Different roads to empathy: stage actors and judges as polar cases

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Using judges and stage actors as instructive polar types this article elucidates factors that influence the inclination to empathise. Both come in close contact with dramatic life stories on an everyday basis but approach empathy from contrasting vantage points: emotional distance versus emotional engagement. Similarities between these polar types can thus disentangle some of the factors that influence professional empathic perspective taking in more general terms. It is argued that reality or fiction in itself does not promote empathy, but the presence of a complete narrative structure which allows for personal recognition of shared attributes or experiences. In both professions the decoupling of emotions from private connotations, individual responsibility for interpretations on stage or in verdicts and defamiliarisation of private experiences can promote empathic perspective taking whereas it is prevented by one-sided perspective taking; for example, by judicial encoding (judges) or getting stuck in private experiences (stage actors). Organisational obstacles to empathy include hierarchal work structures or a ‘teflon culture’.

key words empathy • perspective taking • judges • stage actors • narrative • defamiliarisation • status

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Introduction

Humans are fundamentally social and empathy is a central capacity for understanding others (Singer, 2006). At the same time, expectations of empathy depend on the social context; for example, different occupations entail varying demands for empathy. The link between imagination and empathy, the capacity to imagine how it feels to ‘walk
in another person’s shoes’, has spurred an interest in how stories or narratives influence our inclination to empathise. Studies have shown that engaging in fictional narratives promotes the reader’s empathic abilities (Keen, 2006; Oatley, 2011; Bal and Veltkamp, 2013). Essential to engagement in a narrative is perspective taking, using one’s imagination to identify with the characters in a story. However, in a professional setting, identification, if too committed, may compromise one’s ability to make independent judgements; or, if it is too subdued, it may not reach its goal to take in another person’s situation. This article examines this predicament by using the example of two professional occupations that both work with narratives – stage actors and judges – for a conceptual analysis of the role of perspective taking in empathy in a systematic comparison between occupations. The two selected occupations both come in close contact with a range of detailed and dramatic life stories on an everyday basis, which, one can argue, ought to promote empathic abilities. On the other hand, the occupations are selected as polar types (Eisenhardt and Graebner, 2007): stage actors work with fiction and deliberate emotional engagement whereas judges work with real cases and deliberate emotional distancing. Stage actors need to engage empathically in the lives of the characters they portray (Bandelj, 2003; Orzechowicz, 2008). In the process of interpreting a character, they need to go beyond stereotypes and incorporate the nuances and complexities of human experiences and expressions which, as shown by previous studies, ought to open up for empathic understanding. Judges, on the other hand, work with real stories searching for facts that fit with juridical codes, and have to fulfil high demands for emotional reserve (Maroney and Gross, 2014; Bergman Blix and Wettergren, 2016). Does this difference foster empathic stage actors and empathy-avoidant judges, and how does working in these professions influence empathic proclivity?

The use of polar types can contribute with ‘clear pattern recognition of the central constructs, relationships, and logic of the focal phenomenon’ (Eisenhardt and Graebner, 2007: 27). By comparing the polar occupations of judges and stage actors with regard to empathy, this article disentangles some of the factors that can influence empathic perspective taking and offers theoretical reflections on implications of working with narratives. The comparison will put focus on three proposals: 1) reality or fiction in itself does not promote empathy, but a complete narrative structure serves imagination to ‘make it real’; in other words, to recognise shared attributes or experiences; 2) the decoupling of emotions from private connotations promotes empathic perspective taking whereas it is prevented by one-sided perspective taking; for example, by judicial encoding (judges) or getting stuck in private experiences (stage actors); 3) systematic and frequent meeting with individual narratives can pave the way for a general empathic stance. Self-reflections by professionals from the respective occupations are provided as empirical examples.2

Empathy as a concept

Empathy is a process of emotionally tuning into others’ emotions while imaginatively taking the perspective of the other. There is a vast literature on empathy and a multitude of definitions (for reviews see Singer, 2006; de Waal, 2008; Cuff et al, 2016), but there seems to be an agreement on the three components involved: emotional attuning, perspective taking and emotion management (Decety and Jackson, 2006). In a review of more than 40 definitions, Cuff et al, 2016: 150 reach the conclusion that empathy is an emotional response based on the interaction between the personal disposition of the empathiser and the context, resulting in the perception and understanding of another’s emotion, while
distinguishing that the emotion does not stem from oneself. Since we always filter our attuning to others through our own understanding of them and the situation, we can be more or less correct in our empathic feelings. Empathy can be evoked without reflexion, but also be cognitively managed – prompted by imagination - and is adapted to situational and cultural norms through emotion management. In work life, codes of professional conduct can regulate if, when and how empathy should be experienced by demanding advanced and strict emotion management techniques. A judge, for example, needs to hold back empathic inclinations with a victim during examinations in court in order not to break with rules of impartiality, which could risk the defendant's sense of getting a fair trial.

People’s empathic aptitude varies depending on several factors (Zaki, 2014). Empathic perspective taking demands a certain recognition, making it easier to empathise with people similar to oneself, and empathy is also an acknowledgement of the other as being ‘worthy of compassion and respect and hav[ing] intrinsic worth’ (Barnett and Mann, 2013: 230). Similarly, we are less likely to empathise with people we do not like or do not respect. On the other hand, dependency also mediates empathy; people in subordinate positions need to attune more to their superiors’ emotions than the other way around (Kraus and Keltner, 2009). Furthermore, to take another’s perspective is not an either-or phenomenon, but can vary in level of identification. In professional work, where empathy can be used as a strategic tool, it is useful to account for variations in perspective taking. As described elsewhere, ‘role taking’ signifies a partial empathic process, imagining oneself in the place of the other and partially taking her perspective, while ‘identification’ signifies an empathic process where the empathiser experiences the other’s emotions as if the perspective of the other was in fact the empathiser’s own perspective (Wettergren and Bergman Blix, 2016).

**Empathy and narratives**

Stage actors and lawyers in court both work with narratives. The plot of a play as well as that of a crime revolves around a story of intentions and actions. There is a long tradition of associating narratives with cognition, centred on the idea that we use mental models as a base for analytical thinking:

> Narrative imagining – story – is the fundamental instrument of thought. Rational capacities depend upon it. It is our chief means of looking into the future, of predicting, of planning, of explaining. It is a literary capacity indispensable to human cognition generally. (Turner, 1998: 4–5)

Narrative imagining can also be a means to engage in the social world. We use stories to understand ourselves as well as others, and previous studies have shown that engaging in fictional narratives promotes our empathic abilities (Keen, 2006; Oatley, 2011; Bal and Veltkamp, 2013). Keith Oatley has written extensively on how reading fiction in particular increases empathy and theory of mind (perspective taking). He uses three concepts to describe the components of a narrative: the ‘event structure’ (what happens in a story); the ‘discourse structure’ (instructions for interpreting the events); and the ‘suggestion structure’ (prompts for personal interpretations) (Oatley, 2011: 68–73). As described earlier, a story prompts the imagination but the event structure in itself is not enough to constitute a story; it does not give us enough clues on how to understand what is going on. To comprehend the intentions and experiences of the participants
involved we need both the discourse and suggestion structures. The distinction between these last two structures becomes clear when translating them to a stage actor’s work with a manuscript. The role of Juliet in Shakespeare’s drama ‘Romeo and Juliet’, for example, has certain features that all actors playing Juliet have to adhere to and the role has to be acted within certain frames of reference that are defined in the manuscript (discourse structure). However, during the rehearsal process, the actor cast as Juliet needs to turn the typical role of Juliet into a role performance, basing the interpretation of the role on her individual experiences and her unique understanding of Juliet’s situation (suggestion structure). In a similar way, the description of a crime in an indictment usually contains mostly the event structure, with some clues to interpretation, whereas in court, particularly during oral examinations, a more coherent discourse and suggestion structure is presented (depending on crime type and so on). Stage actors usually work with fiction; in a play, the action is already decided on, and the actor needs to understand how and why. Lawyers work with real events and the legal actors instead need to decide what actually has happened, and what the action and intentions were. Both the staging of a play and a court hearing are well-planned and rehearsed rituals.

In order to interpret a story, Oatley (2011: 120–4) also presents a fourth dimension called ‘literary emotions’; that is, the genre of the story that places the events and their significance within a particular emotional sphere. For the purposes of comparing such different narratives as those used in court and on the stage the wider concept of ‘frame’ is used (Goffman, 1974). Erving Goffman’s definition of frame highlights how the meaning of a situation (narrative) depends on the type of frame or script where we place it: ‘I assume that definitions of a situation are built up in accordance with principles of organization which govern events – at least social ones – and our subjective involvement in them’ (1974: 10–11). In a theatre performance, the audience and the stage actors have a shared understanding of the events on stage within an ‘as-if frame’. For example, if an actor stumbles and falls on stage and accidentally breaks her arm, it will take some persuasion for the audience to change frames to understand that the broken arm should not be interpreted ‘as if’.

If we use the concept of frame to zoom in on emotions, Sylvan Tomkins’ (2008 understanding of emotions is useful, in terms of scenes involving both an emotion and an object for the emotion. Such scenes can be simple and separate in everyday life, but they can also be coassembled generating a ‘script’, ‘a set of ordering rules for the interpretation, evaluation, prediction, production, or control of scenes’ (Tomkins, 2008: 669). Thus, when we experience emotions, previous experiences inform our current experience, usually following habitual patterns. Earlier experiences are superimposed on later ones. Within an artistic tradition, the changing or disordering of scripts/frames is used to disrupt taken-for-granted meanings, to create an effect of Verfremdung (Brecht, 1995) or ‘defamiliarisation’ (Shklovsky, 2015). The Russian formalist critic Viktor Shklovsky argues that our lives to a large extent are automated, and that art ‘exists in order to restore the sensation of life, in order to make us feel things, in order to make a stone stony’ (Shklovsky, 2015: 162). Defamiliarisation can incite new interpretations, letting us experience our emotional memories in a new context (Oatley, 2011: 122).

With these tools in mind, we will now look more closely at how professional stage actors’ embodiments of characters in fictional narratives and judges’ interpretations of criminal narratives in court can affect their inclinations to empathise. First, rehearsals of professional stage actors are visited; second, reflections on empathy by judges are
analysed; and third, a comparison between the two will lead to a concluding discussion that considers the benefits of contrasting these two seemingly opposed professions to gain further insights into empathy in professional life.

The role of empathy in stage acting

In the Western theatre tradition, the dominant method applied by professional stage actors to their work with roles originates from the writings of the Russian theatre director Konstantin Stanislavski (1961; 1978). For the present purpose, the parts related to empathy will be focused on, particularly perspective taking and emotion memory. As described by Stanislavski (1978: 70) and corroborated by later research, the empathic attuning to the character is formed and primarily experienced during rehearsals (Konijn 2000; Trenos 2014). The focus here, therefore, is on the rehearsal phase of stage acting work.\(^5\)

As described above, the primary ‘frame’ in stage acting is ‘as if’. The actor shall act ‘as if’ a certain situation arises, not try to believe that it actually does arise. Stanislavski uses the example of a scene where a madman is trying to break into a room on the stage. By using her imagination, the actor can identify with and react to that quandary. The imagination is released on the basis of ‘as if’ but would be inhibited by the concrete reality. A suggestion to imagine a real lunatic would make the situation forced; there is no real madman behind the door. The use of ‘as if’ gives the actor confidence; she can start working with her emotions: ‘Consequently, the secret of the effect of [as] if lies first of all in the fact that it does not use fear or force, or make the artist do anything. On the contrary, it reassures him through its honesty, and encourages him to have confidence in a supposed situation’ (Stanislavski, 1961: 44).

As we can see, ‘as if’ functions as a hands-on guide to the perspective-taking aspect of empathy; to understand others’ emotions ‘with the recognition that the source of the emotion is not one’s own’ (Cuff et al, 2016: 150).

The concept ‘given imaginary circumstances’ is closely related to ‘as if’. In order to imagine a situation, the actor has to make the situation vivid. Both the factual circumstances – Where does the scene take place? Who is the co-actor? What is the goal of the action? – and the meaning of these circumstances for the character have to be taken into account. Together they create a purposeful context for the imagination that can give the scene life and content: ‘if gives the push to dormant imagination, whereas the given circumstances build the basis for if itself’ (Stanislavski 1961: 48 ). Based on the manuscript and her imagination, the actor builds a web of prerequisites for her presence on the stage. Thereafter she uses ‘as if’ to bring these prerequisites to life. As described above, empathy builds on recognition; it is difficult to empathise with stereotypes, and the concept of ‘given imaginary circumstances’ accentuates the need for the stage actor to use her imagination to create the multitude of details necessary to attune emotionally with her character, to create a discourse structure.

Collecting emotions

In order to engage emotionally with the character (suggestion structure), Stanislavski puts great emphasis on emotion memory (see Bandelj, 2003). Emotions and thoughts from earlier times are preserved even though the events that provoked them no longer carry the same meaning. By using her imagination, the actor can lure the emotions
without using the actual event as a trigger. The emotion can, with help from the imagination be remodelled and adapted to the character.

In line with this contention, stage actors testified that they constantly observed themselves acting and feeling in their private lives, collecting ‘emotion memories’ as it were. In situations where most people would not be consciously preoccupied with how they express themselves or react, actors continuously register both experiences and expressions:

‘There is a little man somewhere who is looking. And it does not make me stop being mad or whatever feeling I have. The emotion has its time and then I calm down and remember: yes, that’s what I said, that’s why I yelled, and that’s how I moved. I walked back and forth; I did not stand still … and all those things that can be of use sometimes.’ (Leif, 47 years’ experience as an actor)

This use of continuous and systematic ‘double agency’, that of observing oneself while acting (Bergman Blix, 2015), to some extent also promotes a self-centeredness; the goal of collecting and using emotions for own role-presentations creates a divided focus that can hamper attuning to others. On the other hand, the continuous engagement in multiple roles demands and develops empathic imagination. With the help of imagination and empathy, actors can portray other people’s stories and experiences. One actor described how he used a private experience of killing a hen to emotionally attune to the hesitance and pressure to be macho that his character felt before he committed murder, in effect defamiliarising a private experience to empathically engage in a character (Shklovsky, 2015).

Empathy in collective work

The cornerstone of all drama is interaction and relations, and the building of a character needs to be made in collaboration with the other actors in a play. One aspect of this collaboration links back to the discussion on how empathy demands recognition and nuances. In order to embody relations on stage, the actors need to create joint imaginary circumstances. In a play about ragged people, the early rehearsal phase was full of discussions about society at large and about the actors’ own experiences of inadequacy:

‘If you haven’t done that work, then you just float around in some kind of nothing. … We don’t even know each other that well, we have to create a world, a fictive world, containing both private memories, and discussions about our society, and the world around it.’ (Alice, 12 years’ experience as an actor)

The manuscript of a play offers some clues to relations, but to be able to stage a full narrative actors need to fill in the details (the discourse structure) and to make them engaging (implement the suggestion structure). In contrast to reading a narrative, which we usually do alone, staging a play makes the interpretation of the narrative a collective process. In addition to the empathic aspects of interpreting the narrative, the collective nature of the theatre rehearsals requires empathic sensitivity within the
group. Stage actors need to attune continuously to the director’s suggestions as well as co-actors’ verbal, physical and emotional prompts in order to create a scene that works for all the roles. “In this kind of collective work it is perilous to stick to a certain interpretation and then have to confront others’ fixed interpretations” (Henrik, 65 years’ experience as an actor). The actors need to enter the rehearsal with an open mind, but also to be continuously sensitive to their own impulses and impulses from the other actors.

The collective prerequisite of rehearsing promotes empathic proclivity in several ways, but does not remove the fact that stage acting is competitive and that status builds on hierarchy. Stage actors are at the top of the status hierarchy at a theatre, and in the rehearsal phase in particular the supporting staff create an emotional buffer for the actors to work within, with few examples of reciprocity (Orzechowicz, 2008). To put it bluntly, stage actors need to empathise with the characters in the play, but not with the prompter sitting next to them, while the prompter needs to attune to the actors to retain her job. The way rehearsals are organised in combination with stage actors’ high status do not promote empathic proclivity for supporting personnel (Bergman Blix, 2014).

Self-empathy as a base for identification with fictional characters

As noted earlier, empathy is not a specific emotion in itself but a channel to other people’s emotions. In the stage actor’s work with inhabiting a role, she needs to find an empathic understanding with the role, in effect being empathic with herself in a fictional situation. The continuous work with identifying with multiple characters opens up for an understanding of the range of emotions a person can embrace, in effect making the distance or differences between people less apparent:

“We have so many weird feelings that we don’t even want to confess to ourselves. But at least I try to work with that as a human being. To allow for them to exist, and not be stupid and think that I could not commit a hideous deed or I could not … to not delimit oneself.” (Lisa, 20 years’ experience as an actor)

Empathy commonly has positive connotations, but as we can see also includes the ability to share morally objectionable or revolting emotions. To experience and, above all, to express emotions in their everyday work may also lead to less fearfulness of other people’s emotional expressions in actors’ private lives, as well as an ability to notice and respond to them. One actor described that he often talked to homeless people whom others avoided: “I don’t know if it has to do with acting, but I’m used to work[ing] with feelings. To show my feelings and respond to feelings; it is not so for everyone out there” (Leif, 47 years’ experience as an actor). This comment about not being afraid of emotions is common and also observable in rehearsal practice. At times a stage actor might need to release emotions, such as embarrassment following a bad presentation, or those that ensue when fine-tuning a character presentation (sadness and crying, for example) (Bergman Blix, 2014). The deliberate work of presenting emotions on stage disassociates emotions from the common ramifications of fear or shame that are associated with experiencing and expressing strong emotions in particular, thereby generating a form of emotional maturity. When the expressing
of emotions does not generate anxiety and uncertainty it becomes easier to attune to others in distress, promoting empathic perspective taking. To sum up, the example of stage actors’ work during rehearsals to a large extent corresponds with, and contributes practical details to, previous theoretical and empirical arguments for understanding empathic perspective taking as deliberate professional work. The frame of fiction in ‘as if’, and ‘given imaginary circumstances’ opens up for imaginary perspective taking by incorporating event, discourse and suggestion structures into the narrative. Actors’ continuous work with emotions, using their own emotions as tools, clears the way for emotions to be allowed and not fussed over in everyday life. This ‘de-dramatisation’ of emotions also makes actors less afraid of other people’s emotions, and since their work often involves understanding tragedy and misery in individuals and in society, they are used to imagining what it would be like to be less fortunate, for example being homeless, and thus are less inclined to retain stereotypical depictions of people who are different from themselves. The collective nature of rehearsals also demands continuous tuning in with the director and co-actors, building their interpretations on constant dialogue. However, their work can also make them self-centred, always having in mind how they can use emotional experiences in future work, collecting interesting expressions or gestures that they see and registering how they feel themselves.

**Ambivalence of empathy in judging**

The dominant judicial script still requires dispassion as a general frame for understanding emotions in professional court work; to remain objective emotions must be ‘put aside’ (Maroney, 2011). However, this taken-for-granted assumption has been questioned on several grounds (Bandes, 1999), and empirical studies have shown that judges need to attune to the emotions of lay people in court to achieve smooth-running procedures (Roach Anleu and Mack, 2005), which also requires collaborating with the other professional court actors (Bergman Blix and Wettergren, 2016). Since this article is about the link between empathy and narratives, the focus will be on judges’ attuning with the actual cases, the narratives of crime.

**Reality frame: empathy as a cause for affliction**

In contrast to the imaginary frame of the theatre, the narratives of the cases in court are indeed real, and for judges attuning to the lay people in court the ‘reality frame’ can result in painful experiences. Judges in training, and court clerks in particular, describe a lack of preparedness for the tragedies told in court and often articulate how characters and narratives from the procedures open up for empathy and sometimes also an urge to engage in some way. Encounters with addiction is a common theme in these narratives where the empathic perspective taking usually has some point of departure in a general resemblance, such as age. Meeting people who live with addiction who are the same age as the judge can open up for empathic perspective taking: “I can’t stop thinking about these people, certain faces and certain persons kind of stick, and I wonder what will happen to them. I feel that I would almost want to, I want to contact them, and help them, but that is not really my task” (Jens, court clerk, age 25+).
As can be seen, the perspective taking here progresses into sympathy, feeling sorry for the person in need (Clark, 1987). Encountering narratives in court can also open up for empathic imagination similar to defamiliarisation (Shklovsky, 2015), by seeing one’s own experiences from a new angle. A real situation from the judge’s private life can make him reflect on and see a professional situation/narrative in a new light. The ‘given circumstances’ of the judge’s private everyday life can serve as detailed and vivid ‘imaginary circumstances’ (Stanislavski, 1961: 48) for gaining a multifaceted understanding of a current case in court. This means that although both the judge’s private circumstance and the related case in court are indeed real (not fictional), the judge needs to engage in imaginative perspective taking, trying out an ‘as-if’ situation that clearly goes beyond a strategic role taking by engaging the judge as a private person as well.

> ‘When I’m with my children and it is morning stress. They don’t do what I tell them I lift them up and they freak out. Then I sometimes think, if I’ve had a case with a parent who has done something really bad in a situation like that, it’s awful, but you can understand how the situation became like that, they couldn’t handle it.’ (Mikael, judge, age 30+)

Previous research has linked the independence associated with high social status to disengagement in others thus attenuating empathy (Kraus and Keltner, 2009), but as shown here, the example of judges problematises this link and calls for further study of the relation between status and empathy. When associating empathy with adjudication, earlier research has emphasised the importance of emotional reflection to avoid the risk of empathic bias, for example by attuning solely to the victim of a brutal crime (Brennan Jr, 1988) or empathising with people similar to oneself (Bandes, 2009; Abrams, 2010). As we can see, empathy can be seen as fundamental to adjudication, but demands careful reflexivity (Holmes, 2010) to serve judicial independence and impartiality.

**Constraining empathic perspective taking: the judicial frame**

Although judges speak openly about the need for empathy and emotion management in chairing court procedures (Roach Anleu and Mack, 2005), the ideal of dispassion still dominates the decision-making process guided by an ‘emotive-cognitive judicial frame’ (Bergman Blix and Wettergren, 2018), which gives emotional weight to a professional interest in cases while sustaining the dichotomy between emotion and reason. The judicial frame restricts the aspects that legal professionals need to take into account and thereby distances them from potentially painful emotions that closer identification with the narratives of victims or perpetrators would entail, in the same way as the ‘event structure’ in itself does not make up a story (Oatley, 2011: 69). “To apply these real events to a rule, that is what law is. We take reality, and we look if we can find a rule that fits to reality” (Asger, associate judge, age 30+; see also Tilly, 2008).

The focus on prerequisites delineates the focus in much the same way as a surgeon’s focus on the operating procedure enables her to cut human flesh (Smith and Kleinman, 1989). If judges were to engage in full-blown empathic perspective taking every time they evaluated pictures of abuse or autopsies they would not be able to pursue their work; the ability to cut off empathy can be just as important as the ability to empathise.
When reading prosecutions and evaluating evidence, such as photographs the limited narrative and the focus on judicial evaluation foster limited role taking, but when the discourse structure is added the narrative can open up for empathic imagination. In court hearings, the presence of real people with emotionally expressive bodies can produce a shift from the ‘judicial frame’ to the ‘reality frame’, moving from observation to empathic experience. In one case, a man had severely assaulted a woman and when the judge prepared the case for trial he looked at all the acts on injuries to calculate culpability (event and discourse structures) without engaging in any empathic perspective taking. However, when the photos of the woman were projected on a large screen in the courtroom and the judge saw and heard her children cry out in pain (suggestion structure) he was overwhelmed by their impact and became nauseated himself: “Before you had the full setting with the family and so on, it was only one of many cases. I have seen far worse pictures, but when it becomes real ...” (Mikael, judge, 35+).

In experimental studies comparing the reading of fiction with reading factual accounts the structural content of the narratives differs between the two forms: factual accounts contain event structure and sometimes motives (discourse structure), while the comparative fictional stories contain a full narrative with all structure levels (Djikic et al, 2013). As can be seen here, in court factual accounts do not necessarily lack in suggestion structure. In an article about how to use empathy in adjudication, Henderson (1987) proposes that judges use ethnographic methods of analysis to generate a ‘thick description’ (Geertz, 2008) of a case, to reach a decision reflecting an ‘empathic narrative’ understanding (Henderson, 1987). During oral examinations and, as described earlier, in the presence of both the people involved and their family, thick descriptions are supplied. From a judge’s perspective, these descriptions sometimes add a suggestion structure, which, usually unexpectedly and occasionally painfully, can give rise to empathic attuning with a situation or a person. Such full-blown empathic experiences can sometimes stay with judges for many years, for example by giving rise to snapshots flashing before their eyes when they try to fall asleep.

**Linking the frames: from principles to practice**

As related earlier, the judicial frame sustains the dichotomy between emotion and reason and thus produces an ambivalence towards empathic perspective taking, particularly in relation to the decision-making process. Although judges can emphasise the importance of empathy for chairing a trial, emotions including empathy should not play a role in decision making; judges cannot refrain from taking decisions just because they are able to empathise with the possible hurt inflicted by their decisions. On the other hand, if judges avoid engaging in the perspectives of the lay people involved they risk becoming perfunctory in their decision making or misusing their power.

Martha Nussbaum (1996) has developed the idea of narration in adjudication by analogising judges’ emotional engagement with that of reading fiction: we feel, but we know it is not our own life that is at stake, a line of reasoning supported by the concept of ‘as if’ in the writings of Stanislavski (1961). However, Nussbaum disregards the fact that although their own lives are not at stake, judges have power over, and thus responsibility for, the lives of others. This becomes particularly apparent when judges in training start to adjudicate; the insight that being a judge means having the power
to influence people’s lives rather seems to raise empathic perspective taking. What we see here is how the reality frame interferes with the judicial frame.

‘I become influenced on a personal level, and it is hard to … “Okay, I don’t want this person to lose his job, but I have to sentence him anyway.” That is what you consider every day in principle. … I mean, it is real people sitting there, telling about their lives. It is hard …’ (Estelle, associate judge, age 25+)

The tension between the decisions that judges need to make and what they feel about them can work as a safeguard for empathic sensitivity. Associate judges in particular describe more ambivalence and also a more reflective stance towards situations when the law does not accord with their empathic (moral) compass. This shows how empathic perspective taking can be an important instrument in decision making, even when it does not have a direct influence on court procedure, a judge’s modus operandi in court or, in Estelle’s case the outcome of the decision. It is a yardstick by which one’s decisions can be evaluated. Judges need to maintain an attentiveness to the fact that reality cannot easily be put into categories and their feelings of uneasiness can be valuable.

Acquiring emotional skill

The continuous meeting with and attuning to lay people in court helps judges to form a more general outlook on criminal activity and on people who commit crime. The need to engage empathically in individual cases turns people who have committed crime into multifaceted individuals, thus preventing stereotypical explanations and understandings of criminal activity. Downplaying a stereotypical image of defendants can also promote emotional skill; restraining the judge’s own prejudice can foster the ability to attune empathically to the defendant. This next quote describes the first time a judge encountered a murderer:

‘It wasn’t the devil who showed up in court, it was a person who had ended up in a very strange situation, and who didn’t have the capacity to handle it. If you have that in the back of your mind, it becomes easier to sort out those kinds of ideas, and instead listen to what they have to say.’ (Fredrik, associate judge, age 35+)

Evidently, purely strategic and professional perspective taking still demands an ability to acknowledge the other person’s ‘intrinsic worth’ (Barnett and Mann, 2013: 230), and not let stereotypical understandings of a certain type of person or the horridness of the crime itself counteract the ability to tune in with both parties’ perspectives.

So far, we have focused on judges in the early stages of their career. Experienced judges do not describe difficulties with linking the judicial and the reality frame but rather emphasise the importance of not losing the reality frame altogether, staying ‘interested in people’ and valuing a sense of ‘curiosity’. In contrast to associate judge Asger earlier who stressed the judicial focus on ‘the actual deed’, Ruth, a senior judge, stresses in the following quotation the importance of putting events into context. Judge Ruth does not worry about the possibility that the context could bias her decision making; she links the importance of an empathic stance to the defendant’s sense of fairness with the procedure:
‘Why did it end up the way it did? Not that I should feel sorry for him, like “Oh, how tragic his life has been, we cannot put him in prison,” but rather put things in their proper context. ... I have received feedback from defence lawyers that I have worked a lot with who say, “It has been good to litigate with you, because you listen, and my client sees that you actually listen.”’

(Ruth, judge, age 65+)

However, encountering the same types of stories on a daily basis can also promote emotional distancing or even contempt, in effect counteracting an inclination to empathise: “Well, it becomes kind of technical. I don’t think it gives me any reason for investing deep feelings, I really don’t” (Simon, judge, age 60+). Experienced judges sometimes argue that they don’t have any power – they just apply the law – an argument that effectively shuns their responsibility of actually influencing people’s lives (Bergman Blix and Wettergren, 2018) and perhaps also a long-term consequence of judicial decision making.

All these examples of emotion management skills relate to handling other people’s emotions. However, judges’ encounters with tragedy and gruesome acts also bring forward the ability and necessity to manage their own emotions. Here the script of dispassion is still dominant; professionalism is associated with the ability to always be able to brush off any case-related emotion, what we elsewhere have described as a ‘teflon culture’ (Bergman Blix and Wettergren, 2018). A high workload and call for efficiency in many ways encourage this emotion management strategy.

To sum up, empathy can be used in several ways by judges; here we have focused on perspective taking in relation to the narratives of the cases presented in court. By dividing the understanding of narratives into different frames, the reality frame versus the judicial frame, the latter allows for controlled and restricted role taking, while the former sometimes catches judges unexpectedly in encounters with the narratives and characters in court. We have also seen how these two frames sometimes overlap, calling for deliberate reflection by the professional actors. Using empathy as a tool when presiding in court has a direct influence on the performance, whereas when used in decision making it is a yardstick by which one’s decisions can be evaluated. We have also seen how the continuous handling of strong emotions in court endows a judge with a particular emotional skill in managing emotions and attuning to others.

Inclinations to empathise: comparing stage actors with judges

In this section, we focus on how professional work with narratives influences the inclination to empathise, by contrasting the polar cases of stage actors and judges. First, features of the respective occupations that promote the inclination to empathise are focused on; this is followed by examination of the features that prevent the inclination to empathise; finally, the similarities that link the two professions to empathic perspective taking are discussed.

Promoting empathy

Starting with frames (Goffman, 1974), the imaginary ‘as-if frame’ in stage acting and the ‘reality frame’ of human misery in adjudicating both seem to be important for activating empathetic perspective taking. As seen in the examples, it is not the
realism or the fiction in itself that promotes empathy, but the coinciding of all the three narrative components of the event, discourse and suggestion structures. These indicate the need for instructions, which confer meaning both generally and on a personal level to engage in perspective taking that goes beyond instrumental role taking (Oatley, 2011; Wettergren and Bergman Blix, 2016). In line with previous research, defamiliarisation does indeed seem to incite new interpretations (Miall and Kuiken, 1994), as when a stage actor used the example of killing a hen to impersonate a murderer on stage, or when a judge saw the similarities between his own morning stress and an ongoing case of domestic abuse. For judges, however, defamiliarisation often implies moving away from the dispassionate frame of juridical evaluation to a real-life frame of a full narrative. These defamiliarising instances can come as sudden insights, remembered years after and valued as reminders not to become cynical (Wettergren and Bergman Blix, 2016). Another contrast between stage acting and judging that links to empathy is the collective nature of rehearsing versus the individual responsibility of adjudicating. Stage actors continuously need to adapt their interpretations with those of their co-actors while judges are constitutionally obligated to decide autonomously, yet both aspects seem to promote empathic perspective taking. They share, however, individual responsibility for their interpretations – the stage actors when presenting their characters for an audience and the judges in their verdicts, and also in leading smooth and procedurally correct trials. In this way, both professions are dependent on some level of collaboration with the other people involved, and therefore need to engage in at least a fleeting attuning with them.

**Preventing empathy**

Moving to comparing features in both professions that prevents the inclination to empathise it is once again the opposing extremes that seem to work in the same direction. Stage actors’ use of double agency to collect emotional experiences and expressions from their private lives can foster a narcissistic self-centeredness, which, coupled with the ability to move swiftly in and out of emotions, can work against attuning to others, rather like being caught in their own suggestion structures. Judges instead work with narratives that focus on the event structure with a strictly regulated discourse structure, preventing imaginative engagement. The recurrent meeting with similar narratives, for example addiction and misery, can also lead to a habituated distance, making empathic perspective taking more difficult with growing experience. These obstacles to empathy, internal to the characteristics of the respective professions, are usually augmented by organisational features, which supports the notion that the habituation of individual empathic proclivities is contingent on institutional expectations and resources (Ruiz-Junco, 2017). In the theatre, both the pervading competitiveness that boosts self-centeredness and the organisation of work that creates hierarchal boundaries avert stage actors’ inclinations to empathise (Bergman Blix, 2014). In court, the ideal of dispassion (Maroney, 2011) and the teflon culture prohibiting emotional venting (Bergman Blix and Wettergren, 2018), serve the same purpose, whether intended or not. Notably, focusing ‘too much’ on the suggestion structure to some extent has the same effect as not engaging in it at all; that is, losing sight of the other, the empathisee, in her full complexity.
Comparing the allegedly polar occupations of stage actors and judges with regard to empathy uncovers some conspicuous similarities and exposes some of the factors that can influence empathic perspective taking in more general terms. Also, it suggests and provides a theoretical framework for empirical testing in other occupational settings. In general, professionalisation processes tend to promote empathic distance (see, for example, Lively, 2001), but face-to-face occupations at large seem to include expectations on both engagement and distance.

First, a striking observation when comparing the inclination to empathise for stage actors and judges is that both professions engage in the same empathic process; whether engaging in fiction or reality, imagination (perhaps intuitively contradictory) serves the purpose of ‘making it real’; that is, including sufficient narrative layers to move beyond stereotypical or technical understandings. Imagination needs anchoring in some form of personal recognition. The anchor can be distant to the situation at hand, as in the example of the slaughtered hen, or built on structural or universal similarities, such as being a student or needing a home. The move from general to personal is thus not necessarily linked to depth or detail, but the recognition of shared attributes or experiences.

Second, meeting strong emotions on an everyday basis at work tends to decouple emotions from their common reference with the private life-sphere; instead of turning her focus towards her own uneasiness, the judge can keep the focus on the person in distress and on how to advance the judicial process. Previous studies have shown that engaging in fictional narratives promotes empathic abilities (Keen, 2006; Oatley, 2011; Bal and Veltkamp, 2013), but they do not necessarily change behaviour. In contrast, the empathic engagement intrinsic to practice implies that judges and stage actors employ empathy deliberately as a work tool. On the other hand, organisational structures and norms, like the competitiveness inherent in the stage acting profession and the teflon culture of the courts, can hamper the inclination to empathise, and instead promote narcissistic or indifferent attitudes.

Finally, both stage actors and judges convey how, by their continuous meeting with narratives and engaging empathically in individual cases, allows for a more general understanding for people living under different conditions from themselves. Both professions are faced with and need to understand multiple perspectives: stage actors from working with different roles and judges from hearing and adjudicating on conflicting narratives. Even though the roles/cases usually involve people in hardship diverging far from their own private lives, the level of detail in individual instances prevents aggregated stereotypical understandings, in effect allowing for generalising empathy to group level. This fits with earlier descriptions of general empathy: ‘Indeed, it may be difficult to empathize with a mass without first empathizing with individual victims; then, realizing that others are in the same boat, one can generalize one’s empathy to the group’ (Hoffman, 2008: 446). This quotation, shifting from individual to group cases, identifies empathy as an interactional phenomenon. However, the general empathy recounted by stage actors and judges relates to a broader outlook, an overarching humane inclination. Such general empathy does not necessarily lead to behavioural outcomes outside their professional spheres, but systematic and frequent meetings with specific individual narratives pave the way for less stereotypical understandings of people and their predicaments at large.
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Notes

1 In a recent book, Paul Bloom (2017) argues that empathy is a dangerous quality that we should not use. There are many problems with his arguments; for example, the implication that empathy has certain behavioral outcomes, but on an even more basic note, it can be argued that being against empathy is equivalent to being ‘against thinking’, since empathising and thinking are intertwined human capacities and it would seem better to investigate how it works and how it is/can be disciplined and developed rather than to argue that people should not be empathic.

2 Data were collected for two larger research projects focusing on professional emotion and emotion management and included a range of ethnographic methods (Bergman Blix 2010; Bergman Blix and Wettergren, 2018). This article draws on parts of the interview data focusing on empathy analysed separately for the two professions. In a second step, comparisons were made. The concept of empathy was not asked about specifically but was brought up by almost all respondents in both professions.

3 Furthermore, an event in itself can offer more or fewer imaginative connotations; ‘She went to the funeral’ offers more suggestion structure than ‘She went to the grocery store’.

4 The construction, evaluation and classification of (alternative) narratives through a ‘story model’ has been found to be at the heart of juror decision making (Pennington and Hastie, 1991).

5 It is interesting to note that the professional dimension of performance seems to reduce empathic proclivity for both stage actors and judges. A study by Konijn (1996) found that the emotions of engagement and concentration rather than empathy dominated during theatre performances, while a study of judges showed that the focus on presenting impartiality in court hearings made judges display a stone face to align with feeling rules and not risk appearing biased (Bergman Blix and Wettergren, 2018).

6 The study of stage acting used in this article included interviews with 25 professional stage actors varying in experience, age and gender during the rehearsal phase of two plays at a large theatre in Sweden (Bergman Blix, 2010). Names have been changed to preserve anonymity.

7 The idea of self-empathy may seem obscure but is used to emphasise the complete identification that can be involved when performing a character. For example, in contrast to a reader, a stage actor needs to embody and present (the German word Gestalten depicts the process better) her empathic identification with a character, in being able to accept herself as someone who feels and acts, for example cruelly; in effect, self-empathising.

8 The study of judges used in this article included interviews with 43 professional judges varying in experience, age and gender at four lower courts in Sweden where becoming a judge is a career profession that includes several years of training as a court clerk and then as an associate judge (Bergman Blix and Wettergren, 2018). Names have been changed to preserve anonymity.

9 This view can be criticized on several grounds, but the focus here is not on how judges actually decide, but on how their work influences empathic proclivity.
Conflict of interest
The author declares that there is no conflict of interest.

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