

Chicago-Kent College of Law

From the Selected Works of Richard Warner

March, 2008

Empathy and Compassion

Richard Warner, *Chicago-Kent College of Law*

2008

Empathy and Compassion

Richard Warner

Follow this and additional works at: <https://scholarship.law.umn.edu/mjlst>

Recommended Citation

Richard Warner, *Empathy and Compassion*, 9 MINN. J.L. SCI. & TECH. 813 (2008).

Available at: <https://scholarship.law.umn.edu/mjlst/vol9/iss2/16>

The Minnesota Journal of Law, Science & Technology is published by the University of Minnesota Libraries Publishing.

Empathy and Compassion

Richard Warner*

Can we know what another is feeling? Ask a non-philosopher (and many a philosopher), and, if your audience deigns to produce more than a pained expression, the answer will be an impatient affirmation. That—minus the impatience—is my answer too. Genuinely questioning whether we can know what others think and feel is a sign of insanity. Nonetheless, I contend that we often think we know what another thinks and feels when in fact we do not. Knowing how another thinks and feels can be, and often is, a difficult achievement and our efforts in this regard are often at best only partially successful. Others are far more opaque to us than we may suppose.

I approach this issue via the philosophical problem of "other minds."¹ The version of the problem relevant here is posed by presenting a seemingly valid argument leading to the conclusion that we do not know that others feel and experience as we do. The point is not to convince anyone of a conclusion only an insane person would believe. The point is to demonstrate that we lack an adequate theoretical explanation of how we know about the mental life of others. My primary interest in this argument is two-fold. First, I present it to avoid confusion by explicitly setting it aside as it is not the focus of my concern. Second, I will use the style of argument, if not the content, as a model for the two arguments that are my central concern. The first of these arguments assumes that we can know about the mental life of others but

© 2008 Richard Warner.

* Professor, Chicago-Kent College of Law; Visiting Foreign Professor, Catholic University of Lublin, Poland; Visiting Foreign Professor, University of Gdańsk, Poland. I have benefited greatly from Claire Hill's comments on earlier drafts.

¹ . There are two "other minds" problems. The classic problem argues that I do not know, and can never know, that others have a mental life at all; they might, for all I know be robots devoid of any mental activity. The other "other minds" problem I discuss assumes others have a mental life but argues that we cannot know about their feelings.

814 *MINN. J.L. SCI. & TECH.* [Vol. 9:2
argues that we often do not because of the possibility that they are deceiving us. The second assumes that others are on the whole truthful and argues that we still often lack the background knowledge necessary to know about important aspects of their mental lives.

It is essential to be clear about one point at the outset. A remark by former Canadian Prime Minister Kim Campbell illustrates the issue. In an attempt to empathize with residents at a shelter in Vancouver's Skid Row, she told them that she too had felt loss and disappointment; she had once, she explained, wanted to be a concert cellist. The Prime Minister's remark seems silly. But why? She and the residents had felt disappointed, so, in that sense, she had vicariously experienced what they felt. The remark is silly because she claimed to know more than just that they both had felt disappointed. She claimed to know that her experience of disappointment at not becoming a concert cellist was qualitatively the same (or very closely similar to) the residents' felt experience of disappointment. This seems silly to the extent that one imagines the residents' sense of loss and disappointment having a depth, extent, and intensity unknown in the Prime Minister's experience. The most the Prime Minister could know was that the residents' felt experience was enough like hers that both count as disappointments; but, claiming to have vicariously experienced *their* feeling is a bit like claiming to know what a shark looks like when gold fish are all that one has ever seen. The Prime Minister's feelings belong to the same genus, so to speak, but not to the same species.² The point I wish to emphasize is that I am concerned with our ability to know the "species."

Empathy can give us such knowledge. The dictionary defines empathy as "understanding, being aware of, being sensitive to, and vicariously experiencing the feelings, thoughts, and experience of another."³ "Vicarious

² . For an even more egregious example, imagine this response to someone who has expressed to her friend her feelings of frustration, weariness, isolation, and exasperation at raising a toddler. The response: "I understand just how you feel. Having a dog is even more demanding than having a kid." Having a dog can make one feel frustration, weariness, isolation, and exasperation, but, until you care for a toddler, you really do not know what it can feel like. Again, the friend's feelings belong to the same genus, but not to the same species.

³ . Merriam Webster Online, <http://www.merriam-webster.com/dictionary/empathy> (last visited Mar. 13, 2008).

2008] *EMPATHY AND COMPASSION* 815
experience" need not, but certainly can, reveal the
"species." In this way, empathy can take us beyond just
knowing that our feelings and the feelings of others
belong to the same general category; it uses our feelings
to paint a portrait of another's feelings in a way that
allows us to know the specific felt quality of the other's
experience. We in turn want others to know the specific
felt qualities of our experiences. Such knowledge is one
basis of intimacy between friends, lovers, and spouses. I
contend, however, that we have such knowledge less
often than we think, and I argue that this fact should
make us more tolerant of others than we are.

I. THE PROBLEM OF OTHER MINDS

The argument proceeds by describing a possibility and then claiming that it poses an unanswerable challenge to our knowledge claims. The possibility: imagine that there was a nuclear holocaust in 1957 which created enough worldwide radiation that the entire human population eventually perished. Before the last survivors died, however, an advanced race of benevolent aliens secretly landed on earth. The aliens, conveniently immune to radiation, surreptitiously harvested eggs from the last survivors, used sperm banks to fertilize them, and buried the frozen eggs deep in Montana. In 1975, the aliens unthawed one egg as a test. You are the result. Unfortunately, radiation levels were still so high that managing your growth process was quite difficult; consequently, the aliens decided to delay their next test until 2030. To avoid the devastating psychological impact of your discovering that you are the only non-alien on earth, the aliens simply let you think they are all human beings too. Their deception succeeds because they are the product of an evolution that precisely parallels our own. They are our cosmic twins. They look, act, and speak exactly as we do; they have their own Shakespeare, Keats, Einstein, and so on. They speak of hope, joy, pain, gratitude, and the like just as we do, and those feelings exhibit the same causal nexus as our feelings. What causes joy in them is the same as what causes joy in us, and the thoughts and actions joy causes in them are the same as it causes in us. The difference is that the feeling at the center of the causal nexus is not the same. The

816 *MINN. J.L. SCI. & TECH.* [Vol. 9:2
aliens' neurophysiology is fundamentally different, with the result that their felt experience is very different from ours.⁴ When Keats writes, "A thing of beauty is a joy forever," the joy he refers to has a very different felt quality than the joy to which our Keats refers.

Possibilities of this type provide a seemingly unanswerable challenge to our claims to know how another feels. Consider an example. Suppose that, when my grandmother dies, you think about me confronting her death; and, as you imagine my reactions, you feel a wrenching sense of loss. You infer that I feel the same. The alien invasion possibility seems to show that you do not *know* that I feel the same. To see why, consider an analogy. As you are walking along a forest path, you see a footprint. Two different species of animal, A's and B's, leave exactly that footprint, and it is equally likely that it was left by either (there are an equal number of A's and B's in the forest). Do you know, on the basis of the footprint alone, which animal left it? Of course not. To know it is an A, you have to rule out the possibility it is a B, and vice versa. You can do neither on the basis of the footprint alone.

The wrenching grief example looks similar. The "footprint" consists of everything you have observed throughout your lifetime. This evidence cannot decide between two hypotheses: I feel what you feel; or, I am an alien with utterly different felt experiences. For all you know, it is as likely that everyone else is an alien as it is that everyone else is a human being. It appears then to follow that you do not know that you and I are relevantly similar, and hence that you do not know whether what you feel is what I feel.

This is not to deny that you *could* know.⁵ You could cut open my brain to see if my neurophysiology is human or alien. You could also excavate Montana, discover the

⁴ . We could know that they feel differently than we do without knowing what it was like to have their felt experiences. Neurophysiology could tell us that such-and-such biochemical activity in them will produce *some* felt experience, but not one that we have ever experienced.

⁵ . The example is in this way consistent with the Wittgensteinian demand that every mental state have an outward criterion. There are "criteria" by which I can know what the feelings of the aliens are; my problem is that I am not, and will not be, in a position to know how those criteria are fulfilled.

2008] *EMPATHY AND COMPASSION* 817
frozen eggs along with the alien's records, and conclude that I am an alien. But you have done none of these things nor anything similar. You rely on a thin thread of observable evidence to conclude that you and I are similar in regard to the feelings aroused in us by the death of a family member.

The conclusion to draw from this argument is not the insane one that we cannot know what others feel. No one in their right mind denies that the observable evidence that we do in fact have is in many cases sufficient for us to know that others feel as we do. The conclusion to draw is that being unable to rule out the alien twins possibility does not defeat your knowledge claim in the way "How do you know it is not animal B?" defeats your claim to know that the animal was an A. What explains this difference? The puzzle is to find an adequate answer.

The explanation I suggest is that we should not regard "Others are human beings similar to me in feeling" as a routine empirical hypotheses like "The animal in the forest is an A." We should see it as an unshakable tenet of the conceptual framework within which we formulate and evaluate routine empirical hypotheses. It is unshakable in the sense that, although we can easily describe possibilities like the alien twin possibility, we cannot describe a scenario which makes us conclude, "Yes, now I really do see that this possibility is something I must address whenever I claim to know how another feels." Instead, we just blithely continue to assume that others are similarly-feeling human beings. The crucial task is to explain the unshakability of the assumption in a way that reveals why we are justified in thinking it true without making its justification a matter of confirmation by observable evidence in the same way we confirm that "The animal is an A."

Without a solution to the "other minds" puzzle, we lack an adequate understanding of the ultimate basis of our knowledge that others feel as we do. The hope is not simply that the solution will remove a pesky puzzle; the hope is that the solution will yield a satisfying insight into just how it is that we can know that we feel alike.

II. THE DECEPTION ARGUMENT

The "deception argument" concerns possibilities of

818 *MINN. J.L. SCI. & TECH.* [Vol. 9:2
deceit which are consistent with the assumption that others are similarly-feeling human beings yet still seem to show that we cannot know what another feels. I begin with three examples to illustrate the kind of deceit in question and also to suggest that it is common.

Love Story: Early in their romance, Derek and Meredith are watching the movie, *Love Story*. When the movie ends, Meredith describes how moved she is and how she feels, and Derek, looking into her eyes, deceitfully tells her he feels the same. He is certain that Meredith will believe him because he knows she assumes that they are relevantly similar in their felt responses to romantic-novel-like portrayals of emotional relationships.

Marital infidelity: After several years of marriage, both Derek and Meredith are having affairs. Each of them is unaware of the other's infidelity, and, from time to time, Derek deceitfully confesses to Meredith his still-felt-after-all-this-time passion for her, and Meredith deceitfully assures him that she feels the same. They are certain their respective deceptions will succeed because each assumes the other, not only still feels passion, but also assumes that the feeling is mutual.

Negotiation: Edwards and Gorski are negotiating the establishment of an IBM office in Krakow, Poland. To make the negotiations go smoothly, Edwards has taken every opportunity to indicate that, across a wide range of business and social matters, she and Gorski feel the same. Edwards has not been concerned with whether her claims in this regard are true; she is willing to deceive to ensure that Gorski sees her as a person who feels as he does. Gorski notices their apparent agreement in feeling, and soon concludes that she feels as he does.

I offer a "possibility of deception" argument, which parallels the alien twin argument. The argument is that the *possibility* of deception shows that, in many cases at least, we do not know that others feel as we do. To begin the argument, imagine yourself in the grandmother's death/sense of loss example. You know me well; you have observed my behavior with great care after the death of my grandmother. You believe that, if you have ever known anything at all, you know that I feel a sense of loss similar to that which you feel. Even so, the possibility of deceit appears to defeat your knowledge claim. How, for

2008] *EMPATHY AND COMPASSION* 819
 example, do you show that the following is not the case? I do not feel a sense of loss; what I experience is the absence of any such feeling; however, I pretend to feel a sense of loss. Doing so is easier than explaining what is really going on with me; consequently, you are mistaken when you infer that I feel as you do on the basis of my behavior and the assumption that you and I are relevantly similar in our felt responses to death.⁶

The claim is not that it is *impossible* for you to rule out this possibility. You could, for example, hack into the diary that I keep on my computer and read my confession that I feel nothing; or, you could use hi-tech surveillance equipment to eavesdrop on what I assume is the secret, Shakespearean-style soliloquy in which I discuss out loud with myself my lack of grief. The point is that you have done nothing of the sort; you have just briefly observed my behavior. In such case, the totality of your evidence cannot decide between two hypotheses: that I really feel a sense of loss; or, that I am just pretending; hence it is as likely that I am pretending as it is that I feel a sense of loss. Thus, it appears to follow that you do not know that you and I are relevantly similar, and hence that you do not know whether what you feel is what I feel. In general, when we think others feel as we do, the basis for our conviction is typically a slim thread of observable evidence, a thread consistent with those who simply pretend to feel what they seem to feel.

As before, we should not draw the insane conclusion that we do not know what others feel. We should conclude that being unable to rule out the possibility of deceit does not defeat your knowledge claim in the way "How do you know it is not animal B?" defeats your claim to know the animal was an A. The question again is: What explains this difference? The answer cannot be the same as the suggested answer in the "other minds" case. The

⁶ . Is your conclusion defensible on the ground that it is difficult to maintain a consistent false façade over any extended period of time and therefore even a relatively short period of observation is sufficient to rule out pretense? The problem is that it is simply false that consistent deceit is too difficult to maintain for an extended period of time. Spies and undercover agents successfully deceive consistently over extended periods of time. The testimony of literature is the same. Two examples: Iago's systematic deceit is the central theme of *Othello*; the arch manipulator Julian King in Iris Murdoch's novel, *A Fairly Honorable Defeat* pretends with easy success throughout the novel.

suggestion was to see "Others are human beings similar to me in feeling" as an unshakable tenet of the conceptual framework within which we formulate and evaluate routine empirical hypotheses. This will not do in the case of the second puzzle because it does not deny that others are similar-feeling human beings. The puzzle simply imagines that other similarly-feeling human beings deceive us. Of course, the answer could be—and most likely is—that some sort of assumption of non-deceitfulness is itself an unshakable tenet of our conceptual framework. We all do indeed assume some degree of relevant non-deceptiveness on the part of some smaller or larger circle of intimates, friends, and acquaintances. The question is how to justify such an assumption. "On the basis of experience" will not do since that simply assumes that in the past one was able to know that one was not deceived. What we want to know is precisely how one qualifies as knowing in the face of the possibility of deception. A satisfactory answer would illuminate the nature of our relation to others. I will not, however, pursue this question any further.

III. OVER-GENERALIZATION

The final argument concerns possibilities which are consistent with the assumption that others do not as a rule deceive us but which still seem to show that we cannot know that others feel as we do. This time the possibilities involve over-generalization. When we infer that others feel as we do, our inference rests on the generalization that their feelings are similar to ours. When we over-generalize, we think we know how others feel when in fact we do not.

For an example of over-generalization, imagine that the twenty-year-old Mason reads *Crime and Punishment* for his Russian literature course; in his essay on the book, he considers the standard (and correct) claim that, through Roskolnikov, Dostoyevsky intends to demonstrate that the notions of sin, guilt, confession, and redemption through suffering still apply, even to those without religious faith. Mason does not deny that this was Dostoyevsky's intention, but he argues that, once Roskolnikov confesses to the murder of the old woman, all Dostoyevsky succeeds in portraying is a broken man

2008] *EMPATHY AND COMPASSION* 821
without the courage of his convictions. Mason feels disdain for Roskolnikov and a lack of respect for Dostoyevsky. When Mason's father mentions that he recently reread *Crime and Punishment*, Mason assumes his father feels the same way. Mason is wrong. When his father read the novel in his twenties, his reactions were the same as his son's, but, at fifty and no stranger to what he would be willing to label "sin" and "guilt," he sees confessing Roskolnikov as having the courage to take a necessary first step toward redemption, and he feels respect for both Roskolnikov and Dostoyevsky. Mason over-generalizes. He thinks his father is relevantly like him, when he is not.

When we claim to know that another feels as we do, how do we know we are not over-generalizing? I am not claiming that we can *never* know that we are not over-generalizing. In the wrenching-sense-of-loss example, for instance, you may know me well enough to know for certain that my grandmother's death will make me feel as your grandmother's death would make you feel. My concern is with the cases where we know the other less well. Imagine, by way of illustration, a law professor trying to help an academically struggling student. When the professor learns the student has been dismissed from law school for poor academic performance, the professor imagines the student receiving the dismissal letter. Imaginatively projecting himself into the student's plight, the professor feels disappointment, chagrin, worry, and he infers the student feels the same. He makes the inference because he assumes the student's real reactions will be relevantly similar his imagined ones. The assumption is reasonable. Concerned about the student, the professor perceives a pressing need to come to some conclusion about how the student will react. What resources does he have at his disposal to predict the student's reaction? It is not as if he can consult the *Comprehensive Manual of Human Felt Reactions Categorized by Personality Type and Circumstance*, and he may never have seen the student react in any similar situation before. All he has to fall back on is trying to feel as the student will feel. In general, we must, for the most part, see others as like ourselves in order to predict how they will feel, and, where the need to predict is sufficiently pressing, we are not unreasonable to so. Unfortunately, the unanimous

testimony of common experience, history, literature, and psychology is that people tend to see others more like themselves than the others really are; consequently, when we think we are painting a portrait of how another feels, we may only be producing a picture of the bars of the cage of our own limited experience.

This is the professor's fate. The student's reaction is blind rage, which leads him to make a formal complaint of unfair treatment with the Dean of Students. Such possibilities of over-generalization would seem to show that a large number of cases we only *think* we know how others feel. Thus: suppose that, in the wrenching-sense-of-loss example, you do *not* know me that well; I am a distant relative you have just met at the funeral. You watch me as I quietly stare into my grandmother's open grave; imagining how I must feel, you are suddenly gripped by a wrenching sense of loss, and, assuming we are relevantly similar in our felt responses to death, you infer that I must be feeling the same way. Given the totality of your observable evidence, two hypotheses are equally likely: you are not over-generalizing and we are relevantly similar; or, you are over-generalizing and we are not relevantly similar. Since the totality of your evidence leaves these hypotheses equally likely, you do not know that I feel what you feel. The argument applies whenever the totality of one's observable evidence is insufficient to decide between the two hypotheses of accurate generalization versus over-generalization.

The answer to this argument is simply to accept it. The possibility of over-generalization *does* show that we fail to know when the underlying generalization rests on insufficient observable evidence. We—often-only *think* that we know that others feel as we do. "Often" because, like the law professor concerned about the student, we often perceive a need to predict how others will feel, and, often, all we have to go on is our own felt reactions to imagined situations. We inevitably use them as the basis on which to predict how others will feel. Consequently, we often routinely adopt this strategy when have only slim evidence for the generalization that our felt reactions are the same as the reactions of others. We inevitably over-generalize.

One might respond, "So what? I predict how others

2008] *EMPATHY AND COMPASSION* 823
feel on the basis of what I would feel. When it works, it works. When it does not, I correct my assumptions. What does it matter than I do not *know* as long as I have a reasonable strategy to follow to predict how others feel?" The problem is with the "When it works, it works." We may not know when it "works." Mason, and the law professor, for example, may never know whether their prediction "worked" unless the others about whom they made their predictions reveal whether the prediction was accurate. Unless we communicate, we are very unlikely to learn whether our claims are right or wrong. Unless his father tells him, Mason may never learn that his view of his father is wrong; the same holds for the law professor, who may never talk to the dismissed-from-law-school student again. Where there is no communication, to say: "When it works, it works" is like shooting at a target you cannot see and saying, "When I hit it, I hit it, and when I miss, I adjust my aim." Since you do not know when you hit it, you do not know when or how to adjust your aim. Knowing how another feels is the same: often we think we are painting a portrait of another's feelings when we are really just producing yet one more rendition of the bars of our cage.

One may object that I am too strongly discounting the possibility that others will simply tell us how they feel. After all, Mason's father might learn of his son's mistaken belief and might correct it by telling him that he feels respect, not disdain, for Roskolnikov and Dostoyevsky. Mason can then revise his erroneous assumption that he and his father have similar felt responses. Similarly, the law professor could seek out the student, and the Canadian Prime Minister could ask the homeless to describe their disappointment. Even if attempting to empathize is sometimes like shooting at a target you cannot see, we can still investigate the target to see if we did in fact hit it. This reply is inadequate. When Mason's father tells him that he feels respect, what Mason learns about his father is similar to what the Prime Minister knows about the skid row residents. She knows that their feelings fall under the general category of disappointment; similarly, Mason learns that his father's feelings fall under the general category of respect. Neither knows, solely on that basis, the specific quality of the others' felt experiences. The objection is that being told

824 *MINN. J.L. SCI. & TECH.* [Vol. 9:2
that someone's feelings are of a certain general sort can help one know their specific felt quality. Of course, once Mason's father tells him that he feels respect, not disdain. Mason can attempt to imaginatively project himself in his father's state of mind and thereby feel as his father does. Now, he can only correctly infer that the feelings he experiences are the same as his father's feelings if he correctly assumes that his imaginatively projected self is similar in feeling to his father. However, if his father has given him sufficient indication of why he feels respect for Roskolnikov, Mason may know that his imagined self and his father share a relevantly similarity of feeling. Or he may not. He may fail in this attempt to imaginatively project himself in his father's state of mind. It takes considerable imaginative ability to succeed in such a project; nonetheless, on occasion, our imaginations can release us from our cages.

IV. EMPATHY AND COMPASSION

When we succeed in empathizing, understanding and tolerance may result. Consider a simple example. Brianna is an experienced and accomplished public speaker; Brian, on the other hand, has to give the first public presentation of his life. Initially, Brianna is irritated at Brian's constant agonizing over the presentation; she thinks he should, at his age, be able to pull himself together instead of boiling over with anxiety. Eventually, however, Brianna remembers what it was like for her before her first presentation. Imaginatively projecting herself into Brian's state of mind makes Brianna not only tolerant, but even solicitous and supportive.

Two further points bear emphasis. The first is that tolerance is important. Despite its obviousness, the importance of tolerance bears emphasis. Our disagreements are all too often sharp and fundamental and equally too resistant to rational resolution. As John Rawls notes:

[L]ong historical experience suggests, and many plausible reflections confirm, that . . . reasoned and uncoerced agreement are not to be expected. . . . Our individual and associative points of view, intellectual affinities and affective attachments, are too diverse, especially in a free democratic society, to allow of lasting and reasoned agreement. Many conceptions of the world can plausibly be constructed from

2008] *EMPATHY AND COMPASSION* 825

different standpoints. Diversity naturally arises from our limited powers and distinct perspectives; it is unrealistic to suppose that all our differences are rooted solely in ignorance and perversity, or else in the rivalries that result from scarcity. . . . [The appropriate view of social organization] takes deep and unresolvable differences on matters of fundamental significance as a permanent condition of human life.⁷

Tolerance of differences in "associative points of view, intellectual affinities and affective attachments" serve to prevent "deep and unresolvable differences on matters of fundamental significance" from unacceptably disrupting social and political life.

The second point: we often fail to empathize, which can lead to intolerance. Consider the following variant of the Brianna/Brian example. Brianna hardly knows her new co-worker, Brian, and his obvious anxiety over his upcoming public presentation annoys her. If she were that anxious, it would be the outward manifestation of a complete emotional meltdown, and she cannot tolerate such a weak co-worker. Eventually, however, she realizes that she hardly knows Brian and that his anxiousness may not mean in his case what it would mean in hers. To avoid condemning him on inadequate evidence, Brianna decides to tolerate Brian and even help him. Where "deep and unresolvable differences on matters of fundamental significance" are the rule, and genuine empathy is a difficult achievement, tolerance based on the recognition that we have failed to empathize is critical. It is, of course, utopian to expect this. It should happen, but it will not. People too often adhere too passionately to their own "associative points of view, intellectual affinities and affective attachments" to realize, first, that another's felt experience can make that persons point of view as compelling as their own, and, second, that they may not have any clear idea of what the other's felt experience is like.

⁷ . John Rawls, *Kantian Constructivism in Moral Theory*, 77 J. PHIL. 515, 542 (1980).

