interaction among the jurors, or of the interconnections between the decisional process and the verdict resulting from it⁵⁹. Nonetheless, fictional products often represent the jurors discussing the case or the infrequent cases of juries –deadlockedø because of one single juror (see *The Good Wife*, 1x01).

As regards the juryø deliberation and the judgeø decision as genres, one can easily foresee that they are highly standardized and formulaic, though some little variation is allowed. The structure of the jury verdict, however, differs from the judgeø decision, since the latter is often combined with an explanation of the legal principles applied and the judgeø comments on the case, which sometimes can even refer to him/herself personally.

The juryø verdict is the øverbalization of the final collective judgment about the narratives the jurors have been confronted withø. As picture 5.3. shows, its level of standardization is so high that the action is generally reduced to the reading of a pre-compiled form in which the jurors limit themselves to cross or circle their verdict and possibly fix the amount or the duration of the punishment (Anesa 2011: 206-7).

⁵⁸ But not always: sometimes the decision is appealed; other times scenes after the trial can reveal if the juryø verdict was fair or not etc.

⁵⁹ Studies on the processes behind the jurorsø deliberations, however, have been conducted on post-trial reports or on mock-trials (Hans et al. 2003, in Anesa 2011: 205).



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Court of the State of California
COUNTY OF SAN DIEGO
CENTRAL DIVISION

STEPHEN J. HARRIS
Clerk of the Superior Court
AUG 21 2002
By: M. S. Harris, Deputy

Department 40
Case No. SCD 165805
D.A. No. AAQ731

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
vs.
DAVID ALAN WESTERFIELD,
Defendant.

VERDICT

We, the jury in the above entitled cause, find the defendant,
DAVID ALAN WESTERFIELD, Guilty of the
crime of Murder, in violation of Penal Code section 187(a), as
charged in Count One of the Information, and fix the degree
thereof as Murder in the first degree.

Date 8/21/02 Jury #10
Foreperson

Picture 5.3.: The jury verdict form in the State of California v. David Alan Westerfield trial (Anesa 2011: 207).

However, some phases in the judge-jury interaction preceding the verdict can be identified:

- 1) the judge asks the jury if they have reached a verdict and the foreperson answers;
- 2) the judge can ask to read the verdict himself or invite the foreperson to read it;
- 3) the foreperson reads the verdict loud;
- 4) the judge thanks and dismisses the jury.

For example, as in the following scene:

The Good Wife 3x11

Judge: I understand we have a verdict.

Jury foreman: We do, Your Honor.

Judge: Mr. Foreman, you may read the verdict.

Jury foreman: We, the jury, find the defendant, Lauryn Fisher, guilty of murder in the first degree.

The verdict, instead, contains: the names of the parties, the number of case, the charge, the fixed introductive formula acting as performative act and the verdict (guilty/not guilty or in favour of and against). To these phases, the details of the punishment can follow according to the type of trial:

Jury foreperson: Yes, Your Honor.

Judge: And what is your verdict?

Jury foreperson: We, the jury, find for Raymond Demory and against the defendant Zennapril pharmaceutical and we assess damages in the sum of 800,000 dollars in compensatory damages and three million in punitive damages.

Judge: Thank you for your service to the state of Illinois. The jury is dismissed. Court adjourned.

The verdict represents such a standardized genre of the legal profession that it can be exploited as an immediate distinguishing feature of courtroom communication. Similarly, the verdict of the jury can be used as a means to introduce and distinguish different jurisdictions or one branch of law from another. In some episodes of *The Good Wife*, for example, the lawyers of Lockhart-Gardner find themselves in front of a military court to defend some clients who belong to the army. In particular, episode 2x02 deals with the legal principle of ‘double jeopardy’ and the impossibility of being taken to trial twice for the same crime, which, however, undergoes the exception of being tried by another jurisdiction⁶⁰.

As we have said above, the judge’s decisions, instead, can be less standardized and formulaic than the jury verdict and are fully monologic: the judge pronounces his/her own decision without the possibility of a reply from the lawyers, the defendants or other participants in the trial, who can only accept the judgment and appeal to it in a different form, according to what is established by the law.

The Good Wife 1x02

Bailiff: All rise for Judge Abernathy.

Judge: Good afternoon. I have given this case quite a bit of thought, as you can imagine. You have both argued your case well. But I find myself judging in favor of the defendant. Without a DNA match to the rape kit, we have a classic ‘he-said, she-said’ and as much as my personal sympathies lie with the plaintiff, the evidence does not warrant a favorable decision. Judgment in favor of the defense.

This example of judicial decision shows how, once again, the judge’s talk can be an instance of hybridized discourse, in which technical terms and everyday language intertwine. As for jury instructions, in fact, the judge uses colloquial expressions, idioms and common sayings (*I have given this case quite a bit of thought*) and draws on the shared knowledge (*we have a classic ‘he-said, she-said’*), involving his personal experience in the lawsuit. These devices create closeness with the interlocutors, which is also underlined by the direct address and the compliments he pays (*You have both argued your case well*).

Moreover, most of the speech is made referring in first person to the individual feelings and mind of the judge as separated from his professional identity (*as much as my personal sympathies lie with the plaintiff*). The ‘personal’ and familiar tone of the comment introducing and motivating the verdict, however, is neutralized by the final sentence, which closes the judgment in a brief and neutral manner with a standard technical formula (*Judgment in favor of the defense*) and is suited to the institutional nature of the communication.

⁶⁰ See the jury verdict in military jurisdiction compared to the civil jurisdiction in the sub-section on ‘Formulae’ in 6.8.3.

Up to this moment, all the main phases of a trial, which correspond to the evidential and the judicial phase, have been analyzed. However, as pointed out in 5.1., there is also a preliminary phase, which is mainly represented by the jury selection, but can also include pre-trial or preliminary hearings.

The twelve jurors and the six substitutes are chosen from a pool of people summoned to serve duty as jurors in a trial. The lawyers of both parties, however, can make a selection of the people they think are more likely to judge in their favor or, at least, not to show bias against their client. For this reason, the candidates have to answer a questionnaire (sometimes very long and including very personal questions), before being questioned again by the judge and the two counsels. This process is called *voir dire* and it is fundamental to find out whether the jurors could potentially rule in favor or against a client. However, the voir dire is officially meant to compose an impartial and unbiased jury:

The Good Wife, 5x21

Judge: The voir dire process is a very important one, because it enables the court and the lawyers to determine whether or not each of you would be appropriate jurors for this particular case.

Alicia: Canning's right. This trial is over in voir dire.

This does not mean that the lawyers cannot exploit it to their favor, as a means for knowing the single jurors' attitudes, beliefs and cultural backgrounds and then calculate their defense strategies accordingly. As a matter of fact, they can also exercise their right to a challenge for cause that is to say they can ask to dismiss the juror if they think s/he would not render an impartial verdict, but they can also ask for a peremptory challenge which is an unmotivated request for a juror's dismissal (Anesa 2011: 125-6).

The selection of the jury is sometimes represented in legal drama, since it involves a detailed portrayal of the jurors which can be useful when the authors choose to show the trial from the jurors' viewpoint, or when the topic of the lawsuit is of public domain and can involve the jurors personally for any reason connected to their life and culture.

For example, in episode 5x21 of *The Good Wife*, Alicia's client, Mr. Paisley, compares himself to the Jewish people persecuted by the Nazis and then offends the Italian and the Greek people blaming them for the financial crisis of their countries. Because of such declarations, Alicia knows that some of the jurors will be more likely to give a verdict against her client during the trial. The situation is reversed when the counterpart's lawyer, Louis Canning, appears on TV while defending a cause against the research for an AIDS cure, and two of the jurors now have reasons to be biased against him. The following scenes show the way the potential jurors are questioned, the way the lawyers can challenge them and for what reasons, and the mediation role exercised by the judge:

The Good Wife 5x21

Louis Canning: Ms. Economus, in your capacity as a human resources manager, do you have access to what other people make? I mean, salary?

Ms. Economus: Yes, I do.

Louis Canning: And does it rankle you sometimes how much more executives get paid than other employees? The CEO of your company, for example. How much more does that person make than the average, say, claims adjuster? I mean, 500 times?

. Your Honor, I believe *Mr. Canning is trying to prejudice our jury with out-of-court statements.*

law the news coverage of Mr. Paisley's comments, and I am inclined to agree.

Louis Canning: Your Honor, *I'm merely trying to determine whether this juror can fairly judge* a man who makes thousands of times what she...

Cary: Oh, so you're worried about jurors being fair to our client?

Judge: Okay. I'm ruling that any out-of-court statements having to do with class or economic differences are irrelevant. Now step back.

Louis Canning: Ms. Economus, how much of a reader are you?

Ms. Economus: Much of a reader? Well, I guess as much as anybody else. Though I read a lot in college.

Louis Canning: Have you ever read *"Diary of Anne Frank"*?

Alicia: Your Honor! Objection!

Judge: Mr. Canning, I warned you not to continue with the irrelevant questions.

As shown from this scene, the voir dire is very similar to the witness examination in its structure, but it is distinguished from it by the content of the questions, which in witness examination can only be aimed at the reconstruction of facts, while in voir dire are purposely concerned with the jurors' beliefs, attitudes, feelings and mind. However, the questions have to be consistent with the matter discussed in the trial and be aimed at verifying that the jurors can serve their function without biases. This is why Alicia objects (just as in witness examinations) that Canning is "trying to prejudice" her jury against her client "by using out-of-court statements". Her rival hides his real intention behind the excuse of "merely trying to determine whether this juror can fairly judge", but the judge rules in favor of Alicia and invalidates all the questions concerning the issues of recent public discussion. This is the reason why when Canning tries to "divert" the topic on Nazism and to refer to Paisley's offensive statements once again, he is reprimanded by the judge for a second time.

In addition to the objections to the way the potential juror is questioned, lawyers can also "challenge" the jurors and ask for their substitution. Legal dramas provide examples of both "peremptory" challenge and challenge "for cause"

The Good Wife 2x02: Challenge for cause

Will: And what do you mean by that, Corporal?

Corporal Barnard: I'm just saying, my sister was a victim of domestic violence.

Will: *So you're saying you can't be impartial towards a man accused of violence against a woman?*

Corporal Barnard: I guess it depends on the evidence.

Will: Your Honor, *we challenge this juror for cause on the grounds of bias.*

Judge: Corporal Barnard, if I order you to be unbiased, will you be?

Corporal Barnard: Yes, ma'am.

Judge: Good. You're seated.

The Good Wife 5x21: Peremptory challenge

Louis Canning: Your Honor, we have no objections to seating Mr. Rizzardi. He seems like he'd make a great juror.

Alicia: Your Honor, we'd like to exercise one of our peremptory challenges.

Louis Canning: For what? Why? What's wrong with him?

Cary: *Nothing's wrong with him. That's why we're exercising our peremptory challenge.*

Louis Canning: It's because he's Italian, isn't it?

Alicia: *It is our right...*

Judge: That's enough! Mr. Rizzardi, you're excused. (í).

Cary: Your Honor, may we approach again?

on.
gies, but I believe that one of Mr. Canning's... I mean, one of
seated may have been biased by my client's most recent
comments.

Louis Canning: Your Honor, this is outrageous. We've already agreed on each one of these jurors (í)

Cary: Yes, Your Honor, but if a statement has been made in the press, that would render one of them incapable of being fair and unbiased, well, it's like we all want a fair jury.

Cary: So, Ms. Economus, you heard my client Mr. Paisley's latest comments? (í) Uh, you must have been offended when Mr. Paisley said that if America starts rewarding losers instead of winners, we'll end up like Greece.

Ms. Economus: Uh, you know, now that you mention it, yeah, it was very offensive.

In the challenge for cause, it is interesting to notice how the juror's answer is distorted by the lawyer Will, who makes inferences from the juror's answer and about his objectivity (*So you're saying you can't be impartial*). The lawyer's aim is, of course to demonstrate that there is a reason to exclude him from the jury, though the attempt is not successful and the judge allows the juror.

The second excerpt from episode 5x21, instead, sees a reversal of the situation described above. Now it is Cary and Alicia who are trying to handle the jury selection in their favour, challenging and dismissing the members who could be biased against them, namely those of Italian and Greek descent. The 'appropriation' of this professional practice is clearly identifiable at this point: the authors of *The Good Wife* choose to represent the lawyers while resorting to the 'peremptory challenge' and to the 'challenge for cause' respectively.

In the first case, in fact, Alicia and Cary ask for the dismissal of the Italian potential member of the jury and the peremptory challenge is explained to the audience simply by means of a scene representing its actual realization (see 6.8.): Canning asks what is 'wrong' in him and the opposite counselors simply say: *'Nothing's wrong with him. That's why we're exercising our peremptory challenge'* This auctorial strategy allows to explain to the audience that jurors can be challenged and dismissed without any apparent reasons and the following scenes underlines that is different from the 'challenge for cause'. A juror of half Greek descent, Ms. Economus, in fact, is later dismissed because she is brought by Cary to admit that Paisley's statements were very offensive and therefore admitting her own bias in front of the judge.

5.5.4. The jury poll

Similarly to jury selection, other practices connected to the legal profession in jury trials are frequently object of fictional representation. An example is the jury poll, that is to say the practice of questioning each member of the jury on the verdict in favor of which they voted:

The Good Wife 3x11

Lawyer Coyne: Your Honor, we ask

Judge: Would you like me to poll the jury?

Lawyer Coyne: Yes, Your Honor.

Judge: Ladies and gentlemen of the jury, the defense would like to make certain that all members of the jury support this verdict, so I will ask you one at a time for your individual verdicts. (í) Juror number one, what is your verdict?

Juror n. 1: Guilty.

to say ‘Guilty of murder in the first degree’
 murder in the first degree.
 What is your verdict?

Juror n. 2: Guilty of murder in the first degree. (í)

Judge: Juror number five, what is your verdict?

Juror n. 5: I... Guilty of murder... in the first degree. Sorry. I’m so sorry. (í)

Judge: Juror number twelve, what is your verdict?

Juror n. 12: (*congested*) Not guilty of... Guilty of murder in the first degree (*clears throat*).

Judge: Well, thank you, jurors, that ends your service. We will reconvene on Friday for sentencing.

This scene contains both an example of jury instruction and of jury poll. The first takes place when the judge addresses the jury directly (*Ladies and gentlemen of the jury; I will ask **you** for **your** individual verdicts*) and when he explains the reasons of the poll (*the defense would like to make certain that all members of the jury support this verdict*), the consequences of the lawyer’s request and the modality according to which the poll will be carried out (*I will ask you one at a time for your individual verdicts*).

The following moments, instead, are a realistic representation of the process of polling the jury, made of the same question repeated to each of the jurors, who stand up in turn and pronounce their verdict. The popularizing power of these scene, in particular, is expressed by the mistake made by the first juror, who only answers ‘Guilty’ the judge corrects him and invites him to use the complete formula ‘Guilty of murder in the first degree’, underlining the standardization and the formal constraints of this practice which can take place at the end of a trial. The scenes which follow in this episode, moreover, show that the lawyers can draw assumptions from polling each juror (how many of them voted for ‘guilty’ and why, for example) and use them as a strategy for a later appeal to the verdict.

5.6. Interactions during the trial

5.6.1. Lawyers vs. Judge

Pre-trial hearings

In the previous sections the focus was on some genres belonging to the trial more or less frequently ‘borrowed’ and reproduced (or better, ‘embedded’) in legal dramas. As already said above, however, the phases of the trial are not the only contexts in which a communication between experts of law, or between a legal expert and a layman takes place. This section will shed light on all the other possible interactions which take place between legal experts or between experts and laypeople in the courtroom and in other professional contexts.

For example, before the ‘actual’ trial takes place, *pre-trial* (or *preliminary*) hearings can be allowed. In this preliminary phase, the lawyers present evidence for the case to be dismissed or allowed and motions to determine the conditions of the trial, or also, they can stipulate (i.e. officially agree, accept) on some of the facts demonstrated by the counterpart and come to an agreement between the parties which avoids proceeding to a trial.

This phase is characterized by a strong interactional aspect, since the lawyers talk directly to the judge or to each other, in order to obtain the acceptance of their motion and move the lawsuit in

of this kind can often be found in legal dramas, which containing discussions and the immediate feedback from the judge. This phase is also known to the general audience to a lesser extent, reason for which it is often introduced, defined and explained by the words of the fictional characters:

The Good Wife 1x03

This is a **pre-trial hearing**, which is another way of saying both sides should come to an agreement before going any further.

The Good Wife 1x02

This is just a **pre-trial hearing**. State's Attorney is trying to squash our subpoena, so today we just get the ground rules straight, in case this thing goes to trial.

The Good Wife 4x16

Perhaps Mrs. Florrick has forgotten, but the purpose of a **preliminary hearing** is to determine whether probable cause exists.

Being the interactions of preliminary hearings not based on pre-written texts (as opening statements, closing arguments and the questions posed in witness examinations), it is hard to find some textual and linguistic features which define the prototype of pre-trial hearings as a legal genre. However, the analysis of some scenes representing pre-trial hearings can help identify the way the function of this trial phase is linguistically expressed.

The Good Wife 1x02: pre-trial hearing

Lawyer Ericsson: Your Honor, given the stature of my client, Mr. McKeon, and *given the fact that this pre-trial hearing has already garnered the attention of our friends in the press, we would ask the court to seal the pre-trial filings and avoid a show trial.*

Judge: Oh, Mr. Ericsson, I don't think we need to do all that. Do we? First amendment issues and all? I deny the petition with regret. Mr. Gardner?

Will: Yes, Your Honor. We have a lot of testimony focusing on whether there was a consensual act between Mr. McKeon and my client, but *if Mr. McKeon is willing to stipulate there was, indeed, a consensual sexual act, we would forego this testimony.*

Judge: That's a good point. Mr. Ericsson, how do you respond?

Lawyer Ericsson: *We will stipulate there was no sex of any kind, forced or consensual, Your Honor.*

Will: The plaintiff also requests an expedited trial date, Your Honor, a DNA sample from Mr. McKeon, DNA results from the rape kit, and the investigative reports from the state's attorney's office. They have been... reluctant to furnish them.

Judge: Thank you, counselor. I will grant all four motions. Mr. uh... Ericsson? I interpret from Mr. Ericsson's, uh, gesture that he acquiesces. Well, I'll see you all back here... Let's see. My docket is clear. Five days? How's that for expedited?

The Good Wife 3x20: pre-trial hearing

Diane: Lindsay, Megan and Pamela. These three young women have spent five years in prison, Your Honor, five years, for a murder they did not commit.

Cary: Excuse me, Your Honor, that is still unproven.

Lawyer Segara: Yes, but what is proven is that the DNA tying these girls to the body was bogus.

Cary: Again, Your Honor, an assertion.

Judge: Yes, but it's not looking good for you. Is it, Mr. Agos? This is the fifth case I've had through here due to the malfeasance of the Illinois Crime Lab, and I've overturned all of them.



are built only on DNA. Here, there was physical evidence. The women were found in the vicinity of the body. on a trail that they used every day.

Cary: And witnesses at the summer camp testified to them repeatedly bullying Rosa Torres on the day of her murder, Your Honor. It is unfair to discount the totality of that evidence due to one simple infraction.

Lawyer Simko: One simple infraction? Really? The cornerstone of your case was the DNA. The jury was lied to.

Cary: Not by the state's attorney's office.

Lawyer Simko: Which is why the state's attorney's office should share in our anger at this injustice. They should be agitating for the immediate release of these women, not fighting against it.

Judge: Okay. Thank you, everyone. You can sit down now. Given the egregious nature of these crime lab infractions, I have no choice other than to vacate these convictions.

Diane: Your Honor, we would move for an immediate release.

Judge: Mr. Agos, do you intend to proceed on the original charges?

Cary: We do, Your Honor. And we would oppose bail. It was denied in the original trial, and we see no compelling reason for it to be granted now.

Judge: I would agree. The defendants are held for retrial.

These two excerpts help reconstruct the main features of the lawyer-judge interaction during pre-trial hearings.

The first interaction, in which the two opposing parties are represented by Will and the lawyer Ericsson, starts with the latter listing the conditions under which the trial is taking place, which are used as reason for his motions (*given the stature of my client, and given the fact that this pre-trial hearing has already garnered the attention of our friends in the press*). In particular, a reference to the phase of the trial in which they are can be noticed (*this pre-trial hearing has already garnered the attention*; *we would ask the court to seal the pre-trial filings*). These contextualizing expressions are used by the lawyer to connect his motion to the situation in which they are and underline that the evidential phase, the *real trial*, has not started yet. At the same time, it is a clever auctorial choice aimed at informing the audience about the trial phase represented and about what a lay watcher should expect when a *pre-trial hearing* is depicted. As a matter of fact, reference to the preliminary nature of this phase is also made in the second scene, where Cary specifies that the three defendants' innocence is still unproven.

The remainder of the pre-trial hearing is, quite predictably, mainly composed of a series of arguments and rebuttals between the opposing counsels. In the first scene, however, Will proves to be willing to find an agreement if the opposing counselors were ready to stipulate on some of their client's responsibility (*We have a lot of testimony focusing on whether there was a consensual act between Mr. McKeon and my client, but if Mr. McKeon is willing to stipulate there was, indeed, a consensual sexual act, we would forego this testimony*). The same attitude is fostered by the judge, who calls Will's proposal a good point and acts as a mediator between the two parties before they proceed to a trial.

In the second scene, however, Diane sides with two other lawyers (Simko and Segara), who repeatedly oppose the counterpart's statements. They support their arguments with relevant evidence and drawing on rhetorical figures, metaphors and emotional language (*One simple infraction? Really? The cornerstone of your case was the DNA. The jury was lied to; They should be agitating for the immediate release of these women, not fighting against it*). Also Diane's language is strongly molded by its persuasive function and aims at raising the judge's compassion

...ee young women have spent five years in prison, Your
...not commit). The lawyers' speech is therefore mainly
persuasive and aimed at the destruction of the counterpart's arguments.

However, some interactions during pre-trial hearings are also shaped by the formal constraints and formulaic requirements of legal practice, as in the case of motions. In the first scene, the first motion is filed by Ericsson, while Will's four motions are expressed at the end. In the second scene, instead, the motions all follow the judge's decisions. It is interesting to notice that all the motions which are accompanied by a motivation (*given the state of our client; They have been reluctant to furnish them; It was denied in the original trial, and we see no compelling reason for it to be granted now*) are accepted by the judge, while Diane's motion for her client's immediate release, which is not justified, expanded or supported by motivations, is denied.

Summing up, this brief overview on some examples of fictional pre-trial hearings brought to the following conclusions on the features of this genre:

- 1) it includes a series of judge-lawyers interactions and one or more monologic sub-phases representing the judge's decision(s); these decisions can determine the end of the hearing, but can also open up to new interactions;
- 2) the interactions have an argumentative function, whereas the judge's decisions have institutional value and a technical function;
- 3) the lawyer's motions and the judge's decisions are mostly justified; the absence of a justification equates to a lower possibility of motion granting;
- 4) the lawyer's motions and justifications largely rely on the use of emotional language and persuasive devices;
- 5) the lawyer's rebuttals aim at the destruction of the counterpart's arguments, statements, motions and motivations;
- 6) though the lawyers always use legal language, formulaic expressions and high/specialized register, the judge's expressions often contain colloquialisms and are characterized by humour and a more relaxed tone. This depends on the power hierarchy established between lawyers and judge, where the judge is the interactor in charge of the decisions and the one determining not only the communication itself, but also its outcome. This difference in the tone contributes to the hybridity of the language used in this genre.

Sidebar and chambers conference

Very similar to the interaction taking place at the pre-trial hearing is the sidebar conference or conversation, in which the lawyers are invited or allowed by the judge to have a discussion *at the bench*, off the record and outside the hearing of the jurors or spectators⁶¹.

The following example is drawn from the same episode mentioned above, in which the case with a double jury is staged: the prosecution (represented by Matan Brody) is arguing its case against two defendants, who are in love with each other but are defended by lawyers from two rival firms (Will and Diane from Lockhard-Gardner vs. Cary and Alicia from Florrick-Agos):

The Good Wife 5x12

⁶¹ Nolo dictionary: <http://www.nolo.com/dictionary/sidebar-term.html>. Last access: March 31, 2016.



e approach? The prosecution would like to recall Ms. Riggsø nony on re-direct.
Honor.

Judge: On what basis?

Diane: Its prejudicial impact outweighs its probative value. That's why my client's jury was sequestered in the first place.

Matan Brody: No, your jury was sequestered because Ms. Riggsø counsel elicited the testimony. It's a different matter if the prosecution elicited it.

Judge: He's right, Ms. Lockhart. Ms. Riggsø defense is that she was manipulated by Mr. Lampe. The prosecution wants to undercut that by presenting testimony alleging an on-flight liaison with a stranger.

Matan Brody: That's exactly right, Your Honor.

[1]

Will: 1 Which is why he was the only one who was speaking to Mr. Cazorla in the video. Right?

Alicia: Judge, sidebar? This is precisely the type of questioning that Mr. Gardner objected to.

Will: Apples and oranges, Your Honor.

Alicia: He's implicating our client in front of our jury.

Will: After you implicated ours in front of hers. (1)

Cary: We request limiting instructions.

Judge: No.

Alicia: Your Honor, without limiting instructions, our client's case is fatally compromised.

Judge: Sit down, Counselor.

Alicia: You understand that's reversible error, right?

Judge: Excuse me?

Cary: I think Mrs. Florrick is simply requesting an explanation for the record.

Judge: Here's my explanation. I'm tired of the games and the backbiting. We're gonna finish this trial. You understand? No more sequestration. No more limiting instructions. If you want to appeal at the end of it, knock yourself out.

Alicia: I would like to request conference in chambers.

Judge: You're on thin ice here, Mrs. Florrick.

Alicia: I understand. But there's a matter I've been remiss in bringing to the court's immediate attention.

On the whole, these two examples of sidebar interactions confirm the same global features identified in pre-trial hearings. In particular, these interactions, being centred on trial- and law-specific themes, show an even higher level of discourse specialization. For example, the lawyers make extensive use of technical terms and more "sophisticated" vocabulary. In the first interaction, Diane justifies her colleague Will's objection to the request of letting the jury listen to the testimony by saying that "its prejudicial impact outweighs its probative value". Statements like this imply that the interlocutor has deep knowledge of the concepts of "prejudicial impact" and "probative value", that s/he is able to verify if the one outweighs the other and to deliberate on this matter, as well as that s/he has competence of the consequences that the potential prejudicial impact can have on the trial. Therefore, Diane's comment can only be directed to a judge and is formulated in a form reflecting the communicative situation in which the utterance is set.

The same applies for Matan's rebuttal, which underlines the difference between the matter of the current discussion and the previous one, to which Diane referred (*No, your jury was sequestered because Ms. Riggsø counsel elicited the testimony*).

Similarly, later in the interaction, Alicia addresses the judge underlining that Will's statement is equivalent to the one the judge had previously ruled against, trying to insinuate a disparity in the

ge refuses Alicia's and Cary requests, she reacts with a
 sible error, right?), which is later turned and 'corrected'
 into a request for explanation by Cary (*I think Mrs. Florrick is simply requesting an explanation for
 the record*).

The judge's explanation for his decision is a further confirmation of the difference between the
 linguistic choices made by the lawyers and those made by the judge according to their 'hierarchical'
 positions. The lawyers' attitude towards the judge is clearly deferential and aimed at gaining his
 respect and consent; they tend to be as precise and technical as possible, as well as persuasive in
 their arguments and in their justifications.

The judge, instead, addresses them in a much more informal way, underlining his own condition
 of power supremacy. In particular, the final decisions he takes in the second interaction are marked
 by the expression of his personal feelings (*I'm tired of the games and the backbiting*), the recourse
 to everyday language, such as colloquialisms (*games and backbiting; we're gonna finish this trial,
 knock yourself out*), direct address to his interlocutor (*You understand?*), repetition (*No more
 sequestration. No more limiting instructions*) and metaphoric language and idioms (*You're on thin
 ice*).

The features already observed in pre-trial interactions between judge and lawyers are therefore
 more evident in this sub-genre, probably because the spatial proximity and the more intimate tone
 of the conversation, which is not heard by the other people in the courtroom and is not written down
 into records, lends itself to a more 'sincere' and straightforward linguistic realization of the
 interlocutors' intentions.

As a conclusion to this section, I would like to focus on an even more 'private' interaction
 between lawyers and the judge, the one taking place in the judge's chambers, which, instead, can be
 recorded in the official trial reports.

At the end of the last scene above, Alicia asks the judge for a 'conference in chambers', which is
 quoted here:

The Good Wife 5x12: Chambers

Judge: Juror misconduct?

Alicia: Yes! Your Honor, we saw two jurors from opposing juries...

Judge: They're not opposing.

Alicia: I Conferring with each other after court yesterday.

Judge: And what's your explanation for sitting on this?

Alicia: Context, Your Honor. Initially I thought it was an innocent exchange.

Judge: And did you witness this illicit communication, too, Mr. Gardner?

Will: No, Judge.

Alicia: Your Honor, that's... Mr. Gardner was with me.

Will: If Mrs. Florrick is accusing me of lying to the court, I assume she can corroborate that
 accusation.

Alicia: Uh... um, no, Your Honor. Per... perhaps I was mistaken as to what Mr. Gardner
 observed.

The call for a 'conference in chambers' is generally caused by the lawyer's intention to discuss with
 the judge a topic which has to be brought to his attention, most of the times concerning ethical
 breaches or the correct execution of the trial. In this case, still drawn from the episode with a
 'double jury, Alicia's concern is generated by seeing one of the members of 'her jury talking to one



ticular, she wants to exploit this breach in her favor to finally rule against her.

Similarly, the juror misconduct is also exploited as a means to invalidate the trial by Diane in another scene set in the judge's chambers (see also 6.5.1.):

The Good Wife, 3x11

Judge: Good, there you are, ASA Lodge. The defense claims to have evidence of jury misconduct.

ASA Lodge: The defense is desperate, Your Honor. At a certain point, justice has to be done...

Lawyer Coyne: It's being done. This is how justice works.

Judge: What do you have, Ms. Lockhart?

Diane: *Improper contact between a juror and nonparticipant is considered jury misconduct, Your Honor. Discussing a case with friends, relatives during the trial or deliberations. One of our jurors has done just that.*

Judge: Which juror?

Diane: Juror number five.

(1)

Juror: Uh, yes, Your Honor. I'm sorry, I should have said this before. This note was given to me in the jury room.

Cary: Oh, come on, Your Honor, this is ridiculous.

Lawyer Coyne: *5324a, Your Honor: jury tampering, or bullying, falls well within the judge's right to declare a mistrial.* I know, I interrupted Mr. Agos. I will go sit down now.

Cary: The jury's decided, Your Honor, and the defense shouldn't be allowed to keep throwing crap against the wall.

Judge: Thank you, Mr. Agos, but I think it's my job to figure out what is crap. Mr. Rudnick, did this threat change your view of the case?

Diane: Your Honor, that's not the point. The mere fact...

Judge: Ms. Lockhart, I didn't ask you a question. Mr. Rudnick, did this note change your mind about the case?

Juror: No.

Judge: So, when I polled the jury in court and you said "Guilty in the first degree" were you telling the truth?

Juror n. 5: I guess so, sure.

Judge: Ms. Lockhart, Mr. Coyne, again... Nice effort, but I deny your request for a mistrial, and I ask that you be more circumspect in the future with your approaches to jury members.

As may be perceived from scenes like these, one of the main distinguishing features of fictional reproductions of lawyer-judge interactions in chambers is that the lawyers underpin their theses by means of quotations or any other direct references to the laws pertaining to the specific matter and supporting their arguments. In the first case, in fact, Diane introduces the concept of "jury misconduct" by means of a denomination first (see 6.1.3.) and then providing examples of it. Similarly, her colleague Coyne, quotes the "5324a" rule containing a definition of jury tampering which in his opinion applies to the specific case. Both Diane and Coyne tend to use high register, specialized language, which lends them greater authority.

The language displayed by the counterpart, instead, is much more emotional and colloquial. It is as if the party asking for a conversation in chambers (Diane and Coyne in both cases) were ready to corroborate their request by means of devices strictly pertaining to the law, whereas the prosecution (Cary and the ASA Lodge) exploit the "destruction" of the defense and tend to belittle them: in the first encounter with the judge, ASA Lodge calls the counterpart "desperate" and draws on an emotional argument when she says that "at a certain point, justice has to be done". Then, Cary even

against the wall, choosing a very colloquial expression, asizes his disdain for the counterpart's behaviour.

Unfortunately, he does not know that the judge actually agrees with Diane and Coyne and is willing to find a reason to invalidate the trial. Nonetheless, the judge is obliged to follow the rules and to conduct a fair trial, so he asks the juror if he was really influenced by the note which was a tampering attempt and when he answers he was not, he cannot but deny Diane and Coyne's motion.

5.6.2. Lawyer-lawyer interactions

Interactions between lawyers do not have to take place in the courtroom in front of a judge or be adversarial. In the following cases, for example, the expert interlocutors are both experts engaged in cooperative communication with the aim of giving and finding advice or organizing their work:

The Good Wife 2x04

Peter: I think you're right. Go with unfair prejudice.

Alicia: My co-counsel wants to go with prejudice and cumulative evidence.

Peter: No, no, no, no, not with Judge Hale. She hates a fire hose defense. But this is good: -prejudice as policy. That's a very nice turn of phrase.

Alicia: Thank you.

Peter: You might use *Trent v. Paddock*.

(í)

Alicia: I'd like to argue the unfair prejudice motion, Andre.

Andre Baylon: Certainly. And I'd take cumulative.

Alicia: Actually, I was thinking we'd be stronger with just one. Judge Hale doesn't like a fire hose defense.

Andre Baylon: Really? And how do we know that?

(í)

Alicia: We didn't win a single motion. I'm meeting with our co-counsel now to rethink strategy.

Derrick Bond: So what's our endgame?

Diane: We want to keep our client's exposure to the insurance limit: half a million.

Derrick Bond: I don't imagine the plaintiff will accept a half million.

Alicia: Not after today.

Derrick Bond: Okay. Do the best you can; anything to get the settlement down.

These three scenes are drawn from one episode, in which Alicia has to defend her client in cooperation with a lawyer from another firm, Andre Baylon. Before the trial, she asks her husband Peter, the former State Attorney, for advice about the strategies to use in court.

What stands out in this interaction is its spontaneous nature, the complicity between the two and the lack of the need to explain anything to each other. This is not only due to the husband-and-wife relationship between Alicia and Peter (especially if we consider that at this point of the series their marriage looks compromised), but to the shared knowledge of the matter that they have. Very short phrases (*unfair prejudice*; *cumulative evidence*; *prejudice as policy*) are enough to evoke in the interlocutor the whole strategy to follow and all which is -behind it. The fact that the same expressions are used in the exchange between Alicia and her colleague Andre (with whom she is only acquainted and not in a close friendship relation) confirms the hypothesis that the degree of shared knowledge between experts in the same discipline, together with the cooperative purpose of their communication, brings to a very synthetic, highly specialized exchange, which however turns out to be fully efficient.

way lawyers express non-professional concepts when is. In the final exchange between Alicia, her boss Diane

and another firm partner, Derrick Bond, Alicia informs them about the negative outcome of the first hearing.

Though the three characters are meeting with the intention to be informed about each other's intentions and receive Alicia's update on the hearing, they use the pronoun "we". With the sentence "We didn't win a single motion" and calling the lawyer she is working with "our co-counsel", Alicia refers to herself and Andre, but at the same time she implicitly involves her two interlocutors (and perhaps the whole firm) into the case and sounds like asking for help and advice. After all, she is the least expert lawyer among the three and the lowest in the power hierarchy.

After Alicia's update, Bond asks Diane "what's our endgame?" though the strategy to be applied clearly does not depend on him, but on Diane, and the case is being discussed by Alicia. This reference to what is done by others as done by "our team" underlines once again the cooperative spirit of this interaction and the personal engagement of the speaker and helps identify the three participants in the conversation as a group sharing the same interests.

Finally, Diane's answer, "we want to keep our client's exposure to the insurance limit", shows a third standpoint from which the "we" can be interpreted, i.e. as the whole firm, or better, as the firm managing partners.

Besides the usual recourse to specialized language, which characterizes all kinds of communications between experts belonging to the same professional community (*keep our client's exposure to the insurance limit; the plaintiff*), the tone of their conversation is made even more "exclusive" by the use of metaphoric expressions referred to their strategies, such as "what's our endgame?" or a crystallized metaphor applying terminology borrowed from chess and other sports to their profession.

Summing up, interactions between lawyers, like those with the judge or with witnesses, can be "cooperative" and "non-cooperative". In the first case, legal drama reproductions tend to:

- 1) use technical language (*unfair prejudice, cumulative evidence*, etc.), references to previous cases (*Trent v. Paddock*) and metaphoric expressions (*endgame, fire hose defense*) which can only be understood by peers;
- 2) represent the participants in the communication as explicitly identifying themselves as a group (*We didn't win a single motion; what's our endgame?*);
- 3) establish hierarchies between less and more expert or less and more powerful participants.

As for non-cooperative interactions, instead, when they take place in front of a judge whose decisions determine the trial, lawyers can act following two opposing directions:

- 1) they rely on laws, jurisprudence, evidence, logic reasoning or any other sources supporting their thesis;
- 2) they rely on ethical arguments (*justice has to be done*), emotional involvement of the lawyers intended to involve the judge, and even on explicit language (*the defense shouldn't be allowed to keep throwing crap against the wall*) and threats of personal backfiring for the judge, as Alicia does in episode 5x12.

In both cases, the argumentative tone often leaves place to a larger "destructive" side of the interaction aimed at a belittling representation of the counterpart.

The previous sections have provided an analysis of the communication between the lawyer and the jury (opening statements, closing arguments) and between the judge and the jury (jury instruction); then the focus moved on the interaction between judge and lawyer and between the lawyers, both with a cooperative purpose and not, while the interaction between lawyer and witness has been widely described in the section on witness examination.

To complete the view on all the main interactions in courtroom (or in other legal contexts) which are reproduced in legal drama as genres embedded in the fictional framework, a brief analysis of the interactions between expert and non-expert *par excellence* is needed.

Cooperative interactions

Lawyers mainly talk to their clients about specialized legal concepts when they try to explain phases of the trial, decisions, procedures or laws which are involved in their lawsuit and have direct consequences on its outcome and, subsequently, on their private lives⁶².

Therefore, the focus is not on theoretical aspects of the principle underlying the law, but rather on the concrete applications that it has on the specific case and on the consequences on the client's life.

Going back to episode 5x12 from *The Good Wife*, in which the two teams from opposing law firms (Alicia and Cary versus Will and Diane) are defending two customers who are in love (Howard Lampe and Darla Riggs) and where we have analyzed the jury instructions and the verdict (see 5.5.1. and 5.5.2.), we can now focus on the interaction between the lawyers and their clients when discussing the offers of settlement coming from the State's Prosecution and while comforting them while they wait for the jury's verdict:

The Good Wife 5x12

Diane: They're offering six years.

Cary: I For each of you, but it's a package deal. You both plead to simple possession or neither of you do.

Howard Lampe: Oh, it's an elementary game theory, you know? We're better off if we act together, but not as well off as we might be if we act alone.

Alicia: It's the prosecution's idea. They want to play you against each other.

Will: They weren't offering a plea before trial, now they are. It means they know we've made a dent in their case.

Howard Lampe: And wh... what are our chances of beating this?

Alicia: Um... why don't we talk over here?

Howard Lampe: No, no, no. No. We're, uh... we're in this together.

Cary: Okay. You cut a pretty sympathetic figure, Howard.

Howard Lampe: Because my jury thinks Darla manipulated me?

Alicia: Yes.

Darla Riggs: What about my jury?

Will: It's better if they think you're Howard's pawn.

Howard Lampe: So our best chance here is if no one believes we're in love.

Alicia: Yes.

⁶² See also the reformulation of the jury's verdict in Section 6.1.5. and the scenario of the consequences of an Alford plea in Section 6.6.3.

...e of the trial. It's just for how you appear in court.

...g. They're afraid of walking away with nothing, so they've
 sweetened the offer.

Cary: Four years. You'll be eligible for parole in two.

Howard Lampe: But do you think I can win?

Alicia: I don't know.

Howard Lampe: My life is probabilities. The odds of... me meeting Darla, it's two million
 to one. And the odds of our falling in love: 60 million to one. What are the odds of an
 acquittal?

Alicia: It's a coin toss. But the downside...

Howard Lampe: If you were me, what would you do, Alicia?

Like the scene in which the lawyers explain to their client what an "Alford plea" is (section 6.6.3.), these excerpts show the four lawyers explaining to Howard and Darla what the Prosecution's offers are, why they change from time to time during the trial and what advantages and disadvantages the acceptance of such settlements would entail for them.

The first offer (six years reclusion each if both of them plead guilty) is introduced by Diane, who only specifies the duration of the incarceration (*They offer six years*). It is Cary's concern to explain the counterpart's strategy, and he does it by means of metaphoric language (*it's a package deal*) and of a scenario which reformulates the metaphor (*You both plead to simple possession or neither of you do*). Analogical reasoning and metaphoric language are also used by the client, who, being a mathematician, compares the situation to an "elementary game theory", and then explains it by means of a hypothesis (cf. 6.6.). Alicia confirms his deduction and specifies what this means for them (*They want to play you against each other*), while Will underlines that the fact that they are proposing a settlement is an index of "a dent in their case" that the team of lawyers has succeeded in making.

After this first exchange instrumental to the construction of the context, the rivalry between the two groups of lawyers emerges and it is expressed linguistically by Alicia's attempt to talk to her client separately. Both the Lockhart-Gardner and the Florrick-Agos lawyers confess to their respective clients that it is better for them if the jury thinks they were actually not in love, but trying to "exploit" the other; to this purpose, metaphorical language is used once again (*Darla manipulated me; Howard's pawn*).

The aspect which distinguishes lawyer-client interaction from any other interactions (even the other expert-layman, such as judge-jury or lawyer-witness), however, is the lawyer's reassuring purpose in response to the quest for information coming from the clients. In the final lines, in fact, Alicia and Cary meet Howard to tell him about the last offer coming from the prosecution after the jury has already found Darla innocent. Alicia deduces the reasons that lead the prosecution to "sweeten" their offer; Cary, instead, shows all the conditions, underlining Howard's most favorable future perspectives if he accepts (*You'll be eligible for parole in two*).

However, the knowledge asymmetry between the client and his lawyers is underlined by the language used by the two lawyers, which is still too "specialized" and opaque for the client. This opacity is added to the fact that the client is not used to legal procedures and causes his impossibility to evaluate if the counterpart's offer is advantageous. The gap of knowledge and information is only filled by a switch towards the "human" emotional aspect of the relationship between Howard and his counsel: he explains that his whole life has always been a matter of probabilities and odds (even in love) and asks Alicia for personal advice. Alicia's "accommodating"

rlocator is expressed, one more time, by a metaphorical

To sum up, in the representations of cooperative interaction between lawyer and clients in legal dramas:

- 1) expert characters (lawyers) and non-expert ones (clients) act on the same social level; the knowledge of the procedures and of specialized principles connected to the legal profession does not affect the power relations, but rather catalyzes the cooperation between the interactors;
- 2) lawyers rely as little as possible on technical terms and if they do, they reformulate them or explain them by means of scenarios (hypotheses, conditions, consequences, see 6.6.);
- 3) metaphorical language is used both by the expert and by the lay interactors as a compromise or a mutual accommodation in the process of negotiation of the specialized contents to be communicated.

Non-cooperative interaction

Lawyer-client interaction, however, can also not be aimed at cooperation. Sometimes, the lawyers' private intentions can prevail and the persuasive function take over the informative/explicative one. It is the case of the lawyers trying to convince their clients to accept a counterpart's proposal, or to sign any agreement, as in the following scenes:

The Good Wife 2x05:

Derrick Bond: This is the attorney-client retainer agreement. When you sign that, we're your lawyers, everything we say is privileged and cannot be used in court. But up to that point, up to the point you sign this form, we can be subpoenaed, so, in order to protect you, we're not going to take any notes, okay?

Lara White: Okay.

The Good Wife 2x13:

Alicia: It's a consent form, Julie. Just a formality for the court.

Julie: I like you, Mrs. Florrick. But that was my friend Gail on the phone. She thinks I should listen to this other lawyer before I decide.

In both cases, the tone of the conversation is particularly friendly, almost acquiescing, since the lawyers' aim is to persuade the customers to do how they say.

In the first scene, the lawyers from Lockhart-Gardner, Diane, Alicia, Will and Derrick, are trying to understand if the woman who went to their law firm to report a Nobel Prize winner for sexual harassment is reliable. Therefore, before she starts talking about what happened, they explain what an attorney-client retainer agreement is (i.e. the agreement by which a client officially appoints a lawyer) and what it entails (*When you sign that, we're your lawyers, everything we say is privileged and cannot be used in court*). At the same way, they also tell her that before they are her lawyers, there is no attorney-client privilege and any note they write about the case can be potentially subpoenaed in the future. They do so because they do not want to take any responsibility for the woman's potential defaming purposes and want to be sure that their client is aware of this and agrees.

ance of the act to sign is belittled (*Just a formality for the*
is speaking attempted to reach her private intentions as

soon as possible, trying to remove any potential doubt in the client who, however, declines to sign.

Finally, exchanges between lawyer and client can be non-cooperative and based on reciprocal hostility, as in the following case:

The Good Wife 4x10

Nick Savarese: I know you're the wife of the state's attorney. You don't want to say anything to anyone about this drug charge. Ever. Attorney-client privilege and all that.

Alicia: Here's the thing, Mr. Savarese. Attorney-client privilege is voided if I'm threatened. So let me ask you this, and I suggest you take a moment before answering. Are you threatening me? You decide.

It is in cases like this that the knowledge of law clearly corresponds to power. Nick Savarese, Kalinda's secret ex-husband, is trying to threaten Alicia with some evidence he had against her husband Peter, in order to damage Kalinda. His awkward attempt to use attorney-client privilege as a shield, however, is spoiled by Alicia, who defends herself by telling him that the privilege is voided in case of threaten. At this point, she overturns the situation and gains the power thanks to her knowledge of the law: now she is in the position of threatening Savarese with breaking the privilege and reporting him.

In non-cooperative interactions, like in cooperative ones, the power is held by the person who also owns knowledge of the law. This superiority in knowledge can be exploited by the expert speaker as a persuasive device or as destructive of the other's argument.

This overview on the interactions between lawyers and clients brings to the conclusion that the main functions of this kind of communication are mainly persuasive and informative. It is generally informative when the lawyers aim at a good outcome for their clients, or at reaching an agreement with them. Otherwise, the knowledge of legal procedures and principles is deployed as a means of persuasion and the recourse to evaluative strategies can help construct them in the layman's eyes according to the lawyers' intention. For example, Alicia describes the consent form as a 'formality' so that her client could be more motivated to sign it and at the same time; Derrick describes attorney-client privilege as a shield (*in order to protect you*), while in another scene the same principles is exploited by Alicia as a threat (*I suggest you take a moment before answering*).

MICRO-LINGUISTIC ANALYSIS: LEGAL DRAMA AS A MEANS OF POPULARIZATION

The last analytical chapter of this thesis is dedicated to the micro-linguistic analysis of the data collected from the legal drama corpus. After the macro-linguistic analysis has shown the appropriation of legal-specific genres and text-external resources in legal drama and demonstrated that their recontextualization can favour popularization, this final section will show to what extent the discursive strategies identified in other more traditional genres of dissemination (listed in 2.2.) recur in legal drama, demonstrating its popularizing function.

6.1. Explanation

If we were asked what we mean by the word 'explaining' most of us would probably answer 'to make something understandable' and would probably say that the two main ways to 'explain' something is saying it in other words or bringing a 'concrete' example of what is explained. In expert-lay communication, the first can be done by avoiding technical or specialized terms which impede a successful communication: technical terms are unknown or opaque to the receiver and thus require a 'reformulation' in simpler, more common or everyday words, as far as it is possible. A technical concept could also be explained by means of an analogy to a concept which is presumably closer to the addressee's experience and knowledge, by recounting or making references to shared knowledge of past actions or facts or, simply, by making an example.

When making examples, we describe prior events or premises, the participants to the facts ó whether potential, possible or actual ó their reasons for acting in a specific manner, the facts themselves and especially the consequences of the facts. In other words, we 'contextualize'. This generally makes the addressee's mental image unambiguous and creates a connection between the 'new' information or technical term and a cluster of potential elements which represent a realization of it. Simply, it provides an 'explanation'. In both cases, we tend to use those meaning-making modes that Heffer (2005: 22-26) would categorize among the 'narrative' modes. In particular, making references to past actions, events or facts in a sequence-like way, would be an expression of the 'actional' sub-mode, while all the processes used by the speaker to reconstruct the interlocutor's knowledge and feelings in order to address them belong to the 'intersubjective' sub-modes of meaning making.

To reach the non-expert audience, the authors of legal dramas can exploit some of these devices to explain the technical legal contents. This section will provide an overview of the ways explanation can be achieved and will show that it is obtainable by a mix of linguistic, textual and communicative strategies, among which the use of narration, of examples, of the actual consequences and the use of other words. Sometimes, a single strategy is sufficient to achieve the purpose to explain; sometimes, however, the exploitation of a combination of more than one strategy is necessary.

Explanation by narration is the most straightforward, immediate and direct example of popularizing strategy relying on the *narrative* mode. It basically consists in situating events in time and space and providing a sequential, chronological explanation of the facts. As seen in the macro-linguistic analysis of the legal drama corpus (Chapter 6), narrative represents a major feature in some of the trial phases: for example, in witness examinations, witnesses are questioned in order to reconstruct the facts and to demonstrate the guilt (or innocence) of the accused; in opening statements and closing arguments, however, a summary of the facts is provided and counsel speak in defense of their own clients. But, besides being instrumental to the fictional reproduction of such phases of trial, narration can also prove useful to the clarification of legal concepts and procedures external to the trial and often unknown to the audience. It is not by chance that Heffer (2005) sees in narration the most basic mode of communication. An interesting observation on the role of narration as explanatory and informative is also formulated by Isani (2011: 8-10), when, referring to professional based fiction, states that *narrative* blends with auctorial didactic discourse designed to enlighten the lay reader.

A non-expert public of US and non-US citizens, for example, can have a vague idea of the legal validity of an arrest, of a marriage or of a trial, but probably also ignore under which conditions such actions are deemed valid by law.

Illegal arrest

In the ninth episode of the first season of *The Good Wife*, the protagonist, Alicia Florrick, has just been hired by the firm Lockhart, Gardner and Stern and has to represent one of the senior partners of the firm, Jonas Stern, who was arrested for DUI (Driving Under Influence). However, she finds a way to invalidate all the evidence against her client:

The Good Wife 1x09

Alicia: We move to disqualify the video on the grounds that it was obtained as the result of an *illegal arrest*.

Matan Brody: Your honor, what could possibly be illegal?

(1)

Alicia: Officer Sutton stated on his dashboard video: *‘Don’t make me put the handcuffs back on you’* implying that he’d been handcuffed previously.

Judge: Did you, officer Sutton?

Officer Sutton: *I’d handcuffed him when I found him in the bar because he was belligerent, as you see in the video. But when I brought him outside, I took the cuffs off so I could perform a sobriety test.*

Alicia: Was Mr. Stern armed?

Officer Sutton: No.

Alicia: Did you fear for your life?

Officer Sutton: No, but, I...

Alicia: *Then it was an arrest, your honor. Mr. Stern was not free to go. And officer Sutton had no probable cause. The mere fact that it was an accident does not mean a crime was committed. So everything that follows is tainted, the sobriety tests, the video.*

As stated before, narration is particularly frequent in scenes staging witness examinations, as in this case. Here the narration is divided between the attorney who is questioning (Alicia) and the witness

Alicia of handcuffing the defendant Mr. Stern before the
The narration takes the form of a reported speech (*Officer*

Sutton stated on his dashboard video: ‘Don’t make me put the handcuffs back on you’), and is later commented emphasizing that this sentence implied that he had been previously handcuffed and the existence of a previous, illicit form of arrest.

After the judge’s question to confirm or deny Alicia’s deduction, the witness answers with a direct narration, where the use of the tenses is of particular relevance. The Past Perfect tense is first used by Alicia, implying the precedence of an action to another: by its use alone, she can corroborate her thesis and underline the correctness of her reconstruction of events. But the Past Perfect acquires a higher value when it is used by the witness (*I had handcuffed him*), who admits the deed, but also contextualizes it and collocates into a different narrative frame.

The witness’s narration is expressed in first person and by a list of past actions (*I found, I brought, I took, I could perform*), which are among the most typical features of narration in general, but I would also focus on other elements giving form to the narration, such as the connectors. In Alicia’s speech, the two clauses are connected by a gerundive form + conjunction (*implying that*) expressing a causal relation between them. In the witness’s speech, instead, sentences are mainly connected by temporal conjunctions or adverbs, and the focus is therefore on the chronological linearity, with the intention of reconstructing a frame in which his actions took place and to justify himself.

Narration is the expression of two of the three sub-modes of meaning construction identified by Bruner (1990, 1996) according to which Heffer (2005) analyses legal-lay discourse (see Chapter 2): the *actional* sub-mode is expressed by the mere sequence of actions reported by the witness and reconstructed by Alicia; the *intersubjective* mode is expressed by the interpretation of the mental and emotional states of those involved in the narration, e.g. the relationship of control and submission that officer Sutton had imposed on Mr. Stern by means of the illegal arrest, Sutton’s definition of Mr. Stern as *belligerent* and Alicia’s deduction that Stern was *not free* and that Sutton was not in fear for his life.

The third sub-mode, the *normative* one, is expressed by the applicability of norms on the facts. According to the US law, arrest can take place where there is *probable cause* which is generally evidence of committing a crime or a breach after an investigation, but in this case would be represented by a situation in which the person arrested is armed and the police officer is in fear for his/her own life. Since Alicia has demonstrated that the police officer’s life was not in danger, the next scenes in the episode show that the arrest is declared illegal by the judge and the video is disqualified and excluded from evidence.

While entertaining the audience, the authors of *The Good Wife* have been able to stage a situation which is likely to take place in a courtroom: Alicia demonstrated, by means of witness examination and reconstruction of facts provided by the available evidence, that an arrest had been performed in an illegitimate way. Thanks to this scene, the audience has been informed of what elements are deemed necessary by the US law for an arrest to be legally valid.

Negligence

As in the case just described, narration often implies references to concrete and actual facts. In the following scene, for example, Alicia is trying to file a class action against a company, J&L Pesticides, which disposed of their toxic wastes in the wrong way and in an inhabited place,

and causing serious illnesses in the families living there. negligence and to persuade as many people involved in the

tragedy as possible in the class action:

The Good Wife 2x13

Alicia: *The pesticides were buried here...and here. A hundred and two families affected in all. I've spoken to half so far and I'll speak to the rest by the end of the week.*

Annette: And what happens if I do sign?

Alicia: Then we'll bring suit to J&L Pesticides. *They were negligent. They could have disposed of their Chlorodine reserves properly. Instead, they buried them near your groundwater.*

To convince one of the victims' neighbors to participate in the class action, Alicia makes use of narration. In the first sentence, she relates the facts connected to the disposal of the waste with the help of a map where she shows the points where pesticides were buried. After the potential client poses a question about the possible effects of her participation into the class actions, Alicia answers and goes back to the narration, explaining why the way the company disposed of their waste can be considered a result of negligence.

Once again, the three aspects of narrative mode are featured: the actional sub-mode by the description of the way the wastes were buried, the intersubjective one in the reconstruction of the intentional negligence of the company (*They could have disposed of their Chlorodine reserves properly. Instead, they buried them near your groundwater*) and the normative in labeling their behavior as negligent and the consequent decision to bring suit. In this case, narrative was exploited by the authors of *The Good Wife* to explain that negligence can include the intentional disposal of reserves of toxic material in places where it is not allowed, especially when this entails massive negative consequences on other people and that this is punishable in a million-dollar class action.

Court-ordered mediation

As we will see, in most cases, strategies of popularization are combined, as happens in this example. This is, in fact, an example of explanation by narration within the frame of a concrete realization (see section 6.8.), i.e. the process of clarifying a specialized concept to the less-expert interlocutor by means of a direct, concrete example. In this scene drawn from episode 3x03, Will and Alicia are obliged to come to an agreement with the counterpart, represented by Celeste Serrano, by means of a court-ordered mediation, a form of ADR (Alternative Dispute Resolution) imposed by the judge in lieu of the traditional lawsuit in court. Will and Alicia maintain their client is victim of a fraud, while Celeste argues it was an accident, so the mediator is not able to find an agreement between the parties:

The Good Wife 3x03

Mediator: This is court-ordered mediation. It's not opt-out mediation or I-don't-feel-like-it mediation.

Will: We know that, but what can we do? We can't negotiate with a stone.

Mediator: Yes, but you can lower your ask. Given the set of facts I'm looking at, well, it's way too high. And the law is far from clear as to...

Will: Then let's go to court.

Mediator: Look, *the judge doesn't want to clutter up his docket. That's why he empowered me to keep you here as long as I want to reach a compromise. And I will.* So show me some movement.

sue for 38 million dollars in punitive. We got her down to 14.
s theirs?
ask.

The court-ordered mediation is introduced by means of a ‘concrete realization’ (see 6.8.), which is expressed by a descriptive introduction to the situation (*This is court-ordered mediation*), by the dialogues between the parties, mutually reproaching not being collaborative in finding an agreement and by the references to the alternative way to come to an agreement (*Then let’s go to court*). Moreover, a series of extra-linguistic elements making up the context of communication (such as the spatial-visual setting and disposition of the participants, prosodic elements such as the tones used by the actors etc.) help the audience identify the communicative situation.

All these elements are subsidiary to the narration, which takes place when the mediator explains the reason why the parties are there: the judge did not want to ‘clutter up his docket’, so he decided to assign the case to a mediator. The narration is continued by Alicia, who, in their defense, relates an initial situation (*Our client wanted to sue for 38 million dollars in punitive*), a change in that situation (*We got her down to 14*) and underlines her willingness to reach an agreement in compliance with the aims of the court-ordered mediation, as opposed to the counterpart’s reluctance (*That is movement! But where is theirs?*).

In this example, rather than the ‘actional’, ‘intersubjective’ and ‘normative’ strategies of meaning-making, I would like to underline the importance of the evaluative strategies, considered by Heffer an extra category of strategies applying to all three sub-modes (2005: 23, see 2.2.). According to him, evaluative strategies are represented, among others, by all the strategies used to ‘convince the jurors of the likelihood of a scenario having taken place’ (2005: 25) or, more in general, to persuade that what is maintained by the party is true or lawful. Evaluative strategies are, for instance, phonological intensification of key points in narration or the use of causal explicatives⁶³:

EVALUATIVE STRATEGIES	
NARRATIVE	PARADIGMATIC
Intensify the actional or the intersubjective	Demonstrate logical or empirical truth
Compare actional and intersubjective with canonical	Compare demonstrable instance with definition of class
Use direct speech of narrative agents	Appeal to authority (e.g. through citation)
Comment subjectively on narrative events	Comment objectively on analytical results

Table 6.1. Narrative and paradigmatic mode in evaluative strategies (Adapted from Heffer 2005: 23)

Almost all the evaluative strategies identified by Heffer (see Table 6.1.) can be observed in this scene:

- the ‘actional’ and the ‘intersubjective’ are intensified when Will says that they ‘*can’t negotiate with a stone*’,

⁶³ See also officer Sutton speaking in his own defense in example 1 in this section.

- comparison with a "canonical" mediation is made when the mediator asks, "Given the set of facts I'm looking at, well, it's way too high. And the law is far from clear as to where their offer is evaluated on the basis of the facts and reference to the law is made;
- subjective comments on narrative events are frequent (*It's not opt-out mediation or I-don't-feel-like-it mediation; what can we do? We can't negotiate with a stone; That is movement! But where is theirs?*), though at the same time, references to logical or empirical truth or objective comments are also embedded (*Given the set of facts I'm looking at, well, it's way too high*).
 - the appeal to authority is expressed by the references to law, as in the attempt to appeal to the clarity of law in solving similar controversies.

On the basis of the reflections emerged by the linguistic analysis of this scene, we can thus state that it does show court-ordered mediation by means of a concrete staging and reproduction of the context, but its ultimate goal to explain what court-ordered mediation consists in is achieved by the use of narrative and evaluative strategies. It is the mediator's narration which explains the reasons why a court-ordered mediation can take place (*The judge doesn't want to clutter up his docket. That's why he empowered me to keep you here*), its goals (*to reach a compromise*), the processes it implies (*Our client wanted to sue for 38 million dollars in punitive. We got her down to 14*) and even the criteria in compliance to which such processes take place (*Given the set of facts I'm looking at, well, it's way too high*), giving the audience a complete view on this form of ADR.

6.1.2. Explanation by consequences

An alternative possible strategy to get through to the audience and clarify some aspects of the legal system which are particularly opaque is to describe the phenomenon by focusing on its factual, tangible consequences. In the case of legal dramas, I will call "explanation by consequences" the cases in which what is shown and described are the consequences of a motion, a judgment, a law or a crime of one or both the parties involved in the trial. In other words, the legal concept is explained by describing what happens to the parties whenever it happens in a courtroom (or in any other context outside the courtroom). In most cases, the use of this strategy reflects the intention of the authors to display some specific court procedures that can affect or influence the denouement of the plot or the state of the (fictional) facts, especially when they stage the possible concrete consequences of a crime, as shown later in the example from the episode 1x10 of *Suits*.

I would like to specify that I will consider "explanation by consequences" only the cases in which the consequences of a legal concept are reproduced and staged "directly" and not those in which the consequences are formulated as an hypothesis or a possibility and potential consequences are discussed. In that case, the popularization strategy used is not an explanation, but the use of a scenario (see section 6.6.).

Gag order

The strategy that I would define "explanation by consequences" is used to explain the concept of "gag order". This "instrument" in the hands of the US judges is mentioned in at least two episodes of *The Good Wife*, in both of which it happens to be explained by means of its consequences. The

anation of an order issued by the judge by means of its
e linguistic choices made in legal dramas are the result of

specific criteria based on the possibility to convey the concept to the audience: it is not by chance that explanations by consequence are exploited when the concept to be popularized concerns the possibility to prevent one of the parties (or both) from doing something.

In episode 2x04, the protagonist, the lawyer Alicia Florrick, and her husband, the former State Attorney Peter Florrick, are talking about one of Alicia's cases. Peter asks Alicia for some information about the case because he is directly involved in it, but Alicia cannot answer:

The Good Wife 2x04

Peter: Did... Did you depose Childs?

Alicia: Um... Peter, I can't. I'm under a gag order. I can't say anything.

The good wife Alicia cannot give this kind of privileged information to her husband since she is under a gag order meaning she is prevented from saying anything. This first mention of the concept of gag order introduces the concept by explaining its main consequence, which is preventing people from disclosing to third parties what happens in court.

However, it is by some scenes drawn from episode 2x07 focusing specifically on the consequences of gag order, that the audience is informed about the conditions in which a gag order can be deemed necessary and apply, the domains and the forms of communication to which it can be extended, and, in particular, the consequences in terms of punishment that can be caused by lack of compliance to it:

The Good Wife 2x07

Judge: Likewise, counselors, I have been informed that both the defendant and prosecution witnesses have been live-tweeting this trial. *You are all under an electronic gag order. No texting, no tweeting, no Facebook.* Is that understood?

Will: Yes, Your Honor.

(í)

Judge: Everyone front and center now.

Alicia: What's going on?

Will: Your Honor, this was just brought to our attention.

Judge: And of course, that makes it better.

Cary: We would urge this court to revoke bail.

Will: Your Honor, that would be an overreaction.

Judge: To a clear defiance of my orders? Really, Counselor? And what would the proper penalty be for this: Corey is such the bitch. Went panty-less in court just to rebel?

Will: Your Honor, if I may...

Judge: Mr. Gardner, when I order something, I want it followed.

Sloan: I'm sorry, Your Honor. It was just for my fans. It won't happen again.

Judge: Well, you're damn right it won't happen again because in lockup, they won't let you tweet.

Sloan: No, please...

Judge: Young lady, your whole life, people have allowed you to make excuses. Well, that ends today. *Bail has been revoked.* Sheriffs.

The facts happening in this scene make it very simple to understand a gag order by its consequences: the judge had released a gag order to prevent parties disclosing any information about the proceedings, especially via the internet and social networks. However, that is exactly what

l is revoked and she will be held in jail for the rest of the first described in the judge's first utterance, just after he

mentions it and he does it by bringing possible examples of ways to break the gag order (*No texting, no tweeting, no Facebook*), which, at the same time, is a consequence of the fact that his order was put into force. Then, in a scene set on the following day, the consequences of the breach of the gag order are shown, namely Sloan's detention in prison.

Superinjunction

The same pattern is used in the following example, drawn from episode 3x02 of *The Good Wife*, where the attorneys are trying to invalidate a superinjunction imposed on a book in order to use its content in their favor:

The Good Wife 3x02:

James Thrush: Mr. Cardiff instigated a *superinjunction*, which, of course, means not only are we prevented from discussing the book here, we are prevented from even discussing the supposed events alluded to in that book.

Will: Oh, come on!

James Thrush: Even the request by my learned colleague here must be stricken from the record. It is as if the book and its events, and even events questioning the events, never happened.

Timothy Brannon: Unless, of course, it's discussed in the English press, Your Lordship.

James Thrush: Yes, and we would ask for a superinjunction to prevent the mention of the superinjunction.

(...)

Timothy Brannon: 100,000 tweet followers, Your Lordship. The superinjunction and Mr. Cardiff's actions are now a matter of discussion in the English press.

James Thrush: This is an obscenity, Your Lordship.

Timothy Brannon: In this morning's *Chronicle* "What did Oliver Cardiff do on the slopes of Trango II?"

James Thrush: Your Lordship, where is the respect of our laws when any young thug with a computer and Twitter account can circumvent a lawful injunction?

(í)

Timothy Brannon: The subject of Mr. Cardiff's actions during his Pakistani climbing expedition are now a subject of concern in the English press, Your Lordship. Therefore, I do not need the manuscript of *Only in May* in order to ask these questions.

James Thrush: We still believe the stricture of the superinjunction applies, Your Lordship.

In this scene, at least four "enchained" consequences are explained. The first is the most explicit one, that is to say the direct consequence of the application of a superinjunction on the book (*not only are we prevented from discussing the book here, we are prevented from even discussing the supposed events alluded to in that book*), which is then exaggerated by the opposite counsel, who underlines that even the request to invalid the superinjunction and any reference to the book must be stricken as if the book had not existed.

The second consequence used in the scene to explain the superinjunction is staged when, after managing to have 100,000 Twitter accounts "tweeting" on the book, among which newspaper such as the cited *Chronicle*, the actions contained in it become matter of the press.

The third one is the consequence of the book becoming matter of the press, namely that the superinjunction is no more considerable valid.

is now questionable. This is the forth consequence in the
 o reach their purpose.

±Evaluativeøstrategies (see section 5.1. and Chapter 2) represented by the characters commenting
 subjectively (õOh, come on!ö and õThis is an obscenity!ö) are used to emphasize the way consequences
 are shown to the audience. The audience familiarizes with the concept of ±superinjunctionø now
 they know what it means, where it can apply, in which cases does not apply and what are the
 consequences of its validity and of its invalidation.

Motion to substitute

In the next scene, the exchange takes place in courtroom again, but it is between the lawyer and the
 judge alone. The judge is showing bias against Alicia's partner Will Gardner by overruling all the
 objections coming from him and thus favoring the counterpart. Moreover, Will had heard him
 making negative comments about him the night before at a bar. For this reason, the two layers ask
 the judge to recuse himself for bias, but he denies the motion. Finding themselves in front of a
 barrier that cannot be destroyed otherwise, Alicia decides to file a ±motion to substituteøthe judge,
 which could bring them favourable consequences, but could also backfire:

The Good Wife 4x08

Alicia: Youøve given us no alternative, Your Honor, but to file a motion to substitute Your
 Honor for cause.

Judge: You what?!

Alicia: We are filing for a substitution hearing.

Judge: Now, you sit down right now, Mrs. Florrick. I have ruled. And it is not up to you...

Alicia: *No, sir, it is not up to you!*

Judge: You have no further witnesses, then we will move toward...

Alicia: Excuse me, Your Honor. It is our right.

Judge: No, it is not your right to disrupt my court. Youøre in contempt.

Alicia: *If I make a motion to substitute, Your Honor, then it is no longer in your hands, and
 you must transfer this matter to another judge.*

Judge: You don't know what youøve just done.

Alicia: We do, Your Honor, but youøve given us no other choice.

Judge: Everybody has a choice. Everybody. Youøre fishing for a mistrial here, and you
 won't get it. *You'll lose this motion, and I'll be right back here to judge this case.*

Alicia: We understand that.

Judge: So I'll give you one last chance to step back over that line.

Alicia: I'm sorry, Your Honor, but my motion has been made. We move for a hearing into
 your bias against Mr. Gardner and our client.

Once again, the consequences of a motion to substitute are explained from more than one point of
 view. The first one is its most direct and objective consequence: from the moment when Alicia files
 her motion, the judge does not have any more power in the trial and the trial cannot continue even if
 he tries to ignore the motion and acts as if it had not been filed.

The second consequence, however, is a more hypothetical, subjective assumption by the judge.
 He thinks that the motion will not be accepted and that therefore, he will be back to judge the case
 and when he expresses his hypothesis, he explains the consequence of a motion not being accepted:
 not only would he be called back to the case he was assigned to, but this motion will also entail the
 judge's inevitable adversity towards Alicia and Will.

Similarly to the previous example, in the episode 1x10 of the series *Suits*, the protagonist Harvey Specter is threatening the counterpart they sued, represented by Stan, a man who pretended to have a qualification he had not really got in reality. The company for which he worked, Drybeck, has fired him for this reason and is now going to sue him for fraud, unless he signs a confidentiality agreement included in his severance package, allowing the company to keep the whole affair secret:

Suits 1x10: fraud

Stan: I said I am not signing anything.

Harvey: It's nothing to sign. It's a lawsuit. You worked for Drybeck for 9 years, oversaw 80 clients, filed hundreds of tax returns, and fought 27 audits. *Now, in light of your recently discovered fraud, all of that can now be called into question. Therefore, you are being sued for nine years back pay, plus any expenses incurred to mitigate the damage you've done.*

Stan: This is! *This would bankrupt me.*

Stan's fraud has two kinds of consequences: the first is that all the work he has done could now be called into question, for example by the company's customers or partners and this could cause serious damages to the company. For this reason, Stan's fraud could also backfire on himself: being he responsible for what he had declared about his education, he is also implicitly responsible for all the potential damages and can thus be sued in turn by the company. The fraud committed by Stan would therefore result in the possibility for him to pay damages to all those clients.

As opposed to 'explanation by narration' which exposes the fictional facts and events mainly in chronological sequence and collocates them in the space, the strategy defined as 'explanation by consequences' shows potentially real legal cases to the audience by collocating them in a logical sequence, where the narrative aspects is just subsidiary. In this way, law is treated like 'hard' sciences (physics, chemistry etc.) rather than as a 'social' or 'human' science: facts are set out on the grounds of logical or statistical consequences, they are made unambiguous and explained to the non-expert audience on the basis of their 'tangible usefulness'.

I would also like to observe that in all the cases of explanation by consequences shown so far, the conversation only involves expert interlocutors (the judge vs. Alicia and Will; counselors Timothy Brannon vs. James Thrush in front of the judge; Alicia vs. the judge), whereas in the last one Harvey is speaking to a non-expert. This causes a change in the kind of consequences by which the technical term is explained. In the 'fraud' scene, in fact, the focus is on the direct financial consequences of fraud for Stan, while in the other cases the consequences exposed mainly concerned the punishment imposed by the courtroom (e.g. Sloan's revocation of bail), or on the lawsuit unfolding (the judge's substitution, the invalidation of the superinjunction on the book). This focus on 'concrete' aspects is arguably motivated by the authors' need to achieve a deeper involvement of the audience, which can be obtained by speaking of themes potentially concerning them in their everyday life: it is in fact much less probable for the TV series watchers to deal with gag orders and superinjunctions than with a lie on the workplace that could result in massive damages to pay. The popularization of law is therefore also catalyzed by the involvement of the audience via interesting topics, in addition to the more 'traditional' entertaining ones, which however, are generally quite far removed from their lives.

6.1.3. Denomination

Garzone (2006) includes denomination, definition and ategies, based on Calsamiglia and van Dijkø (2004)

categorization. Calsamiglia and van Dijk describe denomination principally via examples drawn from their corpus of scientific popularizing texts about genome sequencing, and the same does Garzone, with examples drawn from her corpus of medical-scientific written texts.

Apart from the difference in the disciplines on which studies have been conducted and subsequent categorizations have been proposed (mainly scientific texts and topics, in contrast with legal discourse in this study), what differentiates this research from the two reported sources is essentially the text genre. Such studies, in fact, have focused on written texts, and in particular, on texts written in order to be published and read. Moreover, the kind of publications on which such texts were published are often specialized and semi-specialized ones, like academic journals, university texts with pedagogical purposes or popularizing magazines, which, though addressed to a more general and less expert audience, would however reach a quite specific target consisting in those who show a particular interest in some specific topics. The substantial difference between such texts and legal dramas, represented by the nature of their genres, is the motive behind this whole investigation carried out on legal dramas only and the analysis of legal drama as a genre (see Chapters 4 and 5).

We have to bear in mind that the excerpts that we read here are actually performed by the actors and are written to be spoken, have to sound like spontaneous conversation and be characterized by a certain degree of verisimilitude. As regards the audience, it is different from the addressees of the texts investigated by the previous literature under many aspects: first, it is a heterogeneous audience, made of teenagers and young people (maybe occasionally even by children) as well as adults; of people with different education levels, different cultural backgrounds (which can influence, for example, on the familiarity and the subsequent understanding of concepts connected to the United States legal system); it can be made of English native speakers, as well of non-native speakers who choose to watch them with subtitles in the original language or in their own language, and so on. But above all, the audience of legal dramas is in great part made of people who have never practiced the legal profession, never studied law and probably never had any legal issues or never been to a real courtroom, who just watch legal dramas to have some fun, but need to understand the mechanisms underlying the legal settings they are exposed to so as to be able to enjoy what they are watching. This premise is necessary to introduce the next strategies I have decided to include in this research and the examples I will provide for each of them, specifying that the classification of the possible popularization strategies used in scientific, written-to-be-read texts, often read by semi-expert people, is not always completely applicable to legal dramas.

As explained in 2.2., denomination entails an expert person addressing a less/non-expert interlocutor; during the interaction, made of a sequences of exchanges, the expert needs to introduce a new concept in order to talk about it and refer to it in later on being sure that the interlocutor understands what it is, so it is generally instrumental to presenting a new object/topic. For this reason, in legal dramasødenominations cannot be embedded in the text (like in specialized written genres such as research articles), but are more often found as an -accidentaløexplanation within a dialogic explicative sequence.

PCA(Protected Concerted Activity)

alone and not combined with other strategies, are not moreover, denomination is often not explicit and -hidden behind the form of other similar popularizing strategies.

However, episode 4x21 from *The Good Wife* provides a good example of denomination. In this episode, the employees of a company called Blowtorch are asking for better work conditions, but when they start to cooperate against the firm, they are all fired. Alicia is now explaining her clients that she can defend them by demonstrating that they were fired because they were forming a union:

The Good Wife 4x21

Alicia: You're at-will employees. The company can terminate you for any non-discriminatory reason. Now, everyone, wait, wait. Listen, listen. There is a safe harbor here. You can't be fired if you say you were trying to form a union. *Working together in order to collectively bargain is considered PCA: protected concerted activity.*

Client: You want us to form a union? We are not teamsters.

In this case, the concept of -PCA (Protected Concerted Activity) is introduced by the attorney to her non-expert clients. In particular, it can be considered an example of denomination because it describes a hypothetical situation and attributes a technical name to it, introduced by a clearly defined linguistic expression, in this case *is considered*. It must also be specified that it is not a concrete example of a legal abstract concept, because Alicia is talking about the possibility of forming a union and using this as defense strategy, whereas, in reality, the customers did not form a union, so it is not an example of concrete realization (see 6.8.).

6.1.3.1. *Indirect denomination*

Under the category of denomination, however, I have considered all the examples in which a specialized concept which was not mentioned before in the conversation or in the episode (sometimes even in the whole series) is introduced by reference to actual or metaphoric and hypothetical situations and is denominated according to the law. I would call these cases -indirect denomination

If-clause + denomination

The most frequent structure used for an -indirect denomination is the use of a hypothetical or temporal clause (*if/when* clauses) + a linguistic marker of denomination (such as *it is*, *this/that is*, *it is called* etc.) + the technical term, as in the following examples.

In episode 2x04 of *Boston Legal*, the lawyers at Crane, Poole and Schmidt are defending a Congressman, Raymond Jacobs, accused of fraud by one of his supporters who had made consistent donations in his favour, while the congressman has not maintained his campaign promises:

Fraud: Boston Legal 2x04

Mr. Naughton: The fraud was perpetrated on me during his re-election campaign. The two of us got together for dinner, we shook hands, he looked me in the eye, and he told me that he would champion, not support, but champion, the renewal of the ban against assault weapons. Then he goes off to Washington and the ban just lapses. (...)

When you secure a contribution based on a policy you have no intention of honoring, that's flat-out fraud.

arguing that Mr. Myerson is a bad man. He isn't. But *he* *to end the life of human being. Under the law, which you took*
 an oath to uphold... *That's murder.*

In these particular cases, the explanations of -fraudø and -murderø are given thanks to the recourse to the combination of two popularizing strategies: -explanation by narrationø (see 6.1.1.) and an -indirect denominationø where narration is instrumental to the denomination. In the first scene, the witness sets out his version of the facts, underlining the counterpart's behaviour that he deems illicit and harmful for himself. Then he highlights the congressman's wrongful behaviour by means of a hypothetical/temporal clause connected to the previous narration (*When you secure a contribution based on a policy you have no intention of honoringí*) and concludes his speech defining this as a -fraudø

The second scene is built on a similar pattern: the State's Attorney is delivering a closing argument trying to convince the jury that Mr. Myerson committed a murder when he helped his Alzheimer-afflicted wife to take her life and he draws upon a narrative reconstruction of the events and collocates such events under the definition of -murderø

In the next examples, specialized legal concepts are similarly introduced by means of a -if-clauseø but the denomination is put in contrast with another denomination. In the first case, drawn from *The Good Wife*, the lawyers are discussing the possible defense strategies to apply and define crimes such as -criminal damageø and -attempted murderø as well as -hearsayø i.e. a kind of statement not considered evidence in trials:

The Good Wife 2x07 Criminal damage vs. attempted murder

Will: We should check if Yarrisa had other enemies at the club. With no witnesses, we could argue someone else destroyed her car.

Alicia: Also, *it's only attempted murder if Sloan knew that Yarrisa was sleeping in her car.*

Will: Right. *It's criminal damage to property if she thought she was just destroying her car.*

Boston Legal 2x01 hearsay

Alan: *If she says that she heard as much two days before he diedí* And let me tell you, the housekeeper has considerable dramatic flairí We cannot let that woman take the stand.

Brad: How do we stop it?

Alan: Bring a motion in limine. *It's hearsay.*

(...)

Judge: Justice is not served by preventing a material witness from testifying.

Alan: *It's hearsay evidence. The only thing the housekeeper has to offer would be what the deceased told her.*

State's attorney: As to what the deceased told Mrs. Stadler... these were *statements made in an excited state, an exception to the hearsay rule.*

In both excerpts, the -indirect denominationø strategy is used twice, to define two different concepts in contrast with each other. In the first case, the attorneys at Lockhart-Gardner are trying to find the right strategy to defend the young popstar Sloan (see section 6.1.2.). Their main objective is to exculpate her for both the possible charges of attempted murder and criminal damage to property, so they evaluate the possible consequences of their defense strategies and of the potential final judgments according to what they are able to demonstrate and to convince the judge of. When they analyze the evidence provided by Kalinda and formulate hypotheses about what they can demonstrate and what they cannot, the two different crimes (attempted murder and criminal damage

d. The denomination of the crimes is catalyzed by the hypothetical reconstruction of the events corresponding to

the crime. The definition of the two crimes is also provided by the different conditions required for each of them.

Following the same patterns, in the second example, taken from the episode 2x01 of *Boston Legal*, the lawyers Alan and Brad from Crane, Poole and Schmidt are discussing the right strategies to apply to defend the black widow, a beautiful and charming woman accused of killing her older husband to get his inheritance. They want to avoid the only witness (a woman who worked for the black widow and her husband as housekeeper) to testify, because she would do it against their client: the witness would report hearing the couple fighting because he wanted to exclude his wife from his last will. The only way to avoid it is to invalidate this witness and the only way to do this is to present such evidence as hearsay and thus not reliable.

The term hearsay is presented twice: the first time is after the confrontation between the two partner lawyers defending the black widow. In this case, the only information given on hearsay is that it can be used to prevent a testimony being considered reliable and that a motion in limine can be filed to the judge to exclude the testimony. The second time, the communication is set during the trial and the opposing lawyers are pleading their own cases pro and against the witness. The concept of hearsay is introduced once again and explained by the fact that such testimony would only consist in something reported from a dead person, and not testified or narrated in first person, and therefore not acceptable as evidence. However, the counterpart specifies that as the statement was made while the declarant was under the stress or the excitement that the event caused (excited state), this was an exception to the hearsay rule. Rule 803 of the Federal Rules of Evidence, indeed, states that:

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1)

(2) *Excited Utterance*. A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.⁶⁴

As we will see in 6.8.1. on relevance in objections, the concept of hearsay is also explained by means of other popularization strategies which show the audience other aspects and examples of the concept of hearsay

Denomination with no linguistic markers

Finally, new concepts can be introduced and explained in even more linguistically indirect ways, that is to say without any clear linguistic marker signaling the introduction of the technical term, which is explained, instead, by the implicit semantic connections between the utterances, as in the following examples drawn from the same episode:

Best evidence rule: The Good Wife 4x03

Alicia: And the only way to determine whether the defendant's claims are true is to subpoena the evidence. *The best evidence rule applies here*, Your Honor.

⁶⁴ United States Federal Rules of Evidence, available online at https://www.law.cornell.edu/rules/fre/rule_803 (last accessed: September 18, 2015).

Good Wife 4x03
The results are protected by free speech. To compel their release
is the same as compelling a newspaper to reveal its sources.
Viola Walsh: Thank you, Your Honor. Therefore, you have *editorial discretion*, Mr. Gross?
Neil Gross: Yes, and what is why I am resisting this subpoena.

In both cases, the denomination of the new legal concepts (best evidence rule and editorial discretion respectively) is obtained through logical deduction, after which the concepts are introduced. In the first scene, Alicia is trying to persuade the judge to subpoena the evidence, that it to say to oblige the company Chumhum to reveal the algorithm used for their search engine, which they do not want to do. However, Alicia is maintaining the necessity of this evidence because her client sued the company for allegedly modifying the results provided by their Internet search engine in order to intentionally diminish the public visibility of the book he wrote, and she appeals on the best evidence rule. Thanks to the premise made in the previous sentence, the audience can infer that the best evidence rule is a rule according to which the counterpart can be requested by the judge to submit the evidence required:

The best evidence rule applies when a party wants to admit as evidence the contents of a document at trial, but that the original document is not available. In this case, the party must provide an acceptable excuse for its absence. If the document itself is not available, and the court finds the excuse provided acceptable, then the party is allowed to use secondary evidence to prove the contents of the document and have it as admissible evidence. The best evidence rule only applies when a party seeks to prove the contents of the document sought to be admitted as evidence.⁶⁵

Likewise, in the second scene, Chumhum's CEO Neil Gross is defending his case trying to resist the subpoena for the algorithm his company invented and uses for internet researching by appealing on the editorial discretion. He does not make reference to the technical term and just states that the engine results are protected by free speech and compares them to a journalist's sources. It is only when his own lawyer Viola replies and calls it editorial discretion that the denomination process takes place and the audience is now able to relate this new technical term to a possible situation or set of situations.

In conclusion, denomination in legal drama can be expressed in three main ways:

- 1) the direct denomination introduces the new concepts after explaining or defining it (*Working together in order to collectively bargain is considered PCA: protected concerted activity*);
- 2) a hypothetical clause can introduce some conditions or situations and these are then labelled with a technical term (or vice versa, as in *If she says that she heard as much two days before he died. It's hearsay*);
- 3) the name of the concept defined is not connected to it by means of an explicit linguistic marker, but only by logical connections (*the only way to determine whether the defendant's claims are true is to subpoena the evidence. The best evidence rule applies here*).

⁶⁵ https://www.law.cornell.edu/wex/best_evidence_rule (last accessed: September 18, 2015).

The pivotal popularizing role of definitions in legal-lay discourse has already been argued and confirmed by Anesa (2011: 196), who observed:

Definitions are clearly crucial for a variety of purposes. Firstly, simply labeling is often in line with attorneys' strategies to give their speech an essence of familiarity and understandability; moreover, labels of this type may also be strategically used to ultimately attack or confirm an expert's credibility.

According to Garzone (2006: 92), a 'definition' is:

[A] conceptual delimitation of a term by a brief description of some general and specific properties of the thing the term is referring to.

Thanks to the examples provided, Garzone also shows that a definition can often be given as following sentence to a denomination (2006: 92), though the discursive organization of explanations, and particularly of definitions, is quite unpredictable: a definition can be given 'in installments' (meaning that the several aspects of a specialized concept or specific element can be introduced in more different points within one text) and it can be integrated in a complex sentence or be constructed as left-branching appositions (2006: 93-94). Calsamiglia and van Dijk (2004: 379), instead, differentiate definitions from descriptions by specifying that the first ones explain unknown words, while descriptions explain unknown things. However, since in court proceedings such as those analyzed here legal terminology is necessarily intertwined with facts and 'things' and 'things' are put on the scene often with the purpose of explaining 'words' and viceversa, I will consider definitions and descriptions as part of the same category. Under this category I will include all those cases in which a legal term (and the corresponding concept, procedure, rule or situation) is juxtaposed to a set of words (often by a linguistic marker such as *öisí ö* or *öis defined así ö*), more or less technical, which describe it and define it according to some categories, such as quantity, quality, mode, time (see Chapter 2) and possibly also provide examples of the term defined. This is definitely a strategy typically found in written scientific/specialized essays, especially those addressed to students and with pedagogical purposes.

However, the following scenes, drawn from many different episodes of *The Good Wife*, show how definition can be exploited as a popularization strategy even in a genre like legal drama, which has a completely different nature and main function but can nonetheless act as a popularization genre:

2518 minimization: The Good Wife, 2x08

Recorded voice A: So, what, they have preschool graduations these days?

Recorded voice B: Preschool, grade school, Sunday school. Celebrate every second of a kid's life these days.

Recorded voice A: Ha-ha-ha. Yeah, Lindsey wants to have a kid, but I don't know!

Recorded Voice C: 'Twenty-five-eighteen minimization'.

State's Attorney: A 2518 minimization is a 30-second break in the recording required by law for when a phone conversation turns personal.

accompanied by the concrete display of the matter in category, in section 5.5.) a special jury made of non-expert

people has been assigned the duty to decide whether further investigation on a judge has to be done according to the evidence shown. So, after presenting them the recordings of some intercepted phone calls, the State's Attorney explains them that they cannot hear the whole content of the conversation, as it is censored by the 2518 minimization announced by the tape. She does it in the most straightforward way, that is by providing a synthetic but exhaustive definition of 2518 which focuses on the time (30-second), on the nature (break), the localization (in the recording), the source (required by law) and the function (for when a phone conversation turns personal). On the other hand, this definition will be particularly useful in other future episodes, for example those in which Alicia has to listen to a huge amount of recorded phone conversations censored by the 2518 minimization and happens to listen about herself, but cannot find out more because of the minimization excluding any private information from the phone calls.

Jury misconduct: The Good Wife 3x11

Judge: What do you have, Ms. Lockhart?

Diane: *Improper contact between a juror and nonparticipant is considered jury misconduct, Your Honor. Discussing a case with friends, relatives during the trial or deliberations. One of our jurors has done just that.*

Perjury: The Good Wife 3x12

Lawyer Preston: You know the penalty for perjury, Mrs. Florrick?

Alicia: I do.

Lawyer Preston: What is it?

Alicia: *Perjury is a class three felony resulting in imprisonment for no less than two years and no more than five.*

In these two examples too, definition is used as a persuasive strategy within the fictional frame and as a popularizing one beyond the fictional frame, serving the function of conveying the legal content to the audience. In the first scene, Alicia and Diane are trying to invalidate a trial to turn it to their favour: they find out that one of the jurors has had an external contact during the period in which he was in the jury and define it as jury misconduct. Jury misconduct is here defined mainly by means of examples (*Discussing a case with friends, relatives during the trial or deliberations*), but also underlining the nature of the contacts (*improper contact*).

This communication takes place exclusively among experts of law (the lawyers of the two parties speaking to the judge in chambers), who supposedly have perfect knowledge of what a jury misconduct is and of what cases are considered as such. Therefore, there would be no need for Diane to explain to a judge what jury misconduct is but to establish her own credentials and corroborate her argument. But by means of her words, the authors fulfil their intention to shed light on jury misconduct to the non-expert, indirect participants in this communication, represented by the audience.

Similarly, in the second scene, Alicia has been subpoenaed by David Lee's ex-wife for a deposition about their agreement of divorce, which she had stipulated. The lawyer is trying to accuse her of exploiting her marital status to influence his client's wife and push her to divorce, since Alicia had had a private conversation with Lee's wife in which she had admitted having been through a similar situation when dealing with her unfaithful husband. In reality, Lawyer Preston is not suing her and Lockhart-Gardner for alienation of affection as he had said before, but for



to be sure that she will answer his questions the way he
juryø is, well aware that being a lawyer, she would have

been perfectly able to answer the question and aware of the possible consequence she could face if she perjured herself, this persuading her to tell the whole truth. Indeed, Alicia's answer is a perfect example of a book-like definition: she defines perjury by categorizing it as a felony according to the United States law, specifying the type (*class three*) and the consequences, i.e. the penalty one could possibly incur in in case of perjure (*resulting in imprisonment for no less than two years and no more than five*).

In episode 3x13, the US Treasury wants to arrest lawyer Stack's client, an unknown man identified by the name of Mr. Bitcoin, like the name of the currency he invented (Bitcoin). This man has asked his lawyer to maintain his anonymity, but his lawyer is now risking 18 months of detention. The US Treasury is trying to arrest Bitcoin because it is a violation of federal law for an individual to create a private coin or currency systems. When in the courtroom to debate the case, the attorney for the Treasury argues that this currency is unregulated and could be used in digital black markets and for crimes like money laundering, drug dealing and child pornography (10 to 30 years).

The Good Wife 3x13: Attorney-client privilege

Lawyer Higgs: Mr. Bitcoin is attempting to guarantee his own anonymity through the smokescreen of attorney-client privilege.

Alicia: I don't think I would call attorney-client privilege a smokescreen, Your Honor.

Lawyer Higgs: *This privilege protects communications between a lawyer and his client, not the client's identity.*

Alicia: *Unless his identity is the subject of these communications.*

Lawyer Higgs: *With one exception. The crime fraud exception which requires that Mr. Stack reveal Mr. Bitcoin if he's in the process of committing a crime.*

Alicia: 1 Which has not been established.

Once again, the authors have been able to integrate a definition, which is typical of formal or pedagogical texts, into a conversation which has to sound spontaneous and to adapt it to the fictional context. Alicia's defense is based on the attorney-client privilege, which is a quite commonly known concept even to non-experts, but is nevertheless specified during the debate in front of the judge. In particular, the exceptions to attorney-client privilege, which are undoubtedly less commonly known, are stressed here. Alicia is trying to leverage on the fact that the identity of Mr. Bitcoin must be privileged as it is the topic of the communications, while the counterpart's lawyer underlines the existence of an exception, which applies whenever a lawyer has knowledge of his/her own client committing a crime. As opposed to Diane's definition in the example above which only contains examples of possible realizations of jury misconduct, the definition of attorney-client privilege is here completed by some of its possible exceptions.

In the episode 4x13 of *The Good Wife*, Chumhum's founder Neil Gross is once again at Lockhart-Gardner, though not because of a lawsuit concerning his company, but for his private life: he is getting married and lawyers Alicia Florrick, Cary Agos and David Lee convince him to draft a prenup to protect his estate. The three Lockhart-Gardner's lawyers are trying to negotiate with the lawyer hired by Neil Gross's future wife, Deena, about the prenup conditions. They express their disagreement on the jurisdiction of the prenup, which is Texas law, while they would prefer the California jurisdiction to be applied:

-day rule

David Lee: The couple will be domiciled in Mountain View, California, which is the location of Chumhum's headquarters.

Alicia: California law is friendlier to the more dependent spouse. Texas is not so friendly.

Deena's lawyer: Actually, Mrs. Florrick, why don't you tell her the real reason you want California law? It's the *seven-day rule*.

Neil Gross: What's the seven-day rule?

David Lee: Both parties must have the final agreement in hand for seven days before signing.

Deena's lawyer: Or it's *unenforceable*. The prenup is voided.

Deena's lawyer warns her about the "seven-day rule" since Gross's marriage is planned nine days after the day of the negotiations, if the seven-day rule were applicable, Neil and Deena would only have less than 48 hours to come to an agreement about the prenup conditions. This rule is only valid in the State of California, under which jurisdiction the prenup would be ratified, instead of Texas, initially proposed by the wife's lawyers. The time pressure would allow the three lawyers to convince Deena to accept all the conditions requested by Neil. Once again, the definition is embedded in a conversation as "split" between the utterances composing it. David Lee (Alicia's colleague and Neil Gross's attorney) only defines the "seven-day rule" by specifying its conditions: the participants (*both parties*), the process (having the contract in hand for seven days and then signing) and the time (seven days), but intentionally omits the consequences, which are underlined by Deena's lawyer, who also reformulates the technical term *unenforceable* in more common words, i.e. "the prenup is voided".

6.1.5. Reformulation

According to the studies in 2.2. (Ciapuscio 2003, Gülich 2003, Blakemore 2007) the term "reformulation" includes all the possible forms of paraphrase, but also repetition, expansion or reduction of the equivalent formulation (see Ciapuscio 2003: 10-11). However, in the following scenes, which are the most representative examples of reformulation in my corpus of courtroom dramas, the term "reformulation" will be generally used as synonym of "paraphrase" (as in Garzone 2006, who considers the two strategies as two equivalent process and therefore as belonging to the same category). It is in fact pointless to insist on such formal classifications of the different types of reformulation in a genre which is different in its essence from the genres taken in consideration in the quoted studies, which are based on corpora of written-to-be-read specialized texts (Calsamiglia and van Dijk 2004, Blakemore 2007) or spontaneous expert-lay conversation (Gülich 2003, Ciapuscio 2003) and are thus not fully comparable to scripts written in order to be played by actors. The main "formal" difference between reformulation as intended in the previous literature on other popularization genres and reformulation cases in legal dramas is that the latter almost never display an explicit linguistic marker which connects the "reference" to the "treatment expression" (Ciapuscio 2003, see Chapter 2). Reformulation in legal dramas is usually expressed by creating an implicit connection between reference and treatment, mostly syntactic, i.e. the juxtaposition of a "reformulating" clause to the technical term previously introduced.

Cross-racial identification

ication cannot strictly be considered as an example of
t originating in the wider field of science (in particular
genetics) which has wide application in sociology, psychology (e.g. cognitive psychology) and in
the legal profession, as it refers to the capability of a human being to recognize the face traits of
people belonging to his/her own or another race, which is statistically lesser than the capability of
recognizing them in a person of the same race. This statistically relevant result is often used as a
strategy of defense in courtroom (at least in the fictional trials of legal dramas) when the defendant
is not of the same race as the person testifying against or recognizing him/her.

The Good Wife 1x06

Jury Consultant: The police believe that man just killed someone, and you are the only
witness, so I That's the six-pack photo array the police present to you. Which one is it?

Diane: That's him.

Will: Yeah, maybe. Hold on. Yeah.

Jury Consultant: You're confident?

Will: I'm confident.

Jury Consultant: This is when we explain to the jury about *cross-racial identification*.
Studies still haven't adequately explained why, *but it's harder for Caucasians to identify
subtle differences in African-American faces, and African-Americans in Caucasians*.

The Good Wife 3x01

Cary: We have an eyewitness who saw Jimal throw the first punch. That's what this is
about.

Alicia: Is the eyewitness Caucasian?

Cary: (*laughs*) Oh, wow, how quickly we slip the bonds of political correctness! Why not
ask if he's Jewish?

Alicia: *Cross-racial identification. Caucasians have difficulty discerning unique
characteristics.*

The first scene, drawn from the first season of *The Good Wife*, shows the partners of Lockhart-Gardner, Diane and Will, in a meeting with other associate attorneys, their investigator Kalinda Sharma and a jury consultant they would like to hire as a support in the defense of one of their clients. The jury consultant shows Will (a Caucasian man) a video in which a black man commits a crime and afterwards, asks him to recognize him among six pictures. Diane answers before Will and points at one of the pictures, which is then confirmed by Will. Actually, none of the people in the pictures was the man portrayed in the video.

Cross-racial identification has just been shown to the lawyers by a concrete example (I would call this strategy a concrete realization; see Section 6.8.); however, after introducing the new, technical term (cross-racial identification), the jury consultant reformulates it in simple words and making reference to what has just happened (*it's harder for Caucasians to identify subtle differences in African-American faces, and African-Americans in Caucasians*). The experiment is then repeated with the investigator Kalinda, who is of Indian origins and a white man portrayed in the video, resulting once again in the virtual witness's mistake. That is why, about two years later, in an episode of the third season, Alicia, who had been testifying the incredible reliability of cross-racial identification, thinks of it as a defense of strategy for her client Jimal Misfud, a young Palestinian student accused of starting a fistfight and then killing a Jew (hate crime), claiming not even to have been at the site of the murder.

unsel Cary Agos out of the courtroom, Alicia, certain of witness's statement against Jimal by means of cross-racial

identification. Since her purpose is to convince Cary to settle for a lesser punishment, she explains why the witness's statement could be considered unreliable by the judge and she does it by juxtaposition of the term "cross-racial identification" to its reformulation, which is made of non-specialized words and makes specific reference to their case.

In both cases, a reformulation takes place without any linguistic marker, such as "or", "in other words", "that is", "that is to say" etc., but only by means of the semantic equivalence by the previous utterance containing the "reference" and the "treatment" expression of the term. In particular, the first case is a shining example of what Ciapuscio (2003: 16-21) defines as "exposed reformulative process" as the reformulation process comes to a foreground and becomes itself the topic of the conversation, instead of being only a "local" dissertation instrumental to the understanding of the main topic (as in the case of the "embedded reformulative process" cf. 2.2.).

Reformulation of the judge's decision

In the following examples, the reformulation is once again expressed without any explicit linguistic marker, but is identifiable since it is expressly requested and introduced by the non-expert participant. It is the cases in which the judge's decisions (expressed in technical terms and formulaic constructions) is opaque to the clients, who are waiting to know about their own future:

The Good Wife 3x20

Judge: The defendants are held for retrial.

Lindsey: *What's that mean? I stay inside?*

Alicia: *Just for the moment.*

Boston Legal 2x19

Judge: Miss Hughes, the jury has found you guilty of federal income tax evasion.

Alan: Permission to be heard on sentencing, judge.

Judge: Stop your hooting. I'm in no mood for any more of your jibber-jabber. *The court fines Ms. Hughes \$1000 and sentences her to 30 days in prison, suspended.* Adjourned.

Melissa: 30 days in prison?

Alan: *Suspended, Melissa. "Jibber-jabber" gave you no jail time.*

Melissa: Oh. That's good.

In both cases, the defendants do not understand the exact meaning of the judgment: in the example from *The Good Wife*, Alicia's client Lindsey (who had already been taken into custody) asks if she is going to stay in prison, as she did not expect a similar decision. She does not know that by his verdict, the judge has just consented to her "retrial", which means that she has now a possibility to be released and she will only be "held" until the trial takes place, and is therefore a favorable decision.

Similarly, in the example from *Boston Legal*, the judge is moved by the defendant Melissa (Alan's assistant) and convinced by Alan's defense, so he gives a judgment which is coherent with the jury's verdict, which found her guilty, but "suspends" her conviction to 30 days in prison. As Melissa is not a law expert, she believes to be destined to go to prison, while in reality, as Alan explains, she is not.



out any explicit marker such as *ōorō*, *ōthat is to sayō* etc.,
ence between utterances and the syntactic connections

between them. In particular, in the second example, semantic cohesion is provided by the lawyer's repetition of the term *ōsuspendedō*, which underlines that that particular aspect of the verdict is going to be reformulated and clarified.

Partial or total repetition of the technical term or part of discourse is also considered by Ciapuscio (2003: 6) one of the possible realizations of reformulation (the other two being paraphrase and correction), and is sometimes exploited as a linguistic device for reformulating technical concepts also in courtroom dramas:

The Good Wife 4x08: hearsay

Will: After you sent this text, my client immediately informed the police, didn't she?

Laura Hellinger: Your Honor. Counsel is still testifying. Not only that, *he's asking for hearsay*.

Will: It goes to the defendant's state of mind, Your Honor.

Laura Hellinger: Actually, no. Mr. Gardner *is asking for the content of a conversation between Mrs. Van Zanten and a police detective*. If that's what he wants, he should put one of them on the stand.

In this courtroom debate between Will Gardner and Laura Hellinger, the latter objects that the opposing counsel is 'asking for hearsay' (besides testifying in lieu of the witness). Hellinger, who is a former military lawyer, is at her first criminal trial and has to demonstrate to the judge that her objection is sustainable by dismantling Will's justification of his way of questioning, which is aimed at reconstructing 'the defendant's state of mind'. Therefore, she needs to explain why the statement he is asking for is inadmissible and to persuade the judge of this. She does so by going back to the same syntactic construction she had used before (*he's asking for*), which is a partial repetition, and then by substituting the technical term 'hearsay' with the extralinguistic referent the term refers to (*the content of a conversation between Mrs. Van Zanten and a police detective*)⁶⁶.

6.1.5.1. Reformulation of other special languages

In addition to the reformulation of legal language, reformulation also recurs in another particular context: when the technical term to be explained does not belong to the legal practices and terminology, but to other specialized discourses. This happens, for example, when the witnesses under examination are experts of other disciplines (see 5.3.2. on expert witness examination). In many cases, in fact, lawyers turn to experts of specific topics to provide evidence of their thesis and reliable construction of the facts, but, as the judge, the jury (and the 'indirect' addressee of the trial, the audience) are unfamiliar with concepts and terminology described by expert witnesses, they need to ask for a reformulation.

Numerous examples of such cases can be found in the corpus, mainly concerning ballistics, finance, engineering, IT and new technology or medicine and science. In particular, medicine and science are object of the most straightforward examples of reformulation (see also Anesa 2015 on the popularization of science in jury trials):

1) *The Good Wife 1x17*

⁶⁶ See also Section 6.8.1. on 'concrete realizations' of objections.

ere, the right ventricle is enlarged, the left side severely
tic left heart syndrome, a uniformly fatal condition without in-

Will: *This is surgery performed on the baby's heart...Excuse me, the fetus's heart while still in the womb?*

Doctor: Yes, it needs to happen by the 24th week, two days from now.

2) *The Good Wife 4x02*

Alicia: Now, the defendant, Officer Mallen, testified that he pepper-sprayed the victim before turning to his stun gun. Why is that problematic?

Doctor: *Pepper spray, oleoresin capsicum*, can inhibit a subject's breathing by causing the throat to constrict... (...)

Alicia: So you're already *gasping for breath* when you're hit with an electric shock which compromises your system?

Doctor: Correct. It'd be like *having the wind knocked out of you*, literally.

3) *The Good Wife 4x14*

Cary: So in your expert opinion, Dr. Borgnine, how did Bella die?

Doctor: *A seizure due to caffeine toxicity which caused her to aspirate emesis into her lungs.*

Cary: *In simpler terms?*

Doctor: *She choked on her own vomit.*

This last example is particularly striking because of the abrupt shift from a very high and specialized register to a much lower one. The lawyer Cary is questioning the expert witness (Dr. Borgnine) on the death of a young woman allegedly caused by a drink that the death woman's family is now suing. The same question is actually posed (and answered) twice: the first time an expert opinion is required and the answer is thus formulated in 'expert' terms (*A seizure due to caffeine toxicity which caused her to aspirate emesis into her lungs*). In this communicative context, a formulation in technical terms like this one, though inevitably opaque to the jury and to the audience watching the episode, is instrumental to the lawyers for one main reason, which is far from the official quest for scientific accuracy and unambiguity. By means of a 'technical' answer, the doctor establishes his own credentials (or better, gives the jury an apparent confirmation of the already stated credentials) and 'acquires' power and trustworthiness at the jurors' eyes. Subsequently, such trustworthiness is transmitted to the lawyers proposing him as their expert witness and interrogating him in support of their reconstruction of facts and the respective lawsuit. However, the main purpose in witness examination (as seen in 5.3.), is narrative and its function is to reconstruct the events in front of the jury or the judge. That is why Cary asks to reformulate the answer 'in simpler terms'. The reformulation is then not 'embedded' into a larger discourse, but becomes the topic of the conversation ('exposed' reformulation).

In the first two cases, instead, the lawyers do not explicitly ask for a reformulation: it is either performed by the lawyers themselves or spontaneously by the doctors.

In the first example, the doctor was describing the disease of the baby in the customer's womb, who should undergo a very delicate surgical operation. Rather than a reformulation, the doctor introduces the case by means of a denomination (*The right ventricle is enlarged, the left side severely underdeveloped. It's hypoplastic left heart syndrome*) and then explains its possible consequences (*fatal condition*) and then provides some further information about it ('explication proper' see Section 6.4.). She also states that an 'in-utero' surgical intervention is urgently required. This particular information is clarified and highlighted by the lawyer Will, who substitutes

ø (derived from Latin) with ðin the wombø and expands y is performed on the babyø heart and then, by repeating the same structure and a self-correction (*Excuse me, the fetusø heart*). Said in Ciapuscioø (2004) terms, the reformulation has acted both as paraphrase and as correction. It is also interesting to notice the choice of the word ðbabyø instead of the technical ðfetusø: Will is trying to exploit the -humanø and sentimental meaning of the word (versus the -dehumanisedø scientific version) as a persuasive device.

The second example presents an analogous structure: the doctor is asked for more information about the -pepper sprayø and he starts by reformulating the popularized expression in technical terms (*oleoresin capsicum*) and then exposes the possible consequences of the substance (*can inhibit a subjectø breathing by causing the throat to constrict...*). In the following question, it is the lawyer Alicia herself to reformulate the doctorø technical terms (*causing the throat to constrict*) into common, familiar, everyday words (*gasp for breath*). The popularization of the effects of pepper spray is concluded by an analogical formulation, expressed by means of a simile (*Itød be like having the wind knocked out of you*, see Section 6.2.2).

6.1.5.2. -Reversedø reformulation

As a last part of this overview on reformulations in legal dramas, I would focus the attention on the relationship of -mutual constructionø that reformulation and definition have. First, reformulation can also act -inverselyø, that is going from the -common wordsø expression to the technical one. In a certain way, this process is both similar to denomination (6.1.3.) and to the passage from -narrativeø to -paradigmaticø mode (see 6.7.1.), but it is different from them in some features. Denomination implies the introduction of a new term or concept, which is then identified by its technical name; the -Narrative to Paradigmaticø pattern, instead, entails a narration which is finally -embeddedø into a specialized category. In the case of reformulation, instead, what happens is simply the re-phrasing of the same concept or idea into technical words.

The Good Wife 3x19

Eli Stone: Itø my understanding Mr. Gardnerø still a profit participant while suspended as a lawyer. I move that... Could someone put that into motion words for me?

Julius Cain: *I move that Will be precluded from sharing in any firm revenues during the time in which he is not actively practicing law.*

In this scene, Eli Gold, the campaign manager hired by Aliciaø husband, Peter Florrick, during his political race to his re-election, has become one of the equity-partners at Lockhart-Gardner, after being one of their best clients. During an assembly of the partners, he raises the question of the name partner Will Gardner, who has been suspended from the law practice and yet is still participating in the companyø profits. As a new equity-partner, he is entitled to move a motion, but, since he is not a lawyer, he asks for the help of someone who agrees to formulate his request in technical terms. This is done by Julius Cain, one of the lawyers at Lockhart-Gardner.

What is required in this particular communicative situation is a reformulation of the state of the facts (*Mr. Gardnerø still a profit participant while suspended as a lawyer*) and of the request for it to change into a correctly formulated and legally valid motion, officially moved in the context of the partner assembly of a legal office. Eli Gold realizes he is not able to formulate his request in the



ve thatí), so he asks for someone to reformulate it. The is, which had previously shown the other lawyers anger

for Will's position, provide a tool to reconstruct Eli's intention. His intention is reformulated by Julius, who is a lawyer, into legally precise and valid terms: he asks for Will to be 'precluded' from sharing in any firm 'revenues' during the time in which he is 'not actively practicing law', since he has been suspended from professional practice by means of a court decision, but not disbarred, so is still a lawyer. The use of 'revenue' the technical term used in company law, instead of more common synonyms, such as 'profit' 'earning' etc. underlines the speaker's competence in the discipline.

This construction exploits legal discourse as a means of identity construction, insofar as it underlines the expertise and professional difference between Eli and all the other lawyers. It is, as a matter of fact, a reformulation of a common words content into technical ones, a shift from a 'lower' register to a more specialized one. It cannot be considered a 'definition' or a 'denomination' case, because it does not introduce a specialized term or a concept, nor juxtaposes it to its description.

The first part of Eli's utterance (*It's my understanding Mr. Gardner's still a profit participant while suspended as a lawyer*) is a (partially) narrative reconstruction of events and of the current state of facts. Therefore, it could be argued that it is a shift from a narrative mode of meaning making to a paradigmatic one (see 6.7.1.), but this is only partially true. The mode of meaning communication has not been changed: Julius's reformulation does not rely on any paradigmatic category, such as law sources, categories and so on, except for the recourse to traditionally established professional and discursive practices, such as the formulaic construction and the technically most appropriate terminology. For these reasons, I would rather consider this example a form of 'reversed' reformulation.

6.1.6. Explanation strategies combined

As a conclusion to this investigation of the interplay of different strategies of explanation, I would like to briefly highlight the possibility of a combination of more 'explanation' strategies among those identified so far:

Denomination + reformulation

The Good Wife 4x09: Interference with expected inheritance

Veronica: He says that I didn't love Malcolm. I spent five years with Malcolm.

Brian: You cheated on him. You were divorcing him!

David Lee: Is that what you told your father? That she was a cheater?

Brian: Yes.

David Lee: And divorcing him?

Brian: Yes.

David Lee: And after that, he wrote up an amendment leaving everything to you?

Brian's lawyer: Wait a minute, Brian...

Brian: You're damn right! He was so angry, he wrote it right then!

David Lee: Good. Then, sir, we are suing you for *intentional interference with expected inheritance*.

Brian's lawyer: Oh, come on!

David Lee: *You told your father a lie to get him to change his will. (í) You can't lie to somebody to get them to change their will.*

Suits 1x05: Vicarious liability

Mr. Santana: Vicarious liability applies to discrimination, harassment, and accidents. Employers are responsible for their employees' negligence.

In the first example, Veronica (Alicia's mother) is involved in a lawsuit against the son of her deceased husband Malcolm, whose name is Brian. Brian convinced his father Malcolm to change his last will by telling him that Veronica was cheating on him. David Lee, lawyer at Lockhart-Gardner specialized in divorce cases, is assisting her and while discussing with the counterpart, he realizes he can sue them for *intentional interference with expected inheritance* (a case of *tortious interference*).

The legal treatment of such cases is shown here by means of a combination of more strategies. The facts are introduced by a narration, provided by the two opposing viewpoints of Veronica and Brian, and progressively constructed by David Lee's questions. The narration makes way for a *shift* to the paradigmatic mode by means of a denomination when Lee realizes that he can now sue the counterpart for *intentional interference with expected inheritance*. However, the term is explained again later on, when David threatens Brian and reformulates it into simpler words: *You can't lie to somebody to get them to change their will*. A *tortious interference*, in fact, can be defined as:

Causing harm by intentionally

- 1) disrupting a contractual relationship, for example by preventing one party from delivering goods on time, or
- 2) harming a business relationship or activity, for example, by spreading lies about a competitor to one of its clients.⁶⁷

In the second scene, instead, Harvey Specter is defending himself and his loyal car driver Ray in a lawsuit against a taxi driver, Mr. Santana, they had an accident with. Santana is suing them for damage arising from the accident, among which the impossibility of getting a taxi medallion, which now makes it impossible to him to pay back a loan he had and obliges him to buy his medallion the following year, when it will cost 50,000 dollars more.

Mr. Santana decides to represent himself in court as he has studied law for personal interest. Nonetheless, he is able to construct his identity as *expert* of the law (or at least of the matters involved in his specific lawsuit) by describing *vicarious liability* as applying to *discrimination, harassment and accidents* in a definition-like pattern. Then, he connects the *technical* definition that he has just given to the concrete case, by introducing the parties involved and their relationship (*Employers are responsible for their employees' negligence*). The concept of *vicarious liability* is therefore introduced by the juxtaposition of a (partial) definition to its reformulation applied to concrete cases.

⁶⁷ <http://www.nolo.com/dictionary/tortious-interference-term.html>. Last access September 24, 2015.

Under the category of analogy and association are included the popularization strategies which explain a technical term or concept by means of its association to similar concepts, generally deemed closer to the receiver's knowledge, and consequently drawn from everyday experience rather than from the same specialized field. Their explanatory function is underlined by Anesa (2011: 175), who notices that in attorney-juror talk the use of analogies is particularly significant and emerges evidently in closing arguments because of the nature and the scope of the phase. In fact, as we will see in 6.2.3., comparisons with everyday life are recurrent in some closing arguments staged in legal drama.

The association between a specialized field and one with which the non-expert is more familiar can be prompted in the receiver's mind more or less overtly. In the case of similes, for example, a term or concept is compared to another by means of explicit linguistic markers, such as like, as, similar to, etc. In the case of metaphors, however, something is described by a similar reality in a similar system without an explicit connection between the two and the connection takes place in the receiver's mind.

Finally, in some cases, like during the closing arguments in the series *Boston Legal*, when the lawyer sums up the case and aims to persuade the jury of the client's innocence, the speech is built on a parallelism between the situation displayed in the trial and a previous personal experience, generally recounted as an introduction to the closing argument. I will refer to this strategy of popularization simply as comparison.

6.2.1. Metaphor

In this episode of *The Good Wife*, the journalist and TV commentator Duke Roscoe claims for certain that a woman who was on TV asking for help to find her baby was actually guilty of killing and hiding him. This resulted in the woman's suicide some days after. Roscoe has then commented the suicide with sentences like I'm happy that she killed herself because the guilty people who commit suicide won't crowd the court or she will burn in hell. Tim, the woman's husband, believes their baby is still alive and that his wife was innocent and wants to take revenge for Roscoe's public defamation. The TV host, however, defends his right to free speech and does not want his TV network to pay any damages to Tim, so the lawsuit is brought to court, where Diane and Will, the two name partners at Lockhart-Gardner, defend Tim:

Slander: The Good Wife 1x11

Emily Tartan: Your Honor, the defense moves for a summary dismissal based on the First Amendment. The plaintiff would deny Mr. Roscoe the right to speak his mind.

Will: No, Your Honor, we wanna deny Mr. Roscoe the right to slander and lie.

Duke Roscoe: The truth is an absolute defense. I've been nothing but truthful about that child killer.

Will: Your honor, if you're gonna yell fire in a crowded theater, there damn well better be a fire.

Judge: Okay, counselors. Thank you. () Mr. Gardner, you argue that the First Amendment guarantees the right to speak but not the right to lie. I agree with that statement. But our case will be decided on very narrow grounds, Mr. Gardner, Ms. Lockhart. Uh, to use your example, it's not enough to prove that there was no fire in the theater. You must also prove that Mr. Roscoe knew there was no fire or had a reckless disregard for the facts. ()

th a request for a case dismissal, sustaining that it was Roscoe's right to say what he thinks. In the United States, this right is protected by the First Amendment, which grants that

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances ⁶⁸.

Although she is addressing the judge, she then reformulates the content of her motion into words that help explain it (*The plaintiff would deny Mr. Roscoe the right to speak his mind*), define the topic of the First Amendment in common words (*speak his mind*) and at the same time specify the accusation they move to Tim (*deny Mr. Roscoe the right to*).

However, this scene is relevant because of Will's speech in Tim's defense, to which the judge will make reference later in his decision. While aiming to prove that Roscoe's words are not a demonstrated truth of the facts, but simply a subjective reconstruction of the facts which could also have significant negative consequences, he uses the metaphor of a person yelling "fire" in a theatre and implicitly compares Roscoe's (alleged) slander to the situation. Will upholds his thesis by underlining that what was told was not demonstrated to be truth (*Then there damn well better be a fire*) and for this reason, Roscoe must pay.

The remainder of the conversation, mainly based on the judge's words, will be built upon the same metaphoric speech introduced by Will. The judge provides a motivation for the reasons why he finds there is a reasonable amount of elements to start a trial (and explains the audience what the essential elements for a slander are) by making reference to the "fire-in-theater" metaphor: in order to demonstrate Roscoe's slander, Will and Diane also have to prove that he did not know that what he was saying was not the truth (i.e. that he knew there was *no fire*) or that he knew that what he was saying was a lie, but decided to tell it in any case (*reckless disregard for the facts*). A defamation (which can be expressed in the forms of a libel, if written or published made via broadcast media and therefore potentially reaching a wide audience, and slander, if spoken by a single person) is, in fact a statement that can harm to your reputation or your livelihood.⁶⁹ However, the history of cases shows that one can prevail in cases of defamation not only if it is shown that the facts were actually the truth, but also that the defamation was made with knowledge that it was false or reckless disregard for the truth⁷⁰, which is defined "actual malice"

Actual malice is a statement made with a reckless disregard for truth (). High degree of awareness of falsity is required to constitute actual malice. If the plaintiff is a public figure, the plaintiff should prove by convincing evidence that the defendant published a defamatory statement with actual malice, i.e. with knowledge that it was false or with reckless disregard of whether it was false or not. If the plaintiff is unable to prove actual malice, then the plaintiff cannot recover: *Masson v. New Yorker Magazine*, 501 U.S. 496 (U.S. 1991).⁷¹

⁶⁸ https://www.law.cornell.edu/constitution/first_amendment (Last access: September 25, 2015).

⁶⁹ <http://www.nolo.com/dictionary/defamation-term.html>, <http://www.nolo.com/dictionary/slander-term.html> (Last access: September 25, 2015).

⁷⁰ <http://www.nolo.com/dictionary/defamation-term.html>. (Last access: September 25, 2015).

⁷¹ <http://definitions.uslegal.com/a/actual-malice/> (Last access: September 25, 2015).

de 4x13, when Alicia eventually receives a proposal to
ardner:

The Good Wife 4x13

Diane: They might not have talked to you about the capital contribution. It's required of all equity partners. 600,000 dollars. (í)

Alicia: I'm-I'm sorry. What?

Diane: The capital contribution. It's your investment in the firm. *Every equity partner has to throw into the pot.* That means you're invested in the firm, the firm is invested in you.

However, in this case, metaphor is not used as the main strategy of popularization, but only as supporting strategy to the explanation given by the denomination and the reformulation (*The capital contribution. It's your investment in the firm.*(í) *That means you're invested in the firm, the firm is invested in you*). As a matter of fact, metaphors do not easily fit in the language used in legal dramas. This TV genre is based on fictional reproductions of "spontaneous" conversation or of semi-formulaic professional discourse (as in the hearing phases) and metaphors are of course much less frequent in such communicative situations than in written genres. Written texts with argumentative, pedagogical, informative or exclusively popularizing function, in fact, are the result of a more "reasoned" production process and may therefore rely more on well-reasoned "imaginative" reproductions of reality.

"Crystallized" metaphor

One of the main features of legal discourse is its high occurrence of standardized sentence structure, such as formulaic expressions (see 6.8.3.) and univocal terminology. For this reason, metaphor has found a particular place in legal discourse, that is when it is used as a "crystallized" metaphor of a concept universally acknowledged, recognized and accepted within the discourse community. It is the case of the "fruit of the poisonous tree" metaphor:

The Good Wife 1x17

Cary: It's organized post-claims underwriting.

Will: Yep. It's illegal in some states, and legislation in Illinois is on the horizon.

Kalinda: Which explains why they shut it and tried to bury it.

Cary: *Yeah, but we got it with an illegally obtained text. It's fruit of the poisonous tree. We can't use it.*

Will: We can use it. We just can't use it in court.

The Good Wife 4x10

Lawyer Alma: Your Honor, we ask that the following evidence be admitted: Cook County crime scene photos of the car trunk belonging to Troy Mallick. (í) We also ask that the accompanying evidentiary report of fabric trace evidence be admitted.

Lee Tripke: Objection, Your Honor. This evidence is subject to *Fruit of the Poisonous Tree* exclusion.

Judge: Someone illuminate me here. What is this evidence? That's right. Take your time.

Lawyer Alma: Your Honor, this is evidence collected from the car trunk of the Chicago defendant Troy Mallick. The man with whom the victim attended the concert. Now as you can see, trace evidence from the victim's clothing was found in his car trunk, suggesting the Chicago defendant transported the victim...

Lee Tripke: No, it does not suggest that. The Chicago defendant explained this evidence. He carried a grocery bag...

is trunk. And the fabric transferred from the bag.
Prosecution believes that, then let them argue it in court.

Lee Tripke: Your Honor, *the Chicago police searched the trunk without a warrant, that is why this evidence was barred from court.*

Lawyer Alma: Yeah, no, Chicago court, not Minooka court.

Lee Tripke: But the same rules apply.

Matan Brody: No! *Fruit of the Poisonous Tree argument applies to due process of the Chicago defendant. She's using that as exculpatory evidence for a totally different defendant.*

Alicia: Yes, but due to the constitutional exclusion, this evidence was never subject to the same stringent analysis as the defendant in Chicago...

(Overlapping voices)

Judge: Thank you. Thank-thank you. One and all. What we have here is a battle of the proxies, and unfortunately, Ms. Florrick, Mr. Tripke, *the fruit of the poisonous tree grows in Chicago. Its limbs do not extend here. We will allow this evidence.* (...)

As we can see from reading the two examples above, *fruit of the poisonous tree* is a quite common metaphor used in the legal doctrine to refer to evidence obtained illegally and that, as a consequence, cannot be used as exculpatory in a trial. The expression is first introduced in an episode in the first season, in a scene in which the investigator of Lockhart-Gardner, Kalinda, has found out some evidence that could help them in their case, which had been buried and which on the borderline of legality in their State (Illinois) and has been illegally obtained by her. Cary defines this evidence *fruit of the poisonous tree* and adds that they cannot use it in court. The use of this metaphor derives from the analogy of the inadmissible or illegal evidence, which is considered a *poisonous tree* and the *fruits* of this tree, i.e. all its possible uses, implications, consequences etc.⁷²

In the following example, the concept of *fruit of the poisonous tree* is explained and debated in a more extended way by the lawyers and the *crystallized* metaphor opens up to other connected metaphors used by the judge. In this lawsuit, Alicia and the lawyer Lee Tripke are trying to defend a Chicago client from the charge of murder, while the State's Attorney, whose name is Alma, helped by the Cook County State's Attorney Matan Brody, is trying to have new evidence admitted in the trial. Alicia and Lee rebut by explaining the reasons why those pieces of evidence were not considered valid in the previous lawsuit (*the Chicago police searched the trunk without a warrant, that is why this evidence was barred from court*) and should therefore not be admitted in this lawsuit, according to the *fruit of the poisonous tree* doctrine. However, Matan intervenes to specify that that rule is only valid for the defense conducted in that specific case, not for the one they are debating now. The judge agrees and uses a metaphor *stemming from the poisonous tree* *the fruit of the poisonous tree grows in Chicago. Its limbs do not extend here*, in which he mentions the *limbs* (meant as branches) as the consequences and the possible applications of the evidence rule. In this case, it is interesting to notice how the process which generated this *crystallized* metaphor (*evidence = tree*) is still productive: new metaphors were produced by the same association between the *technical content* to explain (evidence) and the *common experience* to which it is compared (a tree).

⁷² In criminal law, the doctrine says that evidence discovered through unconstitutional means (such as a forced confession or illegal search and seizure) may not be used as evidence against a criminal defendant. <http://www.nolo.com/dictionary/fruit-of-the-poisonous-tree-term.html> Last access: October 19, 2015.

Differently from metaphor, the mechanism underlying simile is more straightforward, because the analogy between two elements, situations or facts is expressed via a linguistically marked form, such as *ōlikeō* or *ōasō*. An example of simile can be found in one of the scenes in the section on denomination (6.1.3.), drawn from *The Good Wife*, where the concept of *editorial discretion* had been introduced by a sentence explaining it:

The Good Wife 4x03: Editorial discretion

Gross: *Our search engine results are protected by free speech. To compel their release is the same as compelling a newspaper to reveal its sources.* Thank you, Your Honor.

Judge: Therefore, you have *editorial discretion*, Mr. Gross?

Gross: Yes, and what is why I am resisting this subpoena.

In this sentence, the results provided by the internet search engine used by Chumhum (Lockhart-Gardner's client) are considered privileged: Gross's aim is, indeed, not to hand them to the counterpart, who is suing him and his company for tampering the result engine, with negative consequences on the advertisement and the popularity of his book. While supporting his reasons, Chumhum's founder Neil Gross compares himself to a newspaper article writer, who does not have to reveal his sources. He makes the comparison using the expression *ōis the same asō* and providing an example which is probably closer to the audience's experience of the world: it is indeed widely known that journalists do not need to reveal their sources.

In the first episode of *Suits*, the lawyer Harvey Specter has passed his new associate, Mike Ross, a pro-bono case of a client suing her former boss, Devlin McGreggor, for being sexually harassed and then fired under false pretenses, who, however, has no material evidence to demonstrate the charges. The company she worked for agreed to send Pearson-Hardman the investigation files they had, but Mike and Harvey think that they just did it because such files could not provide them any evidence of the sexual harassment and of the wrongful termination. Moreover, they think that none of the company employees is ever going to testify against their own CEO, so their strategy is to find any previous similar cases of women fired for not surrendering to the sexual proposals and subpoena the personnel records of every woman who left the firm. The paralegal Rachel Zane suggests that Mike put the employees *ōunder duressō*, and when he hears these words, Mike suddenly realizes that they can argue in court that any firm employee testifying would be not valid because of the *duress* condition under which they would be provided and convince the judge to grant them access to the company's records:

Suits 1x01

McGreggor's Lawyer: Your honor, Mr. Specter's claim that we don't care about our employees, though belittling, doesn't carry any weight as a rule of law.

Harvey: True, but what does carry weight is that an investigation of sexual harassment must be conducted without any *duress*.

Judge: Your point?

Harvey: The investigator and every person being interviewed answers to the CEO they're investigating. That is the definition of duress! *It'd be as if your bailiff accused you of sexual harassment and you assigned your stenographer to investigate.* Now how likely would it be that this investigation yielded any fruit? (í). What if Herman did come to you, Your Honor? And you betrayed his trust by firing him under false pretenses?

gy, Harvey is in court, arguing that the current results of s possible sexual harassments and wrongful terminations are not valid, or at least insufficient and biased because all the employees could have been interrogated under duress. To support his thesis and establish a personal connection with the judge, he uses a simile as a means of intersubjective meaning-making mode (see Heffer 2005, in Chapter 2): he compares the woman he defends to the judge's bailiff Herman (a court official there in court attending the trial) hypothetically accusing the judge of sexual harassment, and another court clerk, like the stenographer, were called to investigate on the judge. In the fictional frame of the legal drama, this strategy reveals successful: the judge is persuaded by Harvey and orders the opposing party to hand over the files of all the other women who got fired or fired themselves. At the same time, the audience has become aware of the fact that an investigation among the employees of the person accused can cause duress and can result in an invalidation.

Simile with other special languages

As with reformulation, simile can be used to formulate specialized knowledge in a way which is closer to the lay addressee, so its use can be useful when the contents to popularize are particularly distant from the interlocutor's knowledge. For this reason, this strategy too can be exploited to explain medical and scientific language:

Medical expert examination: The Good Wife 2x06

Diane: In your latest clinical trial, you found that people taking Elvatyl were three times as likely... (if) to commit suicide as those taking sugar pills. Is that correct?

Doctor: Yes, it is. Uh, it appears that the serotonin transporter gene increases the synaptic serotonin levels.

Diane: And how would you describe that in layman's terms?

Doctor: In layman's terms? Well, as a threshold matter the mechanism for SSRI inhibition is poorly understood. *Think of it as a train switch yard, and the SSRI is the conductor, with the track the absorption rate and the 5-HTT gene as the coal.*

Once again, in this episode from *The Good Wife*, a doctor has been called to testify as an expert witness. He has to testify on the clinical trial he conducted, in which a placebo or a drug, Elvatyl, were administered to the patients and the drug was found to be a possible cause of suicide (which is exactly what Diane wants to demonstrate). With the purpose of being more detailed and accurate in the explanation, as well as to build the doctor's identity and credentials as an expert in the eyes of the jury and to bring the jury to a better understanding of the chemical processes behind Elvatyl, Diane expressly asks for a clarification in layman's terms. The explanation is not provided by means of a reformulation, as expected, probably because the mechanisms to be explained are considered poorly understood. The doctor decides to exploit a simile, in which the whole process is compared to what happens in a train switch yard (a series of tracks for storing, sorting, or loading and unloading, railroad cars and/or locomotives and engines). In this context, the SSRI (Selective Serotonin Reuptake Inhibitors) are considered the potential conductors of the train (in fact, they are the substance in anti-depressant drugs which regulate the serotonin balance), the rate of absorption of SSRI (and the consequent higher or lower production of serotonin) is equated to the track on which the train runs, and the 5-HTT gene (which is responsible for the reuptake of

for susceptibility to depression⁷³) is associated with the novel.

Similarly, in the episode 4x19, the analogy with a rainbow is used to explain the bullet's trajectory in courtroom when the ballistics expert Kurt McVeigh testifies to reconstruct the facts:

The Good Wife 4x19

Kurt McVeigh: It's called *the rainbow effect*. To determine where a shooter stood, you need to calculate the bullet's trajectory. And *the arch of a bullet can look like a rainbow*.

Alicia: And do bullets create different types of... rainbows?

Kurt McVeigh: Yes, guns do. In this case, you have a 1929 pistol firing a 38-caliber lead bullet made circa 1930.

In this case, however, the metaphor used by Kurt appears to be a 'crystallized' one, as he introduces it by means of a denomination (*It's called the rainbow effect*), which testifies that it is an expression universally recognized by the discourse community of ballistics experts. However, it is interesting to notice that, since Kurt's purpose is to explain to lay people how bullets trajectories can be, the metaphor is made explicit and transformed in a simile (*the arch of a bullet can look like a rainbow*). Finally, I would also like to underline that, just as in the example of the 'limbs' born from the 'poisonous tree' in the example above, the rainbow metaphor can still be productive and is used to 'generate' other analogies, like in Alicia's question asking for the 'different types of rainbows' 'created' by the bullet.

6.2.3. Comparison

The strategies built on 'analogy' also include the cases in which a legal concept is explained by means of a similarity which is neither expressed indirectly as in metaphors, nor by means of the linguistic markers 'as' and 'like', as in simile, but essentially by means of the narration of a similar story. In the series *Boston Legal*, for example, one of the protagonists, Alan Shore usually builds his closing arguments in jury processes on his personal experiences recollected from the past (that he sometimes invents for his specific purposes) and a comparison with the situation of his defendant in the lawsuit.

Here are some examples of this kind of 'comparisons' between 'everyday' situations and 'court-reported' situations, typical of Alan's closing arguments:

Boston Legal 1x03

Alan: One day, I was in my kitchen, I think I was about 15... and in came Fred, my big chocolate Lab, and in his mouth was a dead rabbit. The neighbor's pet rabbit. And I thought 'This is it for Fred if they find out he killed their adored pet... Animal control would be down and... So, I took the rabbit, washed him off in the sink, pulled out the blow-dryer, got him all white and fluffy-looking. And I snuck over to my neighbor's backyard, and I put him back in the cage, hoping they'd think he died of natural causes. That night, my parents came into my room. The neighbor's pet rabbit had died three days ago, they told me. They buried him in the woods, and some wacko evidently... Dug him up, washed him off and put him back in the cage. But I remember thinking to myself: 'The truth is not only stranger than fiction, but often less believable! And that's what we have here, ladies and gentlemen. The logical version, I suppose, is that my client stole that wallet. The less believable, but quite

⁷³ <http://www.bio.davidson.edu/courses/genomics/2003/mccord/5-htt.html> (Last access: September 26, 2015).

e mistook it for his own. *Nobody, not one of us, can be sure it Ramone Valasquez said it did. That's reasonable doubt.*

Boston Legal 2x13

Alan: When I was 11 years old, there came a time when the temptation to explore the more secretive recesses of my older sister's life became more than I could resist. I started by poking around in her room. *I ended by reading her diary. In my defense, she kept it right out in the open, under her mattress.* And the little metal clasp on it... Was simply no match for the paper clip and the screwdriver. I was eventually caught, prompting my sister to have a lock installed on her door. The only consequence of the invasion of my sister's privacy was the temporary loss of her confidence and trust. The invasion of Jackie Hayden's privacy led to her being stabbed and left to bleed to death in the street. (1) There are predators out in cyberspace collecting data on your children while they innocently type away in chat rooms. And that little waiver you've signed in the doctor's office! Most likely allows physicians to share your information on the Internet with insurance companies, the government, your employer and the courts. (1) Well Benefits says they could not have possibly foreseen the actions of an abusive spouse intent on causing his wife harm. Let me tell you what Jackie Hayden could not foresee. That after years of cruel and violent debasement at the hands of her husband, after she finally found her way out of the shadows, she didn't foresee that the people she most trusted with her health and well-being would lead the darkness right back to her door. And now she's dead. Well Benefits made it easy for Ned Hayden to find his wife. *As easy as looking under a mattress.*

Boston Legal 2x16

Alan: I had a dog for 12 years. His name was Alan. That was his name when I got him. He had cancer in the end. That, in conjunction with severe hip dysplasia. And he was in unbearable pain. My vet recommended, and I agreed, to euthanize him. It was humane. Which we, as a society, endeavor to be... For animals. My client's act was humane. It was a selfless one. It was a sorrowful one. Mrs. Myerson's nurse testified as to the profound love Ryan Myerson had for his wife. Sometimes the ultimate act of love and kindness! If you think this man is a criminal, send him to jail. But if you don't, don't.

These three closing arguments delivered by the lawyer Alan Shore in defense of his clients are all built upon the same model (see 5.4. on Closing Arguments). Alan sets off with the temporal setting of the facts he is going to narrate (*One day I think I was about 15; When I was 11 years old; I had a dog for 12 years*) and by doing so, he disorients the members of the jury, who would not expect references to his personal experience, but at the same time can identify themselves more in what he is going to tell.

Then, he introduces the characters of his narrations (the dogs he had, Fred and Alan; his sister, his neighbor's rabbit etc.) and starts narrating personal stories in a very detailed way, often including his personal reflections about the facts at the time they were happening (*And I thought -This is it for Fred; I remember thinking to myself: -The truth is not only stranger than fiction, but often less believable!*) or the description of his feelings (*the temptation to explore the more secretive recesses of my older sister's life became more than I could resist; I agreed to euthanize him. It was humane*) and of his clients (*she didn't foresee that the people she most trusted with her health and well-being would lead the darkness right back to her door; My client's act was humane. It was a selfless one. It was a sorrowful one*). In this phase of the speech, the focus is shifted from the initially disorienting narration to the case being debated and this shift is sometimes even linguistically signalled, with an explicit expression connecting the narration to the case, as in the first speech (*And that's what we have here, ladies and gentlemen*); with a partial repetition, as in the

the invasion of my sister's privacy was the temporary loss of Jackie Hayden's privacy led to it); or by means of a

long pause, as in the third case.

Finally, he generally addresses the jury directly (*If you think this man is a criminal, send him to jail. But if you don't, don't*) or by involving them in his speech by means of statements which he asserts as universally valid, like in "Nobody, not one of us, can be sure it didn't happen exactly the way Ramone Valasquez said it did". In particular, this sentence acts as a preamble to the immediately following denomination, "that is reasonable doubt"⁷⁴. In the first speech, in fact, the comparison between his narration of the story of the rabbit's death is instrumental to popularize the concept of "reasonable doubt", that is to say the "amount of uncertainty" about the actual reconstruction of the facts and the defendant's responsibility that is necessary for a jury to be persuaded of the innocence of a defendant and not to convict him/her.

In the second scene, a parallel is made between a "domestic violation of privacy (reading his sister's diary) and a public violation of privacy via the publication of privileged data on the internet, resulting in the death of a woman (see the plot of the episode 2x13 in section 5.X, "Narrative to Paradigmatic"). Of particular interest is the final "back reference" to the personal narration when Alan defines finding Jackie and killing her "as easy as looking under a mattress". This is the only case in which the comparison between his personal story and the case is reinforced by a linguistically explicit marker, which creates not only semantic cohesion in his long speech, but also has a very strong rhetorical, persuading effect.

In the last scene, instead, Alan is defending a man who bought an extra dose of morphine from his wife's nurse and caused her death, because his wife had asked him to die after a long period of degenerating Alzheimer's disease.

In all these closing arguments, *Boston Legal's* scriptwriters exploit the continuous interplay of "actional" and "intersubjective" strategies within Alan Shore's narrations used as a meaning-making mode. Besides relating facts, events and actions ("actional" mode), Alan's main purpose is to get to the jury's heart by constructing a new identity of himself: after constructing his identity as a lawyer for the whole trial, he finally presents himself as a normal person, who shares stories of a normal life and of his childhood, of his dogs and of his juvenile relationship with his sister, just as most of the jurors must have. After the initial "disorientation" provoked in the jurors, he establishes an "intersubjective" connection with them and exploits it for his clients' defense. Through Alan's voice, at the same time, the authors of the legal drama are reaching to their audience's consciousness and are fulfilling both their primary objective of entertaining (by means of a "catharsis-like" involvement of the most intimate side of the audience) and the objective of formulating in everyday words and everybody's experience the cases discussed by the lawyers.

6.3. Generalization

Garzone (2006: 96-97) formally defines the popularization strategy she refers to as "generalization" as "the substitution of an existential quantifier by a universal quantifier", meaning that the

⁷⁴ The concept of "reasonable doubt" is also investigated in detail by Anesa (2011: 188-193).

ity of the “popularized” expression to all or most members of the “simplified” category. The example she provides, taken from a text about the role of a particular enzyme on the body of smokers, published on *The Economist*, the enzyme is first introduced and then “assigned” to a more general category:

The enzyme in question is called, rather inelegantly, *CYP2A6*. *It is part of a family of toxin-destroying enzymes known as the “cytochrome S450S”*

So, as we can see, generalization is often embedded within larger units of discourse or at least combined with other popularization strategies such as denomination. Moreover, the “simplifying” function of this linguistic strategy is not as immediately effective as others, such as reformulation or explanation by consequences. It is as if the degree of technicality were lowered of only one notch, by substituting the technical term or concept with a “more general” and supposedly more widely known term which should help the reader (or the audience, in the case of legal dramas) identify it as belonging to a category and potentially understand its meaning. As such, generalization *per se* is of no particular recurrence in legal dramas, except in cases in which crimes are classified according to the categorizations made by the law.

The two scenes below, selected from *The Good Wife*, show the trend of lawyers (obviously speaking by the authors’ voice) to classify crimes in “misdemeanors” and “felonies” and to further distinguish them according to the “classes” regulated by the law of the state of Illinois (in the case of *The Good Wife*, which is set in Chicago). For this reason, it would be relevant and sensible to provide some information about the classification of crimes.

Under Illinois law, a “misdemeanor” is any crime that is punishable by a term of less than one year in local or county jail and can be distinguished in Class A, B, or C misdemeanors.

Class A Misdemeanor (e.g. prostitution) punishable by:

- up to one year in jail
- up to two years of probation (formal supervision), and
- a fine of up to 2,500 dollars.

Class B Misdemeanor (e.g. possession of more than 2.5 grams of marijuana) can result in a sentence of:

- up to six months in jail
- up to two years of probation, and
- a fine of up to 1,500 dollars.

Class C Misdemeanor (e.g. possession of less than 2.5 grams of marijuana) is punishable by:

- up to 30 days in jail
- up to two years of probation, and
- a fine of up to 1,500 dollars.⁷⁵

⁷⁵ Source: (720 Ill. Comp. Stat. § 5/2-11; 730 Ill. Comp. Stat. §§ 5-1-14, 5/5-4.5-10), according to <http://www.criminaldefenselawyer.com/resources/illinois-misdemeanor-crimes-class-and-sentences.htm> (Last access: September 28, 2015).

by one year or more in state prison, or death penalty. In
(order) are designated by classes:

- Class X Felony (e.g. battery with a firearm), is the most serious class of felonies, and is punishable by six to 30 years imprisonment (60 if extended).
- Class 1 Felony (e.g. sexual assault) is punishable by 4 to 15 years in prison (30 if extended).
- Class 2 Felony (e.g. criminal transmission of HIV) is punishable by a prison term of 3 to 7 years (14 if extended) .
- Class 3 Felony (e.g. many assaults and batteries) is punishable by 2 to 5 years imprisonment (10 if extended).
- Finally, Class 4 Felony (e.g. theft of government property worth less of 500 dollars) is punishable by 1 to 3 years in prison (6 if extended).⁷⁶

Classes of felonies and misdemeanors

The Good Wife 3x14

Wendy Scott-Carr: The People of Illinois ask that you vote a true bill to indict Mr. Gardner on the charges of conspiracy to commit *bribery and interfering with a judicial officer, class three and class two felonies*.

The Good Wife 4x19

Alicia: It has been six months since Mr. Sweeney has been accused of *disorderly conduct*, Your Honor, a *Class C misdemeanor*.

Laura Hellinger: No, he fired a gun at this party! And given the fact that it was a private club that served alcohol, *that's a Class 4 felony!*

In the first example, Wendy Scott-Carr, a lawyer working for the Cook County State's Attorney, has been appointed by the new State's Attorney Peter Florrick as special prosecutor in the judicial bribery lawsuit against Alicia's partner Will Gardner. In this particular trial, a grand jury has been assigned to judge on the lawyer's charges and Wendy is introducing them the case. It is indeed a very formulaic kind of speech, similar to the jury instruction (in which the judge instructs the jury about their functions, see 5.5.1.) and the reclassification of the crimes of which Will is charged is probably due to the nature of this genre.

This generalization can give the US audience (and in particular in Illinois) at least a vague idea of the kind of crimes he is indicted for and their possible consequences. In this case, bribery is a class 3 felony (2 to 5 years imprisonment) and interfering with a judicial officer a class 2 felony (3 to 7 years), and though the punishments for the felonies and the classification of felonies themselves can considerably differ from State to State, the audience is supposed to know, at least, that Class 2 and Class 3 felonies are not the minor ones (which are Class 4) and is somehow informed of the type of indictment and of the consequences it may have on Will's life.

In the second scene, Laura Hellinger, a former military lawyer now working as State's Attorney, is indicting for peace disturbing one of the richest clients of Lockhart-Gardner, Colin Sweeney, because a gunshot during a party at his house. Alicia bases her defense on the fact that such crime

⁷⁶ <http://www.criminaldefenselawyer.com/resources/criminal-defense/felony-offense/illinois-felony-class.htm> (Last access: September 28, 2015).



minor, resulting in a maximum of 30 days in jail and that the same kind of crime⁷⁷ (‘disorderly conduct’ is indeed a criminal charge including behaviors such as being drunk in public, disturbing the peace or loitering), but she still does not know that the real intention of the State Prosecution is to charge Sweeney with a felony, so that the ‘third strike rule’ may apply and he may be convicted to life-term prison. Sweeney has a history of criminal charges, among which the accusation of killing his wife, from which he was judged innocent thanks to Alicia’s defense, but he has also been convicted for other two major felonies and being convicted for a third would make him fall within the ‘habitual offenders’ on which the Court can impose harsher sentences. This is why the State’s attorney is not willing to come to any form of agreement:

Judge: Now, what will you take, Counselor?

Alicia: Exoneration. My client didn’t do it.

Judge: Your client is a psychopath who’s lucky he didn’t get convicted for killing his wife. And what will you take?

Laura Hellinger: *Six years, the maximum.*

Judge: *One year, two years probation.*

Alicia: No, Your Honor. *Two years probation.*

Judge: Good. Compromise. See? There we go.

Laura Hellinger: No. Six years, the maximum. We’re not bending.

In fact, in the judge’s final attempt to mediate between the parties, Alicia is initially insisting on her client’s innocence, but, because of his criminal history, she is ready to accept two years of probation, but without one year of detention, as in the judge’s first offer. Laura Hellinger, instead, insists on six years, ‘the maximum’. As I have shown above, the type of crime Sweeney is charged with by the State of Illinois falls within the category of Class 4 felonies, and the equivalent punishment can be from one to three years detention and can be extended to a maximum of six years. In Alicia’s words, instead, the crime committed by Sweeney falls within the Class C misdemeanors, and this is why she is not willing to accept the one year imprisonment proposed by the judge (which corresponds to Class A misdemeanors), but only the two-year probation, which is a punishment applicable to all misdemeanors. This focus on the scripts following the scene in which a generalization is found acts in support of my claim that generalization is usually accompanied by other strategies in order to be effectively ‘popularizing’ (see Section 6.9. on combined strategies).

It would also be interesting to investigate the different ‘popularizing degrees’ of this strategy in this context to non-US audience, where the legal systems differ significantly in both the classification of crimes and relative punishments and the audience does not share the same degree of knowledge of the legal system, which actually is probably none. Would generalization still have a popularizing function in another language and in another country? My recent research in Audiovisual Translation (Laudisio, forthcoming b) shows that the adaptation of audiovisual products produced and set in a country and imbued with cultural references inevitably results in a loss in the information transmission, especially because of the different degree of knowledge shared with the audience. In this case, for example, the popularizing function of categorizing crimes into a felony class would result in a simple adding of extra-information about the crime for a foreign audience.

⁷⁷ Cf. Section 6.7.2. (Crime + Punishment) in which the judge condemns Sweeney for ‘disorderly conduct’



nors and felonies and the relative classes, the authors front of the judge clearer by explicitly specifying the

punishment corresponding to the types of crimes argued for by the two opposing counselors. This strategy, which associates a crime to its punishment and compares two or more crimes (Crime + Punishmentøpattern) is significantly recurrent in legal dramas, as shown in Section 6.7.2.

Generalization, however, is not only expressed in the categorization of crimes into classes. Sometimes it is also exploited as a strategy for adding information, for example about the courtroom practices, or in the judge's sentences, as in the following scene:

Boston Legal, 1x07: Extra-judicial penalty

Judge: Mr. Mack, I will accept your plea under one condition. You are to build a sign to be worn around your neck. Said sign to read "I am a slumlord" Because, sir, that's what you are. (1) You are to stand in front of your Green Street property wearing said sign for no less than four continuous hours.

Alan: Your Honor, I cannot allow my client to be subjected to *an extra-judicial penalty*...whose only purpose is to humiliate.

Judge: Well, get used to it, Mr. Shore. This is nothing new. From the top of my head, I can remember the case of a woman who didn't strap her daughter into a car seat. The judge made her write a mock obituary for the child. A drunk driving defendant was forced to put a warning sign on his car. A woman was ordered to place an ad in the paper admitting that she had bought drugs...

In this scene drawn from *Boston Legal*, in fact, it is not the crime, but the penalty for it to be categorized. Quite unexpectedly, it is not a technical term or concept to be explained, but what is not envisaged by law, i.e. "extra-judicial penalty". Alan's client, Mr. Mack, is responsible for the dangerous conditions of the people living in the buildings he owned, so has bargained an agreement for reckless endangerment with the State's attorney and will serve probation (which the judge considers a reduced charge) and promises to make considerable efforts to enhance the life quality of those people. However, the judge thinks he needs an "extra" punishment to send a message to all the landlords and not let people be "caged like animals". For this reason, he accepts the plea, but on one condition: that Mr. Mack also accepts a "symbolic" punishment (wearing a sign with the writing "I am a slumlord").

This kind of punishment is not classifiable among the judicially recognized ones, which include a monetary fine or forfeiture of property and detention or probation and must be justified by their functions of retribution, deterrence, rehabilitation, restitution and incapacitation.⁷⁸ In fact, the penalty imposed to Mr. Mack is defined as "extra-judicial" i.e. external to the court system as it does not fulfil any of those functions (at least not in an overt or immediate way), and does not represent any "traditional" punishments, and, as such, is not included into the official categories, but rather into an "extra" category. In particular, the "construction" of the category is supported by the judge's quotation of several previous cases in which similar punishments have been applied and is instrumental to the generalization of the judge's punishment into the category of the "extra-judicial penalties".

⁷⁸ <http://www.nolo.com/dictionary/penalty-term.html>;

http://catalog.flatworldknowledge.com/bookhub/reader/4373?e=storm_1.0-ch01_s05. (Last access: September 28, 2015).

This strategy represents a very direct way to popularize technical information: basically, it consists in explaining a concept by adding some information about it which are necessary or required in that communicative context for the concept to be understood. Garzone (2006: 97) defines it simply as explication (proper) and explicitly distinguishes it from the popularization strategies identified by Calsamiglia and van Dijk (2004) and adds it to them:

Another recurrent strategy is that of explication proper, whereby the reader is offered information which enriches his/her knowledge of the matter treated, thus increasing artificially the degree of shared knowledge between expert-journalist and layman-reader. (1).

According to Garzone, in fact, this strategy can be used to add some particular information to concepts of which the lay interlocutor could have some basic knowledge, though ignoring relevant features about it. For example, in my corpus, explication proper is often expressed through an apposition, in which the secondary clause covers an explanatory/informative function:

The Good Wife 1x08

Alicia: Your Honor, we would first like to schedule an evidentiary hearing *to present new exculpatory evidence*.

Though not being of everyday use, the term 'evidentiary hearing' is quite 'transparent' to a lay person, who can easily infer that is a phase of the trial (*hearing*) in which evidence is shown. However, the authors choose to specify the lawyer's intention and the function of the evidentiary hearing by means of the apposition of a final clause (*to present new exculpatory evidence*), a strategy which helps the explanation of the technical term.

Explication proper is not only used to support the explanation of already known or potentially clear terms, but can also be used to explain more technical terms, as in the following example:

Boston Legal 1x11: Sovereign immunity:

State's Attorney: They're seeking damages for acts committed by a foreign government against a foreign citizenry. There's no jurisdiction here, no standing. And even if there were, any such lawsuit would be barred by *sovereign immunity, which prohibits the U.S. Government or its officials from being sued for foreign policy decisions*.

Judge: Ms. Colson, I have to agree.

This episode of *Boston Legal* shows the lawyer Lori Colson defending a man who has lived in the United States for many years but has his family in Sudan, where the civil war is killing many of his relatives. After the death of one of his cousins, he decides to sue the Government of the United States of America, because they declared themselves committed to the cause against the civil war in Sudan, but in fact they never intervened or attempted to stop it and prevent a genocide. Lori knows that this mission is almost impossible to accomplish, but tries to find a way to pursue this cause, at least to raise the interest of the media. The lawyer representing the U.S. Government argues that the complainant is not entitled to any damages because the damages have been caused to people in

ges to Lori's client had been caused by the United States, se on "sovereign immunity". Even though he is talking to the judge, who is an expert interlocutor, the State's Attorney adds a relative clause which provides extra information about the principle of "sovereign immunity", more specifically those he needs in support of his argument. Sovereign immunity, in fact, is, the privilege enjoyed by all the American (in this case) governmental bodies and employees not to be sued.

Extra information, however, can also be provided in more indirect ways instead of one appositional clause. Legal dramas are not only a display of the trial phases, in which discourse is often semi-spontaneous and built on standardized forms, but largely consist in dialogic scenes, in which the discussion between the counterparts is modeled as spontaneous but at the same time based on their knowledge of law. In such cases, legal principles are explicated by giving extra information "in instalments", as Garzone (2006: 93) would say for news articles when she focuses on the differences of this genre from scientific papers:

The discursive organization of explanation (if) is to some extent unpredictable as news articles do not have the same well-calculated logical architecture as scientific papers, but rather tend to give information "in installments", returning more than once to the same event or topic, each time providing more detailed information.

This is the case of the following scenes, in which multiple pieces of information are transmitted to the audience not by means of an appositional clause, but thanks to continuous references to the same topic along different following utterances or within the same discourse:

The Good Wife 2x06: Patient/therapist confidentiality

Diane: This is the late Mrs. Fenton's therapist, and, as such, any conversations they had are subject to *patient/therapist confidentiality*.

Louis Canning: But Mrs. Fenton is dead.

Diane: That doesn't matter. *The right remains intact after death.*

Louis Canning: *In Illinois, yes, but not in Wisconsin.*

The multiple references to the same topic explained in a conversation between two or more characters is shown in this example drawn from episode 2x06 of *The Good Wife*. Diane and Alicia are arguing in favour of the respect of the confidentiality of the notes on the conversation between one of the potential witnesses, the psychotherapist of a woman who was killed (Mrs. Fenton) and they do so because if he disclosed some information about the woman's mental state, he would compromise their defense strategy. The counterpart, lawyer Louis Canning, instead, is arguing in favor of the release of such privileged notes and a breach of confidentiality. His first attempt to support his argument is based on saying that Mrs. Fenton is dead, but Diane replies that therapist/client privilege (similarly to attorney/client privilege and other forms of confidentiality) resists the death.

Diane's utterance represents the first "installment" of this "explication proper" strategy, since she has provided the first piece of information about the concept of therapist/client privilege in general. However, Canning counterstrikes by specifying that the rule quoted by Diane is only valid in Illinois, not in Wisconsin, and adds further information by means of another "installment". Since the therapist happened to move his practice in 2009, the judge allows any testimony from the witness after 2009.

to the jury:

Boston Legal 1x10: Intent in murder

Brad: And, yes, it's possible that Susan May, seeing her husband making love with another woman, went into a dissociative state, acted outside of her conscious control. But it doesn't really matter whether she pulled that trigger or not, because she formed no *legal mental intent to do so, which is an element of the crime*. Reasonable doubt as to whether or not she did it. *No evidence of intent*, even if she did. All leads to the same verdict. *Not guilty*.

This complex lawsuit shows the scene of a murder which has no apparent culprit. Coming back from a travel abroad earlier, Susan May found her husband, Ralph May, dead in his bed, killed by six gunshots, together with a naked woman, identified as his lover and colleague Marie Holcomb. She is shocked and calls the police. The police found no relevant correspondence between the woman's fingerprints and the gun. However, she is being accused of killing them, blinded by jealousy after finding them lying in her own bed. Susan claims she entered the room when they were already dead and does not remember anything else because of the shock state she was in. This is why her lawyer, Brad, is basing his defense on reasonable doubt and keeps pleading her innocence. To uphold his thesis, he calls an expert witness, a doctor, who testifies that Susan might have been in a 'dissociative state' after which her mind has removed the true facts and 'replaced' them with a 'false memory less terrifying to her'.

Moreover, Brad argues the possibility of another person finding the couple in the bed before Susan (for example, a thief) and killing them. In his closing argument to the jury, he underlines why Susan cannot be charged of murder, stating that it does not even matter if she pulled the gun's trigger or not, because in that moment she did not have the intent to do it.

The same information had already been provided to the audience and to the jurors in a previous scene, in which Brad questions the expert who is testifying for him:

Boston Legal 1x10

Doctor: Sometimes if a person's actions are repugnant to them they can actually create a false version that is more psychologically acceptable.

Brad: And they believe this as the truth?

Doctor: Absolutely.

Brad: So it's possible that she committed the murders?

Doctor: No. *Murder suggests an intent she would've been incapable of*. If she did this, and I'm not saying that she did, she would've likely lost all conscious control. She would've acted outside herself. And as a defense, her brain would have manufactured this other memory that she walked in and found them already dead.

This scene represents the first 'instalment' of the information provided about the murder crime (*Murder suggests an intent*), then mentioned again in Brad's closing argument. The lawyer argues that even if she pulled the trigger, 'she formed no *legal mental intent to do so*'; then he explains the concept of 'mental intent' by means of the appositional relative clause 'which is an element of the crime', underlining that the intent is necessary for a murder to be considered as such.

Finally, he gives a rhetorically powerful conclusion to his speech, summing up his defense with a sort of 'list' of the elements in defense of his client against the charge of murder: there is the 'reasonable doubt' as to whether or not she did it and there is 'no evidence of intent', which is said

e of murder. This information is enough to show that, Susan cannot be judged guilty of murder.

These examples have shown that legal terms or concepts can be popularized by a form of more or less direct explication which explains it by simply adding further details (or information) about it. Such information can be given by:

- 1) the juxtaposition of an explicative clause (for example a relative clause) or
- 2) in -installments, i.e. by gradually providing some pieces of information in more sentences or utterances connected to the one in which the new term is introduced.

Both strategies are easily adapted to legal dramas, because the specialized term can be explained along with the denouement of the plot and within a -realistic development of the fictional dialogues.

6.5. Quotation

In her overview on popularization strategies Garzone (2006) quotes Calsamiglia and Lopez-Ferrero (2003) as main source for the classification of citations. Their distinction in direct, indirect, integrated and inserted citation (see 2.2.), however, is not applicable to all text genres. In legal dramas, quotations are basically expressed by the lawyers quoting rules to support their argument during the hearings or debate phase in front of the judge and to contrast the counterpart's argument. Such quotations can be direct at times, when lawyer cite codes word-for-word, or indirect, when what is made reference to is the principle regulating the lawsuit. This happens especially in the case of quotations of jurisprudence, i.e. the decisions taken about previous cases.

6.5.1. Direct quotation

By -direct quotations we will here consider the cases in which the law, statutes, regulations or principles are quoted literally, using the same linguistic expression as the original source from which they are taken. This category also includes -integrated quotations which make the words taken from the original source an integrating part of the new formulation.

Examples of direct quotations in legal dramas are not as numerous as those of indirect ones. This is mainly due to the dialogic nature of the genre and to the verisimilitude of the dialogues, which reproduce -spontaneous exchanges between the interlocutors, who, in the case of quotations, are generally two lawyers discussing on the strategies to use, two opposing lawyers in a debate, or lawyer and judge during the trial. This suggests that the use of quotation is limited to the expert-expert communication and avoided in the expert-layman one. As a matter of fact, the reference to laws and regulation to support one's argument would be redundant within the context of the communication with a non-expert person, who would not be able to detect the grade of reliability of the source. In this sense, a layman, in a communication with an expert, recognizes and gives for granted the knowledge asymmetry situation in which s/he him/herself is in the position of lesser knowledge (if not none). From the viewpoint of the discursive construction of identities, quotation

ials, to give proof of one's expertise and to back one's

The United States legal system is a Common Law one, which means that law is largely based on the decisions of previous cases (jurisprudence). However, the fundamentals of Law are established in the Constitution, which is often quoted together with its Amendments, and every State has its own regulations. As a consequence, direct quotations are necessarily taken from regulations, statutes and bylaws (as we will see later on), whereas quotations of jurisprudence are usually in indirect form and include the name of the parties juxtaposed to the principle regulated in the lawsuit:

The Good Wife 3x07: Executive Order 13224

Glenn Childs: We also request Executive Order 13224.

Diane: Excuse me, your Honor, *13224 is intended to ferret out fake charities funding terrorist organizations*. This is a lawsuit Danny has brought against the United States government.

Glenn Childs: Yes, but *also has broad application when a terrorist hires a lawyer...*

Diane: Danny is not a terrorist.

Glenn Childs: *Or suspected terrorist. That lawyer must make available for inspection any relevant information, reports or records requested by the Secretary of the Treasury.*

Diane: Your Honor, this is an egregious violation of attorney-client privilege.

Judge: I would agree, and yet, it's the law.

The Good Wife 4x12

Diane: Rule 44G, subpart M of the AADL code states: *All samples shall be shipped via approved courier on the same day that they are collected.*

Dr. Chesterfield: I am aware of the code.

Diane: *Any unexplained delay in shipping will constitute a break in the chain of custody, and the test must be discarded.*

Dr. Chesterfield: Occasionally, a technician is unable to mail the sample on the same day, usually because the courier is closed. There's no violation as long as the sample remains in our facility.

In episode 3x07 of *The Good Wife*, Alicia and Diane's client Danny is suing the United States for torture after he was arrested for being suspected as a terrorist (see plot summary in Section 6.8.2.). ASA Glenn Childs requests an "Executive Order 13224" for Danny. This new specialized concept introduced by Childs is first partly explained by means of "explication proper" Diane tries to have the motion rejected by specifying that it is intended to be used in other contexts (*13224 is intended to ferret out fake charities funding terrorist organizations*) while Glenn argues its applicability to the present case (*but also has broad application when a terrorist hires a lawyer Or suspected terrorist*).

However, what is of real interest for the audience is the effect the Executive Order 13224 can have, because it will influence the next "moves" in the trial and consequently the following events in the plot of the episode. So, what is formulated in 13224 is quoted by Glenn Childs, who is using it in his defense (*lawyer must make available for inspection any relevant information, reports or records requested by the Secretary of the Treasury*). In this case, since Childs uses the same words of the original source⁷⁹, the quotation can be considered direct.

⁷⁹ References to Executive Order 13224 can also be found online in examples of Special Military Licenses, which are expressly subject to Executive Order 13224 and carry the same formula:



from episode 4x12, in which Diane, Alicia and Will are accused of taking doping substances, in front of the CAS (Court of Arbitration of Sports). Diane is trying to prove that the substance Anna allegedly took has not been tested yet and she interrogates an expert witness, Dr. Chesterfield. The doctor had previously discovered the doping compound and a scandal related to its use but, as he admits, he has not been able to analyze it yet. Diane's strategy is to argue that no evidence can be provided of Anna taking it until the substance is analyzed and provides a basis for a comparison.

Moreover, Diane also tries to demonstrate that the test is invalidated by the lack of respect of the deadlines and of the conditions of custody and, being her not accustomed to sport law, she collects information on the rule which could be useful in the lawsuit to prove her case, and quotes it during the witness examination (*Rule 44G, subpart M of the AADL code states:í*).

Even though the communication takes place between a lawyer who is actually not an expert of the matter and a witness, who instead, is aware of the regulations despite not being a lawyer but a doctor, the quotation of the rules is used as an instrument of power: Diane uses it as a sort of threat to the doctor trying to demonstrate that the conditions in which the test were conducted were not lawful and therefore uses the quoted regulation in support of her argument. Unfortunately, as the judges composing the committee state later, *les règles de LAAD n'exigent pas la preuve définitive*⁸⁰ and Diane will have to change her strategy.

In both cases, however, the quotation of a part of a regulation opens up a window for the audience on the legislation concerning the topics of the episodes, which go from terrorism and torture to doping and the possible procedures in criminal and other types of trials.

Direct quotations do not necessarily concern regulations, statutes and codes. In some episodes, for example, also bylaws (the rules that govern the internal affairs or actions of corporations⁸¹) are quoted by lawyers. However, such rules are drafted and applied only by and into a specific corporation and have no validity on people who are external to it. The firms staged in legal dramas being clearly fictional, the bylaws lawyers quote are implicitly fictional, as well. However, they have to be constructed in such a way that they can be first potentially lawful and in compliance with the United States legal system, and, of course, they are built in such a way to be instrumental to the development of the lawsuit/plot of the episode:

Suits 1x03

Mike: *The board can't vote for at least 24 hours after the CEO presents a deal involving the sale of company land.*

Harvey: But Stensland already presented it to the board.

Mike: Right, but Stensland isn't CEO.

Harvey: I wrote those bylaws myself. He's CEO.

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(<https://www.usaid.gov/sites/default/files/documents/1883/2013-WBG-01.pdf>, Last access October 7, 2015; see also: <https://www.usaid.gov/sites/default/files/documents/1883/2010-WBG-03.pdf>, Last access October 7, 2015).

⁸⁰ In *The Good Wife* this sentence is then translated by Diane as *“The rules don't require actual proof.”*

⁸¹ <http://www.nolo.com/dictionary/bylaws-term.html> (Last access: October 7, 2015).



use 137 states: *“If the CEO dies, an interim CEO will be appointed until the board convenes an election vote, which cannot be called till the next fiscal quarter.”*

(1)

Robert Stensland: You gentlemen have no right to attend this meeting.

Harvey: Actually, we do. The bylaw states *that any original employee has the right to petition the board any time they meet*. Dominic Barone has assigned that right to me.

Robert Stensland: He was fired. He no longer has that right.

Mike: *Per section 17-5, point C, Dominic wasn't given three days' notice, so technically he wasn't fired.*

The third episode of the first season of *Suits* shows Harvey trying to prevent Robert Stensland, the incoming CEO of a motor company in which he has invested, as well as one of his biggest clients, from moving his manufacture overseas, as he thinks this will make him lose money. So, in agreement with the former CEO, Dominic Barone, and with the help of his newly acquired associate Mike, Harvey tries to find a loophole in the firm's bylaws. Mike reads all the bylaws, which were drafted by Harvey himself, and goes back to him with the solution he found to disempower Stensland and to avoid the changes in the firm: taking advantage of the fact that the company board cannot vote for the following 24 hours and that the new CEO is only appointed as interim until the formal election is called, they invalidate Stensland's decision by interrupting the meeting with Barone, who was not given three days' notice before being fired and is thus still entitled to vote as CEO.

In this case, the authors chose to alternate direct and indirect quotations of the (fictional) company bylaws. In the first scene, Mike is speaking to Harvey, who knows the rules, and hints at the premise for their strategy (*The board cannot vote for at least 24 hours after the CEO presents a deal involving the sale of company land*). But immediately after, when Harvey contradicts him by maintaining that Stensland is already the official CEO, Mike quotes the rule directly, by heart and even preceded by the page and the number (*Page 238, clause 137 states: “If the CEO dies, an interim CEO will be appointed until the board convenes an election vote, which cannot be called till the next fiscal quarter.”*). We must bear in mind, in fact, that Mike has an incredible eidetic memory and is able to remember everything he reads even just once and, in fact, he is right.

Once again, the direct quotation is used as a means of power and as an unquestionable support to one's argument. It is not by chance that the same technique is used in the second scene, in which Harvey, Mike and Dominic Barone burst in during the corporate meeting and quote the bylaws by which they manage to prevent Stensland to displace the manufacture center of the company, with Mike once again even citing their exact number, point and section in Barone's defense.

6.5.2. Indirect quotation

The fictional quotation of bylaws is a very frequent device used in legal dramas to construct new scenes which are not set in court, but are by the way embedded in the legal context and profession. As in the case just described above, bylaws can play an important role in the internal conflicts of the legal firm, which at a certain point become fundamental in the development of the fiction and instrumental to its innovation and originality:

The Good Wife 3x18: Bylaws

David Lee: Why don't we just put it to a vote? All those in favor?



onus. I am invoking managing-partner prerogative.
us.
alking about?

Will: *The firm's bylaws allow the managing partner to act unilaterally.*

Julius Cain: *Under extenuating circumstances.*

In this case, for example, when Alicia threatens to leave Lockhart-Gardner, Diane, who is name partner of the firm and thinks that she is indispensable to the firm, decides to invoke her managing-partner prerogative to give her the salary bonus she required, against the other partner's opinion. As a matter of fact, David Lee and Julius Cain seem not to agree with Diane's decision and David proposes the partners to vote against or in favor of Alicia's salary bump.

The starting point for the popularization of technical knowledge here is represented by Eli's presence at the meeting: he is Peter Florrick's campaign manager but has recently acquired the partnership to Lockhart-Gardner. Since he is a new partner and not a lawyer, Eli is the fulcrum on which the popularizing action rotates: a knowledge asymmetry between him and the other lawyers is created and a subsequent attempt to fill the gap follows: Eli asks what they are talking about and the other name partner, Will, quotes the firm's bylaws to explain the managing-partner prerogative: *The firm's bylaws allow the managing partner to act unilaterally*. The strategy adopted is therefore a sort of combination of two strategies, quotation and reformulation: the first part of the utterance makes an indirect reference to the source of the regulation (*The firm's bylaws allow*), taking the form of a quotation. But on the whole, Will's utterance is a reformulation of the term used by Diane, which explains that the managing partner prerogative is the possibility for one of the partner to act unilaterally (i.e. without the support of the other partners), and, as Julius adds, this is only allowed under extenuating circumstances.

The Good Wife 4x02

Judge: I am sure you're all familiar with Illinois Supreme Court Rule 243, which took effect last July.

Lionel Deerfield: Refresh my memory.

Judge: Well, we haven't had a chance to exercise it until now. *The court may permit jurors in civil cases to submit written questions directed to witnesses*. I received just such a question now from the jury. I received just such a question now from the jury. *Now, the rule requires that I ask if you have any objections...*

Lionel Deerfield: I do, Your Honor. I've designed my case to lead the jury to a certain conclusion.

This example is particularly interesting because it contains a reference to a Rule of the Supreme Court of Illinois which had just come into force at the time the episode was broadcast in the United States: the second episode of the fourth season of *The Good Wife* aired on October 7th 2012, while the law had been entered on April 3rd and made effective on July 1st. It is probably the first public reference by a fictional media product ever to the concrete application of this rule to the courts of Illinois since it was enforced. As a matter of fact, in an article discussing in detail the changes brought by Rule 243 and the role of jurors in questioning the witnesses, Sweat (2014: 3)⁸² cites this

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Also available online at:
http://www.ilcd.uscourts.gov/sites/ilcd/files/local_rules/Juror%20Questioning%20Article.pdf (Last access: October 8, 2015).

example to awake the people's awareness of the novelty

It was primetime, Sunday evening, and viewers across the country were glued to their television sets watching the newest episode of television's hit legal drama, *The Good Wife*, set in Cook County, Chicago, Illinois. Suddenly, they heard fictional star Will Gardner say, "I'm sure the jury will have questions about that." Of course, this statement may not seem all that unusual; naturally, members of a jury always have questions. Yet, as the television audience soon saw, the writers of *The Good Wife* were capitalizing on the potential drama created by an innovative legal concept that has recently affected Illinois courts: the passage of a new law by the Illinois Supreme Court that allows jurors to conduct their own questioning of civil trial witnesses. (1) During the trial, however, the presiding judge was suddenly handed a note: a question from a juror, that when read, changed the course of the entire judicial proceeding. Likewise, many of the other jurors began offering their own clever questions. As the scene unfolded, and juror after juror posited individual queries, the episode craftily highlighted the progressive impact of the new Illinois rule. The legal effects of Illinois's new courtroom rule, which is known among the Illinois legal world as Supreme Court Rule 243 (Rule 243), clearly made for great TV drama. What many television viewers that night probably did not realize, though, is that Illinois state courts only recently began implementing this groundbreaking rule in civil trials. Juror questioning of witnesses in criminal trials, however, is still not explicitly allowed in Illinois.

The law expert who wrote the paper, however, specifies that the participation of the jury members in the witness examination is not represented in a realistic way in the legal drama and could generate confusion in the audience.

The authors, however, could be justified by the fact that the episode was aired in October, but had probably been written months before, so that an in-detail knowledge of the processes disciplined by the Rule was not available, or maybe no concrete application of the Rule had ever taken place, while the legislation about its realization could still appear blurred or ambiguous, especially given the lack of experience about it. However, this episode can still be given the credit of raising awareness in the audience about the existence of this newly adopted Rule (for those who still did not know) and, especially, to portray an example with all the possible consequences, advantages and disadvantages, of the unprecedented participative role of the jurors in the witness examination. As a matter of fact, both Lionel and Will (who are opposing counsels) also see their defence strategies spoil by the intervention of the jurors.

Besides the (admittedly erroneous) representation of the Rule 243, which can be somehow justified by the fictional requirements of the genre and/or by the lack of more specific knowledge and tradition in its practice, the popularization of the content of this recently adopted law is catalyzed by its quotation. Before the very eyes of the lawyers, the judge directly quotes the content of the rule ("The court may permit jurors in civil cases to submit written questions directed at witnesses", see original text below) and immediately afterwards, he indirectly quotes what is disciplined in the Rule about the counselors' possibility to object to the jurors' questions (Now, the rule requires that I ask if you have any objections...).

The original text of the Rule 243 says:

Rule 243. Written Juror Questions Directed to Witnesses

(a) Questions Permitted. The court may permit jurors in civil cases to submit to the court written questions directed to witnesses.

(1)

ence of the jury, the judge will read the question to all counsel, on question, and give counsel an opportunity to object to the question made, the court will rule upon them at that time and the question will be either admitted, modified, or excluded accordingly.⁸³

As noted before, the indirect quotation strategy is very productive. In particular, contrary to the direct quotation which for its own nature adapts to regulations expressed in written form such as secondary rules or bylaws, indirect quotation is often used when the focus is on the principle to apply, as in the case of the decisions of the judges in previous cases, who applied a principle to the concrete lawsuit:

The Good Wife 4x16

Alicia: I knew if I dug deep enough, I'd find *precedents* to get Judy's testimony kicked.

Charles Lester: And did you?

Alicia: *USA v. East. When a prosecutor offers aid to a witness in a civil trial as a quid pro quo for testimony...*

Charles Lester: It's okay. You sold me.

The United States legal system is based on Case Law, i.e. the law originating from judicial opinions and the collection of reported judicial decisions within a particular jurisdiction dealing with a specific issue or topic⁸⁴. This means that if a case has been judged according to a specific principle in the past, then the same principle can be applied to a lawsuit consisting in a similar situation.

In the scene above from episode 4x16 of *The Good Wife*, for example, Alicia and Charles Lester are desperately looking for a way to invalidate the testimony of a troublesome witness, which would have testified against their client, the drug dealer Lemond Bishop. And, as a matter of fact, Alicia finds a case (*USA v. East*) which appears to fit their situation, since their unwanted witness, Judy, has been offered something in exchange for her testimony (*quid pro quo*).

However, indirect quotation can also be used to refer to the content of the Constitution, the US Code or of statutes and regulations, as in the following examples:

US Code and precedent case: The Good Wife 1x20

Giada Cabrini: *Title 28, USC 455-A provides a judge must recuse himself in any proceeding in which his impartiality may be reasonably questioned.* The defense asks that you do so now, recuse yourself. (1)

Will: Miss Cabrini, we've been through this. I'm not biased against you.

Giada Cabrini: I agree. You're biased for me.

Will: Really? You're gonna have to explain that one.

Giada Cabrini: Well, yesterday after court, you advised me on how to cross-examine and question the witnesses for this trial, clearly demonstrating bias.

Will: You asked for advice.

Giada Cabrini: *United States v. Burger. If a person knowing the relevant facts, would harbor doubts about a judge's impartiality, he must recuse himself.*

Once again, a mock trial is used as device to popularize legal knowledge. In this episode, Will is invited by an old friend and colleague to act as a judge in a mock trial arranged by the Law school where Will's friend teaches. The students, representing two opposing parties, have to face the trial

⁸³ Available online at http://www.illinoiscourts.gov/supremecourt/rules/Amend/2012/040312_Rule_Amendments.pdf (Last access: October 8, 2015).

⁸⁴ <http://www.nolo.com/dictionary/case-law-term.html>. Last access: March 31, 2016.

illustrate they have skills as lawyers and are ready to work
g to the strategy they apply to the lawsuit, the knowledge
of the law they display and demonstrate and, of course, according to who wins the case.

Giada Cabrini is a shrewd student (see also Section 6.8.1 on “Objections”) who tries to have Will disqualified as a judge: at first, she had all her objections overruled, so she argued that Will was biased against him. Then, she talked to him in private to have some explanations about her mistakes and astutely uses this meeting in the following hearing: if Will had been a real judge and she had been a real lawyer, their meeting would have undeniably affected the trial, with Will glaringly acting in her favour out of the courtroom. When back in the courtroom, Giada asks again for Will’s recusal and she does so by quoting the exact title and point of the United States Code in which this issue is disciplined and boasting an almost literal knowledge of the source quoted. The original text, in fact, is:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.⁸⁵

Immediately after that, she explains why their situation falls within the case for a judge recusal by recurring to the narration of the facts (*yesterday after court, you advised me on how to cross-examine and question the witnesses for this trial*) and to their consequences (*clearly demonstrating bias*). Finally, she further argues her own case in support of Will’s recusal by also quoting a previous case, *United States v. Burger*, which represents a precedent of recusal of the judge due to a person “harboring doubts” about his impartiality.

Of particular interest are the scenes in which both Common/Case Law and Statutory/Written Law are compared and issues about the hierarchical relationship between the two are raised:

The Good Wife 1x07

Ryan Alprin: What do you think of the *First Amendment*?

Alicia: I like it.

Ryan Alprin: Isaac and Anna’s religion requires they not act on the fallen Eruv wire, because it’s the Sabbath. Therefore they can’t be held liable for not acting.

Alicia: You want to use the First Amendment to attack a slip and fall?

Ryan Alprin: They believed God would judge them if they acted, so they couldn’t act.

Alicia: And what about *OSHA v. Smith*?

Ryan Alprin: *OSHA v. Smith can kiss my ass. Liability is outweighed by the Loeb’s right to exercise their religion.*

(í)

Ryan Alprin: *In Kolatch v. Harper, Your Honor, it was argued, the Constitution can’t be segregated from peripheral areas of law.*

Suits 2x04

Mike: You know, we should subpoena the outside company that put together the focus groups.

Louis: Yes.

Mike: We should get all their records...

Louis: Like it.

Mike: *And the names and addresses of the people who took part.*

Louis: *They’re protected in civil actions under the privacy statute of ‘74.*

⁸⁵ <https://www.law.cornell.edu/uscode/text/28/455> (Last access: October 7, 2015).

In the first scene, drawn from *The Good Wife*, for example, Alicia and a young lawyer who is external to Lockhart-Gardner, Ryan Alprin, are trying to build a defense strategy for a Jew couple who are held responsible for a woman injured by the Eruv, a ritual enclosure used by some Jewish communities to allow other Jewish community members to carry objects from a house to another during particular days like Sabbath or Yom Kippur, by means of poles and wires. In those particular days, in fact, the Jewish religion does not allow its believers to work and for this reason, the defendants, Isaac and Anna, did not fix a pale which broke and fell, causing the accident.

Ryan's idea is to appeal to the First Amendment and to use their religion as a shield, which expressly grants the right to freedom of worship and religion in the United States. Holding them responsible for the accident would therefore violate their right to practice their own religion without any limitations and especially without material consequences and damages. However, Alicia points out that there are cases, such as the quoted *OSHA v. Smith*, in which the Occupational Safety and Health Administration had ruled against religious traditions if these are held against the public safety⁸⁶. As a matter of fact, there are precedents in which safety, legitimacy and liability issues have been judged of higher importance than religious practices. However, Ryan does not sound worried about them and maintains that what is contained in the First Amendment is at the basis of any subsequently produced legislation. So, when in court the opposing counsel argues the inapplicability of the First Amendment to the case, Ryan sustains his thesis with another quotation from the jurisprudence, *Kolatch v. Harper*, in which the position of supremacy of the Constitution on the other areas of law is reaffirmed. As a result, the judge is convinced by Ryan's defense and sustains it by specifying that "everything is about the Constitution".

In the following example, drawn from *Suits*, the situation is reversed: it is the precedent case established by the court which poses some limits on a regulation. Mike and Louis are working together for the first time on the defense of a water company, Liquid Water, sued by another company, Durham Foods, for a deceptive slogan.

While investigating, they find out that Durham Foods had entrusted the management to an external firm and decide to use this information as a threaten. However, when Mike suggests Louis that they subpoenaed the outside records for some privileged information, Louis replies that they are "protected under the privacy statute of '74". The Privacy Act of 1974, in fact, disciplines the protection and the privacy of data within the systems of records of corporates and associations:

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains⁸⁷.

⁸⁶ See, for example, the cancellation of the exemption from wearing hard hats for religious reasons: https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=1789 (Last access: October 8, 2015).

⁸⁷ Unless in the cases further specified. Original text available online here: <http://www.gpo.gov/fdsys/pkg/STATUTE-88/pdf/STATUTE-88-Pg1896.pdf>. See also: <http://www.archives.gov/about/laws/privacy-act-1974.html> (Last access: October 8, 2015).



ing a previously judged case which overturned the general
ishing its predominance and demonstrating that in some
cases jurisprudence can be hierarchically superior to written regulations.

The conclusion to this section on quotations is a scene from *Boston Legal* in which quotations are embedded in an unusual way, but are nonetheless surprisingly effective: Jerry Espenson, also known as Handsø for his strange way of always keeping his hands on his thighs, is a lawyer at Crane, Poole and Schmidt. He is a brilliant lawyer, an expert in financial law and has applied three times to become a partner of the firm. However, on his third and last possibility, the senior partners decide to elect Brad partner instead of him because of his strange behavior (later discovered to be Aspergerø syndrome), which made the clients feel uncomfortable in his presence. When he finds out that his last opportunity to get the firm partnership has faded, Jerry suddenly goes crazy and reacts by taking the firm name partner Shirley hostage and threatening to kill her with a knife if they did not make him partner:

Boston Legal 2x11

Jerry: I want to be made partner. I am going to draw up an agreement. And you're going to sign it, Shirley. It all include a hold harmless clause for this assault.

Garrett: But this is a crime! Hold harmless clauses are for insurance and real estate, not for crime.

Shirley: Don't say crime. We're just talking here.

Garrett: It certainly won't cover attempted murder.

Shirley: Don't say murder.

Jerry: You, substandard first-year. Go pull the *criminal law treatise* at 22 A.L.R. 3rd 1228. Reference cases that hold extreme emotional conditions diminish one's responsibility for crime. (...) You, substandard partner, get me *Rosenberg versus Kaplan*. 273 mass. 4-11. The facts of the case can be construed to uphold an employment contract, even though it's entered into under duress.

While terrorizing the whole office, Jerry sets the conditions not to kill Shirley with incredible clarity of mind, despite his state of extreme anger. First, he acknowledges that what he is doing is an assault and is already thinking of embedding a hold harmless clause in the contract he is going to draft and submit to Shirley. A hold harmless clause, in fact, is a promise by one party not to hold the other party responsible if the other party carries out the contract in a way that causes damage to the first party⁸⁸ and Jerry hopes to protect himself by its use. The concept is made less opaque to the audience when the first-year associate Garrett gives extra information about it (*But this is a crime! Hold harmless clauses are for insurance and real estate, not for crime*) by which he underlines that this kind of clause is only applicable to civil law (e.g. liability in contracts) and not to criminal behaviors (attempted murder). For this reason, Jerry enjoins him to take the criminal law treatise at 22 A.L.R. 3rd 1228. A.L.R. stands for *American Law Reports*, a resource used by American lawyers to find a variety of sources relating to specific legal rules, doctrines, or principles and is therefore a huge source of jurisprudence. As a matter of fact, Jerry's quotation of precedents in support of his situation convinces the other lawyers to act according to his will.

In this case, whether the quotations do actually discipline the cases described or not is not the point of the matter. It is rather significant that the quotations of reliable sources (whether fictional or real), which are known, acknowledged and held valid by the whole community, are crucial in the

⁸⁸ <http://www.nolo.com/dictionary/hold-harmless-term.html> Last access: October 9, 2015.



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the distribution of power. From a weak and "weird" man, table in the eyes of his colleagues, who, however, are convinced not only by his extreme actions, but are also persuaded by the potential support he got from the law he quotes. The quotation of law contribute to Jerry's reconstruction of himself as powerful, as opposed to the weak self that his colleagues had known up to that moment.

According to Br  nner (1987) and G  lich (2003: 241), scenarios are the  drawing up of possible situations, events or reactions  and are used to sketch out possible situations and possible actions to  solve  them (G  lich 2003: 244). Linguistically, scenarios are most typically expressed by conditional clauses, starting by  if  as an introduction to the possible/actual condition, and then followed by the main clause expressing the possible consequence (also found in the reversed order). Similarly, if the consequence of a condition is sure, the condition can also be introduced by  when ,  whenever ,  every time  and similar expressions. I will call this kind of construction simply  hypothesis 

However, sometimes in legal discourse scenarios of the possible conditions for a law to be enforceable or applicable to a situation, or *vice versa* for a situation to be recognized as the one disciplined by law, are not expressed in such a direct form. In particular, in legal dramas the identification of a particular scenario with a matter disciplined by law is often expressed  in instalments  i.e. by expressing the possible conditions for a crime in more than one scene.

Furthermore, legal dramas tend to apply the abstract cases disciplined by law to the  concrete  facts represented. Law is used as instrumental to the development of the plot, so its cause-effect aspect is often underlined by a scenario of the potential consequences of the characters 

In the light of these premises, this research includes in the  scenario  strategy three possible realization forms:  hypothesis  (hypothetical clauses including a condition and a consequence clearly connected),  conditions  (the expression of conditions for a crime to be considered such in a more or less direct way) and  scenario of consequences  (the expression of possible, potential and hypothetical consequences of a law, a legal procedure or of a crime). As shown below, the  conditions  are usually matter of discussion among experts who have familiarity with law, while the other two are generally used to address non-expert interlocutors.

6.6.1. Hypothesis

Hypothetical constructions can serve two different functions according to the context in which they are found. They can express:

- 1) A hypothesis about a possible abstract and general situation, in which the participants are not identified as specific characters and no reference is made to the actual context of the communication ( decontextualized  hypothesis) or
- 2) A hypothesis referred to a possible concrete and specific situation, in which the participants are known to the interlocutor or include the interlocutors themselves and is thus highly contextualized (hence  contextualized  hypothesis).

For example, in the next scene, taken from *Suits*, Harvey visits Judge Henderson, who is his friend, at his home to speak about the suit Daniel Hardman (former name partner at Pearson-Hardman) is moving against him and Jessica for wrongfully firing Monica. Daniel is now causing trouble to Jessica and Harvey by defending Monica Eton, who was his own lover during his partnership and was fired after embezzling money from the firm in accord with Daniel himself. Harvey starts talking to the judge in general terms, by means of a  decontextualized  hypothesis, but the judge

, so that Harvey deliberately starts to make more specific

Suits 2x14

Harvey: The name partner in question was the one she had an affair with while he was embezzling money from the firm.

Judge Henderson: So bring it up. Make your case.

Harvey: We can't.

Judge Henderson: He got you to sign a confidentiality agreement.

Harvey: Yes. But the spirit of the agreement was to shield him. *If we had a sealed hearing, how would you rule on tossing the confidentiality?*

Judge Henderson: I'm afraid you'd lose.

Harvey: Why?

Judge Henderson: *If he were the plaintiff, it'd be one thing, but he's the attorney. I can't punish the woman for her choice of attorney.*

(1)

Daniel: *If you ask me anything about embezzlement, I'd deny it. If you bring any proof forward, it's a violation of our non-disclosure.*

After Judge Henderson has understood the reference to the ex-partner Daniel Hardman (*the name partner in question*¹) and to what he did to the firm in a conspiracy with Monica, Harvey's speech has automatically been contextualized. As a result, in fact, the judge also understands why Harvey cannot talk about it in court (- *We can't*. - *He got you to sign a confidentiality agreement*).

It is at this point that Harvey directly asks the judge for advice about the possible strategy to use: he formulates a 'decontextualized' hypothesis, which makes specific reference to a case and to people known to both the participants in the communication. In order to use Daniel's involvement in the embezzlement against Monica, Harvey asks the judge if there is any possibility of 'tossing' the confidentiality imposed by the confidentiality agreement they signed and he does it by presuming an hypothetical condition which is, in reality, his intention (*if we had a sealed hearing*), and then asking about the possible result (*how would you rule on tossing the confidentiality?*).

Judge Henderson, in turn, replies that he would lose and explains why with another 'decontextualized' hypothesis: *'If he were the plaintiff, it'd be one thing, but he's the attorney'*. He specifies that a judge cannot toss the confidentiality of an agreement entered by Daniel when the one moving the lawsuit is actually Monica, because it is not her the person directly involved in the agreement, but his lawyer.

Daniel Hardman now has Harvey and Jessica set up, and he also boasts about it in a following scene, where, once again, a pair of 'decontextualized' hypotheses is used: *'If you ask me anything about embezzlement, I'd deny it. If you bring any proof forward, it's a violation of our non-disclosure'*. By means of this further utterance, it is reaffirmed that the confidentiality agreement signed by the ex-partners of Pearson-Hardman is unbreakable and that any evidence Harvey could try to use in courtroom would represent a violation of the agreement. Moreover, the audience is also made aware of the fact that the confidentiality of information concerning an attorney cannot be used against a client and cannot be breached in his/her defense or in defense of the counterpart.

In the following scene from *Boston Legal*, instead, we have an example of 'pure' decontextualized hypothesis:

guy lying on the side of the street, you have no obligation to pull over and help. But if you do pull over, you incur a duty to complete that rescue. The theory being other would-be rescuers pass by, thinking help is already on the scene.

Paul: And?

Lori: The United States have declared a war on terrorism. We've talked the talk when it comes to Sudan, we've even given financial aid. *Our theory of law would be analogous. Other countries have stayed out, thinking America's stepping in when we're not.*

(1)

Lori: *If a government begins a rescue operation which, in effect, stops other countries from pursuing that rescue, that government can be held liable for failing to complete that rescue.*

One of the lawyers at Crane, Poole and Schmidt, Lori, is defending a client suing the Government of the United States of America for not actively contributing to stop the civil war in Sudan, which resulted in the death of many of his family members (see also Section 5.4. on Explication proper) and has to find any law which could possibly apply to the case and make it lawful. Lori finally finds inspiration in tort law and talks about the general rule she wants to use in her favor.

She does not make reference to any person in particular or to specific contexts, but only formulates an abstract, universally valid and -decontextualized hypothesis: *if you see a guy lying on the side of the street, you have no obligation to pull over and help. But if you do pull over, you incur a duty to complete that rescue*. This sentence is at the same time a form of indirect quotation of the law, which typically -speaks by means of hypothetical situations. When she explains the motivation to such rule, Lori also underlines the hypothetic nature of her speech (*The theory being that*) and that it is made without any reference to specific people (*would-by rescuers*) or situations (*thinking help is already on the scene*).

The relevance of this law to the specific case they have to defend is explained by means of a comparison (see Section 6.2. on Analogy) when she compares the -would-be rescuers in the hypothetical situation depicted before to the other countries which have -stayed out of the conflict, and Sudan to the person lying on the side of the street. Lori's strategy sounds quite sensible to her colleagues ears and she decides to bring it forward in court, where, after arguing her case, she uses once again a hypothetical construction, though this time contextualized: *If a government begins a rescue operation which, in effect, stops other countries from pursuing that rescue, that government can be held liable for failing to complete that rescue*.

Though tort law cannot really be applied to such complex cases, in which international treaties signed by sovereign States and issues such as civil wars and genocides are concerned, Lori's example functions as bringer of new information concerning the obligation to complete the rescues to the non-expert audience.

6.6.2. Conditions

Also for the scenario of the conditions, at least two opposed forms can be observed: a -direct exposition of the conditions for a crime, and an indirect one, or -in instalments in which the conditions for a crime (or any other wrongful action or for legal procedures etc.) do not represent the main topic of the conversation or of the utterance, but are indirectly embedded in the text (see Gülich 2003: 244)



yers at Crane, Poole and Schmidt are trying to defend an charged with öengaging in sexual conduct for a feeö, a crime reformulated by Shirley into öyou paid a man to have sex with youö. The lawyers try to defend her by demonstrating that she suffers from nymphomania and at the end of the trial the judge explains his motivation for finding her not guilty:

Boston legal 1x17

Judge: There is no question that the defendant entered into a transaction for sex with someone for consideration. However, *one element of this crime is criminal intent*. The burden is on the prosecution to prove this element beyond all reasonable doubt. *If a medical condition deprived the defendant of her free will, or even unduly influenced her, she lacked that intent*. Since the prosecution failed to eliminate hypersexuality or bipolar syndrome or Kluver-Bucy syndrome as a cause for her conduct, well, then, I feel I have no choice but to deliver a verdict in favor of the defendant. Miss Watson, you are free to go.

In a judge's verdict the reasons behind the sentence are considered fundamental, since they determine the fairness of the decision and of the whole trial and leave (or not leave) leeway to a potential appeal (see 5.X) In this case, the strategy of using a scenario of the conditions to explain specialized concepts and technical terms is used at least twice.

The first time, the judge specifies that for Miriam Watson's actions to be considered a crime, the element of öcriminal intentö is necessary (as it basically is for all crimes), which has to be proven öbeyond reasonable doubtö by the prosecution. Then, he narrows the subject of his speech to the case and opens up a second hypothesis (ö*if a medical condition deprived the defendant of her free will, or even unduly influenced her, she lacked that intent*ö), by which he explains one of the possible conditions for the lack of the intent, and therefore, for the impossibility to demonstrate the crime Miriam was charged with.

Thanks to this example of the necessary conditions, the aspect of öintentö fundamental for an action to be considered a crime, is explained and light is shed on how the presence or the lack of intent can be demonstrated (*The burden is on the prosecution to prove this element beyond all reasonable doubt; since the prosecution failed to eliminate hypersexuality or bipolar syndrome or Kluver-Bucy syndrome as a cause for her conduct*).

Similarly, the next scene illustrates the conditions for the validity of a contract:

Suits 2x06

Mike: Cause no matter what it was written on, *for a contract to be valid, it needs to have three things: An offer, acceptance...*

Thomas Walsh's lawyer: í *And consideration.*

Thomas Walsh: What's consideration?

Mike: *Quid pro quo. You both get something.*

Keith Hoyt: Like I get his chips and he gets myí

Thomas Walsh's lawyer: í *Company. That is a validí*

Mike: í *Contract, yes. You forgot one thingí*

Harvey: *Competence.* My client was drunk, and you knew it.

Keith Hoyt is a client of Pearson-Hardman and Harvey and Mike are helping him in his lawsuit against Thomas Walsh. Keith and Thomas were playing poker together, Keith was drunk and he bet his own company. Thomas won the poker hand and now considers Keith's company his possession. However, the contract that they wrote on a paper napkin cannot be considered valid. In a scene

versations are shown, Mike is explaining his client Keith act and Thomas Walsh's lawyer is explaining his client

why he should, instead.

The two lawyers are shown to list the basic conditions for the validity of a contract by heart, and for this reason the two scenes overlap. The four conditions listed are:

- a) An offer
- b) An acceptance
- c) Consideration
- d) Competence.

While for 'offer' and 'acceptance' there is no need for an extra explication, the concepts of 'consideration' and 'competence' need to be further investigated. Consideration is explained by means of a double reformulation and an exemplification. When Walsh asks his lawyer what consideration is, Mike explains the same thing to his client, Keith: this clearly shows the authors' awareness of the opacity of the specialized concept to the lay public and underlines their deliberate intention to make it clearer. In fact, it is first reformulated by Mike by means of the Latin expression 'quid pro quo' meaning to have 'something in exchange of something else' and probably more common among an English-speaking audience, and then is further explained by Mike with similar words ('you both get something'). Moreover, the abstract concept of 'consideration' is explained by means of concrete objects (the chips and the company).

The final condition for contract validity is competence. Even though it is not explained in detail, competence is implicitly explained by the reference to the specific case made by Harvey (*my client was drunk, and you knew it*).

In these first two scenes, the conditions are explained in a linear way, generally becoming the main topic of the conversation.

In the next episode, drawn from *The Good Wife*, spousal privilege and the possible conditions to break it are listed, but not in a 'linear' way like in the scenes above: the possible conditions are presented indirectly, by being embedded one at the time in the conversations between the characters.

Lockhart-Gardner's client, Brad Broussard, is charged with shooting a man called Miles Wagner, an unpopular mutual fund manager who defrauded Broussard and many others of their savings. Broussard was found covered in blood next to Wagner's body, but insists on his innocence. The other person who had a strong motive to kill Wagner was his business partner, Martin Knox. Knox's wife, Rachel, strongly dislikes him and tells Alicia that she is willing to implicate him, but cannot testify against him because she is bound by spousal privilege laws. Therefore, all the lawyers working on the case and the firm's investigator Kalinda are looking for a way to break the spousal privilege:

The Good Wife 1x15: Spousal privilege breach

Alicia: Rachel, if we happen to get you on the stand, would we be happy with the results?

Rachel Knox: Let me put it this way. Yes. But we both know you won't be getting me on the stand, because my husband won't allow it.

Diane: She's right. We've run smack into spousal privilege. Knox can prevent her from testifying.

ilege is supposed to foster open communication in a marriage, They sleep in separate rooms. She hates him. His scandal has

Will: Nope. Tried it in another case. Courts respect marriage too much. Even bad ones.

(í)

Alicia: *There is an exception to spousal privilege. A third person present.*

Diane: I doubt if Knox is stupid enough to tell his wife to lie in front of a third person.

Alicia: Their daughter.

Diane: Worth a try. Check that out.

Will: Rachel Knox is Irish. *You could try to argue their marriage was a green card fraud on the state.*

Diane: Okay, we have a new mission now. *We need to break spousal privilege so we can get Rachel Knox on the stand to testify against her husband.* We do that, Brad Broussard has a fighting chance.

(í)

Alicia: I think we found our way around spousal privilege. We can get Rachel Knox to testify on the stand.

Kalinda: How?

Knox's Lawyer: Rachel Knox cannot testify. Spousal privilege is very clear.

Diane: Yes, it is, Your Honor, which is why she can testify. *Spousal privilege is pierced when there is a conspiracy between spouses.*

In three non-consecutive scenes, the protagonists list the possible ways to break the spousal privilege which inextricably links Rachel and Martin Knox. The concept of "spousal privilege" is introduced by means of an indirect denomination, followed by further information: Rachel answers that they cannot manage to let her testify because her husband will not allow it and Diane defines this as the "spousal privilege" into which they have "run smack" (denomination).

Then, she adds that "Knox can prevent her from testifying", explaining the concept more in detail (explication proper).

Julius argues that their spousal privilege could be tossed by demonstrating that their marriage is in crisis, but Will specifies that this was not considered a possible condition to have the spousal privilege annulled in previous cases.

The other possible ways to circumvent it which are later introduced by the other lawyers:

- 1) the presence of a third person in the communication between the spouses
- 2) the celebration of the marriage only for citizenship purposes and
- 3) a conspiracy between the spouses.

While the first two conditions are not pursued in practice by the lawyers, the third one finds concretization in what Alicia discovers: the Knoxs had buried 50,000 dollars obtained by Martin's embezzlement by donating them to a charity, a conspiracy tactic that will allow Rachel to testify, and Broussard to be vindicated and released.

So, though only one of the three conditions to pierce the spousal privilege is actually brought on the screens and is useful to the lawyers to argue their defense and to the authors for the unravelling of the plot, the view of "spousal privilege" given to the audience is broadened by the hypotheses put forth by the other participants in the conversation, which despite not being suitable for the facts presented, have been exploited to fulfill a "secondary" informative function.

To conclude my illustration of the scenarios of conditions used as a popularizing strategy, I would like to show how "broad" the range of action of the "instalments" in which conditions appear can be. Sometimes, the different conditions for a crime are exposed not only in the time of one

According to the plot and to the authors' needs. Moreover, in
categorization strategies collected here are used more or less

indistinctly in all legal dramas and thus characterize it as a genre, I will show that sometimes the
audience can draw information and build a more or less detailed frame of a certain area of law
thanks to more different scenes watched in different moments, like tiles slowly composing a
mosaic. Here are, for example, scenes drawn from both *The Good Wife* and *Suits* concerning the
same law field, defamation:

1) *The Good wife* 3x02

Alicia: Your Honor, I'd like to make motion at this time to dismiss this lawsuit. *This is a libel suit, not a criminal case. The plaintiff needs not only to prove that my client's book was wrong, but that he knew it was wrong.*

Oliver Cardiff's Lawyer: Which we're doing.

Alicia: No. There is too much inherent uncertainty here. This is a case built on perception, and the death zone makes those perceptions essentially suspect.

(...)

Alicia: How may I help you?

James Thrush: Do you know the key distinction between the libel laws over in your country and mine? *Burden of proof is reversed. In America, it is up to the person libeled to prove the accusations against them are either knowingly or recklessly false. In England, it is up to the person libeling, your writing client, Mr. Lambros, to prove what he says is true.*

(1)

Timothy Brannon: Your Lordship, *there is qualified privilege as an exception to our libel laws.*

Judge: And what is that, Mr. Brannon?

Timothy Brannon: *When they are a warning.* Mr. Cardiff has demonstrated a predisposition for bypassing stranded climbers at altitude. Now, *if this book is a warning to climbers in the future, then it is no longer held to the same burden of proof maintained by our libel laws.* I, therefore, ask that this suit be dismissed because this book, Your Lordship, is a warning.

2) *Suits* 2x10

Daniel Hardman: *The two of you have now slandered me, which violates the morality clause of the partnership agreement.*

Harvey: *It's not slander if it's the truth.*

Daniel Hardman: Unfortunately, you don't have a shred of evidence, because the evidence doesn't exist.

3) *Suits* 1x07

Mike: *Defamation of character. The plaintiff's video negatively impacted the perception of Lena Lunders and impaired her financial well-being.*

Kyle Durant: That's ridiculous, Your Honor. *In order for there to be defamation, the statements made would've had to have been false. That's not the case here.*

Mike: *Then you should have no problem proving that in court.*

The concept of defamation has already been introduced in Section 6.2.1., in which it was explained by means of a metaphor used by a judge reproaching the lawyers and giving an explanation for not accepting their defense:

Judge: To use your example, it's not enough to prove that there was no fire in the theater. You must also prove that Mr. Roscoe knew there was no fire or had a reckless disregard for the facts.

defendant (the TV commentator Duke Roscoe) had done, was like yelling *fire* and *meat* when it was not true. However, proving that what a person charged with defamation said is not true is not enough, standing at what we have learned from the judge's verdict. This is also confirmed in the scenes just mentioned above in this section.

First of all, we can notice that three different terms are used to express what to a lay person can sound like the same crime: in example 1), the term used is *libel* (*this is a libel suit; libel laws; the person libeled; the person libeling*); in example 2) the term used is *slander* (*you have now slandered me; it's not slander if it's the truth*), while in example 3) they talk about *defamation* (*defamation of character; in order for there to be defamation*). The similarity of the different situations could generate confusion in the lay audience which does not distinguish the three according to a reliable criterion. At the same time, the contextualized use of these three terms helps *reconstruct* the right use of each of them. *Libel*, for example, is only used in reference to the content of a book and it is specified that if the book contains a warning, then it is not considerable libelous. *Slander*, instead, is used in *private* contexts: Daniel Hardman is addressing his partners Jessica and Harvey, who have revealed his previous embezzlement of money from their own firm, therefore violating the morality clause of the partner agreement they signed. This suggests that one should not refer to this kind of defamation as *libel*, like in the case of defaming declarations in a published book or in TV, but rather as *slander*.

Defamation, instead, is the general term defining *a false statement that harms a person's reputation*. But *if the statement is published, it is libel; if spoken, it is slander*. In particular,

public figures, including officeholders and candidates, can only prevail in defamation lawsuits if they can show that the defamation was made with knowledge that it was false or with reckless disregard for the truth⁸⁹.

After this general premise on defamation, I would now focus on the role of the scenario of conditions in these scenes in explaining defamation. In the episode from *The Good Wife*, Alicia represents Danny Lambros, whose brother died in an accident in the *death zone* of the mountain, i.e. the altitude where oxygen is insufficient and perceptions are altered. Danny and his brother Robert, together with the defendant, Oliver Cardiff, had to choose between leaving him die and carrying him and risk to die all. Danny has written and published a book about this story, in which he describes Oliver as a cold person who did not care about Robert dying and obliged him to let his brother die alone. For this reason, Oliver is now suing Danny and his book for libel.

Alicia succeeds in having the case dismissed by arguing that the counterpart, being a public figure, needs not only to prove that Alicia's client's book was wrong, but that he knew it was wrong (*knowledge it was false or reckless disregard*), and since the only other witness could have his perceptions blurred by the lack of oxygen in the *death zone* the counterpart cannot demonstrate it.

But immediately after that, Oliver decides to sue Danny again, but in the British jurisdiction instead of the American one because in British law the *burden of proof* is reversed: *In England, it is up to the person libeling, your writing client, Mr. Lambros, to prove what he says is true*. In this way, Alicia has to prove that what his client says is true, otherwise he will be considered guilty of libel. Fortunately, helped by the British attorney Timothy Brannon, Alicia finds a condition in which statements cannot be considered libel according to the British law, i.e. when they are a

⁸⁹ <http://www.nolo.com/dictionary/defamation-term.html> (Last access: October 11, 2015).

make her counterpart admit that the book acted as a
ø for himself, and eventually win this second lawsuit: *øif*

*this book is a warning to climbers in the future, then it is no longer held to the same burden of proof
maintained by our libel lawsö.*

Similarly, in the following scenes, taken from *Suits*, the conditions for slander and, more in
general, for defamation, are reaffirmed: *øItø not slander if itø the truthö; øIn order for there to be
defamation, the statements made wouldøve had to have been falseö.*

In the first case, the explanation of -slanderø is reversed. Daniel Hardman threatens Jessica and
Harvey, claiming that he is a victim of slander. In this case, he is the potential plaintiff and would
just have to demonstrate that what they said about him (that he stole money from the firm) is not
true. He could use in his defense the fact that no proof of the embezzlement is available anymore.
So, when Harvey says *øitø not slander if itø the truthö*, Daniel is not worried, because the truth
cannot be demonstrated and it would just be his word against Jessica and Harveyø.

In the last scene, however, Mikeø's client Lena Lunders is countersuing one of her former
employees, Sydney, a woman fired for impersonating Lena at a party, who had therefore filed for
wrongful termination. Mike is arguing the -defamation of characterø specifying that the
impersonation of the woman had in turn damaged his client.

Once again, the opposing counsel underlines that it is up to the plaintiff (Lena, Mikeø's client) to
prove the defendantø's defaming statements in the impersonation were not true and argues that that is
ønot the caseö. As a response, Mike ironically guesses that the counterpart will have no problems in
demonstrating that what was said in the impersonation was instead true.

Summing up, these scenes on defamation have clarified that:

- 1) Defamation can be proved if the plaintiff proves that the defendantø's statements were false;
- 2) One can sue for defamation if the allegedly false statements of the defendant impacted the
perception of the plaintiff and/or impaired her/his financial well-being (defamation of
character);
- 3) Defamation can be distinguished in libel (for example with published books) and slander;
- 4) In the United States, the -burden of proofø is on the plaintiff, that is to say, the person
accusing another of telling false things must demonstrate that they were false;
- 5) In Great Britain, the -burden of proofø in defamation is reversed: the person accused of libel
must demonstrate that what s/he said about the plaintiff is true;
- 6) In particular, in the British jurisdiction, a publication which acts as a warning for the
audience cannot be object of a libel lawsuit;
- 7) In case the person accused of libel is a public figure, the latter has to prove that the libeling
person did not only state a falsehood, but that s/he did it knowing that it was wrong or with
reckless disregard for the truth, thus demonstrating the intent to defame;
- 8) The defamation of a corporate partner can be reason of the breach of a contract containing
specific provisions, e.g. a -morality clauseø

6.6.3. Scenarios of consequences

In addition to the formulation of general hypothesis on abstract situations disciplined by law and to
listing the possible conditions for a crime, scenarios can also be built about the potential



ements (–scenarios of consequences). The difference is that the latter uses the concrete, actual consequences of a law/motion/decision/regulation etc. to explain it (see Section 6.1.2), as in the case of the gag order, in which the defendant is sent back to prison for breaking the gag order imposed by the judge:

Judge: *You are all under an electronic gag order. No texting, no tweeting, no Facebook. Is that understood?*

(í)

Sloan: *I’m sorry, Your Honor. It was just for my fans. It won’t happen again.*

Judge: *Well, you’re damn right it won’t happen again because in lockup, they won’t let you tweet.*

Sloan: No, please...

Judge: *Young lady, your whole life, people have allowed you to make excuses. Well, that ends today. Bail has been revoked. Sheriffs!*

Scenarios of consequences, instead, are only hypothetical formulations about possible and potential consequences, not references to the material, already existing ones, as in the following case:

Boston legal 2x12

Alan: But you are guilty, Jerry. A whole office full of people saw you do it. One of the junior associates took a video of you on his cell phone. He’s thinking of entering it in a film festival.

Jerry: No plea bargain.

Alan: Proving temporary insanity is a daunting task. You know that. A plea bargain is our best chance to keep you out of jail.

Jerry: *If I plea bargain, I’ll be disbarred.* Alan, my whole life is the law.

Here the lawyer Jerry HandsøEspenson, who had threatened his employer Shirley Schmidt to kill her if he had not made him firm partner (see Section 5.6. on quotations) discusses with his colleague Alan Shore their possible defense strategies now that he is back to mental sanity. In fact, given Jerry’s quick recover and the lucidity shown during the attempted murder testified by all his colleagues (he had even quoted regulations by heart and demonstrated premeditation) Alan maintains that it would be difficult to prove his temporary insanity and would be easier for him to accept a –plea bargain, i.e. to admit his guilt and serve the punishment for a lesser crime agreed with the counterpart (see below). Jerry refuses because if he accepted a plea bargain, then he would be disbarred. The plea bargain is not explained by staging the consequences it has had, but only by predicting scenarios of its future possible consequences and can therefore fall within the –scenario of consequences.

The following scenes will contribute to a better understanding of this popularization strategy by way of further examples:

The Good Wife 3x20: Alford Plea

Lindsey: A what?

Diane: An Alford plea. It’s a form of a... a guilty plea.

Lindsey: No.

Diane: Wait, just... just hear us.

Lindsey: I already said...

do whatever you want, but *with an Alford plea, you get out. cution that they have enough evidence to convict, but you get*

Lindsey: Do they?

Alicia: Have enough evidence to convict? Without the DNA, normally we would say no, but you never know for sure what a jury will do.

Megan: *So if I take this... plea...*

Megan's lawyer: *The state's attorney agrees to a sentence of time served. You go free. Now. Immediately.*

Megan: Really?

Megan's lawyer: *Yeah, Megan, but there are drawbacks. You won't be able to clear your name. You'll be a convicted felon for the rest of your life. And one parole violation, and you're right back here.*

Megan: But if I don't take it, I have to stay here?

Pamela's lawyer: Yes. At least until you get a new trial.

Pamela: And that's how long?

Pamela's lawyer: I don't know. I want you to have a complete picture here, Pamela. The state's attorney offers this plea because they're afraid of being sued. *As part of the plea agreement, you have to promise not to sue.*

Pamela: But I get out?

Pamela's lawyer: Yes.

Once again, the scene is the result of a particular editing choice, a 'patchwork' in which three lawyers are explaining at the same time to their three defendants what an Alford plea is. Three girls, Lindsey, Megan and Pamela, have been charged with murder but still claim their innocence. After spending some time in prison, they are now appealing the sentence and Alicia and Diane, in collaboration with other two external lawyers who jointly represent the three girls, found a way to let them out. In particular, one of the girls, Megan, is being bullied and beaten up in prison and is therefore pushing for an immediate release, while Lindsey does not want to plead guilty as a matter of principle, since they are not.

The three lawyers explain to the three girls both positive sides and drawbacks of accepting an Alford plea, and they do it by means of scenarios of the consequences. For example, Alicia tries to convince her client by repeating twice that she would get out of prison, though in practice she would acknowledge that the prosecution has evidence enough to convict her.

The second lawyer, instead, focuses on another consequence of the Alford plea: the judge agreeing to a sentence of time served, which, would result in the immediate release for the three girls.

However, the third lawyer also lists the possible negative consequences: even though they would be free in practice, they would also be considered 'convicted felons' for the rest of their lives and therefore cannot be involved in any other violation of law; moreover, they will be held in parole and cannot violate it, otherwise they will be sent back to prison.

By means of this strategy, the authors of the TV series have been able to 'build' the whole episode on the psychological representation of the three girls in front of this hard choice, starting with the 'Alford plea' and explaining the conditions in which it can be made, its mechanisms, advantages and disadvantages in a few lines, perfectly fitting the fictional frame which embeds them.

A detailed definition of 'Alford plea' taken from a website aimed at a (semi-)expert target, shows that most information about it has been conveyed through this scene:

Alford plea allows defendant to plead guilty even while unable or unwilling to admit guilt. (1)

However, in many states, a plea which admits sufficient facts often results in the case being continued without a decision and later dismissed. A conviction under an Alford plea may be used as a conviction for later sentencing purposes⁹⁰.

Other modes of popularization are employed in this scene, in particular the recourse to Heffer (2005) narrative mode.

The three lawyers are informing their customers about the possible advantages and disadvantages of accepting an Alford plea and, to have all the consequences made clear, they explain the whole process in detail and underline what it could mean specifically for their clients. As they think that it could be a good idea to accept an Alford plea and at the same time they know that it must be hard to choose whether to pursue the legal action or to surrender to a compromise, the lawyer somehow identify with their clients. This identification is also instrumental to the explanation of the Alford plea: they predict what their clients' feelings and possible reactions are, and mold their language in such a way to be sure that they understand all the possible implications: this scene is imbued with intersubjective strategies, in particular trying to read the internal consciousness of the interlocutor. As a matter of fact, Heffer (2005: 18) states that:

it is only by reading what others are thinking that we are able to presuppose their communicative intentions, feelings and beliefs. (1) Our culture gives us strategies for using our presumptions about their minds in discourse.

In addition to the consequences an important role in the popularization of legal contents here is also played by the reformulations in common words of technical language. First, the Alford plea is explained by being included into the more general category of guilty pleas (it's a form of guilty plea), using a generalization. Then, sentence of time served is reformulated into You go free. Now. Immediately and you get out. Finally, everyday words are used in lieu of others which would fit a legal context, for example the second lawyer using the expressions clear your name and you'll be a convicted felon for the rest of your life, or the third lawyer using the verb promise instead of agree⁹¹ or get out instead of be acquitted/absolved/released. Even the technical terms employed by the lawyers are quite common and are loans from everyday language (acknowledge, prosecution, evidence, convict, violation)⁹².

Returning to episode 1x02 from *The Good Wife*, we can find an example of a scenario of the consequences given by means of a definition. As a matter of fact, the popularization strategies that I have listed and identified here can occur not only in combination with each other, but also be embedded in each other.

Scenario of consequence + definition: The Good Wife 1x02

Will: McKeon's lawyers made a financial offer that Diane and I actually agree on.

Diane: A first. It's a cash settlement. 450,000 dollars.

⁹⁰ <http://definitions.uslegal.com/a/alford-plea> (Last access: October 12, 2015).

⁹¹ See also Laudisio (forthcoming a).

⁹² Cf. Laudisio (2015a), pp. 316-318.

don't have to go to court? He just offered that?
standard confidentiality agreement. Both parties free each other
speak to anyone, including the press.

Christy: What?

Diane: It's standard in civil agreements.

Christy: I want everybody to know he settled. Can't we tell the police?

Diane: *Not if we sign a confidentiality agreement. McKeon could withdraw the award and sue you for defamation.*

Christy is a stripper who was raped by an influential man, Lloyd Mc Keon, during his bachelor party, and intends to sue and publicly discredit him. However, McKeon tries to avoid this by offering her a tempting cash settlement with the condition of confidentiality.

The scene is not set in court, but at Lockhart-Gardner's offices. The first consequence explicated is the most obvious one, which, in fact, is formulated by the non-expert Christy: 'We don't have to go to court?'. The young girl is right about the direct implication of the settlement, but she actually ignores its other 'negative' consequences, which are immediately played up by Will, who adds that she will have to sign a 'confidentiality agreement'.

The new concept is later explained by a 'descriptive' clause juxtaposed to the 'introductory' one, in which, just like definitions found in technical dictionaries or glossaries, Will explains that 'Both parties free each other of liability and agree not to speak to anyone, including the press'. This sentence, despite clearly being in the form of a definition, is also used as an indirect way to introduce the consequences of signing an agreement. As a matter of fact, Christy is shown as surprised by this clause and looks for a way to avoid it. Unfortunately, Diane completes the picture of the situation by means of a last scenario of potential consequences: if Christy broke the confidentiality agreement, she would not only lose her money, but could also be sued for defamation.

6.7. Recurring patterns

6.7.1. Narrative to paradigmatic

In addition to all the popularizing strategies identified by Calsamiglia and van Dijk (2004), Gülich (2003) and Garzone (2006) of which I have found instances in legal dramas, the analysis of the gathered data has brought to the fore some further patterns which were particularly recurring as a means to popularize specialized contents and could not be classified as any of the already mentioned popularization strategies.

In particular, drawing again on Heffer's (2005) distinction between the 'narrative' and the 'paradigmatic' modes of meaning making, I have noticed a regular occurrence of a particular pattern, represented by a sudden 'switch' from the narrative to the paradigmatic mode. These two modes are mainly distinguished for their context-dependence and the trend to make reference to the 'folk-psychology' (shared knowledge and common sense) of the first versus the trend to decontextualize and to 'reduce' to universal paradigms of the second (see 2.2). In particular, actional strategies within the narrative mode include: 'focus on the dynamics of events', 'situating

ce temporally, whereas actional strategies within the categories deriving from the events.

What I found statistically relevant and will be now object of my discussion is the systematic -shift from a narrative strategy (in *italics* in the following excerpts) to a paradigmatic one (underlined in the following excerpts) with the specific function of providing an explanation or an illustration of a crime or of a specific legal procedure or issue.

In the following scenes, most of which have already been discussed in the previous sections and are therefore familiar to the reader, the audience is shown why the facts illustrated represent a crime:

1) *The Good Wife 1x07*

Ryan Alprin: *They saw the Eruv wire was down, they knew it could trip somebody up, and they didn't try to repair it. That's why it's willful and wanton conduct and subject to high punitive damages.*

Alicia: They admitted to that?

Ryan Alprin: In their depositions.

Alicia: And why would they admit to that?

Ryan Alprin: *The wire fell on the Sabbath. They couldn't do anything. Yeah, it's the perfect legal trap. They're liable because their religion wouldn't let them act.*

2) *The Good Wife 1x15*

Diane: Spousal privilege is pierced when there is a conspiracy between spouses.

Opposing counsel: What conspiracy?

Diane: We subpoenaed the records of Chicago Children Fighting Cancer. *Mrs. Knox had recently been given a Spire Award for making a large donation, 50,000 dollars to be exact. An amount that cannot be explained through normal financial channels.*

Opposing counsel: You're accusing Mrs. Knox of murdering Miles Wagner?

Diane: *No. Rachel Knox helped her husband dispose of the money acquired from the victim. This makes her an agent of her husband's crime, which breaks spousal privilege.*

3) *Suits 1x07*

Jessica: *She had a few too many, and decided to entertain her friends with an impersonation of her boss, Lena Lunders. This impersonation was recorded and uploaded onto a social networking site. The next day she was fired. Sydney is now suing for wrongful termination.*

4) *Boston Legal 2x13*

Irma Levine: *Emily's mom, Jackie, came to us at the women's shelter. She was a mess.*

Emily: *They promised my dad would never find her there.*

Denise: For obvious reasons, the name, phone number and location of the shelter are confidential.

Irma Levine: We put Emily's mom in touch with a psychiatrist for post-traumatic stress disorder.

Denise: The cost of which was covered?

Irma Levine: *Under her H.M.O.*

Denise: *Unfortunately, the H.M.O., Well Benefits, posted Jackie's information, including the name and address other psychiatrist, on their website. Emily's father found Jackie's psychiatrist via the Well Benefits Web site... and tracked her down at the psychiatrist's office.*

Emily: *And that's where... He killed her.*

Alan: So this is a wrongful death action.

episode in which Alicia has to demonstrate that a Jewish
 lent because of their religion's commands, was already
 described in the Section 6.5. on quotations, in which the hierarchy relationship between different
 sources of Law was chosen as the topic.

The second one, from the same series, is composed of the lines following those quoted in the
 section on the scenarios of possible conditions to break spousal privilege (6.6.2.).

The third example is taken from *Suits* and is the scene in which Jessica introduces for the first
 time the new lawsuit her employees will be working with: the case of Lena Lunders impersonating
 her boss and being fired for that, used as example in the exposition of the possible conditions for a
 case of defamation (6.6.2.).

Finally, the fourth example reports an episode which had already been narrated by Alan Shore in
 his closing argument to the jury in defense of a girl suing the H.M.O. taking care of her mother
 which published her data and caused her death by the hands of the woman's vindictive ex-husband.

All the four scenes have two things in common:

- 1) their introductive function relating to the legal issue ó in all cases, the facts are narrated and
 presented for the first time to both the fictional interlocutor and to the audience. In the first
 example, Alicia has just met the freelance lawyer Ryan, who was hired by the Jewish couple
 before Alicia was assigned on the case by Will (the Jewish girl is indeed the daughter of one
 of the partners, Jonas Stern); in the second one, the judge and Diane's counterpart are
 presented for the first time with Diane's new strategy of defense after Alicia and Kalinda
 found out the Knox's conspiracy while the audience is informed for the first time of the
 possibility of breaking spousal privilege in case of conspiracy between the spouses; in the
 third case, the lawyers at Pearson-Hardman are at a meeting and the name partner Jessica is
 informing them about the new case, which ends up being assigned to Mike; and in the fourth
 episode Irma Levine (already client of Crane, Poole and Schmidt and Alan's fling)
 introduces Alan a new client and her case.

This demonstrates that the transmission of new information to the audience mediated by
 the staging of a scene in which new information is transmitted from a person with
 knowledge of the facts to an uninformed interlocutor is often supported by narration. It is via
 narration that the facts are introduced, with a focus on contextualization in time (*on
 Sabbath; recently; the next day*), in space (*onto a social networking site; to us at the
 woman's shelter* etc.) and, of course, of characters and facts.

Finally, the recounted facts are labelled as a crime, which is instrumental to the
 explanation of the crime itself (respectively: *willful and wanton conduct and subject to high
 punitive damages; wrongful termination; wrongful death action; agent of her husband's
 crime*).

- 2) their structure ó as already said, in all cases there is a focus on the dynamics of events,
 which are not only situated in time and space, but also recounted according to a
 chronological sequence, which, according to Heffer (2005: 23) is substantial in the narrative
 mode. The temporal reconstruction and contextualization is mainly obtained by the
 anaphorical construction of past tense verbs which occur in sequence (*they saw the Eruv
 wire, they knew they didn't try to repair it; Emily came to us; they promised my dad would
 never find her; Well Benefits posted Jackie's information, Emily's father found her*



l her) or by the reconstruction of facts on different levels in action happened before those happening in the time of

the narration, expressed by Past Perfect tense (*Mrs Knox had recently been given a Spire Award*), then describing the facts in a moment in the past (*Rachel Knox helped her husband dispose of the money*) and finally connecting them to the present situation (*this makes her an agent of her husband's crime, which breaks spousal privilege*), or even more explicitly by the use of time markers (*the next day*).

It is also to underline the strong use of deixis, whether personal (*we subpoenaed the records; Jackie came to us*), spatial (*she came to us at the women's shelter, they promised my dad would never find her there*) or temporal (*Sydney is now suing*), which are all typical of narration and index of contextualization.

After the narration, the facts are always attributed to a category, generally a crime. This can be potentially done by means of a generalization (explaining a technical term by including it into a larger category, see 6.3.) or, as in most cases above, by a sort of 'partial denomination', i.e. the introduction for the first time of a new specialized concept, which, however, is preceded by a narration, instead of a description or of some information about it.

All these features can also be found in other similar scenes, like the following one from *Suits*, in which Harvey and Mike intend to file a class action for the workers of a company and interview one of them, Kenny, to get more information about what the company owner offered them in exchange not to sue:

Suits 1x09

Kenny: *He said me and the other plaintiffs were gonna get a settlement offer soon.*

Harvey: What else?

Kenny: *He said if we don't take it, that they're gonna go after us. That they have dirt on everyone. He mentioned Eva Williams' arrest for public intoxication, Bernie Rutherford's shoplifting arrest when he was in college.*

Mike: That's criminal intimidation.

In this case, 'criminal intimidation' is introduced and explained by Kenny's narration. The narration is built on temporal sequencing expressed by an anaphoric pattern of verbs at the past tense (*he said; he said; he mentioned*) and indirectly by the whole unfolding conversation, e.g. when Harvey asks 'What else?' and the facts narrated in Kenny's answer are implicitly perceived as temporally subsequent to those recounted before. These linguistic forms are expression of the 'actional' sub-mode 'focusing on the dynamics of the events and sequencing them temporally' (see 2.2). Moreover, the narration makes strong use of personal deixis (*He said me and the other plaintiffs; if we don't take it; go after us*) which contributes not only to focus on the human agency, but also to express the 'intersubjective' mode of meaning making: the facts recounted, indeed, are interpreted by Mike as being a threat or, technically speaking, a 'criminal intimidation'. To come to this conclusion, he has drawn on intersubjective strategies, such as reading the others' internal consciousness, intentions and shared experience.

The pattern is basically the same as was used before: the facts are introduced by narration and are eventually 'declared' equivalent to a crime, in a process which goes from a detailed contextualization ('narrative' mode) to the upmost decontextualization (universal paradigm).

'Narrative to paradigmatic' vs. 'explanation by narration'

the \rightarrow narrative to paradigmatic \emptyset pattern is different from the \rightarrow explanation by narration \emptyset (in Section 5.1.). Explanation by narration stems from the previous introduction of a new technical term and consists in its explicit explanation by means of the narration of facts which represent an example the new unit of information. Such a pattern can be found in any kind of texts, whether written, oral or multimodal, with or without explicit popularizing purpose. In the \rightarrow narrative to paradigmatic \emptyset pattern, instead, the narration is usually the result of spontaneous communication and the introduction of the technical term is only subsequent and consequent to it. Here is an example in which the two strategies can easily be compared:

The Good Wife 4x01

Alicia: Yes, Your Honor. *My son never recorded audio, and there can be no Article 14 violation without audio. Therefore,* we ask this court to enter a finding of no probable cause.

Judge: That sounds right to me, ASA Williams.

ASA Altman: Your Honor, sorry to take over here. ASA Altman. Uh, we would argue that the problem here was never Article 14, it was *obstruction of justice*.

Alicia: Excuse me, Your Honor, but that wasn't the charge!

ASA Altman: Yes, but we would ask leave of the court to file an additional charge.

Alicia: Your Honor, this is outrageous. *The only one obstructing justice is Officer Robb with his illegal traffic stop.*

(1)

Alicia: My son checked these traffic stops resulting in drug searches. *Over the last six months, 90% of them were made on the north-running side of the highway.*

Judge: Why is that important?

Alicia: *Because all the drugs are coming from the Canadian border down the south-running side. And all the money made from these drug sales heads up the north. They're not trying to stop drugs. They're trying to confiscate the money made from these drug sales.*

Alicia and her kids Zach and Grace were pulled over by the police while driving from Washington back to Chicago. She thinks the policeman \rightarrow profiled \emptyset them because he had no real reason to stop them but to suspect they could be involved in illegal drug traffics, which often take place on that road. The policeman happens to find some negligible amount of marijuana, probably belonging to the former owner of the car, and decides to let them go. However, when the police officer finds out that Zach was recording him with his cellphone, he arrests him: recording an officer is \rightarrow eavesdropping \emptyset a class 1 felony under the Article 14 of the Criminal Code of Illinois⁹³.

In court, Alicia finds out the recording her son made had no audio and was therefore no actual proof of the policer officer's actions and uses this as a safe strategy to have her son acquitted. During the evidential phase, Alicia refers to the facts (narrative mode) by stating that her son \rightarrow never recorded audio \emptyset before she shifts into paradigmatic mode when she says *There can be no Article 14 violation without audio* and therefore making reference to a \rightarrow constraint set by logical canons \emptyset (Heffer 2005: 23). Then, she also \rightarrow classifies \emptyset this situation into the cases in which a charge can be dismissed for \rightarrow no probable cause \emptyset i.e. \rightarrow the amount and quality of information police must have before they can search or arrest without a warrant \emptyset ⁹⁴. The strategy used in this case is therefore an example of \rightarrow narrative to paradigmatic \emptyset pattern.

⁹³ <http://www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=1876&ChapterID=53&SeqStart=33800000&SeqEnd=35000000>. Last access: October 13, 2015.

⁹⁴ <http://www.nolo.com/dictionary/probable-cause-term.html> Last access: October 13, 2015.



State's Attorney suddenly gets into the court and adds a . Alicia counterattacks by charging the police officer with

the same crime, because she suspects they were taking profit from the drug traffics on that road. Thanks to Zach's research, Alicia finds out that the police officers were indeed always pulling over drivers going in the opposite directions as drug exporters and were doing it to confiscate their money and earn from this. Thanks to her narrative reconstruction of the policemen's actions, Alicia was able to argue and demonstrate her case and, at the same time, to give the audience an example of what an 'obstruction of justice' can be. I would therefore consider this an example of explanation by narration (see Section 6.1.1.)

The difference between the two strategies can be made even more clear by the comparison of these two scenes, taken from two different series (*Suits* and *Boston Legal*), but explaining the same crime (harassment), one by means of the explanation by narration and the other with the shift from narrative to paradigmatic:

Harassment: Suits 2x14

Mike: If you didn't have an affair, then what reason could there possibly be for you to be fired?

Monica: Because *I was being harassed*, and I made it clear I didn't like it.

Mike: Harassed? By who?

Harvey: Don't answer that.

Daniel: Oh, no. My client is going to answer the question that your associate asked, and we're gonna get some things on the record, right here.

Harvey: No, we're done.

Monica: *I was being harassed by Louis Litt.*

Mike: What?

Daniel: Go on, Monica.

Monica: *He asked me out repeatedly, after I rebuffed him again and again. He would stare at me, wait at the elevator outside my office, the diner, everywhere.*

Daniel: Anything else?

Monica: Yes. *He was partner, and I had to say "no" to him. And it made me feel disgusting every single day.*

Daniel: Will people corroborate your account?

Monica: *It was common knowledge within the firm. Any number of people knew, including him.*

Daniel: Let the record show that my client indicated Harvey Specter. Monica, I have one more question for you. *To whom did Jessica tell you to hand in your resignation?*

Monica: Louis Litt.

Daniel: *So in conclusion, you were being sexually harassed, it was well-known, Jessica Pearson dismissed you, and you were actually told to hand in your resignation to the very man who did the harassing.*

Monica: Yes. That statement is entirely true.

Monica Eton has sued Pearson-Hardman for wrongful termination after being fired by Jessica because she was embezzling money from the firm in collaboration with the former partner Daniel Hardman, with whom she had a secret affair. However, Daniel Hardman set Harvey and Jessica up by obliging them to sign a confidentiality agreement, so that they cannot disclose anything about what happened in the firm. The result is that now Monica and Daniel can deny the reality of facts and countersue the firm. In particular, during a deposition to which Monica is called to testify, Daniel and Monica take advantage of Mike's question to insinuate that the real reason Monica was fired was one of the firm partners' behaviour, that they can easily prove to be 'harassment'

next scene taken from *Boston Legal*, in which Alan Shore is
presents to the jury in defense of his client Wendy Moore,
suing her former employer Daniel Ralston for harassment after they had a secret affair that she
decided to break:

Harassment: Boston Legal 1x03

Alan: It's possible Daniel Ralston had no control over his behavior. *Maybe he truly couldn't stop pursuing Wendy Moore. Maybe he had to keep calling, had to schedule those lunches... had to seemingly stalk her*, if you will. He was in love with her. People in love lose their grip. But what's at issue here is her state of mind, her mental state. Not Mr. Ralston's state of mind, but Wendy's. Was she reasonably upset by this relentless pursuit? *She's a married woman with a family, trying to salvage her marriage, and her boss keeps calling, keeps coming, keeps coming, keeps propositioning her*. The fact that she once loved this man only makes it worse, more difficult. *What choice did she really have but to leave? Maybe that was his plan all the time*. He knew he couldn't fire her. Maybe that was his psychological game. Where the only thing that she could really do in the end...was get in her car and drive off. *He created a hostile working environment, with repeated unwelcomed sexual advances, ladies and gentlemen. That is prima facie classic sexual harassment.*

The situations described in the two scenes are quite similar: in both there is a woman employed in a firm who has a male boss in love with her, or at least obsessed with her, trying to conquer her with insistent invitations and proposals, which, however, are not welcomed by the woman and eventually end up compelling her to leave her job.

In the first scene, however, the harassment crime is introduced by the witness and alleged victim when asked another possible reason of her termination (*Because I was being harassed*) and, when asked for explanation, she narrates her version of the facts. The narration is recognizable by the systematic sequence of actions in the past tense (*He asked me out, I rebuffed him*), by which the witness also stresses the reiterative aspect of the incriminated actions (*again and again, he would stare at me everywhere repeatedly*). However, such behaviours are not enough *per se* to be considered harassment. For them to be considered criminal, it is necessary that it also has negative effects on the plaintiff's professional life:

Harassment - offensive, unwelcome conduct based on the victim's protected characteristic, that is so severe or pervasive that it affects the terms and conditions of the victim's employment⁹⁵.

These conditions are not neglected in the following description made by Monica, who underlines the hierarchical difference between them (*he was a partner, I had to say "no" to him*), the psychological consequences the harassment had on her (*it made me feel disgusting every single day*) and the potentially deriving dismissal by Jessica, which she had to hand in to the very person harassing her. For its structure based on a preliminary introduction of the technical term "to harass" followed by a specific request for clarification (*What? Harassed? By who?*) and the narration of the facts, I would consider this a clear example of explanation by narration.

In the second case, instead, Alan's speech starts with a description of the events and a reconstruction of the situation which also includes the psychological aspects of the parties implied and ends identifying the facts as a crime.

⁹⁵ <http://www.nolo.com/dictionary/harassment-term.html>. Last access: October 14, 2015.

intersubjective strategies in addition to the more il ones: he underlines that the employer Daniel Ralston

could have had no control on his behavior by also expressing it linguistically (*couldn't stop pursuing; he had to keep calling; had to schedule those lunches; had to stalk her; keeps calling, keeps coming, keeps coming, keeps propositioning her*). However, being his speech in defense of the woman, he overturns his own incipit trying to describe how Wendy could have felt (*What choice did she really have but to leave?*) and proposes another hypothesis, namely that maybe Daniel was doing this on purpose, to oblige her to stay with him, or to leave (*Maybe that was his plan all the time*).

The inclusion of numerous and specific references to the psychological state of the characters of the narration not only contributes to providing a more detailed and therefore clearer frame of the situation in analysis, but it also serves the other, primary function of the speech: the persuasive one. Highlighting the internal consciousness of his client and of the defendant, he is trying to leverage the folk psychology (i.e. the shared experience and knowledge of the world) of the jury to get a verdict in favour. The denouement of his narration is indeed expressed by a summary presented as a logical conclusion (*He created a hostile working environment, with repeated unwelcomed sexual advances*), a direct address to the jury (*ladies and gentleman*), and the final shift to the paradigmatic mode, in which Alan labels the events as an example of *prima facie* harassment, where *prima facie* means a case that at first glance presents sufficient evidence for the plaintiff to win⁹⁶. The pattern built on the shift from the narrative mode to the paradigmatic is thus represented at its highest in Alan's speech, which besides persuading the jury does also act as popularizing strategy.

6.7.2. Crime + punishment

The last linguistic construction that can be considered an instrument for the popularization of technical contents in legal dramas is a particular morpho-syntactic construction, which I will refer to as *Crime + punishment* because it consists in the juxtaposition of a crime to the punishment associated with it or potentially representing its consequence, for example *Second degree murder, ten years*.

This particular construction might be considered a form of reformulation, but I will explain why they are different. Reformulation is limited to presenting the same concept expressed by the technical expression in simpler words, often losing a certain amount of information which, however, would be too complex for the less expert interlocutor and therefore not useful to the purpose of understanding. The *crime + punishment* structure, instead, does not reformulate the crime into simple words. For example, *first degree murder* could be reformulated by other words, like *kill* and/or adding the potential consequence of being imprisoned for many years.

It is not completely wrong, instead, to say that in some cases *crime + punishment* is a sort of concise form of an explanation by consequence or of a scenario of consequences⁹⁷. In general, I

⁹⁶ <http://www.nolo.com/dictionary/prima-facie-term.html>. Last access October 14, 2015.

⁹⁷ However, the disambiguation of the two categories would depend on the communicative context and on the intention of the speaker to formulate general hypothesis (scenario of consequences) or to expose the cause-effect relationships between facts happening or happened (explanation by consequences).

ularization strategies also cases of indirect crime + if the crime to its punishment is not expressed explicitly

(see examples below).

The juxtaposition of a crime to the related punishment is particularly frequent in legal dramas and this is probably due to its immediateness and conciseness, which also adhere perfectly to the entertainment nature of the genre. At the same time, it helps popularize useful information among the public at large. In particular, the informative or popularizing function is fulfilled at its highest level by a particular use of the crime + punishment pattern, that is to say by comparing opposing pairs e.g. in constructions like "Second degree murder, ten years. First degree murder, 45 years". This construction contrasting two crime + punishment phrases leverages on putting two different scenarios one against the other and explaining the difference between the two by logical inference. Such constructions are particularly recurring in legal dramas when the topic of discussion is murder, manslaughter and similar crimes and perfectly fit the scenes in which the lawyers explain to their clients the possible sentences they could face or the conditions of the settlements proposed from the counterpart. Due to the incredibly high statistical relevance of the cases in which the Crime + punishment is used when addressing murder and manslaughter, and in order to present systematically all the information given on this topic, most of such examples are collected in the following lines, where several nuances of these crimes are explained in different contexts, going from the involuntary manslaughter as juvenile crime to attempted murder to hypotheses of aggravated first-degree murder.

Crime + punishment in murder and manslaughter

1) *The Good Wife 4x19*

Robyn: Six months in juvie. It was involuntary manslaughter. I shot my own brother.

2) *The Good Wife 1x22*

Julius Cain: What's that matter? We want involuntary manslaughter, five years.

Geneva Pine: With for-day time off? That's three years for a brutal sexual homicide. Second degree, 15 years, and we're putting a 24-hour clock on it.

3) *The Good Wife 2x07*

Cary: Sloan Burchfield, you're under arrest for attempted murder, a Class X felony, with a minimum sentence of six years.

Sloan: Oh my God!

Alicia: Oh, come on Cary. Don't you think that's overreaching just a little bit?

Cary: Ms. Yarissa Morgan is in the hospital with four broken ribs after Ms. Burchfield attempted to murder her with her vehicle last night. That's not overreach. That's attempted murder. Six years.

4) *The Good Wife 2x01*

Alicia: They're offering you five years.

Vance: They're... Who is?

Alicia: The state's attorney's office. Five years, second degree.

5) *The Good Wife 2x10*

Cary: So here's the thing. Only one of your two clients pulled the trigger. So I can charge them both, I can prosecute them both, but I have a deal for you. Burglary for the first one who turns on the other. Burglary, first offense, eight months. Murder during the commission of a robbery, 25 years. Yep, first pie out of the oven. So the question is, who wants to get out

birthday? (í) Okay. Three months. First one who flips gets

6) *The Good Wife 1x15*

Mrs. Broussard: How many years?

Diane: Second degree murder, ten years. With time off for good behavior, it would be four and a half.

Mr. Broussard: And if we wait for a jury?

Alicia: If convicted? Minimum sentence of 45 years. No parole, no time off.

7) *The Good Wife 1x18*

Alicia: Prosecution's come in with a last-minute offer: *second-degree murder, ten years.*

Will: We don't have a lot of time. When the verdict comes in, the offer goes away.

Bianca's mother: You'd be 34 years old, baby. You'd still... you'd still have a life. But if they find you guilty...

Will: 45 years, no parole.

Involuntary manslaughter (scenes 1 and 2) ó In the first excerpt, the investigator Robyn is talking about her private life and something that happened to her in the past. She confessed spending six months in -juvieø (a slang term designating juvenile prison) for involuntarily shooting her own brother. In the second one, however, the same crime is associated to a punishment of five years in prison. Julius Cain and Alicia are defending their rich and bizarre client Colin Sweeney, charged with killing a woman at his home. In reality, the victim, Sheila Warburg, was a serial stalker and was stalking him.

Alicia and Julius are arguing Sweeney's innocence, who only happened to kill her while fighting for his self-defense. But, since Sweeney had already faced similar charges for his wife's murder (of which he was guilty, but was judged innocent), the State Prosecution, represented by Geneva Pine, now believes that he is guilty of a õbrutal sexual murderö and is not willing to come to any compromises.

What can be inferred from these two examples is that if a death is not caused by the intention of the defendant or is the result of an action which went -beyondøthe defendant's intention, then the killing is called -manslaughterø which can more specifically be addressed to as -involuntaryø In fact, in the US system -manslaughterøis õthe crime of killing someone, but without the malice (evil intent) needed to make the killing murderö. And in particular,

- 1) involuntary manslaughter is a death that results from criminal, or extreme, negligence; or during the commission of a crime not included within the felony-murder rule.
- 2) voluntary manslaughter is an act of murder that is reduced to manslaughter due to extenuating circumstances, such as when the defendant acts in -the heat of passionø or is subject to diminished capacity⁹⁸.

Moreover, we are informed of the possibility of a punishment ranging from six months (in the case of juvenile crimes) to at least five years. This is because according to the Illinois criminal law, involuntary manslaughter is a Class 3 felony or a Class 2 felony in the presence of an aggravating factor. And, as seen in Section 5.3. on generalization, for Class 3 felony convictions, Illinois

⁹⁸ <http://www.nolo.com/dictionary/manslaughter-term.html> Last access: October 14, 2015.

in prison⁹⁹, while conviction of a Class 2 felony carries a

Second-degree murder (scenes 2, 4, 6 and 7) ó Juliusø proposal of a settlement for involuntary manslaughter for Colin Sweeney is not accepted by ASA Geneva Pine, who makes a ðcounter-offerø for second degree murder and no less than 15 years detention. However, in the other examples, we can see that the same crime is considered equivalent to lesser punishments. In scenes 4, 6 and 7, in fact, the lawyers always present offers from the State Attorney that the defendants could accept instead of risking and waiting for the juryø verdict and in the examples 6 and 7 (which, as we will also see below, present the same ðpairø of ðCrime + punishmentø) the punishment for second degree murder is set at ten years; in scene 4, the offer is even less: five years. In all cases, however, the prosecution is willing to stipulate to the mitigating circumstances of the crime, which distinguish first degree from second degree murder (see below).

In particular, under the Illinois law the following circumstances are considered ðmitigatingø

At the time of the killing, [the defendant] was acting under a sudden and intense passion due to being seriously provoked by either the victim or another person whom the defendant tried to kill but negligently ended up killing the victim instead; or

At the time of the killing, he/she believed that the killing would have been lawfully justified but the belief was unreasonable.

It is important to underline that second degree murder is considered a Class 1 felony and this means that the punishment can range from four to fifteen years (30 if extended)¹⁰⁰. Therefore, all the punishments proposed in the scenes for such crime are coherent with the Illinois law and that the legal drama functions as an indirect means of information for its audience.

Attempted murder ó In example 3, Alicia is defending the young pop star Sloan Burchfield, who was first charged with DUI (Driving Under Influence, which being her third, could result in a felony conviction of 25 days detention), but during the trial she is charged with a new crime, attempted murder: a girl who was in the same club as her the night of the arrest was found with her ribs broken because of someone who had run over her with Sloanø car. In this case, Cary (who is representing the Prosecution) also specifies that attempted murder is a Class X Felony, ðwith a minimum sentence of six yearsö. The connection between the crime and its punishment, in fact, is represented by a generalization, which identifies attempted murder as a Class X Felony. Then, ðattempted murderø is connected to its punishment when he specifies that this implies a sentence of ðminimum six yearsö.

First-degree murder ó Finally, though it is not specifically mentioned in the excerpts, first-degree murder is implicitly included and explained in scenes 5, 6 and 7. The fifth scene is drawn from the episode in which the son of one of Lockhart-Gardnerø richest clients, Jonathan Murphy, and his girlfriend Alexis are charged with shooting a pharmacist in the course of a robbery. The intention of

⁹⁹ Or also periodic imprisonment of up to 18 months, or probation or conditional discharge of up to 30 months; a fine of up to \$25,000; and/or restitution, see <http://statelaws.findlaw.com/illinois-law/illinois-involuntary-manslaughter-laws.html>. Last access: October 14, 2015.

¹⁰⁰ <http://statelaws.findlaw.com/illinois-law/illinois-second-degree-murder-laws.html>, original source: <http://ilga.gov/legislation/ilcs/fulltext.asp?DocName=072000050K9-2>. Last access: October 14, 2015.



y Cary, is to incriminate at least one of the two. For this
incriminate the other in exchange for probation and for the sole
charge of burglary for the first one who does it, while the other will be indicted for first-degree
murder. The cruelty of the situation staged in this episode is underlined by the typical opposition of
the two ‘Crime + punishment’ phrases: ‘Burglary, first offense, eight months. Murder during the
commission of a robbery, 25 years’ and the choice is made even harder by the later lowering of the
punishment for the first one giving up (*Okay. Three months. First one who flips gets three months*).

The last two scenes (6 and 7), as stated above, present the opposition of exactly the same two
crimes and relative punishments: second-degree murder, ten years *versus* the possibility of being
charged with first-degree murder and 45 years¹⁰¹. In both cases, in fact, the original charge is of
first-degree murder and a jury is called to decide, whereas the acceptance of the settlement would
mean the Prosecution stipulating to the mitigating circumstances (e.g. acknowledging that the
evidence is enough to prove one of them) and therefore facing the punishment for a second-degree
murder instead of a first-degree one.

In most of these scenes, the focus is on prison sentence. However, detention can also take place
in the form of probation and sentences for felonies can also be monetary fine, forfeiture of property
or other similar forms. For example, in the next scenes, which do not deal with such ‘serious’
crimes as murder, the ‘bargaining’ procedures between opposing counselors (generally the
defendant’s against the State’s Attorney in criminal law) are shown:

The Good Wife 1x10

ASA Mark Richardson: Simple assault. Six months’ detention, three years’ probation.

Alicia: Two years’ probation, no jail time.

ASA Mark Richardson: You do know it’s called bargaining, right? Why am I the only one
making concessions?

Alicia: I just gave you an extra year on probation.

ASA Mark Richardson: You’re not giving me anything on detention.

Alicia: Because my client doesn’t deserve it. He’s a 98-pound wallflower!

ASA Mark Richardson: ¡ Who clocked a classmate with an algebra textbook.

Alicia: Because he was being bullied.

ASA Mark Richardson: 19 stitches, a cracked eye socket.

The Good Wife 1x12

ASA Geneva Pine: I can do one year in jail. Suspended medical license.

Alicia: No.

ASA Geneva Pine: I’m sorry?

Alicia: One year probation, no jail time. Dr. Wesley prescribed ten-milligram pills for Ben.
And the pharmacy may have dispensed incorrectly.

(í)

ASA Geneva Pine: By the way, the pharmacy may not have barcoded Ben’s prescription,
but they also didn’t have 80-milligram oxy in stock that day. *You just lost reasonable doubt.*

Alicia: If we could get his jail time down to four months, instead of a year?

Geneva Pine: That was yesterday’s deal. *It’s four years now, and a revoked medical license.*

The excerpts above represent very similar situations, in which Alicia is bargaining on the
punishment with an ASA. In this communicative situation, in which both parties are supporting

¹⁰¹ In scene no. 6 reference is also made to the possibility of serving four years and a half instead of ten for good
behavior. This provides further information on the possible time extent of the detention and its conditions.

At the same time are trying to come an agreement which is between two (or more) *Crime + punishment* phrases fits perfectly.

In the first case, Alicia's client is a kid being accused of assaulting a classmate who bullied him. The State Prosecutor Mark Richardson is asking for a very strict punishment including both detention (six months) and probation (three years). Alicia, instead, rebuts by proposing no detention and only two years of probation, which is actually already a *concession* of one more year on the original conditions for the bargain. It is interesting to notice how in this representation of the bargaining activity the variety of the punishments is emphasized by the development of the bargaining (*I just gave you an extra year on probation; You're not giving me anything on detention*). The whole process is, indeed, based on the attempts from both counterparts to *justify* their proposals and to give a valid reason in support of their offer.

This is made even clearer in the second excerpt, in which Alicia is defending a doctor charged with prescribing oxycodone to Ben, a star high school quarterback who overdosed. When Alicia meets ASA Geneva Pine, the latter offers her client one year in jail and the suspension of his medical license but Alicia, who feels sure of her client's innocence and thinks she has enough evidence to demonstrate it, asks for no jail and only one year probation: she had been to the pharmacy and found irregularities in the way they sold drugs which could demonstrate that it was not her client who prescribed too high an amount of oxycodone. However, the following day, Geneva investigates further on the pharmacy and finds out that they did not have the 80-milligram pills that made Ben overdose. This means that he had not bought the drugs there or maybe had even got them directly from Dr. Wesley and dismantles Alicia's defense built on *reasonable doubt*. For this reason, Geneva's original offer is no longer valid and now the State Prosecutor is willing to offer four years in prison (instead of one) and the revocation of his medical license (instead of a suspension). The fact that Alicia is willing to accept four months when she loses *reasonable doubt* and Geneva's second offer (four years) in opposition to the first one included in the pair of *crime + punishment* (one year in jail vs. one year probation) explains the central role of *reasonable doubt*.

Summing up, the analysis of these scenes built on the *Crime + punishment* pattern shows that the linguistic choices adopted by the authors of legal dramas can be enlightening for the audience, now getting acquainted with some basic issues of the Illinois law (e.g. the distinction between manslaughter and murder, the existence of *involuntary* and *voluntary* manslaughter, or of first and second-degree murder and all the possible relative punishments), which can be fundamental to understand the series. This is especially valid for the people not living in other States of the USA, in which legislation is different, or, even more, to the international audiences which are not familiar with the US system at all and need some form of *familiarization* with such issues¹⁰².

In order to provide a complete overview on this last popularization strategy, I would briefly focus on the way the *Crime + punishment* pattern can also be *embedded* within or *interacting* with other popularizing strategies (the combination of which is shown more in detail in Section 6.9).

1) *The Good Wife* 4x09 *Crime+punishment + Generalization*

Owen: What do I do? I mean, if I tell the truth...

¹⁰² For further reflections on the adaptation of concepts drawn from the United States legal system for international audiences in legal drama see also Laudisio (2015b), Laudisio (forthcoming a) and Laudisio (forthcoming b).

herself.
 inheritance. She loses everything.
 perjuring yourself.

Owen: What is that?

Alicia: *That's a Class 3 Felony. Two to five years.*

Owen: You're kidding me.

2) *Suits 1x01*

Mike: *Mr. Hunt, harassment is a civil violation. The penalty is money. But witness tampering, that's a crime, and you will go to prison.*

These two examples show how the connection between a crime and its punishment can also be expressed in a more indirect way, as already stated above. In particular, in the first excerpt the connection between \neg perjury \emptyset and the punishment (*two to five years*) is not expressed immediately, but is \neg mediated \emptyset by Alicia, who explains her brother Owen that perjury is a Class 3 Felony (generalization) and, as such, he could risk to be imprisoned for two to five years (see above in this section).

In the second scene, drawn from *Suits*, we even find an example of an opposing pair of \neg crime + punishment \emptyset in which crime and punishment are connected indirectly. Mike Ross is threatening the counterpart to change their original charges against him from civil to criminal with the help of the new evidence he has just found. The connection between the civil charge (harassment) and its punishment (money), as well as the connection between the criminal charge (witness tampering) and its punishment (prison) are once again mediated by the generalization strategy, which identifies the first as a civil tort and the second one as a criminal act and therefore also distinguish the type of punishment (money vs. prison).

This very last example, instead, shows another \neg indirect \emptyset way to explain a crime by means of the punishment connected to it.

\neg Crime + punishment \emptyset via formulae

The Good Wife 4x19

Judge: However, Mr. Sweeney, you're pretty much a scumbag. I know I'll probably get censured for that, but I really don't care. *I do find you guilty of disorderly conduct, and I sentence you to a 1,500 dollars fine and 30 days incarceration to be served immediately.*

Episode 4x19 of *The Good Wife*, in which Alicia's client Colin Sweeney is charged with murder (see above in this Section and Section 5.3.) ends with the jury finding him innocent for the second time (after a first trial for his wife's murder), but the judge decides to impose his own punishment: instead of finding him guilty of murder, he incriminates him for \neg disorderly conduct \emptyset . In the act of pronouncing his sentence with the usual formulae, he also explains the crime which has just been introduced to the audience (*disorderly conduct*) by means of the punishment to which it corresponds (*1500 dollars fine and 30 days incarceration*). The connection between the crime and the punishment is therefore embedded in the formulaic concretization of the judge's sentence, showing once again that the popularization strategies described so far are not supposed to recur singularly, but can in fact overlap, be embedded one into each other or simply be used in combination, as shown in the following section.

Among the main popularization strategies identified by previous studies on genres different from legal drama and listed in 2.2., I have also mentioned ‘concretization’, namely the procedure consisting in ‘rewording abstract information in a non-abstract manner’ (Gulich 2003: 244, Ciapuscio 2003: 213), which creates and exploits everyday situations and explain an abstract concept on a practical level. Interactions based precisely on this pattern are not very frequent in legal dramas. However, the transfer of knowledge by means of concrete examples is one of the features which characterize them: in legal dramas specialized knowledge can be expressed on a not merely linguistic level, which involves the context and the whole communicative situation. It is as if the reference to a concrete situation were brought to its maximum expression by the direct representation of the situation itself. In practice, any fictional reproduction, every time a scene shows a particular concept, procedure, principle or practice of the United States law, a form of ‘concrete realization’ of the abstract, specialized concept takes place.

6.8.1. Objections

The most straightforward concretization by way of a fictional reproduction of the specialized concept to explain takes place whenever the trial is reproduced, in all its phases, from the reading of the docket number by the bailiff to the final verdict. Each reproduction of any phase of the trial helps the audience figure out the development of a trial.

In particular, legal dramas often focus on some procedures and practices which are common during the trial, such as the interrogation of the witness, often portrayed as full of objections, which can have a significant role in ‘pacing the rhythm’ of the scene, constructing the identities of the opposing counsel and, most of all, entertaining the audience with a sort of surprise effect. Moreover, concrete realizations of objections can provide an unexpected amount of information about the way witness examinations should be conducted and questions be posed.

The analysis of my corpus has led to the identification of more than 20 different types of objections, all of which are ‘introduced’ to the audience in scenes set during the witness examination or the evidence presentation phase, in which debates between the counterparts generally take place. Such scenes show one of the lawyers interrogating the witness and the other lawyer objecting to the way questions are posed. Basically, the objections are explained in a direct way, by means of a concrete example of how they can be realized. For this reason, I consider all these cases as a form of ‘concrete realization’.

Before focusing on the different types of objections, I will show how some scenes, especially in the first episodes of the series, can be instrumental to stage some general rules on objections and witness interrogation:

The Good Wife 1x18

Witness: That’s the good news about murders at colleges these days. Everybody has a cell phone camera, so it makes it hard to get away with murder.

Will: *Objection!*

Judge: *That wasn’t a question, Mr. Gardner.*

ds lighter since before your husband's death?

Denny: Dating again?

Lawyer: *Objection. This certainly has no relevance.*

Denny: *All objections have been waived till the trial. Except for the form of the questions, sport. Is this your first deposition?*

In the first example, a detective who was called to the scene of a crime is being questioned by Will, who thinks that he tampered with evidence and is trying to unmask him. When a picture of the dead woman's body is shown and the witness is asked about when it was taken, he answers that it was taken immediately, about 30 seconds after the shot and then, he starts a digression which makes room for his personal thoughts (*That's the good news about murders at colleges these days. Everybody has a cell phone camera, so it makes it hard to get away with murder*). At this point, Will stands up and objects, but he is rebuked by the judge, who reminds him that a lawyer can only object the question posed to the witness, and not to what the witness says.

The second scene helps the audience add another 'brick' in the construction of the idea and of the *modus operandi* of objections. In this *Boston Legal* episode, a woman is suing a doctor for emotional distress because of the way he told her that her husband had just died. During the woman's deposition, Denny Crane notes that in reality the life conditions of the woman are much better now and wants to use this as his defense, so he starts asking her personal questions, such as if she is dating someone again. The woman's lawyer objects to his line of questioning, but Denny immediately stops him underlining that it is only a deposition (a usually recorded or transcribed interrogation of one of the parties or of a witness before the trial or out of the courtroom, which can be used as evidence). For this reason, Denny notes that objections can only concern the form of the questions (for example, if a question is vague, or ambiguous, see below) and not the information they aim to obtain.

Thanks to scenes like these, the audience receives useful information on the conditions under which a lawyer can object (for example only to a question and not to an answer), on the modalities for the objections and on the aspects they can concern (e.g. only the form, in some kinds of depositions).

It is also interesting to see the 'role' of objections and the meaning they are given in the eyes of the audience or, in other words, how objections can be shown and interpreted as an instrument of 'defense' and as a winning strategy in the hands of lawyers:

Suits 1x05

Harvey: Statements are like free throws: easy. Nobody's playing defense.

Client: Are we good at defense?

Mr. Santana: You would agree that chauffeur drivers cause more accidents?

Harvey: *Objection. Badgering.*

Judge: Sustained.

Harvey: *Objection. Argumentative! Leading the witness! Ambiguous! Privileged! Inflammatory.*

Judge: Sustained. Anything further, Mr. Santana?

This scene is drawn from episode 1x05 of *Suits*, the episode in which Harvey has to defend his car driver against Mr. Santana after the accident they had (see Section 6.1.6.). Santana boasts that he is able to defend himself and acts as his own lawyer, but Harvey decides to beat him with the

wards him with objections while he is conducting his scene shows almost all Harvey's objections as cut, decontextualized and put in a row. This editing results in transmitting an idea of Harvey's overwhelming victory over Santana. At the same time, it helps the audience become familiar with objections, which are presented as an instrument of defense and are then shown in many possible forms. The audience can see, for example, that if the attorney makes generalizing hypotheses about the facts and expresses negative opinions or attacks the witness (*You would agree that chauffeur drivers cause more accidents?*), then his behaviour can be considered 'badgering' the judge sustaining the objection, in fact, also corroborates the audience's inferences (or, vice versa, the judge's overruling an objection can correct the audience's wrong inference). It is also shown that objections can be moved when the content or the form of the question is considered 'argumentative', when it is meant to be 'inflammatory' towards the jury, asked in an 'ambiguous' way or is 'leading' the witness, as we will see more in detail below. Moreover, this representation of objections contributes to emphasize the gap between the expertise of the 'real' lawyer Harvey and the self-declared expert (who is in reality a layman), Mr. Santana, displaying specialized discourse and knowledge as instruments of power.

First scene

After these 'introductory' scenes giving general information about objections, I have chosen to focus on two main scenes staging witness examinations (drawn from *The Good Wife* 4x02 and *The Good Wife* 4x08 respectively) in which the counterpart counsel keeps interrupting the questioning by means of his/her questions. These scenes show how the representation of objections can help the audience understand how such practices can be used in the correct way during trials (or depositions). In particular, several different types of objections and the questions triggering them are staged, so that the rules about this professional practice can be shown to the audience.

First Scene: The Good Wife 4x02

Lionel Deerfield: Uh, Dr. Ladera, what is excited delirium?

Dr. Ladera: A condition that combines psychomotor agitation and aggressive behavior.

Lionel Deerfield: Such as the behavior exhibited by Mr. Beacham that day? Officer Mallen has testified that he just wouldn't stay down.

Will: *Objection, Your Honor. Is Mr. Deerfield testifying?*

Lionel Deerfield: I'll rephrase. Uh, excited delirium has been linked to drug use, hasn't it?

Witness: Yes, mainly stimulants, such as cocaine.

Lionel Deerfield: So did you perform a tox screen on Mr. Beacham as part of your autopsy?

Dr. Lader: Yes. It didn't turn up any evidence of cocaine use.

Lionel Deerfield: But isn't it true that some are undetectable after as little as five hours?

Alicia: *Objection. Your Honor, not in evidence.* Mr. Deerfield is trying to bias the jury by implying that the victim had drugs in his system.

Judge: *Sustained.* (1)

Lionel Deerfield: Dr. Ladera, is it safe to say that the presence of antidepressants might indicate that someone was suffering from depression?

Dr. Ladera: It is safe.

Lionel Deerfield: And depression can cause someone to behave in an agitated, even an aggressive fashion, can it not?

Dr. Ladera: Under some circumstances, I suppose.

lly if someone has recently experienced a catastrophic event.
cup of an engagement?
ope.

Judge: *Overruled*, but I might be inclined to sustain on the grounds of foundation regarding the antidepressants.

Will: Hmm, I... have no objection at this time on those grounds, Your Honor.

(í)

Will (*pointing at the video*): After you pepper-sprayed Tyler and sent 1,400 volts through his body and after he died, there, look. What's missing from his backpack? What isn't there anymore? I understand why you don't want to answer. The button isn't there anymore. Because you removed it?

Lionel Deerfield: *Objection! Argumentative.*

Will: I'm merely asking the question.

Lionel Deerfield: You are not.

Will: You removed the red button because you made a mistake and you were trying to cover your tracks.

Lionel Deerfield: *Objection.* (í)

Judge: *Sustained.*

The lawsuit of which I have shown some excerpts is started by Will, who sues the Chicago police department for wrongfully causing the death of Tyler, a boy who was killed by a policeman who used pepper-spray and electric shock on him. Lionel Deerfield, a TV host and actor recently returned to the profession of lawyer who counts more on his popularity than on his expertise, is defending the policeman trying to demonstrate that the victim had taken some illegal substances which, combined with the electric shock, had caused his death.

The lawsuit seems to be overturned when one of the jury members starts to ask questions about the victim, while Deerfield finds out that Tyler had taken a drug called Elvatyl, shows the judge some studies proving that the drug had suicidal side effects and arguing that Tyler only committed suicide by the hands of the policeman. Fortunately, at the end Will manages to find a video which is used as evidence that the policeman had caused the death of the boy and had intentionally hidden some evidence.

Here, four different types of objection are shown:

- 1) *Counsel is testifying* ó while questioning the doctor, Deerfield uses the words of the doctors (*aggressive behavior*) and applies them to Tyler's behavior, specifying that, according to another witness, officer Mallen, he "just wouldn't stay down". Therefore, the lawyer is not posing a question, but reconstructing the facts by means of personal comments and other sources which are not the witness interrogated in that moment. In fact, Will ironically asks the judge if it is lawyer Deerfield who is testifying and before the judge even rules on the objection, Deerfield rephrases his question, acknowledging that the objection on him testifying was founded.
- 2) *Not in evidence* ó even though the tests performed on Tyler's corpse revealed no use of cocaine, Deerfield still claims that sometimes, cocaine is undetectable after only five hours, so before the autopsy was carried out. This time it is Alicia (Will's partner) who objects: Deerfield has no scientific source to prove his statement, nor any evidence such as other medical tests or evidence of Tyler taking cocaine; therefore, it is just a speculation by the opposing counsel. As a matter of fact, the objection is sustained by the judge.

ld has found out that Tyler had taken the anti-depressant past and connects it to a Tyler's possible past state of depression. His strategy is now to demonstrate that Tyler wanted to commit suicide and is trying to find a reason that could have caused his suicide, for example, the breakup of his engagement. Will vehemently objects and motivates his objection saying that his questions about Tyler's sentimental life are "beyond the scope" since the topic sounds unrelated to the case. However, given Deerfield's intention to relate the use of drugs to depression caused by the breakup, the judge overrules Will's objection and allows the answer.

- 4) *Argumentative* In the final part of the trial, Will is questioning officer Mallen, who is shown in some pictures taken from the video of Tyler's killing. Tyler apparently had a red sticker on his backpack, which was a sign given by the police to identify and signal the protesters considered violent. In reality, the stills of the video showed that Taylor only had a red sticker with a smiling face on his backpack. Then, after the officer pepper-sprayed him and used the electric shock, the sticker was removed from the backpack. Will accuses officer Mallen of removing it and Deerfield immediately stands up objecting that it is "argumentative", i.e. that it presents a version of facts in support of his argument. The objection is sustained by the judge, but Will's reconstruction of the facts and his evidence convinced the jury.

Objection: Relevance

The second objection, moved on the question considered "beyond the scope" is connected to the principle of "relevance" of questioning: lawyers are supposed not to ask questions which are not directly relevant to the facts concerned in the lawsuit. As a matter of fact, when lawyers are trying to push the witness towards their favourable conclusions and therefore uphold their argument, they can introduce new themes in their line of questioning, which can initially appear unconnected to the facts in question or not relevant. In this case, the opposing counsel's objection to the new theme or new elements brought in the interrogation can be motivated by the appearing irrelevance of the question.

In similar cases, the lawyer can convince the judge of the relevance of his/her question:

Relevance 1: The Good Wife 2x06

Diane: Now, in your clinical trials, what did you find unusual about this surplus of tryptophan?

Doctor: Well, oddly, in some subjects, it made them desire anal sex. (í) And also, in one subject, it caused an increased interest in exhibitionist sex.

Louis Canning: Objection, Your Honor. *Relevance.*

Diane: *The defendant's case is built on the premise that Mrs. Fenton was jealous of her husband because he was having an affair. We intend to show that Elvacyl in fact encouraged sexual activity, which could lead the jury to deduce that the Fentons's sexual relationship was healthy.*

Louis Canning: We'll stipulate that Elvacyl causes increased libido, Your Honor.

Diane: Thank you, we'd like to argue our own case.

Judge: *Overruled.*

Relevance 2: The Good Wife 3x14

ning his firm, at any time, have you been engaged in a sexual
? relevant.

Wendy Scott-Carr: *The jury is entitled to know the true nature of your relationship with him.*

Cary: This line of questioning is inappropriate.

Wendy Scott-Carr: *The jury needs to know she has an incentive to protect him.*

Relevance 3: The Good Wife 4x13

Louis Canning: In the previous ten years, what percentage of litigation did you settle rather than bring to verdict?

Will: Objection. *Only the firm's conduct since bankruptcy is relevant here.*

Judge: *Overruled.* Ms. Lockhart?

(1)

Louis Canning: You were recently offered a partnership at Lockhart-Gardner, is that right?

Alicia: Yes.

Louis Canning: And how much will that cost you?

Will: *Objection: relevance.*

Judge: *Overruled.*

Alicia: My buy-in to the firm is 600,000 dollars.

(1)

Louis Canning: In this context how would you characterize the offer of appointment in exchange for money? (1) And isn't a job being dangled in this quid pro quo sort of way... extraordinary?

Clarke Hayden: No, I'm afraid not. Well... just the other day, you offered me employment in exchange...

Louis Canning: Let's move on.

Diane: *Objection. Let the witness answer.*

Louis Canning: *The answer is irrelevant.*

Diane: The answer was incomplete. *When it is complete, the judge can decide if it's relevant.*

Judge: Ms. Lockhart, please let me do my job. Go ahead and complete your answer, Mr. Hayden.

These three examples of objections shed further light on the issue of relevance of questioning, with the first scene representing a very clear case of explanation of the relevance of the question. Louis Canning is trying to build his client's defence on the alleged jealousy of his wife, who is supposed to have killed him after finding out he had an affair (supposedly with her own daughter). The counterpart's counselors Diane and Will, instead, aim at demonstrating that husband and wife had a normal sexual relationship, supported by the fact that the anti-depressants Mrs. Fenton was taking could cause sexual arousal. So, when asking an expert about the results of studies conducted on animals about side effects of the drugs, among which some unusual sexual behaviour, Canning objects on the relevance of questioning. However, Diane explains that she intends to show that Elvati in fact encouraged sexual activity, which could lead the jury to deduce that the Fentons' sexual relationship was healthy and persuades the judge, who overrules Canning's objection on the relevance of Diane's question.

The second scene comes in a completely different setting: Alicia is being interrogated by Wendy Scott-Carr, appointed to conduct an investigation on Will for judicial bribery in front of a grand jury. Aiming at discrediting Alicia as possible witness in Will's favor, Wendy uses Alicia's relationship with Will to demonstrate that she may have a sentimental motivation to defend him and even insinuate she might have taken part in his misconduct. However, as Alicia is a lawyer herself,



Wendy's question despite being in the witness position. Louis approaches her directly to stop this line of questioning)

and to the grand jury by specifying that such private questions are intended to reveal the true nature of the relationship between Alicia and Will and provide a clearer picture of the situation. The question is therefore considerable relevant to the scope of the investigation.

In the last episode cited, the matter in question is whether Will and Diane tried to hide the bankruptcy condition of their firm (bankruptcy fraud). Louis is once again their opposing counsel and is trying to bring evidence of Will and Diane's strategies to raise money for their firm in a short time: he calls Diane as a witness and shows that while in the previous ten years the percentage of settled suits was about 30%, in the period of bankruptcy it rose to 100%, meaning that they convinced their clients not to go to trial and possibly lose their case, but to accept the money obtained by "safe" settlements.

Will tries to object on the relevance of the question, since Louis made reference to the firm's business ten years before, but the judge overrules Will's objection, since the connection is clearly stated. Similarly, when Louis tries to demonstrate that Will and Diane tried to raise funds offering five new partnerships and therefore receiving their capital contribution for a total of 3 million dollars¹⁰³, Will objects to the question on the amount of the capital contribution, claiming that Alicia's financial choices are not relevant to the purpose of demonstrating the firm's bankruptcy. Once again, the objection is overruled.

Finally, Louis interrogates Clarke Hayden, the trustee who had been appointed to "manage" Lockhart-Gardner's financial crisis. He admits to being aware of the offers made to the five fourth-year associates and not agreeing with them but, when Louis starts arguing that Will and Diane were involved in a *quid pro quo* offering appointment in change for money, Hayden sets Louis up in turn, by testifying that Louis had done the same with him before. Louis tries to interrupt him and argues that the answer is irrelevant: this time, it is not the relevance of the question to be discussed, but that of the answer. Diane, who finds Hayden's answer favorable to her own cause, specifies that, just like with the questions, the relevance of an answer can only be objected to when the answer is complete. By doing so, she obtains a favourable testimony and at the same time the viewers are provided with extra information on the way witness examination has to be conducted and on the way the judge can rule on relevance.

Second scene

The second episode chosen to show how objections are "concretized" in legal dramas is drawn from episode 4x08 of *The Good Wife* and "concretizes" other types of possible objections.

This episode stages the lawsuit concerning the murder of a man was found killed in his bed by four gunshots. Will is defending the man's widow, Gwyneth Van Zanten, who is accused by her self-declared former lover, Mr. Yates. Yates admits killing the man but blames the woman, who appears to have led him to do so by saying that they would have split the man's money. In reality, she goes to the police to frame her lover and take all the inheritance money.

The following lines show the examination of Mr. Yates by his lawyer Laura Hellinger first, and then by the counterpart, represented by Will:

¹⁰³ See also the example from episode 4x13 in Section 6.2.1 on Metaphor.



ife 4x08

er Pilates instructor?

Mr. Yates: Yes, but she said she loved me. If I shot her husband, we would be together.

Laura Hellinger: With his money?

Will: Objection. Leading.

Judge: Sustained.

Laura Hellinger: And you... Strike that. (*looks at her notes*). Why did M-Mrs. Van Zanten want you to shoot her husband?

Will: Objection. Ambiguous.

Judge: Unfortunately... Sustained.

Laura Hellinger: Oneí One second. (í)

Mr. Yates: They had a prenuþ. If she divorced him, she got nothing. But if he died, she got everything.

Laura Hellinger: I see. And what happened, after the murder?

Will: Objection. Calls for narrative.

Judge: Ms. Hellinger, you are now experiencing ASA Hazing 101. Sustained.

(í)

Will: Ah. Soí You admitted killing her husband, you admitted sending her a text admitting your guilt and my client hasn't admitted a thing?

Laura Hellinger: Objection, Your Honor, counsel is testifying.

Judge: Yes, he is that. Sustained.

Will: After you sent this text, my client immediately informed the police, didn't she?

Laura Hellinger: Objection, Your Honor. Counsel is still testifying. Not only that, he's asking for hearsay.

Will: It goes to the defendant's state of mind, Your Honor.

Laura Hellinger: Actually, no. Mr. Gardner is asking for the content of a conversation between Mrs. Van Zanten and a police detective. If that's what he wants, he should put one of them on the stand.

Judge: Oh she's got you there, Mr. Gardner. (í)

Will: What were you offered in trade for your testimony here, Mr. Yates?

Mr. Yates: Well, I wouldn't say it was a trade. I received a plea bargain.

Will: And what was the plea bargain?

Mr. Yates: 20 years.

Will: For cold-blooded murder?

Laura Hellinger: Objection, Your Honor. Argumentative.

Judge: Yes. Sustained.

Will: And what is the usual sentenceí for first-degree murder?

Laura Hellinger: Objection, Your Honor. Calls for speculation.

Judge: Yes. Sustained.

Will: A murder like this usually draws a 45-year sentence.

Laura Hellinger: Objection! Counsel is testifying.

Judge: Sustained again.

Laura Hellinger is a former military attorney who has just been hired as ASA (Assistant State's Attorney). For this reason, she is visibly in difficulty when she has to question the witness. Will, who knows her well (in fact they also engage in a relationship), tries to exploit this in his favor and to object her line of questioning unmercifully, to such an extent that the judge feels sympathy for Laura's -beginner's condition. However, Laura will soon avenge and -get even's with a series of objections to Will's questioning:

- 1) *Leading* ó after asking the witness why he would kill the victim, Laura Hellinger adds a detail to witness's statement in the form of a question (óWith his money?ö). This is considered an example of leading the witness towards answering or testifying

- ing (or excluding or twisting) some particular information. 1 to a leading question is sustained by the judge.
- 2) *Ambiguous* ó as stated above, objections can be moved to the form of the question. This happens, in particular, when the question is too vague or ambiguous. In this case, Laura's question, "Why did Mrs. Van Zanten want to kill her husband?" is objected by Will for being ambiguous and it is confirmed by the judge. As a matter of fact, evidence has not demonstrated that Mrs. Van Zanten actually wanted to kill her husband. By the way, even taking Mr. Yates's testimony for truthful, Laura's question would still be equivocal, calling for the witness's personal speculation or to very general answers. That is why, after the objection is sustained, Laura changes her question and limits it to: "Did the accused offer you anything in exchange for this murder?" and then "Did Mrs. Van Zanten explain why she wanted to kill her husband?". From this question, Laura obtains the answer she wished (*They had a prenup. If she divorced him, she got nothing. But if he died, she got everything*).
 - 3) *Calls for narrative* ó Laura's line of questioning is objected again when she asks "What happened after the murder?" Like in her previous questions, indeed, the answer to such a question may be too vague and lead to a subjective reconstruction of the sequence of the facts according to the witness's version. In examinations, the exchange between the lawyer and the witness must be based exclusively on the question-answer pattern (possibly answers being yes/no, short and unambiguous, see 5.3. on Witness Examination), whereas such an open question would open up to a narration¹⁰⁴.
 - 4) *Counsel testifying* ó during the cross-examination, it is Will's turn to question the witness and Laura's to object. At the beginning of his questioning, instead of directly asking a question, Will goes back to Yates's previous declarations underlying that he admitted killing the man and then texting the victim's wife, while Mrs. Van Zanten had not admitted to this. That is why Laura asserts he is testifying in lieu of the witness (see above in this section). Though the objection is sustained, Will keeps going back to the reconstruction of the facts and also asks Yates to confirm that his client had immediately informed the police. For this reason, Laura objects again.
 - 5) *Hearsay* ó Laura also objects on the ground of "hearsay" i.e. reporting in court a statement produced out of the court by other people as an evidence to support one of the parties. Will justifies his own question saying that the question can be answered on the basis of the witness's mind and not on hearsay. At this point, the "hearsay" objection is clearly explained by Laura, who reformulates the technical term into the description of facts (*Mr. Gardner is asking for the content of a conversation between Mrs. Van Zanten and a police detective*) and underlines that since such conversation took place out of the courtroom, he should bring the police officer in court to use such information. In this case, the reformulation of the term "hearsay" contributes to the popularizing function of the concrete realization.

¹⁰⁴ See also Lubet (2004:49, in Anesa 2011: 104) confirming that witnesses cannot testify in narrative form.

In the first example above, any question which is not information from the witness and/or is posed in such a way to

support the lawyer's argument can be objected for being "argumentative"

In this case, when the witness testifies that he has agreed to a plea bargain of 20 years, Will comments: "For cold-blooded murder?" This sentence clearly connotes the murder in a subjective way ("cold-blooded") and contributes to shape the witness's identity as a cold, detached man, as well as the only responsible of the murder, who would deserve more than twenty years of detention for that. For this reason, Laura considers Will's comment "argumentative" i.e. in support of his argument, and the judge agrees (*Yes. Sustained*).

- 7) *Calls for speculation* – Instead of "cold-blooded murder", as a last question, Will asks the witness what is the general sentence for a "first-degree murder", using now the neutral technical term. However, a pertinent answer to this question would require the witness to answer without expertise of the matter (he is not a law expert), but according to the best of his knowledge (which, being a layman could result in a wrong answer) or by formulating hypotheses. In witness examinations, this is called "speculation" and if a lawyer's question implies one (in other words, "calls for" speculation), then it can be objected.

In another episode of *The Good Wife*, a complete definition of the "call for speculation" objection is provided during a mock trial where Will is called to act as a judge:

The Good Wife 1x20: Call for speculation

Mr. Bigelow: Objection, Your Honor. *Calls for speculation. The question asks Mr. Hunter to guess the answer rather than rely on facts.*

Giada Cabrini: Yes, that is the definition of speculation. Congratulations. Mr. Bigelow. Too bad I didn't do that.

Two students at the Law school are facing each other at the mock trial. The young student Mr. Bigelow, clearly nervous and almost shaking, stands up and objects. After doing it, he naïvely explains the reason for his objection, adding that "The question asks Mr. Hunter to guess the answer rather than rely on facts". Giada Cabrini, the student representing the counterpart, mocks him sarcastically saying "Yes, that is the definition of speculation".

This scene does not only powerfully present the new character of Giada and the whole context of the mock trial, but is also exploited to inform the audience about the specific meaning of "call for speculation" and the situation in which this objection can be moved.

Objection: Ambiguity

The second objection on the ambiguity of the question is connected to the objection on vagueness, which likewise, is instrumental to the respect of the formal requirements of the questions in witness examination. The "vague" objection can also be found in the same episode quoted above, 4x13, in which Louis Canning is interrogating Alicia about any other "schemes" at Lockhart-Gardner:

Will: I am quite certain Mrs. Florrick knows what "scheme" means.
 Judge: I'll allow.

Here, Will objects to the vague formulation of the question, which could give rise to different interpretations by the witness and therefore be answered in many ways, but, since reference had previously been made to the type of actions Canning refers to as "schemes," the judge overrules Will's objection and allows Alicia's answer.

In the following scene drawn from episode 1x11 of *Suits*, instead, vagueness is explained via a hyperbolic reformulation of the question in such a way that any claim of vagueness can be made:

Suits 1x11

Miss Leads: The Attorney General has given me a broad mandate to uncover what went on. And it need not be limited to Mr. Dennis. *Were you part of the problem, Mr. Specter?*

Jessica: *Vague.*

Miss Leads: I'll rephrase. In your capacity as Assistant District Attorney in the county of New York, did you knowingly suppress evidence in violation of the A.V.A. Rules of Conduct, the N.D.A.A. Standards, and the New York State Bar Rule 8.4, section C?

Lawyer Leads threatens Harvey by asking if he was "part of the problem," referring to the current investigation on his former mentor Dennis. Jessica, Harvey's partner in the firm and attorney, objects on the reason of vagueness of the question, which does not specify what is the "problem" she had a mandate to investigate for. This is why Ms Leads reformulates the question specifying the time (when Harvey was Assistant District Attorney in the county of New York), the precise action about which she wants an answer (*did you suppress*), the mode of the action (*knowingly*) and quotes all the rules that would be violated if so (*A.V.A. Rules of Conduct, the N.D.A.A. Standards, and the New York State Bar Rule 8.4, section C*): it is, in fact, an example of indirect quotation of rules integrated in objections (see 6.5.2.).

Objection: Badgering

None of the scenes shown above, however, contains one of the most interesting examples of objection, the one for "badgering" the witness. This kind of objection is probably not so common in real courts as it is in legal dramas. This is due to the strong emotional effect that the scene of a lawyer shouting or bombarding a witness with questions has on the audience and to the important role that such scenes have in the construction of the characters' identities.

In the following scene taken from *Suits*, for example, the firm Pearson-Hardman has organized a mock trial to be prepared in view of the trial Harvey is going to face soon, in which he is accused of suppressing a piece of evidence. Louis Litt, the lawyer at Pearson-Hardman who has always felt he was in competition with Harvey, is impersonating the opposing counsel and interrogating Harvey's secretary, Donna:

Badgering: Suits 2x07

Louis: Had Harvey Specter asked to bury something five years ago, would you?



do that.
1. If he did, would you do it? Oh, see, you're pausing, which
g.
Donna: No, I'm not.
Louis: See, I think you'd do anything for him, and I know why.
Jessica: Is there a question?
Louis: *Do you love Harvey Specter?*
Donna: What?
Louis: *Do you love him?*
Donna: That has nothing to do with it.
Louis: It has everything to do with. Why did your last boyfriend break up with you? Ms. Paulsen, why did he end it with you?
Donna: He thought that I prioritized my work over our relationship.
Louis: Your work? He asked you to choose between him and Harvey, didn't he?
Donna: Yes.
Louis: Who did you choose?
Donna: Harvey.
Louis: *Because you love him?*
Harvey: Louis, stop.
Donna: It is not that simple.
Louis: *Do you love him, yes or no? Answer the question.*
Harvey: Louis!
Louis: *You're with him all the time. Your work revolves around him. Your life revolves around him.*
Jessica: *Objection, badgering.*
Louis: You don't have a boyfriend, but the one you did wouldn't share you with him.
Jessica: Your Honor!
Donna: Please, I just need a
Louis: *Do you love Harvey Specter?*
Donna: Ahm
Louis (shouting): *Do you love Harvey Specter?*
Harvey: That's enough!

Donna (who is actually responsible for suppressing evidence) starts her examination by pleading the Fifth Amendment, which means she decides not to answer Louis's questions (see Section 6.8.4. on Fifth Amendment below). For this reason, Louis decides to change his strategy and starts asking her personal questions directly, focusing on whether she loves Harvey. In that moment, he is impersonating Travis Tanner, the real opposing counselor who, in Louis's words, "would not give a shit" about Donna and would therefore not hesitate to ask Donna similar questions. When facing such an unexpected situation, Donna keeps avoiding answering Louis's questions, while Louis insists, repeats the question five times and adds that Donna's life revolves around him.

A similar statement could have been objected by Jessica for reasons of being argumentative and because the counsel was testifying. However, Jessica's main objection to Louis's line of questioning is about badgering her, which can be moved whenever a lawyer is unnecessarily hostile to, combative with or harassing a witness¹⁰⁵ or when instead of being questioned, a witness is subjected to derisive comments (e.g. "You expect the jury to believe that?"), when legal arguments are posed as questions ("With all the evidence against you, how can you deny that you stole the watch?"), or if questions assume facts not in evidence ("There were ten people blocking your view, yet you can

¹⁰⁵ https://www.law.cornell.edu/wex/badgering_the_witness (Last access: October 2, 2015).

at of this definition and of Louisø general attitude towards is relevant and justified.

Similarly, in the next scene, Mike Ross is interrogating the father of a young athlete who has filed for emancipation. When Mike reports his arguments about the facts as a question to the witness, accusing him of causing physical damages to his own son, the opposing counsel objects for -badgeringø

Badgering: Suits 2x05

Mike: Letø talk about May 18th of last year. You took your son to the hospital where he was treated for severe dehydration.

Mr. Mendoza: Rushed my son to keep him safe.

Mike: What Iøn interested in is how he got dehydrated in the first place.

Mr. Mendoza: He was running laps.

Mike: And hadnø you had an argument about going pro the night before?

Mr. Mendoza: Yes.

Mike: And you wanted to teach him a lesson, as was your right.

Mr. Mendoza: What?

Mike: He questioned your authority, didnø he? Heø done it before, hasnø he? And you donø like that, do you?

Mr. Mendoza: You are twisting this.

Mike: You got angry, you flew off the handle, and you became abusive.

Mendozaø lawyer: Objection, badgering.

Judge: Easy, Mr. Ross.

Finally, a funny example of badgering is provided by *Boston Legal*, in a scene in which Denise is defending Traci Carpenter, a teacher who is suing the parents of one of her pupils for harassment because they always asked her questions about their daughterø education and even got to disapprove her methods of teaching and evaluation:

Badgering: Boston Legal 2x12

Denise: Mrs. Gering, are you saying that Miss Carpenter is a bad teacher?

Mrs. Gering: No. I didnø say that.

Denise: How would you rate her? B minus? C plus?

Mrs. Gering: What? I donø think I could reallyí

Denise: í Because she has won a teaching award. So maybe if youøre not giving her a good enough grade, itø your problem, not hers? Is that possible?

Mrs. Gering: I never saidí

Denise: We know youøre involved with a lot of other teachers.

Daniel Post: We donø want our teacher to get lost in the shuffle.

Denise: And maybe you were having a bad day when you evaluated her.

Geringø Lawyer: Objection.

Daniel Post: I donø think you see her potential.

Denise: You donø see how hard she works.

Daniel Post: She works so hard. When the other teachers are out playing, Traciø insideí

Geringø Lawyer: Your Honor!

Judge: Miss Bauer!

Geringø Lawyer: Theyøre badgering the witness!

Denise: Of course weøre badgering the witness.

Daniel Post: You just figured that out?

Judge: Objection sustained!

¹⁰⁶ <http://www.nolo.com/dictionary/badgering-the-witness-term.html> (Last access: October 2, 2015).

ing the objection to the badgering of this woman. That's what stop the badgering.

Denise's strategy is to badger the witness in the same way she did with the complainant and she is helped by Daniel Post, the man she is dating who is her second chair in this lawsuit.

Denise and Daniel ask the witness to evaluate Traci as a teacher and then start bombarding her with the same questions she and her husband used to ask her. In this way, they are reversing the situation: Mrs. Gering is the one asked to evaluate and Traci is the one who has to be evaluated. And just like the two parents were always defending, praising and justifying their daughter, the two lawyers are now underlining that Traci has won an award for her job, that she works hard, and that maybe she was just "having a bad day" the day the Gerings evaluated her job negatively. In other words, the same justifications the parents used for their daughter when she did not get an A+. Their intention is to push the opposing counsel to object for badgering and that is exactly what happens. The Gerings' lawyer tries to stop them turning to the judge for stopping the badgering and the judge sustains his objection. The one who can thank the judge for considering this behavior badgering is not the Gerings' lawyer, but Denise, who has demonstrated what badgering can be like. And not only has she demonstrated it in the courtroom, where she ends up winning the case, but the audience has also been shown what can be considered "badgering" during the witness examination and "harassment" out of the courtroom.

Overruled objections

This concluding excerpt will underline that, just as the judge sustaining an objection can show what are the necessary elements for an objection and the correct modalities for the questioning, overruling the objections can give information about this legal practice as well.

In the next scene, for example, Alicia's objections, which are knowingly not always relevant to the witness interrogation, are almost all overruled by the judge:

The Good Wife 1x19

Stern: Mr. Clay, are you aware that the police now believe that this bombing was an inside job?

Alicia: *Objection! Not in evidence.*

Stern: Oh yes. Your Honor, this is plaintiff's exhibit N. The police report, filed... yesterday morning. Mr. Clay, you don't know anything about this, do you?

Alicia: *Objection! Argumentative.*

Stern: *Uh, Your Honor, it's a simple leading question.*

Judge: *Overruled. Um, you may answer.*

Mr. Clay: I'm sorry, wh-what was the question?

Stern: The question was, uh... The police now believe that the bombing was an inside job, that the bomb was hoisted up through a dumbwaiter.

Alicia: *Objection! Again, not in evidence.*

Stern: It is in the investigative report.

Alicia: The investigative report merely states that it appears a bomb was planted from inside. It doesn't say anything specifically about dumbwaiters. We ask that statement be stricken from the record.

Judge: Is that really necessary, Mrs. Florrick? *Overruled.*

Stern: Thank you, Your Honor. Uh...Ugh. Where was I? Uh, right, right. Dumbwaiter, employees. So, Mr. Clay, have any of the employees approached you about threats they might have been receiv...?

ie.

n, Your Honor.

Judge: You may proceed, Mr. Stern.

Stern: Yes. Thank you, Your Honor. Um... One moment.

Alicia is the only person who knows that Jonas Stern (founder of Stern, Lockhart and Gardner before Diane and Will threw him out and now their opposing counsel) has been diagnosed with dementia. At the trial, Stern had surprised Alicia and Diane by filing some new evidence the day before the hearing and is now questioning the witness accordingly. He is arguing that the explosion that happened at a newspaper's offices, which resulted in the death of a man whose wife is now suing, was intentional. So he asks the witness, Mr. Clay, editorial manager of the newspaper, if he knew that the police believe that the bomb came from the inside and not from a terrorist attack. Alicia objects, stating that such statement is not in the evidence. The police report, instead, had been filed by Stern the day before and Alicia did not know it.

Just after that, when Stern tries to reconstruct the facts and talks about the possible presence of dumbwaiters to cause the explosion, Alicia objects against this statement for not being in evidence. To support her objection, she makes reference to what is not specifically stated in the report (*It doesn't say anything specifically about dumbwaiters*) trying to grasp at details and use them in her favour, but the judge overrules her objection again, deeming it not necessary.

When Stern asks the witness if he knows anything about the bomb being an 'inside job', Alicia objects that the question is argumentative, as if Stern were trying to support his own case instead of obtaining more information. However, the judge overrules her objection because he believes that the witness's answer can provide relevant testimony.

After objecting three times, Alicia notices that Stern is starting to hesitate and has problems remembering his questioning strategy and decides to exploit Stern's difficulty. Starting from this moment, her objections will be intentionally not relevant: her real aim is not to contest the rival's way of questioning, but rather to distract him, so that he loses the thread of his speech and cannot achieve his goal: when she objects for the second time on the statement not being in evidence, she does it intentionally and argues her objection on purpose to change the topic. As a matter of fact, Stern needs some minutes to reconstruct his speech and restart the examination. As soon as he poses his question, Alicia objects again, maintaining that his question (*have any of the employees approached you about threats they might have been receiving?*) was vague, whereas, in fact it was not. The judge rebukes her, she admits her objection was wrong and withdraws it before the judge overrules it because she has anyway succeeded in her purpose: Stern has been distracted so much by her repeated objections that he has completely forgotten his initial questioning strategy.

This brief focus on overruled objections underlines that the concrete realization of an objection is not limited to the lawyer standing up and shouting 'Objection' as it is in the collective imagination of the audience. Objections must be contextualized and connected to what the opposing counsel was asking, to the way s/he was asking it, to the attitude s/he has towards the witness. Not only that: one should also take into account the previous questions and answers (for example to object if a question has already been answered), the evidence, the other testimonies, etc. Moreover, in order to popularize the way court practices such as objections work, it is necessary to see their results, their efficiency, the feedback that they obtain. Sustaining an objection means that what is argued by the lawyer is true; likewise, overruling an objection can warn lay people watching the scene on the

submit information about the relevant way to object as a

6.8.2. Motions

Most cases of concretizations can be traced back into the *performatives* acts (or *illocutionary* Austin 1962) which characterize trials. In particular, many scenes focus on the debate phase or hearings, in which lawyers start defending their causes and contrasting the opposing one. In such phases, where lawyers do not object (as seen in the section above), they engage in the other main form of performative act they are entitled to: motions. A motion is an official request that the lawyer can make to the judge, for example for evidence or witnesses to be accepted or denied, which can be moved in any moment during this phase:

A formal request that a judge enter a particular order or ruling in a lawsuit. An oral motion may be made during trial – for example, to strike the testimony of a witness or admit an exhibit. Often, motions are made in writing, accompanied by a written statement explaining the legal reasons why the court should grant the motion. The other party has an opportunity to file a written response, and then the court decides whether to grant or deny the motion. The court may hold a hearing where each party can argue its side, or may decide the issue without a hearing.¹⁰⁷

As the definition above states, motions are usually expressed in written form and contain the details about the legal reasons why they should be granted. However, the *written motion* is not the genre *embedded* in legal drama: what can be shown by an interaction of the characters which is entertaining for the audience is only the motion made orally in front of the judge. At the same time, motions have to be granted or denied by the judge (similarly to objections); therefore, a further performative act, the one in the hands of the judge who rules on the motions, has to be staged.

The following scenes, drawn from *The Good Wife*, will show how a motion is fictionally reproduced and how some features can be intentionally highlighted for popularizing purposes:

The Good Wife 1x02

Lawyer Ericsson: Your Honor, *given the stature of my client, Mr. McKeon, and given the fact that this pretrial hearing has already garnered the attention of our friends in the press, we would ask the court to seal the pretrial filings and avoid a show trial.*

Judge: Oh, Mr. Ericsson, I don't think we need to do all that. Do we? First amendment issues and all? *I deny the petition with regret.* Mr. Gardner?

Will: Yes, Your Honor. We have a lot of testimony focusing on whether there was a consensual act between Mr. McKeon and my client, but if Mr. McKeon is willing to stipulate there was, indeed, a consensual sexual act, we would forego this testimony.

Judge: That's a good point. Mr. Ericsson, how do you respond?

Lawyer Ericsson: We will stipulate there was no sex of any kind, forced or consensual, Your Honor. *The plaintiff also requests an expedited trial date, Your Honor, a DNA sample from Mr. McKeon, DNA results from the rape kit, and the investigative reports from the state's attorney's office. They have been... reluctant to furnish them.*

Judge: Thank you, counselor. *I will grant all four motions.*

(í)

Will: Your Honor, given this testimony, *we move that the rape kit be reexamined at a second genetic lab.*

¹⁰⁷ <http://www.nolo.com/dictionary/motion-term.html> Last access: October 5, 2015.



standable request, Mr. Ericsson.

or, we would stipulate that Mrs. Florrick has proven her case.
ted the sample... But we would argue, therefore, that that is the

very reason it cannot be tested again.

Will: You've got to be kidding me.

Lawyer Ericsson: The very fact that it is agreed that the sample is now contaminated means it can't possibly be tested with any authority.

Will: Your Honor...

Judge: *Mr. Gardner, you argued that the rape kit was contaminated. You can't now argue it's probative. The plaintiff's motion for retesting is denied.*

Will and Alicia are defending Christy, a club stripper who has accused a rich and influential man, Lloyd Mc Keon, of raping her after one of her shows during his bachelor party. The McKeon family is trying to use their influence to discredit her and their attorneys are trying to keep the lawsuit secret: they propose a cash settlement with the condition of confidentiality but she refuses, so they try to keep the trial proceedings away from the journalists.

The first motion by McKeon's lawyer, Mr. Ericsson, is, indeed, a motion to seal the filings. As Ericsson is the one starting the hearing, his motion is structured in a very formal, 'written-like' way: he first lists the reasons for his motion, represented by the state of the facts (*given the stature of my client and given the fact that this pretrial hearing has already garnered the attention of our friends in the press*), then the motion itself, introduced by the standard formulaic pattern 'We would ask + to + infinitive' and finally the reasons for the motion represented by the potential consequences of not granting the motion (*avoid a show trial*), of which he takes advantage to implicitly argue his case with rhetorical devices.

The judge's decision on the first motion is introduced by much less formal words (*I don't think we need to do all that. Do we? First amendment issues and all?*) by which it is possible to understand that sealing the pretrial hearing would be equivalent to a more complicated trial and raise bigger issues. Then, after hinting at the reasons, the judge officially validates his rejection with a formula-like performative utterance (*I deny the petition with regret*).

The two parties do not agree on stipulating that a sexual act between Christy and McKeon. For this reason, in support of his argument of no intercourse between his client and Christy, Ericsson moves four different motions:

- an expedited trial date,
- a DNA sample from Mr. McKeon,
- DNA results from the rape kit,
- the investigative reports from the state's attorney's office.

These motions are introduced by means of a direct request (*The plaintiff also requestsí*) and by adding a reason after the motion: *õThey have been... reluctant to furnish themö*.

In a following scene set during the same lawsuit, Alicia has demonstrated that the results of the rape kit were tampered with because they had been contaminated in the lab and are therefore no longer evidence in defense of McKeon's innocence. With the intention of obtaining the opposite result by a re-examination of the kit, Will moves for an analysis in another lab.

Once again, the motion is composed of the reasons in support (*given this testimony*) and then the official formula (*we move that the rape kit be reexaminedí*). However, such request finds no approval: as McKeon underlines, once Will and Alicia have shown that the kit was contaminated, retesting it would make no sense, as the results would be unreliable. As a matter of fact, the decision of the judge on the motion is preceded by a 'preamble' consisting of Will's statements

kit was contaminated), their logical consequences (You official denial (The plaintiff's motion for retesting is denied).

The Good Wife 3x07

Glenn Childs: No questions, Your Honor. *But we ask that the case be dismissed with prejudice.*

Diane: *On what grounds?*

Glenn Childs: *Danny's attorneys have not introduced corroborating evidence that he was even ever at Camp Whitcomb.*

Diane: Because the Government has rejected every request for access to their secret court proceedings into Danny's arrest.

Glenn Childs: But I don't understand why the evidentiary bar must now be lowered.

(...)

Judge: *I think there is now convincing corroborative evidence that Mr. Marwat was at Camp Whitcomb, so I'm going to allow this lawsuit to go forward. Mr. Childs, please instruct the Defense Department to turn over all the secret court transcripts requested by the plaintiff's attorneys.*

In the scene above, Alicia and Diane are arguing the case of Danny Warwat, an American citizen who was working in Afghanistan a translator for the Army when he was hooded by four American men and brought to camp Whitcomb, where he was tortured, punched and kicked for six months to obtain a confession of his connections to Al Qaida, which he actually did not have. He was only tortured because of his Middle-Eastern origins and appearance. Now the man is suing the United States for six million dollars for torture, which, according to the United States Government, never happened: the State even denies there had been an arrest and Alicia and Diane have therefore no tangible proof of Danny's torture.

Assistant State Attorney Glenn Childs is stressing the absence of evidence and moves for the case to be "dismissed with prejudice". Before the judge can rule, Diane immediately reacts asking what are the grounds of his motion, which Childs explains in the lack of corroborative evidence. When Diane justifies the lack of evidence with the refusal by the Government to provide it, Childs backs his motion by making reference to the "evidentiary bar", i.e. the minimum quality or quantity of evidence necessary to sue. Alicia and Diane eventually manage to find evidence, which is a form that the client filled in to ask for lactose-free food while he was on the American camp.

After expressing his reasons (*I think there is now convincing corroborative evidence that Mr. Marwat was at Camp Whitcomb, so I*) the judge denies Childs's motion by reformulating it: *"I'm going to allow this lawsuit to go forward"*. The choice of these words for the judge's granting of the motion is probably not fortuitous: the authors reformulated the motion for the case to "be dismissed with prejudice" by the non-legal words "allow the lawsuit to go forward", so that the concept and its consequences on the development of the trial can be more clear.

To sum up, in both the scenes presented, the act of the motion is explained by means of concrete examples provided by the fictional reproduction of a communicative context in which motions are embedded. In particular, a specific pattern in the representation of motions is repeated, which consists at least in the reason for it followed by a formulaic introductory formula; in the same way, the judge's granting or denying of the motion includes the relative motivations. Then, similarly to objections, the explanation of the motion procedure is provided by the relationship between its

its acceptance (or refusal) by the judge, which acts as

6.8.3. Formulae

As partly shown in the focuses on objections and motions and in the analysis of jury verdict in 5.5.2, formulae play an important role in trials.

The role of formulae is essential in the fictional reconstruction of legal settings, because they are a typical, constitutive feature of a trial, which makes it unique and distinguishes it from any other genre. Besides characterizing the lawyer and the judge in the preliminary and evidential phases, formulae are also useful to:

- 1) concretize the verdicts of the jury in jury trials, which are object of great interest as denouement of the *Spannung* accumulated during the trial/episode;
- 2) build up the whole trial *scenario*

In particular, besides their role in popularizing information about the US law, the following jury verdicts scenes will allow to focus on these two functions of formulae:

1) *Criminal vs. military court: The Good Wife 2x02*

Foreperson #1: In the matter of People of Illinois versus Randall A. Simmons, case number 10-C-R-2085, on the charge of first degree murder, we find the defendant not guilty.

(1)

Foreperson #2: In the matter of The United States versus Specialist Randall Simmons, on the charge of murder under Section 118 of the Uniform Code of Military Justice, we the panel find the defendant... not guilty.

2) *Court martial ó guilty: The Good Wife 3x09*

Judge: Members of the panel, have you reached a verdict? Staff Sergeant Regina Elkins, please stand.

Foreperson: In the matter of The United States versus Staff Sergeant Regina E. Elkins, on the charge of murder under Section 118 of the Uniform Code of Military Justice, count one, we the panel find the accused guilty.

On the charge of murder under Section 118 of the Uniform Code, count two, we the panel find the accused guilty.

On the charge of murder under Section 118 of the Uniform Code, count three, we the panel find the accused guilty.

On the charge of murder under Section 118 of the Uniform Code, count four, we the panel find the accused guilty.

3) *Not guilty: Boston Legal 1x05*

Judge: The defendant will please rise. Madam Foreperson, the jury has reached a unanimous verdict?

Foreperson: We have, Your Honor.

Judge: What say you?

Foreperson: *In the case of the Commonwealth versus Jason Binder... on the charge of murder in the first degree... we find the defendant, Jason Binder, not guilty. On the charge of murder in the second degree... we find the defendant, Jason Binder, not guilty.*

with our thanks. The defendant is free to go. We are adjourned.

The scenes selected are just a few among a plethora of similar ones, where formulae are used or verdicts are released. However, the main criterion behind the choice of these three verdicts is that, within the context of the episode, they also contribute to give supplementary information about other legal issues.

The first example contains the first and the last lines of episode 2x02 from *The Good Wife*, which opens and finishes with a jury verdict. Randall Simmons has been charged with his wife's murder and the episode opens with the jury declaring him innocent and his wife's family shouting at him. Immediately after this, Randall is arrested again. When his lawyers, Alicia and Will, point out that he cannot be tried again for the same crime, because of the principle of 'double jeopardy' they explain him that, in this case, he can:

Melinda Gossnett: Mr. Gardner, Captain Melinda Gossnett, U.S. Army Judge Advocate General's Corps.

Will: JAG? What, are you kidding me?

Melinda Gossnett: *At the time of the murder, your client was a mobilized reservist on Title 10 orders. As such, it isn't double jeopardy. The crime falls concurrently under military jurisdiction.* Specialist Randall Simmons, pursuant to article 118 of the Uniform Code, you are hereby apprehended to face charges for murder.

The contrast between the first jury verdict at the beginning of the episode and the second at the end of it is exploited as a device to highlight the possibility of being tried twice in some particular cases, as when the accused belongs to a Military Corp and is thus exposed to military jurisdiction, besides the civil one. This rule is explained in detail thanks to the scene above with a mix of co-occurring popularization strategies: Captain Melinda Gossnett starts explaining by contextualizing the crime (*At the time of the murder*) and the state of the facts concerning the accused (your client was a mobilized reservist on Title 10 orders).

With a passage from a contextualization ('narrative' mode) to a classification ('paradigmatic' mode, see 6.7.1.), she introduces the concept of 'double jeopardy'. Then, she reformulates it and explains why it does not apply to the specific case (*The crime falls concurrently under military jurisdiction*). The further formulaic construction (addressing the person concerned + quoting the rule applied + performative act itself + crime) reinforces the transmission of this specialized kind of knowledge to an audience not used to 'handle' similar information.

Further support to the contrast between the civil/criminal jurisdiction and the military one is given by the opposition of the two verdicts built on similar patterns. Both the jury forepersons open it up with the same words ('In the matter of'), but it is underlined that in the first case the applying jurisdiction is the one of the 'People of Illinois' while the second is federal ('The United States'); the Illinois criminal formula specifies the docket number before the charge (case number 10-C-R-2085), while the military formula quotes the rules under which the crime is regulated (under Section 118 of the Uniform Code of Military Justice). Finally, a slight difference is to notice in the pronunciation of the verdict, in which it is underlined that in military court the sentence is not given by a jury, but by a panel ('we find the defendant not guilty' vs. 'we the panel find the defendant not guilty'). This scene built on the comparison (see 6.2.3.) between the two formulae contributes to underline once again the independence of the two jurisdictions one from the other, the similarities and the differences between the two and to reaffirm the concept of 'double jeopardy'.



of murder in criminal court and in military court is also
second scene, which is drawn from an episode built around

the military jurisdiction as well. In this case, in fact, the defendant Regina Elkins has acted within her role as a military employee. The introductory formula of the panel to their verdict is essentially the same as in the previous episode; the new information, in this case, is paradoxically given by the partial repetition of the verdict. The same sentence, in fact, is repeated four times, acquiring incredible power in the representation of the defendant's feelings, who is shown to the audience while stoically reacting to the sentence which will condemn her to prison for life.

However, the repetition of the sentence not only fulfils this 'cinematographic' function, but also an indirect informative one: the audience now knows that the military jurisdiction allots to the general crime of 'murder' four distinct 'counts', of which Regina is judged guilty:

Any person subject to this chapter who, without justification or excuse, unlawfully kills a human being, when he:

- (1) has a premeditated design to kill;
- (2) intends to kill or inflict great bodily harm;
- (3) is engaged in an act that is inherently dangerous to another and evinces a wanton disregard of human life; or
- (4) is engaged in the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson; is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under clause (1) or (4), he shall suffer death or imprisonment for life as a court-martial may direct¹⁰⁸.

Also the third scene, drawn from an episode of *Boston Legal*, is basically built on the usual formula for the verdict, which follows exactly the pattern found in the previous examples:

“In the case of + prosecutor versus defendant + “on the charge of + (name of the crime) +
“we find the defendant + (name of the defendant) + verdict.

In the case of the Commonwealth versus Jason Binder... on the charge of murder in the first degree... we find the defendant, Jason Binder, not guilty.

However, this scene gives more detailed information about the whole phase of the jury verdict (see 5.5.2.): it starts from showing the judge addressing the jury and officially asking if they have reached a unanimous decision and using the archaic construction ‘What say you?’ After the verdict, the judge completes the action with three more performative acts: he dismisses and thanks the jury (*The jury is dismissed with our thanks*), dismisses the defendant (*The defendant is free to go*) and closes the trial (*We are adjourned*).

To sum up, the scenes displaying the jury's verdict are of undeniable support in:

- 1) the final denouement of the plot, since they introduce the 'happy' or 'unhappy' ending to the story recounted in the episode and result in a sort of 'cathartic' action on the audience;
- 2) the construction of the identities (of the jury, of the defendant, of the judge etc.) of the setting (the role of the jury, the relationships between the facts shown by evidence, their exposition by the lawyers and the jury members etc.) and of the scenario (e.g. by the

¹⁰⁸ <http://usmilitary.about.com/library/milinfo/mcm/bl118.htm> (Last access: October 6, 2015).

on of the foreperson pronouncing the sentence following
lge addressing or dismissing the jury etc.);

- 3) the communication of knowledge, which is not only performed by the reproduction of realistic formulae and patterns, but also in the procedures shown and especially in the secondary information added during the scene of the verdict, as in the case of the four points for murder in the military court or of double jeopardy, or simply by the quotation of the rules within the verdict (see also 6.5. on quotations).

6.8.4. Fifth Amendment

Another formulaic expression of great impact on the audience is the appeal to the Fifth amendment, which is often staged in legal dramas. Apart from an entertaining effect, the appeal to the Fifth amendment also has an indirectly informative role, since it highlights the right not to testify in case the witness feels s/he could be damaged and self-incriminated by his/her own answers. In particular, the focus on witness pleading the fifth and the concrete realization of such choice can be useful to explain it to the international audience¹⁰⁹. For an international audience who is not familiar with the concept of 'Amendment' nor with what kinds of rights they protect and/or themes they regulate, these concrete realizations can shed light on some of them. Moreover, just like motions and jury verdicts, the concrete realization of the appeal to the Fifth amendment can act as a starting point for further information about the right not to answer and other regulations in trials.

The following scene is taken from the same episode described in 6.8.1. (*Objection: Badgering*), in which Pearson-Hardman stage a mock trial against their own lawyer, Harvey Specter, accused of tampering evidence, which is actually what his secretary Donna did. For Donna not to incriminate herself (and subsequently Harvey), the only solution would be to plead the Fifth. For this reason, while thinking about the possible strategies and the possible questions that could come from the counterpart, Mike and Rachel impersonate the opposing lawyer and Donna respectively:

Fifth Amendment: Suits 2x07

Mike: The plaintiff calls Ms. Donna Paulsen. Ms. Paulsen, did Harvey Specter order you to shred this document?

Rachel: I decline to answer pursuant to my Fifth amendment rights.

Mike: So you don't want to take this opportunity to state your employer's innocence? (í)
Ms. Paulsen, do you consider yourself good at your job?

Rachel: I do. (í)

Mike: Ms. Paulsen, there was a personal date stamp from five years ago on the document that you're accused of shredding. Was it yours?

Rachel: I decline to answer.

Mike: Did it look like your date stamp?

Rachel: I decline to answer.

Mike: Okay. Then let me ask you this. *Would you believe that the best legal secretary in the city didn't know about a document, even though it had what appeared to be her date stamp on it?*

Rachel: I decline to answer.

¹⁰⁹ Amendments are the official 'changes' brought to the American Constitution, and since Common Law systems are essentially based on jurisprudence (i.e. previous cases) and not on written formal laws regulating lawsuits, the Constitution and its amendments play a particularly important role as a source of law and references to the Amendments are often found in legal fiction.

ve the same secretary would have destroyed that document
e boss?
isn't it?

(1)

Louis: Ms. Paulsen, did Harvey Specter order you to shred that document?

Donna: *I decline to answer pursuant to my Fifth amendment rights.*

Louis: Did you put your date stamp on that document?

Donna: *I decline to answer.*

Louis: Um...*I'm not gonna ask questions that you're just gonna plead the fifth to, so...Had Harvey Specter asked you to bury something five years ago, would you?*

Donna: He wouldn't ask me to do that.

These two consecutive scenes taken from the same episode show a hypothetical representation of the mock trial (Mike vs. Rachel) and the mock trial itself (Louis vs. Donna). As we can see, in both cases, the witness representing Harvey's secretary decides not to answer any of the questions, which become gradually more and more insistent, almost harassing, and gradually "dig" in the depth of details about the alleged evidence tampering and the reasons for it. Mike also underlines that pleading the fifth does not only mean avoiding self-incrimination, but it also means not having the possibility to speak in defense of someone (in this case, Harvey). Both Mike and Louis, in fact, realize that if questions were about Donna's private life, she would probably waive her right and be tempted to answer. But, while Mark thinks that the opposing lawyer's strategy could be to mock of her as a secretary, Louis knows that the only way to push Donna to answer is to touch on her "real" weak point, Harvey, whom she secretly loves (see 6.8.1., *Objection: Badgering*).

While in the previous scene the plead to the Fifth amendment was essentially instrumental for the development of the plot (with the revelation of Donna's secret love for Harvey), in the following scenes further information about the role of the judge and of the lawyer in similar cases is given:

The Good Wife 2x01

Alicia: It's a simple question, Onya. Did you and Mr. Kimball stay together in Washington, D.C.?

Onya: *I refuse to answer on the grounds that it may incriminate me.*

Judge: Are you sure that's what you want to do? You're pleading the Fifth?

Onya: Yes.

Alicia: You're worried about relating what happened with the victim in Washington D.C.?

Onya: *I refuse to answer on the grounds that it may incriminate me.*

Judge: Miss, I want to make sure I understand what you're saying.

Alicia: Your Honor, the witness already answered...

Judge: *Are you pleading the Fifth because you were involved in Mr. Kimball's murder, or because of the leaked...?*

Alicia: Your Honor, it is not your place to ask my witness.

Judge: Yes, it is, Mrs. Florrick. Now, you are taking the Fifth...

Alicia: *Your Honor, if you compel my witness to answer this question, I am moving for an immediate mistrial.*

Judge: Denied. I'm asking a simple question...

Alicia: You are not, sir!

Judge: Mrs. Florrick...

Alicia: *You are piercing the Fifth Amendment right.*

Judge: Mr. Florrick, shut up.

Alicia: No, sir.

Judge: Excuse me?

empting to circumvent her Fifth Amendment right, I will not
 his to the Judicial Conduct Committee for immediate action.

Alicia's client, Mr. Kimball, is accused of murder and Alicia is using a paranoid woman called Onya, who had a secret relationship with Kimball, to protect him. Onya is innocent and is not involved in the murder, but since Alicia knows about her particular state of mind and her fear for her relationship to be discovered, she takes advantage of this situation. So, once again, a lawyer asking questions on the witness's private life, more than on the crime, is staged.

However, this time, the judge does not understand Onya's behavior and tries to intervene in the examination, even if he is not allowed to do so: according to the US law, judges can pose questions to the witness (by means of a recent regulation, also the members of the jury can pose written questions), but, of course, not if the witness chooses to plead the fifth. Thus, when the judge wants to disambiguate the witness's intentions (*Are you pleading the Fifth because you were involved in Mr. Kimball's murder, or because of the leaked...*) Alicia threatens him with reporting this to the Judicial Committee, since she would see her defense strategy collapse. In reality, she hides her intentions behind the shield of a violated right (*You are piercing the Fifth Amendment right; as long as you are attempting to circumvent her Fifth Amendment right, I will not shut up*). Showing Alicia's confrontation with the judge is also a means of informing the audience about the inviolability of the Fifth amendment and the consequences that its violation can bring, in this case on the judge.

The Good Wife 2x17

Cary: How long have you worked at Lockhart-Gardner?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Cary: That's how we're gonna handle this?

Alicia: As is Miss Sharma's right. We ask that the state's attorney accept a blanket statement of Fifth Amendment protection.

Glenn Childs: And we ask that Mrs. Florrick remain silent.

Cary: Did you beat the psychologist Dr. Booth?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Cary: Were you ordered by your superior, Mr. Will Gardner, to beat Dr. Booth?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Cary: Were you ordered by your superior, Diane Lockhart, to beat Dr. Booth?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Cary: But it makes sense that you would only act at the behest of your superiors?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Glenn Childs: Would you care to share that note with the rest of us, Miss Sharma?

Alicia: It's attorney-client work product, so we politely decline.

Cary: Was there a systematic plan at Lockhart-Gardner to break the law when pursuing cases?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

(í)

Alicia: Ready? No matter what they ask, the Fifth. You plead the Fifth.

Kalinda: Got it.

Cary: Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Kalinda: I do.

Cary: Now, we've asked Blake Calamar back for another day of questioning, but you have no disagreement with his characterization of the conversation?

Kalinda: *I refuse to answer on the grounds...*

d things up here if you allowed for a blanket pleading of the
would ask that Miss Sharma's attorney honor the Illinois state
statute.

Cary: Mr. Calamar testified that you beat Dr. Booth with a bat, and then you gave that weapon to him to hide. Is that true?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Cary: You then, according to Mr. Calamar, took that bat back after knocking him unconscious. Is that true?

Kalinda: *I refuse to answer on the grounds that it may incriminate me.*

Cary: And since that time, have you ever tried to contact Mr. Calamar?

Kalinda: Can you ask me that again, please?

Cary: Why, certainly, Miss Sharma. I asked, since that time, have you ever tried to contact Mr. Calamar?

Kalinda: Yes.

Alicia: I'd like to speak to my client.

Glenn Childs: No, Mrs. Florrick. Your client wishes to answer the question. Go ahead.

Quite similarly, in this scene the Fifth amendment is taken as a departure point for the construction of the whole legal context. In this case, indeed, Kalinda is not a usual witness in a civil or criminal trial in front of a judge or a jury: she has been subpoenaed to speak in front of a grand jury, i.e. a special jury appointed to hear evidence brought by a prosecutor to justify an indictment and to investigate potential criminal conduct, in the face of which the prosecutor can present evidence to show that a person can be guilty of such criminal conduct¹¹⁰. Alicia initially believes that Kalinda is the object of the State Prosecution's investigation (here represented by Glenn Childs and Cary), but after the first questions, she realizes that their target is not Kalinda, but someone else at Lockhart-Gardner. So, pleading the fifth suddenly becomes a weapon that Kalinda and Alicia use to find out more about the current investigation: when Kalinda does not answer one question, Cary keeps asking other questions, which inevitably provide Alicia and Kalinda with some clues about the target of the investigation.

However, once again, the scene staging a witness pleading the Fifth amendment becomes instrumental to the popularization of other information concerning related issues, namely:

- 1) the role of the witness's lawyer in a grand jury investigation ó in both moments when Kalinda is called to testify, Alicia accompanies her as her attorney, but is prevented from speaking. The director of the investigation, ASA Glenn Childs, invites her twice not to intervene (*We ask that Mrs. Florrick remain silent; And again, we would ask that Miss Sharma's attorney honor the Illinois state statute*);
- 2) Kalinda's oral testimony in which she pleads the fifth after every questions is the equivalent of a "blanket statement of Fifth amendment protection", which Alicia asks the State Prosecution to accept.
- 3) Attorney-client privilege ó during the interrogation, Kalinda understands by the questions posed by Cary that she is not the one they want to incriminate; she writes "I am not the target!!!" on a small sheet of paper and gives it to Alicia. ASA Childs asks to be informed about the content of the message, but Alicia refuses (*It's attorney-client work product, so we politely decline*). This shows that even a post-it exchange between a client and his attorney can be protected by attorney-client privilege: it is, in fact, a "concrete realization" of

¹¹⁰ <http://www.nolo.com/dictionary/grand-jury-term.html> (Last access: October 5, 2015).

e more general frame of the concrete realization of a
ent.

In conclusion, ‘concrete realization’ are instrumental to the popularization of law because they provide the audience with direct information about what is represented and on other aspects related to the main subject of the episode. They represent at the same time the most ‘basic’ and the most ‘complicated’ popularizing strategy of legal drama: it is ‘basic’ in the way it establishes a transfer of knowledge (simply showing a legal procedure and calling it by its name) and it is ‘complicated’ to explain from a strictly linguistic and discursive perspective.

6.9. Combinations of popularizing strategies

The analysis of the popularization strategies featured in legal dramas has revealed more than once that they can be used in ‘interaction’ with each other or expressed one by means of the other. Sometimes, more than one strategy is necessary to make legal issues clear to the public and at the same time well embedded into the fictional frame. This final section proposes some scenes in which popularization strategies are used in combination and ‘collaboration’ with others to explain legal specific contents.

First scene

Boston Legal 2x14

Bailiff: Docket number 66706S, Commonwealth versus Irma Levine. One count of disturbing the peace.

ADA Holly Rainez: Your Honor, at this time the People would like to amend the complaint. We’re charging Ms. Levine with Penal Code 272, section 16, open and gross lewdness and lascivious behavior.

Alan: Are you out of your mind?

Judge: How do you plead, counselor?

Alan: Time out, Your Honor. That charge is a felony. This woman was arrested as part of political protest. There was nothing lewd and lascivious about it.

ADA Holly Rainez: Read the statute. She violated it.

Alan: This is absurd. If she’s convicted, she’ll be forced to register as a sex offender.

Judge: Save it for the jury, counselor. How do you plead?

Alan: Even more not guilty than we were prepared to plead a moment ago.

In this scene from *Boston Legal*, Alan Shore is defending Irma Levine, one of the organizers of a demonstration in which she and many other women exposed their breasts. When in courtroom to defend her from the charge of ‘disturbing the peace’ Alan finds out that the Prosecution is adding a new charge for ‘open and gross lewdness and lascivious behavior’, which is much more serious than the first one.

- The scene focuses on the difference between the two crimes and on the potential consequences that the new charge could entail for Irma. It opens with two formulaic constructions: one by the plaintiff introducing the case and the other with ADA Holly Rainez moving a motion. As shown in 6.8.2., the fictional reproduction of motions can serve the popularizing purpose of legal dramas, since they help explain motions by means of a ‘direct’ representation of the facts based on a performative act.



er motion for an additional charge with the quotation of
ssue, namely the Penal Code, of which she cites article

272, section 16 and the crime of which they are now accusing Irma.

- Alan's astonished and angered reaction is explained by the generalization he uses, which helps identify the new charge, "open and gross lewdness and lascivious behavior", as a "felony".
- In defense of the woman, Alan makes recourse to narration, by which he reconstructs the facts, specifying that his client was "arrested as part of political protest" and therefore "there was nothing lewd and lascivious about it". However, Alan's narration is promptly "turned" into "paradigmatic" mode by his opponent, who categorizes the defendant's behavior as belonging to the violations of the statute and compares the instance given to a definition of class and appealing to authority (both expressions of the paradigmatic mode, see 2.2).
- Finally, Alan brings further support to his argument by exposing the consequences that being found guilty of the new charges could have on Irma's life (*If she's convicted, she'll be forced to register as a sex offender*). He is therefore explaining the lewdness and lascivious behavior charge by means of a scenario of its consequences.
- The scene is closed by the judge's formula requesting for the defendant's plea of guilty or innocence, to which Alan sarcastically replies with reckless disregard of the formality of the moment (*Even more not guilty than we were prepared to plead a moment ago*).
- Moreover, it is important to notice that the final result of the scene is that the new charge brought by the ADA is compared to the original one and the comparison between the two offences (essentially meant to understand their potential consequences) constitutes the general framework within which all the other popularization strategies take place.

To sum up, this scene combines:

- at least three formulaic constructions and a motion, i.e. performative acts typical of the legal professions presented to the audience by means of *concretizations*;
- a quotation of law;
- a generalization;
- a shift from "narrative" to "paradigmatic" mode distributed on the exchanges between the two opposing counsels;
- a scenario of consequences, and
- an overall frame built on the comparison between the two offenses, in which the just mentioned strategies are "embedded"

Second scene

The Good Wife 2x03

Cary: Carl Landers shot a woman at the mall, Your Honor. Pursuant to the public terrorism statute, bail is out of the question.

Carl Landers' lawyer: Wait a minute. The State's Attorney himself said that this was my client's first time. Ergo, there is no public terrorism.

Similarly to the previous example, in this scene from *The Good Wife*, Cary and the opposing counsel are discussing their arguments in defence or against a criminal charge. The episode is

ative (*Carl Landers shot a woman at the mall*), by which
bail. To do so, Cary labels the actions just

described as an example of public terrorism (shift from *-narrative* to *-paradigmatic* category),
reinforces his argument by quoting the source (the public terrorism statute) and relates the crime to
its punishment (*bail is out of the question*).

However, the defendant's attorney dismantles Cary's argument on the same grounds: by relying
on narrative (*The State's Attorney himself said that this was my client's first time*), she demonstrates
that the conditions are not met for her client's actions to be considered public terrorism.

Within this very brief exchange between the two lawyers the following strategies were used:

- Two explanations built on the *-narrative to paradigmatic* pattern;
- A quotation of law;
- An indirect connection of a crime to its punishment;
- A scenario of conditions necessary for a crime.

Third scene

The Good Wife 3x01

Cary: We ask that Mr. Mifsud state under oath that he was the driver in this photo which we
will mark as People's Exhibit number 1.

Alicia: Your Honor, is that really necessary?

Cary: It's the only way we'll drop the hate charge.

Judge: Very well. Mr. Mifsud, you are under oath. Do you swear that that's you in the
photo?

Jimal Mifsud: Yes.

Judge: Good. Well, I think that just about, uh, wraps it up, doesn't it, Mr. Agos? I'm late for
the gym.

Cary: It does, Your Honor, and the State has made a terrible mistake in charging Mr. Mifsud
with this battery. But this car with this license plate was seen racing away from the scene of
the frat murder of Simon Greenberg...

Alicia: Objection, Your Honor!

Cary: That is why he ran the red light.

Alicia: Oh, this is outrageous.

Cary: He had just killed Simon Greenberg.

Alicia: This is prosecutorial misconduct!

Cary: He swore to it. His alibi means he committed this murder.

Alicia: Because you overcharged him with a hate crime so he would grab at any alibi.

Cary: So you're saying your client perjured himself?

Alicia: No, I am saying he took my advice, that's all.

Cary: Well, then congratulations, Alicia. You just advised your client to admit to murder.
Your Honor, the People charge Jimal Mifsud with first-degree murder.

This scene from the first episode of the third season of *The Good Wife* is particularly intense and
replete with different strategies interacting to define of the conditions for a charge of murder. One
night, a fistfight takes place at a college bar, in which a Jewish student is killed. Meanwhile, one of
the college students, Jimal Mifsud, who is Muslim, is arrested for participating in the fistfight with
the charge of battery, though he maintains he had not even been there. While Alicia prepares to
defend him on the charge of battery, Cary, who is working for the Prosecution, has come in
possession of a picture of Jimal's car moving away from the scene of the murder just after the
moment it was committed. Alicia thinks that she can use the new piece of evidence in her favor and

ur, sure that it would be a good alibi for the battery charge
 ng investigated for the murder. However, the evidence

gathered by Cary is suddenly shown to the judge to set Jimal up on the murder accusation. None of the parties knows that, in reality, the car was being driven by Jimal's flatmate and Jimal was really unaware of everything that had happened.

Once again, the scene begins with a formula expressing a motion (*We ask that Mr. Mifsud state under oath*), followed by other formulae (*Mr. Mifsud, you are under oath. Do you swear that that's you in the photo?*) representing the concrete realizations of a motion and of the witness's oath. After Jimal swears he is the person driving the car in the picture, Cary reconstructs the facts of the murder starting from that car, which was positioned on the place of the murder that night and on the way back to the college and justifies its crossing the road with a red light by the intention to flee as soon as possible. Cary's narration is stopped by Alicia's objection (another concrete realization), who describes Cary's defense as 'prosecutorial misconduct'. She is therefore addressing Cary's wrongful, or at least, immoral actions, with a technical legal term.

Cary defends himself by reminding Alicia that her client provided the court with this alibi, to which he had just sworn and that the alibi provided is a sufficient condition to be incriminated for murder, as well as to be released of a charge. When Alicia replies that her client did that only because he was charged with something he had not done and would just 'grab at any alibi', Cary immediately tags this as 'perjure' going from Alicia's narrative mode to a paradigmatic category. He also concludes his speech by connecting his previous narration of the facts to the charge of first-degree murder, once again switching from a narration to the 'paradigmatic' mode, expressed by the closing formula with which he officially communicates the charge to Jimal (*the People charge Jimal Mifsud with first-degree murder*).

Moreover, just like the first example in this section, the whole scene is instrumental to draw a comparison between two different crimes: battery, aggravated by the charge of hate crime (a Class 3 Felony) and first-degree murder. Therefore, the scene sees the 'intertwining' of several popularizing strategies, namely:

- concrete realization of motion, oath and other formulae;
- concrete realization of objection;
- concrete realization of 'prosecutorial misconduct'
- scenario of conditions, when Cary underlines that the alibi is a condition for the charge of murder;
- 'narrative to paradigmatic' pattern when Cary defines Jimal's oath as perjure
- 'narrative to paradigmatic' pattern when Cary's narration (*He had just killed Simon Greenberg*) is defined as 'first-degree murder'
- a comparison between battery and murder.

Fourth scene

As a last point of this conclusive section, I would like to show the 'interaction' relationship between the strategies by giving an instance of how they can be used 'in instalments' i.e. in many different moments within one episode (or even more than one), to explain a legal concept. In order to do this, I chose this 'patchwork' of three different scenes drawn from the episode 2x14 of *Suits*, in which Harvey and Jessica are in the middle of their fight against their former partner, Daniel Hardman,

and then set them up by having Jessica signed a his departure from the firm:

Suits 2x14

Harvey: One of the three people in this room is gonna tell them . I'm guessing it won't be you.

Daniel: I'm afraid it won't be one of you either.

Harvey: You gonna kill us?

Daniel: Oh, I won't need to. *You're bound by the confidentiality agreement Jessica signed the night I left: "All knowledge of any activity of Daniel Hardman"*

Jessica: I know what it goddamn says!

(í)

Robert Zane: *You signed a confidentiality agreement.*

Jessica: *I am precluded from speaking on that topic.*

Robert Zane: Then I'm afraid you're precluded from convincing me to take him off this case.

Jessica: Robertí

Robert Zane: *What's it gonna cost you to violate the agreement? Give me a number. Hmm? I'll assume it's in the millions.*

Jessica: *Fifteen.*

(í)

Daniel: Our confidentiality agreement prohibits most questions.

Jessica: *Actually, it only prohibits disclosures. We can ask you any question that any lawyer who hadn't signed a non-disclosure agreement could ask.*

Harvey: *We just can't make statements.*

The "confidentiality agreement" topic returns cyclically in this episode, each time explained by different situations or different characters. In the first part, the topic is introduced for the first time by Daniel, who has just started threatening Jessica and Harvey and underlines that they cannot talk to the other lawyers at the firm about anything that happened when Daniel left, whereas Harvey thought nothing could prevent him from doing so (*You gonna kill us?*). Then Daniel quotes the clause of the agreement he is taking advantage of, and, though the quotation is incomplete because Jessica stops him, the reference to what is agreed is clear.

However, the authors exploit another scene in the same episode to "go back" to the confidentiality agreement, in which Jessica is talking to another lawyer, Robert Zane (Rachel's father), asking for his support and proposing him to merge their firms. When she is asked what was behind Daniel Hardman's departure, Jessica avoids to answer and Zane infers that she signed a confidentiality agreement. This is then made more explicit by Jessica, who explains the confidentiality agreement by its current consequences (*I am precluded from speaking on that topic*) and reveals to Robert Zane what the potential consequences would be if she broke the agreement, i.e. paying 15 million dollars. The dialogue between Jessica and Robert helped the audience understand the direct consequence of a confidentiality agreement (no possibility of disclosing any information) and the potential consequences of its violation (a monetary fine).

The third scene drawn from this episode shows Jessica and Harvey threatening Daniel after they finally found a way to circumvent the agreement. They have subpoenaed Daniel for a deposition in Monica Eton's trial, to which he is obliged to answer¹¹¹. And when Daniel threatens them by reminding that they cannot ask him any questions because of the confidentiality agreement, Jessica

¹¹¹ A deposition is similar to a witness examination in its structure, but does not take place in court: it is recorded and then presented as evidence in the trial.

agreement only prohibit direct disclosure via statements, in questions, which could entangle his involvement in the embezzlement and finally call Daniel's bluff and incriminate him.

Thanks to the authorial choice to go back to the same topic on multiple occasions during one episode, multiple aspects of one topic are popularized via different strategies and avoiding to concentrate the explanation of 'confidentiality agreement' in one scene. At the same time, this strategy allows the 'natural' development of the plot.

In particular, the audience is informed about:

- Possible formal features of a confidentiality agreement, via its fictional partial quotation;
- The conditions and the consequences of a confidentiality agreement;
- The potential consequences of its violation;
- The kinds of information that cannot be disclosed and the modalities in which a disclosure is considered such (when Jessica and Harvey circumvent the agreement by depositing Daniel).

These last scenes represent the conclusion to my micro-linguistic analysis of legal dramas. They have been chosen with the aim of clarifying and summarizing the strategies identified in legal dramas, the difference between them and the way they can be employed to inform the audience about specific contents belonging to the discourse community of American lawyers.

Moreover, the analysis of the samples drawn from the corpus have shown the 'interaction' modality of the strategies, which can be juxtaposed to each other, be arranged along two or more utterances by different characters, along different scenes (and subsequently different communicative contexts) within a single episode or even in more than one episode and across different legal dramas; they can overlap, be constructed in relation to each other and be 'embedded' in each other. But above all, it has hopefully provided a new tool for a detailed view on the structure of this still unexplored genre and the way knowledge is selected, mediated and 'disguised' under various forms, which can sometimes intertwine, driven by the sole purpose of reaching the audience.

CONCLUSIONS

7.1. Main findings

This research project set out from the premise expressed in the Introduction, that the birth of new knowledge inevitably corresponds to its dissemination and to the rise of new forms of dissemination. This basic assumption has been related to the new hybrid discursive forms involved in Knowledge Communication and to the possibility for genres not born as ‘specialized’ or as ‘popularizing’ to be exploited as a disseminating device.

Focusing on legal drama as a form of audience information rather than of mere entertainment, I have proposed a new perspective under which this genre could be seen, opening the way to an unprecedented analysis of the use of language in them.

Such analysis was conducted on a twofold track:

- 1) the macro-linguistic analysis (Chapter 5) has focused on the comparison between the features identified in courtroom genres and the fictional ‘appropriations’ of such genres in legal dramas. In this case, the focus was placed on macro-textual features, such as the text structure and the rhetorical moves, the process of interaction between the participants to the communication, or the way their intentions were discursively fulfilled;
- 2) the micro-linguistic analysis (Chapter 6), on the other side, provided a narrower view on the morpho-syntactic, lexical and grammatical choices which recurred in dialogues and monologues drawn from legal drama. In particular, special attention has been paid to how these choices reflect the authors’ purpose to adapt the specialized contents (necessarily present in legal drama since they are in courtroom and legal offices) to an audience which in most cases is far from this world, engaging in a process of knowledge mediation and transfer.

This dual analysis has brought to an answer to the initial questions which led me to conduct this research.

1. Can TV series be a means to popularize scientific, technical or specialized knowledge?

The answer to the first research question is yes, TV series can be a means to popularize specialized knowledge. Starting from the premise that informing about the legal profession and practice is not their principal purpose, we can also affirm that the audience needs to familiarize with such professional activities and that the authors of legal drama cannot ignore the gap between what is shown in procedural or courtroom dramas and what the average audience knows about it.

2. If so, how do they do it?

They can do it in several ways:

- 1) the most direct one is the ‘imitation’ the cinematographic reproduction of courtroom and legal practices in general: the ‘concrete realization’ of procedures, activities and discursive habits of lawyers interacting with judges, other lawyers, witnesses and clients constitute the most straightforward to ‘teach’ the audience something about how law works;

specific knowledge to the public is by mediating it through words of their characters to explain technical terms and

potential situations to the audience.

Also in this case, however, we must start from the assumption that the legal terms and principles explained by legal drama are not necessarily applied in the fictional courtrooms in the same way they are in reality: million dollar settlements, threats, corrupted juries, last-minute evidence, fifth amendment pleas, women and men killing their husbands and wives for money or perversion and getting away with it are, of course, not everyday matters of US courtrooms and of course are not themes tackled with the same epic passion represented in legal dramas.

3. *What effects does the popularizing aim of specialized TV series have on the language used in them and in the way they are structured?*

As stated above, the authors of legal drama do use, more or less consciously but not often overtly, some discursive strategies to convey specialized knowledge to the non-expert audience. These can be seen both in the micro-linguistic choices and in the appropriation of the features of the genres reproduced.

Legal drama as a hybrid genre

The macro-linguistic analysis developed in Chapter 5 has compared the discursive features identified in some legal genres and those of the reproductions of these genres in legal dramas. Cotterill's (2003: 94) schematic view of the trial phases has been proposed to look at the genres embedded in legal drama and studies conducted on each of the genres have confirmed the presence of the same features in the legal drama corpus:

- Opening statements fulfill an official informative purposes, but also a persuasive one, in both real courtrooms and fictional ones; they have a similar structure (made of introductory remarks or greetings to the jury, the introduction of witnesses, places, instrumentalities, major issues or contentions; telling the story; conclusion and request of a verdict); lawyers in opening statements make strategic use of pronouns to make the jury members feel personally involved and to make the situations described closer to their everyday reality; they draw on repetition as well as on emotional language to underline the concepts underpinning their arguments. All these features can also be found in legal drama reproductions.
- Closing arguments are linguistically similar to opening statements, but their argumentative function is overtly fulfilled; moreover, they aim to the destruction of the counterpart's theory more than to the construction of an acceptable version of the facts; similarly to opening statements, they are characterized by a strategic use of pronouns, but also resort to metaphoric and explicative language. In particular, the use of metaphoric reasoning is underlined in Alan Shore's closing speeches in *Boston Legal*, which are typically based on the comparison between the case under discussion and the lawyer's personal experience, which is taken as a point of departure in support of his arguments;
- Witness examinations play a pivotal role in the development of the trial, just like in the development of the plot in legal dramas. They represent the apex of the lawyer-client (non-

- when the lawyer is hostile towards the witness and vice versa the authors of legal drama as a narrative device and to construct the characters' personalities and minds. The *Initiation-Response-Follow up* structure, typical of lawyer's questioning, is reproduced in the fictional scenes, including the lawyer's rhetorical strategies of persuasion of the jury (apparent request for help to the witness, questions confirming the logical reconstruction of facts, use of unambiguous yes/no questions or question tags in cross examination vs. of open questions in direct examinations; use of evaluative feedback etc.). Witness examinations participate in the reconstruction of law-based interactions, which are embedded in the plot of legal dramas as a means to represent power dynamics and the relationships between the characters;
- Other 'standardized' or formulaic genres (such as the judges' instructions, the jury verdict etc.) represent a key tool in the hands of the authors for a more convincing imitation of courtrooms and as such, they characterize all legal dramas.

These different legal genres are all embedded in the TV series included in this research. The structure of legal drama, organized in seasons and episodes with a vertical and a horizontal plot ('serialized series') leaves space to the private and sentimental strands, to comic moments as well as to competition on the workplace and struggle for power, but also allow for at least a lawsuit to be debated in each episode. The 'vertical' plot of each episode is the glue which actually keeps the viewers in front of the screens and it is within the professional framework made of courtroom and law firms that the 'horizontal' plot is developed. The two plots are therefore complementary: legal discourse is a necessary condition for the development of the plot and at the same time a consequence of the places where the narrated facts are set. Hybridity is therefore a constitutive feature of legal drama, which, in Bhatia's (2004) words, exploit the 'template' of a genre (TV series) to 'give expression to other distinct generic forms' (all the legal genres embedded).

Legal drama as a means of popularization

The mutually constitutive relationship of the twofold purpose of legal drama (which I would define 'informing for entertaining') on its structure has been shown and discussed above, thanks to the results provided by the macro-linguistic analysis of Chapter 5. The micro-linguistic analysis of Chapter 6, instead, has contributed to show how the specialized contents instrumental to the plot development are mediated for the non-expert knowledge. The comparison between some of the most innovative studies on popularization discourse, popularizing genres and reformulation strategies and the legal drama corpus has given proof of a correspondence between the two. The typical communicative situation is the same, implying in most cases a person who is more expert than another trying to communicate some knowledge, for either institutional/professional or 'private' purposes; the knowledge to be transferred needs to be 'mediated' and the role of mediating is assigned to language. The ways language mediates specialized knowledge in legal drama are basically the same that can be found in other studies on popularization (Calsamiglia and van Dijk 2004, Gülich 2003, Ciapuscio 2003, Gotti 2012, Garzone 2006, Anesa 2011) and the speaker's thoughts and intentions driving their linguistic expressions mirror the 'modes of reasoning and of meaning making' identified by Heffer (2005) in what he defines legal-lay discourse.

In particular, typical patterns of popularization genres, such as definitions and denomination are also hidden in the characters' words in legal drama; reformulations are constantly used to go back to

ans of paraphrases; metaphorical reasoning, similes and life are exploited to make the technical concepts or professional procedures closer to the lay receiver. Explications and explanation can also be embedded in legal dramas in more direct ways, like juxtaposing sentences containing extra information about the term to explain, listing their consequences or narrating facts. Hypothetical reasoning can also be instrumental in mediating specialized knowledge, as with the creation of hypothetical scenarios of the potential conditions or consequences of a crime. Of course, the quotation of reliable and official sources, whether direct or indirect, can help provide information about the law.

Besides confirming the presence of these typical popularization strategies, the analysis of the data has also revealed some recurring patterns which had not been observed in the previous literature, which was mostly based on written genres (Calsamiglia and van Dijk 2004, Garzone 2006) or on spontaneous spoken interaction (Gülich 2003) and not on a genre written to be spoken (or better, played by actors) like legal drama. The juxtaposition of a crime to the relevant form of punishment like in *second degree murder, ten years* and even the comparison between them, like in *second degree murder, ten years. First degree murder, 45 years* in fact, is only typical of spoken interaction and is particularly frequent in legal dramas for narrative purposes, since it allows to emphasize the dichotomy in front of which lawyers and clients are placed. Finally, the multimodal nature of legal dramas enables the audience to get in contact with the world of US law by simply watching the courtroom procedures being enacted and therefore explained by their concrete realization.

The scenes analyzed have been selected in order to demonstrate that specific legal principles, procedures and terms can be explained in legal dramas while the fictional facts are staged and the plot is developed. The audience watches the scenes and at the same time benefits from the knowledge and power asymmetries between the interacting characters: when expert characters explain legal concepts to lay ones, they are also explained to the audience; when expert characters as lawyers argue their own case against each other in front of a judge or a jury, their persuasive strategies such as quoting reliable sources or listing potential conditions and consequences also become popularizing strategies.

7.2. Contribution to research

This thesis is the outcome of my intention to investigate new fields and topics still unexplored in Linguistics. As said in the introductory remarks to the research project, only rarely has legal drama been the object of specific research in Linguistics: as an example of FASP its implications have been mainly explored for pedagogical purposes; as object of Audiovisual Translation, instead, it has been more than once investigated in an interlinguistic and translational perspective. For these reasons, I would feel entitled to claim it has brought a contribution to research in at least two main fields:

- 1) it has brought Critical Genre Analysis, traditionally applied to ESP genres, to a genre which involves specialized discourse but had never been seen as a contribution to the communication of knowledge. The hybridity of legal drama as a genre between entertainment and popularization within and beyond the discourse community of legal

derlining that it can really be a means for informing and

- 2) it has contributed to the studies in Knowledge Communication and in Linguistics in defining the role of popularization. Liebert (2002) had already argued the entertaining purpose of popularization¹¹² and I think that this research has considerably contributed to testify that his observations were correct. From the strictly linguistic viewpoint, the micro-linguistic analysis has revealed new ways of realization of the already known popularization strategies (for example, definitions and scenario of the conditions given in *öinstalmentsö* or denominations given by means of hypothetical clauses etc.) and new strategies of popularization.

This research has also indirectly opened to other discussions, such as the role of the concepts of *-genreø* and of *-genre hybridityø* in Media Studies, with particular reference to the ever-evolving forms of series. In reference to Media Studies again, it also tackled topics as the relationship between the audiovisual product and its audience and the way it is mediated.

Finally, the analysis of the power relations established among the different characters opened the way to a series of observations and reflections which could be expanded within the context of Critical Discourse Analysis¹¹³. This research project, of course, would lends itself to further analysis from different perspectives and have implications in Audiovisual Translation and Corpus Linguistics.

7.3. Further research

Other -infotainmentø genres

The hypotheses formulated (and so far, confirmed) thanks to this research project could be extended to other genres which, similarly to legal drama, fulfil their entertainment purpose by mediating specialized knowledge. The closest case would be the one of medical drama, which has already drawn my interest in the past, though in an interlinguistic translation perspective (Laudisio 2015b). A corpus of medical dramas (for example *Greyø Anatomy*, *House M.D.*, or *ER*) could be collected similarly to the legal drama corpus analyzed here and analyzed in a similar way, providing an overview of the genres embedded in it (for example, case presentations, medical exchanges in the operating room, diagnoses and so on) and of the popularization strategies used in medical-patient interactions which allow the audience to understand more about medicine. Similarly, other specialized TV series, such as procedural police and crime drama, or those tackling other disciplines like science (*The Big Bang Theory*), computers and internet hacking (*Mr. Robot*) and finance could be object of further research.

The scope of the research could also be extended to other genres, such as reality TV shows on medicine (see, for example, the recently successful *Embarrassing Bodies*) and on courtrooms (such as *Judge Judy* or *The Peopleø Court*), which leverage on fictional elements and plots at a lesser extent and tend more towards a documentary-like format.

¹¹² The other purposes being: to gain advantage/profit from it; to identify danger and be protected from it; to enlarge the addresseeø horizons; to experience beauty; to legitimate the sender, to keep control on something, to make political decisions and to satisfy curiosity.

¹¹³ See Laudisio (forthcoming c), presented at the 3rd *Languageing Diversity Conference* (Macerata, 3-5 March 2016).

Besides being the focus of the present investigation of the popularizing function of legal drama and of its generic features, the legal drama corpus collected has also been analyzed vis-à-vis with the translations into Italian of the subtitles. In *Laudisio* (forthcoming a) the comparison between the original subtitles of *The Good Wife*, fan-made Italian subtitles and the official Italian dubbed version underlined the difficulty of translating culture-specific terminology and concepts which only belong to the US legal system and have therefore no equivalent in Italian. Of particular interest is the case in which British law and terminology are contrasted with American ones and the contrast between the two has to be translated into Italian. *Laudisio* (forthcoming b) has also highlighted the trend towards foreignization versus domestication strategies in subtitles versus dubbing in a larger corpus, which also included the series *Suits*.

My intention for the future research is not only to expand the scope on the possible translations of other culture-specific legal terminology, but also to focus on the translations of the formulae used in courtrooms (for example, in the jury verdict) and to show the trend towards the standardization of the translation of formulaic expressions in Italian.

Corpus Linguistics

The features of the language used in legal drama versus in real courtroom could be explored by means of a quantitative analysis relying on the means provided by Corpus Linguistics. The analysis of keywords, wordlists and collocations, in addition to syntactic and discursive tagging of the data by means of specific computer software can ease the reading of the difference between, for instance, real courtroom interactions and fictional ones. The comparison between a reference corpus made of the transcriptions of the trial held in one court (for example, the Supreme Court Dialog Corpus, compiled by the Cornell University¹¹⁴) and trials reproduced in legal dramas would clearly line out the peculiarities of the language used in legal drama, underpinning the hypothesis of a popularizing intent underlying this genre.

Moreover, Corpus Linguistics could be useful to carry out research on legal dramas in a diachronic perspective, for example including scripts of series belonging to the first and second phase and comparing them with those of the third phase (Villez 2005) and spotting out the evolution of the genre and its increasing popularizing function.

Reception Studies and Language Learning

To complete the circular scheme of Knowledge Communication (see Chapter 3), it would be necessary to see not only the way specialized content is communicated from the authors of legal drama to the audience, but also the way audience actually perceives them. In other words, are the popularization strategies of which the authors take advantage really effective in mediating specialized legal terms, contents and procedures to a non-expert audience? If so, to what extent? And is it the same for international audiences, who are only faced with translated versions of a legal terminology that does not mirror their own legal systems? Media Reception Studies (Lewis 1991,

¹¹⁴ Available at: <https://confluence.cornell.edu/display/llresearch/Supreme+Court+Dialogs+Corpus>. Last access: March 31, 2016.

...w a text is perceived by its public, also according to the
...ation via questionnaires to distribute to the readers (or
watchers, in the case of legal dramas) can prove a useful tool in support of the thesis that
specialized knowledge can be transferred by means of TV series.

If this hypothesis is also confirmed by Media Reception Studies, this research strand could open
up to new perspectives in Language Learning: on the line of the studies already conducted on the
use of FASP in educational settings (Isani 2006a, 2006b, 2010, 2011, Chapon 2013, Oø Connell
2011, 2012), legal dramas and their popularizing function could be exploited in ESP courses as a
tool for familiarizing the learners with the discipline-specific contents and terminology.

The proposals for further research in this final section potentially enrich the academic research
agenda and present numerous future possible ways to follow. Therefore, I believe that besides
contributing to the state-of-the-art academic research, my thesis also offers many stimuli to
academic debate in general, across interdisciplinary boundaries and towards the discovery of legal
drama, a still unexplored, hybrid genre which is more than just entertainment, but is also a door
opening up to new knowledge.

- Abercrombie, N. (1996). *Television and Society*. Cambridge: Polity Press.
- Akass, K. and McCabe, J. (2007). 'Analyzing Fictional Television Genres' in Devereux, E. (ed.), *Media Studies: Key Issues & Debates*. Los Angeles: Sage, 283-301.
- Allan, S. (2002). *Media, Risk and Science*. Buckingham/Philadelphia: Open University Press.
- Allen, R. (1989). 'Bursting bubbles: Soap opera audiences and the limits of genre' in Seiter, E., Borchers, H., Kreutzner G. and Warth, E.M. (eds), *Remote Control: Television, Audience and Cultural Power*. London: Routledge, 44-55.
- Alrøe H. F., and Noe, E. (2011). The Paradox of Scientific Expertise: A Perspectivist Approach to Knowledge Asymmetries. *Fachsprache*, 3-4/2011, 152-167.
- Anesa, P. (2009). 'Now you are getting into the law: The mediation of specialised language in a jury trial' *Fachsprache*, 1-2/2009, 64-82.
- Anesa, P. (2011). *Courtroom Discourses: An Analysis of the Westerfield Jury Trial*. PhD Thesis, University of Verona.
- Anesa, P. (2012). *Jury Trials and the Popularization of Legal Language: A Discourse Analytical Approach*. Bern: Peter Lang.
- Anesa, P. (2015). 'Explaining science: the popularization of scientific evidence in a jury trial' in Bhatia, V.K., Sciarrino, S., Chiavetta, E. (eds), *Variation in Specialised Genres: Standardization and Popularization*, Tübingen: G. Narr Verlag.
- Anesa, P. and Fage-Butler, A. (2015). 'Popularizing biomedical information on an online health forum' *Ibérica*, 29 (2015), 105-128.
- Aron, R., Fast, J., Klein, R. (1996). *Trial Communication Skills*. Deerfield, Illinois: Clark Boardman Callaghan.
- Aronsson, K., Jönsson, L. and Linell, P. (1987). 'The courtroom hearing as a middle ground: Speech accommodation by lawyers and defendants' *Journal of Language and Social Psychology*, 6, 99-115.
- Austin, J.L., (1962), *How to do Things with Words*. Oxford: Clarendon Press.
- Bakhtin, M. (1986). *Speech genres and other late essays*. Austin: University of Texas Press.
- Bamford, J. (2012). 'Rendering the dismal science more lively: Popularizing Economics in English and Italian' in Bongo, G. and Caliendo, G. (eds), *Language of Popularization / Die Sprache der Popularisierung: Theoretical and Descriptive Models / Theoretische und deskriptive Modelle*. Bern: Peter Lang, 23-49.
- Barker, L.J. (2005). 'When do group projects widen the student experience gap?' in *Proceedings of the 10th annual SIGCSE conference on innovation and technology in computer science education*. Monte de Caparica, Portugal.
- Barnlund, D.C. (1970). 'A transactional model of communication' in Sereno, K.K. and Mortensen, C.D. (eds). *Foundation of Communication Theory*. New York: Harper & Row, 83-102.
- Bauer, M.W., Allum, N. and Miller, S. (2007). 'What can we learn from 25 years of PUS survey research? Liberating and expanding the agenda' *Public Understanding of Science*, 16, 79-95.
- Bauman, R. and Briggs, C. (1990). 'Poetics and performance as critical perspectives on language and social life' *Annual Review of Anthropology*, 19, 59-88.



- Becker, M.C. (2001). 'Managing dispersed knowledge: Organizational problems, managerial strategies and their effectiveness' *Journal of Management Studies*, 38 (7), 1037-1051.
- Bensaude-Vincent, B. (2001). 'A genealogy of the increasing gap between science and the public' *Public Understanding of Science*, 10, 99-113.
- Berkenkotter, C. and Huckin, T.N. (1993). 'Rethinking genre in a sociocognitive perspective' *Written Communication*, 10, 4, 475-509.
- Berkenkotter, C. and Huckin, T.N. (1995). *Genre knowledge in disciplinary communication: Cognition/culture/power*. Hillsdale, NJ: L. Erlbaum Associates.
- Bernardelli, A. (1997). 'Introduction: The concept of intertextuality thirty years on: 1967-1997' *Versus: Quaderni di Studi Semiotici*, 77/78. Bologna: Bompiani.
- Bernardelli, A. (2012). 'Le forme della serie televisiva' in Bernardelli, A. (ed.), *Il trionfo dell'antieroe nelle serie televisive*. Perugia: Morlacchi, 15-63.
- Bernstein, B. ([1971] 1990). *Class Codes and Control. Vol 4: The structuring of Pedagogic Discourse*. London: Routledge.
- Bernstein, B. (1996). *Pedagogy, symbolic control and identity: theory, research, critique*. London: Taylor and Francis.
- Bhatia V.K., (2012). 'Critical reflections on genre analysis' *Ibérica*, 24 (2012), 17-28.
- Bhatia, V. K. (1997). 'Genre-Mixing in Academic Introductions' *English for Specific Purposes*, 16, 3, 181-196.
- Bhatia, V. K. (2004a). *Worlds of Written Discourse: A Genre-Based View*. London: Continuum International.
- Bhatia, V. K. (2007). 'Interdiscursivity in critical genre analysis' In *Proceedings of the 4th International Symposium on Genre Studies*, University of Southern Santa Catarina, Tubarão, Santa Catarina, Brazil.
- Bhatia, V.K. (1983). 'Simplification v. Easification ó The case of legal texts' *Applied Linguistics*, 4, 1, 42-54.
- Bhatia, V.K. (1993). *Analysing genre: Language use in professional settings*. London: Longman.
- Bhatia, V.K. (1995). 'Genre-mixing and professional communication: The case of 'private intentions' v. 'socially recognized purposes' in Bruthiaux, P., Boswood, T. and Bertha, B. (eds.), *Explorations in English for Professional Communication*. City University of Hong Kong, 4-19.
- Bhatia, V.K. (2002). 'Applied Genre Analysis: A multi-perspective analysis' *Ibérica*, 4, 3-19.
- Bhatia, V.K. (2004b). 'Interdiscursivity in Critical Genre Analysis' City University of Hong Kong, 391-400.
- Bhatia, V.K. (2011). 'Witness Examination as Interdiscursive Practice' *World Englishes*, 30 (1), 106-116.
- Bhatia, V.K. and Bhatia, A. (2011). 'Legal discourse across cultures and socio-pragmatic contexts' *World Englishes*, 30 (4), 481-495.
- Bhatia, V.K., Sciarrino, S., Chiavetta, E. (2015). *Variation in Specialised Genres: Standardization and Popularization*, Tübingen: G. Narr Verlag.
- Blakemore, D. (2007). 'Orøparentheticals, 'That is'øparentheticals and the Pragmatics of Reformulation' *Journal of Linguistics*, 43, 2 (July 2007), 311-339.

- (1989). -Situated cognition and the culture of learningø
- Bruner, J. (1990). *Acts of Meaning*. Harvard: Harvard University Press.
- Bruner, J. (1996). -Frames for thinking: Ways of meaning makingø in Olson, D.R. and Torrance, N. (eds), *Modes of Thought: Explorations in Culture and Cognition*. Cambridge: Cambridge University Press, 93-105.
- Brünner, G. (1987). -Fachlichkeit, Muster und Stilen der beruflichen Kommunikationø in Selting, M. and Sandig, B. (eds), *Sprech- und Gesprächsstile*, Berlin: de Gruyter, 254-85.
- Bryant, D.C. and Wallace, K.R. (1947). *Fundamentals of Public Speaking*. New York: Appleton Century.
- Bucchi, M. (2008). -Of deficits, deviations and dialogues: Theories of public communication of scienceø in Bucchi, M. and Lewenstein, B.V., *Handbook of public communication of science and technology*. London: Routledge, 57-76.
- Buckingham, D. (1993). *Children Talking Television: The Making of Television Literacy*. London: Falmer Press.
- Bugliosi, V. (1996). *Outrage: The five reasons why O.J. Simpson got away with murder*. New York: Island Books.
- Bühler, K. ([1934] 1990). *Sprachtheorie / The theory of language: the representational function of language*. Oxford: Fischer / Amsterdam: John Benjaminø.
- Burns, R. (2009). *The death of the American trial*. Chicago: University of Chicago Press.
- Caliendo, G. (2012). -The popularization of science in web-based genresø in Bongo, G. and Caliendo, G. (eds), *Language of Popularization / Die Sprache der Popularisierung: Theoretical and Descriptive Models / Theoretische und deskriptive Modelle*. Bern: Peter Lang.
- Caliendo, G. and Compagnone, A. (2014). -Expressing epistemic stance in university lectures and TED talks: A contrastive corpus-based analysisø *Lingue e Linguaggi*, 11 (2014), 105-122.
- Calsamiglia H., Van Dijk T. (2004). -Popularization discourse and knowledge about the genomeø in *Discourse and Society*, 15 (4), SAGE Publications.
- Calsamiglia, H. and López-Ferrero, C. (2003). -Role and position of scientific voices: reported speech in the mediaø *Discourse Studies*, 5 (2), 2003, 147-173.
- Campbell, K.K. and Jamieson, K.H. (1982). -Rhetorical Hybrids: Fusions of Generic Elementsø *Quarterly Journal of Speech*, 68 (1982).
- Cavalieri, S. (2009). -Reformulation and conflict in the Witness Examination - the case of public inquiriesø *International Journal for the Semiotics of Law*, 22, 209-21.
- Chaemsathong, K. (2014). -Dramatic monologues - the grammaticalization of speech roles in courtroom opening statementsø *Pragmatics*, 24,4, 757-83.
- Chander, D. (2000). An Introduction to Genre Theory. Media and Communication Studies (available online at: <http://www.aber.ac.uk/media/Documents/intgenre/intgenre1.html>, Last access: March 28, 2016).
- Chapon, S. (2013). -Mise au point sur l'éthique dans les séries télévisées à substrat juridiqueø *Recherche et pratiques pédagogiques en langues de spécialité*. XXXII, 2/2013, 104-123.
- Ciapuscio, G.E. (2003). -Formulation and reformulation procedures in verbal interactions between experts and (semi-)laypersonsø *Discourse Studies*, 5/2, 207-234.

- audience design in meaning and reference in Le Ny, J.F. *Language and Comprehension*. Amsterdam: North-Holland Publishing, 287-299.
- Cloître, M. and Shinn, T. (1985). 'Expository Practice: Social, cognitive and Epistemological Linkage' in Shinn T, and Whitley, P. (eds), *Expository science: forms and functions of popularization*. Dordrecht/Boston/Lancaster: Reidel Publishing Company.
- Cole, S. A. (2013). 'A surfeit of science: The 'CSI effect' and the media appropriation of the public understanding of science' *Public Understanding of Science*, 0963662513481294.
- Compagnone, A. (2015). *The popularization of academic discourse in the digital age: a corpus-based discourse analysis of TED talks*. PhD Thesis. Naples: University of Naples 'Federico II'.
- Connolly, P.R. (1982). 'Persuasion in closing arguments. The defendant's approach' in Holmes, G.W. (ed.), *Opening statements and closing arguments*. Ann Arbor, MI: The Institute of Continuing Legal Education, 159-64.
- Corcos, C.A. (2003). 'Legal fictions; irony, storytelling, truth and justice in the modern courtroom drama. *UALR Law Review*, 25 (2003), 504-633.
- Corner, J. (1991). 'Meaning, genre and context: the problematics of 'public knowledge' in the new audience studies' in Curran, J. and Gurevitch, M. (eds), *Mass Media and Society*. London: Edward Arnold.
- Cotterill, J. (2003). *Language and Power in Court: A Linguistic Analysis of the O.J. Simpson Trial*. Basingstoke / New York: Palgrave MacMillan.
- Couture, B. (1986) (ed.). *Functional approaches to writing: research perspectives*. Norwood, NJ: Ablex.
- Creeber, Glen (ed.) (2001). *The Television Genre Book*. London: Bfi Publishing.
- Creeber, Glen (ed.) (2006). *Tele-visions: An Introduction to Studying Television*. London: Bfi Publishing.
- D'Avanzo, S. (2015). 'Speaker Identity vs. Speaker Diversity: The case of TED Talks Corpus' in Balirano G., Nisco M.C. (eds), *Language Diversity: Identities, Genres, Discourses*, Newcastle-upon-Tyne: CSP, 279-296.
- Dance, F.E.X. (1967). 'A helical model of communication' In Dance, F.E.X. (ed.), *Human Communication Theory: Original Essays*. New York: Holt, Rinehart & Winston.
- de Beaugrande, R.A. and Dressler, W.U. (1981). *Introduction to Text Linguistics*. London: Longman.
- Diaz-Santos, G. (2002). 'Technothrillers and English for science and technology' *English for Specific Purposes*, 19, 2000, 221-36.
- Dibbern, J., Winkler, J., and Heinzl, A. (2008). 'Explaining variations in client extra costs between software projects offshored to India' *MIS quarterly*, 32(2), 333-366.
- Duska, R.F. and Duska, B.S. (2003). *Accounting ethics*. Maldey, MA: Wiley-Blackwell
- Einsiedel, E.F. (2008). 'Public participation and dialogue' in Bucchi, M. and Lewenstein, B.W. (eds.), *Handbook of Public Communication of Science and Technology*. London: Routledge, 173-184.
- Engberg, J. ([2009b] 2013). 'Legal terminology: On intelligibility and strategies for dissemination' *Synaps*, 29, 3, 2013, 18-30.

- al structure and legal expertsø efficient communicationø
tics of Law, 9, 22, 223-43.
- Engberg, J., and Maier, C.D. (2014). "Knowledge Communication and Dissemination in the new Multimodal environment of Research Genresø in Engberg, J. and Maier, C.D. (eds.), *Exploring the Hypermodal Communication of Academic Knowledge beyond Generic Structures*. Newcastle upon Tyne: Cambridge Scholar Publishing.
- Engberg, J., and Maier, C.D. (2015) "Challenges in the new multimodal environment of research genresø in Engberg, J. and Maier, C.D. (eds.), *Trends and traditions in Genre Studies*. Inkshed Publications.
- Eppler, M.J. (2004). "Facilitating knowledge communication through joint interactive visualizationø *Journal of Universal Computer Science*, 10 (6), 683-690.
- Eppler, M.J. (2006). "The concept of knowledge communication and its relevance to managementø (USI Research Note). University of Lugano, 1-12 (available online at: <http://www.knowledge-communication.org/pdf/research-note-knowledge-communication.pdf> ; last access: March 28, 2016).
- Eppler, M.J. (2012). "Ten years of Knowledge-Communication.org: Results, Insights, Perspectivesø Institute for Media and Communication Management, University of St. Gallen. (available online at:
- Ericsson, K.A. and Smith, J. (1991). *Towards a general theory of expertise: Prospects and Limits*. Cambridge: Cambridge University Press.
- Esposito, E. (2015). *The 'We Will Rise' 2010 Election Campaign: the Discursive Construction of Political and National Identities in Trinidad and Tobago*. PhD Thesis. Naples: University of Naples "Federico II"
- Fairclough, N. (1989). *Language and Power*. London: Longman.
- Fairclough, N. (1992a). *Discourse and Social Change*. Cambridge: Polity Press.
- Fairclough, N. (1993). "Critical Discourse Analysis and the Marketisation of Public Discourse: The Universitiesø *Discourse & Society* 4 (2): 133-168.
- Fairclough, N. (1995). *Media Discourse*. London: Longman.
- Fairclough, N. (1995). *Critical Discourse Analysis*. Boston: Addison Wesley.
- Feuer, J. (1992) "Genre Study and Televisionø in Allen, R.C. (ed.): *Channels of Discourse, Reassembled: Television and Contemporary Criticism*. North Carolina: The University of North Carolina Press, 138-59.
- Fisher, W.R. (1980). "Genre: Concept and applications in rhetorical criticismø *Western Journal of Speech Communication* (1980), 288-99.
- Flowerdew, J. (1993). "An educational, or process, approach to the teaching of professional genresø *ELT Journal*, 47, 305-316.
- Foxon, M. (1993). "A process approach to the transfer of trainingø *Australian Journal of Education Technology*, 9 (2), 130-143.
- Frandsen, F., Halkier, H. and Johansen, W. (2002). *Netvaerk. introduktion til international erhvervskommunikation*. Aarhus: Systime.
- Freddi, G. (1979). *Didattica delle lingue moderne*. Bergamo: Minerva italiana.
- Garzone, G. (2006), *Perspectives on ESP and popularization*. Milano: CUEM.
- Garzone, G. (2012). "News production and scientific knowledge: Exploring popularization as a processø in Bongo, G. and Caliendo, G. (eds), *Language of Popularization / Die Sprache*

- Gee, J. P. (1999). *An introduction to Discourse Analysis: Theory and method*. London: Routledge.
- Georgakopoulou, A and Goutsos, D. (2000). -Revisiting discourse boundaries: The narrative and non-narrative modesø *Text*, 20 (1), 63-82.
- Giddens, A. (1984). *The constitution of society. Outline of the theory of structuration*. Berkeley: University of California Press.
- Gnisci, A. and Bakerman, R. (2007). -Sequential accommodation of turn-taking and turn length. A study of courtroom interactionø *Journal of Language and Social Psychology*, 26 (3), 234-259.
- Gnisci, A. and Pontecorvo, C. (2004). -The organization of questions and answers in thematic phases of hostile examination: Turn-by-turn manipulation of meaningø *Journal of Pragmatics*, 2004, 36, 965-995.
- Goffman, E. (1974). *Frame Analysis*. New York: Harper and Row.
- Goodwin, C. (1981). *Conversational Organization: Interaction between Speakers and Hearers*. New York: Academic Press.
- Goodwin, J.T. (1994). -Trial Advocacy Handbooks: Narratology and Opening Statementsø *Mosaic*, 27 (4), 215-230.
- Gotti, M. (2008). *Investigating Specialized Discourse*. Bern: Peter Lang.
- Gotti, M. (2014). Reformulation and recontextualization in popularization discourse. *Ibérica*, 27 (2014), 15-34.
- Gregory, J. and Miller, S. (1998). *Science in public. Communication, culture and credibility*. Cambridge MA: Basic books.
- Gülich, E. and Kotschi, T. (1995). -Discourse Production in Oral Communication: A Study Based on Frenchø in Quasthoff, U.M. (ed.), *Aspects of oral communication*. Berlin: de Gruyter, 30-66.
- Gülich, E. and Kotschi, T. (1996). *Textherstellungsverfahren in mündlicher Kommunikation. Ebenen der Textstruktur. Sprachliche und kommunikative Prinzipien*. Tübingen: Max Niemeyer Verlag.
- Gülich, E., (2003) -Conversational techniques used in transferring knowledge between medical experts and non-expertsø *Discourse and Society*, 5 (2), SAGE Publications.
- Günthner, S., and Luckmann, T. (2001). -Asymmetries of Knowledge in Intercultural Communication: The Relevance of Cultural Repertoires of Communicative Genresø in Di Luzio, A., Günthner, S., Orletti, F. (eds), *Culture in Communication: Analyses of Intercultural Situations*. Philadelphia, PA: John Benjamins, 55-72.
- Gupta, A.K., Tesluk, P.E., and Taylor, M.S. (2007). -Innovation at and across levelsø *Organization Science*, 18, 885-897.
- Haack, S. (2003). -Trials & Tribulations: Science in the Courtsø *Daedalus*, 132 (4), 54-63.
- Halliday, M.A.K and Hasan, R. (1989). *Language, context and text: Aspects of language in a social-semiotic perspective (2nd ed.)*. Oxford: Oxford University Press.
- Halliday, M.A.K, McIntosh, A. and Stevens, P. (1964). *The linguistic sciences and language teaching*. London: Longman.
- Halliday, M.A.K. (1978). *Language as social semiotic: The social interpretation of language and meaning*. London: Edward Arnold.

). *Language in a Social Semiotic Perspective*. Oxford:

- Hans, V., Hannaford-Agor, P.L., Mott, N., Musterman, G.T. (2003). 'The hung jury: The American jury's insight and contemporary understanding' *Criminal Law Bulletin*, 39, 33-50.
- Harrell, J. and Linkugel, W.A. (1978). 'On Rhetorical Genre: An Organizing Perspective' *Philosophy and Rhetoric*, 11 (1978), 262-81.
- Hasan, R. (1989). 'the structure of a text' In Halliday, M.A.K. and Hasan, R. (eds.) *Language, context and text: Aspects of language in a social-semiotic perspective* (2nd ed.). Oxford: Oxford University Press, 52-69.
- Heffer, C. (2005). *The Language of Jury Trial: A Corpus-Aided Linguistic Analysis of Legal-Lay Discourse*. Houndmills-New York: Palgrave MacMillan.
- Henriksen, E.K. and Frøyland, M. (2000). 'The contribution to museums to scientific literacy: views from audiences and museum professionals' *Public Understanding of Science*, 393-415.
- Hilgartner, S. (1990). 'The Dominant View of Popularization: Conceptual Problems, Political Uses' *Social Studies of Science*, 20, 3, 519-539.
https://issuu.com/mcmstitute/docs/knowledge_communication_overview_and_review_new_ve ; last access: March 28, 2016).
- Hymes, D. H. (1974). *Foundations in Sociolinguistics: An Ethnographic Approach*. Philadelphia: University of Pennsylvania Press.
- Hyon, S. (1996). 'Genre in three traditions: Implications for ESL' *TESOL Quarterly*, 30, 4, 693-722.
- Isani, S. (2004). 'The FASP and the Genres within the Genres' in Petit, M. and Isani, S. (eds), *Aspects de la fiction à substrat professionnel*, Bordeaux, coll. Travaux 20.25, 25-36.
- Isani, S. (2006a). 'Revisiting Cinematic FASP and English for Legal Purposes in a Self-learning Environment' *Cinéma et Langue de spécialité. Cahiers de l'APLIUT*, XXV, 1, 27-38.
- Isani, S. (2006b). 'Revisiting Cinematic FASP and English for Legal Purposes in a Self-learning Environment. *Cahiers de l'APLIUT*, XXV, 1, 26-38.
- Isani, S. (2010). 'Bench and bar in popular legal fiction. A comparative approach to fictional representations and public perceptions' *GRAAT Online*, 7, January 2010, 182-200.
- Isani, S. (2011). 'Developing Professional Cultural Competence through the Multi-layered Cultural Substrata of FASP: English for Legal Purposes and M. R. Hall' *The Coroner. Cahiers de l'APLIUT*, XXX, 2, 29-45.
- Jackson, B. (1995). *Making sense in law: linguistic, psychological and semiotic perspectives*. Liverpool: Deborah Charles Publications.
- Jacobsen, U.C. (2012). *Knowledge asymmetries: a situated inquiry in three sites of professional communication*. PhD Thesis, University of Aarhus.
- Jaglom, L.M. and Gardner, H. (1981a). 'Decoding the worlds of television' *Studies in Visual Communication*, 7 (1), 33-47.
- Jaglom, L.M. and Gardner, H. (1981b). 'The preschool television viewer as anthropologist' in Kelly, H. and Gardner, H. (eds), *Viewing Children Through Television (New Directions for Child Development)*. San Francisco, CA: Jossey-Bass, 9-30.
- Jakobson, R. (1956). 'Linguistica e poetica' in *Saggi di linguistica generale*. Milano: Feltrinelli.

- Jeans, J.W. (1975). *Trial Advocacy*. St. Paul, MN: West Publishing Company.
- Kastberg, P. (2007). 'Knowledge communication ó the emergence of a third order discipline' in Villiger, C. and Gerzymisch-Arbogast, H. (eds), *Kommunikation in Bewegung: multimedialer und multilingualer Wissentransfer in der Experten-Laien-Kommunikation Festschrift für Annely Rothkegel*. Bern: Peter Lang, 7-24.
- Kastberg, P. (2010). 'Knowledge communication formative ideas and research impetus' *Programmatic Perspectives*, 2 (1), 59-71.
- Kastberg, P. (2011a). 'Knowledge asymmetries ó beyond 'to have and to have not' *Fachsprache*, 3-4, 137-151.
- Kastberg, P. (2011b). 'Organizational communication and knowledge management ó separated at birth, yet joined at the hip' in *Proceedings of the Conference of Corporate Communication*, 1-7.
- Kincaid, D.L. (1979). 'The convergence model of communication' *Papers of the East-West Communication Institute*, 8, 1-44.
- Kress, G. (1988). *Communication and Culture: An Introduction*. Kensington, NSW: New South Wales University Press.
- Kress, G. and Hodge, R. (1988). *Social Semiotics*. Cambridge: Polity.
- Kumar, J.A. and Ganesh, L.S. (2009). 'Research on knowledge transfer in organizations: a morphology' *Journal of Knowledge Management*, 13 (4), 161-74.
- Lähdesmäki, S. (2009). 'Intertextual Analysis of Finnish EFL Textbooks: Genre Embedding as Recontextualization' In Bazerman, C., Bonini, A. and Figueiredo, D. (eds.), *Genre in a Changing World*. West Lafayette and Fort Collins (USA): Parlor Press & WAC Clearinghouse.
- Lakoff., G. and Johnson, M. (1980). *Metaphors we live by*. Chicago: The University of Chicago Press.
- Lasswell, H.D. (1948). 'The structure and function of communication in society' in Bryson, L. (ed.), *The communication of ideas*. New York: The Institute for Religious and Social Studies.
- Laudisio, A. (2015a). 'Diversifying language according to the context: popularizing legal language in TV series' in Balirano G., Nisco M.C. (eds), *Languaging Diversity: Identities, Genres, Discourses*, Newcastle-upon-Tyne: CSP, 312-324.
- Laudisio, A. (2015b). 'Popularization of medical and legal language in TV series' in Bhatia, V.K., Sciarrino, S., Chiavetta, E. (eds), *Variation in Specialised Genres: Standardization and Popularization*, Tübingen: G. Narr Verlag.
- Laudisio, A. (forthcoming b). 'Audiovisual Translation in courtroom dramas: strategies of adaptation and popularization of US legal terminology into Italian' presented at the International Conference 'Linguistic and cultural representation in audiovisual translation' (Sapienza University and Università degli Studi di Roma Tre, Rome, 11-13 February 2016).
- Laudisio, A. (forthcoming c). 'Power relations in legal drama: An analysis of fictional courtroom interaction between experts and laymen' presented at 3rd *Languaging Diversity Conference* (University of Macerata, 3-5 March 2016).

- d Wife: intralinguistic and interlinguistic rescripting of
l Productsø in Canepari M., Mansfield G., Poppi, F.
(eds.), *Remediating, Rescripting, Remaking: Language and Translation in the New Media*.
Parma: Carocci.
- Lee, V.R. and Sherin, B.L. (2004). 'What makes teaching special?'ø *Proceedings of the 6th
International Conference on Learning Science*, Santa Monica, CA: L. Erlbaum Associates,
302-309.
- Lewis, J. (1991). *The ideological octopus: an exploration of television and its audience*. London:
Routledge
- Lieberman, J.D. and Sales, B.D. (2000). 'Jury Instructions: Past, Present and Future'ø *Psychology,
Public Policy and Law*, 3, 1-56.
- Liebert, W.A. (2002). *Wissenstransformationen: handlungssemantische Analysen von
Wissenschafts- und Vermittlungstexten*. Berlin/New York: de Gruyter.
- Lindquist, W. (1982). 'Advocacy in opening arguments'ø *Litigation*, 8 (3), 127-42.
- Linell, P. (1991). 'Accommodation on trial: Processes of communicative accommodation in
courtroom interaction'ø in Giles, H., Coupland, J. and Coupland, N. (eds), *Contexts of
accommodation: Developments in applied sociolinguistics*. Cambridge: Cambridge
University Press.
- Linell, P. (1998). 'Discourse across boundaries: On recontextualizations and the blending of voices
in professional discourse'ø *Text*, 18 (2), 143-157.
- Linell, P. and Luckmann, T. (1991). 'Asymmetries in Dialogue: Some Conceptual Preliminaries'ø in
Marková, I., Foppa, K. (eds), *Asymmetries in Dialogue*. Hemel Hemstead: Harvester &
Whetseaf, 1-20.
- Lines, R. (2005). 'How social accounts and participation during change affect organizational
learning'ø *Journal of Workplace Learning*, 17, 3, 157-177.
- Lubet, S. (2004). *Modern Trial Advocacy: Analysis and Practice (3rd ed.)*. South Bend, Indiana:
National Institute for Trial Advocacy.
- Maier, C.D. (2014). 'Multimodal aspects of representation and interdiscursive hybridity in
corporate films'ø *Multimodal Communication*, 2014, 3 (1), 85-97.
- Mäntynen, A. and Shore, S. (2014). 'What is meant by hybridity? An investigation of hybridity and
related terms in genre studies'ø *Text & Talk*, 34 (6), 737-58.
- Martin, J.R. and Rose, D. (2008). *Genre relations: Mapping culture*. London: Equinox.
- Martin, J.R., Christie, F. and Rothery, J. (1987). 'Social press in education: A reply to Sawyer and
Watson (and others)'ø in Reid, I. (ed.), *The place of genre in learning: Current debates*.
Geelong: Deakin University Press. 46-57.
- Matoesian, G. (1997). 'I'm sorry we had to meet under these circumstances'ø Verbal artistry (and
wizardry) in the Kennedy Smith rape trial'ø in Travers, M. and Manzo, J.F. (eds), *Law in
Action: Ethnomethodological and Conversation Analytical Approaches to Law*. Aldershot:
Dartmouth Pub., 137-82.
- Matoesian, G. (2001). *Law and the Language of Identity: Discourse in the Kennedy Smith Rape
Trial*. Oxford: Oxford University Press.
- Mauet, T.A. (2009). *Trials: Strategy, Skills and the New Powers of Persuasion (2nd ed.)*. New York:
Aspen Publishers.

as a function of text format of opening statements and
iversity of Kansas.

- McQuail, D. (1987). *Mass Communication Theory: An Introduction* (2nd ed.). London: Sage.
- Mehan, H. (1993). 'Beneath the skin and between the ears: A case study in the politics of representation', in Chaiklin, S. and Lave, J. (eds), *Understanding Practice: Perspectives on Activity and Context*. Cambridge: Cambridge University Press, 241-268.
- Miller, C.R. (1984). 'Genre as Social Action', *Quarterly Journal of Speech*, 70, 151-167.
- Miller, C.R. (1994). 'Rhetorical community: The cultural basis of genre', in Freedman, A. and Medway, P. (eds.), *Genre and the new rhetoric*. London: Taylor & Francis, 67-78.
- Mittell, J. (2004). *Genre and Television: From Cop Shows to Cartoons in American Culture*. New York-London: Routledge.
- Moirand, S. (2003). 'Communicative and cognitive dimensions of discourse on science in the French mass media', *Discourse Studies*, 5 (2), 175-206.
- Morra, L. (2010). 'New models for language understanding and the cognitive approach to legal metaphors', *International Journal for the Semiotics of Law*, 23 (4), 387-405.
- Myers, G. (2003). 'Discourse studies of scientific popularization: questioning the boundaries', *Discourse studies*, 5 (2), 265-279.
- Neale, S. ([1990] 1995). 'Questions of genre', in Boyd-Barrett, O. and Newbold, C. (eds), *Approaches to Media: A Reader*. London: Arnold. 460-72.
- Neale, S. (1980). *Genre*. London: British Film Institute.
- Nelson, R. (2006). 'Analysing TV Fiction: How to Study Television Drama', in Creeber, G. (ed.) *Tele-Visions: An Introduction to Studying Television*. London: BFI, 74-86.
- Newcomb, H. (1999). *La televisione da forum a biblioteca*. Firenze: Sansoni.
- Nonaka, I. (1994). 'A dynamic theory of organizational knowledge creation', *Organization Science*, 5 (1), 14-37.
- O'Connell, A. (2011). 'Approche pédagogique de la FASP: Erin Brockovich et la 'class action' aux États-Unis', *Cahiers de l'APLIUT*, XXX, 2. 129-137.
- O'Connell, A. (2012). 'Les séries télévisuelles juridiques américaines: représentations langagières et culturelles d'une communauté professionnelle', *Recherche et pratiques pédagogiques en langues de spécialité*, XXXI, 2. 113-125.
- Oliver, J.L.H., Garrigos, J.A. and Porta, J.I.D. (2008). 'External ties and the reduction of knowledge asymmetries among clusters within global value chains: the case of the ceramic tile district of Castellon', *European planning studies*, 16 (4), 507-520.
- Paltridge, B. (1997). *Genre, frames and writing in research settings*. Amsterdam & Philadelphia, PA: Benjamins.
- Parsons, T. (1975). 'The sick role and the role of the physician reconsidered', *Milbank Memorial Fund Quarterly of Health and Society*, 53, 3, 257-78.
- Parsons, T. and Shils, E., eds. (1951). *Toward a general theory of Action*. Cambridge, MA: Harvard University Press.
- Petit, M. (1999). 'La fiction à substrat professionnel: une autre voie d'accès à l'anglais de spécialité', *Asp, la revue du GERAS*, 23/26, 57-81.
- Pilnick, A. (1998). 'Why didn't you just say that?' Dealing with issues of Asymmetry, knowledge and competence in the pharmacist/client encounter. *Sociology of Health and Illness*, 20, 1, 29-51.

- Chicago: University of Chicago Press.
- the communicative dimension of knowledge-intensive innovation. *An Ethnographic insight into the innovation culture initiative of Novo Nordisk*. PhD Thesis, University of Aarhus.
- Pyszczyński, T. and Wrightsman, L.S. (1981). 'The effects of Opening Statements on Mock Jurors' Verdicts in a Simulated Criminal Trial' *Journal of applied social psychology*, 11, 301-313.
- Ravotas, D. and Berkenkotter, C. (1998). 'Voices in the text: The uses of reported speech in a psychotherapist's notes and initial assessment' *Text*, 24 (3), 211-239.
- Reinhardt, R. and Statkus, B. (2002). 'Fostering knowledge communication: concept and implementation' *Journal of Universal Computer Science*, 8 (5).
- Risku, H., Mayr, E., Windhager, F. and Smuc, M. (2011). 'An extended model of knowledge communication: the situated view of dealing with asymmetries' *Fachsprache*, 34 (3-4), 168-187.
- Roelcke, T. (1994). *Dramatische Kommunikation. Modell und Reflexion bei Dürrenmatt, Handke, Weiss*. Berlin/New York: de Gruyter.
- Rönkkö, M. and Mäkelä, M.M. (2008). 'Asymmetries of Knowledge between engineering and marketing in software product development' in *Proceedings of the 16th European Conference in Information Systems*, Galway (Ireland), June 9-11, 2008.
- Rose, D. and Martin, J.R. (2012). *Learning to write, reading to learn: Genre, knowledge and pedagogy in the Sydney school*. Sheffield: Equinox.
- Ruddock, A (2001). *Understanding audiences*. London: Sage.
- Ryan, M.L. (1981). 'Introduction: On the why, what and how of generic taxonomy' *Poetics*, 10, 109-126.
- Salvi, R. (2012) 'Transfer of knowledge and academic discourse: lectures on economics' in Diani, G., Preite, C. (eds), *La trasmissione del sapere nelle diverse comunità accademiche: una prospettiva plurilingue*. Rome: Officina Edizioni, 75-100.
- Sarangi, S. (1998). 'Rethinking recontextualization in professional discourse studies: An epilogue' *Text*, 18 (2), 301-318.
- Sarangi, S. (2016). 'Activity types, discourse types and role types: Interactional hybridity in professional-client encounters' in Miller, D.R. and Bayley, P. (eds), *Hybridity in systemic functional linguistics: Grammar, text and discursive context*. Sheffield: Equinox.
- Saussure, de, F. (1916). *Cours de Linguistique Générale*. Paris: Payot.
- Saville-Troike, M. (1982). *The ethnography of communication*. Oxford: Basil Blackwell.
- Schaeffer, J.M. (1999). *Pourquoi la fiction?*. Paris: Éditions du Seuil.
- Schramm, W. (1954). 'How communication works, in Schramm, W. (ed.), *The process and effects of communication*. Urbana: University of Illinois Press, 3-26.
- Searle, J. ([1969] 1975). *Speech Acts. An essay in the philosophy of language*. Cambridge: Cambridge University Press.
- Shannon, C.E. (1948). 'A mathematical theory of communication' *The Bell System Technical Journal*, 27, 623-656.
- Shannon, C.E. and Weaver, W. (1949). *The mathematical theory of communication*. Chicago: University of Chicago Press.
- Silverstein, M. and Urban, G. (eds) (1996). *Natural Histories of Discourse*. Chicago: Chicago University Press.

social regulation: a review of Foucault's genealogical
ing, P. (eds), *The power to punish*. London: Heinemann.

62-83.

- Spiecker, S.C. and Worthington, D.L. (2003). 'The influence of opening statement/closing argument organizational strategy on juror verdict and damage awards' *Law and Human Behavior*, 27 (4), 437-456.
- Stam, R. (2000). *Film Theory*. Oxford: Blackwell.
- Stoffelmayr, E. and Diamond, S.S. (2000). 'The Conflict between precision and flexibility in explaining 'Beyond a reasonable doubt'' *Psychology, Public Policy and Law*, 6 (3), 769-787.
- Sun, P.Y.T. (2009). 'Managing asymmetries in transferring tacit knowledge' *Knowledge management and organizational learning. Annals of Information Systems*, 4 (2004), 95-109.
- Swales, J. (1990). *Genre Analysis. English in Academic and Research Settings*. Cambridge, UK: Cambridge University Press.
- Sweat, K.L. (2014). 'Juror questioning of witnesses in criminal trials: The 'jury' still out' in Illinois' *University of Illinois Law Review*, 271, 1-49.
- Tanford, A.J. (2002). *The Trial Process: Law, Tactics, and Ethics* (3rd ed.). Newark, NJ: LexisNexis.
- Tannen, D. (1987) 'Repetition in conversation: Toward a poetics of talk' *Language*, 63 (3), 574-605.
- Thunberg, A., Nowak, K, Rosengren, K.E. and Sigurd, B. (1982) (eds). *Communication and equality: A Swedish perspective*. Stockholm: Almqvist & Wicksell.
- Todorov, T. (1975). *The fantastic: A structural approach to a literary genre*. Cleveland, Ohio: Case Western Reserve University Press.
- Todorov, T. and Berrong, R. M. (1976). 'The origin of genres' *New Literary History*, 8(1), 159-170.
- Tolson, A. (1996). *Mediations: Text and Discourse in Media Studies*. London: Arnold.
- Trench, B. (2008). 'Towards an analytical framework of science communication models' in Chang, D., Claessens, M., Gascoigne, T., Metcalfe, J., Schiele, B., Shi, S. (eds), *Communicating science in social contexts: New models, new practices*. Dordrecht: Springer. 119-135.
- Tsoukas, H. (2002). 'Do we really understand tacit knowledge?' *The Blackwell Handbook of Organizational Learning and Knowledge Management*, 411-427.
- Tudor, A. (1974). *Image and influence: Studies in the sociology of film*. London: George Allen & Unwin.
- Urban, G. (1996). 'Entextualization, replication and power' in Silverstein, M. and Urban, G. (eds) (1996). *Natural Histories of Discourse*. Chicago: Chicago University Press, 21-44.
- van Dijk, T. A. (1985). *Handbook of Discourse Analysis, vol. 2*. London: Academic Press.
- van Dijk, T. A. (1993). 'Principles of Critical Discourse Analysis' *Discourse & society*, 4(2), 249-283.
- van Leeuwen, T. and Wodak, R. (1999). 'Legitimizing Immigration Control: A Discourse-Historical Analysis' *Discourse Studies*, 1999, 1, 1, 83-118.
- Ventola, E. (1987). *The structure of interaction: A systemic approach to the semiotics of service encounters*. London: Frances Pinter.
- Villez, B. (2005). *Television and the legal system*. London/New York: Routledge.



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speech genre. Amsterdam: John Benjamins.

ers and knowledge acquirers: Popularisation as a relation
between scientific fields and their publicsø in Whitley, R. and Shinn, T. (1985). *Expository
science: Forms and functions of popularization*. Dordrecht/Boston/Lancaster: D. Reidel
Publishing Company, 3-30.

Whitley, R. and Shinn, T. (1985). *Expository science: Forms and functions of popularization*.
Dordrecht/Boston/Lancaster: D. Reidel Publishing Company.

Widdowson, H.G. (1979). *Explorations in Applied Linguistics*. Oxford: Oxford University Press.

Wodak, R. (1989). *Language, Power and Ideology: Studies in Political Discourse*. Amsterdam:
John Benjamins.