

artifacts, practices, and discourses, allows cultural legal studies to examine material, spatial, and visual-tactile manifestations of the legal.<sup>121</sup> These studies can also make room for the affective in law.

### C1.S15 **A Model of Identity Constituted by People’s Affective Relations to Legality**

C1.P83 In the expanded sense of Law and Literature that I am arguing for, law is understood as a series of cultural-political processes expressed by and made sense of through culturally specific narratives, performances, topoi, and images and people’s dealings with these phenomena. Interactions with multimodal expressions of law as legality constitute the basis for imagined legal identities. These identities also depend on the sense of the individual, and the group she belongs to, of the appropriateness of the legal situation. This is what Ewick and Silbey describe as the sense of whether one stands before the law, plays with it, or resists it. I use “imagined” here in the sense of Benedict Anderson’s concept of a national identity that is constitutive of “imagined communities” that were created through the process of state formation and carried out through the association of communities with particular languages, literatures, and forms of administration.<sup>122</sup> This imaginedness also includes the theory of fictionality as a signaling of non-referential truths. An imagined sense of law can contribute to a person’s feeling particularly British and to her to feeling hostile to multilateral applications of EU policies. Accordingly, Brexiteers voted to throw off what they viewed as the yoke of EU law.

C1.P84 **A cultural studies of law as legality** employs research on collective and individual narrative identities, trope analysis, and critical multimodal media studies. It borrows from theories provided by work on *Rechtsgeföhle*, “living law,” legal consciousness, affect theory and fictionality. It asks why people react to their changing legal conditions in differing ways and how these reactions bear upon their sense of who they are. This may concern whether they see refugees as potential murderers, rapists, and terrorists or as individuals who have suffered in the places from which they fled as well as during their journeys and hence hold rights to have their basic needs met and to be integrated into the country where they have arrived. Feelings about law also encompass people’s visceral sense of Americanness or Germanness, and determine whether they have the sense that Brussels is trying to steal “their laws.” For example, before the European elections in May 2019, the Alternative for Germany Party ran on a platform stating “For the love of Germany: FREEDOM INSTEAD OF BRUSSELS.” The message was that the continued existence of the

<sup>121</sup> Sarat et al., “On the Origins and Prospects of the Humanistic Study of Law,”; Vismann, *Medien der Rechtssprechung*.

<sup>122</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).

EU and the agreement on common European laws and regulations will directly destroy Germany and harm Germans' love for their nation.<sup>123</sup> In Chapter IV, I offer a close reading of the introduction to the Bavarian Integration Law (2016), a text that demonstrates how law can be utilized to express an affective sense of legal identity—in this case, a jealously defended notion of being Bavarian, German, and European.

C1.P85 I now want to propose a model that describes the relations between individuals and groups and what I am calling “legality”—that is, expressions of law that are transmitted through narratives and images. These relations are negotiated through people’s *Rechtsgefühle* and contribute to their felt legal identities. The hypothesis is that legal identities are created and reified on an everyday, affective level. This occurs when narrative, visual, and medial expressions of law are conveyed in social and popular media, which contain greater or lesser levels of fictionality. Interactions with these medial-cultural disseminations of the law lead to people’s largely unconscious yet often passionately experienced *Rechtsgefühle*—their feelings about their legal environment. Such encounters also contribute to their sense of having a specific legal identity.

C1.P86 The model is presented visually in Figure 1.2.

C1.P87 I have introduced the concepts that help to explain individuals’ and groups’ affective relationships to their legal environments. Yet the manner in which these relations are transported by images and narratives to produce *Rechtsgefühle*, or

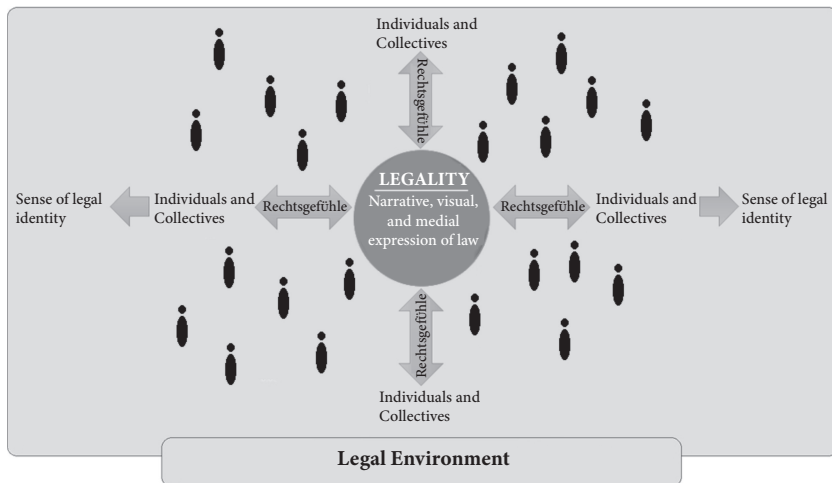


Fig. 1.2. How legal identities are created through interactions with legality.

<sup>123</sup> AfD Heidelberg (@AfD\_HD), “Freiheit statt Brüssel! Am 26. Mai #AfD wählen! #Artikel13 # Artikel13 #Uploadfilter #EUwahl #EU #Europawahl.” *Twitter*, retrieved 26 Mar. 2019, 05:27 a.m., [https://twitter.com/afd\\_hd/status/1110518545832652800](https://twitter.com/afd_hd/status/1110518545832652800).

impassioned feelings about legality, has not yet been adequately explicated. In the next chapter, I describe how this occurs in medially transported narratives and images.

C1.P88 Law has always been disseminated through public and popular discursive forms, including early modern rogue pamphlets and court proceeding reports, and criminal biographies of greater or lesser degrees of fictionality during the long eighteenth century. Since the beginning of the modern period, popular legality has been central to people's felt and imagined sense of what law is. Further, impassioned senses of the appropriateness of law are transnational phenomena that are conveyed, for instance, through **legal television**. Yet messages about what law is and does are adapted to cohere with local legal environments and their preoccupations. Television law is therefore also localized and context-specific. As will be seen, a given genre, such as a single-woman lawyer dramedy, functions almost differently depending on the cultural-legal context in which it is produced, disseminated, and reacted to.