



Truth Does Not Matter: Legal Storytelling in the Japanese Drama “Legal High 2”

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Abstract

People expect that the truth can be revealed in a trial and the decision then is made based on the truth. However, such expectation is a fantasy because the truth has disappeared since the moment when an incident occurred. What are left about this incident are merely fragments (witnesses and evidences) that need further interpretations. Interpretations are open to possibilities; possibilities mean different stories. That is to say: there is no truth (or there are many truths) but stories; truth actually does not matter in law. Law is asked to re-construct the truth logically, based on facts, and without being affected by what outside the law, and then a fair and just legal decision can be made. The idea of storytelling, from the perspective of literature—literary narrative, on the other end is opposite to legal narrative that: a story does not need to be true or real; a story can be as bizarre as it can get as long as it is explainable and acceptable when the story comes to law. In a Japanese drama “Legal High 2” a black widow spider woman is accused of murdering her fiancée and his daughter. Since this woman is the only suspect and has been involved in many marriage fraudulent cases, the prosecutor proves that she is the murder based on the motivation and evidences found (the poison she bought from internet) in the crime scene. However, the defense attorney for getting this woman acquitted tells a story absolutely different from the prosecutor’s based on the same evidences. Therefore, in this present paper I am going to discuss that: how literary narrative and legal narrative in a law drama create both legit but opposite stories that challenges the idea that law and its language is a tool used to pursue the truth based on logics and facts. And, I will compare the similarity and the difference between literary narrative and legal narrative, from the both sides of legal theory and literary theory about language, to examine the idea of “truth” in law and in literature about law.

Keywords Law and literature · Court-room drama · Story-telling · Truth and justice

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1 Introduction

It is not new that literature challenges the law, however, how literature does it, i.e. the types of literature about the law, is what we, as literature researchers, want to illustrate. One of many ways for literature to challenge the law to use “what the law ought to be,” usually justice in a common sense that good needs to be rewarded and bad needs to be punished, to question a case and its decision, or an evil law, or the deficiency of legal system, as described in a story. Regardless of what type of story it is, what is common is that the law is defective, therefore, the loophole needs to be patched up by something or someone inside or outside the law. The difference between a challenge from inside and challenge from outside is that challenge from outside focuses on the collision between justice, usually carried out by non-law enforcement or even by outlaws, and pure evil, which is unfortunately often embodied by law-related personnel or men in power. Also, the tension in this sort of literature comes from what is supposed to represent justice turning out to be the opposite, and, as a contrast, what seems to be unjust being in fact the realization of justice. As for the challenge from inside, it focuses on different perspectives and applications of the law, simply speaking, using law against the law. When a case can be handled by more than one principle and has more than one possible solution, the one closer to the justice we, the audience, expect is then the climax and finale of a story. This type of literature depicts how the law and case are interpreted, or, in some neutral terms, narrated, presented, or constructed. Such literature interests me the most, and is the focus of this paper.

Due to the need for justice, people believed that there is, or should be, a most appropriate judgment over a case. However, it is normal to have different opinions about a case. Since only one decision can be made and the one being made is usually a bad one, literature exaggerates the gap between different legal opinions and aggravates the seriousness of the undesired legal decision in order to respond to readers' expectations. Decision-making is not a simple case of math; it needs meticulous calculation that takes into account every possible factor. Ideally speaking, once the decision is made based on justice, fairness, and openness, although it is probably not possible, no one should question the decision due to some negative result that the decision-makers could not foresee. However, we are constantly agitated by certain unsatisfactory legal decisions and make fun of the law in literature and real life, that the law fails justice and righteousness which the law is supposed to and claims to uphold. In fact, the law proclaims its “formal existence,” without interference from “morality and interpretation” as Stanley Fish states in *The Law Wishes to Have a Formal Existence* [1: 140]. Law merely judges which party, the plaintiff/prosecutor or the defendant/attorney, is more appropriate in terms of law. However, undeniably, some cases, especially criminal ones, are about moral values. The existence of value judgment in law shows that it is impossible for the law to only be formal, but that the law is subject to interpretation.

Morality frustrates that desire (to find something more stable and concrete than individual concerns) because... recourse to morality will always be recourse to someone's or some group's challengeable moral vision. Interpretation frus-

trates that desire because... interpretation is the name for what happens when the meanings embedded in an object or text are set aside I favor of the meanings demanded by some angled, partisan object. Interpretation... is the effort of a morality, of a particular, interested agenda, to extend itself into the world by inscribing its message on every available space. [1: 141]

Stanley Fish states that, since decision-making is inevitably, or at least sometimes, moral-/value-oriented, an interpretation definitely must be made because the whole game of the law is to ask two parties to tell stories, based on facts and law, to promote their values from their individual perspectives. This point of view is certainly hard to admit for legal professionals, because, to legal professionals, a judgement that favors one of the two parties is not made to “value,” but is to “assess” the most appropriate law, which is determined by legal experts, that should be applied in a certain case. Therefore, in this sense, there is actually no interpretation; the disfavored story simply use an inappropriate law, bad logic, or false evidence. However, some decision is indeed opposite to the public’s moral/value judgment. When people question how the decision is made, the law, since the practice of law is in fact moral-/value-oriented that contradicts the formality law claims to have, cannot simply answer that “the decision you people favor does not meet the formality of law”. Hence, we can say that the law deserves the attack from literature because the law wants to sell a product it does not really provide.

Even if what is mentioned above is a common way of writing in literature about the law, i.e. the attack from outside the law, a literary attack should not be reduced to the idea that literature only uses “moral/value judgment” to question “formality”. Using “moral/value judgment” as a weapon cannot really hit the core question of law, because “moral/value judgment” is in fact different from time to time, and also because attacking what the law does not essentially have cannot really reveal the absurdity of being “formal,” “objective,” and “scientific” which is law claims to be. Therefore, the best method for literature to attack is to reveal the arbitrariness of legal decisions caused by the law’s formality, objectivity, and scientific nature, in other words, showing that the law is only a game of storytelling, and then, using an equally legally legitimate story told by literature to deny another story told by the law. However, such a story told by literature is not merely a more legally proper, and morally better as well, legal interpretation that overrides an outdated, relentless, and inhumane law application. The most strong and surprising tension should come from the collision between two narratives, which reveals the absurdity of law. That is to say: if a narrative can be legally sustained and accepted by the law, no matter how absurd it could be, then, the existence of the law itself is absurd.

Legal High 2 is an episodic drama. Each episode focuses on one case and some legal aspect. Even if there are many cases and legal concepts in this drama worth mentioning, I will only focus on the main case that runs through the whole drama because the storytelling is the nature of this case. This case is about a woman, Kiwa Andō (安藤貴和, played by Koyuki (小雪)), who murders her fiancé and his daughter. Kiwa Andō is sentenced to death in the first trial in the District court. Her attorneys, Kensuke Komikado (古美門研介, played by Masato Sakai (堺雅人)) and Machiko Mayuzumi (黛真知子, played by Yui Aragaki (新垣結衣)) then step into

the case and try to make an appeal, but lose the case in the Appellate Court. Then, they make an appeal again to the Supreme Court. They succeed this time, and this case is handed down back to the Tokyo District Court. In the last trial in this drama, they tell a completely new story, which is based on the same fact that the prosecutor uses to convince the judges that Kiwa Antō is guilty, to get Kiwa Antō an acquittal.

In this present paper, I will use *Legal High 2* [2] as an example to illustrate the absurdity of law shown by the confrontation of two contradictory but both legally legitimate stories, and explain how and why the defense attorneys' story can destroy the prosecutor's seemingly the most humane, just, and public approved story by analyzing the persuasiveness of the defense attorneys' storytelling with the help of the ideas of "object as a character" [3], focalization in narratology, and communication theory. Additionally, due to the limited Japanese proficiency of the author of this paper, the Japanese material used in this paper is based on a Chinese translation [4]. The quotes and footnotes will be translated from Chinese to English by the author since the English translation, for which I have contacted the Japanese publisher, is not available.

2 Legal Narrative and Literary Narrative

2.1 Narrative About Law in Courtroom Dramas

A verdict of a criminal case is made out of two confrontational legal narratives. Both narratives are formed using complete and causally relevant evidence and testimony collected in due process. Then, following the court procedures, such as opening statement, cross-examination, and final address, both parties, as J. Maxwell Atkinson and Paul Drew (1979) discussed in *Order in Court—The Organisation of Verbal Interaction in judicial Settings*, have verbal interactions using some defence and questioning techniques allowed in the courtroom. In the end, a decision will be made either by the judge or by the jury, or by both. Such decision is supposed to be made meticulously through a well-designed legal process, but, why, sometimes, or even the most of time, legal professionals and the public do not agree over some legal decisions? Legal professionals and laymen in fact have the same abilities of reasoning and also share the same principles of reasoning [5], except for the situation where "[t]here may be special local considerations that apply in particular legal contexts, such as rules of precedent or evidence or procedure" [5: 271] which only legal professionals would consider.

A probable answer, as Stanley Fish illustrates, is that different parties, including the public, have different value judgments over a case, and therefore, different parties prefer different decisions that fit their interests and values. However, only one decision will be validated and legitimated by the law; as for other unrecognized and unrealized decisions, the public starts to build an authority of their own by labeling the decision empowered by the law as unfair and unjust. As Christine Corcos explained in *Legal Fictions: Irony, Storytelling, Truth, and Justice in the Modern Courtroom Drama*:

In many modern courtroom dramas, authors and filmmakers express the tension between fairness and unfairness, justice and injustice, in ironic terms through sophisticated storytelling.... [v]iewers continue to enjoy such films, perhaps because they reaffirm cynical beliefs about human nature and skepticism about society's ability to create a legal system that will do justice. Observers advocate the jury system, but secretly believe that only they as individuals truly understand whether and how a defendant should be punished. Many authors and filmmakers share this cynicism.... Authors and filmmakers repeatedly combine these elements – persuasive storytelling as method, irony as mechanism, and the courtroom drama as form – to suggest to their audiences that the philosophical and practical relationships between justice as an end and the rule of law as its means require, not complacency, but continual and serious re-examination. [6: 504–506]

The irony comes from our expectation of what law can do and what it is supposed to do which is lost in a fictitious world, and which is a plausible mirror image of the reality we live in. In such courtroom dramas and literary works, the law is weak, or wicked, or manipulated; only other legal interpretations or non-legal forces advocated by literature can fulfil people's expectations of justice and fairness, through which literature can surmount the authority of the law. Therefore, for the purpose of using the law to attack the law, one story preferred by the law will be assigned as a target of attack to show the law's failure; another story preferred by literature then will be told to challenge the justice and fairness upheld in the target story. Two stories must be both legally legitimate. That is to say: for creating a target for literature to attack, literature needs to make a real legal narrative to have readers convinced that the story is based on the law. The more flawless and persuasive the quasi-legal narrative is, the stronger the anti-law power from literature can be. In other words, the more a legal decision, which is supposed to be overturned, is impossible to question, the more dramatic the tension and climax will be at the end. So, the next question is how a convincing and persuasive legal narrative is told.

Christine Corcos states that “The courtroom drama thrives on the mechanism of offering contradictory stories by different witnesses and through the use of logic and irony, allowing the observer to determine a truth about the act in question” [6: 585]. In *Legal High 2*, not only one truth has been found, but two contradictory but both legitimate truths have been told. The drama then favours the most seemingly disfavoured one to mock the good qualities that the law claims to uphold. Kiwa Andō, a woman described as a black widow, which is based on a real female murderer Kanae Kijima (木嶋佳苗, who murdered six men, and was arrested in 2009 and sentenced to death by the Supreme Court on the 14th of April, 2017), is accused of murdering her fiancé Koichiro Tokunaga (徳永 光一郎) and his daughter Satsuki Tokunaga (徳永 さつき). Since this woman is the only suspect who has been involved in many marriage fraud cases, in two cases of which the husbands died due to unknown causes and she inherited a spectacular amount of money, the prosecutor believes and tries to prove that she is the murderer based on the motivation—the father decided not to marry her because his daughter disagreed with their marriage—and the evidence—a seasoning bottle-size poison she bought from the internet found at

the crime scene as well as other circumstantial evidence. Because Kiwa Andō has been involved in at least two murder cases, even if she was not being convicted due to a lack of evidence, the public is convinced that she is guilty of murdering that poor father and daughter—the father died but the daughter survived—and expect the law to sentence her to death. Besides, Kiwa Andō herself, in the second trial in the Appellate Court, also admits that she purchased poison from an internet seller, who has also come to the court to testify, in order to kill her fiancé and his daughter. Also, there were many neighbours and passers-by who witnessed that she came out of the father's home at the time when the victims were murdered, as circumstantial evidence. In the law, a suspect's previous cases, not to mention non-guilty ones, should not be taken into consideration in any current case; any circumstantial evidence cannot be held against the suspect if not supported by direct evidence; and the suspect's confession cannot be seen as the sole uncontested truth because people may lie about what they did not do. Therefore, a bottle of poison left at the crime scene becomes the most powerful evidence proving that Kiwa Andō is the murderer.

The poison is the key evidence to Kiwa Andō's death or acquittal, because even if the defence attorneys, Kensuke Komikado, who is a money-craving lawyer, and Machiko Mayuzumi, can question the credibility of the eyewitness or criticize the moral judgment from the public based on her previous cases, they cannot deny the fact that it was Kiwa Andō who bought the poison in order to take two lives. Since the poison bottle found at the crime scene is the prosecutor's strongest invincible weapon, the most exciting and unexpected climax and reversal and the heaviest attack on the law will also come from defeating the prosecutor's argument built upon the evidence. In other words, the attorneys' defence strategy is confined by the facts surrounding the poison; in order to get Kiwa Andō acquitted, they need to tell a story completely different from the prosecutor's one based on the same evidence—a seasoning bottle-size of poison purchased by Kiwa Andō for killing two people. In the next section, I will introduce how the murder weapon, a bottle of poison as a character, acts to form two contradictory stories, and describe how the defence attorneys apply such a seasoning size bottle of poison as a counter-measure.

2.2 Object as a Character, and Focalization in Narratology

In *Morphology of the Folk Tale*, Vladimir Propp (1928) categorized the functions of characters into the villain, the donor, the helper, the sought-for-person (ex: princess) and her father, the dispatcher, the hero, and the false hero. Each character has its function; and its function is defined by such character's actions and by the interactions between the actions of different characters. In a folktale, the reason why a hero is a hero is because he accomplishes his mission by saving a princess from a villain. The murder weapon in a courtroom drama that makes a lawyer or a prosecutor a hero can be compared with the princess in a folktale. Without the princess, the hero can never be a hero. In the courtroom either in reality or in fiction, if the murder weapon is missing, a narrative about whether or not the suspect is guilty is incomplete, even if other evidence, eyewitnesses, and a confession are already in place. Hence, the murder weapon in a narrative about a case is a very crucial object that

pushes the storyline forward towards its closure—guilty, or walk out of the court room as a free man. It is the same in a narrative about the law in literature that an object whose functions are the same as other human or non-human characters makes a story develop and complete, and then leads to the finale. As Bal mentioned in *Narratology: Introduction to the Theory of Narrative*:

A narrative text is a text in which an agent relates ('tells') a story in a particular medium, such as language, imagery, sound, buildings, or a combination thereof. A story is a fabula that is presented in a certain manner. A fabula is a series of logically and chronologically related events that are caused or experienced by actors. An event is the transition from one state to another state. Actors are agents that perform actions. They are not necessarily human. To act is defined here as to cause or to experience an event. The assertion that a narrative text is one in which a story is related implies that the text is not identical to the story. [7: 5]

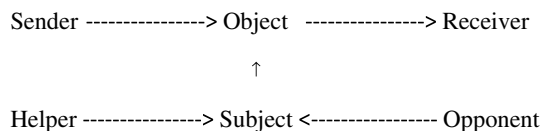
A narrative [8] is a way(s) a narrator(s) or a character(s) manages to tell a story. In a narrative, a narrator can use, or a character could be narrated in, different methods of narration, such as fast or slow time slip [9], physical or psychological introspection or retrospection, high or low space, and bright or dim light and colours. A story, in a fabula sense, is composed of many logically and chronologically related events because as Abbott stated "narrative is the principle way in which our species organizes its understanding of time" [10: 3], no matter in what manner—sequential or montage; monologue or dialogue; logical or stream of conscious—a story is told, readers (audience) and (human or non-human) actors, as temporal beings, must understand (or be understood) or experience (or be experienced) in a temporal order, i.e. what happens first, what happens later, what is the cause and what is the effect, and what is the meaning of all these events together. Events are caused by actors and their actions; events can also affect actors and their actions to cause further events. Actors, including their actions, are also interrelated and interact to cause story—changing events. Accordingly, based on such ideas from narratology, since Kiwa Andō's lawyers' defence strategy has to be limited to an only non-human actor, a bottle of poison, in order to create tension during the whole drama and a most unexpected and exciting finale, all the actors, actions, and events are designed to lead to such a climax, a not-guilty acquittal.

In fact Kensuke Komikado and Machiko Mayuzumi have used a successful argument and the Appeal Court is about to overrule the decision, which is a death sentence—hanging in Japan—taken by the Tokyo District Court, in the first few sessions in the Appellate Court. Komikado questions that the evidence has possibly been contaminated: Kiwa Andō's finger print on the bottle might be a post-investigation forgery made by the prosecutor and the police since Kiwa Andō was once asked to touch the bottle during her interrogation. In the Supreme Court, the credibility of the bottle of poison as evidence is also questioned, since a witness, who was the prosecutor's witness but persuaded by Machiko Mayuzumi to become the defendant's witness, testifies that, as a daily housekeeper—Kaseifu (家政婦) in Japanese—of the murdered father's house, she had cleaned everything, including a suspicious bottle on the floor, in that house on the day the father and daughter were poisoned,

and then threw the garbage away at the recycling site. The police and the prosecutor in fact have missed the evidence because they came to the crime scene to investigate the day after the recycling date. Even if Kensuke Komikado can reduce the credibility of the evidence, which is also part of the focalization that makes readers think this evidence is about to be overruled, he cannot destroy its validity, because Kiwa Andō in the Appellate Court admits that she not only planned to kill the father and his daughter and bought a bottle of poison on the internet, but also sneaked into their house to execute the plan of murdering them. In this focalizing process, we can see that not only has the focus been focalized onto the bottle of poison, but also focalized onto a certain point of view(s) which is an interpretation(s) of the meaning of the existence of the bottle of poison made by characters and readers [11]. The possibility of Kiwa Andō's acquittal has been minimized almost to nothing. In order to get Kiwa Andō acquitted, which seems to be impossible, Kensuke Komikado and Machiko Mayuzumi can only work on the fact that Kiwa Andō bought the poison in order to murder two lives. At this point, in a narrative that criticizes the law, the poison bottle has become more crucial than ever and a leading character that develops the story.

It is counterintuitive that an object [12] can change the direction of a story. In the actantial model of A.J. Greimas' theory [13], an object is what a subject wants to achieve (junction) or to get rid of (disjunction) through an act(s) [14].¹ An object is not only limited to some substance, but also could be something abstract like an idea. Therefore, the bottle of poison as an object in this drama is not only a bottle of poison that Kiwa Andō bought as a weapon for murdering two people, but also is what storytellings of both sides are based on. Different stories have different interpretations about the existence of the bottle of poison; different interpretations then lead to different legal decisions, story endings, and reflect different ideologies [15]. Subject and object are an inseparable unity; a subject as a conscious being defines the meaning of the object in relation to the subject. However, without a defined object, the subject cannot present itself as a conscious being through a process of definition. In other words, not only does a subject consciously formulate the meaning of an object, project itself on the object as well, but also the object as an external stimulation conversely determines the subject's interpretation or abstraction of the object through a process of interaction between the subject and the object [16]. The notion is that the meaning of an object is not waiting to be determined; in some sense, an object can be a determinant for subject's conscious activity, and that

¹ I The actantial model represented as square



II The actantial model represented as square.

subject and object are an inseparable unity, which is a theoretical explanation of why an object—a bottle of poison as a non-living character—can play a leading role in a story.

The purpose of this drama, as I mentioned at the beginning of this paper, is to deny the claim of the law being objective by proposing two contradictory, but both legally and logically legitimate, stories. From a literary point of view, the whole story, which is with two possible legal decisions, has been focalized onto the murder weapon as a leading character that creates the tension and the climax. Both the prosecutor and the defendant's lawyers have to tell a story in their favour based on the fact that a bottle of poison as the murder weapon found on the ground at the crime scene was purchased online by Kiwa Andō. For most of the time, the story favors the prosecutor; however, the defence attorney is about to turn the game with a story built around the murder weapon which is more persuasive than the prosecutor's storytelling and suits the narrative coherence in the law.

3 Narrative and Persuasiveness

3.1 Narrative Coherence in Law

Christopher Rideout, in *Storytelling, Narrative Rationality, and Legal Persuasion*, proposed a question “what is it about narratives that makes them persuasive in the law?” [17: 55], and then answered that the persuasiveness of a story adds to the coherence of the story [18]. As in what I have mentioned about narratology, people tend to understand stories in a narrative, logical and chronological, form of storytelling; therefore, telling a story with actors, actions, and events is more persuasive than merely listing the facts in a trial. Coherence, as stated by Rideout in *A Twice-Told Tale: Plausibility and Narrative Coherence in Judicial Storytelling*, includes the internal and the external. In order to make a story convincing, a storyteller must meet the strict “cause and effect” logic of the law, which is internal coherence, that is, one action(s) made by an actor(s) directly or indirectly causes a series of causally related events. Such events form logical and chronological plots and storylines. These plots and storylines create a plausible, understandable, and acceptable story. Then, when an audience reads such a story of a legal case, he or she believes that the story could possibly have happened because the logic of the story told corresponds to his or her logical thinking.

The key phrase in terms of internal coherence is “causally connected”; to be internally consistent, the events must bear a relationship to one another, not just be adjacent to each other or be randomly ordered. That relationship, for our purposes, depends on sequence and causation. Sequence implies an ordering to events, so that they are connected in a meaningful way, not just randomly. Sequence also relies upon causation. [19: 75]

However, a story being told in a logical and chronological manner, to me, is only convincing but not persuasive enough. Story-telling needs something logically informal, which is still logical and a part of rationality, such as emotions, moral values,

and ideologies rooted in cultures and societies shared and believed by a people, a community, or a society. In short, whether or not a story about a case is convincing and persuasive depends on how a story is interpreted by the audience, such as a judge, jury, or the public, based on his or her own life experience and understanding of reality as external coherence.

External coherence refers to the match of a specific given narrative with other stories that exist in the “stock of social knowledge” [20] and that lend meaning to that specific narrative, providing it with broader cultural content. External coherence is thus a matter of the story’s connection, but not connection with an external social reality – a literal reality check. Rather, external coherence is a matter of the story’s structural connection to other culturally based stories that we use to make sense of social reality. Internal coherence refers to the parts of the narrative and a sense that they fit with each other—that they are consistent and that they form a complete “sequential arrangement.” [19: 71]

External coherence, then, relies on a narrative script with a central action, on inferences made possible by that script—including inferences that can fill in some of the gaps, and on a thematic framework that lends meaning to it all. [19: 74]

The persuasiveness of a story is determined by the audience’s interpretations; however, interpretations are open to possibilities. Rideout then uses an example [21] to explain how two interpretations, even if they are both logically coherent and legitimate, can be completely alienated from each other. The next question is: if there is more than one interpretation of a case, which one of these both logical and legitimate interpretations is more persuasive than others? Now I am going to examine which one of the prosecutor’s and the attorney’s stories in *Legal High 2* is more persuasive from the perspective of narrative coherence. After the person who sold the poison to Kiwa Andō testified in the Appellate Court, Kensuke Komikado asks Kiwa Andō to deny everything against her; however, for some unknown reason, Kiwa Andō, totally unexpectedly for Kensuke Komikado, admits that she was the person who purchased a bottle of poison in order to murder her fiancé and his daughter. While Kensuke Komikado is still in shock, the prosecutor of the Appellate Court Daigo Minoru (醍醐実) takes the chance to cross-examine Kiwa Andō:

Misses Kiwa Andō ... after you were with Mister Koichiro Tokunaga, you had received gifts worth over one hundred million *Yen* and started to expect to marry to Mister Tokunaga. However, your wish perished; he tried to break up with you without your consent.

You were angry at and desperate about this; therefore, you planned to take your revenge. You purchased poison from Hidenori Tsuchiya (土屋秀典), and then....

On 30th June, 2011, you sneaked into Tokunaga’s house from the back door, and put the poison into the soup.... Am I right?

That is correct. (Kiwa Andō)

Well... isn't the answer obvious? (Kiwa Andō) [4: 47]

Did you commit the crime of murder? (Daigo Minoru)

This cross-examination explains Kiwa Andō's motivation, along with the bottle of poison on the ground at the crime scene and her own confession, as well as the fact that she was once involved in two other cases. Kiwa Andō, according to internal coherence, is definitely the murderer. From the perspective of internal coherence, the logic is perfect that Kiwa Andō uses poison to kill Tokunaga and his daughter for her failed marriage fraud; and this logic is supported by the evidence, the witnesses, and Kiwa Andō's confession. To overrule the prosecutor's storytelling, literature needs to create an equally logical narrative around the same fact that Kiwa Andō purchases the poison, a non-human being character, in order to commit a crime. Therefore, the defence attorneys have to make a story whose logic cannot be denied. In the re-trial, which is handed down back to the District Court by the Supreme Court, after re-confirming Kiwa Andō's testimony made in the Appellate Court, Machiko Mayuzumi asks her "after you entered from the back door, you poured the poison into the soup on the stove... right?" Unexpectedly, Kiwa Andō answers that "... I didn't put it in". To all the surprised audience in the court, she explains that "when I saw the interaction between the father and the daughter, I felt the profound love between them. I suddenly realized how horrible it would be what I was about to do; therefore, I ran out of Tokunaga's house in a rush. However, on the very next day, I was trembling because the bottle in my bag was missing. I must have dropped the bottle in Tokunaga's. Then, I saw that terrible news" [22: 480–481]. Machiko Mayuzumi follows up and says:

Oh, what a surprise. It explains everything. This bottle looks exactly the same as other bottles of spices, and it looks tasty. If this kind of bottle is dropped on the floor, of course something bad will happen. (Machiko Mayuzumi)

It was me leaving that bottle there, so I am equivalent to the murderer. (Kiwa Andō)

I know your feelings; however, you did not commit the crime. (Machiko Mayuzumi)

But, the idea of killing them did occur to me; accordingly, I am the murderer without doubt. (Kiwa Andō)

Your Honor, truth is always outside our expectations.... This case might be not a murder case; it could be an accident. (Machiko Mayuzumi) [4: 481–482]

This bottle of poison is designed to look like a spice bottle and a non-human character that directs this case. It is possible that Kiwa Andō aborts her plan due to her ephemeral sympathy toward the man who has lost his wife and the girl who has lost her mother, and accidentally drops the bottle. It is logical that Tokunaga picks up a spice bottle like poison left on the ground to season his food. It is also explainable that Kiwa Andō wants to be punished by law since she regains her conscience and realizes that she is responsible for Tokunaga's death. The attorney's story, which is

made based on the same poison bottle and other narrative elements around it, is logically convincing. However, a story that only has internal coherence is not enough; external coherence is also required to make this new story persuasive.

The external support of the prosecutor's story is: (1) Kiwa Andō has been involved in two murder cases. Even if the murderer has not been found, people are convinced that Kiwa Andō is the murderer. (2) People do not like women whose money is not from work but from their late husbands. There is no need to say a woman inherits a fortune by murdering. (3) People subconsciously want to have a scapegoat to purge their own sin and cover up their craving for money. Based on these prepositions—a vicious woman, a poison, a victim found dead after the time she is seen running out of the house by the neighbours and passers-by, this woman must be the murderer; no matter what the truth could possibly be, Kiwa Andō has to be interpreted as a black widow spider and then be killed by law. On the other hand, the defence lawyers need to deny the external coherence of the prosecutor's story and create the external coherence of their own story. There are only two scenarios in which Kiwa Andō could be not the murderer. The first is, as I have mentioned above, that the victim accidentally poisons himself and his daughter. The second is that Kiwa Andō admits to a crime she did not commit, according to which she will face a death penalty or a life sentence, in order to protect the real murderer—someone who is more important than her own life and freedom.

3.2 Universal Audience: Truth Does Not Matter?

Rideout argues, based on Fisher's idea of narrative fidelity associated with Perelman and Olbrechts-Tyteca's concept of the universal audience (Perelman and Olbrechts-Tyteca 1969; Perelman 1984), that, since not only internal coherence is based on logic but also external coherence, if a story wants to be not only logically convincing but also persuasive in a non-logical way, the story has to, figuratively speaking, speak to the audience's heart. As Walter Fisher, quoted by Rideout [17: 69–70], said “whether or not the stories they experience ring true with the stories they know to be true in their lives” [22: 64]. However, how could a story ring true to the audience aside from relying on logical reasoning?

Perelman and Olbrechts-Tyteca categorized an audience into real audience (RA), particular audience (PA), and universal audience (UA). To a rhetor, RA is a flesh and blood real person to whom an addresser is addressing his or her idea. PA is a person who has a specific identity. If an addressee is from a particular cultural background or social class, the addresser, for the purpose of successfully addressing an idea, may need to design his or her speech according to this particular audience. UA is a rather more complicated idea. If we disregard all the debates between rhetoricians and philosophers (or the debates among rhetoricians, and among philosophers) and all the interpretations and criticisms from both rhetoricians and philosophers [23: 325–349], a UA in an addresser's mind, according to my understanding, is an embodiment of all (reasonable) human beings, who is able to break down personal confinements as a PA and has the competence and reasonableness to understand some idea, which is incomprehensible or unacceptable to a PA, in the

addresser's message, according to Perelman's description in "*The Realm of rhetoric*" that universal audience is of "all of humanity, or at least all those who are competent and reasonable" [24: 14]. This competence and reasonableness is not limited to or excluded from logical ability. This is an ability to understand some abstract values [25], such as justice and love, which cannot be realized only by logic. Hence, UA is not only about an addressee's ability, but is also related to the idea in an addresser's message to which an addressee listens [26]. In short, if a story wants to be persuasive, it cannot only call on internal (formal and logical) and external (informal and thematic) coherences, but also needs to rely on a narrative that explicates some value which is more general than what it would be in a specific situation that is supposed to be agreed on by all the audiences with different backgrounds.

In a court-room drama like *Legal High 2*, when an uncanny story is being addressed, it is not only a story told by an attorney to the judge, the prosecutor, and the audience in the court-room on TV; such story is also told in a narrative form by the author to us as an audience who are watching the TV. The attorneys' story—the victim accidentally killed himself and poisoned his daughter, which is logically possible—has to be supported by a more acceptable background story to make a seemingly bizarre claim feasible. This background story has to contain a value that persuades a PA to switch to being a UA and accept an idea not fitting to his or her background or not emotionally comprehensible. As mentioned above, there are only two scenarios in which Kiwa Andō is not guilty. If Kiwa Andō does not lie about what she did not do, it is not only possible that the victim accidentally killed himself and made his daughter ill as collateral damage, but it is also possible that the father wanted to commit a suicide with his daughter. Or, even worse, it was the daughter, Satsuki Tokunaga, who deliberately murdered her father and viciously made Kiwa Andō a suspect as a cover-up; since some rumour hints that she was adopted and her foster father might want to send her away for not hindering his and Kiwa Andō's marriage, the daughter had efficient motivation to carry out such a crime. Either way would possibly take Kiwa Andō out of suspicion; however, she has never made such a claim and is even willing to accept a death penalty. Therefore, a sub-story regarding the reason why Kiwa Andō does not talk about the real murderer must be the foundation of the main-story the attorneys tell to win her an acquittal.

If it was the deceased who wanted to commit suicide and brought his daughter with him, the reason Kiwa Andō does not want to reveal the real murderer is that she does not want the daughter to know that it was her beloved father who wanted to kill them both because of a vicious woman like her. If it was the daughter who murdered her father and framed Kiwa Andō, she must want to protect the daughter from imprisonment and not destroy her future. Both stories are possible, but, since Kiwa Andō has been proved a heatless monster, why does she care about the daughter who hates her to the bone? The only answer is that Kiwa Andō and Satsuki Tokunaga have an unexpected relationship that turns an evil person into an angel. It turns out that Kiwa Andō once had a daughter with a yakuza gangster. She sent her daughter away because she did not want her daughter to repeat her indecent life. Some evidence suggests that Satsuki Tokunaga could possibly be Kiwa Andō's lost daughter, even if there is no document proving that Satsuki Tokunaga was adopted [27]. Nevertheless, it is a motivation strong enough for Kiwa Andō, even if Satsuki

Tokunaga's identity as her daughter cannot be proved, to protect her possible daughter from any legal punishments, and not let her know that her real mother is a vicious woman like her. However, such a sub-story cannot be addressed in the court because it is only a possibility. Even if it is true, once it has been verified, Satsuki Tokunaga will get hurt, which is against Kiwa Andō's will as a client of her lawyers—a lawyer cannot use any defence strategies without the client's consent. Therefore, the only way to have Kiwa Andō acquitted and not hurt Satsuki Tokunaga is making an extraordinary, but both legally and logically acceptable, story.

Before this story comes out, the prosecutor's story is more convincing since it is perfectly logical for legal professionals and emotionally acceptable for common people that a vicious woman who buys poison is definitely the murderer. Compared with the prosecutor's story, it is hard to believe that the attorneys' story is true because "the victim killed himself" is only a logical possibility, but, instinctively and instinctively, people will think it is a perjury. However, when a sub-story that "Tokunaga Satsuki is Kiwa Andō's daughter; therefore, Kiwa Andō wants to admit to a crime she did not commit in order to protect her daughter from any kind of harm" comes in as support of the attorneys' story, which is designed to make a legal narrative persuasive that directly speaks to universal audiences. In short, what the story speaks about is the love that a mother will do anything to protect her child even if she has to sacrifice herself, based on which Kiwa Andō suddenly changes from a wretched witch to a loving mother, and, since no one wants to believe that the daughter is a possible murderer, a loving mother will never be a cold-blood murderer. Therefore, the only answer left is that "the father accidentally killed himself and hurt the daughter". Compared with love, the whole idea about Kiwa Andō a murderer is based on fear, hatred and jealousy, as we see in Kensuke Komikado's speech, answer to prosecutor Daigo Minoru's (who is brought to the Supreme Court, since it was him defeating Kensuke Komikado in the Appellate Court) argument for Kiwa Andō's death penalty, in the appeal in the Supreme Court.

Both evidence and testimony are irrelevant. She deserves it just because she is an obnoxious woman who drives an imported fancy car, wear luxury brand clothes, and devours shark's fins and foie gras every day. Let's have her hung! It is what people want! It is so-called democracy. What a brilliant country! [4: 433]

If the public wants to put someone to death, let's do it.... This series of trials is only a national sport for hanging a parasite in our society. The purpose is for citizens to have some entertainment in their boring lives.... [4: 434]

The new jury system (Saiban-in-seido) in Japan was established through legislation on the 21st of May, 2004 and became effective on the 21st of May, 2009 [28]. In a trial of a criminal case, according to the Article 2.2 of the law, there will be three judges and six saiban-ins [29]. Since this drama was released in 2013, the topic about the jury also has been mentioned once by Daigo Minoru, and the final trial scene is held in the District Court where the Saiban-in-seido is put to work, two parties' stories are addressed not only to legal professionals but also to laymen. Therefore, the logical coherence of the law is not the only consideration when telling a story; a story, for being not only convincing but also persuasive,

needs to be told in a simple language without difficult legal terms, full of positive energy and heart-warming feelings to transform a PA to a UA. The prosecutor's story is in fact based on negative emotions, which are disguised as justice by decorating them with some evidence and testimony. Since the validity of the bottle of poison as the murder weapon has been questioned, what is left in the prosecutor's story only serves PAs' personal interests, such as fear of being the next victim of Kiwa Andō, jealousy of rich people who can afford luxury expenses, and self-gratification of being a hero by executing others who have not been proven guilty by law. On the contrary, the attorneys' story, which is as logically convincing as the prosecutor's story, is emotionally more persuasive than the prosecutor's story because the attorney's story is based on a mother's love, a universal value, whose existence and trueness everyone will admit even if it cannot be scientifically and logically verified. At this point, the truth that Kiwa Andō is the murderer, which represents the objectivity of the law claimed by the prosecutor, has been denied, since the attorneys propose another both logically and emotionally acceptable and legally valid and legitimate story [30]. However, it is still not yet the strongest attack on the law from literature in this court-room drama, even if it has already been a law-against-law fight between two legal storytellings manufactured in a literary narrative. The most profound attack on the law from literature lies in the self-annihilation of the law designed by literature.

4 Conclusion

Kiwa Andō is eventually released because (1) no one can logically deny the possibility that the deceased accidentally kills himself, (2) no evidence can prove that Kiwa Andō is the person who puts the poison into the soup on the stove, (3) this case could possibly be pleaded as *dolus indirectus*, but the prosecutor gives up since it is difficult to make a new accusation all over again, (4) as a loving mother Kiwa Andō must be protecting her daughter by admitting a crime she does not commit, so she is not the murderer. This drama so far seems to have made the attorneys' story the only one legally admitted true story; however, once the attorneys' story-telling becomes the basis of a decision, this story loses its power of attacking the law since it has become a part of the law. The objectivity of the law is therefore established again since such a decision is also made according to logic, fact, evidence, and rationality that includes human emotions. Therefore, the concreteness of the attorney's story as the only one true story and the result of this case has to be denied. At the end of this drama, everything still remains in secret. Satsuki Tokunaga might be or might not be Kiwa Andō's daughter. Kiwa Andō might work with her attorneys to fake her innocence in order to get herself an acquittal, and she is indeed the real murderer. Satsuki Tokunaga might be the real murderer who murdered her father because he wanted to marry someone she did not like. Koichiro Tokunaga might want to commit suicide and bring his daughter with him since he was desperate about the fact that his daughter did not like Kiwa Andō. Of course, the truth might be the story the attorneys told in the

court that this case is only a tragic accident and no one is responsible for it. Multiple possible interpretations of a case means that there is no one and only truth. The law is not objective. The law is only an art of story-telling. Truth does not matter in the law; there are only stories, which is the most profound attack from literature, and it happens to reveal the true nature of the law.

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1. Fish, Stanley., ed. 1990. The Law Wishes to Have a Formal Existence. In *There's No Such Thing as Free Speech, and It's a Good Thing Too*, 141–179. Oxford: Oxford University Press.
2. 古沢良太 (脚本), 百瀬しのぶ (著)。2014。リーガルハイ。扶桑社文庫。(Ryota Kosawa. *Legal High 2* (Japanese version), published in 2014, Fusosha Publishing) *Legal High 2* as a TV drama was released by Fuji TV from October 9 to December 18, 2013.
3. A.J. Greimas applied Lucien Tesnière's syntactic theories (*Elements of Structural Syntax*, 1959) to atomize Vladimir Propp's spheres of action to six actants, such as Subject, Object, Sender, Receiver, Helper, and Opponent (*Structural Semantics: An Attempt at a Method*, 1966). In this paper I use "object as a character" to emphasize that the object is not something being acted on, but also is a character that acts in a narrative.
4. 古澤良太 (脚本), 百瀬しのぶ (改寫)。2015。王牌大律師2。劉格安譯。新北市板橋區：楓書坊。(Ryota Kosawa. 2015. *Legal High 2* (Chinese version) (trans: Liu, Ge-An). New Taipei City BanQiao: Maple Book).
5. As William Twining (2006) mentioned: It is sometimes said that the main aim of legal education is to develop skills of 'thinking like a lawyer', including skills of legal reasoning. This phrase is often taken to imply that all lawyers think; that they only think about questions of law in the context of adjudication; that there is a single correct way of thinking about such questions; and that this way of thinking is unique or special to lawyers. An alternative view challenges each of these assumptions: ... that the relevant skills of reasoning involved are not a lawyers' monopoly, for in practical life everyone interprets and applies rules, negotiates, and weighs evidence and non-lawyers are regularly involved in many kinds of legal operations and contexts, for example as jurors and lay magistrates.... *Rethinking Evidence Exploratory Essays*, 271. Cambridge University Press.
6. Corcos, Christine. 2003. Legal Fictions: Irony, Storytelling, Truth, and Justice in the Modern Courtroom Drama. *LSU Law Digital Commons*. https://digitalcommons.law.lsu.edu/faculty_scholarship/253/. Accessed 14 May 2018.
7. Bal, Mieke. 1997. *Narratology: Introduction to the Theory of Narrative*, 2nd ed. Toronto: University of Toronto Press.
8. According to Gerard Genette (1980), narrative has three meanings: "A first meaning—the one nowadays most evident and most central in common usage—has narrative refer to the narrative statement, the oral or written discourse that undertakes to tell of an event or a series of events.... A second meaning, less widespread but current today among analysts and theoreticians of narrative content, has narrative refer to the succession of events, real or fictitious, that are the subjects of this discourse, and to their several relations of linking, opposition, repetition, etc. A third meaning, apparently the oldest, has narrative refer once more to an event: not, however, the event that is recounted, but the event that consists of someone recounting something: the act of narrating taken in itself." *Narrative Discourse – An Essay in Method*, 25–26. Cornell University Press.
9. The real time of the story eclipses, the time of reading, and the time of story in writing are different as "tense" mentioned by Tzvetan Todorov (1966) in "Les Catégories du récit littéraire" in *Communications*, 8, *Fait partie d'un numéro thématique: Recherches sémiologiques : l'analyse structurale du récit*, 125–151. Paris, Seuil.

10. Abbott, H. Porter. 2002. *The Cambridge Introduction to Narrative*. Cambridge: Cambridge University Press.
11. J. Hillis Miller (2005) stated in "Henry James and 'Focalization,' or Why James Loves Gyp": The term "focalization" is drawn from optics. Its figurative base does not differ from "point of view," except that it defines "point of view" not as a matter of looking from a certain position, but rather as a matter of getting things in focus when looking through some device or other, such as a telescope, binoculars, a microscope, or a mind/body compound considered as a focalizing apparatus.... Another way to put this is to say that though such terms as "center of consciousness," "point of view," or "focalization" may be essential to present-day narrative theory, they are figures of speech. No consciousness as such exists in any novel, only the representation of consciousness in words. No looking or bringing into focus exists in any novel, only the virtual phantasm of these as expressed in words. This is not a trivial distinction. The term "free indirect discourse," on the contrary, is a genuinely linguistic term. *A Companion to Narrative Theory*, Blackwell, 125.
12. Syntactically speaking, an object can be both a position in a sentence and what corresponds to a subject's act.
13. See *Structural Semantics: An Attempt at a Method*. 1983. (trans: McDowell, D., Schleifer, R., Velie, A.), 174–185, 192–212. Lincoln University of Nebraska Press.
14. Quoted from Louis Hebert. 2006. *Tools for Text and Image Analysis: An Introduction to Applied Semiotics*, 72. <http://www.signosemio.com/documents/Louis-Hebert-Tools-for-Texts-and-Image-s.pdf>. Accessed 14 May 2018.
15. Komikado only wants to earn money and continue his undefeated record. Minoru Daigo (醍醐美), the first prosecutor who Komikado encounters in the Appellate Court, thinks that the law has to answer what people need, which is to hang Andou. Haruki Hanyu (羽生晴樹), a Tokyo District Court prosecutor with whom Komikado fights after the case was handed back from the Supreme Court, pleads for a life sentence instead of a death penalty, because he believes that the death penalty should be ended, and that Andou has to be imprisoned to repent what she has done so far even if she is not guilty in other two murder cases.
16. I do not intend to discuss the relationship between subject and object in philosophy, such as idealism and materialism, or in psychology, such as activity theory and empiricism, or in any other fields. Please see Jens Mammen. *The Relationship between Subject and Object from the Perspective of Activity Theory*.
17. Rideout, Christopher J. 2008. Storytelling, Narrative Rationality, and Legal Persuasion. *Legal Writing—The Journal of the Legal Writing Institute* 14: 53–85.
18. (1) Narratives are "innate" ways of understanding and structuring human experience; this makes them inherently persuasive. (2) Narrative models go beyond models of persuasion based on formal or informal logic, to encompass "narrative rationality." (3) Narratives embody several properties that are psychologically persuasive: (a) Coherence (a formal property); (b) Correspondence (a formal property); (c) Fidelity (a substantive property). [17: 55].
19. Rideout, Christopher J. 2013. A Twice-Told Tale: Plausibility and Narrative Coherence in Judicial Storytelling. *Legal Communication & Rhetoric* 10: 67–88.
20. "[a] Story will appear plausible to the extent that it manifests similarity with some model of narrative which exists within the stock of social knowledge.... Bernard S. Jackson. 1988. *Law, Fact, and Narrative Coherence*. Legal Semiotics Monographs Book1, 59. Deborah Charles Publications.
21. When my wife and I were travelling abroad recently, we encountered two police officers and a group of young adults in the center of a southern French city. The youths, like us, did not seem to be fluent in spoken French, so the communication between them and the police was strained, with hand gestures and quizzical looks. Before long, the police drove off with one of the youths. My wife, a charitable person, wondered if that youth had been lost and needed help getting to a bus or train station. I countered that he may have been a pickpocket. We put the events into differing narrative scripts, accompanied by very different thematic frameworks. [19: 73] As to Rideout's story (or stories), people may argue that different interpretations are caused by unclear and insufficient information. Nevertheless, the notion is that, between facts, there are gaps that need to be filled with interpretations.
22. Fisher, Walter R. 1989. *Human Communication as Narrative: Toward a Philosophy of Reason, Value, and Action*, vol. 64, 47–48. University Park: Penn State University Press.
23. As for the comments on and explanations of the debates and interpretations of universal audience, please see J. E. Sigler. 2015. The New Rhetoric's Concept of Universal Audience, *Misconceived. Argumentation* 29: 325–349.
24. Perelman, C. 1982. *The Realm of Rhetoric*. Notre Dame, IN: University of Notre Dame Press.

25. When some abstract value is attached to a PA, this value is no longer addressed to a UA and becomes a concrete value, as Perelman declares that those universal values, such as justice and love, “seems to us to be due solely to their generality. They can be regarded as valid for a universal audience only on condition that their content not be specified; as soon as we try to go into details, we meet only the adherence of particular audiences.” Perelman, C. & Olbrechts-Tyteca, L. *The New Rhetoric: A Treatise on Argumentation* (Traité de l’Argumentation, La Nouvelle Rhétorique 1958) (trans: Wilkinson, J., Weaver, P.), 76. Notre Dame: University of Notre Dame Press. 1969.
26. From a rhetorical perspective, whether an audience can understand some idea from a speaker also depends on how the message is told.
27. Such a story has been released to the public but has never addressed in any trials of Kiwa Andō’s case.
28. The jury system under the old 1928 jury law in Japan was suspended in 1943, since the need of jury trials was decreasing. As explained by Takuya Katsuta that “[w]hatever account one gives of the old Jury Law, or of the practice under it, and of its impact on the Japanese criminal procedure of the day and on those who served as jurors and others, the fact remains that the Act was suspended in 1943. The number of jury trials declined sharply a few years after the law came into force in 1928. Please see “Japan’s Rejection of American Criminal Jury” in *The American Journal of Comparative Law* 58: 505. 2010.
29. 裁判員法第 2 條第 2 項規定「前項の合議体の裁判官の員数は三人、裁判員の員数は六人とし、裁判官のうち一人を裁判長とする。ただし、次項の決定があったときは、裁判官の員数は一人、裁判員の員数は四人とし、裁判官を裁判長とする。」第 3 項規定「第一項の規定により同項の合議体で取り扱うべき事件（以下「対象事件」という。）のうち、公判前整理手続による争点及び証拠の整理において公訴事実について争いがないと認められ、事件の内容その他の事情を考慮して適当と認められるものについては、裁判所は、裁判官一人及び裁判員四人から成る合議体を構成して審理及び裁判をする旨の決定をすることができる。」第 4 項規定「裁判所は、前項の決定をするには、公判前整理手続において、検察官、被告人及び弁護人に異議のないことを確認しなければならない」。
30. In a legal system in which there are over 99% conviction rate and most defence lawyers pursue a mitigation for their clients. Non-guilty plea and a reversal of a death sentence is a huge attack on the legal system in Japan.