



Interview

Lisa Flower

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Anne Saab (AS):

Good afternoon and really delighted that you've agreed to speak with us today. We have Lisa Flower with us today, we're here in Lund for a gathering on emotions and international law. I'm going to ask you a few questions.

So Lisa, could you tell us a little bit about your research trajectory, the main themes that you've been working on and how you became interested in them?

Lisa Flower (LF):

Yeah, I would say my main research interest has been the courts from a sociological perspective. I'm a sociologist, I wrote my doctoral dissertation on the emotions of defense lawyers and how they manage their emotions to **perform loyalty** in the courtroom. So looking at the unwritten rules of interaction, strategies of presenting themselves, the client, and the defense team and trying to find these unwritten rules of emotions and interactions in the courtroom.

And I think this was a really interesting subject to work on and it kind of fits in with the other research that was being done at the time, looking at judges and prosecutors. This sparked an interest when I was doing the fieldwork in the courtroom. So I did lots of courtroom ethnography, observing in courtrooms and interviewing the lawyers as well.

Then I started to notice that, on bigger cases, there were a lot of reporters who were writing reports that would then get published instantly on blogs, on news websites. So then I did a study on that, on live blogging and how that, from various perspectives, helps in a way to emotionalize the courtroom. So my **dissertation** was also looking at showing that people in courts, as we know, are emotional beings, emotional actors, and they have to manage their emotions accordingly.

And so I was looking at the emotional regime and this framework of rules of how to act and how to show it and who can show what and feel what. And then the **live blogging**, I was seeing that when I analyzed the reports, that they were also helping to partly

reproduce this emotional regime. So presenting and depicting the different legal professionals in certain ways, but also helping to shift and create an understanding of the court as an emotional sphere, because they need to make these live blogs newsworthy.

So they need to make them a bit dramatic and sensational. And I also saw, for example, that the journalists writing these live blogs could write whatever they wanted, word for word reproductions of what was said in the courtroom that would be published immediately on the big news websites and smaller news websites. So a witness sitting in the waiting room could read exactly what was being said in the courtroom, which they're not supposed to do.

They're not supposed to have access to this kind of testimony that was given. So this was an interesting finding that the principle of public access that we have in Sweden is made more problematic by digitalization. The next step in my research career was then looking at the use of video links, because again, I started to see that more people were using video links.

Video links have been used to participate in trials since a long time in Sweden. They started to be used more so with a reform in the early 2000s. And then the pandemic hit and their use exploded in Sweden and across the globe. But research hasn't really kept up to speed with it. And so we don't really know how they impact on different aspects of courts. So I have a research project on the go that's looking at that.

And then this also led to the big project that I'm working on now, the ERC Starting Grant called VIRTUTRIALS (finding the catchy title is the most important thing of research). And that's looking more at virtual participation. So also looking at the use of video links, but focusing more on the physicality in trial.

So that's kind of my research trajectory, I would say. And then also at the moment, I'm working on another project as well, which is looking at video links and the use of video recorded testimonies, a project called **E-Vivi**. And this is really interesting. The use of video recorded testimony has only fairly recently been enabled in Sweden so that police interrogation can be used. So it's really looking at emotions, interactions, and now digitalization in the courts and how this shapes our understandings.

AS:

Great. Thank you so much, Lisa. Could you tell us a little bit more about your ERC grant on virtual trials and what you're going to be doing with that project

LF:

This project started a month ago, so it's still very, very new. We're going to be a research team with four PhD students together with myself.

We're going to be trying to understand the role of physicality. We often say that when we take part in something via video link, or we all remember from the pandemic that it wasn't the same as going to a lecture or meeting someone. And it was kind of difficult to put your finger on why is it different. So it's kind of trying to unpack and really understand what is it that's different? Is it different? How is it different? How does this impact the experience of taking part in the trial, what we do during a trial, in particular, looking at virtual justice rituals.

There's been lots of work that's been done on this [virtual justice rituals] previously. Meredith Rossner, for example, has done a lot of work on virtual justice rituals, and looking at how we can ensure that this ritual of a trial can transition into the virtual sphere, whilst keeping the solemnity and the gravity and to remain something that we can gather around as a societally, culturally important event. And then also looking at the role of credibility and remorse. For those first two parts, we're going to be following, observing, shadowing people, and doing interviews.

Then the last part, we will be analysing written judgments to see whether participation formats, so if somebody's taking part via video link, like a video conference, whether that impacts the judgments in different ways, and also how it impacts on evaluations of credibility, and also evaluations of remorse. So remorse, I'm particularly interested in this. Remorse tends to play quite a large role in trials, even though it's maybe not supposed to play a role in judgments, but we know that it does shape how people are evaluated, and can shape the final judgment.

But how somebody looks remorseful, we don't know what that looks like in the courtroom. We also know that video links can change how emotions are perceived and understood and how you sound. So the use of video links could have quite an impact on specifically the display of remorse.

So that's going to be one aspect in particular I'm interested in.

AS:

Great, thank you so much. I am looking forward to hearing much more about this project.

I have one final question that I'd like to ask you, which is, what do you see as important or necessary future avenues for research around law and emotions more broadly?

LF:

Yeah, I think there is so much to be done, and it's so exciting because it's a small research field that has exploded. There are more and more people looking at it, and

greater acceptance, not just with sociologists looking in and saying emotions are important, but also within the legal sphere, there is greater acceptance, I think now, for the role of emotions, which means there is more and more work being done, which is brilliant.

I think quite possibly the ways that we need to be focusing on is, of course, the use of AI and judging and algorithms and how we are going to be building bias into these different systems that we're starting to use.

But also s next step from my work on video links is the use of holograms, which are being developed, the use of the metaverse and avatars for trials, so how this will impact on the perception of emotions and the experience of taking part in a trial, how that shapes things, the presentation of evidence that could then take part by virtually instead of being in the courtroom and how this can impact on the trial in various ways. So I think the use of technology moving forward is going to be vital and I think also shifting.

Part of my ERC project, the VIRTUTRIALS project, is looking at the right to confrontation and whether face-to-face confrontation is actually necessary. Can we move away from this? Can a screen-to-screen presentation be as legitimate and feel the same? So we maybe are moving away from trials being in courtrooms and achieving justice in a virtual sphere instead, and then the role of emotions within that is also vital to ensure that people still have the same experience and we still can perceive and understand and interpret emotions in the same way, or perhaps that we remove the role of emotions completely.

And this is, I think, what is what is interesting, that we are moving towards ensuring that we keep the emotions the same, but we could also be moving towards a situation where emotions don't matter, we need to be looking at the facts of the case and nothing else. So I think it's an interesting time where lots of research is needed.

AS:

Thank you so much, Lisa, for taking the time to speak with us today.

