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Dealing with Compassion at Work. Strategic Reflexivity among Court Lawyers[☆]

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Abstract

The article explores the way in which professionals who are exposed to testimonies of suffering manage to integrate compassion into their work. Research has shown how compassion is a problematic emotion for such professionals, and has identified the forms of reflexivity that they employ to handle the tensions that such feelings arouse. By examining legal work — in particular the practices of lawyers in a criminal trial where a large number of victims are present — the article makes a new contribution to the study of compassion in the workplace. It identifies the *normative repertoire* which lawyers use to construct an appropriate attitude towards victims and analyses how, within the framework of *strategic reflexivity*, lawyers mobilise this repertoire to suit the particular interests they are representing at the trial.

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Agents working with the general public must regularly show their superiors, their colleagues or the public themselves, that they are following “feeling rules” in relation to the testimonies of suffering with which they are confronted¹. Of these feelings compassion deserves especial attention, due to the complexity and extent of the normative work it creates. Nowadays, there are

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¹ In following Arlie Hochschild, through the notion of “feeling rules”, we refer to the “guidelines for the assessment of fits and misfits between feeling and situation” (Hochschild, 2003, p. 566).

two factors which give it particular intensity. The first relates to how publics evolve and to the fact that agents are more frequently coming into contact with situations of social poverty (Dubois, 2010, p. 111). The second relates to the evolution of the intervention *dispositifs* themselves. In a context where increasing attention is being paid to fighting suffering in the public space (Boltanski, 1993; Fassin, 2006) and where there is a desire to encourage users to express — more than was the case in the past — their situations and points of view (Weller, 1998), these *dispositifs* allow more room for testimonies of suffering. In order to make our contribution towards the study of normative work on compassion, we will proceed in two stages. First and foremost, using the research carried out over the last twenty years on the work of agents in contact with the general public, we will identify a set of constraints that agents encounter when adjusting the place occupied by compassion in the accomplishment of their tasks. With the notion of normative repertoire we will then propose a framework for analysing these constraints and we will use it to study legal work. Despite the important place that compassion holds in doctrinal reflection (Barbot and Dodier, 2014), legal work has not so far been the object of much investigation in this respect. Using observations made during a criminal trial which involved the massive expression of testimonies of suffering², this article will examine the way in which legal professionals manage compassion in relation to victims and defendants.

1. Compassion at work

1.1. Questions of terminology

It might be useful to re-examine the notion of compassion, given the extent to which its uses and their effects on the nature of the phenomena in question vary. We propose to start with a broad definition, in order to understand the diverse nature of the normative problems facing agents when they are affected by an impulse (with a moral colouring) to do something when faced with individuals who are expressing their misfortunes and suffering. Philippe Corcuff defines this phenomenon when he talks about compassion as “the fact of being “overcome”, in practice and in a manner that is not necessarily thought through, by a feeling of responsibility in relation to another person’s distress, in a face-to-face situation and in close physical proximity” (Corcuff, 1996, p. 31; see also Dubois, 2010, p. 121).

This broad definition has several advantages. Firstly, it is open to the different ways in which the agents are “overcome” and envisage the nature of their responsibility. In referring to the feeling of responsibility, it includes the two major poles of compassion: sharing and aid. The idea of sharing refers to the fact that the agent believes that he/she is suffering along with the person opposite (Molinier, 2000, p. 54; Molinier, 2013, p. 215) or that he/she must bring into play a capacity to listen to others (Spire, 2008, p. 79)³. The idea of aid points to the fact that it might be a case not just of sharing something with someone in distress, but also of helping them to get through it. This is typically the notion of compassion referred to in debates on the duty to assist others (Boltanski, 1993, pp. 29-34). Whilst at the same time making the point of a moral obligation, this broad definition of compassion also has the advantage of not presupposing the existence of any moral coherency in the attitudes or behaviours associated with this feeling. In response to theories of

² In the context of profoundly renewed interrogations, we base our arguments on a certain number of observations that we have presented in a collective work on ethnography (Barbot and Dodier, 2011).

³ Notions of solicitude or empathy are sometimes used in the same manner. See for example Châtellier (2006, p. 146).

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