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**The balancing act: The emotion work produced by  
attorneys in their everyday work life**

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## ***Abstract***

Based on observations and in-depth interviews, this article explores the emotion work produced by attorneys in their everyday work life, particularly in connection to client interactions. The attorney profession is demanding and multifaceted, and is often the subject of moral questioning, both from the public and from other legal professionals. The findings show that it is a balancing act to be genuinely involved in the client's case while simultaneously maintaining a professional exterior. Further, there are different feeling and display rules in different regions. Meetings with clients at the office demand different types of emotion work than the trial situation. Therefore, different strategies are invoked depending on context. Attorneys are motivated through rewards of emotional energy, which is attained from professional credibility and/or emotional commonality with their clients.

**Keywords:** emotion work; frontstage/backstage; work life; law; attorneys

## ***Introduction***

Western civilization is guided by the main principle of the Enlightenment: *Reason*. In order to maintain reason, it is believed, one must conquer the emotions that supposedly blur analytic thinking and hampers rational action. One sphere in society is especially dependent on the concept of reason, i.e. the legal system. Impartiality, objectivity and the exclusion of emotionality and personal traits are vital for the public legitimation of the rule of law (Barbalet, 2001; Bladini, 2013). In Western legal systems regulation is seen as the outcome of cognitive processes. Emotion and cognition are often regarded as conflicting, where law represents order and rationality, while emotion represents disorder and irrationality (Lange, 2002; Dahlberg, 2009). Thus, there is an imaginary division and a fundamental opposition between law and emotion, creating a necessity to distance emotions from reason and rationality, making emotion “*exterior to law*” (Dahlberg, 2009, p. 176, emphasis added). Consequently, strict rules and rituals characterize legal proceedings to keep up the veil of impartiality and reason. In fact, Maroney argues that “judicial image maintenance requires *ritual homage to dispassion*” (Maroney, 2011, p. 642, emphasis added). However, this notion is challenged by research of emotions that questions the alleged lack of emotions in various bureaucratic organizations (cf. Fineman, 2000; Sieben and Wettergren, 2010), including agencies responsible for maintaining the rule of law (cf. Dahlberg, 2010; Maroney, 2011). Actually, given that trials are responses to conflicts that are often very emotional, they are intensely emotionally charged, for plaintiffs, defendants, jurors, witnesses and professional actors, making a substantial part of the legal process devoted to understanding and regulating human emotion (Bandes, 1999; Maroney, 2011).

### **Purpose and research questions**

There is little empirically based knowledge on attorneys<sup>1</sup> relating to emotion work, especially in a Swedish context<sup>2</sup>. Most of the research on emotions in court has been carried out in an

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<sup>1</sup>I will use the term “attorney” when referring to the profession in general, and “defense attorney” or “legal counsel” when specifying whether working for the defendant or the plaintiff respectively.

<sup>2</sup> However, Lisa Flower at the university of Lund is currently researching how attorneys maneuver in the emotional regime of the court, in particular the contradictory demands of obeying the court rituals while simultaneously being an ally with clients and their emotional stories.

Anglo-Saxon context. Swedish law is interesting an interesting case since it adheres to the civil law system, but resembles the common law system, as the trial is adversarial (Eser, 1996). In the Anglo-Saxon courtroom there is more room for strategic use of emotional displays, while the Swedish courtroom is marked by subtle emotional displays (Bergman Blix & Wettergren, 2015). Further, most studies in the field of emotions in the judiciary depart from the notion of objectivity, and emotion's impact on impartial judgments. Attorneys, conversely, are bound by a vow of subjectivity, to the story of their client. Their foremost function in society is to independently from the state serve the interest of justice, while upholding fidelity and loyalty towards clients, assuring their individual rights and liberties (Swedish Bar Association, 2008, p. 5).

Attorneys form an important professional group in society, central to maintaining the rule of law, legal security and legal rights. They must detach themselves from influence that may arise from personal interest or external pressure, i.e. compromising professional standards in order to please clients, the court or third parties. Apart from serving legal purposes, the role of the attorney includes moral obligations toward the public, serving "a fundamental principle of the entire democratic world" (Swedish Bar Association, p. 5). Simultaneously they are frequently the subject of public dispute and moral questioning. Attorneys are also, compared to other legal professionals, to a greater extent dependent on the ability to establish a rapport with non-professional actors, particularly clients. Clients often experience their first contact with the legal system, and a highly personal and emotional trauma. Taken together this testifies to a profession that requires, in addition to a comprehensive professional knowledge and great responsibility towards democratic society, an ability to manage emotions. This goes both for their *own* emotions during *private* interactions with clients outside of court and *public* interactions with various actors in the courtroom, and, the emotions of *others*, i.e. clients and professional actors involved in legal processes (Westaby, 2010).

The overall purpose of this article is thus to explore how emotions are managed in the everyday work life of attorneys. In particular I will focus on emotional processes in interactions with clients, while considering the prevailing emotional regime of the judiciary. The overarching research questions were: (a) What are the tacit rules regarding emotions and emotional display in the judiciary, and how do these rules apply to the attorney profession? (b) What emotions arise in what type of interactions and how are they managed by the attorney?

Below I will first present the theoretical framework, followed by relevant previous research, a methods discussion, thereafter results and analysis and lastly concluding remarks and suggestions for further research.

## ***Theoretical framework and concepts***

### **Sociology of emotions**

I adopt an interactionist approach, placing emphasis on social factors when determining how experiences and displays of emotion are at work in the constitution of the everyday life of attorneys, as well as how emotions are interplaying with institutional and structural conditions. Emotional factors are involved in shaping the cultural script, and the cultural script determines which emotions are appropriate.

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Gordon's term 'emotion cultures' (1989) show how culturally bound beliefs about emotions involve rules regarding what one should and should not feel and display in situations and places, and how our emotional vocabularies (how we talk about emotions) are constructed according to these beliefs. To understand how we adapt to these emotion cultures, I turn to Goffman's (1959) dramaturgical theory, where it is emphasized that people make dramatic presentations and participate in *strategic* actions directed by cultural scripts. The term 'impression management' suggests how we manipulate others' impression of ourselves when social structures and cultural scripts generate a discontinuity between what we feel and what must be expressed in front of others (Ibid.). Hochschild (1983) raised emotion crucial in the presentation of self when introducing the term 'emotion work', indicating the intentional work that is involved when managing emotions when adjusting to certain 'feeling rules' and 'display rules'. Assuming that every context or situation requires diverse emotional responses and management, feeling rules constitute the emotional script that tells us what, where, when, how long and how intensely to feel in different situations (Ibid.). In other words, what we "ought to feel in a particular situation" (Lange, 2002, p. 211, emphasis added). Emotions are thus not mere *responses* to events, but also *signal* appropriate behavior and emotional display (Barbalet, 2001; Collins, 2004, emphasis added). Emotion work involves paying attention not only to one's own emotions, but also to other's.

Sometimes emotional expression is coherent with one's genuine emotion, while also being in tune with the current situation (Ashforth & Humphrey, 1993), when there is a discrepancy between what we feel and the set feeling rules we have to manage our emotions, whereby certain strategies can be invoked. This can be achieved either through 'deep acting', where we convince ourselves of our emotions, or through 'surface acting', i.e. convincing others but not the self (Hochschild, 1983). Actors are assumed to possess "multiple selves" (Goffman, 1967), meaning that performance varies depending on the audience. A 'frontstage' performance indicates that all is laid out for everyone to see. The actor is aware of being watched and of the expectations of the audience and acts accordingly. 'Backstage' the actor is present without the audience, and can therefore step out of character (Ibid.). Informal actions may appear here (like talking about an annoying client with colleagues). This informs us how actors are able to draw on different sets of feeling rules in order to match feeling with the situation, and that emotion work is context-dependent.

### **Emotion and rationality as interdependent phenomena**

When expected emotions and actual (felt) emotion are conflicting a cognitive or emotional dissonance may arise, which will later be discussed in relation to a separation of a professional and a personal self. Barbalet (2001) separates 'backgrounded' from 'foregrounded' emotions, meaning that we divide experiences of emotional as opposed to rational states of mind. In a rational state, emotion is backgrounded, or subconscious, while in an emotional state, emotion is foregrounded and conscious. Backgrounded emotions such as grief, longing or trust have subtle physical manifestations, and are linked to intellectual activity rather than associated with being emotional (Barbalet, 2001; 2011). Foregrounded emotions such as anger, fear and satisfaction are consciously experienced and connected to direct behavioral response, with noticeable physical features. Emotions are thus mutually dependent on and intricately linked to both intellectual activity and corporeal expression (Lange, 2002; Thoits, 1989; Barbalet, 2001; Fineman, 2000), contradicting the conventional view that emotion and rationality are two opposite poles (cf. Weber, 1946). Exemplifying, Barbalet argues that the emotion of trust is necessary for rational decision-making, and, conversely, that keeping order brings aes-

thetic pleasure, which induces feelings of joy (Barbalet, 2011). Hence, backgrounded and foregrounded states of emotions are intertwined, and are necessary for rational action. Conversely, rational action may cause emotional reactions. This perspective allows us to interpret actions, thoughts and social interactions as essentially emotional, and how emotions are rational guides to the world (Bergman Blix & Wettergren, 2014). Hence, this article departs from the assumption that professionals as well as laymen of the judiciary are guided by certain emotions, and use particular emotions strategically throughout the stages of legal processes. As an example, I will show the importance of ‘gut feeling’ in decision-making. Note, however, that I am neither suggesting that *all* emotions are controllable, conscious or recognized in all situations, nor that all actors have equal preconditions for emotion work.

### **Interaction rituals and emotional energy**

Collins (2004) term ‘interaction ritual’ is defined as “a mechanism of mutually focused emotion and attention producing a momentarily shared reality, which thereby generates solidarity and symbols of group membership” (Ibid. p. 7). In other words, group interactions surrounding shared values and collective symbols are a form of ritual, which, when successful, produce group solidarity and ‘emotional energy’ (EE), a central motivational force for individuals. There are four dimensions to interaction rituals. 1. ‘Physical density’, i.e. the number of persons in each other’s presence and the length of time spent together. 2. ‘Boundedness’ of the interaction, meaning that the clearer the group members are separated from outsiders, the more bounded are they. 3. ‘Focus of attention’, where the greater the focus on the same thing, the more successful the ritual is. 4. ‘Commonality of emotional mood’, indicating that when everyone is sharing the same sentiment, the intensity of the interaction is at the highest (Ibid., p. 206).

High-intensity IRs produce ‘collective symbols’, or ‘sacred objects’, out of the item that is the focus of attention during the interaction (Collins, 1993, p. 212). These symbols come to represent membership in the group, and have a value as ends in themselves. Collins regards this ritual solidarity with the group as *the* primary good in social interaction, and therefore behaviors are rationally motivated towards optimizing this good. In the judicial context, law, statutes and ethical guidelines are examples of collective symbols for the professional actors. When symbols are highly charged, they facilitate later IRs. IRs are cumulative, meaning that people that take part of successful IRs develop a taste for more ritual solidarity and seek to repeat the IR (Ibid., p. 211). Further, when several persons value the same symbol, they can easily achieve high degrees of focus around it. In looking at the trial as a ritual, this may offer an explanation as to why court professionals are motivated to “play the game”. They aim to gain and maintain high levels of EE.

### **Power, status and emotional regimes**

The importance of power/status relations is twofold in this study. First, power hierarchies are manifest in the judiciary through micro-and macro relations, affecting court interactions as well as attorney-client meetings etc. From a macro-perspective, emotions such as confidence, resentment, shame, vengefulness and fear are differentially dispersed across different sections of a population, depending on the hierarchal position of that collective (Kemper, 2011). On a micro-level, when individuals receive status they may experience positive self-feelings, such as pride, self-esteem, self-confidence, and a sense of belonging (Collins, 2004), while a loss of status may induce feelings of shame and resentment/anger (Scheff, 1990). Second, the practice of criminal law is one of the strongest displays of power that the state may use. The knowledge that the state may deprave you of your freedom is enough to induce citizens with a

sense of lost power and status. The term ‘emotional regime’ (Reddy, 2001) suggests that there is a specific normative order for feeling and display rules in a specific social setting, which, through dominant discourses<sup>3</sup>, discipline our emotions. Thus, emotion work emerges in the interchange between the social structure of organizations and the individual (Flower, 2014).

## *Previous research*

### **Emotion and the legal system**

In legal processes objective and rational decision-making is highly esteemed, and strong emotional expression is deemed inappropriate (Booth, 2012). Emotional expressions are ascribed to those without legal training, while legal professionals are required to be impartial and detached (Lange, 2002). Tracing the origin of the long-lived fictitious dichotomy of emotion and reason (by extension emotion and law) Maroney (2011) accounts for the insistence on the ideal of ‘judicial dispassion’. This ideal perseveres through a cultural script, dating back to Hobbes’ Enlightenment ideals of the judge as divested of emotions. Emotion was seen as primitive, and the only way for common people to achieve reason, thus overcoming irrationality and impulsivity, was to conquer emotions. The idea that the judiciary is based solely on reason, and that emotion and reason are binary opposites leaves no room for emotion in the legal system. Yet, law has always taken account of emotion (Maroney, 2006). Kahan (1999) argues that legal formulations such as ‘crimes of passions’ and ‘hate crimes’ “grant the language of emotion some legitimacy in the arid, formalistic discourse of law” (p. 2). For example, the role of disgust is key in the assessment of hate crimes (Ibid.). Further, the perceived credibility of a victim’s statement has been demonstrated as dependent on the emotionality shown (Ask and Landström, 2010), and the advantages of ‘righteous’ judicial anger as a performance strategy has been shown by Maroney (2012). Bandes (1999) concludes that omitting emotion from legal reasoning is undesirable, and that: “emotion in concert with cognition leads to truer perception and, ultimately, to better (more accurate, more moral, more just) decisions” (Ibid. p. 7).

Lange (2002) examines why legal regulation is seen as an outcome of cognitive processes, and demonstrates that research in the Anglo-Saxon context points to the fact that emotional processes are important for understanding how the law operates. The law-emotion nexus works both ways: legal regulation can give rise to emotional processes, and emotional processes can form legal regulation. Lange notes that societies are becoming ever more ‘emotionalized’ (Ibid., p.200), meaning that public discourse is increasingly more accepting of emotional expression. Yet at the same time, societal institutions are problematizing expressions and management of emotions, subjecting actors to intensifying social control by intervening in their emotional lives, e.g. by correcting offenders through forensic psychiatric care (Ibid.).

There are currently a mere handful of studies on emotions in Swedish law. Dahlberg (2009) discussed the display and representation of emotions in court hearings at the Stockholm District Court. Dahlberg concluded that despite the observation that emotions are central to the legal process, emotions are not present in the verdicts, which only contains reference to facts

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<sup>3</sup> Here ‘discourses’ indicates what is speakable and thinkable in society, and that norms are constituted, reproduced and reflected in and through discourses (cf. Foucault 1979)

and rulings. Peterson (2002) studied the arson trials in Gothenburg, with a focus on the ritually generated feelings of grief, hatred, solidarity and belonging.

Bladini (2013) examined how objectivity is constructed and how strategies of legitimization are used in judging practices. Bladini identified objectivity according to a positivistic epistemology, thus emphasizing the absence of subjectivity, while drawing clear distinctions between facts and values. The positivistic ideal of objectivity, according to Bladini, affects both interpretations and applications of law, and through this ideal the shared norms, assumptions and beliefs about the legal system are left undisputed and unexamined. Similarly, Flower (2014) conducted an ethnographic study on Swedish law program students, looking at how rationality and objectivity are trained among students through the discussion and management of emotion, and how this creates an emotional regime of objectivity

Bergman Blix and Wettergren (2015) argue that previous studies on emotions in the legal system underemphasize structural and interactional factors. The authors conclude that professional actors in court *collectively* adapt their emotion management to the emotional regime of the judiciary. Further, judicial objectivity is dependent on situated emotion management, not least empathy, and is outlined by feelings of pride and shame. The authors further emphasize that structural power/status dimensions mitigate feeling/display rules: when professional actors challenge the judge, resentment and displays of power are evident, while challenges from less powerful non-professional actors are managed more carefully.

### **Attorneys and emotion work**

The role of attorneys is demanding and multifaceted, involving both private and public emotion work (Harris, 2002). Emotion work occurs during interactions with judges, prosecutors, police, opposing counsels, the public, witnesses, various official agencies and clients. Even though there are practical and emotional strains on several fronts associated with legal professions, law degree programs offers little, if any, guidance when it comes to managing self-experienced and others' emotions (Flower, 2014).

As noted by Harris (2002), actions and behaviors among attorneys are governed by extensively formalized codes that follow universal standards and are charged with expectations regarding not only behavior, but also emotional display. Emotional display is directed for the benefit of a broad range of spectators: clients, employees, other legal professionals, state authorities and jurors. Further, surface acting is utilized in private interaction, while public display calls for occasional deep acting in efforts to generate appropriate emotions (Ibid.). Harris further argues that genuine emotional response mostly is suppressed, a view that is challenged by Westaby (2010), who concludes that attorneys produce authentic emotional displays of empathy and sympathy either through deep acting or genuine emotional response, in order to build mutual trust with the client. However, in order to maintain professionalism, emotions must be managed through what Westaby calls a "detached concern" (term originally by Lief & Fox, 1963), which is upheld with a combination of surface acting techniques and a focus on the legal aspects of the case. The right balance of emotional display is hard work, Westaby concludes, and may result in negative consequences such as burnout, decreased efficiency, and even depression. Similarly, Barkai & Fine (1983) suggest that empathy is the core of trust, and that attorneys, like therapists, must respond to both the content of their client's statements and to the feelings behind those statements:

“a potential plaintiff does not go to an attorney when he *thinks* he has a cause of action; he goes when he *feels* he has been damaged, cheated, taken advantage of, wronged, treated unfairly or physically injured.” (1983, p.507, original emphasis).

Empathy is also identified as a significant component when dealing with victims. In a study on victim impact statements, Booth (2012) argues that sensitivity towards the emotional needs of victims is vital, particularly the empathic skills of the judge. Booth understands empathy as both a ‘way of knowing’ the experience of another by reading verbal and non-verbal cues, as well as a ‘catalyst for action’, generating empathic responses such as offering helpful information, communicating a sense of caring or reacting in an aiding manner (Ibid., p. 223).

In sum, emotion work and display rules are demanding and complex, not least when dealing with the non-professional actors in legal proceedings. Consequently a number of studies have dealt with the issue of how these demands are managed. ‘Status shields’ and ‘organizational shields’ have been identified as useful emotion management tools for maintaining the appropriate emotion display of the prevailing emotional regime of the workplace. The status shield refers to how a worker uses authority to minimize the likelihood that clients will attempt to contact them (Hochschild, 1983). An organizational shield indicates that one worker uses another, often lower-ranked worker, as a human buffer between him or her and the public. The shield is simultaneously required to engage in the emotional management of superiors and colleagues (Pierce, 1995; Lively, 2002; Goodrum & Stafford, 2003). For example, attorneys use paralegals and secretaries as organizational shields between them and clients.

## ***Methodology***

This study has an abductive approach (Alvesson & Sköldbberg, 2009, p. 3ff). Accordingly, I started out by looking for patterns in the first interview transcript, finding themes through the theoretical framework. Subsequently, I added more data to either support or discard initial findings. Parallel to introducing more empirical data, the theoretical framework was correspondingly adjusted. The decision to work abductively was partly practical due to time constraint. I had the opportunity to interview one respondent at an early stage of my research. I used this first interview as starting point for my analysis, making preliminary interpretations and initial hypotheses. Certain conclusions based on recurring patterns in the interviews were gradually established, thus I ended up in something similar to an inductive approach (Ibid.).

### **Cases, data collection and sample selection**

The research process contained a combination of ethnographic methods: observations, shadowing and interviews. During initial observations, I attended random court trials for five days. The purpose was to get an idea of how the justice system works in practice, and to observe how the professionals in court linguistically express emotion through emotion words, tone of voice and interruption of speech, but also through body language, facial expressions, glances, gestures etc. I used these observations as a tool for constructing an interview guide. Further, I have worked as a transcriber for the ongoing research project “Emotions in court” at the university of Gothenburg where I have transcribed approximately 40 hours of interviews with prosecutors, assistant prosecutors and judges, thus gaining unique insight into the field. In addition I read various documents relating to the subject, including ethical guidelines, statutes and regulations. Next, I emailed approximately one hundred attorneys at randomly selected attorney firms, informing the potential participants of the purpose of the study. Six attorneys, three men and three women, agreed to being shadowed (Czarniawska, 2007) during trials and



in the waiting rooms outside of the courtroom, where I during breaks joined in conversations between the attorney and their client(s), followed by a semi-structured interview. The trials ranged between 1-4 hours, and interviews ranged between 1-1.5 hours. All interviews took place in the office of the attorney, where only the respondent and I were present, and I received permission to voice-record. Interviews were thereafter transcribed verbatim, whereby I for ethical consideration secured anonymity by removing location and any statements making the participant identifiable. In the analysis the respondents are marked M1, M2, M3, F1, F2 and F3 (M for male, F for female), followed by age. I included markers such as laughter, stuttering, self-interruption, hesitations, pauses, throat clearing, sighs and significant emphasis. Interviews took place in Swedish, and relevant quotes have been translated into English in this article.

### **Methodological challenges**

This article only includes six participants, which cannot be regarded as representative. However, this type of in-depth research allows a better understanding of complex interactions and processes (Creswell, 1998), which is not possible using other broader approaches. Further, investigating emotion work in the courtroom is particularly challenging, since a big part of emotional experience is comprised of calm background emotions, which tend to be outside of our consciousness (Flower, 2014). The idea of non-emotionality and neutrality among the professional actors in court makes overcoming verbal and non-verbal protective concealment of emotions necessary (Roach Anleu and Mack, 2005). Even though court trials are characterized by ritualized codes, e.g. order of speech, formalized language and juridical procedures (Bergman Blix & Wettergren, 2015), situations frequently occur which are not according to these codes. In order to perceive and make sense of these subtle code violations, I strived for a high level of emotional reflexivity in combination with using my own emotions as a research strategy (Holmes, 2010).

Regarding my own role, I recognized myself as inserted into a social field that holds certain relationships of power conditions, which generate a specific habitus, which in turn produces certain norms and conventions for that social field (Alvesson & Sköldböck, 2009; Alvesson, 2011). In other words the context, including my own presence, was taken into consideration when interpreting. The ‘shadowing’ technique during observations further allowed for an “active interview” technique (Holstein and Gubrium, 1995), in which I strived to remain sensitive to the context through awareness of the cultural and the ‘ethnographic background’ (p.46). I thus were able to incorporate contextualized questions into the interview, and to interpret the meaning of answers in a more informed way while also ensuring validity to my observation (Fangen, 2005). Respondents were not regarded as completely rational in their responses, but influenced and motivated by self-interests. Here Goffman’s (1959) theories on impression management and presentation of self were helpful when analyzing not only court situations but also the interviews.

### **Analytical tools**

The analysis is based on observations and textual analysis. The assumption for this article is that language not only reflects social reality, but also structures and reproduces it. This includes emotional experience. Emotions, according to Hochschild (1983), are not merely instinctual reactions, but can be learned, performed and managed: “The names we give our emotions refer to the way we apprehend a given situation – the aspect of it we focus on – and what our prior expectation about it are” (p. 234). Thoits (1989) concurs: “Thus, what emo-

tions signal to the self (and, by extension, signal to others) depends on the emotional beliefs that one has acquired.” (p. 332) Conversely, in order to systematically analyze emotional experience, one must consider elements beyond explicit emotion talk. Therefore the analysis involves ‘narrative environments’, ‘discourse’ and, to some extent, ‘paralinguistic markers’ (Gubrium, 2005; Winther Jørgensen & Phillips, 2000; Bloch, 2012;). Gubrium (2005) emphasizes that one cannot understand the social consequences of narratives without cautious regard of what is at stake in the everyday contexts of storytelling, and suggests the term ‘narrative environment’, hence discursive boundaries which

“affirm certain stories; they [...] construct, reproduce, and privilege particular kinds of accounts for institutional purposes,” whereas counter-narratives are “marginalised, ‘repaired’, or otherwise challenged, if not kept in tolerable spaces” (p. 526).

In other words, in order to analyze speech we must regard *who* is speaking, who is *not* speaking, and *what* can be said in certain societal contexts at a certain point in time (cf. Foucault, 1979). The attorney has a certain power over their client, enabling them to observe and classify in a way that a non-professional could not, at least not in a legitimized manner. Knowledge makes this power possible, since the discourse of law is institutionalized in the judiciary (Ibid.). Paralinguistic markers could indicate specific inner emotional states depending on narrative context (Bloch, 2012), e.g. that sniffing may be used to establish objectivity in situations where the separation between the private and the professional becomes indistinguishable (Flower, 2014).

## ***Results and analysis***

### **The dispassionate ethos of the judiciary and the role of the attorney**

Distinct in the data was that emotion work is context-dependent in the daily work of attorneys. In other words, the feeling- and display rules vary depending on situation, setting and audience. Utilizing Goffman’s (1967) terms ‘frontstage’ and ‘backstage’ performances, and adding the term ‘border region’, I will clarify this variation throughout the analysis. Particularly, the relationship with the client stood out as demanding, with a plurality of possible emotive situations from the first meeting until the end of the trial. By way of introduction, I will present the stages in the client-attorney relationship from first contact until the end of trial. First contact is generally by phone or email, whereby a meeting is set up. The attorney can either at this stage or after an initial meeting decide to take on the case or not at, and is bound by ethical guidelines to decide promptly. The first meeting generally takes place in the attorney’s office, whereby the client gets to explain their case. Depending on the severity of the case, a number of meetings before the trial are set up, predominantly in the office and including only one client and one attorney. A varying degree of contact between client and attorney takes place between meetings. In civil cases, a preparatory hearing often follows, where it is decided whether or not to proceed with a main hearing. In criminal cases a main hearing follows, duration varies depending on the severity of the crime etc. After the ruling an appeal may be granted, followed by further meetings and hearings.

Consistent in all interviews was that the respondents demonstrated an awareness of the judicial script of dispassion and the expectations on the professionals in the courtroom to act accordingly.

I: What do you think about the practice of lay judges?

R: I personally think that sometimes there are cases where the law says one thing, but reality and the heart says something else [...] and we have had cases where, because of the lay judges, we have reached an accurate conclusion even though the law hasn't been 'correct' so to speak [...] they went on feeling how reality works [...] the risk when there are too many lawyers is that it becomes very square and technical, and there should be a certain room for flexibility, so to speak. (M1, 30)

There are several interesting aspects in this excerpt. First, the respondent immediately separates between the ideally unemotional practice of law and the emotional reality, illustrated by the practice of lay judges, which could be interpreted as confirming the traditional separation between law and emotion (Maroney, 2006; 2011). Second, it shows how ethical guidelines and law constitute a code that the professionals are tied to, which is separated from the lay judges' "feeling on how reality works", amendable only to those without a formal law degree. Third, even though the respondent confirms the 'square and technical', i.e. unemotional, script which they act out, he hints that there are exceptions to the emotional regime, a 'flexibility', in this case utilized through lay judges.

### **Display rules in the different regions**

The tacit rules regarding emotional displays that enclose attorneys alternate throughout the workday depending on situation, setting and audience. The expectation of emotion work is driven by societal and organizational expectations and put into practice through the establishment of formal and informal rules (Harris, 2002; Goodrum & Stafford, 2003; Dahlberg, 2009). In the courtroom (frontstage) the presiding judge is in charge (which is symbolically reinforced through a somewhat elevated seating) and decides who speaks, in which order, when to take breaks etc. According to the respondents, the atmosphere and expectations on displays in the courtroom vary depending on personal traits and practices of the legal professionals present, in particular those of the presiding judge:

I: How did you experience today's hearing?

R: I felt that it was kind of controlled by the presiding judge, maybe I told you before that he wants a structure, he wants an order, he wants it his way and he's in charge. (W1, 54)

Thus, there are power and status hierarchies in the courtroom, where the judge represents the ultimate leader, whose rules are to be obeyed. I noticed that it to a layman is somewhat unclear which rules are formal or informal, but that the distinction is unimportant. The power and status hierarchies that are established by the rule of law and manifested through the judge are not to be questioned. For this study, the tacit rules are in focus, specifically emotional display rules. In the office of the law firm (border region), the formal rules are represented by ethical codes and law firm regulations. Informal rules mostly apply to the attorneys, while the clients are allowed to act out emotionally to a certain degree. However, in the border region attorneys can display some emotions that are banned in court. For example, respondents explained that they might display spontaneous anger/irritation towards their clients in the private setting of their office or in some cases to colleagues, but *never* before an exterior audience:

[...] all the time you have to remember that you may never disclose your client, never never never, so if the client does anything stupid – I mean, you advise your client, that's why you're hired – and if they do contrariwise to what I say, then I scold them and say 'what the hell did you think, you did exactly the opposite', but outwardly you have to have explanations for everything and support the client, you may never imply to anyone that there was a discussion between you and your client, you must stand up for your client all the time. (W2, 57)

The respondent portrays a clear division between accepted displays in court as compared to the office. Anger can be a productive resource when establishing a hierarchical relationship

with the client, so that the courtroom performance will not derail. Other emotions, however, are prohibited in the border region:

Once a story, a young girl, victim of torture, really touched me, [...] It struck a chord anyway that was very complicated, so I tried to leave for a while and then come back [...] because it's not good to show the client that you're *that* touched, since they may feel like 'oh my God, I can't have an attorney that can't look at this thing soberly.' (W2, 57)

The respondent is well aware that displaying sadness in front of the client may be perceived as unprofessional. As compared to the courtroom, an exterior audience is not present, but the respondent must nonetheless display professionalism in front of clients in order to gain and maintain trust. The fear of being seen as incapable to 'look at this thing soberly' confirms that the respondent is aware of the conception that emotions, in this case sadness, blurs rational and analytical thinking. That the respondent left the meeting is indicative that there is clear division between backstage and the border region, the respondent had to reconstruct her professional façade. With the presence of an exterior audience, i.e. frontstage in the courtroom, controlling displayed emotions are even more pressing, which is evident in this statement by the same respondent:

It has occurred, even in court [...] that I've been really touched by a victim's story, I've felt tears coming, and that's *so* very unprofessional, and I'm thinking: shit, I can't show anyone that I'm this upset." (W2, 57)

In this scene the respondent broke the feeling and display rules of the courtroom, and felt that she had to hide it so as not to appear unprofessional. In the courtroom it is very uncommon that someone leaves the room without an official break, which means even more effort when controlling the façade, since there is no accessible backstage. As Dahlberg (2009) points out, attorneys and prosecutors may use emotion as a tool to influence and persuade the court, whereas parties and witnesses should express only natural and spontaneous emotion. In other words, instrumental emotional displays can take place in the courtroom, however no authentic foregrounded emotions such as sadness, which is confirmed by the respondent.

As stated above, attorneys have an obligation never to disclose disputes with clients to anyone, regardless of the degree of anger and/or irritation. One exception is nevertheless allowed. Backstage at the office the attorneys can unload emotionally by talking to colleagues:

[I must defend my client] before everyone except my colleagues at the bureau, here I can go in and unload on a colleague 'can you imagine, that idiot did this even though I told...', and that's a way to let off steam" (W2, 57)

In Goffman's words: "we often find that control of backstage plays a significant role in the process of 'work control' whereby individuals attempt to buffer themselves from the deterministic demands that surround them" (1959, p. 70f). The 'deterministic demands' in this case consist of the emotional regime of the judiciary frontstage as well as the tensions of client interactions in the border region. The fact that the respondent feels secure enough to 'let off steam' before colleagues supports that there are certain organizational "loopholes to feeling rules", as Kolb would put it (2011, p. 117). However, the access to backstage relief differs depending on the specific emotion culture of the law firm. As one respondent, working at a big commercial law firm, put it:

I: can you talk to your colleagues if you're bothered by something?

R: Yes you can, to some extent, at least professionally, no one benefits from presenting themselves as a person with problems, so you can't act like you are, you have to think how you- [interruption], but sure you can. (M2, 52)

This statement is interesting in many regards: Immediately the respondent divides 'professionalism' and 'presenting yourself as a person with problems' into two opposite poles, reaffirming the idea of emotion and law as binary. Further, he talks in terms of 'presenting' yourself and 'appearing', thus being aware that there is a separation between what you feel and what is professional to display. Further, the interruption of speech I interpret as a paralinguistic marker that indicates inhibition: the respondent is himself inhibited by the script of dispassion and wants to appear professional during the interview and interrupts himself. Comparing these two statements from attorneys from different firms substantiates that emotional cultures differ between law firms.

In sum, the emotional regime of the courtroom (frontstage) is different from the one surrounding the client meeting (border region). Subsequently, the emotion work is diversified. Backstage is a place where the attorney can manage improper emotions and prepare appropriate displays for the other regions. The attorney role, in other words, is multifaceted and shifting. Next I will discuss what emotions arise in the occupation and applied emotion work strategies.

## *Emotion work*

### **Building client relationships**

Not surprisingly most participants stated, direct or indirect, that building relationships with clients constitute the bulk of the emotion work. Once accepting a case, attorneys may not resign unless a valid cause can be invoked, e.g. if the client withholds or provides false information and thereby causes the attorney to promote injustice. Thus, if you dislike a client, you are obligated to put those feelings aside, which requires additional emotion work. Therefore, the ability to predict if the relationship with the potential client is likely to function is essential. Failure to do so may cause a profoundly increased workload:

My strategy is to keep in mind that everyone is different. You have to adjust your strategies depending on person, the first time you meet a client you should be focused and keep your antennae out. In one of my current cases, during the first meeting it was pretty hectic at the office, and I-, well I forgot to-, forgot to assess the situation, and it went awry. Then you sort of have to rewind and that takes a great deal of extra effort. (M3, 42)

There is no time to get to know potential clients beforehand, which leaves attorneys with little options except following what many respondents referred to as "gut feeling":

I: I understand that the first meeting is important when deeming if a cooperation is possible, since you can't renounce a client once accepting a case? How do you do it?

R: Unfortunately we don't have many tools at that point, because you can't foresee the future, um, often you actually follow your gut feeling [...] (M1, 30)

This is indicative of Barbalet's view on the emotional characteristics of trust. Since we cannot predict future outcomes, we have to rely on trust as an emotion. Thus we anticipate the future, permitting action that would not be possible if we only relied on calculation or pure logic. In this case the emotion of trust is rational (Barbalet, 2001), assisting us when, for example, making quick decisions. According to this logic, trust is a backgrounded, intellectual emotion.

Overall, respondents avoided speaking in explicitly emotional terms when referring to clients, and I interpret the referral to “gut-feeling” as a paraphrasing of emotional experience in order to legitimize it. At no point did any of the respondents explicitly talk about having experienced emotions such as fear or disgust during a client meeting. To do so would be a violation of the script of dispassion. Furthermore, the mention of gut-feeling is important. If the respondent would in fact experience fear or disgust when talking to a potential client, it would most likely be read as a gut-feeling that this person should *not* be trusted, and the rational decision would be not to commit to the case. Therefore I would suggest that sometimes during urgent decision processes foregrounded emotions are ultimately transformed and integrated with the subtle backgrounded emotions, confirming that emotionality and rationality can be interdependent processes.

Whether you perceive a client as ‘difficult’ or not was also pronounced highly dependent on the first meeting and gaining the trust of the client:

I: Are there clients that are more difficult to build working relationships with?

R: [...] it totally depends on what your relationship with the client is and if you’ve succeeded in building initial trust, and trust, in my world, you build by sitting down with the client and listen, let them unload everything, and once they’ve said everything they wanted, then you can tell them “okay, this lacks relevance, this is significant” etc., but if you’re gonna interrupt and control from the beginning, you’re getting nowhere, because then they feel like I haven’t even been listening.” (M1, 30)

This excerpt shows that the interactional factor is crucial, not only the individual characteristics of the client. Therefore, the client-attorney interaction in the border region can advantageously be interpreted through Collins’ interaction rituals. There is ‘physical density’, i.e. attorneys and clients often spend a considerable amount of time together. Second, there is ‘boundedness’, since the members are clearly separated from the other parties in the juridical process. Thirdly, the ‘focus of attention’ is on the case. The fourth dimension, ‘commonality of emotional mood’, I identified as the most strenuous, requiring careful strategizing in order to balance emotional impact and displays (Collins, 2004, p. 206). I suggest that a commonality of mood, and thereby a mutually trusting relationship with the client, is attained through empathetic investment, which will be discussed later.

### **Cultivation of empathy/sympathy as productive resources**

A range of emotions may elicit empathy (Cuff et al., 2014). Negative empathic feelings such as pain, sadness, anger, anxiety, disgust and fear are generally associated with the concept, however also ‘positive’ emotions such as happiness may induce empathy (Ibid.). Furthermore, individuals may have different empathic capacities for different emotions: some may react stronger to positive empathy while being able to reduce negative empathy as a strategy to minimize distress. There is a blurred distinction between empathy and sympathy, but a useful division is separating feeling *as* (adopting the emotion: empathy) and feeling *for* (feeling concern for: sympathy) the other (Ibid.). With this in mind, we may interpret empathy as deep acting or perhaps authentic emotion, and sympathy as surface acting.

I am, as a person, well, I am a very emotional person, and it’s not a disadvantage to be... emotional is the wrong expression, but to have feelings and being empathetic, it’s necessary in this profession, but it’s a balancing act, you can’t go over the limit, then you won’t feel good, that’s how it is. (W2, 57)

This respondent states that it is a necessity to ‘have feelings’ and ‘be empathetic’, all the while not ‘going over the limit’. Implicit in the above quote is that the respondent refers to negative emotions, and that too much emotional investment may jeopardize the desired level

of detachment, which is regarded as unprofessional (Harris, 2000; Lief & Fox, 1963). When asked how they avoid being overwhelmed by work, many respondents underlined a necessity to be able to “let go”, distancing yourself from the job. Simultaneously it was emphasized that it is crucial not to stop caring. A simple answer on how to produce detachment would be to avoid empathy and instead produce sympathy, i.e. surface acting instead of deep acting. Westaby concludes that too much involvement can have a negative impact on emotional wellbeing (Westaby, 2010). However, some of the respondents underlined that genuine emotional investment makes the job interesting, and that also positive emotions come from it. Consider this excerpt:

I: You mentioned that you often become like a mother to your clients?

R: Yes, sometimes you have a lot of contact, and if the person in question gains confidence in you, then [deep breath], well I have a lot of young girls, and some have tendencies to get into a lot of trouble, [...] and some of them-, I have a couple that call me Friday night at ten [...] if I recognize the number and I know that there's violence at home, I try to give advice, I feel that the cases I work with are a social contribution, often these girls have no parental figures. I also have young guys that I help in criminal cases, I try to support them and help-, even if my role is to present their opinion I still try to give advice and support so that their life can take a different direction [...] sometimes it's tough, but most of the time it's great, I really feel that I can contribute actually. (W3, 56)

Genuine emotional investment in the client is indicated. The respondent feels obligated to answer the phone Friday night, and is rewarded by a sense of societal contribution. I interpret this as a reinforcement of the respondent's professional identity, because it corresponds to the attorney profession's objective to serve the rule of law (in this case by giving young men support so that their life can take a ‘different direction’, i.e. law-abiding.). However, sometimes emotions on the one hand and the professional identity on the other hand are in conflict. According to Westaby (2010), there is tension between the desire to produce authentic emotional displays of empathy and sympathy in order to develop a trusting relationship with clients, and the fact that doing so may have the effect of becoming too emotionally invested, thus appearing unprofessional. The emotional experience is conflicting with what is required by the law firm, and can lead to emotional dissonance (Festinger & Carlsmith, 1959, Hochschild, 1983), which will be discussed next in relation to a ‘division of selves’.

### **Division of selves**

When the cultural script of the law firm and the judiciary generates a discontinuity between what the respondents feel and what must be expressed in front of others, the actor can engage in a ‘division of selves’ (Goffman, 1967), where the self is separated from the occupational role (Hochschild, 1983). I have identified two interdependent factors as decisive for the need of a division of self: 1. Nature of the crime and if client is perceived as innocent or guilty; 2. Level of emotional involvement.

One respondent told me about a case in which she became emotionally involved, in part because she believed that her client was innocent:

I was passionate about my client, you can never be sure [of their innocence], because I wasn't there, but I was convinced that the prosecutor was wrong, and then my preparatory work is unbelievably important, the feeling that I've done everything for him, and I'm putting incredible pressure on myself to be well informed and smart, and then it's not-, I think it's a lot of fun, I think it's interesting and exciting, but I'm demanding myself to be one hundred percent maxed out in what I do [...] but when the court said that my client was to be released, my client and I cried, that's how it was. (W3, 56)

This statement indicates that the respondent did not separate the self from the professional role in this case, and had become emotionally invested. During the interview she spoke about this case several times, and expressed that she was very proud and relieved that they had won. The “preparatory work” involved a lot of meetings with the client. Crying in court is of course a breach of the script, indicating that the frontstage performance broke down. Yet, this was presented as a successful trial, which makes it interesting. The situation fits all four of Collin’s (2004) dimensions for a successful ritual. Most importantly, they are sharing the same sentiment: relief. In other words, trials can grant attorneys emotional energy. The sense of relief and pride/happiness experienced by the respondent upon successfully winning of the case works as a reward for the level of emotional investment made, which works as a motivator to dare to make investments. The potential cost of emotional involvement, however, would probably be high if the case had been lost.

Conversely, when it is unclear whether the client is innocent, or when they admit guilt, a division of selves was often indicated. One instance where this is useful is when defending a person that has committed a gruesome crime:

The typical example there is that you get a client that has raped or killed a child or something, and if that person says that they didn’t do it, then my point of departure is pretty simple, my working hypothesis is that that’s the way it is. If the person says ‘yes I did it, and I’m ashamed, but there were mitigating circumstances’, then it’s also pretty simple. Moral tells me that if a person says ‘no I don’t want to defend you because I think what you’ve done is repulsive’, I think that’s lousy, it’s against my values, because there has to be some balance in the justice system [...] (M2, 42)

The respondent expresses a mix of principle and pragmatism when referring to ‘values’ and ‘balance’, rather than speaking in emotional terms, in other words he displays a devotion to legal ideology rather than focusing on his feelings about it. He continues:

There has to be equality of arms, it’s part of our adversarial legal principles [...] if one party has the whole police system and a professional prosecutor and the other party is sitting there alone, that’s a special situation.

The principle of ‘equality of arms’<sup>4</sup> is an example of a legal discourse. Even though attorneys can be said to be subjective, given that they are firsthand loyal to their clients, they are still, through laws and ethical guidelines, tied to what Bladini (2011) refers to as the positivistic ideal of objectivity. The objectivity ideal, I suggest, works as an emotionally protective patch when distancing yourself from the actions of your client. Further, the referral to ‘legal principles’ may be interpreted as what Westaby (2010) calls a ‘detached concern’, where the attorney upholds a surface of loyalty with the client while isolating his own emotions, made possible through a combination of surface acting techniques and a focus on the legal aspects and the ethical code of conduct. One respondent explained:

I remember one case where we were to determine the line between aggravated or normal degree child pornography, we had to go through pictures and videos, and it was horrible, it was something that was very hard to let go of, but you can’t look away, you’re there to determine this, and you get through it, like a doctor treating burn injuries for example, it can’t be enjoyable, but still they operate. And that’s how it works for us, we must act for a greater purpose than what we feel in that moment. (M2, 49)

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<sup>4</sup> The principle of ‘equality of arms’, meaning the right to a fair trial, is issued by the European Court of Human Rights (Mole & Harby, 2006)



Attorneys answer to a more complex moral code, a ‘greater purpose’ as the respondent expresses it, than the general public. As Tilly (2002, p. 18) writes: “Of course, all of us have cursed at stupid policies from time to time. But, for those who play the game, codes have an air of inevitability, even of sanctity.” Attorneys are part of the legal game, and obeying the codes is not only a duty, but also functions as an emotion work strategy. Legal codes, e.g. the code of conduct, thus works as a protective wall. Supporting Wettergren’s findings that Swedish migration board workers use law as a guiding principle and a sacred object to manage emotions through a continuous performance of ‘procedural correctness’ (2010, p. 411), the respondents repeatedly referred to law and ethical guidelines when asked about moral and emotional dilemmas.

Another aspect of the separation between the private and the public self is the use of first person narratives. Flower (2014) distinguishes paralinguistic markers (sniffing/throat clearing etc.) as indicative of distancing personal statements from self, and that the private self of lawyers comes second to the professional self, e.g. through the construction of objectivity by use of passive sentences. I found that it also works the other way around:

I: I noticed that you and the opposing counsel expressed yourselves differently in court. You said ‘[my client], and *also* I interpret this as...’, while the opposing counsel said ‘[my client] believes’, what does that mean to you?

R: Well in this case I added that because maybe it would make the court understand that my client hadn’t been negligent, *but* there actually is a small principle that one should have as an attorney, that you actually shouldn’t express yourself the way the opposing counsel did: ‘my client believes that’, but instead you should say ‘this is the way it *is*’, otherwise you alienate yourself from the client’s cause (M3, 42)

This respondent consciously uses the first-person narrative as a frontstage strategy for *not* distancing himself from the client, thus displaying an investment of the self in the case of the client.

### **Translating stories to fit the legal discourse and managing disruptive emotions**

Another aspect of the occupation involves translating clients’ stories and emotional experiences into the language of law. In the border region, clients are expected to open up and tell their story, whereas the attorney interprets and reconstructs it to fit the narrative environment of the judiciary (Gubrium, 2005). While respondents stressed the fact that they are not giving “hints” on how to tell a story, but that they repeat the story back to the client in different words so that it is better fitting to the courtroom situation:

We never instruct, we explain how regulations work, after which they say ‘this has happened’, and then I respond ‘in the light of what you have told me it’s interpreted this way’. (M1, 30)

Moreover it is mediated what kinds of feelings are suitable to express, and to which extent:

I explain to clients that it’s like any situation in life, if you’re gonna listen to a fellow human being or not depends on how they act. If they scream and swear you only listen for a couple of minutes, then you run out of patience, so it’s about helping people getting their message across, meaning that you have to make them understand that it’s about controlling yourself (W3, 56)

Frontstage in the courtroom, the emotion display of the client must be managed without premonition. For example, during a trial a client of one of my respondents started laughing quietly (despairingly) during the counterparty’s testimony. The attorney appeared uncomfortable and immediately wrote something to her client. Later she confirmed that she’d written

“do not laugh!”. During the trial ritual the court professionals are aware of the emotional regime, and must mediate this regime to clients by regulating their disruptive emotions.

The lawyer influence the client’s narrative how to express emotions, whereby they communicate the feeling rules imbuing the courtroom (Hochschild, 1983). In sum, statutes and law together with the script of dispassion are working as invisible prompters in the courtroom, whose silent incentives are only visible to the trained eye of the legal professionals. The role of the attorney thus involves working as a translator/interpreter of verbal and non-verbal cues, both in the border region and frontstage,

### **Criticism against attorneys**

As mentioned in the introduction, attorneys are per definition subjective since they have loyalty obligations towards their clients. However, as one respondent put it, they are also objective in that they serve the rule of law, and being subjective with their client is part of the legal objectivity. Many of the respondents indicated that they felt that there are misconceptions regarding the occupational role of the attorney, in the form of moral outrage from the public, but also being morally questioned by other court professionals. In a chronicle by vice chief public prosecutor Thomas Ahlstrand (2015) this is confirmed. Ahlstrand identifies three attorney archetypes: one that *leads* the client’s cause, one that *believes* the client’s cause and their client, and one that *agrees* with their client and *become* their client. The two latter types, Ahlstrand argues, place themselves in a cognitively difficult state, since they experience personal offence and indignation to the arguments of the prosecutor (note that Ahlstrand labels feelings of offence and indignation as *cognitive* phenomena, in accordance to the judicial script of dispassion). Formulations such as “[type three] solidarize with the client to the extent that they have taken over their values”, and that police and prosecutors “are no longer opponents, but enemies to be defeated” testifies to the opinion that attorneys sometimes become actual (emotionally) affected stakeholders in the trial, rather than representatives for the rule of law. Since this article has been widely debated within the law community, I asked my respondents for comments. The overall response was that Ahlstrand had misunderstood the role of attorneys. One respondent explained:

I think it’s sad that it’s perceived that way [...] the spirit of the article was that there are good lawyers, and they’re not really heard or make a lot of noise, and they make a client see when a case is lost which makes it easier for everybody. Looking at it that way is a shame, it shows that they don’t have insight into our work, which they should have, because the relationship we have with our clients, the dialogues we have is not always reflected to the outside. We have confidentiality, we can talk about tons of circumstances with our clients, recommend things, but the client is in charge, you can never forget that, and we’re bound by their instructions as long as it’s not conflicting with law or the code of conduct, so to generalize like that is very wrong [...]. (M3, 42)

This quote captures that the client comes first, and the frontstage performance must always obey the instruction of the client, provided that it is not conflicting with law or ethical codes, regardless if the attorney agrees or not. Respondents expressed that being questioned by other court professionals may invoke anger and irritation, but mostly on the behalf of the occupation.

I: Do you get angry in court?

R: Sure, when the opposing counsel is snotty my blood pressure increases, but I’m trying not to show it.

I: How?

R: When the criticism holds a degree of truth you get angrier, but I try to address it briefly with 'that is not correct', or 'the district court ordered me to submit opinions at that time', like... trying to be factual. (M3, 42)

The bodily response that accompanies anger is, when successful, repressed by referring to technical accounts. Interestingly, the respondent states that anger is more tangible when the criticism is somewhat justified. This could also be interpreted through a process of 'division of selves': when respondents can refer to, for example, statutes or a code of ethics, this type of criticism does not penetrate the professional exterior. However, being aware of having made occupational mistakes increases negative emotions. A small mistake can hence be read as inducing feelings of anger, but when talking about making significant errors the respondents associated it with a fear of appearing ignorant or unskilled:

You're constantly worried that some unsolvable problem is going to show up, ehm, or worried-, it's sort of gnaws at you, everyday something can happen that makes you feel like an idiot, this can't be solved and that, and then it's vital not to panic, but to start calmly instead. (M2, 49)

In this excerpt, the risk of 'feeling like an idiot' and 'panicking' when not being able to solve problems could be interpreted as that the respondent feels that the temporary loss of power and status associated with looking unprofessional induces him with feelings of fear and shame (Kemper, 2011; Scheff, 1990). Here, the division of selves is unsuccessful, whereby criticism against the professional self penetrates into the private self.

### **The trial ritual and emotional energy**

Above I demonstrated how successful client-attorney interactions might generate emotional energy, and how one respondent made genuine emotional investment in her client and was rewarded EE as they won the case. However, the vast majority of criminal cases in Sweden come to a guilty verdict<sup>5</sup>, therefore attorneys cannot rely on such rewards. Furthermore, genuine IRs with clients is a high emotional investment on the part of the attorney. There is a risk of becoming too involved, thus appearing unprofessional when a 'detached concern' fails (Westaby, 2010). It is therefore reasonable to assume that attorneys gain EE from other sources. Consider this excerpt:

I: When do you feel proud?

R: Sometimes you feel that you're on a roll, everyone is listening to you [...] pleading involves a lot of improvisation, it can get messy, but sometimes everything falls into place, and it makes you happy, regardless of how the verdict turns out.

I: When you feel like you did your best?

R. Yes. (M3, 42)

The frontstage trial can be interpreted as an interaction ritual (Collins, 1993). Successful rituals, as we recall, produce EE and ritual solidarity, which are central motivating forces for individuals. The respondent expressed that when he's on "a roll", i.e. does a good job and is acknowledged by other court participants, he feels proud. Other participants also stated that receiving praise from other professionals, especially judges, was very rewarding and pride-inducing. In line with IR theory, experienced court professionals are likely to seek to partake in successful IRs in order to produce ritual solidarity with the other professionals, to be rewarded with maintained or elevated level of EE. As stated above, law and ethical codes con-

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<sup>5</sup> In 2013, 92 % out of 86 000 criminal cases were won by the prosecutor (Hydén 2014).

stitute ‘collective symbols’ which symbolize membership in the group (Ibid.), which works as motivators for members to facilitate a smooth trial. Throughout the interviews the continuous referral to legal codes points to that it is meaningful to uphold the professional duties that accompanies the attorney profession, e.g. to protect the liberties and civil rights of their clients. Building client relationship and being a professional is not only crucial for the client-attorney interaction, but also for the trial IR in and of itself. For example, managing clients’ disruptive emotions is of dual importance, since they not only affect the verdict, but are a reflection of the attorney’s professionalism and willingness to produce a successful trial ritual.

Conversely, disrupted IRs could explain the fact that appearing unprofessional is associated with shame. The interactive flow of EE is interrupted when the attorney does something that is regarded as unprofessional (recall that criticism was more troubling when justified), whereas the professional façade is temporarily lost. When there is an abrupt negative change in feelings surrounding expected social membership anger occurs (Collins, 2004, p. 120). Further, a sense of lost status and declining EE ensues, resulting in feelings of shame (Ibid.) Bergman Blix & Wettergren conclude that judges experience professional pride when the joint effort to create an appearance of a rational and unemotional court procedure is successful, and, conversely, experience shame when it fails (2015, p. 5). I suggest that attorneys likewise experience feelings of shame when the ritual fails, which is why they are highly motivated to participate in and facilitate a successful trial IR.

### **Emotion work strategies**

In sum, balancing requirements to display professionalism with empathetic investment in the client (displayed or authentic) while simultaneously obeying the feeling/display rules of the judiciary, emotion work is unavoidable. In the data two overarching categories of emotion work strategies were identifiable: continual/habitual strategies and temporary/prompt strategies. The first category consists of strategies that are attained during long training and work life. These are in line with the script of dispassion: displaying a calm exterior and refraining from an emotionally laden usage of language (except when rhetorically planned in advance), these are applied in all regions, but are less important backstage. These strategies are generally backgrounded, for example dealing with a grief-stricken client or suppressing negative emotions by concentrating on moral obligations. The second category constitutes strategies that must be produced, mainly frontstage, without prior notice, e.g. when foregrounded emotions such as anger or shame places actors in what is traditionally referred to as an emotional state of mind (Barbalet, 2001). A border region example of this was indicated above when the attorney had to manage foregrounded feelings of sadness develop.

### ***Conclusions and suggestions for future research***

I have looked at how tacit rules regarding emotions and emotional display are at work in the attorney profession, and what emotions arise in the everyday work life, as well as how are they are managed by the attorney. I have demonstrated how the emotion work produced by attorneys in their everyday work is diverse and context-dependent, and there are different tacit feeling and display rules in the different regions. Further I have shown that emotion is an inevitable aspect of the attorney profession, not least when interacting with clients. Establishing a mutually trusting relationship with the client is of key importance, and in order to do so, consulting and using emotions strategically is fundamental.

Empathy and sympathy, produced by deep acting and surface acting techniques respectively,

was shown to be potential resources in the profession, used as a tool to build mutual trust with clients. Genuine emotional involvement was shown to sometimes work a motivating factor, with the reward of emotional energy. However, it is a balancing act not to become *too* involved, pointing to the importance of a division of selves, not least to display professionalism.

In the frontstage region attorneys have to endure moral questioning from the public and from other legal professionals, especially regarding their relationship with clients. This can sometimes cause disruptive emotional reactions, but can be managed by technical referral to ethical codes and law as a way of redirecting the criticism from the self to the professional role. This article further demonstrates how attorneys mediate the emotional regime of the judiciary to their clients, and vice versa translate the clients' narrative to fit a legal discourse.

Looking at the trial as a ritual, and the attorneys as participants in a group (legal professionals), showed how a successful trial reward group members with emotional energy. Therefore, court professionals, including attorneys, are emotionally motivated to facilitate a smooth trial. This supports the idea that emotions work as rational guides in the world.

In sum, it is a balancing act to involve oneself in the client's cause while displaying professionalism. The emotion work is multifaceted and demanding, and an array of strategies is invoked. However, attorneys are rewarded with emotional energy in the different regions, which works as an occupational motivator.

The data revealed several future areas of studies to develop. I noticed that different legal specializations allow for different degrees of emotional display, and some emotions are preferred in certain areas of law (attorneys displaying anger was for example mentioned as occasionally advantageous in corporate law, but not in criminal/family law). Furthermore, I noticed a pattern that the female respondents felt a stronger obligation to produce genuine empathic responses to emotional clients. Many of the respondents indicated that factors such as ethnicity, gender, age and class affect credibility judgments and ultimately sentences, which previous studies have indicated (cf. Ask & Landström, 2010). Further research on how this is managed and counteracted by attorneys would be interesting. Lastly, in-depth interviews with clients would clarify how non-professionals are affected by the feeling and display rules of the judiciary, and offer further insight into the client-attorney relationship.

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## Appendix

### Interview guide

#### Frågor i anslutning till förhandling (ifall jag varit med)

- Hur upplevde du dagens förhandling?
- Hur upplevde du stämningen i rättsalen, var det någonting du reagerade på? (t.ex. känslouttryck)
- Hur förberedde du dig inför förhandlingen, var det någonting specifikt som du kände krävde speciell förberedning?
- Hur fungerade kontakten med klienten, stötte du på några motgångar/svårigheter?
- Hur fungerade samarbetet med de övriga professionella i rättsalen? Hade du sett aktörerna förut? Hur är dina upplevelser av dessa?
- (Frågor om eventuella specifika iakttagelser i rättsalen, t.ex. om ip har reagerat starkt på något)

#### Allmänt om arbetet

- Varför valde du att arbeta som advokat? Några speciella drivkrafter?
- Kände du att du hade valfrihet i det beslutet, eller att det fanns andra vägar som inte var möjliga för dig av någon anledning? Påverkade ditt kön/ethnicitet/klass (socialt/kulturellt kapital)
- Vad är viktiga egenskaper att ha för advokater? (Personlighetsmässiga och under förhandlingar)
- Om man skulle hårdra de olika parternas roller, vilken typ av känslomässiga engagemang/uttryck karakteriserar *domare*, *åklagare*, respektive *försvarare*?
- På vilket sätt är begrepp som etik och moral relevanta i en advokats yrkesverksamhet?

#### Utbildning och erfarenhet

- Vilka delar av utbildningen kan man säga förmedlar kunskap om att hantera känslor eller hur man ska göra med kroppsspråk, ansiktsuttryck? (under advokatutbildning eller om du själv har gått annan kurs).
- Fick ni någon utbildning i hur en hanterar klientens känslor och behov?
- När blir man trygg i sin advokatroll? (Vilken roll spelar yrkeserfarenhet? Kan du jämföra hur du gör/upplever arbetet nu jämfört med när du var ny?)
- Har du haft någon mentor/handledare? Vilken roll spelar de?

- Har du några förebilder/avskräckande exempel vad gäller hur en advokat bör vara? Varför?

### **Engagemang/drivkrafter**

- Vilken typ av mål föredrar du? Varför?
- Är det något typ av mål du inte vill ha? Varför?
- Gråting som man sett om och om igen – hur känner man inför det? Andra rutiner?

### **Klientkontakt och kontakt med andra aktörer**

- Hur tycker du i regel att samarbetet fungerar med de andra professionella aktörerna i rättssalen? Upplever du att reglerna för förhandlingen, som regleras i rättegångsbalken, följs? Kan du ge exempel på när det fungerar/inte?
- Hur fungerar relationen mellan försvarare och åklagare, känns den ibland antagonistisk? Hur mycket tror du att personliga känslor spelar in i hur förhandlingen fortlöper?
- Vilken funktion har det informella pratet i pauserna (med både professionella och oprofessionella)?
- Har du arbetat med någonting annat innan, t.ex. åklagare? Upplever du att din roll är annorlunda i rättssalen, vad gäller känslouttryck till exempel?
- På vilket sätt skiljer sig mål med mycket publik/media, uppmärksammat i media, från andra mål?
- Berätta om  *trovärdighet/tillförlitlighet*? Hur viktiga är de? Kan det kopplas till vilket intryck man får av tilltalad/målsägare/vittnen?
- Är det någon skillnad mellan att vara målsägandebiträde och försvarsadvokat? T.ex. när du förbereder dig med klienten, känslomässigt etc.?
- Hur förbereder du dig med din klient, får hen prata mycket om känslor, och kan du använda dig av dem under rättegången?
- Tipsar du ibland din klient om att visa vissa känslor, men dölja andra?
- Har du några specifika strategier för att få din klient att känna förtroende för dig? Ex. aktivt lyssnande, att du pratar om dig själv..

- Har du funderat över om och på vilket sätt socioekonomisk tillhörighet/kulturella skillnader/kön har betydelse i rättssalen? På vilket sätt?
- Tror du att kön/ethnicitet etc. påverkar upplevelsen av trovärdighet, vad gäller t.ex. målsägande, tilltalad, vittnen?
- Är utseende viktigt, till exempel klädsel och frisyr etc.?
- Hur förhåller du dig till nämndemännen?
- Skiljer sig arbetet åt beroende på vilken typ av klient du har, kan det vara enklare eller svårare? När? På vilket sätt?
- Kan det vara svårt att få klienten att förstå vad som är bäst för dem? Händer det ibland att det sättet du väljer att lägga fram målet inte upplevs som det bästa av klienten? Hur löser du det i så fall?
- Det kan ju finnas ett behov av att profilera sig som advokat, för att få uppdrag? Påverkar det relationen till klienter?
- Kan det ibland uppstå en konflikt mellan att tillgodose klientens intresse och samtidigt hålla god sed mot övriga parter (till exempel tilltalad)?

### **Känslor och känslohantering**

- Kan du berätta om din värsta och din bästa dag på jobbet? Konkret exempel: vad hände, hur kändes det, hur gjorde du?
- Vilka emotioner är ett hinder för att göra ett bra jobb?
- När blir en advokat glad/ stolt? Arg/ledsen?
- Vem eller vad är vanligaste irritationsmomentet under förhandling?
- Upplever du ibland att du har sagt eller gjort någonting i rättssalen som du skäms över? Hur hanterar du det?
- Hur hanterar du leda och tristess om det uppstår?
- Kan du ge exempel på när du använder känslor/känslohantering strategiskt/spelar på känslor? Hur använder du olika känslouttryck gentemot vittnen/andra aktörer/din klient?
- Har du varit med om att något väldigt plågsamt kommer upp i samband med en förhandling; starka bilder, ljud eller beskrivningar av övergrepp – hur hanterade du det?
  - ⇒ När och hur gör man för att få formell handledning (debriefing)?

- Händer det att du i olika vardagliga situationer (även privat) kan få ”minnesbilder” av ett speciellt mål som kan kopplas till att du ser eller gör något som påminner om det målet? Blir du överraskad? Är dessa ”blänkare” bilder utan känslor eller kan de också väcka känslor till liv?
- Kan ni kollegor prata med varandra om mål eller om aspekter av arbetet som är känslomässigt jobbiga? (Vad skiljer det man kan prata om från det man inte pratar om?)
- Hur hanterar du emotioner i övergången mellan arbete eller hem och vice versa?

### **Om gränsen mot det privata**

- Umgås du privat med kolleger/jurister?
- Pratar du med din familj/vänner om sådant som berör dig på arbetet?
- Tror du att du har en syn på samhället, och hur det ser ut, som skiljer sig från andra, som inte konfronteras med olika typer av brott i vardagen? En annan syn på brott/mänskliga tragedier?
- Upplever du att dina egenskaper som du använder i din yrkesroll (t.ex. argumenterande, beslutsamhet etc.) spiller över på ditt privatliv? Hur påverkar det?
- Finns det något mer som har tänkt på när det gäller hur arbetet påverkar privatlivet?

### **Bakgrundsfrågor**

- Ålder
- År i yrket
- Utbildning
- Karriärväg
- Om du skulle säga vilken klassbakgrund du har, vad skulle du säga då?

### **Övrigt**

- Finns det något mer du vill påpeka eller lägga till?