

Interactional Justice: The role of Emotions in the Performance of Loyalty. By lisa flower (Routledge, 2020, 220pp. £36.99 pb)

Gunby, Clare

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Book Review

Interactional Justice: The role of Emotions in the Performance of Loyalty. By Lisa Flower (Routledge, 2020, 220pp. £36.99 pb).

The traditional model of courtroom civility situates legal characters as acting with rationality, impartiality and professionalism, typically contrasted against the emotional feelings, performances and behaviour of the complainant and accused (Craig 2016). Grounded in a training—explicit and otherwise—that teaches courtroom actors to detach, compartmentalize and write emotions out of their work, the false binary between emotionality and objectivity is sustained. Despite being unable to give voice to emotion in a trial, over thirty years of scholarship indicates that emotional work and emotional acuity are integral to the judge's, prosecutor's and defence lawyer's roles, getting them done and ensuring that justice is sustained. Other analyses have brought into focus the wider role of bodily sensations within the court context to show how, through the hair standing up on the back of one's neck, or the smell of perfume in court, an array of affects also play out—and are part of—the courtroom experience (Dahlberg 2009; Bergman Blix and Wettergren 2018; Bens 2019; Carline et al. 2020; Gunby and Carline 2020; Roach Anleu and Mack 2021).

It is in this context that Lisa Flower's intricate and arguably, intimate, *Interactional Justice* is situated. Focused on the Swedish courtroom, a unique mix of inquisitorial and adversarial approach—or 'Scandinavian law'—takes as its focus the role accomplishment of defence lawyers, honing in on the loyalty work they do. Loyalty has long been side-lined from focus and accounts of (emotional) courtroom practice. Flower, however, fills this absence, examining in depth how loyalty is talked about, accomplished through interaction and guided by a meld of professional obligations, invisible shared expectations and the particular demands of the Swedish context. These demands include an enhanced interaction between lawyer and client, the absence of ceremonial robes and jury and the reality that defence lawyers operate in a context of 'losses', with 93% of criminal trials leading to conviction. Further, the Swedish courtroom is not an arena known for its drama, meaning emotions, emotional tactics and body language must be subtle. This potentially places greater demands onto the emotional work of Swedish defenders compared to other courtroom actors or their American and English counterparts. Thus, this 'emotionally charged yet highly emotionally constrained situation' (17), culminates in a fascinating, thorough and original examination. An examination that offers new ways to understand loyalty (within and outside the legal context), emotional work, the courtroom experience and process of justice that plays out within it.

Drawing on extensive ethnographic observation and interviews, Flower identifies the rules that underpin defence lawyer's role construction and performances. She uses approaches

prominent in the sociology of emotion and interaction, with Goffman and Hochschild featuring heavily. She reworks a range of original concepts and approaches—the Rambo-Bambi being a personal favourite—to better fit the Swedish dramaturgical courtroom. That is, the muted, modest and subdued dramatic performances, which often mask a darker ‘form of strategic emotion work for instrumental purposes’ (160). As Flower acknowledges, Swedish defenders kill with kindness, but kill none the less.

The main data chapters (4–7) get up close to the detail of Swedish defence practice and this is why ‘intimate’ is so opportune. There are points in the data when you feel like you’ve been invited in to watch something you shouldn’t and to observe a previously hidden reality play out in its intimacy of interaction. Chapter 4 examines how lawyers talk about and use loyalty, as a central principle that underpins practice, but also in terms of getting the job of representing clients done. ‘Loyalty layers’ are considered or more specifically, the different types of loyalty that pull at defence lawyers and how these remain hierarchical, fluid and negotiated individually. Here, the chapter briefly considers the possible gendered dimensions of loyalty and how prioritizing loyalty towards family, for example, may slow down or prohibit women’s progress within law firms. Raising this debate made me keen to understand further how gender came to have a bearing across the emotions, performances and strategies discussed. Although this analysis does not materialize, it hopefully sets the tone for future outputs from this data to consider.

The role and significance placed on loyalty makes any deviation away from it all the more visible (once the eye has been trained to see it). Thus, Chapter 4 ends by providing examples of occasional ‘slips’ in performance, when the mask falters and disloyalty is conveyed. In so doing, the (hidden) rules that govern the ‘right’ performance are revealed, with ‘unintentional gestures’ acting as doors to ‘the felt emotion during emotional concealment’ (71).

The book moves on to explore the *strategies* used by defence lawyers to (re)present themselves and others (Chapter 5) and the *emotions* associated with these practices (Chapter 6). Thus, the forms of ‘facework’, ‘bodywork’ and ‘teamwork’ that loyalty entails are analysed, including how lawyers construct, manage and communicate their ‘lawyer face’, the face of their client and the united defendant/defender ‘team face’. Here, the power of doing nothing—or adopting ‘stone face’—shines through in terms of its potency to do something. Namely, to draw attention to and away from all important facts. This is followed by a detailed account of defence lawyers’ emotions—those considered appropriate and otherwise—identifying how they become professionalized and rationalized. The data are also used to show lawyers’ emotional work via the management of their own, their clients and other legal professionals’ emotions in court. Chapters 5 and 6 bring to the fore a central theme of the book: that the trial and legal performances within it play out in accordance with the emotional regime of the law. A regime that quells strong emotional displays. Or, more specifically, that the courtroom emotional order (specifying what should be felt), the interaction order (shaping what should be done) and the ceremonial order (identifying how this should be achieved courteously) provide the framework to be followed and the backbone that enables the trial to flow smoothly. Whilst this argument is nuanced, evidently reflected in the data and convincingly made, some further consideration of agency would have been interesting here. As other research had shown, courtroom actors do use emotional labour to reconcile their personal feelings with the totalizing expectations of the courtroom, allowing for the (subtle) play of human agency and performances that contrast to those prescribed.

Prior to concluding, the final chapter contrasts and compares the loyal defence lawyer’s performance with the impartiality performed by the judge and the objectivity performed by the prosecutor. In so doing, it reinforces another of the book’s key contributions—that justice is a collective, interactional ‘three-team interplay’ (150). It requires actors to stay in role and do boundary work in order to ensure a fair trial. Indeed, it demonstrates how Interactional Justice

prevails and disruption are managed and repaired, despite the adversarial nature of the process and players being guided by different legal principles.

Flower's Interactional Justice has done an important job of centring the role of loyalty within the work of defence lawyers. It has exposed the ways in which loyalty shapes expectations, relationships, emotions and performances, including its nuanced, multifaceted dimensions and the management it entails. It firmly situates the 'loyal defence lawyer' alongside the 'impartial judge' and 'objective prosecutor' who uphold the criminal trial and through whom justice is constructed. It convincingly articulates how courtroom performances are learnt through 'professional emotional socialisation' (175), stifled by, reflect and perpetuate the emotional, interactional and ceremonial orders of the courtroom. A script for actors to follow and one which sustains the criminal trial and flow of justice. Interactional Justice succeeds in its ambition. It is a significant contribution to the sociological, criminological and broader bodies of literature. It offers something original, something rigorous and something intimate.

CLARE GUNBY

Institute of Applied Health Research, University of Birmingham, UK

REFERENCES

- Bens, J. (2019), *The Journal of Legal Pluralism and Unofficial Law*, 50: 336–55.
- Bergman Blix, S. and Wettergren, A. (2018), *Professional Emotions in Court: A Sociological Perspective*. Routledge.
- Carline, A., Gunby, C. and Murray, J. (2020), *Rape and the Criminal Trial: Reconceptualising the Courtroom as an Affective Assemblage*. Palgrave Macmillan.
- Craig, E. (2016), *University of Toronto Law Journal*, 66: 197–243.
- Dahlberg, L. (2009), *Law and Humanities*, 3: 157–205.
- Gunby, C. and Carline, A. (2020), *The British Journal of Criminology*, 60: 343–62.
- Roach Anleu, S. and Mack, K. (2021), *Judging and Emotion. A Socio-Legal Analysis*. Routledge.