

Legitimation Analysis: Exploring Decision-Making and Power in *Hot Bench*

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ABSTRACT

Research in discourse analysis has demonstrated that power can be illuminated through analyzing discourses. Centered on the notion that power and legitimation go hand-in-hand, these discourses are distinguished by specific linguistic components. One of the ways to explore how legitimation is tranquilized is to scrutinize its discourses, which some scholars (Wang, 2006; Van Leeuwen, 2007) argue have the precedence to control some of everyday, social, and public spheres. Following this premise, this paper examines how legitimation is jostled in selected decision-making scenes in a popular syndicated three-judge panel TV court show, *Hot Bench*. Two objectives are set out for this study; firstly to examine how organization and resolution of cases are generally settled and secondly to identify the types of legitimation employed by the judges in their decision-making processes. Premiered in 2014, *Hot Bench* draws over 2 million viewers in October 2014, jumping to a staggering 2.5 million viewers in November 2014, emerging as one of the most watched syndicated legal reality TV programs in United States of America with its second season renewed through 2017. By analyzing selected conversations by judges who deliberate verdicts, this study which employs Van Leeuwen's framework of legitimation concludes that the judges typically employ three types of legitimation, namely, authorization, moral evaluation, and rationalization over the course of adjudicating TV's court proceedings. This study ultimately contributes to the broader field of discourse analysis by tapping onto the belief that language, through discourse analysis, serves as a vehicle within which specific discourse community maintains power.

Keywords: courtroom discourse; discourse analysis; legitimation; power; *Hot Bench*

INTRODUCTION

Discourse is generally defined as a specific 'textual' form of language use in the social context, which also comprises analysis on the role of dominance or power in language variation and style (Scherer & Giles, 1979). In fact, it is generally agreed that the relation between discourse and power is close, and a rather direct manifestation of the power of class, group, or institution, and of the relative position or status of their members (Bernstein, 1975; Mueller, 1973). Fairclough (1989, 1992, 1995) and Van Dijk (2008), among others, have provided insights into how discourses can illuminate power and ideology, both from the individual and collective levels. Despite the variety of approaches to the concept of ideology, it is generally assumed that ideology refers to group or class 'consciousness', whether or not explicitly elaborated in an ideological system, which underlies the socioeconomic, political, and cultural practices of group members in such a way that their (group or class) interests are (in principle, optimally) realized. Both the ideology itself and the ideological practices

derived from it are often acquired, enacted, or organized through various institutions, such as the state, the media, education, or the church, as well as in informal institutions such as the family.

Accordingly, the manifestations of power through verbal interaction, Fairclough (1989, p. 46) continues, emerge as ‘participants control and constrain certain contributions’. Therefore, as verbal interaction is implicit, explicit, and goal-oriented, discourse analysis remains an important tool to intensify how power and legitimation are indexed. Drawing on legitimation which demonstrates ‘practices of specific institutional orders’, legitimation provides the interconnection between social practices, its construction, and authority (Van Leeuwen, 2007). Although legitimation is a fundamental social process, whether the process of legitimation is the same or different for any social group process remains an open question (Zelditch, 2001). If Van Leeuwen’s (2007) framework is extended to popular television court (hereafter, TV court) shows, we may converge specific textual resources that work in tandem with maintaining power and position.

This study, therefore, intends to explore a critically-acclaimed popular TV court series, *Hot Bench* (2014), which has been highly rated at the forefront of contemporary syndicated TV market in United States of America. In addition to earning praise and accolade in the 2014 top ten markets, it lures 2 million viewers in October 2014, and draws over 2.5 million viewers in November 2014 (Bibel, 2014), leading to its renewal for a second season (2015-2017). The term, ‘legitimation’, which is based on van Leeuwen’s (2007) framework that has been studied under the broad and microscopic political, historical, and educational spheres is often used to speak of verbal and most importantly written texts. The key to scrutinizing this aspect, lies in how judges in *Hot Bench* navigate around specific textual components to deliberate their verdicts, unanimously or dividedly, after both plaintiffs and defendants appear before them.

Van Leeuwen’s (2007) framework is employed and expanded in this study to accentuate the ways of how language constructs legitimation for public and popular culture, and in this case, media and legal settings. Although there are other models of legitimation from the perspectives of Bitekhtine (2011), Lefsrud & Meyer (2012), and Tost (2011), van Leeuwen’s (2007) framework of legitimation is relevant hitherto because it provides ‘reasons’ for why practices are performed and reactions are captured (van Leeuwen, 2009, p. 151), consistent with our objectives of capturing aspects of legitimation involved in *Hot Bench* judges’ decision-making. Instead of orchestrating the narrative exchanges transcribed in everyday conversation, the focus of data analysis is on the institutionalized conversations as manifested in the decision-making process in *Hot Bench* judges’ chambers, transpired after both plaintiffs and defendants present their cases.

While recent studies using legitimation in other forms of texts and talk have been pervasive, including, but are not limited to studies by Abduljalil, Noraini, and Nor Fariza (2014), Aula and Tienari (2011), Dunmire (2009), Lirola (2014), Meyer, Höllerer, Jancsary, and van Leeuwen (2013), Oddo (2011), Riaz, Buchanan and Bapuji (2011), Reyes (2011), Sadeghi and Jalali (2013), Vaara (2014), Vaara and Tienari (2011), Vaara and Monin (2010), studies using legitimation framework in a popular three-judge panel TV court show such as *Hot Bench* is lacking. This paper, thus, seeks to fill in this gap. In addition, we seek to examine this issue regarding legitimation in *Hot Bench* due to its recency, with *Hot Bench* having premiered in late 2014 (Bibel, 2014). Thus, what is considered as adding to contemporary debates on discourse analysis here is not about lawyer-plaintiff or lawyer-judge or lawyer-litigant verbal exchanges, but discussions among judges on verdict deliberation. As this study is considered timely, we focus on two central questions, namely, 1) How are cases in *Hot Bench* generally managed? and 2) What are some categories of legitimation employed

by the judges in adjudicating cases? By examining these two questions, this paper shall provide the ways of how power is ‘enacted’ in institutions.

Premised on institutional orders and legitimation, the present study will firstly discuss how legitimation is related to the examination on *Hot Bench*, with the objective of describing these resources and the kinds of legitimation involved in the construction of power and legitimacy. It then shifts its attention to elaborate on *Hot Bench*, with the aims of describing its contexts, physical setting, organization, and resolution of the cases in the hope that this description will be of utmost importance for critically analyzing the construction of legitimation in *Hot Bench*. After that, the discussion takes turn to interrelate methodology surrounding data collection, transcription, and framework. Finally, a recapitulation of main points is presented as the outcome of the article. By exploring these aspects, we align TV court shows and legitimation in the form of conversation exchanges as the ensuing discussion will show.

POWER, LEGITIMATION, AND TV COURT TEXTS

Before the concept of legitimation is discussed, the notion of power needs to be clarified. The notion of power is often discussed in institutionalized discourse, typically through elaborating on its four related contexts. For the first notion, verbal interactions are associated with power on how it orchestrates ideology. Centered on power, which can be discursive or non-discursive (Wang, 2006), specific linguistic aspects can reveal how practices and conventions are invested in ideological ‘businesses’ (Fairclough, 1989, 1992, 1995; Fairclough & Wodak, 1997). From hedging, quoting verbs and modality to semiotics, nominalization and transitivity, just to name a few, these resources work in tandem to potentially manifest norms, practices, and conventions to build upon social construction (Berger & Luckmann, 1966). Secondly, through discourses, power emanates from negotiations, with the objectives of finding out how verbal exchanges are initiated, sustained, and closed, signifying participants’ contributions. This point, as explored by Fairclough and Wodak, centers on the “linguistic character of social and cultural processes and structures” (Fairclough & Wodak, 1997, p. 272), emanating power relations (Abduljalil, Noraini, & Nor Fariza, 2014; Nor Fariza & Jamaluddin, 2010). Noting that some cultures explicitly display power, these scholars in the likes of Norman Fairclough, Ruth Wodak, and Teun A. Van Dijk, to name a few, also increasingly focus on the culturally implicit imposition of power, highlighting domination, subordination, and coercion. Thirdly, these linguistic features as mentioned earlier which work progressively often serves as a means to centralize not only levels of authority, but also seek relationship with audience. Fairclough (1995) and Van Dijk (2008), for instance, reference this idea through how “professors control scholarly discourse, teachers educational discourse, journalists media discourse, politicians policy, and judges and lawyers legal discourse”, who are, for the most part, equipped with different resources (linguistic, rank, and status) to exert power. In turn, these institutionalized settings, function as ‘distributor’ of power affect or coerce ‘another person’ overtly and covertly (Wang, 2006, p. 531).

Fourthly and what is argued as the thrust of this study is how power is intertwined with discourses that are used to legitimize institutionalized texts and talk. In this sense, legitimation regulates preponderance of written and oral texts that are present in some institutional practices. Legitimation, which is drawn from Van Leeuwen’s (2007) categories of legitimation, harkens to Berger and Luckmann’s (1966, p. 111) idea of institutional discourse construction which follows that:

Legitimation provides the ‘explanations’ and justifications of the salient elements of the institutional tradition. (It) ‘explains’ the institutional order by ascribing cognitive validity to its objectivated meanings and (...) justifies the institutional order by giving a normative dignity to its practical imperatives.

Berger and Luckmann (1996) suggest that in order for institutions to function, certain embedded elements that surround a particular tradition can be revealed through analyzing its cognitive values and practicality, an idea in which Van Leeuwen (2007) is motivated to pursue. Legitimation seeks to provide overt, embedded, and sometimes implicit reasons for completing actions, practices, or activities. Therefore, with van Leeuwen’s (2007) legitimation framework, studies using legitimation have already begun to be intensified across disciplines, that includes, but are not limited to business, social management, politics, and newspaper discourses (see for instance Aula & Tienari, 2011; Dunmire, 2009; Oddo, 2011; Reyes, 2011; Vaara, 2014). In exploring the judges’ process of making decisions, such richness in judges’ elaborations provide ‘the intricate interconnections’ between social and legal practices and ‘discourses that legitimize them’ (Van Leeuwen, 2007, p. 111). However, the above mentioned explications are merely fractions of how power, legitimation, and discourse analysis are intertwined. At the same time, one must be cognizant of how legitimation is made in TV court shows. The questions, then, remain: What does legitimation entail? What are the specific categories that construct legitimation as proposed by Van Leeuwen (2007)? The following discussion will tap onto these enquiries.

PREVIOUS STUDIES ON LEGITIMATION

Studies using legitimation have already begun to be intensified across disciplines, that includes, but are not limited to business, social management, politics, and newspaper discourses. Dunmire (2009) examines and disrupts normal ways of examining 9/11 narratives to expose historical and motivational contexts by elaborating on the ways such potential security threats to America is justified on the premise of legitimation. Reyes (2011) references legitimation to politicians’ use of power through analyzing complex and simple syntactic structures and direct, and indirect speech while Oddo (2011) uses legitimation to demonstrate the ways that permit military intervention in Middle East through ‘ideological polarization’ and ‘moralized lexico-grammatical structures’ (Oddo, 2011, p. 308). In the context of higher education, Aula and Tienari (2011) indexed legitimation to the manifestations of “imaginary incentives and predictions of an inevitable future” (p.7) among universities in their approach towards becoming internationalized. Vaara (2014), on analyzing tensions surrounding Eurozone as a transnational hub finds that, through legitimation, the notion of nationalism has consistently played varying roles in the construction of elites, revealing complications surrounding the perpetuations of European identity. In Sadeghi and Jalali (2013), legitimation is used to describe how Egyptian revolution is delegitimized through a critical discourse analysis in Persian media. Chen (2011), examines the (re)construction of prosecution-defence-judge through legitimation and concludes that judges displace information levels and modify knowledge in courtrooms. Lirola (2014), in her studies on legitimation in describing Spanish immigrants, finds that media produces texts that are framed in particular social contexts, especially produced by authorities. Lirola (2014), in addition, argues that legitimation can best be understood as widespread acknowledgment of the legitimacy of explanations and justifications as to how things are done, providing “dominant discourses” (p. 130). Simpson-Wood (2015) finally

makes a compelling argument; legitimation shall become the “standard” through which viewers on television “compare actual attorneys, and their instruction manual as to how attorneys, litigants, and members of the judiciary should behave” (p.6). Taking into considerations these growing concerns on the use of legitimation in discourse analysis, this study serves to describe the ways in which legitimation is used to (de) legitimize claims and counterclaims and how the processes in which cases in *Hot Bench* are managed to support legitimation.

In this study, we argue that as audience engages with the verbal interactions among the three judges during their deliberation phases in *Hot Bench*, these interactions invariably entail a way or imposition for some types of reasoning that allow participants, speakers, or hearers to act, say, write, or perform in a certain manner corresponding to the exchanges or claims in question. Specifically, from (co-)constructing, analyzing, comparing, and contrasting both plaintiff and defendants’ arguments, this notion of legitimation, is also applicable to the context of decision making processes among judges of *Hot Bench* within the interchangeable and overlapping notions of popular culture and legal courtroom genres. On one level, the judges reach decisions by providing analogies and rationalization, and on a broader level, they may provide the implications of such verdicts to viewers that may encompass legal experts, lawyers, judges, practitioners, court systems, and popular TV show audience. In exploring the judges’ process of making decisions, judges’ elaborations provide “the intricate interconnections” between social and legal practices and “discourses that legitimize them” (van Leeuwen, 2007, p. 111). However, the above mentioned explications are merely a fraction of how power, legitimation, and discourse analysis are intertwined. At the same time, one must be cognizant of the ways legitimation is made in TV court shows. The questions, then, remain: What does legitimation entail? What are the specific categories that construct legitimation as proposed by van Leeuwen (2007)? The following discussion will tap into these enquiries.

LEGITIMATION AS A FRAMEWORK

Four components make up the framework for legitimation as can be seen in Table 1. These are authorization, moral evaluation, rationalization, and mythopoesis (moral tales or narratives).

TABLE 1. Categories of Legitimation

Categories	Sub-categories
Authorization	Personal authority
	Expert authority
	Role Model authority
	Impersonal authority
Moral evaluation	Tradition
	Conformity
	Evaluation
	Abstraction
Rationalization	Analogies
	Instrumental
Mythopoesis	Theoretical
	Moral tale
	Cautionary tale

AUTHORIZATION

Authorization is referred to as the authority as defined by tradition, custom, and law, including those individuals vested with the institutional power to exert some kind of authority. Under this aspect, seven sub-aspects exist, including personal, expert, role, model, impersonal, tradition, and conformity authority. Firstly, *personal authority* is the authority that is granted to individual(s) given their status or role in an institution. For instance, “That’s what her mother says” (Van der Houwen, 2015) can demonstrate personal authority. Secondly, under this term of authorization lies *expert authority*. Expert authority is not defined by status but is defined by one’s expertise on a given subject as can be shown in the following example, “Circumstantial evidence as defined by lawyers is the preponderance of evidence beyond doubt” (Van der Houwen, 2005, 2015). Thirdly, authorization is legitimized by the impersonality of things, clauses, or ideas that may include laws, rules, and regulations vis-à-vis *impersonal authority* as in “We can’t rule against the defendant because that’s not what the law says” (Van der Houwen, 2015).

The fourth, fifth, and sixth forms of legitimation that fall under the category of authorization are role model, tradition, and conformity. *Role model* authority involves many individuals who establish trends for example, celebrities and political leaders. The authority of *tradition*, however, does not deal with the reason why something transpires or whether or not something is compulsory, but “because this is what we always do or because this is what we have always done” (Van Leeuwen, 2007, p. 96), implying the interrelationship of tradition with practice, habits, and customs. In the case of authority of *conformity*, Van Leeuwen (2007) distinguishes between reasoning and normalization; conformity in this sense is not ‘because that’s what we always do’, but ‘because that’s what everybody else does’, or because that’s what most people do’. The implicit message is, ‘Everybody else is doing it, and so should you’ or ‘Most people are doing it, and so should you’” (p. 97).

MORAL LEGITIMATION

Moral evaluation emphasizes moral agenda. Here, three sub-categories are found, namely, evaluation, abstraction, and analogies. Firstly, *evaluation* which deals with a dichotomy of values center on concrete qualities for referring to actions or objects. For instance, “It was surprising to me that you had the audacity to ask her for the return of money” (Davies, 2014) can illustrate evaluation. Secondly, the notion of moral evaluation can be defined by *abstracting*. Specifically, this kind of legitimation refers to abstract ways that ‘moralize’ practices such as referring to school students going to school as “the child takes up independence,” as an alternative of saying, “the child goes to school for the first time” (Van Leeuwen, 2007, p. 99). *Analogies*, which is related to comparisons in discourse takes up the third form of moral evaluation. “Your eating the steak is the same as your responsibility to pay up your rent” (Davies, 2014) is an example of analogy. Here, the underlying assumption of moral legitimation is not the reason why something needs to be done or why something needs to operate in certain ways, but because it “is like another activity which is associated with” positive or negative values (Van Leeuwen, 2007, p. 99).

RATIONALIZATION

Rationalization is a form of legitimation that gives purposes to social and institutionalized practices and actions. Under this view, two main sub-categories can be found, namely, instrumental and theoretical. Firstly, *instrumental rationalization* involves goal-, means-, and effect- orientations. For instance, “police reports are done to get you out of trouble” (Davies, 2014) (read: goal-orientation), “You meddle in their business by sticking your nose into it”

(Bibel, 2014) (read: means-orientation), and “It’s not for you to decide the outcome of the case” (Bibel, 2014) (read: effect-orientation). Secondly, *theoretical rationalization* assumes that legitimation is established on some kind of truth, usually associated with definition, explanation, and prediction. For instance, “Circumstantial evidence is based on the preponderance of evidence” (Van der Houwen, 2015) (read: definition), “The dog is his because the dog is still connected to him pretty significantly” (Van der Houwen, 2015) (read: explanation), “Don’t get too comfortable. This case isn’t long” (Van der Houwen, 2015) (read: prediction).

MYTHOPOESIS (MORAL STORIES/NARRATIVES)

Two major categories are established under mythopoesis- moral and cautionary tales. In *moral tales*, main characters in storytelling are rewarded because they engage in legitimate institutionalized practices, while *cautionary tales* narrate the readings that inform the consequences if one does not conform to the norms of social practices. The following examples can demonstrate the above-mentioned ideas: “No wonder there had been so many voices cheering her on. The whole family had come with Daddy to see Mary Kate win her first race” (read: moral tales) (Van Leeuwen, 2007, p. 106) and “I remember I had to answer to the teachers if I didn’t turn up for schools” (Bibel, 2014) (read: cautionary tales).

However, the above are merely a fraction of examples of how Van Leeuwen’s (2007) framework can be put to work to study verbal exchanges among judges in TV court shows; one would certainly find limitations and similar trajectories of understanding legitimation using other categories to reflect their connections with power and authority. Yet, the researchers opine that one needs to be conscious of the fact that although many TV court shows are broadcast to viewers mainly for popularity, verbal narratives emanating from TV court shows can illustrate how judges navigate around specific textual components to firm up legitimation. Another key factor to examining this issue is to explore TV courtroom itself. How is a TV court show positioned with respect to legitimation? How do we describe its organization and resolution of cases? The following discussion attempts to engage these issues by using *Hot Bench* as an example and focusing specifically on the ways in which particular textual and discourse components evolve to signify legitimation in their deliberation of verdicts.

‘STRATEGIZING’ LEGITIMATION: LOCATING *HOT BENCH* IN AMERICA’S TELEVISION DISTRIBUTION

In America, televised courtroom shows are nothing new. Beginning in 1981, *The People’s Court* has aired and until today it is known as one of the longest- running TV court shows with decades of screenings. Other TV shows that have sprung immediately following the nationally televised *The People’s Court* have included, *Guilty or Innocent*, *On Trial*, *Jones and Jury*, and *Judge for Yourself* just to name a few. In 1996, however, televised courtroom shows revolutionize themselves, calling attention to the rise of arbitration-based reality court shows with the inaugural screening of *Judge Judy*, whose court is presided by a former Family Court Judge in New York, Judge Judith Susan Sheindlin. Premised on real subjects who file cases for the purposes of real and unscripted deliberation, *Judge Judy* is rendered as a modern-approach to TV court show genre, in which cases are brought in from all over America and in which litigants are called to Los Angeles for the program, having agreed to be bound by Sheindlin’s decisions. *Judge Judy* begins by Sheindlin’s readings of complaints and replies before litigants appear. While witnesses are frequently called in to support each litigant’s complaints and replies, verdicts are legally-binding and enforced immediately after

the show. The show is so successful that today, many reality TV programs have followed suit, including *Judge Joe Brown*, *Judge Mathis*, *Divorce Court*, *Judge Pirro*, and *Judge Karen*, to name a few, along with increasing “daytime viewers in Los Angeles” who “have a choice of seven televised court shows plus another four on Spanish language channels” (Van Der Houwen, 2005, p. 22). Today, *Judge Judy* has been aired for more than twenty seasons, making her one of the richest reality TV celebrities with a staggering \$200 million net worth to boot (Davies, 2014).

In 2014, however, Sheindlin made a surprising announcement. Instead of presiding over trials, she was and is to produce another TV court show, working behind the camera with other co-producers. The show is later named *Hot Bench*. Her inspiration comes from her prior visit to a courtroom in Ireland where three judges sit on a trial where a majority of votes wins. Fascinated and thrilled, she immediately sets up her TV production and legal teams to establish *Hot Bench* upon returning to America. The name, *Hot Bench* is frequently associated with lively exchanges between judges and litigants where judges get to interrupt litigants’ presentations with questions (Bibel, 2014). Judges Tanya Acker, Larry Bakman, and Patricia DiMango are selected from all over the country and sit on a three-judge panel to adjudicate *Hot Bench* cases. Coming from diverse legal backgrounds, they have been sought by Sheindlin early in 2014 before *Hot Bench* premieres later in September 2014. In 2015, *Hot Bench* has dominated the legal TV distribution in America and ranked number one for the new first-run syndicated strip, with over 2.3 million viewers ending in November 2014 alone (Bibel, 2014). This success, with a “new twist on the court genre with multiple judges” (Bibel, 2014), Sheindlin continues, allow viewers to see the deliberation process. But how is *Hot Bench* described pertaining to its physical setting, organization, and resolution of the cases? The following discussion shifts its attention to interrelate these issues.

DATA COLLECTION

Discourse analysis with respect to specific linguistic elements in decision-making process from the perspective of legitimation is examined in this study. Two-pronged inquiries are set out: a) How are cases in *Hot Bench* generally organized? and 2) What are the types of legitimation employed by the judges in their decision-making processes? Four cases were selected out of twenty cases broadcast on Youtube (*Hot Bench*, 2014a, 2014b, 2014c, 2014d). Transcripts were provided simultaneously when audience watched the show. On average, a case lasted from 15 to 30 minutes without commercials, or existed as long as 35 minutes. The transcripts further focused on the deliberation of verdict that reflect elements considered for the purposes of studying how legitimation facilitates decision-making processes. Specifically, the transcript entailed a close scrutiny in order to determine whether the verbal exchanges involved categories of legitimation that led to the judges’ decision-making. To reiterate, these categories encompass legitimation in the forms of authorization, moral evaluation, rationalization, and mythopoesis. The textual components in the deliberation stages were analyzed to examine (1) how decision making among the three judges took place, (2) where and how legitimation was ascribed, and how they help shaped the (unanimous or divided) verdict. These verbal exchanges were analyzed with regard to how power and legitimation were enacted through these specific linguistic configurations.

With increasing focus on how these segments or talk constructed some of the many aspects of legitimation, standard and semi-standard spelling were also used to represent formality and informality of the texts. For example, “wanna,” if so pronounced, for “want to.” Speaker identification, with respect to how they were recognized and labeled was followed through after the talk was segmented. Identifications of speakers were based on last

name (Van Der Houwen, 2005, 2015) as well as social roles (doctor, client, student, teacher, in this case, judges) (Atkinson and Drew, 1979; Matoesian, 2001). For instance, *Judge Acker*, is used to signal social role(s) and last name and to help identify the speaker.

GENERAL MANAGEMENT AND RESOLUTION OF CASES IN *HOT BENCH*

PHYSICAL SETTING OF *HOT BENCH*

The physical setting of *Hot Bench* is nowhere different than a ‘real’ small claims court in America with the exception of three seats on the bench where the three judges get to question litigants simultaneously. As displayed in Figure 1, the litigants, plaintiffs (P) and defendants (D) face the judges (J) while audience (A) sit behind the litigants. Witnesses (W), who are frequently present, sit behind the litigants. Bailiff (B), a court attendant with a task to maintain the order of the court trial, including distributing litigants’ paperwork to judges and ensuring control of the court, stands besides the judges- Judges Tanya Acker (J¹), Patricia DiMango (J²), and Larry Backman (J³). Figures 2 (Inside Edition, 2014), 3 (Noodls, 2015), and 4 (Hot Bench, 2015) provide an overview of the *Hot Bench* set with snapshots taken to facilitate our understanding of its physical setting.

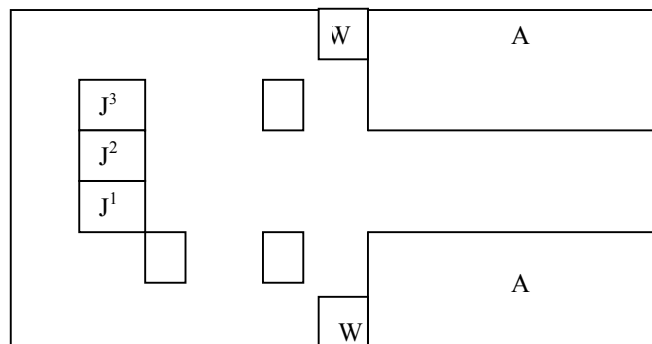


FIGURE 1. Orientation of *Hot Bench*'s Setting



FIGURE 2. Orientation from Audience toward both Litigants and Judges



FIGURE 3. Orientation from Judges toward Litigants (defendants) and Audience



FIGURE 4. Orientation of Deliberation Process in Judges' Chamber

ORGANIZATION AND RESOLUTION OF CASES IN *HOT BENCH*

Cases arbitrated on *Hot Bench* are manifested in several elements in which they usually occur. Table 2 gives an overview of how *Hot Bench* starts and finishes, consistent with the manners in which *Hot Bench* is usually broadcast. However, before *Hot Bench* airs, each judge receives both complaints and replies from the litigants, making it easier for them to (co-)construct the overview for each proceeding.

TABLE 2. Organization of Cases

Turn	Speaker	Structure
1	Announcer	introduces plaintiff(s) and defendant(s), briefly states the nature of case
2	Bailiff	presents a docket containing facts of the case to judges.
3	Judge Acker	overviews the complaint and counterclaim (if any) and proceeds to question plaintiffs and sometimes defendants (sometimes evaluates the case)
4	Plaintiffs	provide response/testimony (as elicited by either judges)
5	Defendants	provide response/testimony (as elicited by either judges)
6	Judge Dimango	questions plaintiffs and defendants and cross-examines witnesses
7	Plaintiffs	provide response/testimony (as elicited by either judges)
8	Defendants	provide response/testimony (as elicited by either judges)
9	Judge Backman	questions plaintiffs and defendants and cross-examines witnesses
10	Plaintiffs	provide response/testimony (as elicited by either judges)
11	Defendants	provide response/testimony (as elicited by either judges)
12	Judge	cues for deliberation (as elicited by either judges)
13	Judges	leave for chambers
13	Judges	evaluate claims and counterclaims

14	Announcer	re-iterates the nature of case
15	Judge	announces the decision (as elicited by either judges)
16	Judge	addresses perspectives on either plaintiffs and defendants (if any; as elicited by either judges)
17	Judges	leave the bench
18	Bailiff	directs the way out for both plaintiffs and litigants
19	Litigants	evaluates the outcome of the case

However, the format of the case as depicted in table 2 is not followed through in linear fashion. Sometimes, judges other than Judge Acker present the overview of the case, summarizing claims and counterclaims. Moreover, during the process of questioning, Judge On other occasions, judges may interrupt one another during the process of fact-finding in order to gather facts before deliberation. However, one thing is certain; one of the judges may cue one another to either deliberate or leave the bench for chambers through, for instance, “Are we ready to retire?” or “Are we ready to vote?” What happens in the chamber pertains to how they evaluate claims and counterclaims and argue before each other to come to a conclusion where judges may contradict one another based on the presentation of evidence by both plaintiffs and defendants. If the decision is not unanimous, however, the majority of votes gets the verdict. For instance, if the decision made by both Judges Bakman and Acker contradict Judge DiMango, Judge DiMango’s opinion does not count but she can make known of her perspective at the final announcement of decision to address the litigants, if s/he wishes to do so. The litigants, in addition, can voice out their evaluations of verdicts at the end of the show, with occasional deletions on cusswords and improper use of English. By revealing how judges weigh in the claims and counterclaims, audience has the opportunity to see how multiple perspectives of resolving cases exist and how judges evaluate both written and oral evidence.

With respect to membership with audience, many accounts have been constructed concerning why a popular TV court shows can be of an advantage for audience, who may or may not become litigants in the near future. One of these advantages is that judgment or verdict is rendered immediately after the show. In America’s small claims court, litigants whose application is granted through monetary compensation or property retrieval will have to pick up the judgment themselves which may take up weeks and months. In some occasions, picking up verdicts is difficult due to geographically-related reasons (Van Der Houwen, 2005, 2015). Some cases in small claims court in America, in addition, may require litigants to cross borders in order to attend or pick up the judgment. In reality legal TV programs, including *Hot Bench*, however, irrespective of whether litigants win or lose, litigants do not pay for the judgment; producers of TV court shows set aside money for that purpose (Van Der Houwen, 2015).

Therefore, how do these physical settings and organization and resolution of cases help, regulate, or sustain legitimation in *Hot Bench*? Although many arguments exist, two advantages stand out. Firstly, the turn-takings and case deliberation help to provide a schema which, in or way or another, assist judges in *Hot Bench* to process information. Casey, Burke, and Leben (2013) have argued that the schema, supplemented by physical settings and case resolution help judges to “size up a situation and decide how to move forward” (p.2). They further add that these schema can be likened to the help provided when a “fire fighter instantaneously takes in a variety of information about the current situation and matches it to a response option that has worked in similar situations in the firefighter’s past” (p.2). Thus, in *Hot Bench*, judges may navigate around these schema to develop the required steps, measures, actions, ‘standards of protocol,’ or verdicts while dealing with cases. Secondly, they magnify the reflexive process to regulate legitimation. The reflexive system is what

Liebermann (2003) describes as an automatic and unconscious process that is dependent upon the patterns that emerge as a result of a person's encounter with the world. In considering legitimation to enhance decision-making, *Hot Bench* judges "tend to rely on the automatic retrieval of schemas to process incoming information" such as (counter) claims, decrees, judgment, (burden of) proofs, and witnesses (Casey et al. 2013, p. 2). Through these physical settings and case management turn-takings, *Hot Bench* judges are exposed to various schema and reflexive processes in their quest to ascertain legitimation in decision-making.

LEGITIMATION IN *HOT BENCH'S* DECISION-MAKING

This section begins by highlighting the results of the study, by firstly providing overviews of the complaints and secondly by presenting analyses of narrative exchanges. By focusing on these interactions, categories of legitimation that are used in the deliberation process of judges can be highlighted. To reiterate, the study aims at exploring how decision-making process in a popular TV court show, *Hot Bench*, is made with the objectives of examining the ways of how these verdicts are legitimized.

In the first narrative exchange (Table 3), the judges deliberate verdicts on a case surrounding remodeling of a bathroom (*Hot Bench*, 2014a). Prior, the plaintiff in this case files a complaint stating that the defendant does not satisfy the requirement as set out in the verbal exchanges that take place before the defendant completes the remodeling works. The defendant, however, denies the claims and argues before the court that the defendant refuses to listen to the technicalities, although the defendant repeatedly asks that the plaintiff leaves the subject at hand to the construction employees themselves. The plaintiff sues for the amount of re-constructing the remodeled bathroom.

TABLE 3. Building-Remodeling Dispute

1	Judge Acker:	Who knew that a case about a toilet <u>would involve the polar vortex?</u>
2	Judge DiMango:	No, not I.
3	Judge Acker:	And you know what else? when she would talk to him about the problems, he said,
4		"Don't you do the thinking. I'll do the thinking."
5	Judge DiMango:	Oh, <u>you're thinking it's a gender issue</u>
6	Judge Acker:	No, no, <u>I'm not saying gender, although I guess probably I am.</u>
7	Judge DiMango:	Yeah, I think so.
8	Judge Acker:	But there does seem to be a sense here, like, she's outraged to an extent because
9		something happened throughout the course of this. <u>If somebody's building</u>
10		<u>something for you and you see things going wrong, normally you can correct them.</u>
11		<u>she seems to be implying that he just wasn't listening to her!</u>
12	Judge Backman:	All right, so, is there really anything to talk about?
13	Judge DiMango:	No, no.
14	Judge Acker:	<u>The polar vortex.</u>
15	Judge DiMango:	She's entitled to the amount the ()bathroom cost her,
16		and I believe that she said that amount [was]
17	Judge Backman:	[\$2,200]
18	Judge DiMango:	\$2,200.
19	Judge Backman:	Agreed.
20	Judge DiMango:	I don't see <i>anything else about this.</i>
21	Judge Acker:	I'm with you and you.
22	Judge Backman:	Ready? Ready?
23	Judge Dimango:	Yeap.

One can surmise two types of legitimation that exist in this verbal exchange, namely moral legitimation and rationalization. Under moral legitimation, analogy is firstly employed. While in one sense, *polar vortex* (line 1) is generally associated with ‘extreme’ cold in winter (Cornell University, 2015) but when used figuratively, *polar vortex* can illustrate how this case involving remodeling of a bathroom could be exemplified as ‘drawing’ so much attention, that the actors involved (defendants, plaintiffs, judges, construction workers, TV audience) portray complexity in the case of construction works. Attaching *polar vortex* to the discussion suggests psychological effects, forming, in one sense, a dramatization of distress.

The second analogy is firmly grounded in gender politics; when Judge Acker starts talking about how the (male) defendant refuses to listen to the specification sets out by the (female) plaintiff on how the bathroom should be (re)constructed, the judge implies gender ‘stereotyping’ and the lack of agency given on the part of the plaintiff. The effect, as this utterance suggests, portrays a negative picture on the defendant. When Judge Acker continues to dwell on gender issues, she further uses the second type of legitimation, theoretical rationalization. By firstly signaling on gender inequality (line 6 - *I'm not saying gender, although I guess probably I am*), she further theorizes why the defendant refuses to heed the plaintiff's requests by explaining double refusal on the part of the defendant, by firstly ignoring faulty operations (line 9-10 - *If somebody is building for you and you see things going wrong*) and secondly, ignoring plaintiff's complaint (line 11 - *She seems to be implying that he just wasn't listening to her*), that to a certain extent, justifies why the plaintiff is not at fault. Through using theoretical rationalization this way, it suggests that the two litigants' understandings are not similar enough to have ‘meetings of the mind,’ resulting in a construction debacle.

The second verbal exchange (Hot Bench, 2014b) can be inferred from Table 4. In this verbal interaction, the judges discuss a case on money owned by a defendant. The plaintiff in this case files a complaint seeking compensation for what is owed.

TABLE 4. Monetary-Loan Dispute

1	Judge Backman:	Well, I'm glad she returned.
2	Judge DiMango:	Yeah, me, too, because to me the defendant is nothing but a woman who was able
3		to size up somebody who is a sucker, basically. The defendant found this woman,
4		<u>who was vulnerable. This woman was so happy,</u> with a smile in there to show that
5		she did work for this woman and for this money. () and she gives her
6	Judge Backman:	You know why?
7	Judge DiMango:	Why?
8	Judge Backman:	<u>'Cause she's from the Midwest.</u>
9	Judge DiMango:	Ah, such nice people!
10	Judge Backman:	From the Midwest and she's got a great accent to go along with it.
11	Judge Acker:	See, here's my issue with this case. I don't care what this defendant claims. "Well, I
12		didn't know I had to bring this." You know that somebody is claiming it.()
13		<u>you loaned them some money, and you didn't pay it back.</u> You know that you are
14		claiming it was a gift. That being the case, if you're showing up before three people
15		who are going to decide in there right and wrong, you got to give them something,
16		and she gave us nothing.
17	Judge DiMango:	She had nothing to give us, nothing to show that this money went off as a
18		donation.
19	Judge Acker:	<u>But I think that the plaintiff's story is a little fuzzy. You're showing up in court, and</u>
20		<u>you've got a complaint to prove, you've got to be prepared to questions.</u>
21	Judge DiMango:	<u>And she was not. The defendant here is definitely a con woman.</u>
22	Judge Backman:	Are we ready?
23	Judge DiMango:	I'm ready.

The judges seem to evaluate two aspects, namely, litigants' credibility and case evaluation. Firstly, by comparing and evaluating the credibility of both plaintiff and defendant (lines 3-6 - *this woman was so happy*), the judges begin to analyze what they think of the complainants. The plaintiff is seen as trustworthy, as the evaluation, *vulnerable* (line 4) describes plaintiff as susceptible to cheat and deception. Judge Backman, further attaches the plaintiff's positive qualities to being a Midwesterner (lines 8 and 10- *Midwest*), whose conduct, for the most part, demonstrates politeness, moderation, and respectability (Cayton, Sisson, & Zacher, 2015), enhancing *socio-cultural schemata* (line 10) (Brown & Yule, 1983; Holmes, 2000; Tannen, 1993). Secondly, from this point on, the judges are seen as gradually moving towards the core aspect of the case, leaning towards granting the plaintiff's request and denying the defendant's counter-arguments by using the following aspects: conformity (authorization) and theoretical prediction (rationalization). Judge Acker's use of conformity gives an idea concerning 'common sense,' in order to show how litigants should be responsible in dealing with personal loans, in particular to handling cash disputes (line 13 - *you loaned them some money, and you didn't pay it back*) . Thus, by conforming to what the masses do (money loaned and later repaid), Judge Acker further develops and repeats her argumentation to theoretically predict the ramifications for not being able to convince judges for the lack of documentation or proofs when coming to court (lines 19-20: *But I think that the plaintiff's story is a little fuzzy. You're showing up in court, and you've got a complaint to prove, you've got to be prepared to questions*). This argumentation by Judge Acker is supported by Judge DiMango who argues that coming to courts 'unarmed' with substantial evidence is assumed as 'negligent' on the part of the defendant (line 21 - *And she was not. The defendant here is definitely a con woman*). These instances of conformity, theoretical prediction, and evaluation, give a sense to the consequences of not complying with the general masses and vicarious situations and of how courts are generally run, respectively.

While the previous judges' deliberation involves a case related to money, the following judges' discussion involves verdicts on a case surrounding a vandalized car (Hot Bench, 2014c). Prior, the plaintiff in this case files a complaint stating that the defendant vandalizes his car. The plaintiff sues for the amount to get his car fixed, while the defendant denies the charges. The judges' discussion is given in Table 5:

TABLE 5. Personal Property Dispute

1	Judge DiMango:	I think I definitely see different opinions here on this one.
2		
3	Judge Acker:	Yeah, I have a sense I wanted to believe her. Look, he hurt her feelings. She
4		admitted he hurt her feelings. She wasn't a bad girl. She <u>overreacted to a bad</u>
5		<u>situation</u> , but I believe him.
6		
7	Judge DiMango:	I'm sort of with you. I think that that was definitely <u>vandalism</u> on that car. <u>You</u>
8		<u>have his pictures</u> .
9		
10	Judge Acker:	It's a nice car.
11		
12	Judge Backman:	So you both find that she is responsible for doing the damage to this car?
13		
14	Judge Acker:	Well, I didn't quite say that. The plaintiff if you notice, my last question to him
15		was, " <u>how do you know it was her?</u> " <u>If there was really good evidence that it had</u>
16		<u>been her, the police would've showed up at her door, made a report you know, at</u>
17		<u>least interrogated her</u> .
18		
19	Judge Backman:	<u>Interesting</u> they never even questioned her.
20		

21	Judge Acker:	<u>Interesting</u> . Are we ready to vote?
22		
23	Judge DiMango:	Yes, we are.
24		
25	Judge Backman:	I'm ready to vote.

Reflecting on the nature of the case, the judges use three concepts, namely, evaluation (moral), explanation (theoretical rationalization), and prediction (theoretical rationalization). Firstly, while describing multiple perspectives existing in this case (line 1), Judge Acker, who seems indecisive, uses evaluation: *overreacted* (line 4), and in this case moral evaluation as to why intentional damages on personal property are not accepted in the society, enabling her to explain why the defendant seems to be partially blamed for the altercation. Both words; *overreacted* (line 4) and *bad situation* (line 5), are associated with negative connotations and distressed experiences. In addition to these expressions (*overreacted* and *bad situation*), the evaluation is presented with theoretical rationalization (explanation) by Judge DiMango (lines 6-7). The use of *vandalism* and *pictures* (lines 7-8) convey powerful visualization on the kinds of psychological suffering vandalism creates and gives a sense of how the decision-making processes among the discourse community vis-a-vis law makers pertain to relying on concrete evidence. However, when Judge Backman further solicits for verification, so you both *find that she is responsible for doing the damage to this car?* (line 11), the judges are presented with another type of delegitimation, prediction (theoretical rationalization), through *how do you know it was her?* (line 15), a line of questioning put forth by Judge Acker. The effect of the prediction perhaps derives from Judge Acker wanting to cross-examine the plaintiff in order to establish circumstantial evidence (New York Courts, 2015) through the use of *police* (line 16), *report* (line 16), and interrogation (*interrogated*, line 17). These words, *police*, *report*, and *interrogated*, along with the expression, *how do you know it was her?* point at a sense related to the plaintiff's lack of concrete evidence. In addition to these words, the use of the third conditionals that expresses prediction rather than certainty (lines 15-17: *had been, would have*) further justifies doubts on the plaintiff's narrative.

However, the following illustration in Table 6 elaborates a case on defamation (Hot Bench, 2014d). The plaintiff files a lawsuit against his former wife, who falsely accuses him of abusing their child. Prior to the case, the defendant accuses the plaintiff for abusing their child while they are both on a vacation. The defendant denies the charges by saying that the plaintiff is an abuser. The following exchange shows the judges' discussion:

TABLE 6. Defamation Dispute

1	Judge Backman:	All right ladies, he's suing for punitive damages based on a child-abuse allegation.
2		
3	Judge DiMango:	With regard to the allegations, <u>it was surprising</u> to me that she had not raised this
4		prior to his going away. While the child wasn't even in an environment that she
5		<u>was complaining</u> was the thing that was <u>jeopardizing his mental health and safety</u> .
6		
7	Judge Backman:	<u>You don't sign a visa for your minor child when the other parent has threatened to</u>
8		<u>kidnap the child</u> .
9		
10	Judge Acker:	And I have to tell you, being branded an <u>abuser</u> ? That is <u>abominable</u> .
11		
12	JudgeBackman:	<u>I'm gonna boil over</u> if we talk about it anymore. Have we reached a verdict?
13		
14	Judge DiMango:	I think we have.

In Table 6, three specific concepts, moral evaluation, tradition, and analogies, are used by the judges in order to delegitimize the findings of the plaintiff's case. Firstly, moral evaluation is used by Judge DiMango to express a sense of constructing what is considered to be abnormal and psychologically inept. The expressions which are considered negative are *complaining* and *jeopardizing his mental health and safety* (lines 3-5). These two expressions, taken together with the word *surprising* (line 3) indicate the process of assessing the moral conduct of the defendant (plaintiff's former wife) whose conduct should have been acknowledged by the plaintiff before coming to court. In addition to these words that constitute evaluation, the negative judgment on the plaintiff's part is delegitimized through the use of simple present, *You don't sign a visa* (line 7), which signals a fact or custom, connected to 'common sense' and tradition because "this is what we always do" (Van Leeuwen, 2007, p. 96). By illustrating how the plaintiff should have considered the psychological repercussions on the plaintiff's child, the judges' evaluation and authority emphasize the weakness of the plaintiff's complaint. The effect, as Judge Acker later evaluates, is *abominable* (line 10). The plaintiff's narrative is referred to as *abominable*, assessing the plaintiff's case as *suspicious* and *doubtful*, and illustrating the bleak and troubles derived from being labeled as *an abuser* (line 10). Judge Backman further supports this stance by analogizing the seriousness of the case to steaming pot of drinks (*I'm gonna boil over*, line 12). The verb *going to boil over* is linked to criticisms against the plaintiff's judgment, whose decisions on being away for a vacation should have emphasized the well being of *the child* (line 7) and thus could be interpreted as an instance of delegitimizing the plaintiff's report. Therefore, the uses of evaluation, tradition and analogies apply to the practice of deliberating a verdict by the judges in *Hot Bench* as illustrated in the exchange above.

CONCLUSION

The purpose of this article has been to elucidate some of the many ways on how legitimation is dynamically involved in *Hot Bench* judges' decision-making processes. By so doing, it helps to better understand the ways in which multi-varied perspectives exist in a popular syndicated TV court show. The analysis reveals some specific instances of legitimation that in particular facilitate our understanding of how Americans, in this case, American TV show judges, make sense of it. First, the study focuses on two types of evidence in the American court of law- circumstantial and direct evidence (Casey et al. 2013; Walton, 2016). The judges' discussion in *Hot Bench* is seen as justifying, resisting, and questioning each others' decisions and actions. Although such questioning demands a role in establishing key positions in deliberating verdicts, the analysis also show that resistance by some of the judges imposed by their own panel may also be used for deciding daily, domestic issues. Second, the present study is one of the many efforts to enshrine judges' authority and accountability in reaching decisions (Walton, 2016). Judges may obtain feedback about the points voiced out by litigants. In the study of *Hot Bench*, the use of legitimation in judges' discussions reflect the ways of how they provide and receive feedback with one another, in which Casey et al. (2013) argue, can lead to "more effortful, reflective processing of information." This accountability, which is depicted in using legitimation among the *Hot Bench* judges can illustrate the extent to which they are willing to engage in providing explanation for their decisions to TV viewers.

The TV court texts culled from *Hot Bench*, as illustrated in the examples, however, cannot be said as prominently representative of all TV court shows, nor does it represent all seasons of *Hot Bench*. These exchanges are only limited to some selected decision-making

scenes of *Hot Bench* from Youtube sites (Hot Bench, 2014a, 2014b, 2014c, 2014c, 2014d). While some of these TV court texts have described disputes in relation to personal loans and loss of property, other scenes have demonstrated defamation and building-remodeling intricacies. Furthermore, as the language used in *Hot Bench* is only limited to English, this study may pose limitations as we do not know if we can generalize the findings to other TV court shows, for instance, those that use English and Spanish simultaneously. With these issues in mind, future large-scale is needed, specifically determining whether issues of 'legitimation' are played out in other legal TV programs.

The findings invite a reading that contributes to the present body of research. While previous studies on legitimation have focused on post 9/11 history (Dunmire, 2009), politicians' specific linguistic structures (Reyes, 2011), Middle East military strategies (Oddo, 2011), higher education (Aula & Tienari 2011), and European identity (Vaara, 2014), to name a few, this study has focused on legal discourse by examining verbal exchanges among judges during their deliberation of verdicts in a popular reality TV program, *Hot Bench*. In the selected deliberation processes examined, three broad concepts are intensified by the judges, namely, authorization, moral evaluation, and rationalization. Specific concepts include tradition, evaluation, analogies, instrumental, and theories posited to legitimize the judges' renderings of the outcome of the case. Future studies could examine legitimation in selected court's press release, newspaper, and sustainability programs by the government with the objectives of scrutinizing institutionalized texts. By examining how reasoning is justified and, therefore, legitimized, these concepts on legitimation will repeatedly question the boundaries of persons vested with power and authority, including relevant discourse community to expose specific strategies employed to reach decisions.

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