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### Framing trials and legal professionals in digital news reports

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## Constructing clickable criminal trials: Framing trials and legal professionals in digital news reports

### Introduction

Court reporting using live blogs – whereby journalists attend a criminal trial and write continuous short descriptions of proceedings which are immediately published on news websites - has become an established and popular way of covering trials over the past two decades. However, little is currently known regarding how trials and legal professionals are portrayed in such reports, indeed, little is known about how trials and legal professionals are described in news reports in toto. This is worrying as such reports are accomplished in the nexus of two competing spheres consisting of fundamental differences: legal and media (Altheide and Snow 1979, Bogoch and Peleg 2014, Peleg and Bogoch 2012). The first of these spheres regards the criminal trial as a domain of calm and composure, demanding the in-depth presentation and evaluation of evidence conducted in a professionally emotional manner (Bergman Blix and Wettergren 2018). This means that emotional displays should conform to the overarching “emotional regime of the criminal trial” (Flower 2019) – a framework guiding emotions and interactions with the purpose of minimizing dramatization and emotionalization in order to uphold the perception of the court as an arena of facts and rationality (Bandes 1999, Maroney 2011). Accordingly, emotional displays may be understated and easy to miss, particularly in the “subtle theater of the Swedish courtroom” (Flower 2016) where this study is focused. However, capturing emotions and drama are central to the second aforementioned sphere: that of the media. Here, such elements as drama and emotion contribute to making a story newsworthy and thus clickable (Chibnall 1977, Jewkes 2015). Live blogs should “frame” (Goffman 1974, Tuchman 1978, Entman 2007) events in order to keep readers’ attention in a context where emotions should be absent but at the same time very much present, in the sense of a newsworthy and clickable story (Hall-Coates 2015).

Whilst this is true of all court reporting, live blogging brings an unrivalled capability for publishing copious and intimate details in an immediate timeframe (Guribye and Nyre 2017, Voorhees and Keith 2015). Moreover, live blogs must grab readers’ interest and keep it, in competition with a flood of other online news stories which are increasing in availability in today’s digital age. As research indicates, complex stories are simplified in the digital era in the

quest to attract readers (Wahl-Jorgensen 2020). Live blogging journalists therefore risk relying on conventional, audience-appealing and emotionally-conceptualized depictions of the criminal trial (cf. Moore 2014). It is therefore important to understand how trials and legal professionals are framed in this medium as live blogs define social reality, producing and circulating cultural meanings (Hall 1974, Hjarvard 2013, Strömbäck 2008). Live blogs thus contribute to the construction and shaping of public perceptions and knowledge of the justice system, the courts and its actors (see also Biressi and Nunn 2003, Hans and Dee 1991, Ericson et al 1991).

This study contributes to the field in several ways. It constitutes a detailed examination of how criminal trials and legal professionals are reported in the news in Sweden, with particular focus on how legal professionals are emotionalized and shows that live blogs play a divergent role in shaping our understandings of trials and legal professionals. Live blogs reconstruct the emotional framework by presenting toned down emotions hence minimizing the role of emotions in legal proceedings. This serves to uphold both the perception of courtrooms as steered by rationality and the erroneous understanding that rationality excludes emotionality. Importantly, the judge often remains emotionless and impartial, suggesting that emotionalizing the judge has become the last bastion of the law and emotion divide – the kingpin of unemotional rationality. Conversely, by highlighting prosecutors and defence lawyers as emotional actors, we see a shift away from this traditional understanding favored by the legal sphere of legal professionals as emotionless actors towards cultural understandings of legal professional as emotional beings and the courts as emotional provinces. In extension, the mundane presence of emotions, even in the courtroom, contributes to a wider awareness and perhaps even acceptance of the presence of emotions in all aspects of social life. Unpacking how trials and legal professionals are depicted also has implications for perceptions of the importance and legitimacy of legal processes more broadly, but perhaps more pertinently, how we perceive the weight of specific roles within the courtroom. Moreover, depictions of trials conveying an imbalance of power between the state and the underdog defence may raise questions regarding the legitimacy and fairness of legal proceedings.

A rising number of court cases and the structural ease of live reporting from trials (Jewkes 2015) indicate that court reporting will remain a cornerstone of the news. This study therefore shows how the legal and media sphere have become intertwined, with emotions constituting the thread that both binds them together yet which also keeps them tied to erroneous dichotic

understandings of emotionality and rationality. I suggest that emotions should thus be added to the established criteria of newsworthiness (cf. Chibnall 1977, Jewkes 2015).

Frame analysis will be used to answer two research questions: 1) How are legal professionals depicted in live blogs? 2) How are legal trials framed in live blogs? The focus of this article is on mapping and understanding how trials and legal professionals are constructed in live blogs in order to prepare for future comparative and more in-depth studies, for instance, contrasting other forms of court reporting and exploring depictions from an intersectional perspective. By extending the current taxonomy of approaches to studying law and emotion (Maroney 2006) to encompass a law, emotion and media approach I aim to contribute to the slowly burgeoning field of emotion research in media and crime.

### **Literature on Reporting from Criminal Trials and Courtroom Emotions**

Law and emotion scholarship attempts to understand and account for “the law’s devotion to the myth of an emotionless, cognition-driven legal system” (Bandes 1999, p.6). This has led to an emotional turn which challenges the illusionary dichotomy of rationality versus emotionality and opposes the apparent absence of emotions in law, and instead lifts the central role of emotions for different legal actors, witnesses and victims (Flower 2016, 2019, Bandes 2006, Bergman Blix and Wettergren 2015, Feigenson 1997, Harris 2002, Maroney 2006, 2011, Roach Anleu and Mack 2017) as well as the presence of emotions in different areas of law (Abrams and Keren 2010) and the analysis of specific emotions such as anger, empathy, and disgust (Bandes 2017, 1996, 2006, Nussbaum 1999, see also Klosterkamp 2022: 18 for the role of emotions in the “politics of listening” in courtrooms).

A similar emotional turn is found in media where the presence and integral role of emotions in the crafting and production of objective and dispassionate journalistic texts is being lifted (Pantti 2010, Peters 2011, Schudson 2001, Tuchman 1972, Wahl-Jorgensen 2020, see also Barclay and Milka 2022). Indeed, the use of emotion to construct stories is currently considered an essential journalistic tool in attracting readers by triggering their “emotional radar” (Moore 2014). However, despite the growing acceptance of the presence and use of emotions in all spheres of society (Holmes 2010, Sieben and Wettergren 2010) including law and journalism, a clear scholastic focus on the role of the media in shaping understandings of trials and legal professionals, in particular emotionalized understandings, is still unexplored.

The majority of research on crime news focuses on how crime is reported more generally, rather than specifically focusing on criminal trials. For instance, studies show that the media may distort and manipulate public perceptions thereby creating false pictures of crime which can promote stereotyping, bias, prejudice and gross over-simplification (Cere et al 2014, Jewkes 2015, Jones and Wardle 2008, Mawby 2002, Soothill and Walby 1991, Wood Carter 2016). Whilst there is work exploring legal professionals' depiction in film and TV (Greenfield and Osborn 1995, Grossman 2015) there is only a small body of research focusing on how they are depicted in the mass media. Those studies that exist tend to focus on high profile cases such as the trials of OJ Simpson (see, e.g. Fox et al. 2007, Mueller, 1996) and Oscar Pistorius (see e.g. Knight 2017, Biber 2019) and tend to lack a clear analytical focus on the legal professionals within or studies focus more generally on how legal professionals are gendered in the media (Lucia 2005, McLaughlin 1998). Although a study by Vinson and Ertter (2002) presents a more comprehensive analysis of how legal trials in the US are reported, finding that lawyers and judges are more likely to be depicted as secondary characters to the defendant in the U.S., the study lacks a detailed analysis of how these legal professionals are depicted.

The overview of the extant research also reveals a tendency for studies to focus on judicial depictions with prosecutors and defence lawyer excluded. For instance, Moran (2012) examines news reports of judges in England and finds a propensity to focus on the sensational and attention-grabbing, as well as the use of binary opposites. Other research by Moran (2014) finds that news reports tend to depersonalize, disembody, anonymize and homogenize judicial activity. One other relevant study is of news reports of Israeli trials which finds that coverage tends to follow media logic rather than legal logic by focusing on a case's dramatic, sensational aspects, rather than legal issues (Bogoch and Peleg 2014). However, this study does not explicitly lift emotions or depictions of legal professionals in the analysis. Thus, although a historical approach has been used to explore mediated emotions in the eighteenth-century criminal courtroom (Milka and Lemmings 2017) and the importance of television cameras in conveying emotional testimonies has been shown (Vinson and Ertter 2002), a more contemporary and in-depth sociology of emotions focus on trials and legal professionals is currently missing.

Whilst all of the studies described in this section thus far regard traditional media (newspapers and television), academic attention has recently turned towards more contemporary forms of court reporting, such as Twitter and live blogs. Both of these forms constitute a type of micro-

blogging however Twitter has a limited number of characters and is considered a more constrained form of reporting, in contrast to live blogging which places greater demands on journalists (Hall-Coates 2015, Lambert 2011). Research has explored the dangers of Twitter being used and abused by the jury and legal professionals, the limitations regarding Twitter's format, and the impact of intense media coverage on the defendant's due process rights (Janoski-Haehlen 2011, Lambert 2011, Winnick 2014). Other studies have examined how Twitter can impact on the key principle of open justice (Hall-Coates 2015, Johnston 2018, Rodrick 2014) and how legal professionals relate to live blogs (Flower and Ahlestedt 2021). One study pertinent to the current work is a content analysis of two Canadian trials which finds that journalistic tweeting provides a "play-by-play" of legal proceedings, but without "extra content or 'colour'" (Small and Puddister 2020, p.18) referring to information including emotions and clothing. Once again, this overview indicates that emotions remain conspicuous in their absence in the research on contemporary forms of court reporting.

Central to the media logic is a story's "newsworthiness" (Chibnall 1977, Galtung and Ruge 1965, Jewkes 2015): a set of criteria used as a guide to construct and frame news stories. I draw on a selection of Chibnall's (1977) and Jewkes' (2015) criteria namely: personalization, simplification, conventionalism, conflict, ideology, dramatization, immediacy, to which I add emotion – an aspect missing in previous accounts of newsworthiness.

The first of these – "personalization" (Chibnall 1977, cf. Jewkes' 2015 "individualization") refers to the process by which stories are personalized in order to give them reader appeal. Personalization is linked to "simplification" wherein subtle complexities and nuances are glazed over in order to gel with readers' clichéd understanding, with events reduced to binary opposites whenever possible. Simplification also spills over into the use of conventional tropes, placing events and interactions in "existent structures of meaning" (Chibnall, 1977, p.33). Such conventional interpretations are also convenient for journalists working in an instantaneous timeframe hence live blogs, by their very nature, fulfill the criteria of immediacy (Chibnall 1977). Conflicts are often highlighted in news stories, with a certain ideology tending to be conveyed whilst dramatization means certain features of an event are highlighted, in particular actions as they "lend themselves far more easily to sensational treatment than do thoughts" (Chibnall, 1977, p. 25). Finally, the recent emotional turn in journalism warrants the inclusion of another criteria, namely emotion (Allern 2002, Wahl-Jorgensen 2020). Whilst all of these

criteria will be considered, the core of the analysis focuses on the emotionalisation of trials and legal professionals.

Emotions are also an important element in trials and the judicial process more broadly. As previously noted, earlier studies have explored the role of emotions for different legal professionals. Of relevance for the current study are findings pertaining to the emotion framework for judges, prosecutors, and defence lawyers in courtrooms. Extant research shows that legal professionals work within an “emotive-cognitive judicial frame [which] systematically silences emotions” (Bergman Blix and Wettergren 2018: 163) in order to maintain the illusion of the courtroom as a sphere of rationality and non-emotionality (Flower 2019). Hence, feelings such as frustration, dislike, disgust, disappointment, happiness and pride should be managed into toned-down and appropriate displays. Whilst it should be noted that emotion displays are contextually- and culturally-bound, for instance, death penalty defence lawyers in the U.S. have been found to follow different, more expressive display rules for anger (Greife et al 2021, see also Pierce 1995), in contrast to the subtle displays of anger by Swedish criminal defense lawyers (Flower 2016), legal professionals can nevertheless be understood as adhering to the relevant display rules (for the English context see Harris 2002, Westaby 2010, for more on the U.S. context see Maroney 2011).

Emotion sociological research drawing on an interactionist approach also shows that a criminal trial can be understood as an interplay between teams: the judicial team; the prosecution team; and the defence team, wherein team members should perform and display emotions appropriate to their role and their team, in order for the definition of the situation to be held, that is, for the trial to run smoothly (Goffman 1959). Hence a criminal trial has been shown to demand “teamwork” (Flower 2019) with expectations placed on each actor to work with their emotions to ensure they are appropriately displayed. The emotional displays of each legal professional is thus guided by the overarching emotional regime and the legal principle linked to their role (Hochschild 1983/2003). In Sweden this means that judges should be impartial, prosecutors should be objective, and lawyers should be loyal to the defendant.

### **Data Collection, Frame Analysis and the Swedish Context**

I conduct a frame analysis to explore how trials are framed in live blogs. This is done in order to explore which understandings of trials and legal professionals are reproduced and upheld in such reports and how legal professionals are emotionalized. The purpose of the frame analysis



in the current study is twofold: to describe and understand the content of live blogs and to establish a starting point for comparative studies on court reporting formats (Wimmer and Dominick 2006).

I employed a purposive sampling method. Transcripts from live blogs published on Swedish news websites between 1 January 2012 – 31 December 2020 were collected using Retriever Research and Google search using the Swedish keywords “direct report” (in Swedish *direktrapport*), “live report” (*liverapportera*) and, “trial” (*rättegång*). Only criminal trials taking place at district court were gathered (higher instances use video recordings of proceedings from district courts). A total of 98 live blogs were gathered from 26 news outlets ranging from smaller local newspapers to national and public service outlets with tabloids and broadsheets included. 87 separate trials are covered consisting of 44 trials for murder or attempted murder trials, with the remaining trials covering other violent crimes, arson, robbery, or narcotics. The majority of cases are thus criminal cases with only one trial for economic crime and one for slander included. In large trials that were covered by several media outlets, all direct reports were gathered. The length of each report varies enormously – some trials constitute only four pages of posts (for instance in a trial that was unexpectedly moved behind closed doors and therefore not open to the public), whilst others contained several hundred pages.

I applied for ethical approval was however it was deemed unnecessary due to the nature of the material gathered. I have anonymized all material in the collection phase thus any identifying details have been anonymized or removed whilst maintaining contextual accuracy (Fangen 2005). In order to further ensure anonymity, I have chosen to not indicate sources (see also Moscato, 2016, for a similar approach). However, each live blog was allocated a number between 1-98 during the data collection phase with excerpts from each live blog presented in the analysis identifiable according to this numerical designation. All live blogs gathered have therefore been considered in the analysis and excerpts have been selected from a broad range of trials. The goal of this study is not to analyze specific cases, but rather to present an aggregate overview of how legal trials and legal professionals are constructed in direct reports.

The concept of frame draws on the work of Erving Goffman who saw frames as “schemata of interpretation” helping us to “locate, perceive, identify, and label” (Goffman 1974, p. 21) and understand everyday events in our social world. This was later developed by Arlie Hochschild

(1979) in order to identify the feelings within these frames and how feelings and frames are linked together by ideology. More recently, frames have been used to explore how journalists structure news happenings – constructing news stories by making certain aspects more salient or meaningful to the audience and promoting certain interpretations of events (Entman 1993, Tuchman 1978). Trials and legal professionals are therefore constructed in certain ways by drawing on criteria of newsworthiness - or framed - within the overarching media frame. In sum, by using frames, journalists convey “what to think about” (Cohen 1963: 13) when we think about trials and legal professionals. Journalists working within the media frame thus draws on criteria of newsworthiness when reporting on the legal sphere - a sphere which, as is now apparent, conflicts with the media frame. The legal sphere is understood here in terms of the legal frame which has an underlying ideological basis anchored in reason and rationality as devoid of emotion which, in turn, shapes the experience and display of feelings (Baumeler 2010, Hochschild 1979, 1990).

The analytical section of this article will therefore explore the clash between the media frame and legal frame. It will highlight the emotional framework underlying news reports, with specific attention to the emotion rules that guide legal professionals. This means that I focus in particular on how trials and legal professionals are emotionalized. The process of emotionalization entails journalists explicitly describing emotions, evoking emotions by using affective language (Huber and Aitchberger 2020) and describing interactions which are emotionally-charged (see also Lerner and Rivkin-Fish 2021). The analytical focus is thus on the representations of external displays of emotions as interpreted by journalists, rather than on capturing or ascertaining the internal feelings of those depicted (Wettergren, 2015). This means that emotional scenes can be depicted by using descriptors that evoke emotions in the reader but without explicitly labelling emotions.

The unit of analysis in frame analysis is often news articles (Wimmer and Dominick 2006) as is the case in the current article. I use an inductive and interpretive approach with regards to the reconstruction of frames, hence the frames emerged during the analytical process (Bishop 2013, Linström and Marais 2012). Following a constructionist approach, I inductively reconstructed a limited number of frames from the content analysis of direct reports (Boesman et al 2015, Van Gorp 2006). The purpose of this kind of qualitative analysis is not to quantify the frequency of certain frames, but rather to identify the features of how social phenomenon and actors are interpreted and defined (Scott, 2015). I began the analysis with multiple readings of the direct

reports, taking descriptive notes about the content and then identifying recurring newsworthy elements. The next step entailed finding the “frame packages” such as “keywords, stock phrases, sources of information, and sentences that provide thematically reinforcing clusters of facts or judgement” (Entman 1993, p.52). I focused on depictions – how the live blogs characterize certain principal subjects and interactions in a particular fashion (Linström and Marais 2012) and thus how these depictions promote a certain interpretation (Van Gorp 2006). Following these “analytical leads” (Quaglietta 2022), I found two frames within the overarching media frame of a criminal trial: 1) prosecutorial power – the prosecutor is presented as the driving force in proceedings and; 2) teamwork – inviting the reader to understand the trial as a team accomplishment.

The Swedish legal process involves a mixed system that combines inquisitorial - seen in the judge's prerogative to ask supplementary questions - and adversarial aspects (Spencer 2016, van Koppen and Penrod 2003). This means that, as in adversarial systems, the trial consists of two opposing parties - the prosecution and the defence – and is presided over by an impartial judge. The prosecutor leads the preliminary investigation, decides whether to prosecute, and represents the state at trial. Despite functioning as the accusing party in a trial, the prosecutor should remain objective throughout, for instance by presenting evidence that could support the defendant. The prosecutor has the burden of evidence and should present a convincing case to the court. The defence do not need to present their own case, rather they should attempt to draw attention to weaknesses in the prosecutions' case. Both sides may call witnesses although this is unusual for the defence. At district court level where this study focuses, a trial is presided over by a legally-trained judge - also referred to as the chairperson - and 2-3 lay judges. The judicial role has two parts: as moderator of proceedings which entails ensuring order and safety are upheld in the courtroom, allocating the word, making introductions and explaining procedure, and also as a fact-finder/decision-maker which entails asking clarifying questions and deciding a judgement.

### **The Frame of Prosecutorial Power**

The frame analysis shows that prosecutors are the primary focus of live blogs and are depicted in a wide array of interactions with all participants (cf. Vinson and Ertter 2002). All other legal professionals are given a relatively peripheral role in reports, including the judge who tends to largely remain an undescribed presence in the courtroom. Criminal trials are therefore framed as being led and driven by the prosecution and - as the prosecutor represents the state – state-

driven. This bias towards the prosecutor in reports is perhaps unsurprising and an accurate representation of legal procedure, after all, it is the prosecutor who drives the case in Swedish trials. However, the omission of the equally key roles of the judge and defence lawyer risks reducing the importance of their role in wider societal understandings of trials. This, in turn, has wider implications, for instance it risks leaning in to current debate in Sweden regarding unethical behavior by lawyers and overinflated fees requested by lawyers, which, in extension, may lead to questions regarding the nature of their role. In contrast, for judges, this relative invisibility may instead reinforce conceptions of neutrality and work towards strengthening support for their function.

Depictions of prosecutors, defence lawyers, and to a much lesser extent, judges, may also be emotionalized with the use of emotional terms or by being described in interactions and situations which are emotionally-charged. For instance, in the following excerpts, the prosecutor is presented confronting the defendant: “[t]he prosecutor is pressing the suspect: now I’m wondering how that happened?” (Nr. 34), in another trial the defendant, in response to the prosecutor’s questioning “says he is being pushed so hard he is about to break down” (Nr 58). In yet another trial, the prosecutor is questioning the defendant about the death of her boyfriend:

The prosecutor is pressing the woman now: Take the chance to say what happened. You say that you think about him afterwards - about what happened. Take the chance to tell us what happened, now - when his relatives are also sitting here in the courtroom. (Nr 54)

Such depictions represents prosecutors as confrontational. The use of the word “pressing” evokes connotations of police interrogations and conveys the impression to the reader of a hostile, perhaps even aggressive interaction (see Rafaeli & Sutton 1991 for more on emotion management in police interrogations, and Hochschild 1983/2003 for the emotion management of bill collectors). The description of the prosecutor’s appeals to the defendant’s empathy – confess now in order to ease the suffering of the victim’s family – also add to the emotional atmosphere or tone that is being portrayed. Importantly, these depictions lift emotions of hostility and aggression indirectly and subtly, in a style that is considered appropriate in the Swedish courtroom and thus in a way which reproduces the emotional framework that systematically silences emotions (Bergman Blix and Wettergren 2018, Flower 2019). Similarly, in the following we see how the prosecutor is depicted in interaction with the defendant and,

whilst emotions are once again not explicitly labelled, the reader gets a sense of the tone of the interaction by the intensity of the questioning and the responses of the defendant:

Prosecutor: Have you got any ideas about who could have murdered [the victim]?

Defendant: I don't know.

Prosecutor: Have you thought about it?

Defendant: Of course, I've thought about it [silence].

Prosecutor: How is it that you have an incredibly good memory about certain things but not others contemplates [the prosecutor]. You can't tell us details about when you met [the victim] the last time, the prosecutor says. Do you have a selective memory? (Nr 65)

Here we see the emotional construction of the prosecutor that conveys a certain understanding of this role, this time as persistent and, perhaps not hostile, but rather dogged. We also see four other things. First, as in the previous example, the prosecutor is portrayed as an emotion worker (Hochschild 1983/2003) – producing irritation in the defendant (cf. Törnqvist 2021). Second, the interacting prosecutor and defendant are depicted as in conflict – as antagonistic opponents with the defendant pushing back. Such depictions are not unusual, for instance, in another trial the live blogging journalist writes that “[t]he prosecutor wonders why [the defendant] hasn't talked about this earlier, which is reasonable. The ex-boyfriend and prosecutor start to quarrel about this” (Nr 30) and in another trial the journalist writes “the murder suspect seems irritated by the prosecutor's questions” (Nr 21). This links to the third aspect, namely that such depictions of antagonistic prosecutors contribute to an understanding of trials as adversarial - based on two opposing parties. However, and importantly, this focus on antagonistic interactions between prosecution and defendant simplifies the prosecutorial role by silencing the prosecutor's obligation to present evidence which is in favor of the defendant and instead portraying the prosecutors as biased against the defendant. And lastly, it becomes clear that live blogs not only individualize legal professionals, but also include a new form of personalization: a trial is depicted as a clash between teams, as well as a clash of individuals (cf. Jewkes 2015).

The framing presented in this section serves to partially reproduce the emotional regime of the criminal trial – the legal frame - replicating the ideology of unemotional rationality as emotionalized depictions remain muted and appropriate to each role and in line with the established display rules for legal professionals (Flower 2019, Bergman Blix and Wettergren 2018). However, emotionalizing legal professionals in these reports also contributes to a more

contemporary understanding of law and emotion as conflated with each other: the depiction of emotional prosecutors, however subtle, presents them as emotional actors and thus moves the law one step closer towards being understood as an emotional sphere. Moreover, it opens up for an understanding of emotionality and rationality as intertwined.

***The seemingly passive defence lawyer and the rarity of roaring judges***

The frame of prosecutorial power is also constructed by the relative absence of other legal professionals in live blogs. Defence lawyers – whose role is to find weaknesses in the prosecution's case – may represent their client by remaining seemingly still and silent for large parts of the trial (Flower 2019). Judges – although pivotal – should remain impartial throughout proceedings and this too produces an outwardly stony and inactive façade (Bergman Blix and Wettergren 2018). Whilst these still constitute actions, albeit actions of *inaction* or active emotion management to “do nothing” (Flower 2019), ensuring one's countenance is in line with expectations, they do not constitute dramatic, newsworthy activities as reflected in their absence in reports. The subtlety of these emotional performances renders these interactions as unremarkable, un-reportable and thus renders the legal professional as unrecognizable to the live blogging journalist as an emotional actor performing an emotional display. In this way, the unemotional courtroom is reproduced as subtle emotions remain unseen and unreported. By frequently neglecting representations of judges and defence lawyers in live blogged reports, these actors become symbolically absent in proceedings (Gerbner and Gross 1976, Tuchman 1978). This also contributes to the (re)construction of the power of the prosecutor, and thus, the state. In extension, this could spark societal debate, perhaps even resistance, regarding such a perceived imbalance of power. This is particularly pertinent considering the recent political shift in Sweden towards the right, a leaning which tends to encompass distrust towards institutions including the state and the legal system (e.g. McClosky 1985, Marien and Hooghe 2011). Likewise, although the relative absence of representations of judges and defence lawyers may accurately reflect the often outwardly passive role both play in proceedings, this risks conveying an image of these actors as less important in relation to the prosecutor which, in turn, may threaten understandings of what constitutes a legally secure trial and the significance of the role of defence lawyer and judge.

The relative judicial absence also contributes to the framing of prosecutorial power in live blogs as the prosecutor's presence trumps such absence. When judges are depicted, it tends to be in their role of moderator rather than fact-finder/decision-maker. Furthermore, when judges are

emotionalized – which is unusual in the data - it is in their role of moderator, rather than fact-finder/decision-maker. For instance, at times of technological failure such as when audio-video links fail (as is frequently the case during trials), the judge – and others – are depicted as irritated. This is seen in the following excerpt:

New witness questioning awaits. Unfortunately, there are new difficulties with the video connection from the prison. [The defendant] is also not present now, which irritates both his lawyer [xx] who is present via video link from home, and the court's chairperson [xx]. (Nr 54)

Judges may also be emotionalized when acting in the grey zone between moderator and fact-finder/decision-maker if the trial is disrupted in a way that jeopardizes discovering the facts. This is seen in the following excerpt, when the defendant repeatedly comments he has already answered the prosecutor's questions in the police interrogation:

Now the judge roars at the 45-year-old who sighs irritatedly at nearly every question. Chairperson [...]: I understand it can feel tedious to repeat the questions many times, but those of us sitting here are completely blank. It's usually enough to say that you don't know, you don't have to come with these digressions which I notice you're doing with nearly every question the prosecutor poses. (Nr 65)

Similarly, in another trial, the judge is depicted in the grey zone between roles when “admonish(ing) the defendant” (Nr 41) who is gesticulating and nodding during the co-defendant's testimony thus causing a distraction. Whilst these constitute emotionalized depictions, the emotions conveyed are toned down, appropriate for the role of judge and are associated with the judge in their role as moderator rather than fact-finder/decision-maker (cf. Bergman Blix and Wettergren 2018). Reporting of this latter aspect of their role is, as already noted, more seldom and tends to be devoid of emotionalization markers. This contributes to the reconstruction of judges as emotionless fact-finders/decision-makers and the associated illusion of unemotional rationality. For the reader, judges as fact-finder/decision-maker continue to be emotionless robot-like entities, rather than active emotion managers, engaging in and reflecting upon their emotions in order to make rational decisions (Bergman Blix and Wettergren 2018). Whilst such a divergence of depictions opens up for understandings of judges as emotional actors, it is important to reiterate that emotionalization is only connected to certain aspects of

their role. The illusion of the unemotional and thus impartial judge with regards to the facts of the case is therefore reconstructed, yet a more nuanced emotional actor is portrayed when guarding over the ritual of a trial and ensuring justice is administered smoothly. This compartmentalized emotionalization nevertheless invites a shift in understandings of unemotional judges towards a more contemporary understanding.

### **The Frame of Teamwork**

We have already seen the central role played by prosecutors in live blogs which includes descriptions of antagonistic emotions such as “pressing” the defendant. In this section I develop this to show how such antagonistic – combined with amicable – depictions also construct another frame, namely that of teamwork. By emotionalizing interactions *between* the prosecutor and the defence lawyer or defendant in certain antagonistic ways, an understanding of opposing teams is constructed. Similarly, teamwork framing is also accomplished by depicting amicable emotions *within* teams, such as sympathy and compassion. I return to this inter-teamwork shortly and begin by focusing on intra-teamwork starting with how the prosecution and plaintiff are depicted as a team.

In both the following excerpts the prosecutor is depicted as compassionate or sympathetic when questioning the plaintiff – the victim’s parent – about the victim’s murder: “the man tears up when he talks about the incident as it brings back many memories. [The prosecutor] says that everyone understands this awakens feelings” (Nr 12) and in the second trial, “I want to say first that everyone in here understands that it can be tough answering these questions, say if you need a break, says the prosecutor.” (Nr 44) The interactions between prosecutor and plaintiff are thus depicted in emotionalized terms describing the plaintiff’s tears and the prosecutor’s sympathy, tying the prosecutor and plaintiff together as a team (cf. Flower, 2019).

Similarly, the defence team is constructed using team-appropriate emotions. For instance, when depicted in interaction with his own client, the defence lawyer in the following post is described as follows: “when the defence is asking questions, he has a calmer voice. At times, when the prosecutor was asking questions, he could sound angry, but now it’s a different tone.” (Nr 30). In this excerpt we see that the defence lawyer is amicable to his own client (*calmer voice*) and we also begin to see that teamwork is framed by emotionalizing interactions not only *within* but also *between* teams. This is shown in the following excerpt which draws on institutionalized emotional expectations for legal professionals: “for obvious reasons, it was a very nice



questioning from prosecutor [...]. It's likely to be totally different when the lawyers ask questions." (Nr 29) Conventional, even clichéd, structures of meaning along with conflict are thus drawn on here with the expectation that the prosecutor will be "nice" to their "own" teammate – the plaintiff – in contrast to the different tone expected by the opposing team (Chibnall 1977). Teamwork can thus also be framed by focusing on conflict *between* teams reducing the prosecution and defence to opposites. This is achieved by live blogging journalists emotionalizing legal professionals in specific ways in two types of situations: 1) questioning opposing lay team members, and 2) clashing with their legal counterpart.

In the first section of the analysis, I presented depictions of prosecutors in conflict with opposing lay team members when they "press" defendants. Although defence lawyers receive much less attention in live blogs, when they are depicted, it is often in emotionalized terms, as doggedly and persistently questioning lay members of opposing teams such as the prosecution's witnesses or, indeed, other defendants the defence lawyer is not defending. For instance, in a trial with several defendants all of whom claim innocence, a defence lawyer is described questioning another defendant:

Time for [the defence lawyer] to ask questions. He asks how much the woman was under the influence during the evening and night. And what she had taken. She can't clarify this. But I feel good from them. You don't know what you take and what it can lead to? How long have you done that? How many do you take? [The lawyer's] questions are many and fast. (Nr 54)

Prosecutors and defence lawyers are also emotionalized when interacting with their legal counterpart. Indeed, such depictions of prosecution and defence lawyer clashing are one of the most typical interactions the defence lawyer is engaged with in live blogs. For instance, in the following excerpt conflictual expectations are reproduced, "[i]t gets a bit heated in a fast exchange of words between [the defendant's] defender and the prosecutor who is unsatisfied with the defender's way of asking questions to the defendant." (Nr 15) And in another trial: [the defender] (...) poses questions to the prosecutor. He becomes irritated when the prosecutor does not understand his question." (Nr 8) In yet another trial, the defence lawyer appears to insinuate that another person could be the real culprit with the prosecutor depicted as follows: "[t]he prosecutor gets irritated when the defence lawyer now says that the [other person] has said he was interested in gross violent porn 'it's on the verge of slander'." (Nr 44).

Thus, by lifting dramatic interactions and conflict and by emotionalizing exchanges within and between teams in certain ways - often drawing on conventionalized understandings - trials are framed as team accomplishments (cf. Flower 2019). In turn, such reports also construct the courtroom as an emotional sphere with the defence lawyer and prosecutors as emotional actors and thus emotion workers (Hochschild 1983/2013).

## **Discussion**

This study finds that live blogs partially reproduce the established emotion ideology of the criminal trial as an unemotional and rational sphere by depicting subdued emotions that are in line with the legal frame. Yet such emotionalizations - however subtle - also construct a new image of trials as emotional spheres and legal professionals as emotional actors thereby contributing to the destabilization of dichotomic understandings of rationality and emotionality and opening up for a more nuanced understanding of the emotional courtroom.

Two frames are found within the overarching media frame: prosecutorial power and teamwork. These frames serve to construct and reconstruct understandings of criminal trials in Sweden and are, at least in part, also embedded in the legal frame. Newsworthy criteria are drawn upon when constructing these frames. For instance, by emphasizing clashes between the defence lawyer and prosecutor, conflicts are lifted, dramatized and emotionalized as well as simplified, thereby conveying an understanding of the adversarial aspects of a criminal trial, whilst simultaneously quietening the inquisitorial aspects. The central use of emotions as a criterion of newsworthiness is apparent in the emotionalization and, hence, personalization, of legal professionals. Rather than lacking “colour” (cf. Small and Puddister 2020) legal professionals are depicted as emotional actors and as belonging to certain teams with emotional displays portrayed in accordance with team membership and the emotional regime of the criminal trial (Flower 2019). Emotions should thus be considered a criterion of newsworthiness and personalization can be extended to encompass the depictions of individuals as teams (cf. Jewkes, 2015). The use of simplification and conventionalization in live blogs may be novel to their immediate format, however this is a subject for future scholars to address more fully. The findings are in line with previous work showing that conflict is one of the strongest indicators of news story prominence (Boukes et al 2020). In short, simplifying trials by lifting the adversarial aspects rather than the inquisitorial aspects simply makes better news however this means that journalistic depictions risk constructing an erroneous understanding of trials. Rather

than describing a clash of media and legal spheres, it is perhaps more accurate to describe an amalgamation of spheres (cf. Bogoch and Peleg 2014). This is important as rather than merely reproducing faulty understandings of the disparity of emotions and rationality, live blogs move understandings of the legal sphere towards increased awareness and acceptance of the role of emotions in rationality and indeed, in all aspects of social life, even in legal life.

There are also wider implications stemming from the relative absence of defence lawyers in live blogs which may lead to debate regarding the importance of their role. In Sweden, the current social climate has already seen high lawyering fees hotly-discussed, whilst the political climate with the recent shift to a more right-wing government aiming to increase the implementation of actions such as the illegalization of gang crime membership, risks leading to a burgeoning number of court cases. The combination of these factors may lead to the cost effectiveness of public defenders - paid for by the state - being called into question. The consequences of this could be that limitations are put into place regarding the right to a public defender or cutbacks leading to untenable workloads being placed on public defenders. This would be a worrying development along the lines of austerity in England where cuts in legal aid led to a negative impact on access to justice and the effective claiming of rights and lead to a legal profession now in crisis (Robins & Newman 2021).

Although the findings do not suggest that criminal trials in Sweden have become a form of “media trial” (Surette 2011) in the fast-developing digital age where readers are harder to reach due to the array of information available, live blogs must continue battle to stay newsworthy and clickable. This means that transformation of this format may be on the way opening up for future study. Furthermore, an examination of how readers of live blogs understand the depictions of criminal trials and legal professionals is warranted, as well as an intersectional analysis of news reports. In sum, in order for us to gain a deeper knowledge of how emotions and law are conflated and understood, more research tapping into media depictions are needed.

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