RESEARCH ONLINE

Law Text Culture

Volume 14
Issue 1 *Law's Theatrical Presence*

Article 12

1-1-2010

Ruth Herz Judge Playing Judge Ruth Herz: Reflections on the Performance of Judicial Authority

Leslie J. Moran
Birkbeck College, London, UK

Beverley Skeggs
Goldsmiths College, London, UK

Ruth Herz
University of Oxford, UK

Follow this and additional works at: http://ro.uow.edu.au/ltc

Recommended Citation
Moran, Leslie J.; Skeggs, Beverley; and Herz, Ruth, Ruth Herz Judge Playing Judge Ruth Herz: Reflections on the Performance of Judicial Authority, *Law Text Culture*, 14(1), 2010, 198-219.
Available at:http://ro.uow.edu.au/ltc/vol14/iss1/12

Research Online is the open access institutional repository for the University of Wollongong. For further information contact the UOW Library: research-pubs@uow.edu.au

RESEARCH ONLINE

Ruth Herz Judge Playing Judge Ruth Herz: Reflections on the Performance of Judicial Authority

Abstract
Between 2001 and 2005, 'Judge Ruth Herz' appeared in a popular German daytime reality television court show, Das Jugendgericht (The Youth Court). German reality television court shows, of which there are several (Machura 2009), draw heavily on a US format. A key dimension of this format, and central to its reality effect, is the use of real judges to perform the role of judge in the show (Christie 1999; Kleinhans and Morris 2004; Kohm, 2006; Lorenzo-Dus 2008). The best known US example is Judge Judy, in which the title role is performed by Judith Sheindlin, an ex-New York family court judge. The Youth Court follows this model.

This journal article is available in Law Text Culture: http://ro.uow.edu.au/ltc/vol14/iss1/12

Ruth Herz Judge Playing Judge Ruth Herz: Reflections on the Performance of Judicial Authority

Leslie J Moran, Beverley Skeggs and Ruth Herz

Between 2001 and 2005, 'Judge Ruth Herz' appeared in a popular German daytime reality television court show, *Das Jugendgericht* (*The Youth Court*). German reality television court shows, of which there are several (Machura 2009), draw heavily on a US format. A key dimension of this format, and central to its reality effect, is the use of real judges to perform the role of judge in the show (Christie 1999; Kleinhans and Morris 2004; Kohm, 2006; Lorenzo-Dus 2008).[1] The best known US example is *Judge Judy*, in which the title role is performed by Judith Sheindlin, an ex-New York family court judge. *The Youth Court* follows this model.

Prior to working in television Ruth Herz trained as, and became, a judge in Germany in 1974. She presided in civil and family courts and for many years in the Youth Court in Cologne, dealing with offences committed by people aged 14 to 21 years. Between 2001 and 2005 she was granted leave of absence from the judiciary by the Ministry of Justice to take up the television role. Some features of *The Youth Court* break with the dominant US tradition. For example, the program is not named after the judge and it includes other legal characters including prosecutors and lawyers acting for the defendants. But, as Machura notes (2009: 323), the publicity surrounding *The Youth Court* made it clear that the character and personality of the judge were central to

the program and the role of the other legal characters was in practice marginal. As Ruth Herz explained: within the German legal tradition '... it's usually the judge that takes the case one step further each time. It's not the comments and the questions of the other two lawyers. … And I insisted on that, because that's how it happens in real court (Herz 2009b: 17). The 'reality' of a German court and Ruth's work to secure some semblance of judicial reality in the production of the television image also worked to secure the position of the judge. In short, the show is 'all about the judge' (Herz 2009b: 17).

The formation of the judicial image in *The Youth Court* is the central concern of this paper. Our interest in this judicial image arises out of a wider interest in judges and visual culture. There is growing recognition that media, and visual media in particular, plays an increasingly important role in forming people's perceptions and understandings of law and courts in general, and the judiciary in particular.[2] Ruth's experience is a case in point. A daily audience of over two million watched the judicial performance of 'Judge Ruth Herz' on television. The show was broadcast five days a week and the judge made an appearance in over 700 programs involving over 1000 cases.[3]

The audience for Ruth Herz' pre-television judicial activities tended to be a little smaller. In the Cologne Youth court it was 'sometimes the mother ... very rarely the fathers. Maybe a friend or two would come along. Sometimes a teacher might be there or a girlfriend or boyfriend. But always it was only a small handful of people' (Herz 2010: 2). This audience was primarily face to face, location specific, and overwhelmingly composed of people who were intimately connected with the immediate dispute. When not formally excluded from the Youth Court, the attendance of the public or media in court was limited. The audience for the television court, however, is not subject to the same time, spatial, social or institutional restraints.[4] This is illustrated by a situation in which Ruth and her husband were preparing to leave a restaurant and a couple sitting at the next table said, 'Goodbye'. As Ruth recounts:

> … in a way we had to respond somehow because it seemed they really knew me or us. And I said, 'Well, goodbye. But I'm not sure I remember you.' or something like that ... And they said, 'Well, you should. You're in our living rooms every day.' ... I thought that was very clever of them actually, the way they sort of switched it around to … *I* should know *them* (Herz 2009a: 25)!

The incident captures the way the television format and the medium of television has the potential to re-locate the judicial performance from one particular location, the courtroom, into another, the sitting room, and thereby add millions to the judicial audience. Face to face experiences of courts and performances of judicial authority are exceptional. The reality courtroom television show format has the potential to generate an experience of courts and judges as a common everyday experience for many millions and, for some of that audience, as an everyday event repeated several times a day, all without leaving their armchair. It has the potential to create an experience of intimacy between the audience, the judicial image and the judicial subject of that image. And that intimacy creates a kind of mass familiarity (Villez 2010).

The potential mass audience for *The Youth Court* was an important factor in the support and approval given to Ruth Herz by the Presiding Judge of the Supreme Court and the Ministry of Justice.[5] Their response was overwhelmingly positive:

> ... 'Brilliant! Brilliant! Take it. And if you don't take it we're going to be disappointed.'... They thought it would be educational. They trusted me as one of them … and thought it was a very good idea (Herz 2009a: 7).

And the educational potential of the mass media was enshrined as an objective in the contract between the Ministry and the production company:

> The preamble to the contract emphasises the educational focus and value of the program, and the objective of educating the public through the program. The contract preamble also talked about how important children were as an audience for the show. It was all about education (Herz 2010: 8).

There is some evidence that *The Youth Court* (Machura 2009) and other reality courtroom television shows (Podlas 2001, 2004; Marder 2009) have an impact upon popular understandings and expectations of courts in general and the judicial role in particular. For all these reasons this television format is a particularly useful one for a study of contemporary performances of judicial authority. Our objective is to use *The Youth Court* as a case study to examine the factors that influence the formation of the judicial image in this mass media context.

Little scholarship exists on the factors that influence the formation of the judicial image or on the processes by which judicial images are made in visual culture in general and in television in particular. Analysis of the genealogy of the aesthetics and technologies of the modern tradition of making and displaying visual images of the judiciary have in general been neglected (Moran 2009). Film and television is an exception. Portraits of law in these media have generated some scholarship (Asimow 2009; Chase 2002; Denvir 1996; Greenfield, Osborn and Robson 2009; Levi 2005; Jarvis and Joseph 1998; Moran et al 2004; Rapping 2003; Villez 2010). But, despite a preoccupation with courtrooms and litigation, as Black (2005) notes, the judge tends to be a marginal figure in these popular representations of law and in related scholarship. Papke (2007) argues that this state of affairs is changing. One factor raising the profile of judges in screen media is the invention of the reality courtroom television format (Christie 1999; Kleinhans and Morris 2004; Kohm 2006; Lovell Banks 2009; Machura 2009; Marder 2009). The centrality of the judge in this format offers a valuable case study of the contemporary formation and display of judicial authority in visual culture.

In pursuing our objective we developed a new body of data through a series of semi structured interviews with Ruth Herz.[6] Visual materials — an episode of *The Youth Court* and photographs of the process of production of *The Youth Court* taken by Ruth's husband, Gabriel Gorodetsky — facilitated an exploration of Ruth's experience of the formation of the judicial image in this television context.[7] In addition to questions relating to the nature of the judicial image made in *The Youth*

Court, a particular focus of the discussions was the relationship between Ruth's performances of judicial authority as an officer of the state and her performances of judicial authority as a character in a television show. Factors influencing the judicial performance in both contexts were discussed and successive interviews enabled themes identified through a reading of the transcripts to be explored further. The interviews were digitally sound recorded and subsequently transcribed.[8] Further data was generated via email exchanges.

In the remainder of this paper, we use this data to examine Ruth's perceptions of the preoccupations that shape the performance of judicial authority, and her role in generating the image of the judge at the interface of a reality television courtroom show and the institution of judicial office. To begin with we will examine some of Ruth's experiences of the nature of making judicial authority for television.

Making Judicial Authority

> 'It's all visual …' (Herz 2009a: 15).

Ruth's experience of the performance of her role as a judge in television was that it is all about image: 'It's the images they want. ... What will work as a picture, as a *fantastic image* on television' (Herz 2009a: 29). Some of the visual dimensions of judicial authority used in the program are familiar; an authentic judicial wardrobe (for the first two years of the show Ruth used the judicial gown she wore in court prior to entering television), particular props such law books and other text related objects (pens, court files and papers, note books, glasses) that represent judicial authority as something intimately associated with the word of law. The publicity photographs made to promote the show are one example of the deployment of these legal institutional signs of judicial authority for television. See Figure 1.

Figure 1 One of several publicity photographs produced to advertise the television show, *The Youth Court.* Photographer: Gabriel Gorodetsky

Other visual preoccupations shaping the judicial image for television are perhaps a little more surprising. For example, hair was one of the first things the television producer mentioned on meeting Ruth, 'What are we going to do about your hair?'(Herz 2009a: 14). The face was also a fixation with one member of the production company, the makeup artist, dedicated to the management of the judicial face, '[S]he focused exclusively on my face. It's part of her professional responsibilities. She wanted to make me look good at all times' (Herz 2010: 17). Producing the judicial face for television involved considerable labour. Makeup took an hour at the start of each production day and, at regular intervals during the day, it had to be refreshed or remade. The makeup artist's role also involved further micro-management of the judicial face, for example, during recording the makeup artist watched Ruth's performance on a television monitor behind the set. See Figure 2.

Figure 2 The makeup artist stands on the left close to the monitor. Her role includes scrutinising the judicial face throughout the recording. Photographer: Gabriel Gorodetsky

As Ruth explained:

> She was scrutinising my face. She would later tell me if I was looking down too often and would encourage me to look up to avoid dark shadows under my eyes and on my face. ... She would tell me in the break — 'don't touch your face or hair' (Herz 2010: 17).

The objective, Ruth said, is 'to look perfect ...' (Herz 2009a: 9). The technology of television turns this into a particular challenge 'because there are six cameras around you and you don't know when the camera will be on' (Herz 2009a: 9).

Voice, words and gestures were also subject to scrutiny and management by members of the production company and the director. So they would say, 'When you say, "Please take a seat", you're supposed to *lift* your voice at the last word. They taught me to do that (Herz 2009a: 13).

I was told 'Don't say "like"'. 'Don't say "and"'. 'Don't finish your sentence with "whatever"'. Things like that. The Director would say 'Look, just take care not to say "so-and-so" five times in the same words'... They said, 'We have to teach people *not* to use their hands if the

hands don't fit what you're saying'. It's very important that your gestures suit what you're saying; that they suit the content (Herz 2009a: 16) .

If some of the visual aspects of judicial authority that preoccupied the program makers were new to Ruth, many were familiar: '... it's not as if I came out of the wilderness. I came out of the court where I couldn't just make any old gestures. ... the facial expressions are relevant to what you hear or what you ask' (Herz 2009a: 16). That producing, evaluating and managing voice and gestures are also a part of the routine image work of a judge is illustrated by this example:

> ... I became conscious that being too friendly or too nice to the defendants, or too understanding, when they are explaining what they did, when they were answering me, was a bad thing for them. They formed a lot of confidence and trust in *me* as a person and then I heard them admitting things they didn't have to admit and they were putting themselves in a very bad position ... a vulnerable position. They were actually admitting to thefts they hadn't been accused of. ... they trusted me because I was being understanding, listening ... And when I realised that, I sort of pulled back again and I thought: I have to be distant. Otherwise this is going to be not good (Herz 2009a: 16).

Being a female judge provokes many opportunities to reflect on the nature of the judicial image: '... the rule is always built around the male judge so you have to invent a woman judge. I had to, or one had to ...' (Herz, 2009a: 4). One example relates to the day Ruth was sworn in as a judge:

> ... the day of the appointment ... the swearing-in, you are supposed to (you're supposed to because they are usually men) come with a dark suit, probably a black suit, and a white shirt. What was I going to do? I didn't want to come with a black skirt or suit and a white blouse. I thought, 'No, that's ridiculous'. So I bought a dress, a dark blue dress. Not black and not white and not a suit (Herz 2009a: 3).

Thus, in preparation for her formal inauguration into the post of judge, Ruth encountered and negotiated the gendered sartorial code that represents judicial authority.

All these examples suggest that while television and courtrooms are

institutionally distinct and may use different media of communication, in practice when it comes to the judiciary they share a common interest in the making and management of the judicial image. The television publicity image (see Figure 1) is a good example of the proximity between television's interest in the image of the judge and a legal professional, 'official', preoccupation with the judge as image. The television publicity image draws upon a long legal professional tradition of judicial image making, of judicial portraiture (Moran 2009).

Judicial portraits utilise a distinctive aesthetic code to represent the sitter as ideal; as the embodiment of a particular set of institutional attributes, characteristics and qualities that are particularly concerned with social and political rank and function (Jenkins 1947: 1; Moran 2009). Through the sitters' image they are made visible, public and accessible (Jordonova 2000: 14-15). The television publicity image draws upon this tradition of official judicial image making. It mirrors the latter's fascination with a small set of props (judicial dress, books, papers, writing equipment). It copies a frequently used pose (sitting at a desk), gestures (of deep reflection momentarily disturbed, a direct, questioning and engaging gaze, a calm expression, a certain gravitas) and background (an austere interior, in this case an actual courtroom, that works to keep the eye focused on the judicial body and where the symbols of judicial authority are displayed). At the same time the publicity shot is indicative of television's distance from judicial tradition and the judicial institution.

During the many years Ruth worked as a judge no official image of her was ever made. In Germany no trial judge has an official photographic portrait and this gives them a degree of invisibility outside the court (Bell 2006: 172). In part this formal invisibility reflects an image of the judiciary as a selfless bureaucracy devoted to the law in the service of the state (Bell 2006: 144).

Making Judicial Authority for the Audiences in Mind

What are the preoccupations that shape the making, management and deployment of the judicial image in these two interconnected settings? One key difference between television and the courtroom is that television images are produced for mass consumption. The publicity image is designed to make a mass market for those images. Courts also have the public in mind and, as a general rule, operate in public. The lack of an official judicial image may suggest a rather different approach to audiences and a different audience reality. It's a point exploited by the show's producer, Gisela Marx, who offered Ruth the role:

> And she said ... 'You have about three and a half people in your court listening to you and you write articles in your (what she called) "secret" journals. ... I'm offering you a basis from where you can reach millions every day. And that's where you can promote all of your ideas.' (Herz 2009a: 17).

Ruth's experience suggests that the reason for the preoccupation with the public as a factor shaping the performance of judicial authority in television was financial: 'It all has to do with ... money' (Herz 2009a: 19). The preoccupation with a mass audience is manifest in an obsession with 'ratings'. Each morning after the broadcast audience figures were published. As Ruth describes, checking these was '... the first movement of any producer. They are probably half in their sleep looking for the remote control and switching on the television to the text part and reading the ratings. How did our program do yesterday? ... You're being tested day by day (Herz 2009a: 20).

The strategic significance of the mass audience is also captured in the following:

> ... if they don't have high ratings the channel will close down the program and give it possibly to another production company; so all these tensions and pressures are very, very strong. There's a lot of money there, an awful lot of money, being spent or there to be earned... by the different parties or lost by the different parties (Herz 2009a: 20).

The production company must satisfy the channel's objective which is to make money. In turn, the channel wants to provide audiences for advertisers, its main source of revenue, and the latter will only spend money on advertising if audience ratings are good (Ang 1990; Herz 2010: 6).

Chasing the public audience for this strategic purpose had a wide ranging impact upon the image of judicial authority produced in the program, for example, it informed the context and time (late afternoon) in which it was broadcast. *The Youth Court* targeted a young audience because of its potential capacity for consumption, and the advertising that accompanied each broadcast was orientated to the youth market, for example, selling particular skin care products (Herz 2009b: 14-15). Attempts to maintain and increase audience ratings also affected the types of cases the judge had to decide — thus an early focus on 'social issues' was replaced by stories using 'crazy situations' (Herz 2009a: 18, 21). Sensational themes of love and jealousy, scandal and violence became more commonplace. All were attempts to retain and grow this audience. As Ruth explained, 'The audience has to want to watch' (Herz 2009a: 36).

To satisfy the goal of making money, specific demands were made upon Ruth to ensure her performance better engaged the audience. One device was character. An element of tension was injected into the characters of 'prosecutor' and 'judge': '... he [the prosecutor] was meant to be the more aggressive character — his character was meant to be a young person who was "getting there". My character was meant to be much more calm and solution orientated.' (Herz 2010: 10). In contrast to what happens in a real German court where the judge asks most of the questions and the lawyers stay at a desk, this was changed in the television court to allow more opportunities for the lawyers to ask questions. The lawyers were also instructed and trained to move around the television courtroom set, something unknown in a real German courtroom setting. These changes, which drew upon an American model of courtroom drama, were introduced because, otherwise, 'it ... would be too boring for the viewers. So you can't just

have one person after another quietly asking questions. That's what they told me. This wouldn't work. You have to get some more life into this' (Herz 2009b: 5-6). Other televisual demands focused on making the judicial performance more sensational (Herz 2009a: 23) or, by simplifying the language used, more engaging for the audience (Herz 2009a; Herz 2010: 7).

Ruth's attempts to manage her self-presentation as a judge in these contexts generated many conflicts with production company staff. Some she won. One example concerned an attempt by the production company to heighten the drama by showing the accused in handcuffs:

> 'Are we going to get high ratings here?' 'Yes.' 'Okay!' 'We're doing it. Let's have him come in with the handcuffs.' And I said, 'No. He's going to get his handcuffs off at the door. And for all I care you can show that part but not in front of the judge. It's degrading. He's supposed to be not proved guilty. I don't want somebody sitting on the chair there with handcuffs.' And they really didn't like me in those moments. And I said, 'Do you want to be in a country where we have this kind of legal system? No? Okay! Get out' (Herz 2009a: 28).

For Ruth the presence of handcuffs in court would misrepresent the relationship between the judge and the accused. To mirror the practice in a court, the television image of legitimate judicial authority had to be performed by reference to the accused as 'not proven guilty' until the judge determines guilt. This particular victory was exceptional and its effects limited. She describes her ongoing battle over the judicial image as: '... a David and Goliath fight and I wasn't going to win it but I didn't realise that immediately. It took me a long time to realise that I couldn't win this war' (Herz 2009a: 24).

Money was not the only strategic objective to shape the performance of judicial authority on television. Education was another. A key educational moment for Ruth was the two minutes, '... quite a long time on television' (Herz 2009a:18), the production allotted to giving judgment. During this time the decision was explained and reasons were given for the sentence. 'Many cases,' Herz explained, 'were geared towards an ending which I could also use as a kind of political

message' (Herz 2009a: 18). These two minutes provided an opportunity to perform a dimension of legitimate judicial authority, which Bell associates with the German judiciary, as the voice and advocate of the social values of German 'good society' (Bell 2006, 144).

But Ruth's experience was also that the strategic goal of education was a cynical device utilised by both television and the Ministry of Justice to promote other goals. References to educating young people in the contract between the program makers and the Ministry were inseparable from the desire to engage the youth market and generate ratings and profit. The educational objectives of the Ministry of Justice and the senior judiciary also seemed motivated by an attempt to reduce public access to the courts by deflecting media demands to allow cameras in courts. As Ruth explained:

> ...they thought this was a way of avoiding the trend of journalists getting into the court, even with cameras …. The cameras are banned from the courts in Germany .... This would be the court going to the cameras instead of the cameras coming into court (Herz 2009a: 7).

Here the primary strategic concern of 'education' appears to be linked to enhanced judicial control of the judicial image.

While education of the general public was one of the drivers for Herz's judicial performance, her judicial colleagues as audience were also an abiding concern. During the process of evaluating the merits and demerits of moving to television, a process that lasted six months, Ruth was also '... thinking [about] my colleagues and peers. What would they think?' This provoked the following exchange:

> BS: Now how long had you been a judge?
>
> RH: Oh, twenty-five years.
>
> BS: Twenty-five years?! You're still worried about your kind of respectability or status? Your peers …? Your peers' judgments?
>
> RH: Well, yes. Isn't that crazy? My peers. Yes, I think so (Herz 2009a: 7).

Judicial peers and superiors are an audience that scholars have identified as playing a key role in the performance and self management of judicial image in professional settings (Bell 2006: 137; Baum 2006). Baum argues that judges, like other public officials and social elites, are preoccupied with self image and self-presentation. If the image of the judge is in part about performing obedience to the law and displays of dedication to the promotion and realisation of legal policy (what Baum describes as the legal instrumental dimensions of judicial performance), judicial self-presentation is also managed by reference to what Baum calls a judge's 'personal audiences' (Baum 2006: xii). They orientate judicial performance by way of a desire for 'esteem' and 'respect' (Baum 2006: 29). A concern with status thus comes from the fact that the judiciary is a high status (elite) role and this status is one of the attractions of the post. It involves and demands high self monitoring, including refined skills of audience awareness and the expenditure of significant amounts of labour upon producing and managing the judicial image to ensure the elite status is realised (Baum 2006: 32). Judicial peers (and superiors) are the primary audience against which the judicial self image is made and managed.

The above extract provides an example of how the audience of judicial peers played a role in shaping Ruth's engagement with television. She described her reaction to the invitation to take up the job of judge on television[9] in the following terms:

> ... [it] would tear me out of … my context, my thoughts about myself. I didn't see myself as a television person at all. I thought, you know, I'm a serious person sitting in court or doing theoretical work. I'd written a textbook on youth law by then and several chapters and things in books. So I didn't really see myself in this, if I can say, 'frivolous medium'... and was thinking … what would they [my colleagues and peers] think (Herz 2009a: 5)?

To be a judge is to be 'a serious person'. This is threatened by a characterisation of television as 'a frivolous medium'. It is in this context that she poses the question: What would my colleagues and peers think? The judicial audience works to manage the alignment of judicial

authority with the virtue of 'seriousness', an attribute associated with the elite character of the judiciary (in contrast to 'frivolous' which is associated with the popular medium of television in particular). Ruth's concern was with her ability to continue to perform this particular quality of judicial authority under conditions her peers would associate with its antithesis, frivolity (cf Friedman 2000).

A second example in which the issue of respect from judicial colleagues and senior colleagues is shown to be an important factor shaping her performance of judicial authority on television relates to the visit to the television studio of a group of senior judges:

> ... the judges were the Presidents of all the courts. Once a year the judges have a day out together: an excursion day. They spend some time together. Some of the day may be spent doing work things and some of it is about socialising together. One year they came to the television studio for the day. At the time the Chief Judge was the man who had supported me when I asked for permission to take the television job. They asked if they could come to the Studios to watch. It was a great honour for me. It was in all the newspapers. It took away the feeling that I had that fellow judges were looking down on me. A lot of the judges thought I was just doing it for the money, that I was selling myself (Herz 2010: 8).

The judiciary and more specifically the senior judiciary are in this extract shown to be an important audience informing her judicial performances, particularly associated with her judicial status and self value. Television, and its particular association with money, puts that status and respect under threat. The visit to the television studio by senior judges enables a self evaluation by Ruth of her judicial status in general and, specifically, in relation to her performance of judge for television. It generates judicial self respect and esteem by removing any lingering feelings of loss of status through the association with television.

Figure 3. During a break in recording *The Youth Court* set was visited by senior judges. Photographer: Gabriel Gorodetsky

If the mere presence of judicial peers and superiors appears to bestow 'honour', the nature of their engagement was also important:

> The whole day visit was great fun. They were really interested in the details of what was going on. After the recording of each case they had lots of legal questions to ask me about the case. 'Why did you understand it to be a so-and-so problem?' 'Why did you decide it like this?' These were senior judges who take extremely important decisions. And they were taking the television courtroom and my performance so seriously (Herz 2010: 8).

The senior judges were taking Ruth's television judicial performance 'seriously' and the comparator they used was the performance of judicial authority in a real court. If this audience reaction was an important factor sustaining, legitimating and shaping Ruth's televisual judicial performance, Ruth also acknowledged the absurdity of this comparison, 'It was quite ridiculous. The whole thing was made up to entertain and for fun. But the judges were taking it as a real legal problem' (Herz 2010: 8). This points to a tension that emerged during the course of performing the judicial role on television and a difference she noted between her own sense of the judicial performance on television and

that of fellow television judges. Ruth and three other reality courtroom judges appeared on a German television talk show:

> We were all professional judges doing television and the other three just couldn't agree with me. They were saying, 'I do exactly the same work as I do in court'. And I couldn't get through to them saying, 'It's not true. You're playing your role in court but you're not doing the same thing as you're doing in court because you're just playing as if you were a judge. You're not a judge any longer on television' (Herz 2009a: 10).

She describes how she came to perceive the role she is playing when on television in the following way: 'So I was playing myself. My role was Ruth Herz judge, Judge Ruth Herz, … so it took me a while to understand what I was doing: that I was playing myself, but I was playing. I wasn't being myself' (Herz 2009a; 10). If, in the first instance, her perception was that her performance of the role of judge in television was the same as that which she performed in court, this changes as she comes to see a gap between 'playing' the judge and 'being' the judge. If the visiting judges helped to close that gap their visit also exposed it.

Personal audiences that shape the judicial performance in professional settings, Baum argues, are not limited to professional peers or related professional groups. Audiences of peers may also include other social groups and family members (Baum 2006: chapter 4). Is there any evidence of these other audiences influencing the judicial performance in a television setting? Our example comes from Ruth's description of the influence of others in her response to the invitation to take on the role of judge on television. As well as considering the reactions of colleagues and peers in making her decision, she also sought a wider input: from '... friends who are at the university, teaching at the university ... I asked several friends ... And my family of course, were the first that I asked ... my son ... my partner ... (Herz 2009a: 5-6). Thus, in response to her own sense of the serious threat television might pose for her judicial self image, Ruth turned to a number of other non-judicial audiences to examine her professional self-perception in relation to television: friends (especially those in the University), family

and particular family members (son, partner). There is some evidence in the description of her reflections on her reaction to the television job offer of a hierarchy of audiences, as well as some evidence of multiple/shifting hierarchies. In one instance the first audience in mind is 'myself', closely associated with judicial peers, and in another moment the hierarchy shifts and the first audience is 'my family' followed by a particular group of peers, university colleagues, then reconfigured by reference to a hierarchy within the family, especially son and partner. All may play a role in shaping Ruth's self perception of her own judicial performance and the image of the judge Ruth was striving to perform on television.

Conclusions

The data generated in our conversations opens up new opportunities and questions to explore in the contemporary landscape of the performance of judicial authority. The use of members of the judiciary in reality courtroom television highlights the question of the performance of judicial authority. A study of the television context provides an opportunity to examine contemporary performances of judicial authority that reach a mass audience. It also provides an opportunity to examine its relationship with performances of judicial authority in the real courtroom and in other professional and personal settings. Data generated by way of a series of conversations with Ruth Herz has provided a unique opportunity to examine one person's experience of the performance of judicial authority in two different contexts and media.

There is a need to be cautious in drawing general conclusions from Ruth's experiences and perceptions. In lots of ways they are unique. Being married to a sociologist for over thirty years meant she had a long experience of a particularly demanding audience, '... he asked questions throughout ... so I was very conscious all my life as a judge, [about] how I was acting, being a judge ... how I wanted to be a different judge ... and a more accessible judge'(Herz 2009a: 31). Also, if her experiences differ from that of other judges, it is in part because they

include the experience of being a judge on television. They also differ from experiences studied in other work on judicial image making and judicial performance as most of that research is limited to judges in the higher courts and in the appeal courts in particular. But all this suggests that Ruth's experience brings together various dimensions of judicial experience commonly separated and neglected by research.

Notes

1 Another key device is the use of 'real' legal disputes

2 There is a wide-ranging literature from government reviews (Hough and Roberts 2004; Falconer 2005; Moorhead, Sefton and Scanlan 2008) to work on cameras in courts (Stepniak 2008) and more general scholarship on the impact of television on popular understandings of law (Villez 2010).

3 See http://www.filmpool.de/ accessed 5 February 2010

4 A face-to-face (studio) audience was a part of *The Youth Court's* audience. The studio audience was primarily young people and school children. Before recording, a member of the production company would address the studio audience, explaining the story and how the court worked. His role was also to train them '... tell them how they were to behave as an audience, how to react. They had to appear as if they were involved, as if they were really taking it seriously' (Herz 2010: 13). The studio audience was one of the props making up the courtroom mise en scene and also part of the mise en scene of television as education.

5 Germany is split into 16 *Länder*. Every *Land* has its own Ministry of Justice and appoints its own judges.

6 Ruth has published an autobiography which in part refers to her television experiences (see Herz (2006, 2008).

7 Standard texts exploring the methodological challenges and strategies relating to doing research on visual culture include Prosser (1998), Pink (2001), Rose (2001), Schirato and Webb (2004).

8 Special thanks to Valerie Kelley who transcribed the 2009 interviews.

9 Over 300 judges were considered for the post (Herz 2009a: 5).

References

Ang I 1990 *Desperately Seeking the Audience* Routledge London

Asimow M ed 2009 *Lawyers in Your Living Room: Law on Television* American Bar Association New York

Baum L 2006 *Judges and Their Audiences: A Perspective on Judicial Behaviour* Princeton University Press Princeton

Bell J 2006 *Judiciaries within Europe: A Comparative Review* Cambridge University Press Cambridge

Black D A 2005 'Narrative Determination and the Figure of the Judge' in Freeman 2005: 677-87

Chase A 2002 *Movies on Trial: The Legal System on the Silver Screen* New Press New York

Christie S 1999 'Judge Judy: The Courtroom as Classroom' *Australian Feminist Law Journal* 13: 86-97

Denvir J 1996 *Legal Reelism: Movies as Legal Texts* University of Ilinois Press Urbana

Freeman M ed 2005 *Law and Popular Culture, Current Legal Issues* Oxford University Press Oxford

Friedman L 2000 'Lexitainment: Legal Process as Theatre' *De Paul Law Review* 50*:* 539-58

Greenfield, S, Osborn, G. and Robson, P. (2009), *Film and the Law*, Hart Oxford (2nd edn)

Herz R 2006 *Recht persönlich: eine Jugendrichterin erzählt* Beck München

Herz R 2008 '"Realität oder Fiktion?" Die Darstellung der Justiz im Fernsehen' *Neue Kriminalpolitik* 114-19

Herz R 2009a *An Interview: Ruth Herz with Beverly Skeggs and Les Moran 20 February 2009* (on file with the authors)

Herz R 2009b *An Interview: Ruth Herz with Leslie Moran viewing an episode of The Youth Court 29 May 2009* (on file with the authors)

Herz R 2010 *An Interview: Ruth Herz with Leslie Moran, Paris 1 February 2010* (on file with the authors)

Jarvis R M and Joseph P R eds 1998 *Prime Time Law: Fictional Television as Legal Narrative* Carolina Academic Press Durham

Jenkins M 194) *The State Portrait: Its Origins and Evolution* College of Fine Arts Association of America USA

Jordanova L 2000 *Defining Features: Scientific and Medical Portraits 1660–2000* Reaktion Books London

Kleinhans C and Morris R 2004 'Court television: Evolution of a Reality Format' in Murray et al 2004: 157-75

Kohm S A 2006 'The People's Law versus Judge Judy Justice: Two Models of Law in American Reality-based Courtroom Television', *Law and Society Review* 40/3: 693-727

Levi R 2005 *The Celluloid Courtroom: A History of Legal Cinema* Prager Westport

Lorenzo-Dus N 2008 'Real Disorder in the Court: An Investigation of Conflict Talk in US Television Courtroom Shows' *Media, Culture and Society* 30/1: 81-107

Lovell Banks T 2009 'Judging the Judges — Daytime Television's Integrated Reality Court Bench' in Asimow 2009: 309-20

Machura S 2009 'German Judge Shows: Migrating from the Courtroom to the Television Studios' in Asimow 2009: 321-32

Marder N 2009 'Judging *Judge Judy*' in Asimow 2009: 299-308

Moran L J et al eds 2004 *Law's Moving Image* Cavendish London

Moran L J 2009 'Judging Pictures: A Case Study of Portraits of the Chief Justices Supreme Court New South Wales' *International Journal of Law in Context* 5/3: 61-80

Murray S and Ouellette L 2008 eds *Reality Television: Remaking Television Culture* New York University Press New York

Papke D 2007 'From Flat to Round: Changing Portrayals of the Judge in American Popular Culture' *Journal of the Legal Profession* 31: 127-51

Podlas K 2001 'Blame Judge Judy: The Effects of Syndicated Television Courtrooms on Jurors' *American Journal of Trial Advocacy* 25: 557-86

Podlas K 2004 'As Seen on TV: The Normative Influence of Syndi-court on Contemporary Litigiousness' *Villanova Sports and Entertainment Law Journal* 11/1: 1-48

Pink S 2001 *Doing Visual Ethnography* Sage London

Prosser J 1998 *Image-based Research* Falmer Press London

Rapping E 2003 *Law and Justice as Seen on TV* New York University Press New York

Rose, G 2001 *Visual Methodologies* Sage London

Schirato T and Webb J 2004 *Reading the Visual* Allen and Unwin Crow's Nest

Stepniak, D 2008 *Audio-visual Coverage of Courts: A Comparative Analysis* Cambridge University Press Cambridge

Villez B 2010 *Television and the Legal System* Routledge New York