The Presence of Absence of Personal Identity: Everyday Conditions of Practicing Law

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Everyday conditions of practicing law

Matilda Arvidsson*

This is a confessional story

A confessional story is, as John Van Maanen puts it in *Tales of the field*, the fieldworkers “response to some of the realist conventions that have proved most embarrassing”*. These realist conventions are the fantasies on “how things are”. The fieldworker enters the field with those presuppositions, and quite often finds the reality of the field to be quite different from what he or she imagined, or what perhaps what a whole science has made him or her believe. A common response from the fieldworker is thus embarrassment as to the gap between the imagined and the experienced. The

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2 This article is based on the paper On Objectivity, presented 2 November 2007 at the Doctoral student course Theoretical Foundations for Doctoral Studies in Law, at the Faculty of Law, Lund University, and on the paper The everyday life of Law presented 5 December 2007 at the PhD course Observations and organizational ethnographies, at Copenhagen Business School, Department of Management, Politics and Philosophy.

3 All photos appearing in this article are taken by the author.

confessional story could be seen as a reaction to such an embarrassment.

The story which I am about to unfold here is the story of how I came to practice law, and how I came to understand my own as well as others’ practices on law as these took place in the mundane everyday life of the environment which was my workplace for two years: Lund District Court, Sweden (hereafter the court). The story is an auto-ethnography – a cultural introspection – which means a study of the culture which one self has taken part of, through an analysis of the self-experienced. Thus, although it is through the personal experience this ethnographical research is undertaken, it is not the psyche of the Self of the ethnographer that is studied, but rather the culture which he or she has taken part of.

Writing ethnography could be described as the “peculiar practice of representing the social reality of others through the analysis of one’s own experience in the world of the others”⁶. In writing this, I am exercising that peculiar practice of representation of the social reality of practicing law at the court. The “others” in this case are the others at my former workplace: the law clerks, the receptionist, the janitor, the chief judge, the secretaries, the cleaning ladies, the judges, the judge delegates, the lay judges, the telephonist, and the human resources personnel. Together, we made the court.

Stating the obvious

It is, one might argue, obvious that one of the main practices of a court would be practices of law. The court “deals” with law in many respects. The stories which I am about to tell is about some of these many practices, as I took part in them.

The space in which the practices on law at a court take place is even more obvious: the spatial realm of the court. The spatial conditions of practicing law at the court are in fact so obvious that

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they need never to state them selves. The questions “what does it mean to law that the spatial design of the court connects four corridors as a square?” or “what does it mean to law that the floor at the court is melange-grey?” seem so trivial that it cannot possible be asked, at least not in a serious undertaking in re-searching law. In an answer to the trivialization of the mundane everyday life of practicing law, I will argue that law must be understood precisely in re-searching the trivial: in re-searching that which so obvious that it needs not state it self; that which we never care to talk about. Searching the seemingly simple and re-searching its complexity is then one of the most important tasks in legal research.7

Thus, it is the trivial yet complex practices in the space of the office which is the field of my study: the everyday practises and spatial conditions for practicing law at the court.

The court consists of two spatial realms: the part that is open – session rooms – and the part that is closed to the public – the office space. It is in this office space that the “daily routines that come to seem inexorable and unchallengeable”8 take place. The term “the office” does, as Jon Moran points out, describe “both a building and a particular form of work culture, and the two are increasingly related”9. It is the professional legal culture within the office part of the court, as a particular form of work culture, which I have been studying.

Professional legal culture is often portrayed as emerging from outside in. “Outside” refers to the values of the judge, and “in” refers to the law. Law – as an ontologically existing object – becomes formulated by the values of the judge. Johan Bell describes professional legal culture as “a specific way in which values, practices and concepts are integrated into the operation of legal institutions and interpretation of legal texts”10. I argue that law

9 Ibid, p 36.
10 John Bell (1995), Judiciaries within Europe, Oxford: Oxford University Press p 70. See also Matilda Arvidsson (forthcoming 2008), Shari’ah from behind the bench: Court culture, judicial culture and a judge-made discourse on Shari’ah at a Swedish
itself comes into being – is articulated and manifested – by and through the very everyday mundane and ordinary techniques of practicing law. Thus, it is not only the sophisticated techniques of “interpretation” – as we imagine the judge interpreting the letter of the law in the specific case in front of him – that shapes the professional legal culture, and indeed law. It is also the trivial and complex practices of everyday life as it takes place at the workplace where law is practiced. And these manifestations are set by the office: both the office space and the office culture. Law emerges – as it is practiced – from the inside out: from articulations and manifestations “inside” the office, and is literally sent “out” of the office as judgements. Law be-comes – i.e. comes into being – as a result of legal professionals articulating law in particular and everyday practices in the particular office space. This is only one way of law be-coming, but it is the way in which it be-comes at the court.

The aim of confession – confessing the aim

The aim of confession is not one. Confessional stories claim authenticity as being truly experienced by a real person. The confessional narrative is also a way of suggesting that the researcher is now “seriously back among his [or her] peers, ready to tell the adventures of the field”12 – putting distance between the researcher and the field. Confession offers the fieldworker some aid in grasping “occurrences in the field emphatically, but to stand away to situate them in other contexts, both social and personal”13. Confessing is thus a practice of researching the distinction between subject and object, between experience while observing, and observing the experience.

District Court, in Tradition and renewal: Shari’ah as discourse and the encounter with Europe, Eds. Jørgen S. Nielsen and Lisbet Christoffersen.

11 The history of the idea of the confession can be traced both to Hellenistic culture and Christian practices, as Michel Foucault points out in Michel Foucault (1997) Hermeneutics of the Self, in The Politics of Truth, eds. Sylvère Lotringer & Lysa Hochroth, Semiotext, pp171-236.
13 Ibid, p 93.
My aim in confessing this story is to demystify the techniques of practicing law, while at the same time point to my field as an example of a specific professional legal culture reproducing a certain ideology of law in the everyday routines and spatial settings of practicing law. That ideology de-contaminates law from personal identity and liberates judges – as well as other professionals at the court – from agency, while it at the same time makes the judge personally responsible in exercising his profession, and requires the judge to lend his identity and his will through his personal signature.

My aim in demystifying the techniques of practicing law refers to how legal professionals at the court, as well as legal professional elsewhere, have sometimes been talking about the practices of law as something mystical, something almost holy, and something that surely only persons well trained in law and experienced in practicing law could possible understand. Against that mystical notion of the techniques of practicing law I offer an account of the mundane and complex everyday conditions and techniques of practicing law at the court.

There is – at the court – a presence of absence of personal identity. The lack of personal identity is not accidental. Every detail about the everyday practices at the court is part of the eradication of personal identity in professing law: acts and gestures as well as the spatial conditions making up the physical realm in which law is practiced. I will share my experiences of some of these practices and conditions in this story. The practices and the conditions are all trivial and very particular. Read one by one they become what they are: particular and complex stories. Read together they read into a particular professional culture on law.

I have to confess that also I – for a while – lost my personal identity and experienced liberation from agency, I was held personally responsible for the practices of my profession and I lent my identity and my will to the practice of law through my signature.

I have signed so many judgements and documents with my name – the sign of my identity and subjective will – without thinking twice about what that really meant. I am personally

responsible for having practiced law carelessly: for having taken part in practices on law which I personally find unbearable.

How is it possible to – as I did – embody practicing law and loosing ones own identity – becoming nothing but an object – while at the same time over and over again lending that very lost identity and ones lost will through ones signature and thus recalling a responsible subject? The person who once was the subject of his own will is called upon to become nothing but the object created in that call, only to be immediately called to submit the very sign of subjectivity: the personal name written by hand as the sign of the subjective will.

Fieldwork – enduring the mundane while taking notes

As this is a tale from the field, it might be appropriate to say something about what fieldwork is, to set the framework for my own work in the field. “In the broadest, most conventional sense” Van Maanen writes, “fieldwork demands full-time involvement of a researcher over a lengthy period of time”\(^{14}\). My fieldwork is substantive in time, and the material in form of observations, structured and semi-structured interviews, notes, documents, and photos, is enormous.

Reporting back often involve the telling of tedious details. But, it is in these tedious everyday details, the slow and rich telling of the reality of the field, that the key to understanding legal culture lye. Law as it is practiced cannot be told de-touched from its cultural environment which makes up the very foundations for its be-coming, its very being law. The following is an account of some of the details of the everyday life of law at the court.

Everyday life

I spent two years, 2004-2006, in my field, employed as a law clerk at the court. After a few months I was assigned duties as a judge

delegate. It was indeed an “ongoing interaction with the human targets of study on their home ground”\textsuperscript{15}. I went to my field – my workplace – every morning at least five days a week, sometimes every day of the week. I entered through the employees entry of the court at somewhere between 6 AM and 8.30 AM. I left the building through the same door at the earliest 4 PM, and at the latest 11.30 PM. I followed the rhythm of the institutionalized work culture at the court. As a law clerk, one was assumed to spend more than 40 hours a week at work. And, so I did what everybody else did: I came early and left late. I participated in the daily practices of the court, just as any other law clerk would do.

As I entered the court in the morning I cheered “hello” to everyone, taking care to look happy and sound as I went through the daily greeting ritual. I had been advised by a senior law clerk to perform this morning ritual carefully and systematically not to forget any of the secretaries. He specifically mentioned it being of importance, as it would enhance my chances of a favourable position with the secretaries, something he suggested as being crucial. At 9.30 AM I participated in the informal coffee break. I had tea. At lunch time I took my meal in the lunch room, often at a table together with the other law clerks, next to the table where the secretaries had their lunch. Judges lunched elsewhere. In the afternoons, at 2.30 PM, I took part in the informal coffee break. I had tea. I took part in the coffee break and lunch break conversations, which often touched on the subjects of cooking, family life, particularly hard cases we were working on, the sex life of our colleagues, our mutual fear and contempt for the chief judge, our favourite TV shows, unruly defendants we had to deal with, and other mundane and trivial subjects.

The walk

In late July 2006, at the very end of my time in the field, I went for a walk in the office section of the court. I started to document

\textsuperscript{15} Ibid, p 2.
my everyday life as a practitioner of the law using my cell phone camera. I was not entirely sure of what I was to document, as I was not sure about what my practices on law were. I was not sure about what I was doing, or what I had been doing at the court. I was convinced about the necessary in overcoming that activity, what ever it was. And – I figured – only by stepping out of oneself can one overcome oneself.

I stepped out of my office, looked back, and took a photo.
I then stepped out in the corridor outside my office, looked to the left, and took a photo.

Next thing, I walked down the corridor, passing offices. Some doors were fully open, most doors were half closed. Windows without curtains, walls painted gray, gray linoleum floors and light red linoleum squares reoccurring at odd distances. A purple sofa – which nobody ever sat in – and a plant rented from a rent-a-plant company.
I stepped into the restroom and took a look at what is the most striking feature of all restrooms in the office section of the court: the man-sized mirrors. There is one in every restroom. The mirror completely dominates the small space. There is no way of going to the restroom without having to gaze at oneself. The mirror is often used by the judges and law clerks as they change from everyday office clothes to session clothes before entering the public part of the court. One has to take a look at oneself in full figure to be convinced about one's professional appearance.

I took a photo. This is the only picture in which any human being appears, and it is – not all that surprisingly – me looking at myself.
I followed the corridor as it turned right: yet another corridor of offices. Some doors were fully open, most doors were half closed. Windows without curtains, walls painted gray, gray linoleum floors and light red linoleum squares reoccurring at odd distances. To the left: a library – silent and in almost complete darkness. To the right, looking through the curtain-less window: the inner court of the court: the ventilation system.
Ahead: the kitchen where we would go for coffee. I took a look through one of the windows, towards the courtyard. I took a photo.
I walked out of the kitchen. The court is spatially planned as a square with four corridors; you are able to walk the four corridors and come back to your beginning in a few minutes. I again turned my attention to the floor: gray, light red, a wooden threshold, and black stone. I took a photo.
My effort in this endeavor – this walk, those photos – was entirely personal and subjective. Yet, out of my effort came a series of pictures which are – in some sense – only partly dependent on my personal subjective gaze. I directed the camera towards the motifs – this is subjective as my endeavor was to understand *my* work as a practitioner of law – but the motifs themselves were very ordinary things in the immediate surrounding in my field: the linoleum floors, the windows with blinds, the man-sized mirrors in the restrooms, the ventilation system in the court yard, the corridors of offices, the almost closed doors, the rented plant, the purple sofa which nobody ever sat in; the lack of human presence.

As I was arranging the photos on the desk in front of me – not unlike a memory game or a jigsaw puzzle – there was something about the pictures that struck me. About one year had passed from the walk to the moment when I sat down to arrange the photos. I was no longer part of the staff at the court. I had come out of my field. I was now observing my experience. My understanding of what we were doing at the court when we did whatever you do at that workplace, had not become much clearer or simpler during the time that had passed.

As I was looking at the pictures, all the particular motifs struck me as being very biased: they were not neutral grounds. There was not a single object which was not part of the particular history which made the court to what we were: which made us practice law in a particular way. There was no reasonable sense to what was going on at this workplace. What we did – when we did whatever we did – was embedded in these pictures. So what were the keys to unlock what was there?

My initial purpose in taking the walk, and photographing what I saw, had now changed. I had seen something, but was not entirely sure about what that something was.

I turned back to my photos. Was the answer to how the particular practices in relation to the specific articulation of the law came to be, within these pictures?

Those floors, those halls, that grey color, those man-sized mirrors in the rest rooms, that library, that coffee room, that sofa
which nobody ever sat in, were important points of reference for my entire effort as a practitioner of law. “In the walls” was not just an expression at the court. It was – in my experience – on those visible and invisible walls of institutionalized knowledge we relied, every day. The pictures – the documentation of my every day life as a practitioner of the law – became once again the starting point in my search for particular practices: my re-search.

Looking at all this I was struck by the presence within the pictures. There was a strong presence of an absence of personal identity. It was not only an absence. It was a manifested presence of what was not there, not unlike the pressing feeling of absence once the one you love has left the room. The beloved is present because you feel the painful absence of her or him in the room.

The necessary displacement

Ethnographical fieldwork requires a physical displacement. One has to enter the field from having been somewhere else.

I entered the court after having spent years outside Sweden, having performed my every-day life activities in other languages than Swedish. As I entered the court, I became displaced in several respects. I came out of the experience of living, studying and working in such “other” places as Khartoum, Nairobi and Jerusalem. The physical displacement was thus apparent.

The linguistical displacement was as apparent. Swedish had not been my professional language for many years, and I had never talked the lingo of Swedish law. I often found myself searching for Swedish words which did not come to me, and I sometimes answered in the wrong language when called upon.

I had no previous experience of professional Swedish legal culture. I came out of the experiences of working in restaurants kitchens, teaching at the university, researching law in the field, working at the United Nations, consulting at Non-Governmental Organizations and managing my own consultant firm in the

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communication sector. My professional displacement was apparent as I entered the court, though I was academically trained as a jurist.

There risk of “going native” was in other words minimal.

Dislocation from the field is as important when writing about the experiences of the field, as it is to enter the field from having been elsewhere. The journey from the experience, displacement and participation, to the re-examination of ones own experiences often takes time. In my own case, it is only after more than a year after having left the field that I have been able to analyze and write about my experiences. And most of my material and my writings on my experiences will never be put to public display. There is simply too much material, and too many experiences on which to make observations, and on which analyses can be made.

I write about these experiences in English and not in my mother tongue Swedish, the language used at the court. Also in this I need to displace myself in relation to my field as an autoethnographer. Swedish was the language of my childhood, of parts of my education, and of my field. My professional language is English. It is a necessary dislocation.

The initiation ritual

On my first day at work I was asked to sit in session with one of the senior law clerks, to watch and learn. The senior law clerk told me that she had been my student during an autumn semester in the late 1990s, as I had been working as an assistant teacher at the Faculty of Law at Lund University. She confessed to me how much she had admired me as a teacher, and how she remembered me having been teaching her administrative law while I was dressed in party clothes on the afternoon of the annual law students’ work fare dinner party. I had apparently been on my way to the dinner party straight after class, and I had dressed up before. My former student was now teaching me how to become a law clerk. She took care to advise me on proper clothing, lending me – for this specific

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17 Ibid, p 77.
occasion – her own spare black jacket which she kept in her office closet. I had only been wearing a jumper. She also advised me on appropriate colours of lipstick. I made a mental note to buy a lipstick of a neutral pink colour.

Before the session started, I was taken to a small and dark room with a peculiar dense smell of closed spaces, situated directly behind the main session room at the court. Standing in front of the judge who was to sit on the bench for this particular session, I swore the oath of judges, repeating the words as the judge spelled them out to me from the code of procedure (rättegångsbalken). The only persons in the room were me dressed in the black jacket I had been lent, the senior law clerk – standing to the right in the background in front of a window, sunshine falling in on her – constantly smiling, and the judge who had a peculiar way of constant small movements and a mischievous friendly smile. I heard three voices. First: the thick and warm southern Skanish dialect of the senior law clerk – she was from the very south west of Sweden – as she advised me on what would happen in the session which was about to start as soon as I had been sworn in to the profession of the judge. I heard the nasal friendly voice of the judge – his dialect told me that he was from Halland, to the north west of Skåne. I heard my own voice. My voice in Swedish was undetermined: I who was born in Småland, brought up in north western Skåne, who had spent my adolescence in Lund – a city known for its peculiar mixed dialects – and who had spent the latest years of my life in the Middle East and East Africa speaking other languages than Swedish: I was uncertain to what my voice was.

The entire experience felt friendly but foreign. I did not know what to make of it, though I realized that I had now gone through the formal ritual of initiation. I was one of them.

**Discipline and subjugation**

I had been advised by former law clerks to take care to listen to the advices shared by seniors. So I did, though I have to admit that I did not always understand the advices, or the significance of them. I
made a practice of asking my fellow law clerks, the secretaries and the judges as to how things were done at the court. I wanted to know how “we” did it when we did law.

And, as time passed I experienced a growing feeling of frustration. I who had come to observe and experience was frustrated with becoming a part of the “we” without this “we” including me personally. My colleagues became increasingly frustrated with my personal interactions with them as we took part in the same practices on law. It became a matter of endurance: me enduring staying in the field, and the field enduring my stay.

I disciplined myself to gestures of subjugation. I took up the practice of always adding a “thank you” after having engaged in any sort of communication with the others at the court. It was an exercise of subjugation, as I was declaring my subordinate position being in a constant state of gratitude. But soon enough the others started to note that I did not only thank them when they had been giving me advice, handing me a dossier, or giving way for me at the copying machine. I thanked them regardless of what they did or what they said. My “thank you” had become indistinguishable from “fuck you”, though it was always phrased as a “thank you”. My colleagues did no longer feel sure about what my words meant. What I intended to be a gesture of subjugation, had instead become a gesture of critique. By repeating the gesture of subjugation, I had become desubjugated.

The one who is not a co-worker

Who is he or she who is not? After a month at the court I was called to a meeting with the middle manager in his office. In discussing my work situation, I referred to myself as a co-worker at the court. The middle manager immediately interrupted me, stating: “You are not a co-worker”. As I asked what I then was, because I did not know what the antonym to “co-worker” would be in the Swedish language. “As a law clerk” he told me “you are only here to learn”. I marvelled at what this could mean. I was there to learn so I was, but only in my capacity as a law clerk. However, I was not a co-
worker, though I was employed by the court to work there. I became the one who is not. I answered him with a “thank you”. This apparently provoked him, as his reply was quick and sharp: “for what?”. “For clarifying to me”, I answered, “who I am to you”.

The door

I cried myself through the nights of my first three months in the field. Only once did I cry in my office, and I took notes to never do that again. In a heated moment, one of the judges at the court had entered my office, confronting me with having made several mistakes in the minutes from a preliminary hearing in a family case. She had been sitting as the judge and I had been taking the minutes. Standing at the end of my desk in my office, she now questioned my mental health on the basis of those mistakes: “It is only a mentally ill person who would do such mistakes”. I quietly asked her – in a gesture of subordination – to not question my mental health when advising me on how we take minutes at the court. The humiliation of having to subjugate my self to these practices was so overwhelming that I closed the door to my office after she had left, and I cried silently.

Closing the door could mean a number of things at the court. Quite often it meant that the person behind the door was changing clothes – from personal clothes to session clothes – in preparing for entering the part of the court which was open to the public. Thus, a closed door indicated that the person behind was naked as to her or his body. It could also mean that the person behind the door was having a private conversation: was in her or his own person, and not in her or his profession. Also this indicated nakedness, but as to the personal identity. A third interpretation of a closed door could be that that the person who would normally sit behind the door had left his position at the court for good. Thus, a closed door could also mean a permanent absence. But I had closed my door to cry.

After a few minutes the door to my office was opened. I was now facing another judge. It was the middle manager responsible
for organizing the work in which both I and the other judge – who had just left my office minutes before – were participating in. As he opened the door to my office, entering without hesitation, he started talking without taking notice of me being in a “naked” state. While still talking to me, he suddenly realized the naked state in which he had found me. Embarrassed from finding me to be something else than the law clerk he had expected to find, he quietly sat down in the chair next to my desk, looking – for a moment – entirely lost in the tiny office. From my office chair, I began to tell him about the heated moment with the other judge, offering him critique to how advises on how we write minutes were given at the court. After a moment of silence he began to talk. His talk was on the subject of care. The other judge, he told me, had a great care about me becoming a real jurist. Although she did not always succeed in getting it out right I should – he advised me – consider her outbursts as signs of her loving care for my professional career as a jurist. And, he added, that care was more than anyone else had for me. As for himself, he said looking straight at me with a sincere face, he thought of me as something which would pass in two years. The phrasing in Swedish which he used is often used for referring to temporal impairments, diseases, or things which cause temporal contamination. I had never before (or after) heard it being used in reference to a human being.

Although seeming like a somewhat cruel statement, what struck me was not the cruelty in his gesture. Instead, I was astonished by the fact that he had acknowledged me – in my naked state – as a subject and himself or perhaps the court as the object: “You (subject) will pass [me/us/the court] (object)”. Finding me behind my door, he had talked about a me which the other judge had not. She (subject) had been having ambitions for me (object) as a professional. She had a care for me becoming the object – de-contaminated from personal identity and subjectivity – who practice law the way law was practiced at the court. But the middle manager had found me irritating enough to refer to me as an

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18 Law clerks are employed on a two years contract.
impairment, a disease or a contamination of the space in which I was performing my professional practices of law in: he had acknowledged me as being a subject.

The stomach

I looked for advice on how to understand the practices of law at the court. This involved studying judgements, and asking my seniors on how they did what they did, when they wrote the judgements.

One of the judges took time to advise me on the importance of the stomach, the necessity of feeling the law. He told me that the “gut-feeling of law” was something that could not be understood if one did not feel it. He argued that once one had – as he had – been practicing law for twenty years, one knew what one was doing. One knew when one was right, and one knew when one was wrong. One knew when a witness was lying and one knew when a witness was telling the truth. This was the answer he offered to me after I had asked him how come he did not state any arguments in his judgements, but only facts and conclusions. Replying that I did not feel that gut-feeling, and asking for his advise on what to do as I was soon about to sit on the bench myself, he offered me no consolation: either one was – he argued – “judge material, or one was not”.

Since I completely lacked any sensations on law in my stomach I concluded that I was apparently not the kind of material that would one day become a judge. That was unfortunate as I had been delegated judicial capacity and assigned duty as a judge delegate. I found the technique of telling a narrative and then jumping to conclusions to be very peculiar. This was how judgements were written at the court. Nowhere was an argument to be seen.

The senior judge could only offer me advice to not write any arguments in my own judgements. He stated two reasons. “Firstly”, he said, “there is a legal-economic aspect to it. If we were to state the arguments, all cases would be appealed to the court of appeals.
The convicted would understand the logics behind the judgement, and that would be very unfortunate since it would cost the system too much”. “Secondly”, he added, “there is not always an argument as such. You consider all the facts and your feeling is more in the one than in the other direction. And that is the basis for your judgement”.

I could clearly see the disadvantages of writing arguments into my own judgements: the court of appeals – which would be the next step to take in a court career – would repeatedly see my cases being appealed. Not a good sign if I wanted to become a law clerk at the court of appeals. Scary thought. What scared me more though was the fact that judgements were not based on arguments, but on bodily sensations. And those were sensations that I did not have, at least not in my stomach.

Participation – A confession of my own practices

I assisted the judges in preparing the correspondences in their cases. I drafted judgements for the judges. I answered questions from the public. I took minutes during sessions. I sat as a judge delegate on the bench. I wrote judgements. I declared companies bankrupt. I performed wedding ceremonies, and I made decisions in cases on divorce.

Traces of some of my practices on law, as they took place at the court – documents such as judgments, decisions, minutes and official case correspondence – are archived in the basement of the court, where all case dossiers are being archived after cases are closed. Judgments and decisions are kept in the safe of the court in “yearbooks” of judgments and decisions (domböcker). Some of the documents which I produced are archived at the Court of Appeals of Skåne and Blekinge (Hovrätten över Skåne och Blekinge), and some at the Supreme Court (Högsta domstolen). Most of the documents are however at – or have at least passed by – the archives of the Prosecution Authority (Åklagarmyndigheten), the archives of various lawyers and law firms in the vicinity,
newspapers’ and journalists’ archives, and in the homes of those I have judged.

Taking notes

While taking part in all these practices on law, I took notes. I talked to my colleagues about their values and beliefs. I talked to them about their hopes and dreams. I asked them why they had chosen to enter the legal professions, and what their experiences of practicing law were. I invited them to share the inroads of the legal professions.

People at the court took great care to “do their job well”. What did that mean? It meant, as I found it, “doing what we do”. I have to admit that I never really understood the full complexity of what this “doing what we do” meant, though I tried myself to “do what we do”. I asked my senior colleagues, and asked again, about what those practices meant.

Some fellow law clerks admitted that they had no interest in what practicing law at the court could possible mean. The question was put wrongly they argued. Meaning was not what they cared for. They did not care as long as they did whatever it is that one does at the court well enough to get good enough grades to get a good enough job afterwards. So, practicing law in compliance with court practices was a career strategy. Other law clerks argued that they cared greatly about getting it right, and therefore took great care to look everything up. However, they found themselves sitting in the office late nights and weekends doing that. And, as one law clerk told me, she also wanted to see her kids.

One senior colleague told me that he saw the triviality in being part of a machine on law which he had absolutely no say about but to which he was potentially held responsible, as a challenge. It was an absolutely painfully unintelligible position to be in, but he considered himself being very good at doing it. After all, he had made it through the system and had become a judge. It was some sort of success story.
Siegfried Kracauer, writing out of Weimar Germany in the 1930ies, argued – in response to his “fellow Weimar intellectuals”\textsuperscript{19} – that we have underestimated the significance of the ordinary experience:

> “We must rid ourselves of the delusion that it is major events which most determine a person. He is more deeply and lastingly influenced by the tiny catastrophes of which everyday life existence is made up, and his fate is certainly linked predominantly to the sequence of these miniature occurrences”\textsuperscript{20}

The tiny everyday catastrophe is thus the experience of having to de-contaminate oneself from one’s personal identity in the mundane practices of the workplace: the office. During my time in the field I wrote judgements which I personally considered to be in direct opposition to the law as I understood it, but which were in total compliance with court practices. I did this remembering the oath of judges that I swore on my first day of work. I had taken the oath to practice law to the best of my knowledge and abilities, yet there I was writing a judgement which was contrary to what I knew to be law. And I signed it with my name. Through my participation in and compliance with court practices I took part in making law happen in a way I found to be embarrassing. This routine repeated itself daily. The catastrophe can be seen in relation to both the law – I did not care for law in my everyday legal practices, and in relation to my personal identity. In small occurrences, through tiny mundane practices, my personal identity became detached from my professional identity. As I entered the office space every day, I became the one who did “whatever we do” at the court when we practiced law.

\textsuperscript{19} Moran (2005), p 30.

On care

What does all this do to the persons who daily and in trivial gestures subordinate themselves through these practices of at the same time having to loose and manifest one's personal subjectivity? That is a practice of having to become someone else in a space – practicing law – where personal identity is known as a contamination – it is a practice of having to become a person without personal identity: of becoming an object also to one self. In other words, one has to treat one self as if one was someone else. Although this might sound as a highly complex practice, it is not at all mystical or obscure. On the contrary it is a mundane and trivial practice which all the professionals at the court every day took part and takes part in. Everyone who has been working at a court knows what this practice means. But, it is not only mundane and trivial, it is also a practice which is painful. To loose ones personal identity in tiny catastrophes every day, to gradually come to see ones personal Self as a contamination of the profession one practice, involves a distinct pain.

What does one do with that pain? One has to come up with strategies of survival. One has to become pragmatic. One simply has to stop caring. But what is it that which one stops caring for? To begin with, one has to stop caring for engaging in critique. If practicing law at the court involves practices of subjugation of the persons’ subjectivity, surely engaging in critique must be truly subversive, as it “essentially ensures the desubjugation of the subject”\textsuperscript{21}. Critique could be described as “the art” as Michel Foucault puts it “of not being governed quite so much”\textsuperscript{22}. The more governance one manages to accept in practicing law at the court, the lesser the pain. Letting one self being governed is thus a very good strategy of survival. Being governed is having someone else taking care, someone else being responsible. In the judicial system, it might be easily argued that the district court judge does

\textsuperscript{21} Michel Foucault (1997). What is Critique, in The Politics of Truth, ed. Sylvère Lotringer & Lysa Hochroth, Semiotext(e), p 32.

\textsuperscript{22} Ibid, p 29.
not have to be responsible for his practices on law, because he is governed by the Appeal Courts’ and the Supreme Court practices. Still the district court judge is held responsible for his acts: he has swore the oath of judges, he has – in certain cases and to a certain extent – personal criminal liability for practice law rightfully, he has a professional responsibility to practice law rightfully. It is not until he has signed an official document – a judgement – that it is considered law. The personal gesture is necessary and cannot be substituted. So, even if being governed is what the judge should be, he still has to have a subjective will in order for law to be-come.

The presence of an absence of personal identity signifies a loss of the care for law being a personal practice. Law cannot be practiced de-touched from persons. De-contaminating law from personal identity is de-contaminating law from being law.

Signature

During my time in the field, I was made aware of having a very peculiar signature. When asked if that indeed was my true signature I answered “yes”. Indeed, that gradually had become my signature after I had entered my field.

As I left my position at the court, time put a gradual distance between me and my field. I found myself re-defining my self. I found myself having changed my signature again, back to what it had been before I entered my field. I found myself slowly being able of stop trying to make sense of what had taken place at the court. There was no divine order to be un-earthen there. There was
no sense to be made. There were only very trivial and complex practices which made law be-coming in a particular way everyday.

So, this is my confessional story. I offer it to you to make of it what you might see decent. I offer the story with the gesture of the very sign of my personal identity and my subjective will.
Matilda Arvidsson (forthcoming 2008). Shari’ah from behind the bench: Court culture, judicial culture and a judge-made discourse on Shari’ah at a Swedish District Court, in Tradition and renewal: Shari’ah as discourse and the encounter with Europe, Eds. Jørgen S. Nielsen and Lisbet Christoffersen.


John Van Maanen (1988), Tales of the Filed On Writing Ethnography, Chicago: Chicago University Press


Från Schlyters Lustgård: Jag sträcker mig in i framtiden, 7:2007, pp3-30