

Tilburg University

## Examining empathy training in legal education through Visual Thinking Strategies

Sam, Ingemarie

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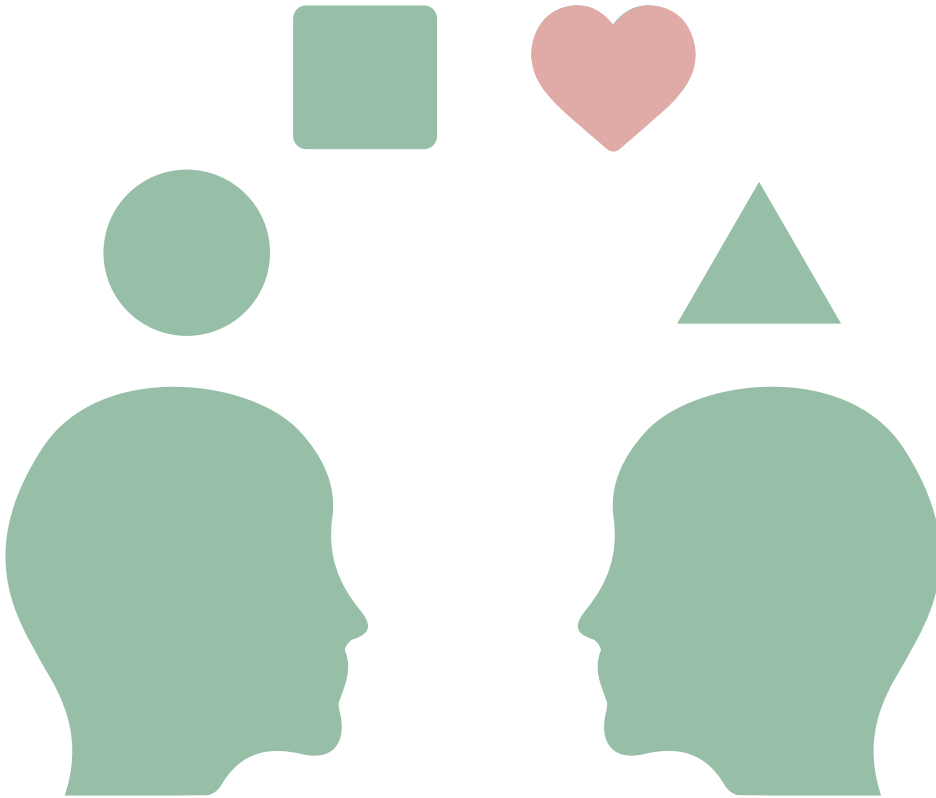
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Ingemarie Sam



# Examining empathy training in legal education through **Visual Thinking Strategies**

An analytical and evaluative study

*What more can we find?*

*This PhD thesis is dedicated to my children,  
who show me other perspectives,  
in abundance*

The following institutions are gratefully acknowledged for their support, which made this research project also possible: Tilburg University: Division Marketing & Communication, Tilburg Law School, EDUiLAB and University Fund, and Fontys Academy of the Arts, Master of Art Education.

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through Visual Thinking Strategies  
*An analytical and evaluative study*

Proefschrift

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Ingemarie Suzanna Sam,  
geboren te Amsterdam

**Promotor:**

Prof. dr. L.H.J. Adams (Tilburg University)

**Copromotoren:**

Dr. J. van Dijk MA (TIAS School for Business and Society)

Mr. dr. M.G. IJzermans (Tilburg University)

**Leden promotiecommissie:**

Prof. dr. P.A. Bax (Universiteit Leiden)

Dr. M.I. Deunk (University of Groningen)

Prof. dr. mr. J.E. Soeharno (University of Amsterdam)

Dr. L. Vermeersch (KU Leuven)

Prof. mr. dr. C.J. Wolswinkel (Tilburg University)

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## SAMENVATTING

Promovenda Ingemarie Sam deed in de afgelopen vijf jaar onderzoek naar het belang van empathieonderwijs voor rechtenstudenten en hoe je dat zou kunnen organiseren in het kader van karakteronderwijs van TEP. Ze onderzocht hiervoor de methode Visual Thinking Strategies (VTS). Centraal in VTS staan het leren uitwisselen van perspectieven, belangrijk in de ontwikkeling van empathie. Empathie bestaat uit het kunnen begrijpen en invoelen (respectievelijk cognitieve en emotionele empathie) van de situatie van iemand anders, waarbij verschil ervaren wordt tussen de gevoelens van zichzelf en die ander. VTS bestaat uit een gestructureerd gesprek over een kunstwerk dat geprojecteerd wordt op een groot scherm, waarin studenten leren dat meningen kunnen verschillen over een situatie en dat dat ook iets zegt over henzelf, hun eigen achtergrond en levenservaring. Het ervaren van dit verschil tussen zichzelf en anderen is essentieel in de ontwikkeling van empathie.

VTS wordt wereldwijd al met succes ingezet bij de professionalisering van geneeskundestudenten. De methode blijkt in die context kritisch denken, observatie- en communicatievermogen te vergroten en bij te dragen aan de ontwikkeling van empathie. De relatie met de juridische praktijk is dat het in beide gevallen gaat over gegevens en situaties die op verschillende manieren kunnen worden geïnterpreteerd en uitgelegd (ook wetteksten en rechtspraak kunnen op verschillende manieren worden geïnterpreteerd). Empathie is daarnaast een kwaliteit waarvan steeds vaker uitdrukkelijk wordt herkend dat die belangrijk is voor het werk van juristen. ‘Betrokken’ oordeelsvorming is bijvoorbeeld van belang voor alle partijen in een geschil omdat zij daardoor het gevoel kunnen krijgen dat er werkelijk recht gedaan wordt. Dit draagt bij aan de ervaring te leven in een rechtvaardige samenleving. Alleen als een rechter gebruik maakt van empathische kennis naast juridische kennis, kennis van de waarden en belangen van betrokkenen, kan sprake zijn van ‘betrokken’ oordeelsvorming. De nieuwste competentiemodellen voor juridische curricula schenken dan ook aandacht aan emotionele intelligentie, waarvan empathie deel uitmaakt.

In 2023 zijn met de VTS-methode experimenten uitgevoerd in drie cursussen van de bachelor Rechtsgeleerdheid aan Tilburg Law School. In totaal hebben 722 studenten deelgenomen aan kwalitatief en kwantitatief onderzoek, in zowel experiment- als controlegroepen. Subsidies voor het onderzoek waren er van Tilburg University EDUiLAB en Marketing & Communicatie, en van Fontys Academy of the Arts/Kunsteducatie.

Resultaat van dit onderzoek is met name het beschrijven en analyseren van karakteronderwijs op basis van lessen in empathie door middel van de methode VTS. Door VTS blijken studenten vooral te leren openstaan voor andere perspectieven. De kwantitatieve data bevestigen dat de hoogte van empathie samenhangt met gender. Ook is positief verband gevonden tussen empathie en interesse van studenten in de lessen. Het resultaat is aanleiding voor vervolgonderzoek dit najaarssemester (2024) in de derdejaars-cursus Bestuursrecht in de Praktijk. In het onderwijsontwerp zijn verbeteringen aangebracht om de inzet van VTS beter aan te laten sluiten bij de belevingswereld van studenten. Subsidie voor het vervolgonderzoek was er van de Stichting Universiteitsfonds Tilburg.

## SUMMARY

PhD student Ingemarie Sam spent the past five years researching the importance of empathy education for law students and how one might organize it in the context of TEP character education. To this end, she investigated the Visual Thinking Strategies (VTS) method. Central to VTS is learning to exchange perspectives, which is important in the development of empathy. Empathy consists of being able to understand and also connecting emotionally someone else's situation (cognitive and emotional empathy, respectively), experiencing a difference between one's own feelings and those of the other person. VTS consists of a structured conversation about a work of art projected on a large screen, in which students learn that opinions can differ about a situation and that this also says something about themselves, their own background and life experience. Experiencing this difference between themselves and others is essential in the development of empathy.

VTS is already successfully being used worldwide in the professionalization of medical students. In that context, the method appears to enhance critical thinking, observational and communication skills and contribute to the development of empathy. The relationship with legal practice is that both involve data and situations that can be interpreted and explained in different ways (legal texts and case law can also be interpreted in different ways). Additionally, empathy is a quality that is increasingly explicitly recognized as important to the work of lawyers. 'Engaged' judgment, for example, is important for all parties in a dispute because it allows them to feel that justice is truly being done. This contributes to the experience of living in a just society. Only when a judge uses empathic knowledge alongside legal knowledge, knowledge of the values and interests of those involved, can there be "engaged" judgment. Accordingly, the latest competency models for legal curricula pay attention to emotional intelligence, of which empathy is a part.

In 2023, experiments using the VTS method were conducted in three undergraduate law courses at Tilburg Law School. A total of 722 students participated in qualitative and quantitative research, in both experimental and control groups. Grants for the research were from Tilburg University, EDUiLAB and Marketing & Communicatie, and Fontys Academy of the Arts/Art Education.

Results of this doctoral research include describing and analyzing character education based on lessons in empathy using the method VTS. Through VTS, students appear to learn to be especially open to other perspectives. The quantitative data confirm that the level of empathy is related to gender. Positive relationship was also found between empathy and student interest in classes. The result prompts follow-up research this fall semester (2024) in the third-year Administrative Law in Practice course. Improvements were made in the instructional design to better align the use of VTS with students' perceptions. Funding for this follow-up research is available from the Tilburg University Fund Foundation.



## PREFACE

Artistic expression grew in lockstep with human cultural development and has long played an integral part in how we teach, learn, communicate and heal. Since our earliest ancestors began telling stories to make sense of the world, we have evolved to learn from narrative, be it through visual media, song or performance. The arts are uniquely suited to help us understand and communicate concepts and emotions by drawing on all our senses and capacity for empathy (World Health Organisation 2024).<sup>1</sup>

Recent reports of the World Health Organization and the EU CultureForHealth consortium published in 2022 confirmed that art-based activities have psychological, behavioral and social effects, and can significantly improve (mental) health and well-being.<sup>2</sup> Central to this research project is the low-threshold method Visual Thinking Strategies (VTS). Originally designed as a method for enhancing aesthetic understanding in museums, i.e., the reactions viewers have when they look at a work of art, the method is nowadays also used outside museums, in educational curriculums of primary and secondary education around the world. Its methodology is reported to be useful in other situations and with other subjects as well, and to develop other skills than aesthetic understanding like critical thinking, language and writing. In higher education, VTS is used mostly with medical students in teaching of observational and communication skills. Literature to date reports that the method also promotes openness to ambiguity and empathy.<sup>3</sup>

As a teaching method, VTS seems to fit well with Tilburg University's educational vision: *Knowledge, Skills, Character*. In this educational vision, mentioned as important building blocks for character are "being empathetic and open to those who think differently".<sup>4</sup> This research project explores if VTS could possibly have the same positive effects on law students as were reported about medical students in the literature to date.

Ingemarie Sam  
December 2024

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1 WHO website 2024, Introduction Arts and Health

2 WHO, 2022, abstract; CultureForHealth Report: Culture's contribution to health and well-being. A report on evidence and policy recommendations for Europe. The findings align with Fiske's 1999 report *Champions of Change – The impact of the arts on learning*, a report about American education presenting several research findings. The report states that "engagement in the arts – whether the visual arts, dance, music, theatre or other disciplines – nurtures the development of cognitive, social and personal competencies" (1999:IX) and advocates making involvement with the arts a basic part of young people's learning experiences.

3 Mukunda et al. 2019; for a more detailed introduction to the Visual Thinking Strategies method, see Chapter 4 of this thesis and/or for example Vtshome.org, Yenawine, 2013 and Housen, 1999, 2007.

4 De Regt & Van Lenning 2017:55



# CHAPTER 1

## | Introduction to the research

## 1. RESPONDING TO THE CALL FOR EMPATHY IN LEGAL EDUCATION

Lack of empathy was one of the key elements of what went wrong in the Dutch Childcare Benefits Scandal, a serious political scandal concerning unfair allegations of fraud made by the Dutch Tax and Customs Administration (TCA) between 2005 and 2019,<sup>5</sup> which came fully to light in 2019-2020.<sup>6</sup> In many cases, the TCA required families to pay back all of the allowance for childcare that had been received in the years until that moment even if only minor mistakes had been made, which caused severe financial hardship and personal problems. To date, more than 30,000 persons were found to have been wrongly accused and the number is still increasing.<sup>7</sup> In 2021, the Dutch Cabinet even had to resign over the scandal, because of the harsh conclusions of a parliamentary inquiry about the issue: “Fundamental principles of the rule of law had been violated.”<sup>8</sup> The Council of State (Dutch: *Raad van State*) offered apologies to the parents involved. The President of its Administrative Jurisdiction Division (Dutch: *Afdeling bestuursrechtspraak van de Raad van State*) Van Ettehoven admitted that the courts had not offered enough legal protection. They had not taken into account the possibility of proportionality that was in the applicable text of the law.<sup>9</sup> The Childcare Benefits Scandal led to a call for more *responsive* and citizen-oriented law, and for more empathy in (administrative) law practice.<sup>10</sup> The call was internationally shared.<sup>11</sup>

“The judge’s actions simply serve to promote a just society,” Sanderse and Kole state in their book on virtues for professionals.<sup>12</sup> The empathetic behavior of judges is reported to have a positive effect on all parties of a legal case and, through this, on the public’s sense of justice. Empathy is a duty of judges, IJzermans already stated in her PhD thesis about emotions of judges in court, and it is important in their behavior towards others and in the motivation of their judgments.<sup>13</sup> Judges’ empathetic behavior is reported to have a positive effect on all parties of a legal case and, as a result, on the public’s sense of justice. In Chapter 2 of this thesis, I will elaborate on the importance of empathy for law professionals and underpin why empathy education should be part of law curriculums. I will also address the fear for empathy.<sup>14</sup>

As a start of the theoretical framework, below, I will introduce the concept of *Empathy*, list and analyze five of its latest definitions in the literature to date and provide the definition I will work with in this thesis.

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5 Van Dam & Freriks 2020:28

6 Van Dam & Freriks 2020:18-23

7 Van Dam & Freriks 2020:23; [Herstel.toeslagen.nl](https://www.toeslagen.nl): accessed 7 May 2024; Van den Berg et al./Nationale Ombudsman 2017

8 Henley 2021

9 NOS Nieuws 19 November 2024

10 Van Dam & Freriks 2020:32; Aartsen & Matoug 2024:14; Schouten 2024; Louwerse 2024; Van Domselaar, 2024

11 Runyon & Carrel 2018; Kayne 2019; Hamilton & Bilionis 2022; Nonet et al. 2001; Sukmana et al. 2023

12 Sanderse & Kole 2018:183

13 IJzermans 2011:262

14 See among others Bloom 2016; Simon & Wettstein 1997:18; Vera et al. 2019



## 2. DEFINING AND DEVELOPING EMPATHY

### 2.1 HISTORY OF THE CONCEPT

The term *empathy* is a translation of the German word *Einfühlung*, in early 20<sup>th</sup> century, coined by Titchener<sup>15</sup> and Lipps.<sup>16</sup> This *feeling into* was first used by German philosophers Robert and Friedrich Vischer in their essays about art as a form of emotional expression, towards the end of the 18<sup>th</sup> and the beginning of the 19<sup>th</sup> century.<sup>17</sup> Titchener used the word empathy as a concept to describe how words can be mentally made visual through imagination and can be felt as a mental kinesthetic experience.<sup>18</sup>

### 2.2 NEUROBIOLOGICAL EVIDENCE

Modern neurobiological research confirmed Titchener's idea. The same motor response regions in the brain are active in situations in which research participants are moving their arms in a certain way as when they observed such body movement done by a person in an image.<sup>19</sup> There are specific neural systems in the brain, the so-called mirror neurons, that treat experience and actions of others the same way as they treat the experiences and actions of the self.<sup>20</sup> The process is evolutionary driven for, to thrive as a social being, humans need to make sense of the internal state of others.<sup>21</sup> We make our own, lay theories about how our minds work to get an idea about how other people think and feel. We also use our imagination to put ourselves in the situation of other people. In this way, we are able to comprehend their internal state.<sup>22</sup>

### 2.3 EMPATHY: DEFINITION AND COMPONENTS

In the literature to date, definitions of the concept empathy vary widely. To define the concept properly for law, at the start of this research, I started with collecting the four most recent general definitions on the concept of empathy. They were made by neuroscientists Lamm et al.,<sup>23</sup> De Waal and Preston,<sup>24</sup> and psychologists Eklund and Meranius,<sup>25</sup> Bloom,<sup>26</sup> and Cuff et al.<sup>27</sup> Their definitions are listed in Table 1 below.

15 Titchener 1909:28; Batson 2009:6; Cuff et al. 2016:144; De Vignemont & Singer 2006:435; Ickes 2003:64

16 Bridge 2010

17 Sinefield-Kangas 2019; Bridge 2010

18 Titchener, 1909:28

19 Freedberg & Gallese 2007. Modern neuro-cognitive research confirmed this analogy (Waal and Preston 2017; Bloom 2016:65 ff; Zaki & Ochsner 2012)

20 The mirror neurons cause automatic bodily responses, not only by seeing the other person while something is happening, but even just by being provided a written description of the situation (Bloom 2016:65). Automatic mimicry is the way one can come to know someone else's internal state (Batson 2009:5; De Waal & Preston 2017).

21 Bloom 2016:64-65

22 Batson 2009:4

23 Lamm et al. 2019:50

24 De Waal & Preston 2017:507

25 Eklund & Meranius 2021:300. In Eklund and Meranius' opinion, who synthesized 52 articles for their review, understanding involves knowing how the other is feeling, as well as perspective-taking and cognitive analysis (2021:302), while feeling involves an affective, emotional, response that is appropriate to another person's situation, from being affected by and sharing in the other person's state, to assessing the reasons for it and adopting the other's point of view (2021:302).

26 Bloom 2016:16

27 Cuff et al. 2016:150. In their review study, Cuff et al. analyzed 43 definitions (2016:144).

■ **Table 1** – Recent definitions of empathy

2016	Bloom	The act of coming to experience the world as you think someone else does.
2016	Cuff et al.	An emotional response (affective), dependent upon the interaction between trait capacities and state influences. Empathic processes are automatically elicited but are also shaped by top-down control processes. The resulting emotion is similar to one's perception (directly experienced or imagined) and understanding (cognitive empathy) of the stimulus emotion, with recognition that the source of the emotion is not one's own.
2017	De Waal & Preston	Any process that emerges from the fact that observers understand others' states by activating personal, neural and mental representations of that state, including the capacity to be affected by and share the emotional state of another; assess the reasons for the other's state; and identify with the other, adopting his or her perspective.
2019	Lamm et al.	The isomorphic sharing of the affective state of another person (affect sharing); which can be triggered by direct observation, but also the mere imagination of the emotions of another person (mentalizing); and where the person who experiences empathy knows that the source of his or her affect lies in the other (self-other distinction).
2021	Eklund & Meranius	the ability to understand, feel, and share what someone else feels, with self-other differentiation i.e., the empathizer is aware that it is the other person and not oneself who is experiencing something.

From analyzing those definitions, four components of empathy emerge (although not every definition contains all four components):

1. *understanding* through imagination of the state of another person, also called *mentalizing*, i.e., activating personal, neural, and mental representations of that other person's state,<sup>28</sup>
2. *one's own feelings* because of that state and/or
3. *sharing of affects of the other person* and/or adopting views because of that state, with at the same time<sup>29</sup>
4. *self-other differentiation*: being aware of the distinction between the other and the self.<sup>30</sup>

In their review, neuroscientists De Waal and Preston<sup>31</sup> do not support the strict distinction between cognitive empathy, i.e., understanding the state of the other person, and affective, or emotional, empathy, i.e., feeling into that state of the other person, which earlier was distinguished by neuroscientists and psychologists.<sup>32</sup> According to De Waal and Preston, both affective and cognitive facets of empathy use access to the shared representations of emotions in the brain.<sup>33</sup> Observing someone else in some state activates representations of all sorts of own experiences

28 *Mentalizing* is a facet of empathy that also has gone by other names in the literature. It is defined as the imagining of the emotions of others by Lamm et al. (2019:50). Bloom adds that mentalization is without the contagion of feeling (Bloom 2016:17).

29 A certain merging can be felt while feeling different from another person as well. Empathy's affect sharing can not only be evoked by emotions of others but by a range of other stimuli such as imagination as well (Cuff et al. 2016:148; Lamm et al. 2019:50)

30 Self-other differentiation, a concept used by Eklund and Meranius in their definition, is called self-other distinction by Cuff et al. (2019:50) and Lamm et al. (2016:148).

31 De Waal & Preston 2017:504

32 Bloom 2016:71; Zaki & Ochsner 2012:675

33 De Waal & Preston 2017:507

in the brain. This is an immediately associative process. In describing their *Perception-Action model*, Waal and Preston argue that there is such a tight collaboration between parts of the brain while interpreting someone else's state, that cognitive and affective facets seem to be largely intertwined.<sup>34</sup> They do not support the addition of a third facet of empathy, the so-called *prosocial concern*, added by Zaki and Ochsner, i.e., the motivation to help others as a result of perspective taking, i.e., cognitive empathy, and/or experience sharing, i.e., affective empathy.<sup>35</sup>

### 2.3.1 Defining empathy for law

In the same period as the general definitions of empathy mentioned above, in 2018, IJzermans defined empathy for use in a legal context, as *the ability to imagine the thoughts and feelings of someone else and to respond appropriately to the behavior and emotions of the other person*.<sup>36</sup> IJzermans distinguished three components in judges' empathy:

1. the automatic physical reaction through mirror neurons visible through unintended non-verbal communication
2. the cognitive analysis by judges of emotions and behavior of litigants, which will lead to taking the perspective of litigants and collecting knowledge about their motives and personal circumstances
3. the conscious decision to react in an empathic or affective manner, in which judges chooses to respond to their own cognitive processing of litigants' emotions.

IJzermans described the importance for judges to be aware of their own automatic bodily reactions like mirroring and synchronizing non-verbally as a reaction to others in court, and to add cognitive processing of their emotions and the behavior of the litigant, as well as consciously

34 De Waal & Preston 2017:507

35 De Waal & Preston 2017:504; Davis 2022:16; Zaki & Ochsner 2012:676. De Waal and Preston stress that affective or emotional empathy and cognitive empathy are both indivisible facets of the same concept of empathy. However, in their review article, they did formulate clear definitions of both facets: *affective empathy as empathy that is directly affected by the emotional state of another by matching or 'feeling with' it, as a result of perceiving this state, and cognitive empathy as empathy derived from a top-down process in which the observer imagines how the target feels, even if the target is not present or their feelings cannot be directly observed* (De Waal & Preston 2017:499). De Waal and Preston also distinguish two other facets of empathy: *emotional contagion, being the emotional state matching between a target and an observer, and Theory-Of-Mind (TOM), being the ability to attribute mental states to others, such as knowledge, intentions, and beliefs* (2017:499). In Bloom's opinion, TOM is the same as mentalization, and has also been called social cognition, social intelligence and mind reading (Bloom 2016:17). Presence of TOM in behavior is the best evidence for empathic perspective-taking, which in turn can be distinguished as cognitive empathy. In De Waal and Preston's opinion, the ability of TOM can be tested through a false-belief task or shown through targeted helping behavior. The false-belief task is a much-used TOM task which determines whether an observer knows what another knows, even if this knowledge is incongruent with the observer's own (De Waal & Preston 2017:499). The 'standard version' of the false belief task presents the child with a character, Sally, who leaves a desirable object such as a chocolate in her basket, before departing the scene. In her absence, another character, Anne, removes the object and places it in a box. Children are asked to predict, on Sally's return to the room, where Sally will look for the object (or, sometimes, where she thinks the object is). Four-year-olds tend to succeed at this task – correctly attributing a false belief to Sally, saying that she will look for the object in the basket – while younger children tend to fail (Bloom & German 2000:26). However, the use of the verbal false-belief task as a TOM test has also been criticized, as it might require abilities other than TOM, like language skills (Rubio-Fernández & Geurts 2013; Bloom & German 2000:25).

36 IJzermans 2018:196

choosing to react empathetically.<sup>37</sup> For while deciding, judges need to realize the difference between their emotions and those of litigants, and between empathy and sympathy or pity.<sup>38</sup> *Self/other differentiation* is of great importance for law professionals.

Using all aforementioned definitions, in this research, I define the concept of *Empathy* as follows:

*the ability to understand through imagination the emotional state of another person,<sup>39</sup>  
to be aware of one's own feelings because of that state, and  
to share affects and/or adopting views of that state with  
self-other differentiation, i.e., awareness of the distinction between the other person and the self.*

### 2.3.2 Empathy Differs from Sympathy, Compassion & Emotional Contagion

The concept of *Empathy* is often confused with the concept of *compassion*, which is the same as *sympathy*.<sup>40</sup> Empathy can easily be distinguished from those concepts for *sympathy* and *compassion* are other-related and involve a feeling for the other person besides empathic affect sharing.<sup>41</sup> Moreover, *compassion/sympathy* has an additional component over *empathy*: its core feature is the desire to act to alleviate suffering,<sup>42</sup> which is the concept of *prosocial concern or motivation*.<sup>43</sup>

37 IJzermans 2018:196-197

38 IJzermans 2018:196-197

39 This is also called *mentalizing*, i.e. activating personal, neural, and mental representations of that other person's state.

40 Soto-Rubio & Sinclair 2018:1428-1429; The word *sympathy* comes from the Greek word *sympatheia*, which means *to suffer with*. The 18th-century philosopher and economist Adam Smith coined the word *sympathy* and defined it as *putting ourselves through our imagination in the place of someone else and feeling what they feel, be it joy or sorrow; and thus enlivening joy and alleviating grief through shared feelings* (Soto-Rubio & Sinclair 2018:1428-1429). Translated into Latin, Italian and French, the word *sympathy* changed into *compassio* (Soto-Rubio & Sinclair 2018:1428-1429). Its meaning changed from fellow feeling into feeling pity for the emotional state of someone else. Originally, *compassio* had an even deeper meaning, a spiritual connotation of a transpersonal interconnectedness between providers and recipients of compassion (Soto-Rubio & Sinclair 2018:1428-1429). Soto-Rubio and Sinclair provide a useful definition for *compassion* to distinguish the concept from *empathy*: *compassion is not simply attuning to the emotional state or suffering of another, but to do something to actively alleviate another person's suffering, often with personal expense for the respondent: a prosocial desire to help and action aimed at the alleviation of suffering* (2018:1430). In their review on *compassion*, Strauss et al. theorize that compassion consists of five elements: 1. recognizing suffering, 2. understanding the universality of human suffering, 3. feeling for the person suffering, 4. tolerating uncomfortable feelings, and 5. motivation to act/acting to alleviate suffering (2016:15). In their definition, *empathy* is an essential element of *compassion*, whereas *compassion* has an additional component over *empathy*: its core feature is the desire to act to alleviate suffering (Strauss et al. 2016:18)

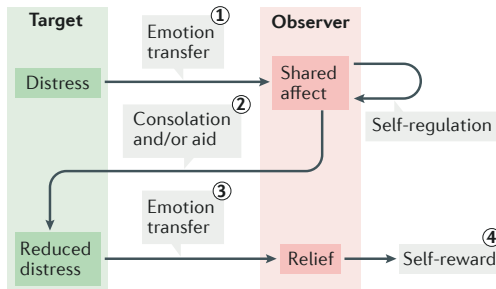
41 Lamm et al. 2019:52

42 Strauss et al. 2016:18; In Batson's opinion, humans have an altruistic motivation to help. His empathy-altruism hypothesis has become well-known: Feeling empathy for a person in need evokes motivation to help [that person] in which these benefits to self are not the ultimate goal of helping; they are unintended consequences (Batson & Shaw 1991:114). The hypothesis is quite strongly supported by empirical evidence (Batson et al. 2015:259). However, perceiving someone else in distress does not always lead to prosocial motivation and behavior. If this elicits personal distress, one might choose to stay rather detached from the situation instead of fully attending to the other's experience. In this case, the result will not be prosocial behavior towards the other (Krol & Bartz 2021:1; Batson & Shaw 1991). According to Batson (2022), there are four kinds of motivation that evoke prosocial behavior: 1. egoism, i.e., increasing our own welfare, 2. altruism, i.e., increasing the welfare of one or more other individuals, 3. collectivism, i.e., increasing the welfare of some group, and 4. principlism, i.e., upholding some moral principle, standard, or ideal (Batson 2022:3; Davis 2022). The motives also frequently co-occur, but as a complication sometimes compete or interfere with each other (Batson 2022:1).

43 Zaki & Ochsner 2012:675-6; De Waal & Preston 2017:504; Davis 2022:16; Rochat 2022: 718

Another concept which is also often confused with empathy, is *emotional contagion*. It is not just another name for the same concept as a whole, but it is a part of empathy, which can be summarized as the biologically driven, automatic feeling-into other people when having contact, getting an 'emotional package' of many components processed by the brain. Emotional contagion is defined as *the tendency to automatically mimic and synchronize facial expressions, vocalizations, postures, and movements with those of another person's and, consequently, to converge emotionally*.<sup>44</sup> As it is an automatic response, emotional contagion lacks the cognitive understanding about what caused someone else's emotion and how this relates to their mental life and experiences. Like *motor mimicry*, which is the automatic bodily expression of matching of postures when meeting people, *emotional contagion* is an automatic expression, albeit not bodily but mentally: the matching of emotional states between an observer and someone else. Both are a part of the *perception-action mechanism*, the early empathetic ability which humans developed early in their evolution as a species, and it is still at the core now that humans have evolved more cognitively.<sup>45</sup> Empathic concern, consolation, as well as perspective-taking and targeted helping, consciously helping other people in order to relieve their distress, build upon this core. Those increasingly require emotion regulation, self-other distinction, and cognition.<sup>46</sup> De Waal and Preston designed a model how empathy may lead to prosocial behavior,<sup>47</sup> through affect sharing and the desire to aid (prosocial concern/motivation), see Figure 1 below.

■ **Figure 1** – From affect transfer/emotional contagion to altruism/prosocial behavior (De Waal & Preston 2017:502)



De Waal and Preston distinguished four steps: 1. the automatic emotional transfer of stress through mirror neurons from one person to another one who is observing. This results in emotional contagion, and downregulating own distress by the observer, in order to be able to be effective in helping. This phase is the phase of empathy. For empathy critical thinking is necessary. Empathy may or may not lead to sympathy (also called compassion), the wish to aid the other persons in order to reduce their distress. When observers decide to console or help, they show prosocial behavior, see number 2 in Figure 1 above. In this phase, observers become actors and

44 Hatfield, Rapson, & Le, 2009:1-2

45 De Waal & Preston 2017

46 De Waal & Preston 2017

47 De Waal & Preston 2017:502

reduce other persons' stress. This, in turn, leads to diminishing own distress through the emotional transfer mechanism, see number 4 in Figure 1 above.<sup>48</sup>

As pointed out above, law professionals need to realize the actual difference between their emotions and those of litigants, as well as between empathetic and prosocial behavior. In Chapter 2, an elaboration in more detail can be found about this importance of empathy for legal practice, as well as a thorough underpinning for the need for empathy training in legal education.

## 2.4 DEVELOPING EMPATHY

For the development of empathy, besides age,<sup>49</sup> experience turns out to be important: the more and diverse, the better.<sup>50</sup> According to De Waal and Preston, early in life, empathy is shown through basic expressions like motor mimicry and emotional contagion. Later, empathy expands with empathic concern and consolation, and eventually, empathy is shown through perspective taking and *targeting helping*, i.e., *assistance and care based on a cognitive appreciation of the other's specific need or circumstances*.<sup>51</sup> Such aiding is motivated by emotional contagion and requires self-regulation and perspective-taking.<sup>52</sup>

Another theory about the development of empathy, is about psychological aspects, with a focus on judging the behavior of other people.<sup>53</sup> According to Dökmen, in the first stage, the *They*-stage, people would judge others on what those others feel and think. Habits and customs are important. In the second stage, the *I*-stage, people would also be critical towards someone else judging the situation from their own perspective. They would also give advice. The third stage is the *You*-stage. In this stage, people would try to put themselves in the other's situation and respond to what they think they understand, supporting the other through showing understanding for their feelings.<sup>54</sup>

Empathy increases with familiarity and similarity with another person's situation. This derives from the biological care for one's own offspring, and because of the evolutionary profit of cooperation.<sup>55</sup> However, for an optimal empathic response, the ability to distinguish oneself from someone else is important: *self/other differentiation*. It is also called *self-other distinction*, for which *self-concept clarity* (SCC) is needed, i.e., *the extent to which the self is clearly defined, coherent, and temporally stable*.<sup>56</sup>

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48 De Waal & Preston 2017

49 De Waal & Preston 2017:499

50 De Waal & Preston 2017:499; Bloom 2016:149

51 De Waal & Preston 2017:499-500

52 De Waal & Preston 2017:500

53 Dökmen 1988, 2005

54 Dökmen 1988, 2005

55 De Waal & Preston 2017:499; Empathy is, therefore, socially biased, and is modified by beliefs, expectations, motivations, judgements, and interests (Bloom 2016:69, 87, 93, 95).

56 Krol & Bartz 2021:1; In collectivist cultures, one's self-concept includes also, to some extent, other people, especially family and friends (Davis 2022:16).

In medical curriculums, the need for developing empathy through training has been acknowledged and studied since the 1970s.<sup>57</sup> To develop empathy in medical curriculums, several methods have been piloted and implemented.<sup>58</sup> The methods used are suggested to enhance empathic ability through 1. the development of understanding the concerns and experiences of patients,<sup>59</sup> 2. communicating with them about those concerns and experiences,<sup>60</sup> and 3. controlling one's own emotions and stress level.<sup>61</sup> Suggested as training approaches that are likely to enhance empathic behavior are the following:

1. Early clinical exposure<sup>62</sup>
2. A workshop about diversity<sup>63</sup>
3. Role play in which students play a patient's role<sup>64</sup>
4. Contact with role models<sup>65</sup>
5. Training of skills associated with empathic ability: communication & narrative skills<sup>66</sup>
6. Training in emotion regulation and stress management<sup>67</sup>
7. Mindfulness meditation<sup>68</sup>
8. Contact with the arts like literature, film and the visual arts.<sup>69</sup>

These eight empathy training methods and the three components in those methods which were found effective in medical education are the guidelines used in the search for a method to train empathy in law students. A comparison of that method with the eight empathy training methods is part of my study.<sup>70</sup>

57 Patel et al. 2019:5; Bloom 2016:142; Hojat 2009

58 Ziółkowska-Rudowicz & Kladna 2010, summ. part i; Hojat 2009; Stepien & Baernstein 2006:524 In their review on 13 studies in 2006, Stepien & Baernstein found the greatest quantitative impact on participants reported in studies that used communication skills workshops (2006:524).

59 Ahmazadeh et al. 2019; Hojat 2009; Patel et al. 2019:1 Patel et al. identified the following key behaviors to be effective: 1. sitting (versus standing) during the interview, 2. detecting patients' non-verbal cues of emotion, 3. recognizing and responding to opportunities for compassion, 4. non-verbal communication of caring (e.g. eye contact); and 5. verbal statements of acknowledgement, validation, and support.

60 Ahmazadeh et al. 2019; Hojat 2009

61 Ziółkowska-Rudowicz & Kladna 2010, summ. part iv

62 Ahmazadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Ziółkowska-Rudowicz & Kladna 2010, summ. parts i-iv; Hojat 2009

63 Levett-Jones et al. 2019:1. Review on empathy education for medical students by Levett-Jones, Cant and Lapkin, of 23 studies conducted between 2000 and 2018. Target group was nursing students. According to Levett-Jones et al. rather successful interventions were a workshop about diversity and a 20-hour method intervention including simulation role plays, which, besides opportunities for guided reflection, had focused on vulnerable patient groups (2019:1, 8).

64 Levett-Jones et al. 2019:8

65 Ahmazadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Ziółkowska-Rudowicz & Kladna 2010, summ. parts i-iv; Hojat 2009

66 Ahmazadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Hojat 2009

67 Womer et al. 2014:4; Ziółkowska-Rudowicz & Kladna 2010, summ. parts i-iv; Hojat 2009

68 Luberto et al. 2018:715; Mindfulness meditation is likely to have a positive effect of on empathy in two ways: 1. Regular meditation increases the sense of social emotional connectedness with others, and the sense of positive affect and self-compassion, 2. Regular meditation decreases stress and negative affect (Luberto et al. 2018:715)

69 Ahmazadeh et al. 2019; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Hojat 2009

70 See Chapter 5, section 2.3

## 2.5 ENHANCING EMPATHY THROUGH EXPERIENCES OF OTHERS

Philosopher Duyndam, expert in phenomenology and hermeneutics, theorized about *actual* and *potential* experiences, which form a explanation for how experiences of others are effective in enhancing empathy. According to Duyndam, one experiences in real life can be called *actual* experiences. They consist of an internal perception and an external visible aspect, which can be shared with others through language. Other people complete our *actual* experience of the present through adding *potential* experiences. This is done by empathizing.<sup>71</sup> Together, *actual* and *potential* experiences give meaning to a situation.<sup>72</sup> This confirms the feeling of 'self',<sup>73</sup> important for the development of self/other differentiation. It is through this mechanism, that empathy can be enhanced: getting to know another person's experience, and the accompanying repertoire of feelings and emotions, i.e., *affective* processes.<sup>74</sup> Such taking over of *affective* processes of someone else is a normal human skill and happens over a lifetime.<sup>75</sup> It is biologically explained through mirror neurons.<sup>76</sup>

Through this mechanism of taking over *affective* processes of another person, one can add experiences to one's own repertoire without having undergone that experience. Such an experience could be called *by proxy* for it is analogous to how this term is used in the English language: someone you choose to do something for you, so that you yourself do not have to do it yourself, such as voting in an election.<sup>77</sup> You don't have to live through an experience yourself, but that it is, or has been, lived by someone else and you become part of their experience.<sup>78</sup> *By proxy* is the general biological fact that cooperation and human relationship provide mutual 'exploitation'.<sup>79</sup> Exchanging experiences is core to the VTS-method. Participants in a VTS conversation exchange the narratives which they think are depicted in the image. For this, they combine possible prior knowledge about the depicted situation internally with feelings and emotions that come up when looking at the depicted situation. They imagine how the depicted person is thinking and feeling while projecting themselves imaginatively into that situation.<sup>80</sup> The depicted situation is interpreted, endowed with meaning, through own prior cognitive knowledge combined with own prior affective knowledge. When participants share their interpretations with the other participants, they share their prior cognitive and affective knowledge about the depicted situation in a narrative. Through this, those participants offer the other participants additional meaning to the depicted situation. Through the participant's narratives and facilitator's paraphrasing, the other participants can make a mental image of the situation, both cognitive and affective. They

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71 Duyndam 2024:27

72 Duyndam 2024: According to Duyndam, empathy is basic prerequisite for meaning in life. For experiencing meaning in life, a sense is assumed that can feel itself complete in meaningful relationships.

73 Duyndam 2024:40

74 Engelen 2011:2

75 Engelen 2011:2

76 See also Chapter 2.

77 <https://dictionary.cambridge.org/nl/woordenboek/engels/proxy> = a person who you choose to do something officially for you, for example to vote at a meeting or in an election when you are not able to vote yourself; Floridi 2015:489

78 Meerloo 1953; Boumeester 2022

79 Meerloo 1953

80 As described by Sinquefield-Kangas 2019:7.



connect that mental image which describes the life experiences of their peers, to mental images of life experiences of their own, thus adding a *by proxy* lived experience. Through this mechanism, life experiences are added as if they were self-experienced situations. It enhances the ability to empathize with someone in a situation by evoking in the brain a mental image of someone else's life experience which are not self-experienced. The method VTS provides such experiences. By adding experiences to one's repertoire of experiences, VTS enhances one's empathetic ability.

### 3. AIM OF THE STUDY

This research aims to propose a teaching method for empathy training in legal education to respond to the call for more empathy in legal practice, and law professionals who are more *responsive*. To this end, I examined the art educational method Visual Thinking Strategies (VTS) as a pedagogical approach to develop empathy in law students. To my knowledge, such research has not been conducted to date. Through literature research, I evaluated the reported positive effects of VTS on empathy mentioned in the literature. Furthermore, I studied methods to develop empathy and compared those with VTS. The aim was to gain more knowledge about the mechanisms in VTS that might support the development of empathy and to see whether VTS would be appropriate as a teaching method to add empathy education to law curriculums.

### 4. RESEARCH QUESTIONS

The principal research question was "What is the possible influence of VTS on academic law students' empathy?" To investigate this in more detail, I formulated the following sub questions.

1. What is the importance of empathy for lawyers?
2. In what way is empathy education already part of law curriculums?
3. What are the components of empathy? What methods are reported in the literature that develop empathy and what are their components?
4. What are VTS' components and what is its theoretical underpinning?
5. Does VTS have a positive effect on empathy? If so, what (pre)conditions would be necessary for VTS to be effective as a methodology and to maximize the positive effect?
6. Does a VTS conversation have a positive effect on the empathy of participating law students?
7. In what way could VTS be an addition to law curriculums?

### 5. CONTENTS OF THIS PHD THESIS

In Chapters 2, 3, 4 and 5, I describe the literature research I have conducted. In Chapters 6 and 7, I describe the empirical research conducted in three courses at Tilburg Law School in 2023. In Chapter 8, I summarize the findings in both literature and empirical research and theorize about their implications for empathy education in law curriculums, referring to philosophies that align with this theory. Below, a description of the contents of this thesis in more detail can be found.

First, in Chapters 2 and 3, I provide a rationale for my study, empathy education with law students. To this end, I describe the literature research which I conducted about law, legal practice and legal education as well as empathy. Beside listing empathy's components and defining empathy for law, I list empathy's benefits for law professionals and law students in legal practice and education, respectively. I describe those benefits and the importance of empathy in all four existing views on law: *natural*, *positivist*, *interactionist*, and *therapeutic/comprehensive* law, and connected them with the concept of *responsive* law, which has been used in publications about the implications of the Childcare Benefits Scandal. Furthermore, I list the components of the fear of empathy often expressed by theorists and law professionals.<sup>81</sup> I describe the evidence in the literature that this fear is unjustified and even undesirable, as a good comprehension and capacity of empathy and the accompanying well-developed sense of self are essential for a successful legal practice.

Furthermore, I theorize in what part of the existing law curriculum empathy education might already be integrated. For this purpose, I describe the literature research about *Clinical Legal Education* (CLE, in Dutch: *Oefenrechtbank* or *Moot Courts*) and *Law and Literature*, which are considered possible methods to develop law students' empathy.

The literature on the positive impact of VTS on health students inspired me to think that VTS could be a suitable method to enhance empathy in law students. As a 'slow looking' observational method, VTS might be of added value for law students. In Chapter 4, I describe the literature research about the existing empirical research and the grounding theories of VTS, found through structured literature research and including more than 600 references, articles and books, both scientific and journalistic ones. I also describe the review about the research to date and the categorization of effects of VTS that were found.

In Chapter 4, I also list the components of VTS that were found through analyzing the existing information about its design process. Furthermore, I describe the educational theories which Housen reportedly used while designing the method,<sup>82</sup> and the way those theories impacted VTS' design and possible effects. Moreover, I formulate some conclusions about VTS as an educational method in general.

In Chapter 5, I present a theoretical model about the effect of VTS on empathy based on literature research about the methods that, in the literature to date, have reportedly been used effectively for developing empathy. I compare VTS methodology with methodologies that have been reported to be effective in enhancing empathy and present a description of the process in VTS.<sup>83</sup> The theoretical model presented in this chapter, gives an overview about the components and effects of VTS which appear to be effective in influencing empathy.

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81 Bloom 2016; Simon & Wettstein 1997; Vera et al. 2019; Wood et al. 2014

82 Arnheim, Baldwin, Bruner, Brunner, Chomsky, Coffey, Dewey, Kohlberg, Loevinger, Piaget and Vygotsky. Found in Housen, 2001-2002:129-131; Housen, 2001:6-9; Housen, 1999:5, 29-30; Housen in Bresler & Ellis, 2000-2001:7 For a detailed overview per scholar of VTS's grounding theories, see Appendix 2.

83 Responding to a recommendation in research of Deunk et al. 2020:11

In Chapter 6 and 7, I describe the field research about three empirical studies of VTS with law students of Tilburg Law School, conducted in the spring and fall of 2023 with a total of 722 students. I also describe the pre-research about image selection and the empathy test used in the field research. The field research design was made in collaboration with Esther Maassen, expert in social scientific research methodology, who also executed the quantitative data analysis.<sup>84</sup> The pilots were held in collaboration with five experienced VTS facilitators, two professors and six law seminar teachers. For the field research, Ethical Clearance was requested and granted.

In Chapter 6, I describe the research with 620 first-year law students, in a within-group design research study in two courses. I describe how students participated in both an experimental seminar consisting of three VTS conversations and a control seminar which contained regular legal content. I also describe the details about the questions used in quantitative and qualitative research.

In Chapter 7, I describe the research with 102 third-year law students in one course, in which we changed the frequency of the VTS sessions from one 1.5-hour seminar to several two-weekly VTS conversations of 15 minutes embedded in a regular law seminar with legal content. I also describe how students were asked to contribute to VTS conversations online. I list the three ways we conducted qualitative research: through questions added to the questions of the questionnaire used to measure empathy, the Basic Empathy Scale (BES), through an interview with a small group of first-year students, and through analyzing the reflections about their VTS experiences which third-year students provided, and the results from both quantitative and qualitative studies. These can be found in sections 6.4 and 7.4, respectively. In section 7.6, a more detailed conclusion can be found of all three studies of this research.

In Chapter 8, I theorize on how VTS can offer a valuable addition to the legal curriculum, which consists of several components. First, I describe how VTS offers five exercises, which are found to be the underlying mechanisms in VTS methodology that might promote empathy. Second, I describe how VTS could fit legal education and theorize about preconditions for implementing VTS in law curriculums.

Finally, in Chapter 9, I discuss the problems encountered during the research as well as the omissions in the research design and their possible consequences in the Discussion section. In the section on Recommendations, I add my thoughts and ideas about future research, which would enhance the understanding of the findings in my study or elaborate more of VTS's possibilities as a teaching method in law curriculums. I also theorize about VTS's added value to law curriculums. Chapter 10 concludes this thesis with a wrap-up and is followed by an epilogue and acknowledgements.

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84 When I write 'we' in this thesis when writing about the design and execution of the field research, I refer to 'Esther and I/me/myself.'



## CHAPTER 2

# Why Empathy is Important for Legal Practice

## 1. INTRODUCTION

In this chapter, I will define empathy as an important competency for legal professionals. I will briefly sketch the Dutch Childcare Benefits Scandal, which shocked Dutch society for the serious trauma it caused to tens of thousands of citizens, and the role that the lack of empathy had in that. After that, I will briefly elaborate on the role empathy has been playing in legal practice to date, linking ancient legal practice with the present, defining empathy and describing its components. Another section is about the traditional legal fear of empathy. I will list the reasons why empathy has been correlated with bad and possibly harmful legal practices and elaborate on the reasons why fearing empathy in legal practice can be considered unnecessary and might even hinder justice.

## 2. EMPATHY: COMPETENCY FOR LAWYERS

### 2.1 THE DUTCH CHILDCARE BENEFITS SCANDAL

As mentioned in Chapter 1, the Introduction to this research, between 2005 and 2019 in the Netherlands, tens of thousands Dutch citizens suffered from what later came to be called the Dutch Childcare Benefits Scandal.<sup>85</sup> In this section, more details about the scandal will be shared as well as recommendations for the legal practice and education which have been described in several official reports and speeches. Those recommendations refer to *responsive* and citizen-oriented law, and the relevance of empathy in law practice.

As it turned out, between 2012 and 2019, 94 % of the allegations of fraud made by the Tax and Customs Administrations (TCA) turned out to be unjust.<sup>86</sup> Those false allegations were based on a combination of discriminatory and biased decisions of TCA digital systems (caused by the use of algorithms) and personnel. The rigid and harsh attitude and even unjust decisions of judges on a large scale exacerbated the problem. Blindness for the consequences of those harsh decisions for individual citizens, showing a lack of empathy, was one of the key elements of the problem.<sup>87</sup> Families had to pay back all the allowance they had received from the TCA even if they had made only minor mistakes or the mistake was due to administrative mistakes of the childcare facility or digital systems of the TCA itself. While most of the families were already in financially difficult situations, they suffered even more financial hardship having to refund tens of thousands of euros, often adding up to over € 120,000. Harsh conclusions of a parliamentary inquiry committee about the issue stated that fundamental principles of the rule of law had been violated, to protect the people and prevent injustice, causing the Dutch Cabinet to resign in 2021.<sup>88</sup>

A fundamental principle of our constitutional state is that the interests of people must be taken into account as much as possible when making and implementing laws (...) The committee notes

85 Van den Berg et al./Nationale Ombudsman 2017; Tweede Kamer der Staten Generaal [House of Representatives of the Netherlands] 2020; Toeslagen Herstel 2024

86 Van Dam & Freriks 2020:25

87 Aartsen & Matoug 2024:13

88 Translation into English of Dutch text: unless otherwise stated, all translations in this thesis are my own. Henley 2021; Tweede Kamer der Staten Generaal [House of Representatives of the Netherlands] 2020

that the political need to efficiently organize and implement the implementation of benefits the political and social desire to prevent fraud have led to legislation and regulations and their implementation that made it difficult or impossible to do justice to the individual situation of people, for example if they committed an administrative error without malicious intent.' The legislator - Cabinet and Parliament - can take the blame for having adopted legislation that was tough as nails and that did not have sufficient capacity to do justice to individual situations. (...) Without wishing to comment on individual judicial decisions, the committee notes that administrative jurisprudence has also made a significant contribution for years to maintaining the strict implementation of the childcare allowance regulations, which is not mandatory under the law. Administrative justice has thus neglected its important function of (legal) protection of individual citizens. The committee is particularly affected by the explanation until October 2019 of general principles of good governance, which should serve as a cushion and protective blanket for people in need. Because of this inability to do justice to the individual, parents have not had a chance for years. (...) During its work, the committee first came to this realization with surprise and ultimately with deep indignation. She urgently calls on all state powers involved to consult themselves on how to prevent recurrence in the future and how the injustice that has occurred can still be corrected. (...) Large-scale legal injustice has been able to take place for a long time without the citizen was seen.<sup>89</sup>

The Council of State offered apologies to the parents involved, for the courts had not offered enough legal protection.<sup>90</sup> Judges on all levels had mistakenly and rigidly failed to taken into account the possibility of proportionality that could be found in the applicable article of the Dutch General Income-Dependent Schemes Act (*Algemene Wet Inkomensafhankelijke Regelingen, Awir*), making standard judgments and influenced by top-down policy. However, their behavior could not be seen either fitting, or just.<sup>91</sup> The Childcare Benefits Scandal led to a strong call for more citizen-oriented, *responsive*,<sup>92</sup> law in the Netherlands.<sup>93</sup> Van Domselaar states that judges need to have *philoctetical* professional ethics, referring to the Greek hero Philoctetes, who cried for help while his mates left him behind, emphasizing the eye which judges need to have for the possibly severe and even poignant consequences of the law for individual citizens and the need for personal encounter and empathy.<sup>94</sup>

The Dutch call for more empathy in *citizen-* and *client-oriented, responsive* law is shared internationally.<sup>95</sup> Already in 2001, the legal sociologists Nonet and Selznick and political scientist Kagan explain in their book *Law and Society in Transition* the primary forms of law as a social,

89 Translation into English of a section of the report Van Dam et al. 2020:7, Parlementaire ondervragingscommissie Kinderopvangtoeslag van de Tweede Kamer, Rapport 'Ongekend Onrecht', published 17 December 2020

90 NOS Nieuws 19 November 2021; Van Ettehoven 2021:8

91 Besselink 2021; Van Dam et al. 2020:107, Rapport Ongekend Onrecht

92 Nonet et al. 2001

93 Besselink 2021; Schouten 2024; Van Domselaar 2004

94 Van Domselaar 2024:39; Louwerse 2024

95 Runyon & Carrel 2018; Kayne 2019; Hamilton & Bilionis 2022; Nonet et al. 2001; Sukmana et al. 2023

political, and normative phenomenon.<sup>96</sup> They posited the term *responsive* law as a third typology, besides *repressive* and *autonomous* law, incorporating a social science perspective in jurisprudential issues. According to these authors, *responsive* legal professionals and legal and governmental institutions are more fully pervaded by legal values and are responding to public expectations.

Reviewing the concept *responsive* law, Australian criminologist Braithwaite reformulated the theory of Nonet, Selznick and Kagan as nine principles of *responsive* regulation, including thinking in context, active listening, engage respectfully with those who resist, praise who show commitment (including helping leaders pull up laggards), signal to prefer to achieve outcomes, and sanctions, engage in wider networks of partners when moving up, elicit active responsibility, i.e., responsibility for making outcomes better in the future, and evaluate and communicate lessons learned.<sup>97</sup> In his recently published book *Restorative Justice and Responsive Regulation*, Braithwaite argues that restorative justice and responsive regulations will restore victims, offenders, and communities better than existing criminal justice practices.<sup>98</sup>

The report *Lessen uit de Kinderopvangtoeslagzaken* [translated in English: Lessons of the childcare benefits cases] of the Administrative Jurisdiction Division of the Dutch Council of State, the highest judge in administrative law cases in the Netherlands, contains a proposal for three policies to avoid future mistakes [English translation, original text in Dutch]:

1. The administrative courts need to offer help to citizens when relationships in the process are unbalanced.
2. The Administrative Jurisdiction Division will train skills for internal debate, including dialogue with the broader community.
3. Policies for legal practice need to offer room for a just outcome in individual cases.<sup>99</sup>

The Dutch government will adjust the General Income-Dependent Schemes Act (*Awir*) to strengthen the human dimension, aiming to make decisions for citizens more understandable, to put themselves more in the citizens' shoes, and to act less formally in contact.<sup>100</sup> *The aim is to ensure that administrative decisions are in line with the citizen's situation and to contribute to the aim of a responsive government.*<sup>101</sup>

This conclusion is also drawn in scientific discourse. For example, in her inaugural address, Ranchordás, professor administrative law at TiU, warns against “administrative blindness”,<sup>102</sup> because most citizens nowadays do not fit the ‘average citizen.’ The average citizen is a concept which describes the attributes of a fictive citizen, who is considered the ‘mean’ when analyzing Dutch society: *a middle-aged man with a stable family, a steady job, and average income, education,*

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96 Nonet et al. 2001

97 Braithwaite 2011:476

98 Braithwaite 2023:abstract

99 Van Ettehoven/Raad van State Afdeling bestuursrechtspraak 2021. *Lessen uit de kinderopvangtoeslagzaken*, in het Reflectierapport Kinderopvangtoeslagzaken 19 November 2021

100 Rijksoverheid 2024:31 January

101 Rijksoverheid 2024

102 Press release inaugural address Ranchordás by Schouten 2024



*literacy, and digital skills.*<sup>103</sup> The description is based on stereotypes from the 1950s and is being used by administrative law and government organizations in designing regulations and the automation of administrative services. In order to make the government and authorities more empathic, Ranchordás proposes to conduct a socio-legal study of the ‘citizen’ and administrative law that considers diverse perspectives. According to Ranchordás, diversity in the design of digital government must be normalized instead of creating exceptions.

The cogent arguments and proposals of law professionals of both science and practice mentioned above, would and should also have consequences for legal education, besides legal practice. After all, legal education is the place where the legal professionals are trained who might be the authorities of the future. To be able to formulate, organize and execute *responsive* law, have a keen eye for proportionality when making decisions, law professionals need empathy, for it is through empathy that a person can put themselves in other people’s shoes. An empathic law professional can imagine the possible consequences of judicial decisions for other people’s daily lives as well as the extent to which those consequences will have an impact. Empathic law professionals certify proportionality in their decisions and consider also possible context in future. Through active listening and active responsibility, they ensure that litigants perceive justice being done to them, which adds to the public feeling of living in a just society. In the next sections, I will elaborate on the way in which empathy is already part of legal practice and is therefore needed as a competency for legal professionals.

## 2.2 THE LAW AND THE INDIVIDUAL PERSON

Although the law wants to judge without regard to persons, aiming to judge equal cases in an equal way in the interest of legal certainty and legal equality, this generic treatment, however, is only valid in equal cases. So the law needs to discriminate between equal and unequal cases. In their book *Het empathische supplement in recht en literatuur [The empathic supplement in law and literature]*,<sup>104</sup> Dutch legal philosophers Bouteligier and Slootweg conclude that judges need to connect with litigants and judge their factual behavior in the light of the thoughts and feelings of those litigants. Judges need empathy to connect to litigants in order to be able to imagine what a situation is like for them. The actual situation consists of more than the observable facts. The thoughts, emotions and feelings of both litigants and judge also play a role and, as such, form knowledge that has to be considered when judging.<sup>105</sup> Legal texts (acts, statutes, regulations, case law, etc.) and legal and social theories provide a frame of reference, as well as the facts and circumstances of a particular case.<sup>106</sup>

103 Press release inaugural address Ranchordás by Schouten 2024

104 Bouteligier & Slootweg 2018:15, 256

105 IJermans, 2011; Duyndam 2024, ‘cognitive emotion paradigm’

106 Stolker 2014:218; De Vries 2020:62

### 2.3 LAW AS A NORMATIVE PRACTICE: 5 VIEWS

Norms, defined as social rules that guide human behavior,<sup>107</sup> have guided legal development since ancient times.<sup>108</sup> They show the shared respect of the boundaries of others in societies, which requires an idea of what actions may wrong others.<sup>109</sup> Much has been written about the relationship between norms and rules, even a summary would go beyond the limits of my study. I refer to the schematic division used in first-year law education in which three views on law are distinguished: *Natural law*, *Legal Positivism*, and *Interactionism*. *Natural law* is the view about the meaning of law that every reasonable person can distinguish what is right and wrong, that there exists something as ideal law, against which laws and regulations can and must be assessed.<sup>110</sup> In this view, law is a synonym of justice and *Natural law* is an ideal world in which those generally applicable principles of justice apply. In *Natural law*, only those rules apply which are in accordance with the absolute and abstract norms that form the basis of legal rules.<sup>111</sup>

*Legal Positivism* is the second view on law, which interprets law as a system of laws and regulations that were formulated by authorities assigned to formal legislation and jurisdiction. The aim of *Legal Positivism* is to diminish the problem of openness and contradicting legal principles to which *Natural law* could be prone, and to maximize legal certainty. The *positivist* theoretical legal system is logical in an abstract sense and cleansed of feelings and emotions (and principles or norms) to provide complete theoretical clarity.<sup>112</sup> This system guides future decisions of humans about their actions and about how conflicting claims need to be handled or resolved.

This *positivist* view on legal practice as a mere application of rules has been subject to discussion for long. A problem is the prevalence of legal certainty in this system instead of justice, for rules that apply in a case in order to judge equal cases equally, which fosters legal certainty, but they might not automatically lead to justice, when taking into account context and/or personal circumstances or traits.<sup>113</sup> Another problem of this view is that it is in fact a coherent collection of theoretical rules and concepts, but misses the link with practice, the part where those rules are applied in practice.<sup>114</sup> Facts, circumstances, rules and principles all need to be interpreted, to be able to apply those to legal cases. In the *positivist* view on law, such interpretation takes place through *outside-in reasoning*. Its opposite is *inside-out reasoning*, inductive reasoning, which is reasoning through which the facts of a case in all their facets are connected to legal norms.<sup>115</sup> *Interactionism* is the view of law in which legal practitioners use both *outside-in* and *inside-out* reasoning. They can be considered translators and mediators between the world of law and the factual world,<sup>116</sup> giving a value judgment to all the factors that affect a legal decision when judging

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107 Witteveen 2003:53

108 Witteveen 2003:53

109 Hage, Schlössels, & Wolleswinkel 2006, Chapter 1, and more specifically section 2.3.4

110 Witteveen 2003:59

111 Witteveen 2003:59-61

112 Hoffman 2011:230, Henderson 1987:1575

113 Witteveen 2003:58-59,

114 Witteveen 2003:58-59

115 Gakeer 2018a:3

116 Witteveen 2003:61-62, 415

a case including considering individual moral and cultural judgments.<sup>117</sup> *Interactionism* is legal practice in which human stories are shared in all their facets, including emotions, and whereby rules and regulations are sought to find justice in a judicial judgment.<sup>118</sup>

Since the 1990s, a fourth view has emerged, called the *Comprehensive Law Movement*. In contrast to the *positivist* view on law, in which emotion and reason should be strictly separated,<sup>119</sup> the *Comprehensive Law Movement* focuses explicitly on the law's impact on emotional life and on psychological well-being, besides justice. The Movement puts empathy at the center of law and legal practice.<sup>120</sup> *Comprehensivist* legal professionals argue in favor of law as a therapeutic agent and for therapeutic jurisprudence, i.e., jurisprudence aimed at having a positive effect on the lives of all parties in a legal process and to the promotion of healing for crime victims and offenders.<sup>121</sup>

*Natural* and *Positive law* both focus on objective aspects, the factual circumstances of the case, and emotions as much as possible. At the other end of the spectrum is *Comprehensive law*, with at its core the empathic consideration of all participants in a judicial process to see whether the process can be made therapeutically beneficial.<sup>122</sup> In between is *Interactionist* law, more citizen- and client-oriented and more focused on the circumstances in which citizens act. *Interactionism* demands a *responsive* attitude of law professionals like judges, explicitly seeking the human dimension.<sup>123</sup> Recently, in the Netherlands, Barendrecht (expert in and innovator of conflict resolution systems) has defined *responsive* law as the law which consists of doing as much as possible to deploy interventions that promote procedural justice and increase the likelihood of fair outcomes. Barendrecht makes law professionals responsible for the 'justice experience' of the people. Through creative interventions, active listening and mediating, these law professionals have to solve conflicts: "together with the people involved, because it involves interventions at essential moments in the key relationships in people's lives, for instance, relationships in the family, at work, in business, in the neighborhood, and in contexts like housing, finance, and safety."<sup>124</sup>

## 2.4 EMPATHY: AT THE BASIS OF LEGAL PRACTICE

Empathy plays an important role in *Interactionist*, *Comprehensivist* and *Responsive* views on law. In this section, empathy's role in legal practice will be highlighted, including its function in rhetoric, and its importance as a soft skill, while refuting the fear for empathy expressed by several positivist legal practitioners. Furthermore, three models about main legal competencies will be described which have been developed as of 2019.

117 Sayre 1952:60

118 Witteveen 2003:417

119 Ryan 2005; Daicoff 2006

120 Wexler & Winick 1996

121 Wexler & Winick 1996:xvii; Daicoff 2006; Imiera 2018

122 Wexler & Winick 1996; Daicoff 2006; Imiera 2018

123 Van Domselaar 2024; IJzermans 2018

124 Barendrecht 2024:24

### 2.4.1 Empathy: Essential for Rhetoric

One of the main legal competencies is rhetoric, which has been an essential part of legal practice from ancient times.<sup>125</sup> Already in 340 BC, the Greek philosopher Aristotle described and analyzed rhetoric, the skill of speech in public with the aim of convincing an audience. He emphasized that an orator must be empathic, be able to put himself in the shoes of the people who he wants to convince, to evoke the right feeling in the audience. Aristotle called this empathic ability *pathos*.<sup>126</sup> It is one of three persuasion skills that Aristotle formulated, the other two being *ethos*, i.e., a speaker's character and reputation, and *logos*, i.e., the words and arguments speakers use in their speech. *Ethos* and *pathos* are both emotional means with persuasive power because they touch the feelings of the listener. While *ethos* is about the trust of the listener and the trustworthiness and credibility of the speaker or writer, and *pathos* is about influencing the feelings and mood of the listeners so that they are willing to really listen and change their minds.<sup>127</sup> Today, Aristoteles' *ethos*, *logos* and *pathos* are still at the basis of modern rhetoric.<sup>128</sup> As persuasion skills, they are part of the basic technical skills of a legal professional and considered essential in legal practice.<sup>129</sup>

At the basis of successful and persuasive arguing, using *pathos* and *ethos*, is having an eye for the differences between people and to be able to internalize different perspectives.<sup>130</sup> Empathy is essential for this purpose, and for recognizing and then mirroring or affirming the emotions of others.<sup>131</sup> Knowledge of the values, interests and emotions of all stakeholders in the matter, including one's own is called *empathic knowledge*. It is important in court, for judges who use *empathic knowledge* alongside *normative knowledge*, i.e., knowledge of laws, regulations and case law, realize what IJzermans called "engaged judgment." IJzermans described the concept as follows [English translation, original text in Dutch]:

Engaged judgment occurs when emotional knowledge is used in making judgments. Emotional knowledge is knowledge with its own nature that adds a personal perspective to theoretical and/or practical knowledge, and that provides insight into the interests and values at stake in a situation (normative knowledge). Normative knowledge not only includes moral values, but also, for example, aesthetic and legal and social values, as these are embedded in common culture. After all, an emotion is a way to experience and appreciate the relationship between personal interests and the world. Emotional knowledge makes it possible to understand the emotions of others and therefore to see which interests and values are at stake for those others (empathic knowledge), which makes it possible to better understand the behavior of other people. Emotional knowledge is activated by experiencing an emotion or (partially) re-experiencing previously experienced emotions. When these are appropriate emotions, I speak of engaged judgment. There is, therefore, a descriptive and a normative aspect to this concept. The descriptive aspect of engaged judgment

125 Broekers-Knol et al. 2008; IJzermans 2011

126 Barnes 1992; Ross & Smith 1908; IJzermans 2011

127 Rapp 2023, section 5 *The Three Means of Persuasion*

128 Rapp 2023; Broekers-Knol et al. 2008:27; Jansen, Reijneveld & Sijtsma 2021; IJzermans 2011

129 Broekers-Knol et al. 2008:13; Verplaetse 2008:8; Balkin 1996

130 Verplaetse 2008:91

131 IJzermans 2011:262; Vranken 2008; Mertz 2007

is that the evaluator (re)experiences an emotion and thereby activates his emotional knowledge. The normative aspect of the concept is that it requires that the emotions (and therefore the interests) are appropriate because they arise from the matter or the task to be performed.<sup>132</sup>

*Engaged judgment*, works positively on the ability of all parties to understand and accept a judgment.<sup>133</sup> At its basis is *active empathy*, i.e., empathizing with and distancing from a client's situation, alternately.<sup>134</sup> For lawyers, such empathy is essential to building a relationship of trust with clients, enabling them to understand the clients' situation beyond facts and figures, including emotions and feelings.<sup>135</sup>

### 2.4.2 Empathy: A Soft Skill

As pointed out above, empathy is at the basis of rhetoric. In this section, I will elaborate on how empathy serves legal practitioners in a much broader way in their practice, throughout their career and even in personal life. It is one of the *soft skills*, which can be defined as all relational skills that are necessary for interaction with others and skills needed for coping with everyday demands and challenging situations, consisting of interpersonal skills such as empathy, cognitive skills such as critical thinking and self-evaluation, and skills for emotional control such as emotional recognition and management in situations of stress and intense feelings.<sup>136</sup> *Soft skills* complement *hard skills*, specific professional and technical skills which all practitioners should master,<sup>137</sup> so also legal practitioners.

For legal practitioners, *hard skills* are the traditional legal skills like good knowledge of the law, regulations and case law, and proficiency in effective argumentation, verbally and in writing. Those skills can be considered basic requirements to get a job in the legal profession.<sup>138</sup> However, it is through good *soft skills* that legal professionals are considered more effective<sup>139</sup> and, therefore, more sought after on the labor market.<sup>140</sup> In the labor market for legal professionals, this focus on soft skills has grown during the last two decades.<sup>141</sup> Studies report such a change in tasks of legal practitioners. With this change in tasks, the competencies which legal practitioners need for legal practice have also changed: as a response to the challenges of technological developments and new ethical dilemmas for legal professionals in today's complex society. It also initiated a call for a new type of legal professional, originally in the US.<sup>142</sup> In 2014, Amani Smathers introduced the *T-shaped* lawyer to distinguish this new type of legal professional from

132 Ijzermans 2011:206

133 Ijzermans 2011:234, 262

134 Matthee 2018:235

135 Gascon-Cuenca, Ghitti, & Malzani 2018:243

136 Guerra-Báez 2019:2

137 Guerra-Báez 2019:2

138 Stolker 2013; Runyon & Carrel 2019; Hamilton & Bilionis 2022; Jones & Cownie 2022

139 Stolker 2014; Hamilton & Bilionis 2022; American Bar Association 2013; Andrews & Higson 2008

140 Mascello 2020

141 Mak 2017

142 Mak 2017; Ritter 2021:70

the traditional ones,<sup>143</sup> called *I-shaped* lawyers. Where *I-shaped* lawyers only focus on traditional legal technical knowledge and legal hard skills only, *T-shaped* lawyers have other competencies like business and digital skills.<sup>144</sup>

### 2.4.3 Empathy: Modern Legal Competency

This development in legal competencies aligned with the development of views in law described in Section 2.3 of this Chapter. There was growing attention for interdisciplinarity, a broad education called *Bildung*,<sup>145</sup> critical thinking about one's own role as a legal professional, and about the handling of ethical dilemmas in legal practice.<sup>146</sup> Extensive empirical research as of 2018 among US and UK law firms, lawyers, and their clients, reported that modern lawyers nowadays also need to be emotionally intelligent, be able to empathize and communicate with their clients. The studies revealed a growing number of law firms offering their employees training in soft skills like communication skills and empathy.

Based on research in the US, two theoretical models were designed, the *Delta Competency Model* in 2019,<sup>147</sup> and the *Foundational Competencies Model* in 2022.<sup>148</sup> Both the *Delta* and *Foundations* models are triangular shaped and contain three pillars of competencies. The pillar about traditional legal technical skills and the pillar containing management skills include all competencies considered important for *T-shaped* lawyers. However, a third new pillar was added to underscore the importance of *soft skills* including empathy as modern legal competencies.

In the *Delta Competency Model*, this third pillar refers to understanding and relating to clients, colleagues, and self.<sup>149</sup> In the *Foundational Competencies Model*,<sup>150</sup> the third pillar refers to client-centeredness and understanding their context/business. Communication skills have been added, adapted to clients, creativity in problem-solving and the professional judgment to use all those skills in the right way and situation.

See Figure 1 and 2 below for the *Delta Model* and the *Foundational Competencies Model*, respectively.

143 Amani Smathers 2014, R. Amani Smathers is a licensed Michigan attorney. She works in the legal technology office of a leading innovative law firm; De Perio Wittman & Brown 2023:15-16; for more theory about the *T-shaped professional*, see, for example: Barile, Franco, Nota & Saviano 2012; Barile, Saviano, & Simone 2014; Donofrio, Spohrer & Zadeh 2009.

144 Amani Smathers 2014; Connor 2017; Mak 2017; De Perio Wittman & Brown 2023:15-16

145 Von Humboldt 1791 (in Rösen & Wulff 2021); Kettler & Lauer 2016:2; Nussbaum 2016; Oldac et al. 2023

146 Adams & Prins 2018; Mak 2017; Sjöström 2017

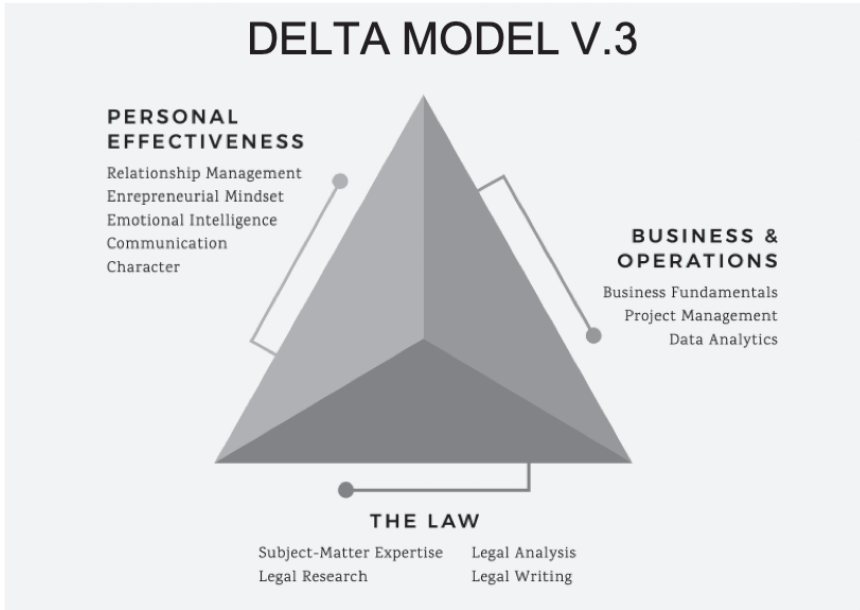
147 Runyon, Carrel, Moon, Reid, & Teninbaum 2019; Carrel 2019; Runyon & Carrel 2019; De Perio Wittman & Brown 2023:15-16

148 Hamilton 2013:7, 12; Hamilton, Billionis 2022; De Perio Wittman & Brown 2023:15-16

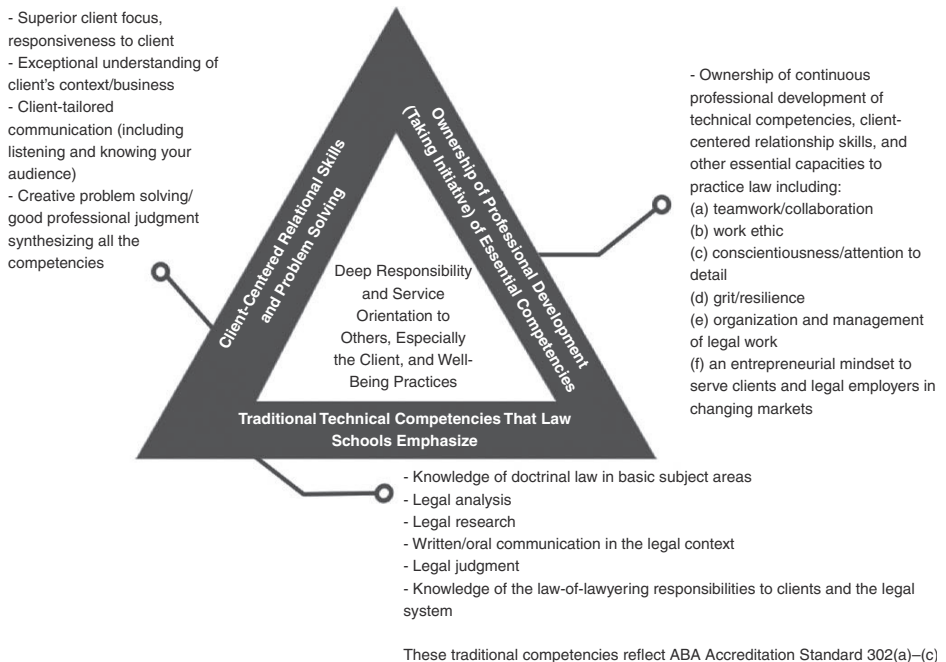
149 The *Delta Competency Model* seems to be based on the *Delta Model* about how to pursue profitable growth by A. Hax & D. Wilde (2002; 2010:ix), in which a customer-centric approach is supported. However, in the available literature of the *Delta Competency Model*, no reference to this model is made.

150 Hamilton & Billionis 2022

■ **Figure 1** - The Delta Competency Model - Runyon, Carrel, Moon, Reid, & Teninbaum, 2019



■ **Figure 2** - Foundational Competencies Model – Hamilton & Bilonis, 2022



The concept of *Foundational Competencies* for legal practice was earlier used by Van Zandt,<sup>151</sup> in 2008. Van Zandt already referred to a changing legal practice which requires future lawyers to be aware of cultural differences and to understand and serve the needs of their clients.<sup>152</sup> Van Zandt proposed to improve experiential learning in law school by prolonging internships/offering long fulltime experiences in institutions both within the law school and in external organizations.<sup>153</sup> Another *Foundations* concept was also used in the *Whole Lawyer* concept, developed in 2021 by the Institute for the Advancement of the American Legal System.<sup>154</sup> Mainly published as a hiring guide for employers, the concept is also translated in a proposition to law schools how to prepare students as for practice a future in legal practice.<sup>155</sup>

The authors of both models not only aimed to give an overview of all legal competencies which lawyers need to be successful in legal practice, but also to propose law schools to include those key competencies as learning goals in their legal curriculum.<sup>156</sup>

The third model on modern legal competencies that has been developed recently is Kayne's concept of the *O-shaped Lawyer*.<sup>157</sup> The aim was to make the legal profession better for those who are in it, those who use it and those who are entering it.<sup>158</sup> The model's design is based on interviews and consultations with eighteen General Counsel from a range of FTSE<sup>159</sup> 350 companies<sup>160</sup> in the UK. In the model, Kayne rethinks the skills and mindset a 21<sup>st</sup> century legal professional needs,<sup>161</sup> and advocates a *sustainable transformation* of the profession by *progressive* legal educators, besides law firms and in-house legal employes, through adding new programs at law schools.<sup>162</sup> According to Kayne, the concept of the *O-Shaped Lawyer* refers to the five O's of Openness, Originality, Opportunity, Ownership and Optimism.<sup>163</sup> Together they form a preferably *well-rounded*<sup>164</sup> mindset of modern lawyers: combining traditional technical competences with emotional competencies and an entrepreneurial mindset. Like the *Delta Competency Model* and the *Foundational Competencies Model*, the concept of *O-Shaped Lawyer* also refers to a model which contains three pillars. Besides a pillar containing a combination of traditional legal skills and client-centeredness, the *O-shaped Lawyer Model* describes a pillar on relational skills containing

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151 Van Zandt 2008

152 Van Zandt 2008:1134

153 Van Zandt 2008:1142-43

154 Institute for the Advancement of the American Legal System (IAALS), founded in 2006, is a national, independent research center dedicated to facilitating improvement of the American legal system. Projects are among others the Foundation for Practice, which published its results of extensive empirical research in the Foundational Hiring Guide in 2021 (survey of 24000+ lawyers in 50 states, including 36 legal employers and 4 law schools).

155 De Perio Wittman & Brown 2023:18; website IAALS 2023, <https://iaals.edu/about> and <https://iaals.edu/publications/foundations-hiring-guide>

156 Runyon et al. 2019; Hamilton & Billionis 2022

157 Kayne 2023, webpage; Lawton et al. 2022:9; Bott 2020; Princz 2023

158 See <https://oshaped.com/purposevision>.

159 Financial Times Stock Exchange Index, i.e. the main indicator of the London Stock Exchange.

160 Kayne 2020: Foreword

161 Lawton et al. 2022; Princz 2023:49

162 Kayne 2020:8

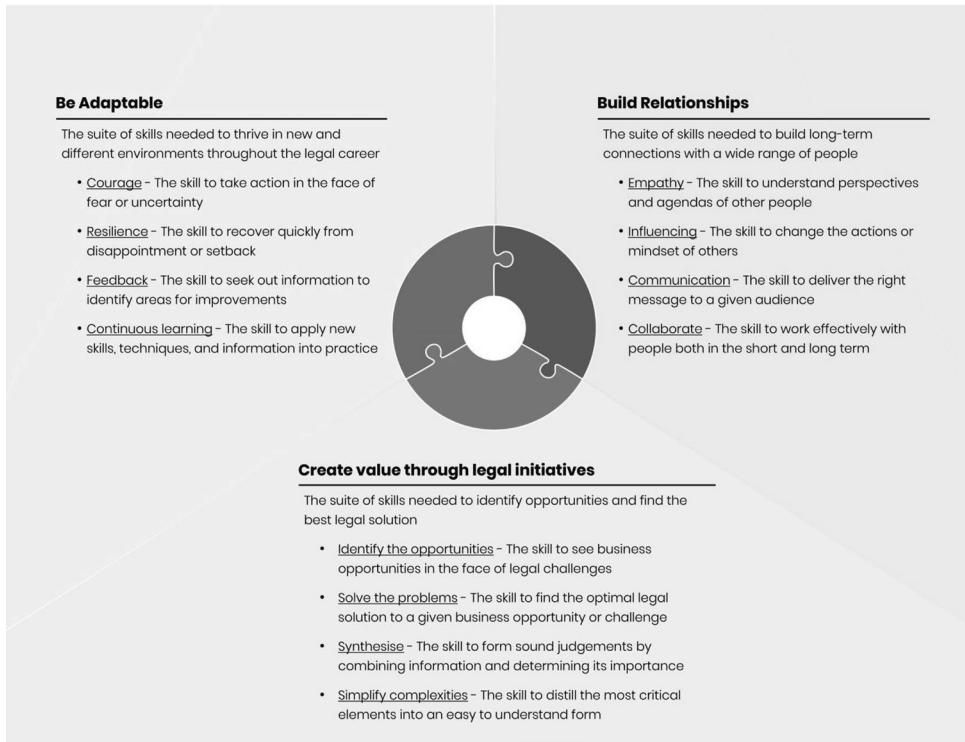
163 Website O-Shaped.com, homepage

164 Website O-Shaped.com, homepage; Eke 2020, Insights (8 December)



a combination of competencies about business skills and client-centeredness, and a pillar on personal character traits and selfcare. See Figure 3 below for more details and the depiction of the *O-Shaped Lawyer* model.

■ **Figure 3** – O-Shaped Lawyer Model - Kayne, 2020



It can be concluded that all three models recently designed to describe modern legal competencies add relational and selfcare skills to the traditional legal technical skills, although not all models emphasize and formulate the same concepts. They respond to a long-felt and growing international call for adding value to legal practice by law firms, their clients, employees, and litigants, to make law and legal practice more client-oriented.<sup>165</sup> The concept of the *O-shaped Lawyer* seems to have been more frequently embraced in the EU and beyond than the *Delta Competency* or *Foundational Competencies concepts*. A search conducted through Google Scholar showed only a very limited number of references about the *Delta Competency Model*<sup>166</sup> and *Foundational Competencies Model*<sup>167</sup> for legal practice, in contrast to the number of references about the *O-shaped Lawyer*.<sup>168</sup> Therefore, as a successor of the concept of the *T-shaped Lawyer*,

165 Jacob, Schindler, Strathausen, & Waltl 2022:vii  
 166 Hax & Wilde 2002, 2010; De Perio Wittman, & Brown 2023  
 167 Van Neste 2023; De Perio Wittman, & Brown 2023; Fisher 2022  
 168 Brown, Croft & Thorne 2022; Jacob, Schindler, Strathausen, & Waltl 2022:vii; Lawton, Saban, Whittam 2022; Princz 2023; Platts-Mills & Wapples 2023; De Perio Wittman, & Brown 2023; Fisher 2022; Silva, Feferbau, Camelo, Radomysler, Coelho, Silveira... & Pasqualetto 2023; Wood 2023

the concept of the *O-shaped Lawyer* is suggested to refer to modern legal professionals who demonstrate all competencies described in the model, or to legal education which teaches those competencies. Still, it can be concluded that all three aforementioned models about modern legal core competencies emphasize the importance of the third pillar containing *soft skills* including empathy and propose adding these skills to the current curriculums in law schools.

### 3. AGAINST FEAR FOR EMPATHY

As is elaborated above, being aware of, and working with, feelings and emotions in legal practice is important. Empathy plays an essential role. However, in Western courts to date, tension can still be noticed between rationality and emotions: a fear for empathy.<sup>169</sup> In the classic view, judges need to reason without being affected by emotion, and stay neutral and impartial.<sup>170</sup> A well-known example because of the sometimes fierce discussion pro and contra, was when Obama, at the time US president, wanted the new Supreme Court Justice to be empathic besides excellent in law, in 2009. Other than his critics, Obama stated that well-developed empathy was needed to correct sympathy, hidden preferences and bias.<sup>171</sup> The fear for empathy is still widespread. Analyzing the available literature on the topic, several components could be distinguished.

#### 3.1 STYLE OVER SUBSTANCE

Lawyers might try to cause effect instead of providing a rigorous, rational analysis of the situation. It is called *Style over Substance*: lawyers consider truth less important than the manipulation of the audience, striving for emotional impact instead of offering reasonable arguments.<sup>172</sup> The use of too much *pathos* would, in *Style over Substance*, be at the expense of a lawyer's professionalism or the quality of his oral arguments while addressing the court. Some scholars even warn that too much of such *pathos* could cause judges to become irritated for they might think a lawyer is exaggerating.<sup>173</sup>

However, in the literature to date, no empirical evidence could be found that underpins the possible existence of such a *Style over substance* problem in oral arguments. Cooney has conducted empirical research about lawyers' writings and found eight writing styles that had negative consequences for the litigants because of the style's' negative effect on judges. Those included *legalese*, i.e., very technical legal texts, *verbosity*, i.e., use of a lot of words, and personal attacks. Empathy is not mentioned as one of those eight problems.<sup>174</sup>

#### 3.2 FEAR FOR THE HUMAN SUBJECTIVE INNER WORLD

The unsubstantiated fear of *Style over substance* links to a deeper and persistent fear in rhetoric for feelings and emotions as parts of the human subjective inner world.<sup>175</sup> In contrast to the facts

169 Bergman Blix 2022:50-51

170 De Castro Rodrigues et al. 2023

171 Goldstein 2010; Bandes 2009:134-135; See section 2.5.4. for an elaborations on the concept of sympathy.

172 IJzermans 2011:198

173 Jansen, Reijneveld & Sijtsma 2021

174 Cooney 2012

175 Nussbaum 1995:56

in the outside world, those feelings and emotions cannot be known to others and, therefore, are feared for they are unpredictable and uncertain<sup>176</sup> and so may reactions based on them.

However, this distrust of emotions is misinformed, for subjective and objective worlds complement each other. Emotions are just as reliable as sources of knowledge as other sources of knowledge. An emotional experience provides knowledge about the connection between an event or a situation and someone's interest, motives, and values.<sup>177</sup> Furthermore, an emotional experience provides experiential knowledge: through emotions, humans can become conscious of tacit knowledge gained from their own personal history.<sup>178</sup>

For knowledge to be reliable, information needs to be derived from several sources. Aristotle already theorized that humans could comprehend a situation with the aim of observation, intellect and feelings.<sup>179</sup> Taking consideration of emotions can be helpful in judging a situation. However, when used to manipulate others aiming to distract them from the actual issue,<sup>180</sup> it is considered *Style over Substance*.<sup>181</sup>

### 3.3 CONFUSION ABOUT EMPATHY AND SYMPATHY/COMPASSION

Sympathy is something legal practitioners indeed should avoid. As elaborated in Section 2.1.4., empathy is often mistaken for *sympathy* and *compassion*, causing this unnecessary fear for feelings and emotions in legal practice. However, to date, sympathy and empathy are mixed up even by scientist in the field, stating for example that prosocial motivation is part of empathy.<sup>182</sup> As already suggested by Aristotle, strong sympathetic feelings for a client or litigant might cause lawyers to almost identify themselves with their client and/or take over their emotions, blurring the line between lawyer and friend, or because of heroism, wanting to rescue them and to act to alleviate suffering. This could lead to the risk of being manipulated and to bias<sup>183</sup> because it is normal biological behavior to favor friends and family over strangers.<sup>184</sup> This might not only be problematic to justice<sup>185</sup> but, in caring so much, some lawyers might also even risk to suffer a burn-out.<sup>186</sup> Therefore, in practice, sympathy is indeed a feeling legal professionals should be aware of and avoid. For legal professionals, a well-developed *self-other differentiation* is therefore essential.

176 IJzermans 2011:197-198

177 Nussbaum 1995:58

178 IJzermans 2011:145, 140

179 IJzermans 2011:199; Huys 2004:111b:3-1112a:17

180 IJzermans 2011:200; Garver 1994:137

181 IJzermans 2011:200; Huys 2004:1354b:9-12

182 Rochat 2022

183 Wheeler 2016:31

184 Bloom 2016:69, 87, 93, 95

185 Strauss et al. 2016:15

186 Smith 2003:1207-1208

### 3.4 EMPATHETIC BEHAVIOR INSTEAD OF SEDUCTIVE POWER

Another concern is that empathy may cause suspects to tell more than they would otherwise have done. The use of empathy as a *seductive power* to induce a false sense of a therapeutic relationship or an inappropriate sense of trust is considered unethical.<sup>187</sup>

However, research has shown this concern to be unjustified.<sup>188</sup> Nevertheless, law professionals do need to be aware of their possible empathetic behavior, so that they make informed decisions and do not let unwanted sympathy take over. This requires well-developed self-awareness and a good sense of *self/other differentiation*.

Developing the ability to empathize with other people and imagine themselves in their situation is something law students have to learn at law school, Stolker concluded after having conducted extensive research about legal education worldwide.<sup>189</sup> His thoughts on the matter aligned with those of Foqué, who stated that law students should be trained to become reflective and empathetic law professionals who are sensitive for the *narratives* of other persons, i.e., their life stories consisting of circumstances and experiences.<sup>190</sup>

## 4. CONCLUSION

In this chapter, I discussed the first sub-question and concluded that empathy appears to be important for law professionals. After all, law can be considered a normative science and practice and as such, empathy is at its base. The Dutch Childcare Benefits Scandal has shown that *Interactionist, responsive, citizen- and client-oriented justice* is important in a judicial context. The law must always be applied in such a way that it takes into account the fact that people act in a legally relevant manner in a specific factual situation. To this end, modern law professionals need to be *O-shaped*: besides traditional legal technical skills and business skills, they should also have well-developed soft skills. Empathy is at the core of these soft skills. Critics who warn that too much empathy could cause bias, manipulation, and underachievement caused by *Style over Substance* confuse empathy with sympathy and compassion.

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187 Simon & Wettstein 1997:18; Vera et al. 2019:56

188 Vera et al. 2019:64

189 Stolker 2014:76, 385

190 Foqué 2012:11; Schön 1983: The best professionals are Reflective Practitioners and use Think/Reflection-in-Action, rely less on formulas learned in graduate school, technical knowledge, than on improvisation learned in practice, skills.





## CHAPTER 3

# Empathy Education in the Legal Curriculum

## 1. INTRODUCTION

As I explained in the previous chapter, empathy is an essential skill for law professionals that needs to be taught at law schools. In this chapter, I will provide an answer to the second research question: In what way is empathy education already part of law curriculums? To this end, I describe guidelines for such empathy education mentioned in the literature to date, formulated as principles, and list already proposed activities. Furthermore, I describe two existing methods in law school that might influence empathy and elaborate the reasons no such classes have been made an obligatory part of law curriculums yet.

## 2. PRINCIPLES AND ACTIVITIES OF EMPATHY EDUCATION FOR LAW STUDENTS

In the literature to date, several examples of experiments with empathy education in legal education have been described. I describe a few to point out that adding empathy education to formal law curriculums is far from a new idea.

Already in 1983, Barkai and Fine designed empathy training for law students. Pointing to medical teaching practices as an inspiring example for empathy training also for law schools,<sup>191</sup> the authors advocated lessons in *active listening* to law students, “to strengthen cases, to increase client’s satisfaction and improve the business aspects of the lawyer’s practice.”<sup>192</sup> Barkai and Fine define *active listening* as “a listener’s response that reflects back to the speaker in different words what the speaker has just said.”<sup>193</sup> According to the authors, “Lawyers need to be ‘good counselors’, who respond not only to the content of their clients’ statements but also to the feelings behind those statements.”<sup>194</sup> They describe the experiment of four one-hour, bi-weekly *Empathy Skills* classes,<sup>195</sup> including didactic presentations, class discussions and simulation and role play exercises, in which (third-year) students learned to respond empathically to clients.<sup>196</sup>

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191 Barkai & Fine 1983:512

192 Barkai & Fine 1983:507

193 Rogers 1942; Gordon 1970:49; Meyerhuber 2019:94: Rogers coined the term *Active Listening* in 1942, describing his research about effective mechanisms in psychotherapy. Rogers found that people have a natural drive for personal growth, and that this is best supported by his method of ‘non-directed communication’. When, in contrast to psychoanalysis, counselors mainly mirror back what they have understood so far, respectfully accepting all that has been said without judgement or advice, clients start exploring and examining their own thoughts and narratives more critically and even start exploring other perspectives after a while, all by themselves. *Active Listening* is the mirroring in words (paraphrasing) and gestures what the listener has understood about what the client has communicated verbally and non-verbally, without evaluation, judgment or advice. Gordon introduced *Active Listening* as a part of a communication course for parents (1970:49, 2000), Meyerhuber (2019) examined a way to position *Active Listening* in intercultural communication education for university students.

194 Barkai & Fine 1983:507

195 Barkai & Fine 1983:518. Experiment conducted in 1979. The sample size was twenty students in the experimental group, nine students in a trial practice class were used as a control group. Both a pre- and a post-test were part of the methodology, consisting of analysis of student’s reactions on audiotaped role played statements of client problems. Analysis through a modified Truax Accurate Empathy Scale, describing seven levels.

196 Barkai & Fine 1983:518 The experimental component of the training consisted of two kinds of role playing, in which trainer and students alternately played the role of the client and the lawyer and students played together. A home assignment was to use empathic listening with family and friends.



Twenty years later, in 2002, Rosenberg described another program, called Interpersonal Dynamics for Lawyers, a skills class on empathy as a motivator of moral behavior. The program described having someone model and explain behavior including increasing students' awareness on the effects of this behavior. Then students practiced the behavior and received feedback on their performance.<sup>197</sup> From the same period in time and based on a review of the literature to date at that time, was Gerdy's advocacy for lawyers to develop the capacity to empathize with others to increase their effectiveness and improve their relationship with clients.<sup>198</sup> Calling it a missing piece in modern legal curriculum and a lack of context, Gerdy stated that students do not learn to understand client needs and expectations, nor do they learn to relate with empathy.<sup>199</sup> Inspired by examples from medical school,<sup>200</sup> Gerdy suggested introducing literature and drama in core courses in the curriculum.<sup>201</sup>

In 2018, Gascon-Cuenca et al. theorized how to promote empathy in law students. According to the authors, in legal education, teaching empathy should at least facilitate the acquisition of self-understanding, which the authors also consider essential for learning to recognize one's own feelings as well as managing emotional aspects of legal work.<sup>202</sup> Like Rosenberg,<sup>203</sup> they advocate a *safe space* for learning, a learning environment in which students dare to explore their own emotions and share their thoughts. Besides this safe learning environment, five other fundamental principles about teaching empathy to law students could be found in more recent literature. In 2019, Samra and Jones defined the following principles for fostering empathy in clinical teaching and learning environments for both medical and law students.<sup>204</sup> My study design aligns with those principles. The first principle is that *empathy should be defined as a multi-faceted concept including both cognitive and affective elements*.<sup>205</sup> In my study, I define empathy as a concept containing four components, which all focus on a part of empathy including cognition and affection.<sup>206</sup> Samra and Jones' second principle, namely that *empathy should be viewed as an integral part of professionalism, other attributes including honesty, transparency, accountability and advocacy*, forms a starting point of my study, since it provides an underpinning of the need for empathy in legal practice and the inclusion of empathy in legal education.<sup>207</sup> The third principle, *empathy should be contextualized through a consideration of its ethical and moral dimensions and include attention to self-awareness*, is dealt with in my study when it aims to respond to the call for more *responsive law*, which points out that law professionals need to have an eye for the situation and the needs of all people involved in a case, and for the proportionality of decisions and measures

197 Rosenberg 2002:637-542

198 Gerdy 2008-2009:19

199 Gerdy 2008-2009:30

200 Gerdy 2008-2009:41-53

201 Gerdy 2008-2009:54 Gerdy suggested plays like *Trifles* by Susan Glaspell, Shakespeare's *The Merchant of Venice* and Sophocles' *Antigone*. Novels suggested were *To Kill a Mockingbird* and *Bleak House, Tea and Green Ribbons: A Memoir* by Evelyn Doyle and *The Kite Runner* by Khaled Hosseini.

202 Gascon-Cuenca et al. 2018

203 Rosenberg 2002:648

204 Samra & Jones, 2019:14

205 See Chapter 1, section 2.3.

206 See Chapter 1, section 2.3.

207 See Chapter 2.

taken. Empathy is essential to *responsive law*. The definition of empathy used in my study contains the component *self/other differentiation*, which points to the importance for law professionals of knowing themselves and their ability to differentiate between emotions and feelings of themselves and those of others. The fourth principle, *the relationship between gender and empathy should be explicitly acknowledged and discussed*, is addressed by investigating the possible effect of gender on empathy in the field research of my study.<sup>208</sup> In the literature to date, gender has been reported to have an effect on empathy: women tend to be more empathic than men.<sup>209</sup> Lastly, Samra and Jones' fifth principle is *clinical teaching and learning environments should include specific teaching and learning strategies to develop empathy*.<sup>210</sup> In my study, I propose and investigate VTS as such a specific method to enhance empathy.<sup>211</sup> I briefly describe the methods of *Clinical Legal Education*, *Role Play* and *Law and Literature*, which have been suggested in the literature to date as teaching methods in legal education that might possibly have an effect on empathy.<sup>212</sup>

These principles have been translated into concrete learning activities, that can be offered besides the clinical courses as suggested by Gascon-Cuenca et al. They propose *lessons in active listening, role plays in which students must put themselves in the shoes of others, inviting representatives of groups to come and share their stories with the students and lessons in visual art and poetry*.<sup>213</sup> The activities include a workshop in communication, role play, and contact with role models and arts classes.<sup>214</sup> Other suggestions by Gascon-Cuenca et al. include *the inclusion of reflection in supervised practice, with debriefing sessions which also include negative role models and attention to self-awareness and mental health*.<sup>215</sup>

In the Netherlands, in 2017, Van Klink, de Vries and Bleeker advocated adding empathy to the academic law curriculum, and to study law in a broad, social, moral and theoretical context.<sup>216</sup> However, in the literature to date, no publications could be found about law schools which have

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208 See Chapters 6 and 7.

209 For example, see Christov-Moore et al. 2014; Löffler & Greitemeyer, 2023

210 Samra & Jones 2019:14

211 See Chapter 4

212 See below in sections 3, 4 and 5

213 Gascon-Cuenca et al. 2018:240

214 See also Chapter 1, section 1.2.4

215 Samra & Jones 2019; Gascon-Cuenca et al. 2018

216 Van Klink et al. 2017:9 The authors also mention some examples, like Skeptical legal education, in which value-judgments and norms are discussed, the ITAC-method to reflect on law (Issue, Theory, Apply, Conclusions), and Learning by Playing in which case law is studied through artistic and theater experiments. Two years later, Van Klink and De Vries published with Van Rossum an editorial about a one-day workshop in 2017 at Utrecht University, on new perspectives on active learning and teaching in legal education. The special issue of Law & Method covered some of the presentations given that afternoon, aiming to inspire colleagues and challenging students to think about law and life in different ways, helping them to discover their own voice in discussions about law.

included empathy education as a learning objective, to date, or seem to have introduced such activities as an obligatory part of their legal curriculum.<sup>217</sup>

In 2020, advocating paying more attention to soft skills in legal education, Tsaoussi proposed a set of pedagogical principles revolving around four axes: *compassionate*, *attentive*, *reason-based* and *empathetic* teaching.<sup>218</sup> The aim was to encourage law teachers to provide a more inclusive learning environment for their students, and to become more *responsive* teachers,<sup>219</sup> in order to improve students' and teachers' experience in legal education. First, according to Tsaoussi, university teachers should be *compassionate*, defined as "a mature, calm and reserved master of legal knowledge who is primarily responsible for creating a friendly learning environment for the students." Such a teacher is never a source of conflict, but "a facilitator of calm dialogue."<sup>220</sup> According to Tsaoussi, such teaching involves emotional engagement on the part of the teacher and evokes an emotional response on the part of the student. Coupled with reason, this provides for education in *social intelligence*, i.e., learning about the social context of beliefs, thoughts and feelings.<sup>221</sup> Furthermore, university teachers should be *attentive*, i.e., available to their students, in class through eye-contact and reactive attention, as well as during designated office hours and via email. Furthermore, *attentive* teachers should encourage active participation in class, assigning it as a value in the course syllabus, and reward active participation with a higher grade. Third is *reason-based* university teaching, which presupposes that teachers are themselves practical-minded and practice-oriented, directing their students to reflect on the practical dimensions of theoretical concepts introduced in class.<sup>222</sup> Fourth and last, teachers should be empathetic, interpreting correctly students' body language as well as expressing effectively and accurately their message to the students, also non-verbally, exhibiting confidence and using their voice correctly.<sup>223</sup>

However, Tsaoussi only theorizes about CARE-methodology as did Samra and Jones with their principles and Gascon-Cuenca et al. with their proposal for activities. Empathy education appears to be hard to implement. Legal curriculums are already overfull, and law schools serve large numbers of students, causing constraints in time and resources.<sup>224</sup> However, the support for

217 In recent years, several authors have published on the topic of current law curriculums. However, none of them reports about law schools having implemented empathy training in the curriculum: Jones & Cownie 2020 (including poetry workshops by De Vries); Runyon and Carrel 2019; O'Rourke 2019; Stolker 2014. In the Netherlands, Van Domselaar advocated judges to be virtuous and empathic (UvA Persvoorlichting, 2014) and listed what 'sixpack' of skills judges would need for that: judicial perception, -courage, -temperance, -justice, -independence and -impartiality (Van der Put 2022:3; Van Domselaar 2014a:234; Van Domselaar 2014b:62-80). This includes *self/other-differentiation*, which is a component of empathy (highest level). In her inaugural address, Van Domselaar posits that law professionals should live the "social-liberal rule of law" in practice and advocates citizen-centered, *responsive* law (2024:78).

218 Tsaoussi 2020:8-28

219 Tsaoussi 2020:7

220 Tsaoussi 2020:9

221 Tsaoussi 2020:12

222 Tsaoussi 2020:20

223 Tsaoussi 2020:23-24

224 Stolker 2014

empathy education in the legal curriculum worldwide is strong.<sup>225</sup> There is a need for a method to teach empathy in legal curriculums. Therefore, I will elaborate on a possible method for such legal empathy education.

### 3. CLINICAL LEGAL EDUCATION: LAW CLINICS & MOOT COURTS

Although development of empathy is not explicitly included as one of the learning goals, exercise in empathy might be implicitly included in classes about rhetoric through theory and practice about *pathos* and *ethos*, as elaborated in section 2.2.1. In law, classes in rhetoric have been given since ancient times.<sup>226</sup> In textbooks about theory on rhetoric and argumentation, theory on empathy is included.<sup>227</sup> Practical exercise in rhetoric is part of special experiential learning in law curriculums called Clinical Legal Education (CLE), which can be defined as *a methodology by which students study legal and related knowledge, skills and/or values through exposure to real or realistic legal cases or scenarios and are required to critically reflect on that experience as a structured part of their study.*<sup>228</sup> In CLE, clinicians teach law students about legal practice, what legal professionals should do and how they should do it, in experiential settings preferably in a real-world setting. Most clinicians are licensed legal professionals.<sup>229</sup> Clinical programs first emerged in the US, UK, Canada and Australia in the 1960s and 1970's.<sup>230</sup> However, as an official part of legal curriculums, CLE has already been reported around hundred years ago as being used in, among others, universities of Copenhagen, Harvard and Yale.<sup>231</sup> In the literature to date and on university websites worldwide, descriptions of, and research about, numerous examples of CLE can be found. CLE can be considered a global movement,<sup>232</sup> for they are offered by law schools in every region of the world.<sup>233</sup>

However, CLE can look quite different from one country or region to another, and be offered inside the curriculum or extracurriculums as special projects.<sup>234</sup> While CLE in common law countries as the UK and US, are called *Law Clinics*, in the Netherlands, as a civil law country, they are called

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225 For example Schaefer's thoughts on empathy education in law education, which should include attention to implicit biases and stereotypes (2022:355). Schaefer provided an overview empathy education in medical curriculums, among others about the placebo-effect, (2022:369 ff) and concluded with a proposal for a stand-alone course that focuses on the lawyer-client relationship (2022:368).

226 Breedveld-de Voogd 2016:219; Broekers-Knol et al. 2008:22ff; IJzermans 2011:33-68; Witteveen 2003:336-339

227 Broekers-Knol et al. 2008, content overview; Verplaetse 2008:5 content overview

228 Grimes in Jones & Cownie 2020:94-95

229 Bloch 2011:xxii

230 Bloch 2011, (n.p.), introduction Part I

231 Rowe 1917

232 Bloch 2011:xxiv

233 Bloch 2011:xxiii

234 Bloch 2011:xxiii--xxiv; Jones & Cownie 2021:91-123; Some examples: Netherlands: Tilburg University: <https://www.tilburguniversity.edu/about/schools/law/departments/tilt/education/tilt-clinics>; University of Amsterdam: <https://student.uva.nl/en/topics/amsterdam-european-law-clinic>; Leiden University: <http://kalshovengieskesforum.com/ihl-clinic/>; Great-Britain: Cambridge University: <https://www.culs.org.uk/the-society/pro-bono>; U.S.A.: Harvard Law School: <https://hls.harvard.edu/clinics/>; South Africa: University of the Witwatersrand Johannesburg: <https://www.wits.ac.za/lawclinic>; Australia: University of Sydney: <https://www.sydney.edu.au/law/study-law/student-experience/law-clinics.html>; Monash University, Melbourne: <http://www.monashlawclinics.com.au>

*Moot Courts* (or in Dutch: *Oefenrechtbank*).<sup>235</sup> Their methodologies differ according to the law systems being used: while in common law countries, a bottom-up approach is used with varying details of cases and students who are forced into the role of the attorney, in civil law countries, a top-down approach is used with students starting with the codes supplemented with cases and the doctrine.<sup>236</sup>

Law Clinics have long proved their efficiency in the US, where almost all law schools have developed such clinical legal education.<sup>237</sup> In the EU, the number of CLE's offered by law schools is still rather small however increasing.<sup>238</sup> However, in the Netherlands, all universities have already been organizing *Moot Courts* for years now. Reportedly, learning goals are the following:<sup>239</sup> firstly, to find independently relevant legislation in the literature and/or jurisprudence in library and databases, secondly, to express in writing legal arguments, and lastly, to present a legal argument before legal professionals, in a *Moot Court*.<sup>240</sup>

Sometimes, a university added an extra goal, such as that students need to be able to judge a case on their legal, societal and ethical value.<sup>241</sup> Students' tasks are the same as mentioned as tasks in rhetoric: *inventio*, *dispositio*, *elocutio*, *memoria* and *action* (*invention*, *arrangement*, *style*, *memory*, and *delivery*)<sup>242</sup>.<sup>243</sup> The methodology consists of several preparation sessions in small groups, in which students get personal feedback on their argumentation and presentation skills, and a public, festive entourage in which law students get to present their work, their oral arguments. Cases are realistic, including legally relevant data and data that can be used to add pathos to their argumentation.<sup>244</sup>

CLE have been reported to have several benefits for law students including high levels of engagement and motivation among participants (students and teachers) perceiving enhancing of self-confidence, professional commitment and development of skills and knowledge, the chance to apply theory to practice and to deconstruct the result, while linking legal knowledge with lawyering skills and appreciation of professional responsibility, attributes, and values.<sup>245</sup> In recent research, Lawton et al. found that law students' perceived empathy levels were influenced by CLE. In the study, 76 law students participated, in three groups.<sup>246</sup> Both decreases and increases

235 Breedveld-De Voogd 2016:220

236 Stolker 2014:164-165

237 Stolker 2014:164: Information of the consortium S.T.A.R.S. (Skills Transfers, in Academia: A Renewed Strategy) of 5 universities (Luxembourg, Roma Tre, Brescia, Palackeho V Olomouci, Romano-Americana) which aims to develop innovation in higher education, especially regarding to legal clinics (<http://www.lawstars.eu>).

238 Bartoli 2016; Poillot 2017

239 Breedveld-de Voogd 2016:220

240 Breedveld-de Voogd 2016:220

241 Breedveld-de Voogd 2016:220

242 The World of Work Project 2024: webpage: "Invention (what to say), arrangement (structure of content), style (language choices), memory (learn the presentation) and delivery (use of more than just words)"

243 Broekers-Knol et al. 2008; Breedveld-de Voogd 2016:221

244 Breedveld-de Voogd 2016:221

245 Grimes in Jones & Cownie 2020:97

246 Lawton et al. 2022

in empathy score were measured<sup>247</sup> However, in case of an increase, this increase was significant, between 5-6 %. Lawton et al. suggest to add empathy as a discrete learning outcome to CLE. Assessment could focus on students' identifying of emotionally difficult situations in the clinic and reflection on one's own response to those situations including demonstrating empathy, as well as act accordingly.<sup>248</sup> However, setting up and running clinics can be challenging because extensive financial and human resources are needed, as well as institutional agreement.

Furthermore, when real clients are part of the clinic, both their well-being and expectations, and those of the students must also be taken into account.<sup>249</sup> Moreover, also special attention needs to be given to how the CLE is assessed.<sup>250</sup>

#### 4. ROLE PLAY

Both *Law Clinics* and *Moot Courts* can be considered a special form of role plays, which can be defined as a learning activity *in which participants are asked to assume a role, the characteristics of which are usually provided to them in written form, and to play out a negotiation or part of a negotiation with others who also have assumed roles.*<sup>251</sup> Besides in classes in rhetoric in legal curriculums, role play is also used in classes in negotiating and mediation.<sup>252</sup> Part of those classes is the design of role plays including characters of clients. Such designing can be considered an exercise in legal storytelling, which has also been advocated by the movement *Law and Literature* (see next section).<sup>253</sup> Aim is to experience a greater understanding and empathy for the characters in their role plays while enhancing a deeper conceptual understanding of the act of negotiating, exploring various tactics, and fostering development of communication skills and problem solving.<sup>254</sup>

As experiential learning in general, role plays are a popular format,<sup>255</sup> often valued for the energy they bring in a course and the engagement and enjoyment they stimulate.<sup>256</sup> Law schools have acknowledged the positive role such progressive experiential simulation teaching could play in the undergraduate curriculum, aiming to meet the graduate skills acquisition agenda.<sup>257</sup> *Experiential learning, or active learning* as it is also sometimes being called, may provide the link between theory and practice, between knowledge and skills, and might help undergraduate students to get a more in-depth understanding of social interactions which arise when evaluating or solving a problem. This may lead to a growth in confidence and becoming more *rounded* law students.<sup>258</sup>

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247 Lawton et al. 2022: Lawton et al. assessed students' empathy through a validated test: the Basic Empathy Scale.

248 Lawton et al. 2022:30

249 Grimes in Jones & Cownie 2020:98-99

250 Grimes in Jones & Cownie 2020:99

251 Alexander & LeBaron 2009:182

252 Douglas & Coburn 2009; Alexander & LeBaron 2009

253 Douglas & Coburn 2009:60-61

254 Douglas & Coburn 2009:60; Alexander & LeBaron 2009:181

255 Alexander & LeBaron 2009:182; Waters 2016:173

256 Alexander & LeBaron 2009:184-185; Waters 2016:173

257 Waters 2016:175, 194

258 Howieson & Rogers 2018:190; Van Klink 2020; Waters 2016:183, 185

However, there are a lot of conditions that a role play must meet, such as clear goals and criteria, and a well-defined and respectful relationship between participants including rules which regulate this relationship.<sup>259</sup> Other challenges to address are the risk that taking on identities of others may be perceived as disrespectful or insensitive for it elicits stereotypes,<sup>260</sup> the need for realistic situations to evoke transfer from role play into real situations,<sup>261</sup> and the possible reluctance of students to take part in role plays.<sup>262</sup> Moreover, empirical research about role plays is limited and anecdotal, and only suggests its effectiveness in enhancing skills.<sup>263</sup> To date, no research has been done about role plays' possible effect on empathy.

## 5. LAW AND LITERATURE

### 5.1 THEORY

Another part of the curriculum that might contribute to the empathy education of law students are the law and literature subjects that are/were offered as electives at many Dutch universities. Since the 1970s, there have been calls for the inclusion of literature subjects in law education. It is only through interpretation, like in literature, that the meaning of written law can be discovered. This is advocated by White in his still widely influential textbook for the inclusion of literature in legal education, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression*.<sup>264</sup> Published in 1973, it is said to have been the start of the worldwide *Law and Literature* movement. In his book, White offers a methodology about how such classes might offer insights to law students. His book also contains assignments to implement in education. Poetry and other literary texts have been compared to legal ones, to show how characters and concepts are equally textually constructed in both. However, to date, White's methodology has not been subject to empirical research.

Also philosopher Nussbaum advocated the incorporation of literature into the legal curriculum. By developing moral imagination, she argued, literature fosters the ability to see one thing as another, or in another: imagining.<sup>265</sup> According to Nussbaum, literature educates judges' *necessary capacity for humanity*, besides legal technical knowledge and proper legal impartiality.<sup>266</sup>

259 Waters 2016:174

260 Alexander & LeBaron 2009:182-183

261 Alexander & LeBaron 2009:184

262 Howieson & Rogers 2018:192: to address this problem warm-up exercises are advised, as well as clear information about the role play story and character roles, allowed space for reflection and feedback during debriefs and reflective journals, and created role play scenarios that have relevance to the students; Alexander & LeBaron 2009:179. The authors found a mental rehearsal technique helpful, in which students were offered an imaginary preparation to the role play they were going to execute.

263 Alexander & LeBaron 2009:185; Van Hasselt, Romano, & Vecchi 2008:260.

264 White 1973; Gaakeer 1995; Verheye 2014-2015

265 Nussbaum 1995:36-37

266 Nussbaum 1995:121; Reichman 2006; McRobie 2014

In the Netherlands, to date, several Dutch scholars proposed the inclusion of a *Law and Literature* course in the legal curriculum. Aim was the confrontation of the legal perspective with other perspectives and the addition of dialogue.<sup>267</sup> In their book *Imaginative Power* (Dutch: *Verbeeldingsmacht*), published in 2000, Witteveen and Taekema argue, that literature including poetry should be part of law curriculums.<sup>268</sup> They listed thirteen reasons why law students would need to read literature, including: literature forms the culture that is the basis of law, literature shows the tension between law and reality, literature gives insight into human values and human nature and literature fosters the ability to empathize. Getting to know strange people through literature, law professionals could extend their ability to empathize: what was strange might seem more familiar, and therefore better to understand.<sup>269</sup> Stories spark imagination, Witteveen and Taekema state, and through their impact on emotion they call upon the ability to empathize. It is in the confrontation with another rationality in literature that juridical rational paradigms might become less natural and logical, which might make lawyers more sensitive to the thought that reality and facts might be more problematic than they might have thought.

More recently in 2018, Bouteligier and Slootweg edited a book on the topic, *The empathical supplement in law and Literature* (in Dutch: *Het empathisch supplement in recht en literatuur*), theorizing about how literature could respond to the need for empathy in law and law finding.<sup>270</sup> For it is only supplemented with empathy, according to the authors, that positive law and regulations become justice. Through putting oneself in another person's shoes when safely reading literature, one could develop empathy.

## 5.2 LITERATURE IN LEGAL PRACTICE AND EDUCATION

While *Law and Literature* scholars to date advocate classes in literature in education because of its effect on imagination and empathy, literature is already useful to law professionals in practice. When drafting judgments and oral arguments, law professionals make use of quotes from literature when arguing their case on a regular basis.<sup>271</sup> In his assignments for legal education as a methodology, Vaishnav included a search for relevant quotes on topics related to law in literature,<sup>272</sup> adding reading and making poetry, (detective) stories, and drama to his thoughts about a methodology for law about literature. However, Vaishnav's thoughts remained theoretical, the suggested methodologies have not been piloted nor examined in practice.

Vaishnav is no exception in only theorizing about the importance of literature for law and its possible positive effects. Literature to date about *Law and Literature* does not provide any

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267 Witteveen & Taekema 2000:2, 344; Bouteligier & Slootweg 2018:3; Gakeer 2018:4

268 Witteveen & Taekema 2000:1

269 Witteveen & Taekema 2000:341-343

270 Bouteligier & Slootweg 2018; Interview met Bouteligier en Slootweg door De Reus 2023, Friesch Dagblad, 14 mei 2023; Bouteligier & Slootweg 2018:28

271 Vaishnav 2017:436

272 Vaishnav 2019:436-437



empirical evidence.<sup>273</sup> Up to now, only optional or extra-curricular courses about literature and poetry have been proposed and piloted to fill this void in legal education.<sup>274</sup> In their recent overview of legal education worldwide, Jones and Cownie mention the recent pilot with poetry of De Vries, Utrecht University. De Vries facilitated students to express themselves through poetry aiming to help them to become critical and more open professionals.<sup>275</sup> However, as said, no empirical research has been conducted to investigate the possible effects of such classes.

As can be concluded, despite its much-shared suggested benefits, the use of literature including poetry has not been implemented as a methodology in law curriculums up to now. Reportedly, the two biggest challenges were that the classes had to fit in the already packed curriculum, and to use literature in such a way that it addresses the skills required for lawyers.<sup>276</sup> Moreover, to keep students interested in class, groups were supposedly required to be small,<sup>277</sup> which is considered a challenge, for most law schools serve large groups of students.<sup>278</sup>

## 6. IMAGINATION, MEMORY AND EMPATHY

The benefits of literature for law professionals and students are based on an evenly much-shared philosophical consensus about a connection of imagination with empathy. Imagination can be defined in this respect as a *fundamental human capacity allowing to mentally simulate actions and events that are not currently happening*<sup>279</sup> or, broader, *a directed conceiving or creation of possibility*.<sup>280</sup> In Chapter 1, section 1.2.3, empathy is linked to imagination in its definition: *the ability to understand **through imagination** the state of another person and to be aware of one's own feelings because of that state and to share of affects and/or adopting views, with self-other differentiation*. As can be concluded from those definitions, empathy and imagination depend in two ways on each other. The adoption of a perspective of someone else, which is a component of empathy, is an activity of the imagination. The capacity of imagination, therefore, determines what perspectives one can adopt, and how deep those perspectives are felt, and through this, the empathic capacity. In turn, the empathic capacity determines what states or feelings one can imagine. Below in Figure 1, this relationship between empathy and imagination is depicted.

273 Research with medical students report a positive effect on empathy through reading literature, at least when reading literature describing a medical practice situation. Pories et al. 2018

274 Runyon & Carrel 2019; Gascon-Cuenca et al. 2018; Reichman 2006:301; Law and Literature is in the Netherlands only accessible as a Honours-course at Erasmus University and Leiden University College (Recht en Literatuur Nederland, 2023). Onderwijs. Webpage. <https://lawandliterature.nl/nl-nl/onderwijs>.

275 Jones, & Cownie 2020:xxii

276 Vaishnav 2019

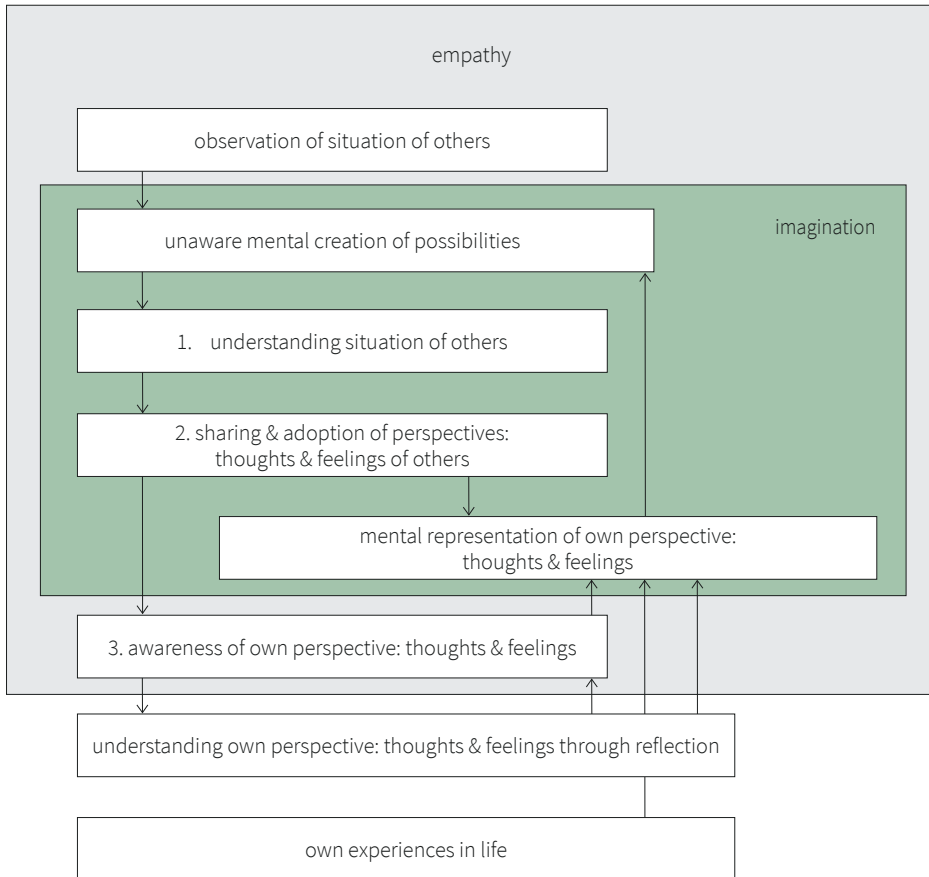
277 Vaishnav 2019

278 Stolker 2014:4-5

279 Crisp & Turner 2012

280 Engelen 2011:2

■ **Figure 1** - The relationship between Empathy and Imagination



The model shows how observation of the situation of other people triggers the process of trying to understand the situation of those others through mentally weighing possibilities. In the process, one has to choose from mental images which are made from own thoughts and feelings created at the time we ourselves were in similar situations. People's own experiences in life fuel mental images of their own thought and feelings, which in turn fuel the mental creation of possibilities and, as a result, an understanding of the situation of other persons and the adoption of their perspectives.

There is evidence that memory is also related with imagination and empathy. In Figure 1, memory is depicted as the *mental representation of own perspective: thoughts & feelings* coming from own experiences in life. From neurobiological view, imagination is *the recombining of details of past experiences into mental representations of future events*.<sup>281</sup> The benefit for humans is the reduction of possible 'cost', for imagination enables humans to learn from simulated missteps without

actually acting them out. This supports planning and prediction of actions or events, and, through this planning and prediction, prevents missteps to happen.<sup>282</sup> Likewise, a positive outcome is possible: research reports that imagining hypothetical events increases the probability that the events will occur in the future.<sup>283</sup> There turns out to be a facilitating effect of imagined behavior on actual behavior. Imagining a positive social encounter which someone against whom one has a prejudice, is suggested to reduce this prejudice as well as the anxiety about the interaction. The more vivid an imagined event is, the greater the willingness to interact.<sup>284</sup>

Memory is likely to support and enrich imagination. Information about fictional characters in literature is complemented by own experiences in the past, which lead to a felt ‘we’ perspective.<sup>285</sup> This feeling of experiential sharing may result in empathetic perspective-taking.<sup>286</sup> Language acquisition is important in the process. It determines how physically felt emotions relate to meaning, and how this enables to imagine about other social and emotional situations in real world or like in a film, novel.<sup>287</sup> This is because of shared semantics, and based on a shared reality, memorized from early childhood. Caregivers recognize physically felt and bodily expressed emotions of a child and connect those to language. To adopt a child’s emotional perspective and connect a repertoire of such perspectives with a repertoire of physical perceptions in one or some meaningful words, a narrative, is a complex process. Narratives exist for every emotional experience, and they involve reactions as well as sensations. They differ per culture,<sup>288</sup> and can be seen as paradigms, shared memories about how things were and nowadays are done in a culture, because they are recognized by the members of that culture. Paradigms, thoughts and feelings, about other cultures change effectively through imagined contact. This reduces bias in between groups and enhances empathetic behavior.<sup>289</sup>

The theory about the relationship between empathy, imagination and memory, might shed light about the underlying mechanisms of the aforementioned theories of Duyndam about *potential* and *actual* experiences, and experiences *by proxy*. For it is through memory own *actual* experiences can be memorized, and through language, narratives can be shared. Those narratives then might become *potential* and *by proxy* experiences of others, who share the same paradigms, repertoires of thoughts and emotions related through language to own physical experiences. Increasing the amount of *potential* and *by proxy* experiences might add to the amount of experiences one has had in life, which in turn increases perspective taking and, thus, empathy.

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282 Gaesser 2013:1;

283 Gaesser 2013:2; Greenwald et al. 1987

284 Gaesser 2013:3

285 Caracciolo, 2018:811

286 Caracciolo 2018:811

287 Engelen, 2011:8

288 Engelen 2011:8, 11

289 Ferguson & Wimmer 2023

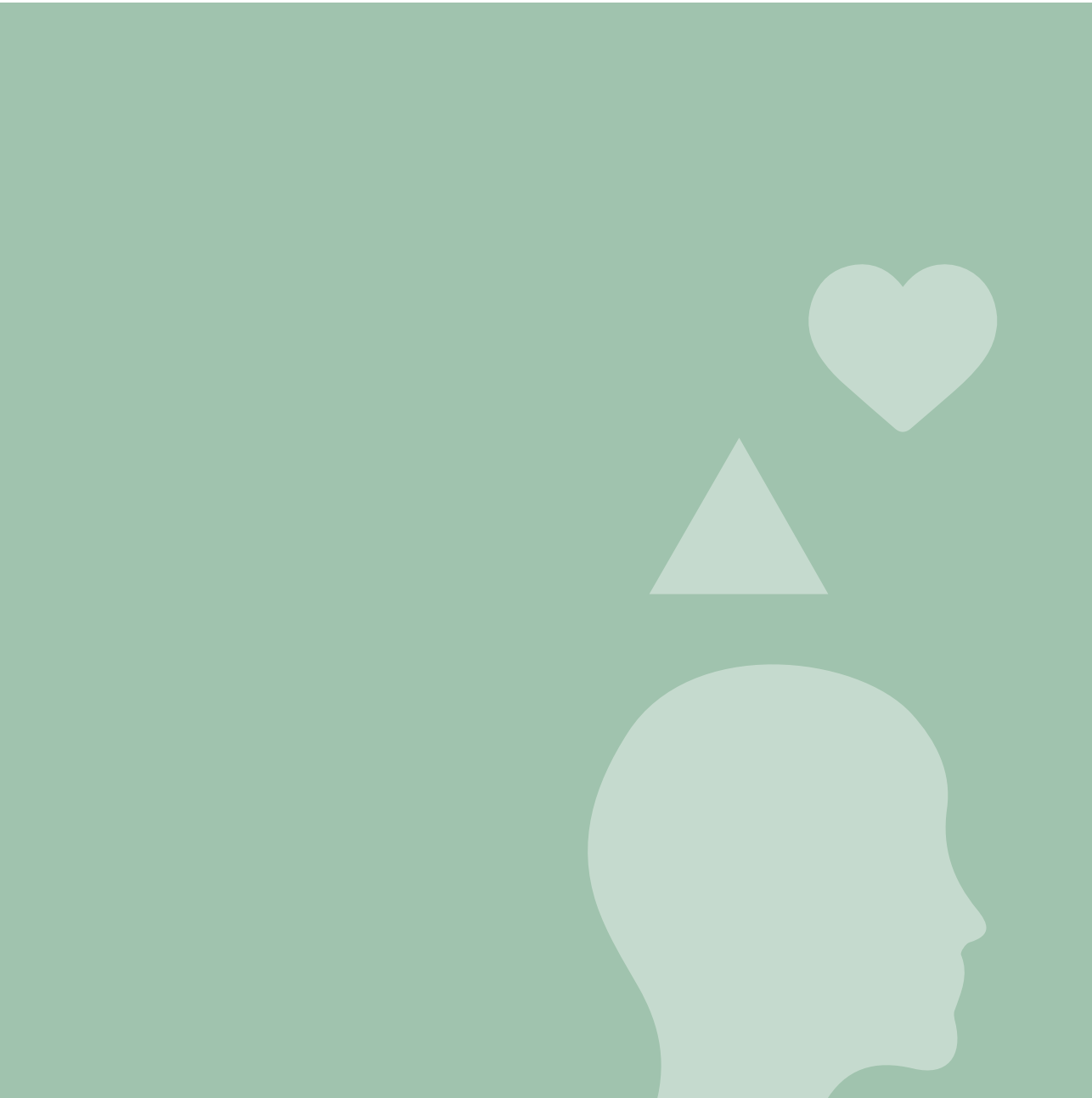
## 7. CONCLUSION

In this chapter, I provided an answer to the second research question and elaborated on possible methodologies for empathy education in the legal curriculum. In the literature to date, several principles for empathy education in the law curriculum have been formulated including defining empathy as a multi-faceted concept with both cognitive and affective elements and contextualized with attention to self-awareness. Moreover, empathy should be viewed as an integral part of professionalism like transparency and accountability, and gender differences should be acknowledged. Clinical teaching and learning environments should include specific teaching and learning strategies to develop empathy. Furthermore, a safe space for exchanging perspectives is recommended. As concrete learning activities to develop empathy with law students, several activities have been proposed, including lessons in active listening, role plays in which students must put themselves in the shoes of others, inviting representatives of groups to come and share their stories with the students, lessons in visual art and poetry, inclusion of reflection in supervised practice and attention to self-awareness and mental health.

Existing methodologies in law curriculums that are suggested to have an effect on empathy are role play, including CLE/Moot Courts, and literature, including poetry. Literature is considered beneficial for law professionals and students based on a philosophical consensus about the connection of imagination and memory with empathy. Studies to date about classes in Law and Literature, however, are mostly theoretical and only anecdotal. The methods used are considered time consuming, which is problematic in the already overfull curriculums, and expensive because of the need for smaller groups than usual. Like role play/CLE, the possible effects of literature on law students' empathy is only suggested, not investigated.

I concluded this chapter with theorizing how empathy and imagination might be related with memory, as well as with *potential* and *by proxy* experiences, building on the philosophical consensus about a connection of imagination with empathy. Memory is likely to support and enrich imagination through the application of physically felt emotions on new experiences in the real or fictional worlds, like in literature. Complementing information about fictional characters in literature through our memory with information of own experiences in the past is suggested to feel like sharing a real experience, which may result in empathetic perspective-taking. In the process, language skills determine how own physically felt emotions relate to meaning, through constructing narratives. This enables to imagine about other, not (yet) self-experienced emotional situations.





## CHAPTER 4

### | Visual Thinking Strategies

## 1. INTRODUCTION TO THE CHAPTER

In this chapter, I propose a method to develop empathy in law students, that has reported to be effective in health students in the literature to date. It is called Visual Thinking Strategies (VTS) and provides a simple and low-cost way to add classes in empathy to the legal curriculum. Below, I describe the literature research about the method: its components, grounding theories and reported effects in the literature to date in order to find underpinning for its efficacy and worldwide use in mainstream education.

First, I will underpin VTS' efficacy as an educational method in primary, secondary and higher curriculums by elaborating on the classical educational theories used by Housen while designing VTS. These were theories of several (educational-)psychologists and experts in pedagogy.<sup>290</sup> Furthermore, I analyze the information about VTS provided by VTS founders Housen and Yenawine. Next, I will describe the three main components of VTS as three interacting roles: a group conversation of students as peers, a well-trained VTS facilitator who provides an inviting and empowering learning environment, and well-chosen works of art to talk about, which are interesting and suitable for the target group and ambiguous enough to inspire an exchange of views.

Lastly, I will match VTS' components with the components of VTS' grounding theories and describe how a situation of *progressive* education is found in the continuous exchange of views and experiences in the group conversation. I also elaborate on how a situation of *true* education is facilitated through the provision of a learning environment suitable for taking the next step in development.<sup>291</sup>

## 2. VISUAL THINKING STRATEGIES: AN INTRODUCTION

The art educational method Visual Thinking Strategies (VTS) was developed in the 1990s, as a method for enhancing aesthetic understanding in museums, i.e., the reactions viewers have when they look at a work of art.<sup>292</sup> Research to date confirms VTS' efficacy in promoting aesthetic understanding<sup>293</sup> and broader, visual literacy in general,<sup>294</sup> which is defined as the competency to discriminate and interpret visible actions, objects, and symbols, both natural and man-made, in the environment.<sup>295</sup> Nowadays, VTS is also used outside museums, in educational curriculums at numerous schools and universities around the world.<sup>296</sup> It is reported to be useful in other situations and with other subjects, and to develop skills like critical thinking, language and writing.<sup>297</sup> In higher education, VTS is mostly used to teach medical students observational and communication skills.<sup>298</sup>

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290 Arnheim, Baldwin, Bruner, Brunner, Chomsky, Coffey, Dewey, Kohlberg, Loevinger, Piaget, and Vygotsky. See section 5.1.

291 DeSantis Housen 2009:6

292 Housen 2001:3

293 Housen in Bresler & Ellis 2000-2001; Housen 2001

294 Hailey, Miller & Yenawine 2015:49

295 Debes 1969:27

296 Hailey, Miller & Yenawine 2015; Deunk 2020a; Mukunda et al. 2019; Yenawine 2018 & 2013

297 Yenawine 2018 & 2013; Hailey, Miller & Yenawine 2015:49; Housen 2001

298 Hailey, Miller & Yenawine 2015; Mukunda et al. 2019; Moorman 2015



The founders of VTS were Harvard University cognitive psychologist Abigail Housen and Philip Yenawine, at the time art education director of the New York Museum of Modern Art (MoMa). Yenawine searched for a way to make visitors remember more of the museum's educational programs. He contacted Housen for help, who had been studying the way viewers look at and understand art for years. Housen's research and stage theory about aesthetic development laid the foundations of the VTS method.<sup>299</sup> In her theory, Housen identified five stages in aesthetic development of viewers, each stage representing a shift in the way an art object is perceived and experienced.<sup>300</sup> In their extensive research about aesthetic development including more than six thousand participants, Housen and her collaborator DeSantis found that most of the research participants were beginner viewers,<sup>301</sup> and that their understanding did not develop with age, but through encounters with art. In their design of VTS as a method to develop aesthetic understanding, they aimed especially to meet the needs of those beginner viewers.

The VTS method is student-centered: teachers do not teach but foster aesthetic understanding through facilitating students' learning.<sup>302</sup> The main component, is a conversation<sup>303</sup> about art in which the teacher structures the exchange of views of the students through three engaging standard questions, and the paraphrasing of all answers that are given. The teacher asks the students to share their thoughts and listen, in turn, to the other group members. In doing so, they build on their own ideas and those of others.<sup>304</sup> On a superficial level, the VTS approach resembles Socrates' dialectical method of asking leading questions. VTS, however, is not aimed to lead the learner towards a specific conclusion but shows the learner a new way to gain understanding.<sup>305</sup>

Although VTS is increasingly used in educational curriculums, research about the efficacy of VTS components, including their educational underpinning, has not yet been published, nor has it been investigated how the classic educational and psychological theories of well-established

299 Hailey, Miller & Yenawine 2015:49; Yenawine 2018 & 2013, Housen in Bresler & Ellis 2000-2001:2; Housen 2001:3

300 Housen 1987:8; Stage I, or as Housen called them, *Accountive* viewers are viewers who act like list makers and story tellers, linking their own personal experiences to what they see. Stage II or *Constructive* viewers express a judgement on the work of art, attributing value to the work of art, based on their own norms of what they like and dislike or consider good art. Stage III or *Classifying* viewers act like art historians, classifying artworks based on previous learnt art historical knowledge. Stage IV *Interpretive* viewers seek personal encounter with the work of art, and Stage V *Re-creative* viewers feel as if a work of art has an identity of its own, like an old friend (Housen 1987:8). In Appendix 1, a more detailed description of these stages can be found.

301 Beginner viewers are viewers in stages I and II: DeSantis & Housen 2009:12; Housen in Bresler & Ellis 2000-2001:5; Housen 2001; Housen & DeSantis 2000

302 Housen 1997:5

303 In this paper, the exchange of views during a VTS session will be described as a *conversation* rather than as a *discussion*. Both have been used in literature about the method (e.g. Yenawine 2013; Housen 2001). The online Merriam Webster Dictionary (accessed 16 July 2021) defines *conversation* as *an oral exchange of sentiments, observations, opinions, or ideas*, which accurately describes the VTS process. The definition of the word *discussion* by the online Merriam Webster Dictionary (accessed 16 July 2021), *a consideration of a question in open and usually informal debate*, contains the word *debate*, which, in turn, is defined as *a contention with words and arguments*. As will be described in section 1.6, the free exchange of views without competition or rivalry is essential to the VTS process. It is secured by the VTS facilitator, who validates neutrally and equally every contribution of conversation participants. Therefore, in this thesis, the exchange of views in VTS will be called *conversations*.

304 Hailey, Miller & Yenawine 2015; Yenawine 2018 & 2013, Housen 2002

305 Housen in Bresler & Ellis 2000-2001:10

scholars, which Housen used in the design, have influenced VTS. In the next section, such an investigation can be found. Aim is to describe VTS' key elements and components, and to elaborate on the impact of VTS' grounding theories on its efficacy in education.

### 3. VTS' KEY ELEMENTS

To this end, an analysis has been performed of the existing literature of founders Housen and Yenawine about VTS, listing the components and grounding theories, reported in the literature to date. To identify relevant literature for this analysis, I conducted a keyword search in the following databases: Educational Resources Information Center (ERIC), Proquest, WorldCat Discovery & Picarta Online Contents and, to reduce the bias in the search,<sup>306</sup> also in Google Scholar. Key words used were: "Visual Thinking Strategies", "Abigail Housen" and "Philip Yenawine". Furthermore, I conducted a Google Scholar search in search engine Publish or Perish with title search word "Visual Thinking Strategies". I checked the reference list found in this way against the reference list on the websites of VTS Nederland, the VTS Organisation in the US and Philip Yenawine's personal website. Moreover, some references were found through snowballing<sup>307</sup> from reference lists of research papers found through the keyword search and through recommendation by people in my personal network. To determine which references I would include in the review, I used several criteria. Excluded were references that did not mention Housen or Yenawine as (one of the) authors, or referred to poster presentations, image collections, and audio and video recordings. Furthermore, I included Hornbacher's review<sup>308</sup> because it contained a clear summary of the tasks of students in a VTS conversation. To analyze VTS, I distilled and collected VTS' key elements and their characteristics from the descriptions of the method by Housen, Yenawine and Hornbacher.

The next step was to identify literature about the theories on education and cognitive development that were used in the design of VTS, aiming to provide an underpinning for use of the method in mainstream education. For this, I conducted a literature search for every scholar mentioned by Housen in her literature. I used reference lists in Housen's literature for this as well as Google Scholar. Furthermore, I analyzed how the theories that Housen referred to connect to VTS, and how she incorporated them in the method. The analysis of VTS in this chapter is based on the list of ten key elements Yenawine mentioned when describing VTS as an educational method in much detail, while using a lot of examples from educational practice with elementary school children.<sup>309</sup>

To give an idea of the process in VTS, below, one of the examples is cited which Yenawine mentioned about a situation in a class during a VTS conversation.<sup>310</sup>

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306 Lecy & Beatty 2012:12

307 Lecy & Beatty 2012

308 Hornbacher 2009

309 Yenawine 2018:29-62 and 2013:23-31, 167

310 Yenawine 2013:19-21, about Cheevers Meadows and His Daughters (1933, Doris Ullman Photograph Collection PHO38\_27\_3257, Special Collection and University Archives, University of Oregon Libraries, Eugene, Oregon. Image retrieved on 25 January 2024 from <https://www.vtsnederland.org/scholen-inlog-1>.



TEACHER: All right, take a minute to look at this picture.

TEACHER again, after a pause: What's going on in this picture?

STUDENT 1: I think a poor family and there's a little daughter, and a dad and maybe the mom left and they're just living in this little, tiny place. And that's why... I don't know if that's a little girl or boy... is crying. [As the student spoke, the teacher consistently pointed to all that was mentioned: the family, the dad, the child, the place]

TEACHER: Okay, so you're looking at these figures and thinking they're a family. And that they're poor. Maybe the mother left them. What did you see that made you say that?

STUDENT 1: Because they don't have, like, a very good house really. I think they're in that house. They don't have very good clothes either. Like their clothes are all wrecked up and ripped and the children's clothes are really dirty.

TEACHER: Okay, so you have several pieces of evidence that suggest they're poor to you. You're looking behind them, thinking they might live in a very plain house. And you're looking at their clothing and noticed that it's torn and soiled. All right, what more can we find?

STUDENT 2: Um, I think that they're a poor family and maybe their mom died and maybe like something happened, so they're... And I also agree with Julian, I think that they live in a little place and maybe like a horrible storm happened.

TEACHER: Okay, you have a few ideas. You are also wondering about the mother. What did you see that made you say that something happened to her?

STUDENT 2: 'Cause they're really upset and there's no mother in the picture.

TEACHER: Okay so we're missing a mother figure and you see the others as upset about it. And what did you see that made you say they looked upset?

STUDENT 2: Because they're not, like, smiling and the little kid is, like, crying.

TEACHER: Okay, so you're looking at their facial expressions and sort of seeing that no one's smiling, and this figure actually might even be crying. All right, what more can we find?

STUDENT 3: Well, I was thinking they are not poor, 'cause it doesn't matter what they look like. 'Cause they could have finished, like, gardening and they are all just dirty from all the dirt. And the house, I just think it is a regular house, like all of our houses because, it is just showing part of the house.

TEACHER: Okay, so you're offering another interpretation saying that people could be wearing clothes like this...ripped and dirty... if they've been out gardening. Maybe we don't know everything about their situation.

STUDENT 3: Just because their clothes aren't good, doesn't mean they are poor.

TEACHER: So wearing worn clothes doesn't necessarily mean you're poor. Maybe they have been out working. And you were saying that we don't have a lot of information about where they are. It is just a little piece of the background and you are saying it could be any house. Okay, so it's another way to look at that. What more can we find?

(...)

In this example, the key elements can be distinguished that were listed by Yenawine: a group conversation, a teacher who is trained in VTS (called a *facilitator*), silent looking, three carefully formulated standard questions, listening, pointing, paraphrasing, facilitator's non-judgmental stance, the linking of answers, a conclusion that is focused on the recognition of participants' contributions to the conversation, and a work of art to talk about.<sup>311</sup> Those key elements each play a specific role in VTS. All ten elements are described in detail in the subsections below, including Housen's and Yenawine's thoughts on how they contribute to VTS' efficacy on aesthetic development.

### 3.1 GROUP CONVERSATION

As a method to get the students to focus their attention, a structured group conversation is used.<sup>312</sup> According to Housen, the conversation in which the students share their thoughts out loud can be seen as a *working ground* for developing new patterns of thinking.<sup>313</sup> This process stimulates them to think actively, constructing one interpretation after another. The sharing of thoughts with peers enhances this effect. In this way, the social setting "strengthens students' evidentiary reasoning, and expands their cognitive repertoires".<sup>314</sup> The role of the students in a VTS conversation is threefold. First, they are asked to look carefully at and reflect about their views on the works of art. Second, they are asked to respond to a fixed set of three open-ended questions, through which they are asked to back up their observations with evidence from the works of art. Third, they are asked to listen to and consider the responses of others, allowing everyone to see more than they might have on their own and to consider multiple interpretations.<sup>315</sup> By looking again, reconstructing, and developing new hypotheses, the students learn that an aesthetic experience is open-ended and subject to multiple interpretations.<sup>316</sup>

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311 Yenawine 2018:29-62, and 2013:23-31, 167

312 Yenawine & Miller 2014:4

313 Housen 2001:3

314 Housen 2001:3

315 Hornbacher 2009:126-127

316 Housen in Bresler & Ellis 2000-2001:8

They experience that it is alright to make mistakes, that the more you look the more you see, that it is alright to change your mind, and that it is enjoyable to engage in this kind of problem solving. All of this is, of course, good inquiry behavior, useful throughout a student's education.<sup>317</sup>

### 3.2 TEACHER BECOMES A VTS FACILITATOR

In VTS, teachers do not teach but only facilitate students' learning.<sup>318</sup> Yenawine and Miller describe how skillful facilitation by a teacher assists both individual students and the group at large, to being able to express their thoughts fully and deepen the understanding of what they observe.<sup>319</sup> VTS facilitating in mainstream education, when strictly performed as designed, does not differ from VTS facilitation in museums. The VTS protocol is the same (Yenawine, 2013; Housen 2001). In this paper, like museum educators facilitating VTS, mainstream teachers facilitating VTS will also be called *VTS facilitators*.

The VTS facilitator's repertoire consists of some tasks, educational interventions used in facilitating the learning process: providing silent looking at the beginning of a VTS conversation and closing at the end, as well as asking three standard questions, paraphrasing non-judgmentally, and pointing out. However, they are listed separately as key elements by Yenawine.<sup>320</sup> Therefore they are described as separate elements below.

### 3.3 SILENT LOOKING

The VTS facilitator's first task in a VTS conversation is to ask for a moment of silent looking, which is considered one of the most important aspects of VTS.<sup>321</sup>

Given enough time for silent looking, art viewers guide themselves into the stories told in the images, while using their ability to look, figure out the meaning of what they see, and turn that into communication.<sup>322</sup>

For small children, Yenawine recommends making it a task with specific directions, like look from top to bottom, then side to side, or look for eye-catching things and small details.<sup>323</sup>

### 3.4 THREE CAREFULLY CRAFTED QUESTIONS

The second task of a VTS facilitator in a VTS session is starting the conversation and structuring it through asking a sequence of three specifically formulated standard open-ended questions. The questions aim to motivate and maintain the inquiry.<sup>324</sup> The first question is "What's going on here/

317 Housen in Bresler & Ellis 2000-2001:8

318 Housen 1997:5

319 Yenawine & Miller 2014:5

320 Yenawine 2018:29-62; 2013:23-31, 167

321 Yenawine 2018:42

322 Yenawine 2018:42

323 Yenawine 2018:61

324 Hailey, Miller & Yenawine et al. 2015:8; Yenawine & Miller 2014:4; Housen 2001:4

in this picture or What’s happening in this picture?”.<sup>325</sup> This question is designed to fit the frame of mind of beginner viewers,<sup>326</sup> by inviting them to do something they can already do very well: record their observations and tell a story. In this way, their attention is engaged and they are drawn into the conversation.<sup>327</sup> The second question is “What do you see that makes you say that?”.<sup>328</sup> This question will encourage participants to cite evidence for their interpretative comments and to support their hypotheses with visible clues to help others to understand them.<sup>329</sup> According to Housen, it is by allowing the participants to actively express and extend what they see, that the second question builds with them the motivation to generate multiple observations, and to share them. This is supported by the VTS facilitator by not evaluating responses, but by promoting that everybody feels comfortable sharing their observations.<sup>330</sup> Finally, the third and last question is “What more can you/we find?” This question is designed for reopening the exchange of ideas.<sup>331</sup>

### 3.5 LISTENING

These three open-ended VTS questions structure the conversation and support viewer’s self-sufficiency and confidence.<sup>332</sup> While asking those three questions, the VTS facilitator is busy with a third task: listening carefully to register everything students say.<sup>333</sup> The listening is combined with a fourth task: pointing to in the picture to what is being described.

### 3.6 POINTING

According to Yenawine, the pointing of facilitators to the observations that students mention not only helps the VTS facilitator remember what has been said,<sup>334</sup> but focuses participants’ attention on the details in the picture as well.<sup>335</sup> It provides what Hailey et al. refer to as a “visual paraphrase”.<sup>336</sup> Yenawine states:

Pointing out one’s child observation draws others’ eyes to a spot another might have missed and gives everyone a chance to discover more while there. For those learning English, it anchors words with images, a powerful way to increase vocabulary. (...) Teachers of English as a second language find the whole VTS process an efficient means of helping kids build both competency and confidence.<sup>337</sup>

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325 Hailey, Miller & Yenawine 2015:8; Yenawine 2013:25; Housen in Bresler & Ellis 2000-2001:7-8; Housen 1997:17  
 326 As said, in their research about aesthetic development, Housen and DeSantis found that most of the research participants were beginner viewers, in stages I or II (DeSantis & Housen 2009:12; Housen in Bresler & Ellis 2000-2001:5; Housen 2001; Housen & DeSantis 2000).  
 327 Housen 2001:4  
 328 Hailey, Miller & Yenawine 2015:8; Yenawine 2013:25-26; Housen in Bresler & Ellis 2000-2001:7-8; Housen 1997:17  
 329 Housen 2001:4  
 330 Housen 2001:4  
 331 Hailey, Miller & Yenawine 2015:8; Yenawine 2013:25-26; Housen in Bresler & Ellis 2000-2001:7-8  
 332 Hornbacher 2009:126-127  
 333 Housen in Bresler and Ellis 2000-2001:7  
 334 Yenawine 2018:36  
 335 Housen in Bresler and Ellis 2000-2001:7  
 336 Hailey, Miller & Yenawine 2015:57  
 337 Yenawine 2013:27

In a VTS conversation, the facilitator uses pointing two times: during listening to what students say and during the paraphrasing of those comments.<sup>338</sup>

### 3.7 PARAPHRASING

When the VTS facilitator reacts to what students say, they point to what has been mentioned and paraphrase what has been said simultaneously. During paraphrasing, the VTS facilitator rephrases each comment as accurately as possible, while framing concepts and linking answers. In this way, the VTS facilitator demonstrates not only that the student has been heard but has been understood as well, which builds students' sense of being valued and capable.<sup>339</sup> Housen explains that this paraphrasing is important, for it validates that every contribution is worthy of repetition.<sup>340</sup> Skillful rephrasing and summarizing offers additional vocabulary and grammar to students for expressing their ideas. In this way, it assists language development.<sup>341</sup> Finally, paraphrasing also serves a rather practical purpose: it ensures that all participants can hear each comment.<sup>342</sup>

### 3.8 FACILITATORS' NON-JUDGMENTAL STANCE

It is important that the VTS facilitators remain neutral or non-judgmental,<sup>343</sup> so students don't feel corrected.<sup>344</sup> Bresler and Ellis describe how VTS facilitators should take "as neutral a stance as possible" while paraphrasing: treating everyone and each comment in the same way, they theorize, ensures the participants' experience of a non-evaluative environment.<sup>345</sup> To this end, the VTS facilitators use conditional language, i.e., use forms of the verbs which allows to express speculations about what could happen, what might have happened, and what we wish would happen.<sup>346</sup> They should refrain from evaluating answers for this builds the intensity of engagement, and instead just insist that each shared observation is supported by evidence in the work.<sup>347</sup> However, it is not only evaluation of students' comments that VTS facilitators should refrain from. They should also avoid offering any information about the image or work of art or their own opinions.<sup>348</sup> Instead, facilitators should focus on encouraging all participants to share their thoughts, encouraging the thinking behavior of wondering.<sup>349</sup> It is the teacher-facilitator's sixth task.

### 3.9 LINKING OF ANSWERS

During paraphrasing, the VTS facilitator links thoughts about an image, which is the facilitator's seventh task. By linking answers, the VTS facilitator not only shows how ideas interact but makes sense of a conversation that otherwise might seem rather random.<sup>350</sup> Through linking, the VTS

338 Yenawine 2013:167

339 Yenawine 2013:28

340 Housen 2001:3

341 Yenawine 2013:29

342 Yenawine 2013:28

343 Yenawine 2018:108

344 Yenawine 2013:29

345 Bresler & Ellis 2000-2001:7

346 Yenawine 2013:29

347 Housen 2001:3

348 Yenawine 2018:59

349 Yenawine 2013:29

350 Yenawine 2013:29

facilitator teaches that both agreement and varying opinions based on the same image are legitimate. Linking not only legitimizes different opinions, but also shows how initial observations and ideas lead to other observations and ideas.<sup>351</sup> Furthermore, linking eliminates the need for a summary at the end, which is to be preferred in order to avoid choices.<sup>352</sup>

### 3.10 THANKING THE PARTICIPANTS

Eighth and last task in the VTS facilitator's role is ending the conversation. It consists of thanking the participants for their contributions without providing information about the work of art.<sup>353</sup> Yenawine emphasizes that also in this last part of the conversation, VTS facilitators should refrain from answering queries for information about the image or artist and resist their own urge to provide information. Students might ask for information, assuming from past experiences that the teacher knows all the answers. VTS facilitators should also refrain from pointing out why the exercise was necessary or by summarizing the conversation. According to Yenawine, such closures are not part of the VTS methodology, for they undermine valuing each answer in the same way.<sup>354</sup> To address such a situation, as a way of drawing things together, Yenawine proposes asking the question "What do you think you learn from image discussions?" However, this is not a part of the VTS methodology either.<sup>355</sup>

A VTS conversation lasts for forty-five minutes to one hour,<sup>356</sup> fifteen to twenty minutes for each picture, two or three images in one conversation.<sup>357</sup> With pre-school children, conversations need to be shorter, from ten to twelve minutes and should focus on one image only.<sup>358</sup>

### 3.11 WORKS OF ART

The images used in VTS can be actual works of art, as well as reproductions.<sup>359</sup> According to Yenawine, ideal images have four characteristics. First, they contain subjects that are familiar to and, second, of interest to the viewers based on their life experiences. Third, they are adjusted to the viewers' knowledge and viewing skills. And fourth, they contain narratives that are layered and ambiguous, with accessible meanings and storylines but with room for interpretation, to inspire debate.<sup>360</sup> With small children, the use of abstract images should be avoided, for their brains are not yet wired to the formal and reductive thinking that motivates artists. Furthermore, scary or macabre images are best avoided as well when working with children.<sup>361</sup>

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351 Yenawine 2018:59 & 2013:30

352 Yenawine 2018:59 & 2013:30; Hornbacher 2009:127

353 Housen in Bresler & Ellis 2000-2001:7

354 Yenawine 2013:31

355 Yenawine 2013:32

356 Housen in Bresler & Ellis 2000-2001:7

357 Yenawine 2013:23

358 Yenawine 2018:15

359 Yenawine & Miller 2014:4

360 Yenawine 2018:61; Yenawine & Miller 2014; Housen in Bresler & Ellis 2000-2001

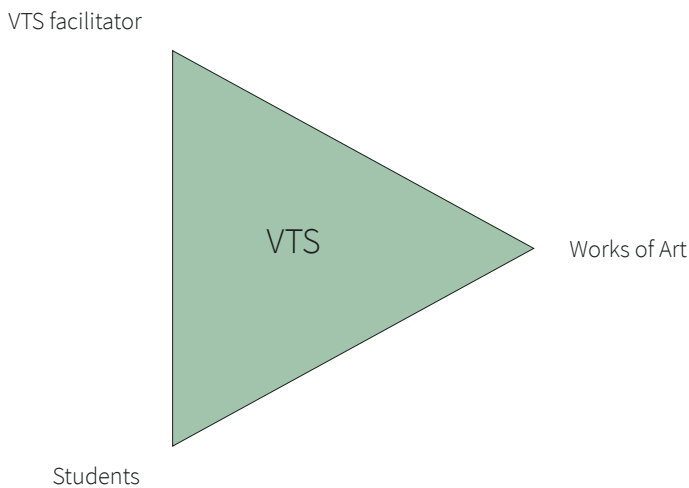
361 Yenawine 2018:38



## 4. VTS MAIN COMPONENTS: CATEGORIZATION OF KEY ELEMENTS

From the aforementioned information about VTS' key elements listed by Yenawine, three specific roles emerge: first, students, or participants in general, as active peers in a group conversation who exchange ideas, second, their teacher as a trained VTS facilitator who structures the group's conversation, and third, works of art as the subject to talk about. Those key elements, I therefore consider VTS' main components. Their interaction forms a triangular relationship, in which students and the VTS facilitator both look at the work of art during a VTS conversation, as depicted in Figure 1.

■ **Figure 1** – VTS Components



The other key elements of VTS listed by Yenawine<sup>362</sup> are in fact part of the VTS facilitator's role: educational interventions the VTS facilitator is taught to use during the facilitation of a VTS conversation: silent looking, three standard questions, careful listening, paraphrasing, pointing, linking, maintaining a neutral stance in a non-judgmental way, and thanking participants at the end of a VTS conversation. In the literature about VTS, such elements containing details about their role could also be found about the role of the other two components of VTS: students and works of art. These are the three aforementioned tasks of the students in a group conversation (see section 3.1) and the four aforementioned characteristics of works of art (see section 3.11). Therefore, to complete the list of VTS key elements, the three student tasks and four characteristics of works of art are added to Yenawine's aforementioned list of key elements.

As said, the now in total eighteen VTS key elements can be categorized in three groups, since they are either a task in VTS' main components *Students* or *VTS facilitator* or a characteristic of the

362 Yenawine 2018:29-62 and 2013:23-31

*Work of Art*. Underneath, in Table 1, the three VTS main components and their specific elements are listed.

**Table 1** – VTS Main Components & their elements

Students -> Peers in a group conversation	Teacher -> Trained VTS facilitator	Works of Art -> Image or Object, real or on screen
<b>Tasks:</b> 1. Looking silently, reflecting about their views on the work of art and interpreting 2. Responding to three open-ended questions: talking about their views and backing up their observations with evidence from the work of art 3. Listening to and considering responses of others	<b>Tasks:</b> 1. Providing for a moment of silent looking 2. Asking 3 standard questions 3. Careful listening 4. Pointing 5. Paraphrasing 6. Linking of answers 7. Maintaining a neutral/non-judgmental stance 8. Thanking participants for contribution at the end of the VTS conversation	<b>Characteristics/works of art provide:</b> 1. A subject that is accessible/familiar 2. A subject that is of interest of participants 3. A narrative that is ambiguous with room for interpretation 4. Adjustment of participants' knowledge and viewing skills

## 5. VTS' GROUNDING THEORIES

### 5.1 SOCIAL CONSTRUCTIVIST & DEVELOPMENTAL APPROACH

As mentioned in section 1, VTS is built on the methodology and findings of Housen's research on aesthetic development. In her study, Housen found that central to aesthetic growth are "habits of mind like observing carefully, evaluating, synthesizing, justifying, and speculating, which have a long history in education."<sup>363</sup> In her reports and articles, Housen refers to several scholars, in alphabetical order: Arnheim, Baldwin, Bruner, Brunner, Chomsky, Coffey, Dewey, Kohlberg, Loevinger, Piaget and Vygotsky.<sup>364</sup> Housen realized that many of these scholars advocate learning activities that include observing, responding, and thinking, and that in the process of learning, thinking always needs something, a subject, as a medium for its exercise and development. Housen found that art could be such a subject.<sup>365</sup>

Social constructivist<sup>366</sup> and developmental approaches play a major role in Housen's stage theory of aesthetic development and her design of VTS.<sup>367</sup> Housen considers these approaches the "best guides to aesthetic appreciation" and explains why in the following paragraph:

363 Housen 2001:101

364 Housen 2001-2002:129-131; Housen 2001:6-9; Housen 1997:5 & 29-30; Housen in Bresler & Ellis 2000-2001:7  
For a detailed overview per scholar of VTS's grounding theories, see Appendix Chapter 4, section 1.2.

365 Housen 2001:101

366 Constructivism is a theory about human learning. The central idea is that people construct new knowledge through actively and personally building on previous learning experiences (Elliott et al. 2000:256). According to social constructivists like Dewey (1938), learning is a social activity, that is determined by the shared environment. A child learns its culture, but at the same time influences and changes this culture as well (Fox 2001:30).

367 Housen 2001-2002:129-131; Housen 2001:6-9; Housen 1997:5, 29-30; Housen in Bresler & Ellis 2000-2001:7

In trying to interpret an image, the (beginner) learner may begin to realize that all the marks on the page cohere and together form a meaning that makes sense. With this insight and with time, the learner realizes that this coherence could not have happened by chance; someone planned this connectivity. Once discovered, intentionality becomes a new basis for interpreting a work of art.<sup>368</sup>

Building on Piaget's and Vygotsky's theories, Housen theorized that, in aesthetic understanding, children could learn the cognitive concepts of a later stage only when they are ready. As it turned out in Housen's research, exposure to art over time was the only way to develop aesthetically, not age or education.<sup>369</sup> Therefore, while rejecting age as the defining variable for aesthetic development, Housen integrated the theory of developmental psychologist Loevinger<sup>370</sup> about personal development. Loevinger's stage theory on ego development and methodology has been "instrumental",<sup>371</sup> as Housen called it, a guide and inspiration in the development and design of Housen's research methodology and stage theory, which were at the basis of VTS.<sup>372</sup> The defining manifestations of the stages in both Loevinger's and Housen's stage theory, formulated in a coding manual, were not age-specific.<sup>373</sup>

368 Housen 1997:5

369 Hailey, Miller & Yenawine 2015:53; Housen in Bresler & Ellis 2000-2001:5

370 Loevinger, educated in psychological aesthetics and psychometrics (Loevinger 2002:197), is mostly known for her stage theory on ego development. Loevinger defined seven stages of ego development: the first being the newborn stage 'Presocial/symbiotic', in which no self can be measured, via the stages of 'Impulse ridden', 'Opportunistic', 'Conformist' and 'Conscientious', to the last grown-up 'Autonomous' and 'Integrated' stages, eventually demonstrating a fully developed autonomous self. According to Loevinger, each stage has its 'milestones' (1966:198): impulse control, interpersonal relationships, and conscious preoccupation. Impulse control in the first stage doesn't exist: a baby cannot distinguish itself from its mother. It is only at the end of the first stage, when language comes into play, that the ego starts to exist. The toddler starts exercising its own will. More and more, references to inner feelings become stereotyped and moralistic, while rules provoke shame. Later, morality becomes internalized and when transgressed, guilt is felt. Access of introspection marks the last stages, including self-consciousness and self-criticism. Finally, conflicts are felt in terms of inner conflicts. The second sort of milestones in ego development are interpersonal relationships. At first, they are exploitive and totally dependent but soon they are shifting away from this dependence. Reciprocity becomes important and mutual trust in a narrow in-group. In the last stages, recognition of other persons' autonomy is felt along with acceptance of individual differences (Loevinger 1966:200). The third sort of milestones is conscious preoccupation. At first, it is with material things and, in later stages, status, obligations, and ideals. In the last two stages, a person grows towards individuality and self-fulfillment.

According to Loevinger, in defining an ego stage, defining manifestations of behavior must be done carefully (1966:203). As it turns out, ego development is only partly linked to age and therefore, while defining ego stages, the focus needs to be on manifestations that are not age-specific. Moreover, to be able to classify correctly, raters need a sufficient intellectual and ego level, as well as introspection. Training is also necessary to be able to properly use the rating method and manuals for ego measurement (Loevinger 1966). Loevinger sees ego development as a distinct human trait (Loevinger 1966:205). This is in contrast with Kohlberg, who theorized that ego development is formed by both cognitive and moral development (Kohlberg & Mayer 1972:491), and in contrast with Piaget's theory that ego development is part of cognitive development (Piaget 1952). According to Loevinger, the ego can be measured separately (Loevinger 1966:200-201).

371 Just like Loevinger, Housen thought of a stage theory that is defined by experience and encounter, not by age. Furthermore, just like Loevinger, Housen used an empirically derived coding manual and instruction to raters in her research methodology in which the defining manifestations were not age-specific (DeSantis & Housen 2009:10; Hy, Loevinger & Walsh 1998; Housen 1997:7).

372 DeSantis & Housen 2009:10; Housen 1997:29

373 Housen 1997:7; Loevinger 1966:204

Through the defining manifestations of the stages by experience with art instead of age, Housen's stage theory differed from that of constructivist psychologists like Baldwin,<sup>374</sup> who published extensively about aesthetic development related to age and to human cognitive development in general.<sup>375</sup> Although their theories differed at a significant point, Baldwin's theory<sup>376</sup> about thinking has been one of the building blocks of Housen's theory on aesthetic development.<sup>377</sup> Baldwin described how cognition grows out of the experience of new-born babies. This experience of newborns is "pure", yet without the later categorization through reflection which ultimately leads to aesthetic and ethical consciousness.<sup>378</sup> As this consciousness develops, experiences will become more meaningful, and progressively attach value through connecting with earlier experiences, Baldwin stated.<sup>379</sup> He stressed that children's tendency to play is essential in the process and needs to be stimulated continually.<sup>380</sup> It is the reason that curiosity is at the heart of VTS, as is the importance to allow them to playfully wonder about whatever they see. Yenawine called this "permission to wonder".<sup>381</sup>

This stimulating of wondering, of curiosity, links to another theory on aesthetic development which Housen used in building VTS, namely of Coffey. Like Baldwin, Coffey related cognitive developmental stages to aesthetic development.<sup>382</sup> In his theory, Coffey distinguished between aesthetic preference and aesthetic judgment.<sup>383</sup> In the process of developing both, Coffey found curiosity and discovery important.<sup>384</sup> It is core constructivist developmental philosophy and

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374 In Baldwin's theory, dualisms play an essential role: *mind-body* and *subject-object* (1906:120). Baldwin theorizes that it is through imaging, being the use of memory as a representing mode that, in human experience, dualism grows between the 'self' and the 'not-self' (Baldwin 1906:62). Memory not only consists of images of perceived objects or *sense objects*, as Baldwin calls them, but also of contexts that control their meaning (1906:70-72). "Imagination detaches images from the world of natural objects, then experiments with them and grows them into a parallel symbolic world, a world of meanings and ideas" (Parsons 1980:32). In control of the *inner* symbolic world is the *self*, in control of the *outer* natural world is the *not-self* (Parsons 1980:32, Baldwin 1906:118). According to Baldwin, in its essence, the self-function is a control function, its progression leading to reflection (1906:117). Baldwin's development of *aesthetic consciousness* relates to three *modes* or stages of the development of self-understanding: *adualistic*, *dualistic but not yet reflective*, and *dualistic reflective* (Parsons 1980:49).

375 Parsons 1980:42; Baldwin 1906

376 The modes of development of early constructivist psychologist Baldwin were an inspiration for Housen's stage theory. Housen's Stage I (Accountive) resembles Baldwin's first Pre-Logical mode, the childish phase of make-believe and imagination. Housen's stages II (Constructive) and III (Classifying) resemble Baldwin's Quasi-Logical mode, which occurs as children begin to pay more attention to the object itself and their own thoughts about it (Baldwin 1906:96-100). In this phase, judgement starts to play a role (Baldwin 1906:121). Lastly, Housen's Stages IV (Interpretive) and V (Re-creative) seem to refer to Baldwin's Logical mode, in which the capacity for reflection and interpretation of self as the subject of experience emerges (Parsons 1980:42). Housen's labeling of most experienced viewers in stage 5 as Re-creative is the same as Baldwin's label for the activity of experienced art viewers. Baldwin calls this activity re-creating, referring to a mental activity similar to that of the artist who created it (Parsons 1980:33): "They try to fit together the significance of aesthetic objects and their parts, being both of the natural world and the world of ideas" (Baldwin in Parsons 1980:33).

377 Housen 1997:29

378 Baldwin in his book "Thoughts and Things" (1906):45

379 Baldwin 1906:46-47

380 Baldwin 1906:115 / Baldwin introduced the motto of "play for play's sake" (1906:115, 124-125), much later used by the OECD in their report Art for Art's Sake about the merits of art education (2013).

381 Yenawine 2013:1

382 Housen 1997:29

383 Coffey 1968:2

384 Coffey 1968:2-3

Housen therefore considered it an effective learning strategy.<sup>385</sup> Moreover, Housen placed this process of discovery at the heart of her research methodology and stage theory of aesthetic development and, through this, of VTS.<sup>386</sup> The questions Housen used in her research methodology to spark participants' thoughts about a work of art were used in the first version of VTS.<sup>387</sup>

## 5.2 WORKS OF ART IN VTS

Housen made a carefully chosen artwork an essential ingredient for enhancing aesthetic understanding. In this context, she followed Baldwin's theory on *Sembling*, which was his translation of the German *Einfühlung* or *Aesthetic Sympathy*. According to Baldwin, *Sembling* is essential in the development of play, as well as in the experience of the appreciation of art.<sup>388</sup> For both play and appreciation of art, objects should be adequate and appropriate, Baldwin states. They should be either neutral, to be able to be used in play simulation so the child could pretend they were whatever the child chose them to be, or have meaning, relations, and "dramatic" possibilities, which made those objects useful for roleplay.<sup>389</sup> Inspired by Baldwin, Housen included in the design of VTS works of art which would meet the developmental needs and capacities of beginner viewers, who prefer less complex images: images of situations they can easily relate to.<sup>390</sup> As a result, Housen also included in VTS the theory on appropriate works of art of another scholar: Brunner. In her research, Brunner found that all age groups, kindergarten to college students, preferred realistic paintings as much or more than abstract paintings. This aesthetic preference and judgment turned out not to be age-dependent.<sup>391</sup>

Works of art in VTS need to be ambiguous, Housen concluded, to inspire and spark the exchange of views.<sup>392</sup> In this way, viewers can build on their own thoughts and experiences, but need others to expand understanding, which is essential for learning. Housen built on Loevinger's theory, that personal development occurs through interacting with the world and the people in it, while trying to make sense of it.<sup>393</sup>

Another scholar whose theory was important for Housen to include in VTS in this respect was Vygotsky's theory to the effect that a Zone of Proximal Development (ZPD) is important for learning.<sup>394</sup> This ZPD is the gap between the knowledge and skills students already have and the

385 Housen in Bresler & Ellis 2000-2001:7 & 10

386 Housen in Bresler & Ellis 2000-2001:6. A detailed overview of Housen's stage theory of aesthetic development can be found in Appendix Ch.4/1.2.

387 Housen 1997

388 Baldwin 1906:124

389 Baldwin 1906:115

390 Housen 2001:4 & 9

391 Housen 1997:29; Brunner 1968:1

392 Yenawine & Miller 2014; Housen in Bresler & Ellis 2000-2001

393 Housen 1997:29; Loevinger 1966:201

394 According to Soviet psychologist Vygotsky, "learning is a necessary and universal aspect of the process of developing (...) psychological functions (1978:90). Educated as a lawyer and philologist, Vygotsky is mostly known for his work on the psychological development in children. Besides his theory about the ZPD, in this paper, also his ideas on the relationship between thoughts and language were used by Housen.

potential knowledge and skills that are within their reach.<sup>395</sup> Well-chosen ambiguous works of art provide such a ZPD.<sup>396</sup>

The necessity of ambiguity is also underpinned by Piaget's ideas on *good education*. Such education involves creating situations for children in which they can experiment and seek their own answers (Duckworth, 1964:497). It is the core of VTS.

### 5.3 GROUP CONVERSATION

In the design of VTS, the use of ambiguous works of art and the group conversation are related. Both are essential for the exchange of ideas, which are sparked by both the ambiguity of the work of art and participants' earlier experiences. To this end, Housen used theories by Dewey<sup>397</sup>, Piaget,<sup>398</sup> Loevinger,<sup>399</sup> Vygotsky<sup>400</sup> and Chomsky<sup>401</sup> on how learning occurs through social and cultural interaction, instead of knowledge being passively transmitted by teachers to students. In VTS, students are encouraged to build on their own experience, instead of adopting the VTS facilitator's way of seeing.<sup>402</sup>

Group conversation in VTS forms a situation of continuity of experience and interaction. These are principles of *progressive* education as suggested by Dewey.<sup>403</sup> Such education is opposed to *traditional* education, in which teachers provide the knowledge children should learn. In *progressive* education, teachers do not provide knowledge, but only create the conditions in which learning experiences can occur, giving every individual student the opportunity and responsibility to contribute to the social process.<sup>404</sup> In the social process, the group may contain more knowledgeable peers, who are considered essential for learning. The expression of thoughts and ideas of those more knowledgeable peers help students in bridging Vygotsky's ZPD, the distance between one's own actual developmental level and one's potential level.<sup>405</sup>

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395 Sanchez & Toledo 2009; Van der Veer & Valsiner 1993:57; Vygotsky 1978

396 DeSantis Housen 2009:6; Housen 1997:5

397 Dewey opposed the idea of learning being "acquisition of what already is incorporated in books and in the heads of the elders: It is taught as a finished product", assuming that would make the future like the past (Dewey 1938:19). He opposed *traditional* education against *progressive* education, in which personal experiences in the present are as important as the knowledge and skills of adults or more matured persons (p. 21). As an important principle of *progressive* education, Dewey promotes continuity of experience, because of the way it forms habits and attitudes (p. 35), and interaction (p. 43). Judgment of experiences puts together what is observed and what is recalled from a person's own experiences and those of others, to see what they signify, being "the consequences that will result when what is seen is acted upon" (p. 68). Dewey stressed: "In the process [of interpretation and judgement], a suggestion from one who has a larger experience and a wider horizon should not be at least as valid as a suggestion arising from some more or less accidental source" (p. 71).

398 Piaget 1952; Duckworth 1964

399 Loevinger 1966

400 Vygotsky 1978

401 Chomsky 2006

402 Housen 1997:5

403 Dewey 1938:19

404 Dewey 1938:21

405 DeSantis & Housen 2009:6; Sanchez & Toledo 2009; Van der Veer & Valsiner 1993; Vygotsky 1978

The exchange of experiences creates a situation in which every participant's experience contributes to the process of discovery. This situation in VTS is based on Coffey's theory on aesthetic development and, through this theory, on the constructivist theory on the importance of the process of discovery in learning.<sup>406</sup> It also includes Baldwin's thoughts on how experiences will become more and more meaningful as they occur, progressively attaching value, while connecting with earlier experiences.<sup>407</sup> Moreover, Piaget's thoughts on the importance of seeking one's own answers and exchange of views are also included, suggesting VTS to be *good* education. Such *good* education according to Piaget involves presenting situations to children in which they can experiment and seek their own answers, while comparing their findings with those of others.<sup>408</sup> Strategies include *accommodation*, the taking in of new information and learning how to use it, and *assimilation*, changing existing strategies because of new perceptions. According to Piaget, intelligence develops as partial understandings are related to one another as well as revised and broadened because of the comparison.

Kohlberg's ideas added to the aforementioned theories, which Housen referred to while designing VTS' group conversation of peers.<sup>409</sup> According to Kohlberg, children tend to more quickly function well in cooperative human interactions when children are more prompted to imagine how others experience things.<sup>410</sup> In Chapter 3, in the design of the theoretical model, this is linked to the development of empathy.

## 5.4 FACILITATOR'S ROLE

In VTS, Housen defined the teacher's role using Vygotsky's<sup>411</sup> and Bruner's<sup>412</sup> thoughts on *scaffolding*. This can be defined as the way teachers can help students in their learning through choosing and organizing the specific conditions that are necessary for the learning process.<sup>413</sup>

Bruner, who studied the effects of psychology on legal practice, emphasized the importance of studying not just the response to a stimulus, but also its perception, its internal interpretation.<sup>414</sup> He coined this term *scaffolding* in his studies about the way children learn and what is required of a teacher to get a learner to discover on his own: "scaffolding the task in a way that assures that only those parts of the task within the child's reach are left unresolved, and knowing what elements of a solution the child will recognize though he cannot yet perform them."<sup>415</sup> In the literature, this concept of scaffolding has been connected to Vygotsky's aforementioned ideas

406 DeSantis & Housen 2009:3-4; Housen 2001:4; Housen 1997:29; Piaget 1952:210-262, Coffey 1968

407 DeSantis & Housen 2009:3; Baldwin 1906:45-47

408 Duckworth 1964:497

409 Kohlberg theorized that ego development is formed by both cognitive and moral development (Kohlberg & Mayer 1972:491). Kohlberg proposed a form of Socratic moral education (Rest et al. 1988:340).

410 Kohlberg & Mayer 1972:463; Housen 2001-2002:129

411 Housen 2001:4

412 Bruner was a cognitive psychologist and senior research fellow teaching at the New York School of Law, influenced by Piaget and Chomsky (Bourgoin 1997; Bruner 1977:viii).

413 Housen 2001:6; Bruner 1977:xiv

414 Bourgoin 1997; Bruner 1977:viii.

415 Bruner 1977:xiv

on the ZPD,<sup>416</sup> into the theory that students learn when a situation is within their capabilities, and includes the help of a more capable peer, adult, or expert, e.g., a teacher, “to facilitate individual cognitive growth and knowledge acquisition.”<sup>417</sup> In building VTS, Housen and Yenawine adopted this scaffolding and facilitating,<sup>418</sup> and modeled the teacher’s role into being a “facilitator of the reasoning process and aesthetic growth”.<sup>419</sup>

### 5.4.1 Moment of Silence

A VTS facilitator always starts a VTS conversation with a moment of silent and careful looking at the work of art.<sup>420</sup> According to Yenawine, this provides students with an opportunity to reflect, dive deeper into the work of art’s narrative, and prepare for communication about it. The educational value of a moment of silence is grounded in Dewey’s theory about the importance of teaching students to refrain from immediate response. According to Dewey, a moment of silence in which observation and memory unite, triggers the internal control of impulse. This creates the “power of self-control”, which, according to Dewey, is the ideal aim of education.<sup>421</sup>

### 5.4.2 Three Standard Questions

The questions and practice of Housen’s own research methodology were at the basis of the three standard questions used in VTS.<sup>422</sup> Housen developed a special research method to be able to study viewers’ aesthetic thoughts through their speech: the Aesthetic Development Instrument (ADI).<sup>423</sup> A key ingredient of the ADI was allowing research participants to speak freely and candidly through a non-directive interview technique.<sup>424</sup> The method collected a direct sampling of the participants’ thoughts, revealing their response to the work of art, i.e., aesthetic understanding, in process.<sup>425</sup> Housen called this the *stream of consciousness*.<sup>426</sup> It connects with Baldwin’s *flux of life*, also called *sensational stream*, to which Baldwin referred while describing the experience of newborn babies before their reflection has categorized it.<sup>427</sup> Housen’s *stream of consciousness* also connects with Vygotsky’s<sup>428</sup> arguments about the relation between thinking and language.<sup>429</sup> Vygotsky theorizes that, while human visual perception is integral, speech is analytical and requires sequential processing. This means that every element is first labeled separately and then connected.<sup>430</sup> In the ADI, this process of analyzing thoughts about a work of art and labeling

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416 According to Vygotsky, “learning is a necessary and universal aspect of the process of developing (...) psychological functions” (1978:90). Human culture and language play an important role here (Van der Veer & Valsiner 1994).

417 Van der Veer & Valsiner 1994:57

418 Housen 2001:4

419 Housen 2001:1

420 Housen in Bresler & Ellis 2000-2001:7

421 Dewey 1938:64

422 Hailey, Miller & Yenawine 2015:54

423 DeSantis 2009:7

424 Housen 1997:6

425 DeSantis 2009:7

426 Housen 1997:6; 1987:3

427 Baldwin 1906:45

428 Vygotsky & Luria 1930, the section on Speech and action in child behaviour

429 Vygotsky 1978:90

430 Vygotsky 1978:33



in words, connecting through speech of perception and thoughts, could be sampled directly.<sup>431</sup> Specially trained in using the ADI, the researcher would ask the research participants only one question: *What is going on here?* The research participants would then start to talk about their continuing experience and thoughts about the work of art, spoken out loud. Housen formulated this first question of the ADI similar to the one Arnheim<sup>432</sup> used in a story illustrating his theory that the comprehension of photographic pictures cannot be taken for granted.<sup>433</sup> The only other intervention was to ask the question: *Is there anything else?*,<sup>434</sup> a question used to promote further reflection on the work of art. Whereas the ADI's first question can be recognized as the same as VTS' first question *What is going on here?*, the ADI's last question *What else can we find?* can be recognized as the VTS' third and last question.<sup>435</sup>

Besides referring to Baldwin's *flux of life* and Arnheim's inquiring question *What is going on here?*, the first VTS question *What is happening in this picture?* can also be seen related to Piaget's emphasis on *encounters with experience* as one of four factors contributing to the development of intellectual capacity. The other three factors are *maturation of the nervous system*, *social transmission* and *equilibration or autoregulation*.<sup>436</sup> According to Piaget, experience through experimenting as is sparked by the first VTS question is an essential part of good education.<sup>437</sup>

The exchange of views through VTS' questions also fits Dewey's *progressive* education, in which personal experience plays a major role.<sup>438</sup> VTS' second question, *What do you see that makes you say that?*, empowers students to contribute to the process of discovery, considering their own capacities, needs, and past experiences. This adapting to the students' possibilities lies at the heart of *progressive* education.<sup>439</sup> Empowering students to contribute to the group discovery relates also to Coffey's thoughts on discovery being the motor of aesthetic understanding and judgment.<sup>440</sup> According to Yenawine, the second question encourages the viewer to generate multiple observations and show evidential reasoning.<sup>441</sup> The question helps students return from the world within their own thoughts,

431 DeSantis & Housen 2009:7

432 Arnheim published extensively on the psychological side of art, his magnum opus in this respect being *Art and Visual Perception: A Psychology of the Creative Eye* (1954-1974). In his work, Arnheim relates Gestalt psychology to art: "Gestalt theory describes how the factual world is not simply understood through perception as a random collection of sensory data, but rather as a structured whole. Perception itself is structured, is ordered. This also concerns art. (...) The essence of an image is its ability to convey meaning through sensory experience. Signs and language are established conceptual modifiers; they are the outer shells of actual meaning. We must realize that perception organizes the forms that it receives as optical projections in the eye. Without form an image cannot carry a visual message into consciousness" (Grundmann & Arnheim 2001). Arnheim criticizes the assumption that language goes before perception (Arnheim 1998:22). He argues that perception is strongly identified with thinking, and artistic expression is just another way of reasoning (Arnheim 1998:25).

433 Arnheim 1969:309; Housen & DeSantis 2000:2; Housen 1997:29

434 Housen 1997:7

435 Housen 1997:17-18

436 Duckworth 1964:496

437 Duckworth 1964:497

438 Dewey 1938:10 & 42

439 Dewey 1938:72

440 Coffey 1968

441 Yenawine 2013:166

the world of associations and imagination, to the work itself.<sup>442</sup> This refers to Baldwin's differentiation between the natural and a parallel symbolic or imaginative world, described in his theory about the development of imagination and self.<sup>443</sup> Through fostering the development of imagination, aesthetic development fosters the development of self and self-understanding.<sup>444</sup>

The third question, *What more can we find?*, also links to Dewey's *progressive* education: it brings the inquiry back to the center of the group process and, in doing so, provides *continuity of experience* and *interaction* with peers<sup>445</sup> who might have more knowledge. This connects to the theory of ZPD, as described in the above. Furthermore, the question fosters curiosity and discovery because it invites conversation participants to further explore the works of art. In this way, this question is also linked to Coffey's findings about the importance of curiosity and discovery in aesthetic development.<sup>446</sup>

### 5.4.3 Paraphrasing through Pointing and Speech

Besides providing for a moment of silent looking at the start of a VTS session, it is also through paraphrasing that the VTS facilitator gives participants some time to focus and to think before they speak.<sup>447</sup> In this way, paraphrasing extends the experience and fosters the interaction, both principles of Dewey's *progressive* education.<sup>448</sup>

In VTS, paraphrasing is used through both pointing and speech. Both can be considered symbolic signs that serve as a means of social contact with other people.<sup>449</sup> According to Vygotsky and Luria, gestures like pointing are as important in language development as speech. Like speech, pointing is important in developing introspection and cognitive growth.<sup>450</sup>

According to Chomsky,<sup>451</sup> in human language, surface structures are combined with deep structures of an innate linguistic capacity (2006:25). Those two connect words and meaning.

442 Housen 2001:4

443 Parsons 1980:32

444 Parsons 1980:49

445 Dewey 1938:10 & 42

446 Coffey 1968:2-3

447 Yenawine 2013:24

448 Dewey 1938:21

449 Bruner 1960/1977:xiv; Vygotsky 1978; Vygotsky & Luria 1930

450 Vygotsky and his colleague Luria (1930) observed how children develop inner speech and introspection through several phases: at first pointing, then speaking out loud, and later moving their mouth without sound, called Inner speech, i.e. "thinking in pure meanings" (Vygotsky 1962:149). According to Vygotsky and Luria (1930), gestures, like pointing, as well as speech are important in early language development and as a result also, in developing introspection and intelligence. Pointing and speech are used as symbolic signs that serve the child as a means of social contact with other people and as a means of self-influence and auto-stimulation. According to Vygotsky and Luria, they form a layer between the child and his environment, giving the child the freedom to choose how and when it will react (Vygotsky & Luria 1930, section on Speech and action in child behavior).

451 According to Chomsky, an American linguist, philosopher, and cognitive scientist, the surface structure of the sentence, i.e., the organization into categories and phrases, can be distinguished from underlying deep structures. This is also a system of categories and phrases, but with a more abstract character, connecting words and meaning. These structures are combined with the *surface* structures that are directly associated with the physical signal, [*relating*] *phonetic rules into sound* (Chomsky 2006:25).

Chomsky describes that, like walking, language is both innate and learned (2006:25). Education needs to provide assistance for language to develop normally in a child and to create optimal circumstances for learning instead of just 'filling a vessel'. The latter being *non-education*, according to Chomsky.<sup>452</sup>

#### 5.4.4 Neutral/Non-Judgmental Stance

At the core of VTS is also the VTS facilitator, who does not teach, but only provides an optimal learning environment. It builds on Dewey's theory of *progressive* education that, in the learning process, it is essential to build on one's own experience and not to try and adopt an experts' way of looking at things.<sup>453</sup> Furthermore, it connects to Chomsky's theory of *being truly educated*.<sup>454</sup> As mentioned above, in *true* and *progressive* education, teachers do not provide knowledge, but only create the conditions in which learning experiences can occur. In this way, they give every individual student the opportunity and responsibility to contribute to the social process (Dewey, 1938:21).

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### 5.5 VTS' BUILDING BLOCKS: OVERVIEW OF GROUNDING THEORIES

In the above sections, I described in detail how the work of the scholars Housen referred to connect with VTS. Below is a short alphabetical overview of scholars and how their theories and findings connect with the design of VTS.

At the basis of VTS' first question was Arnheim's question about understanding pictures. A further building block for Housen's ADI and VTS' first question was Baldwin's theory of *flux of life*, thoughts on aesthetic development related to age and to human cognitive development in general, growing out of pure experience. In the process, play is important. Objects for play should be appropriate and neutral or have a specific meaning for the child. Thus, Baldwin's theory is also building block for the characteristics of the works of art used in VTS: they should meet developmental needs and capacities of viewers, and also be images to which viewers can relate. Out of Baldwin's theories, the third building block for VTS is his differentiation between the natural and a parallel symbolic or imaginative world. VTS's second question is built on that, asking viewers to add visual argumentation to the thoughts expressed about the image.

On Housen's reference list are also Brunner and Chomsky. In VTS, Housen used Brunner's finding that all age groups prefer realistic paintings, which forms a building block for the importance of works of art being well-chosen. Chomsky provided theories which are the building blocks for two elements of the VTS facilitator's role: paraphrasing and the neutral/non-judgmental stance. They include the theories on how language is both innate and learned, and on *true* education, in which students need guidance and examples, and teachers (rather than teaching) who only create the right circumstances for learning.

452 Chomsky 2000:38

453 Housen 2001-2002:101 & 1997:5; Duckworth 1964:499; Dewey 1938:19

454 Chomsky 2006

Housen also used Coffey's theory, in which aesthetic preference is distinguished from judgment and that there is a relation between aesthetic development, development in art understanding, to cognitive developmental stages. He considered curiosity and discovery as important in the process. Both elements found their way into VTS as building blocks for group conversation. Building blocks for the three open-ended VTS questions are Coffey's ideas on the importance of creating a situation in which every participant's experience contributes to the process of discovery, empowering students to contribute to the group discovery and to further explore the work of art.

Building blocks for both the group conversation and the VTS facilitator's role are Dewey's theories on *continuity of experience* and *interaction* as principles of *progressive* education. Dewey's ideas sketch how such education gives individual students the opportunity and responsibility to contribute to the social process. The ideas have been translated into VTS in pointing and paraphrasing as well as in VTS' third question, which brings the inquiry back to the center of the group process. As the seventh scholar on the list, Kohlberg adds more building blocks for VTS group conversation and the VTS facilitator's role. These include Kohlberg's findings about how children are more quickly able to function well in cooperative human interactions when prompted to imagine how others might experience things.

Another building block for VTS is formed by Loevinger's thoughts on how personal development occurs through interacting with the world and the people in it, while trying to make sense of it all. This was a building block for Housen's Stage Theory and research methodology, on which VTS is built, and for the group process in VTS. Ambiguity in works of art is a prerequisite for the interaction in the group. For the group conversation, Housen drew inspiration from the ninth scholar on the list, Piaget. Piaget's theory on *good* education, in which children are offered situations in which they can experiment and seek their own answers, is also a building block for the group conversations in the VTS process including the use of ambiguous art, as well as for the empowerment of students through the VTS facilitator's role. Adding to VTS' building blocks are Piaget's emphasis on personal experience and the pace of development, which are important parts of *good* education and part of the VTS group process as well.

Lastly, from Vygotsky came the building block for VTS of ZPD, which includes not only the prerequisite of well-chosen works of art, but the exchange of views with more knowledgeable peers and the paraphrasing of the VTS facilitator. Vygotsky's thoughts about the relation between thinking and language also provided important input. According to Vygotsky, human visual perception is integral, while speech is analytical and requires sequential processing. This theory was used as a building block of VTS' first question. Vygotsky's findings that gestures like pointing are as important as speech in language development is a building block for the VTS facilitator's role: paraphrasing through not only through speech, but also non-verbally through gestures. In Figure 2, the aforementioned building blocks can be found, listed per scholar.

■ **Figure 2** – VTS' Building Blocks for enhancing aesthetic understanding

<p><b>Baldwin</b> aesthetic development through differentiation between natural and symbolic / imaginative world: development of imagination</p>	<p><b>Loevinger</b> 1. (ego) development not always linked to age 2. development occurs through <i>interacting with the world/people</i> while trying to make sense of it/them</p>	<p><b>Vygotsky</b> 1. Zone of Proximal Development: Learning occurs when a. situation fits a person's capabilities b. includes help of a more capable other/expert 2. learning/development through own experience, not adopting expert's way of seeing 3. relationship between language and thinking</p>
<p><b>Bruner</b> 1. choice of artwork independent of age 2. all children prefer realistic paintings</p>	<p><b>Coffey</b> Curiosity &amp; discovery are important for aesthetic development: judgment and preference</p>	
<p><b>Bruner</b> 1. modeling &amp; scaffolding; skilled activity required of a teacher to get learners to discover on their own 2. in development, language plays an important role after physical phase</p>	<p><b>Chomsky</b> 1. True education needs guidance &amp; examples 2. innate linguistic structures for connecting words and meaning</p>	<p><b>Piaget</b> Good education: development through a. own experience b. social transmission c. accommodation &amp; assimilation</p>
<p><b>Dewey</b> 1. Progressive education through continuation of experience and interaction 2. learning/development through own experiences is as important as learning from knowledge/skills of peers or experts 3. every contribution to the discussion is valuable 4. education should be devoted to creating optimal learning conditions for students.</p>	<p><b>Kohlberg</b> 1. stage theory 2. dialogue among participants - teach students to imagine how others experience things to foster cooperation</p>	

A more detailed overview of the work of these scholars and how they connect to VTS and Housen's stage theory of aesthetic development can be found in the Appendix of Chapter 4, section 1.2.

## 6. OVERVIEW OF EMPIRICAL RESEARCH UP TO AND INCLUDING 2021

The finding that VTS is *good, true and progressive* education is an important underpinning of the positive learning effects of VTS in educational settings outside the museum<sup>455</sup> that are reported in the literature to date. However, generalization of the findings of those studies can be considered difficult because research methodologies often contained very small participant groups and a lack of control groups.<sup>456</sup> To date, no review has been published about empirical studies on VTS in mainstream education alone nor about the mechanisms in VTS that would cause the reported effects. A better understanding of VTS' efficacy could deepen the underpinning of VTS in educational curriculums. In this section, I will list the effects of VTS in mainstream education,

455 Yenawine 2013; Housen 2001; Hailey et al. 2015; Mukunda et al. 2019; Moorman 2013

456 Deunk 2020a; Mukunda et al. 2019

found through empirical research to date and evaluate the studies that report them. Furthermore, I will elaborate on the mechanisms in VTS that might explain the reported effects.

## 6.1 METHODOLOGY & SCOPE OF THE LITERATURE RESEARCH

To identify research papers for this review, I conducted a keyword search in the following databases: Educational Resources Information Center (ERIC), Proquest, WorldCat Discovery & Picarta Online Contents and also in Google Scholar, to reduce any bias in the search.<sup>457</sup> Key words used were: “Visual Thinking Strategies”, “Abigail Housen” and “Philip Yenawine”. Furthermore, I conducted a Google Scholar search and a search in search engine Publish or Perish, with the search term “Visual Thinking Strategies”. I checked the reference list found in this way manually against the reference list on the websites of VTS Nederland, the VTS Organisation and Philip Yenawine’s personal website. Moreover, I included some publications that I found through snowballing<sup>458</sup> from reference lists of research papers found through the keyword search, and which had been reported by my personal network.

## 6.2 STUDIES IN 1976 - 2021

In this way, in the first round of literature research, I found a total of 554 publications, published during the last 48 years up to and including 2021.<sup>459</sup> To determine which publications I would include in the review, I used several criteria. I included publications if they reported studies on the use of VTS in education with target groups of all ages in any circumstances. I also included publications of studies in which VTS was used as the educational method in a study with a focus of attention other than VTS itself. In this way, I included all publications containing studies about VTS in education with empirical methodology.

I excluded publications that turned out not to be available in any form, or did not refer to articles or book sections, such as poster presentations, image collections, and audio and video recordings. I also excluded publications that did not contain empirical data, such as theoretical or journalistic articles or descriptions of pedagogical practice and experiments. I also excluded publications that referred to VTS as a method of health treatment and publications about strategies of visual thinking other than VTS. Those publications mostly referred to thinking strategies that include drawing or to visual literacy methods other than VTS. Furthermore, I also excluded publications that only mentioned VTS as a reference in their theoretical section and/or reference list and publications in which VTS had been combined with other educational methods. I aimed to focus on the effects of VTS found in empirical research alone. Furthermore, I excluded studies that were in languages other than Dutch, English, German or French, because of the problems of understanding those other languages using translation by Google Translate or DeepL. Translation of literature by human translators was not possible because of time and budget constraints.

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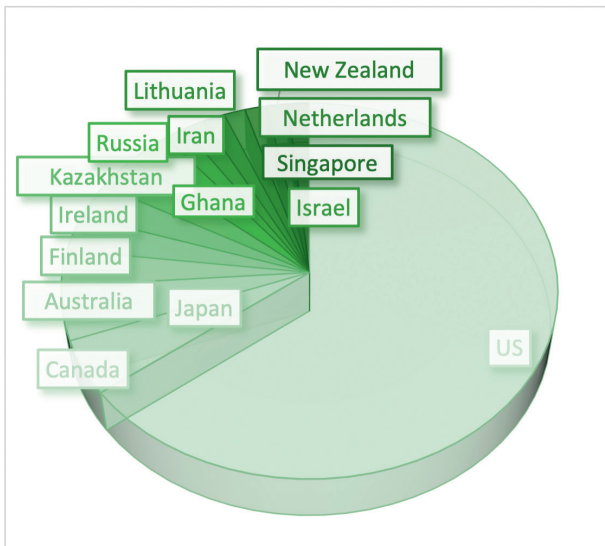
457 Lecy & Beatty 2012:12

458 Lecy & Beatty 2012

459 An overview of the latest literature about VTS of 2022, 2023 and 2024 (until 1 August) can be found in section 8.

From the studies as of 1976 up to and including 2021, 32 studies about VTS, I excluded fourteen Japanese, three Korean, two Indonesian, three Turkish, two Finnish, four Spanish and one Portuguese, one Slovak, one Swedish and one Norwegian study. A total of 46 studies was included. However, one publication, an unpublished personal report by Housen and DeSantis, turned out to offer more than one empirical study. It contained an overview of all early research about VTS's predecessor Visual Thinking Curriculum (VTC) and VTS during the years 1988 to 2003.<sup>460</sup> The report is a brief description of the data, methodology and findings of Housen and DeSantis' extensive empirical research,<sup>461</sup> including ten other studies in the US, as well as two studies in Russia, one in Kazakhstan and one in Lithuania.<sup>462</sup> In sum, from the studies up to and including 2021, I included 60 studies from fifteen countries, 37 of which from the US. They constitute 62 % of the publications included in this review of the literature up to and including 2021. With three publications each, Canada and Japan each contributed 5 % of the publications and, with two publications each, Australia, Finland, Ireland, Russia and Kazakhstan each contributed 3 % of the publications included. Included is also one publication (2 %) from each of the following countries: Ghana, Iran, Israel, Lithuania, The Netherlands, New Zealand, and Singapore. Figure 3 below contains a diagram about this information. In Table 2, the corresponding numbers and percentages can be found.

■ **Figure 3** – Geographical location of VTS studies included in this review



460 Housen & DeSantis 1988-2003

461 Studies in MoMa New York, Byron and San Antonio.

462 The report mentions also studies in Estonia, Kyrgyzstan, Macedonia, Ukraine, and another in Kazakhstan. However, their data were not included, according to the researchers because the post data had not been collected due to budget cuts (Housen & DeSantis 1988-2003:12).

■ **Table 2** – Corresponding numbers & %

US	37	62%
Canada	3	5%
Japan	3	5%
Australia	2	3%
Finland	2	3%
Ireland	2	3%
Kazakhstan	2	3%
Russia	2	3%
Ghana	1	2%
Iran	1	2%
Israel	1	2%
Lithuania	1	2%
Netherlands	1	2%
New Zealand	1	2%
Singapore	1	2%

Below, besides an analysis of the findings and methodology of the empirical studies summarized above, a description of Housen’s empirical research and empirical research on VTS’ predecessor VTC can be found. Because the research formed the basis of VTS and its practice around the globe, I included this description in the overview. However, because certain aspects of VTS differ from VTC, I analyzed and described the findings of those studies separately.<sup>463</sup> Early study on VTS, in the years 1993-2004, was primarily focused on the effect of VTS on aesthetic development and critical thinking. Therefore, I divided the analysis of empirical data into two time periods: from 1993 up to and including 2003, and from 2004 up to and including 2021.<sup>464</sup> From those two analyses, I distilled several effects of VTS reported in the literature until and including 2021. A list can be found in section 6.7 below.

## 6.3 THE BASIS OF VTS AND ITS PREDECESSOR VTC

### 6.3.1 Housen’s Empirical Research on Aesthetic Development

At the basis of VTS was Housen’s extensive empirical research on aesthetic development. The methodology of this research, which was called the Aesthetic Development Instrument (ADI), was instrumental for the predecessor VTC of VTS.<sup>465</sup> Below, the early empirical research about VTC is described. The aim was to briefly sketch how VTS was designed from the ADI, into VTC and from there into VTS as we know it today.

463 E.g. Yenawine 2013 & 2018; Housen 2001 & 1998

464 To find the most recent publications about VTS, I conducted another literature search and analysis in July 2024. I did both in the same way as described above. The analysis and findings can be found in section 8 of this chapter.

465 For more information about this, see Chapter 1, section 3.2, and Yenawine 2013 & 2018; Housen 2001



Since the late 1970s until the early 2000s, Housen and her collaborator DeSantis conducted empirical research on aesthetic development. They collected over 6000 transcripts<sup>466</sup> of non-directive interviews in studies with a variety of target groups, control groups and triangulation of data.<sup>467</sup> Housen's main research method was the Aesthetic Development Instrument (ADI).<sup>468</sup> It consisted of a non-directive interview technique that allowed research participants to speak freely about a work of art.<sup>469</sup> Sessions averaged from about ten to twenty minutes. Through the collection of the direct sampling of participants' thoughts through two standard questions, the aesthetic response in process could be revealed. Those questions were *What is going on here?* and *Is there anything else?*<sup>470</sup>

In the research, Housen found that aesthetic development is related to cognitive development and that it is intertwined with meta-cognition.<sup>471</sup> Her stage theory on aesthetic development and the design of the educational method to enhance this aesthetic development, of which VTS is the result, were based on constructivist learning theories.<sup>472</sup> As is described in Chapter 4, section 5, about VTS' grounding theories, constructivist learning situations focus on personal experience. In their design, students' capabilities and interest are considered important and leading. Furthermore, the preferred learning situations should include the help of a more capable peer, adult or expert. This is called modeling. In the design of the preferred learning situations, besides modeling also scaffolding was important. Scaffolding means that the teacher prepares tasks in such a way that only those parts of the task are left unresolved which are within the students' reach and of which students will recognize the elements of a solution even though they cannot yet perform them.<sup>473</sup> Constructivist developmental theories, however, claim that cognitive development is related to age and that aesthetic development is included in the process. In her research, however, Housen found that aesthetic development is related to the experience with art, not to age. In her research, the amount of time spent art viewing turned out to matter. In addition, Housen found that most art viewers are beginner viewers, stages I and II.<sup>474</sup> Therefore, in VTS, the works of art need to be accessible and appropriate to the students' interests.<sup>475</sup>

### 6.3.2 VTS' Predecessor VTC

In this section, I will elaborate on why VTS was designed in the first place. The section describes the design of VTS' predecessor VTC and the research that led to the changes of VTC which led to the design of VTS.

466 Housen 2001:4

467 Housen in Bresler & Ellis 2000-2001:2-4; DeSantis & Housen 2000; Housen & DeSantis 1988-2003; 2002; Housen 2001:10-11, 1997, 1987, 1983

468 DeSantis 2009:7

469 Housen 1997:6-7; for a more detailed description, see Chapter 1.

470 For more information, see Chapter 1, Housen 1997:6-7

471 Housen 2001:6-8; 1997:29

472 Housen 1997:5, 16

473 For more information, see Chapter 1, and Yenawine 2018:133-138; DeSantis & Housen 2009:6; Housen 1997:5

474 For more information, see Chapter 1, and DeSantis & Housen 2009:12; Housen in Bresler & Ellis 2000-2001:5; Housen 2001; Housen & DeSantis 2000

475 Yenawine 2013:167

Asked to evaluate the educational programs of the Museum of Modern Art (MoMa) in New York, in 1989-1991, Housen collaborated with Yenawine, at the time MoMa's director of Education, in a three-year empirical research study.<sup>476</sup> The study led to the design of VTS' predecessor VTC.<sup>477</sup> School audiences rather than museum audiences were asked to collaborate, because they could be tracked and studied over time.<sup>478</sup> In total, 502 middle and high school students and their teachers participated, in experimental and control groups, as well as 98 adult participants visiting the MoMa, both random and invited by researchers.<sup>479</sup> An analysis of the data in the first year of study showed that MoMa's educational programs did not succeed in enhancing their visitors' visual literacy. This was defined as the art viewer's ability to combine looking and analyzing skills with the art historical information provided by the museum.<sup>480</sup> In their study, using Housen's research methodology, Housen and Yenawine also found that there was a difference in aesthetic stage between museum educators and school audiences, which consisted of classroom teachers and their students. Museum educators were classified in stages III to IV, while schoolteachers and students were classified in stages I and II. This difference caused misunderstandings, which Housen called *receiver* and *transmitter distortions*. *Receiver distortions* were defined as the misunderstandings between museum educators and students who were not able to comprehend and learn information from museum educators. *Transmitter distortions* were the other problem found in the communication. According to Housen, they were caused by the classroom teachers, who overall turned out not to be able to transmit correctly to their students the information provided by the museum educators.<sup>481</sup> The data showed that learning visual literacy took more time than expected, and that museum educators with more knowledge not necessarily were the better teachers.<sup>482</sup>

In the following years, 1991-1994, in multiyear empirical research with 164 students aged nine to twelve, the curriculum was improved. This included the use of open-ended questions, limitation of the knowledge provided about relevant artistic concepts and vocabulary. Furthermore, the teaching by museum educators was changed into teaching by classroom teachers, which were trained in the method and mentored by researchers.<sup>483</sup> The revised curriculum changed from learning participants become visually literate, to just supporting their development in aesthetic understanding.<sup>484</sup> Authored by both Housen and Yenawine, as of 1992, the curriculum was called the Visual Thinking Strategies Curriculum, in short VTS as we know it today.<sup>485</sup> VTS, based on MoMa's VTC and Housen's prior research and developmental theories,<sup>486</sup> was designed to match

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476 Housen & DeSantis 1988-2003; Housen 1998:92

477 Housen 1998:97

478 Personal contact with Yenawine, 22 September 2021; Yenawine 2018

479 Housen & DeSantis 1988-2003

480 Housen 1998:93

481 Housen 1998:96

482 Housen 1998:96

483 Housen 1998:95; Housen & DeSantis 1988-2003

484 Housen 1998:98

485 Housen 1998:99

486 Housen 1998:99

the developmental needs and capacities of beginner viewers,<sup>487</sup> and to transform the classroom dynamic into focusing on students' observation and discussion, with the teacher playing a facilitating role.<sup>488</sup> In this way, it responded to what had already been suggested by research that practicing observation, enhancing the capacity to think and to formulate what is seen are the most important factors in aesthetic development. Those findings of the third and last year of the research at MoMa (1991) confirmed Housen's earlier research: that there are preconditions per stage to visual literacy and that students need to be developmentally ready to understand and use visual literacy concepts.<sup>489</sup>

The questions of the ADI were redesigned to be used in VTC and later VTS to structure the conversation about a work of art. The questions *What do you see?* instead of *What's going on in this picture?* seemed to be interchangeable and equally effective, but only when they were accompanied by a follow-up question that evoked further explanation. Teachers who were considered the best seemed to have an intuitive understanding of the suggested new methodology and appeared to recognize the implicit relationships between the two questions. Eventually, those questions became: *What is going on in this picture?* and *What do you see that makes you say that?*<sup>490</sup>

Since 1992, Yenawine and Housen continued to revise the curriculum and called it the Visual Thinking Strategies Curriculum. Yenawine resigned as MoMa's art education director in 1993 to be able to focus on VTS. After Yenawine left and Housen stopped the collaboration, the MoMa altered VTC in a way that was not supported by Housen's research, by adding information about the artwork and artistic vocabulary.<sup>491</sup> In MoMa's VTC, each image was followed by sharing such information, called a *blurb*, which included a description of the image, possible reactions from students and basic information about the artwork. It was meant to complement students' observations, not provide the correct interpretation.<sup>492</sup> It was this practice, in 1999, that was studied by Project Zero of Harvard's Graduate School of Education.<sup>493</sup> As the findings of this study seem to have influenced the design of VTS, this study adds information to the empirical research about VTS. However, they are not part of the review in this chapter because of the differences with the VTS methodology. In the footnote, a brief description of this research by Harvard's Project Zero

487 Housen 2001:4 & 1998:97

488 Housen 1998:98

489 Housen 1998:98

490 Tishman 1999:48; Housen 1998:98

491 Housen 1998:99

492 Tishman 1999:6 & 48

493 Tishman 1999

can be found.<sup>494</sup> The target group consisted of 366 students aged ten and eleven, who were offered seven to eight lessons, of which two or three in the MoMa. Besides asking the VTC questions about a work of art, they were also used for an image which was not considered art, to study transfer.<sup>495</sup>

The interesting part of the Project Zero study is that the students of the experimental group in this study showed a greater use of evidential reasoning and a greater awareness of subjectivity than students of the control group, including a transfer to non-art objects. Gender and age did not contribute to these differences, nor did the work of art.<sup>496</sup> However, findings showed that the effectiveness of the VTC was strongly influenced by the classroom teacher, whose influence appeared to be a more important factor than students' baseline ability.<sup>497</sup> The quality and quantity of the details that students observed seemed to be strongest when teachers encouraged students' awareness of subjectivity and evidential reasoning. In those classrooms, conditional language was frequently used. Further analysis of the data showed that effective practice included reading the VTC *blurbs'* information, connecting them to the classroom discussion and expanding on students' interpretations, paraphrasing the *blurb's* text and encouraging students to continue the conversation.<sup>498</sup>

## 6.4 EARLY EMPIRICAL RESEARCH: 1976 - 2003

To Yenawine and Housen, classroom teachers anecdotally reported that VTS was not only effective in enhancing aesthetic development but had a transfer into other subjects and situations as well.<sup>499</sup> Empirical research on this transfer of VTS was conducted by Housen as of 1993 until 2003, studying in the meantime the effect of VTS on aesthetic development. Those early empirical studies became the underpinning of the use of VTS in mainstream education.<sup>500</sup>

### 6.4.1 VTS: Transfer to Other Subjects

The first study about transfer of VTS to other subjects and situations was a multiyear study, 1993-1998, with elementary school students in Byron, Minnesota, US.<sup>501</sup> The data of 112 participants was collected: a twenty-five students' experimental group and a twenty-five students' control group in the two age groups: 7 to 9-year-olds (US 2<sup>nd</sup> - 4<sup>th</sup> grade) and 9 to 12-year-olds (US 4<sup>th</sup> - 6<sup>th</sup> grade). The students were assessed for each of those five years. Twelve teachers of the experimental groups

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494 A total of 366 elementary school children, in experimental and control groups took part: 197 students aged nine or ten and 169 students aged ten or eleven, in nineteen classrooms of five schools in New York City (Tishman 1999). In the one school year study, students were offered seven to eight lessons, of which two or three in the MoMa. Besides using the VTC questions with art in the Art Activity, a non-art activity was designed to study transfer. In the so-called Footprints Activity, students were asked to use the VTC questions with a non-art image from the domain of science (Tishman 1999:4). A pre- and post-test was conducted through a writing assignment about a printed color copy of an artwork, called Student Performance Assessment, the image of the pre-test being different from the post-test. Furthermore, research was conducted through student interviews, teacher questionnaires and interviews, and classroom observations.

495 Tishman 1999:4

496 Tishman 1999:23-26

497 Tishman 1999:29

498 Tishman 1999:48

499 Housen 2001:1

500 Yenawine 2013 & 2018

501 De Santis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002

participated in the study as well. As part of the study, the students' evidentiary reasoning was observed in other social contexts than the VTS conversations, and also with other subjects than works of art.<sup>502</sup> A variety of data collection methods was used: the earlier designed aforementioned ADI method as well as the Material Object Interview, designed especially for this study, and other data were collected through other methods, like video recordings and interviews.<sup>503</sup> Data was collected twice a year, before the first yearly VTS lesson and after the last VTS lesson of the year, to follow the development of aesthetic and critical thinking skills.<sup>504</sup> The same methodology was also used in another multi-year study, in San Antonio, Texas, US, from winter 2000 until spring 2002. In this study, fifty 3<sup>rd</sup> grade elementary school students took part, until their 5<sup>th</sup> grade (6 to 9-year-olds). They were divided into an experimental and a control group. There were ten lessons each year, the last of which was a museum visit.<sup>505</sup> In this school with a large percentage of at risk and bilingual Hispanic students, the VTS program turned out to also be highly effective.<sup>506</sup> Students in the experimental group grew in their aesthetic understanding and in critical thinking, such as supported observations and speculations, and creative thinking, significantly more than those in the control group. They also transferred critical thinking skills fostered by VTS conversations about art to individual viewing experiences of non-art objects. However, this did not happen before regular art viewing and the transitioning to Stage II.<sup>507</sup>

As it turned out from both studies, fostering aesthetic development through VTS simultaneously fosters the development of critical thinking across social contexts and content areas.<sup>508</sup> In the studies, critical thinking had been defined<sup>509</sup> as a "higher order of thinking, an active persistent and careful consideration of any belief," with the following characteristics: "making observations, speculating, synthesizing, and supporting observations with evidence".<sup>510</sup> The transition to Stage II, through extended and regular art viewing experiences, turned out to be important for the

502 Housen 2001-2002:11

503 DeSantis 2009:7; Housen & DeSantis 1988-2003; Housen 2001:104

Other instruments used in Housen's research were demographic questionnaires (read or given to each student) and Art and Museum Biographies, questionnaires which detail the students' personal histories regarding art and museums. Furthermore, a questionnaire was used with open-ended questions asking students about art-related content: the Art, Museum, Artist Questions (Housen 2001:104). Writing samples were collected consisting of School and VTS assignments, executed in school, at home and during museum visits (Housen 2001:104). Teachers were asked to keep a log of their observations of student behavior with a particular focus on student thinking and learning behaviors. They also observed their own teaching styles. Furthermore, written observations were made from Teacher Trainings and notes by the coordinator from debriefings. These included a post-study debriefing of the experimental students and their parents. Videotapes recording some VTS classroom lessons and experimental teacher training sessions were also used for analysis. When leaving elementary school, students were asked for debriefing interviews: Student Exit Interviews (Housen 2001:104). Aesthetic Stage level/context transfer, content transfer (frequency, category and attribute classifications), demographic variables and variables related to background experience with art were collected twice a year. Content Transfer and Teacher performance and perception of students were collected throughout the year from experimental groups. A final interview of experimental groups was also conducted (Housen 2001:104).

504 Housen & DeSantis 1988-2003

505 DeSantis & Housen 2007:1

506 DeSantis & Housen 2007 & Housen & DeSantis 1988-2003

507 Housen & DeSantis 2007:6-7 & 1988-2003

508 Housen 2001:9 & 23

509 Based on Dewey's (1938) and Kuhn's (1999) definitions.

510 Housen in Bresler & Ellis 2000-2001:8; Housen 2001:5-6

transfer of critical thinking skills to non-art objects. Being a native or non-native English-speaker did not have an impact.<sup>511</sup> Findings suggested that experiences of VTS with art before using VTS with or in other subjects, like science, is important.<sup>512</sup>

Besides those two multiyear studies in Byron and San Antonio in 1997-1998, Housen and DeSantis conducted three more studies.<sup>513</sup> One was a study with 60 special needs students aged ten or eleven (students with dyslexia and language deficiency). Evidence of students applying skills which they developed in the VTS lessons was found in ADIs and writing. The second study was in Boston, in 1997-1998, 2000 and 2001-2003, including research about 15 teachers using VTS. The report describes how these teachers were taught to use several kinds of assessment tools, such as the specially designed VTS Classroom Observation Form to collect student writing samples and a scoring manual.<sup>514</sup> Teachers gained a better understanding of the effect of the VTS program on their own teaching practice and were able to record and reflect on the changes in the thinking of individual students and the larger group.<sup>515</sup> The third study was in New York, a study in the Bronx Museum with 45 fifteen to sixteen-year-old at risk students. They showed a significant change in student aesthetic stage. Moreover, students who scored lowest at the beginning of the study showed the most change, a phenomenon also noted at other sites.<sup>516</sup>

#### 6.4.2 VTS: Robust in Other Cultures

From 1994 to 2000, several studies in Eastern Europe were conducted to see if the findings were robust in other cultures as well.<sup>517</sup> In St. Petersburg, Russia, a one- and a two-year study was conducted, in Kazakhstan and Lithuania a one-year study each. Also in several other countries, one-year studies were conducted but, due to budget problems, data of only one group, the one in Lithuania, could be collected properly. A total of twenty-one teachers and 610 of students took part, data were collected of 60 six to nine-year-olds, 150 nine to ten-year-olds and 60 ten to eleven-year-old students, with other students' ages not specified. The methodology was the following: experimental groups using VTS in Years I and II, and control groups, bi-annual or pre- and post-ADIs and questionnaires, teacher debriefings, observations, and teacher logs. Findings were as predicted by earlier research in the US: students in experimental groups developed significantly better skills than in control groups. At the end of the first year, only a trend toward aesthetic stage gain was reflected but no statistically significant difference between the experimental and control groups of students could be measured. This was expected because of the study's short period of time. However, with teachers, a similar stage gain could be found compared to teachers in studies in the US. In the study in St. Petersburg, a second year of research was conducted. Results showed

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511 DeSantis & Housen 2007; Housen 2001:24

512 Yenawine 2013:41-42

513 Housen & DeSantis 1988-2003

514 Housen & DeSantis 1988-2003

515 Housen & DeSantis 1988-2003

516 Housen & DeSantis 1988-2003:9

517 Housen & DeSantis 1988-2003

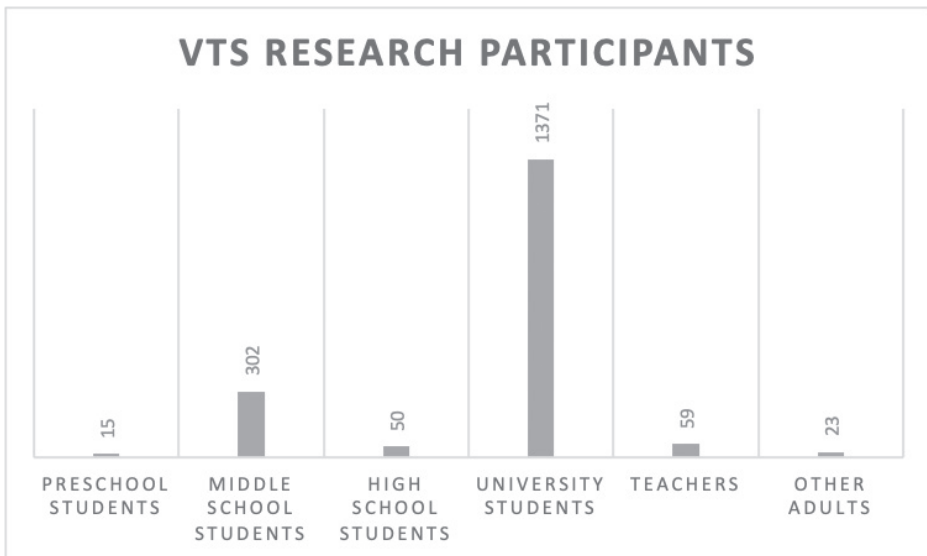
that students had begun to use comments typical of Stage II viewers, such as awareness of formal issues and consideration of the artist’s process and intent.<sup>518</sup>

### 6.5 EMPIRICAL RESEARCH 2004 - 2021

From 2004 up to and including 2021, 46 empirical studies in English, Dutch and French about VTS could be identified. In total, at least 2032 participants participated in empirical research about VTS. That is a minimum because, in the reports by Keogh and Gibbon (2020), Kruse & Kinde (2019), Zapata et al. (2017), and Baker (2015), no information was made available on the exact number of participants. Therefore, of those participants, only the maximum of one group has been included in this total number of participants. In reality, the number of participants of those studies is probably higher.

The majority of research participants turned out to be university students, 1371 in total. Only fifteen participants of the literature from 2004 up to and including 2021 were preschool students aged five or six, 302 participants were middle school students aged eight to twelve, and 50 high school students aged twelve to eighteen. Of the adult professionals who took part in the research from 2004 up to and including 2021, 59 were teachers and 23 could be classified as ‘other adults.’ Underneath, in Figure 4, a flowchart shows an overview of the different categories of participants that could be found in the selected literature.

■ **Figure 4** – Categories of Research Participants



518 Housen & DeSantis 1988-2003

## 6.6 DATA ANALYSIS

As the first step in analyzing those studies, I listed the publications per year of publication, and collected the following data: *year of publication*, *author*, *research location*, *results/reported effects* and *research period* and *research method*. For an example, see Table 2 below. In Appendix 3, the complete list can be found, showing the more recent ones at the top of the list. Full APA details of these studies can be found in the Bibliography of this study.

■ **Table 2** – Example of data collection from selected literature

Year of Publication	Author	Research location	Research Particip.	Results/Reported effect(s) of VTS	Research period / method
2020	Deunk et al.	NL, Groningen	49 univ. students in elementary teaching, in groups of 8-9 students	<ul style="list-style-type: none"> <li>• Growth of personal and professional intercultural sensitiveness</li> <li>• Diminishment of personal and intercultural sensitiveness, possibly as a result of a higher awareness of this aspect</li> </ul>	1 <sup>st</sup> semester 2018/2019 Questionnaires and video recordings
2020	Mendonça	Canada, Quebec	125 elementary school children, age 8-10 yr 82 in exp. group, 41 in control group	<ul style="list-style-type: none"> <li>• Increase in sustained and selective attention</li> <li>• No significant relationship between socio-cultural characteristics and attentional tests</li> </ul>	10VTS sessions per school yr, 2-3 images per 1hr-session 3 sorts of data: <ul style="list-style-type: none"> <li>• Individual sustained attention through Kids Test of Att. Performance (KiTAP)</li> <li>• Ind. Data and visual attention through eye tracker and audio recorder</li> <li>• Parent questionnaire for socio-cultural contextual data</li> </ul>

As the next step, I listed the effects of VTS that were reported as a finding in each research article, and after that, I categorized and labeled them. See Table 3 below for an example of the methodology I used.



**Table 3** – Example of categorization of VTS' effects per research article

Reference details		Categorization of VTS/effects -> labels									
Year of Publication	Author	Research location	Research Particip.	Results/Reported effect(s) of VTS	Communication	Perspectives/bias/empathy	Cultural competence	Critical thinking/reasoning	Observation	Transfer to other situations	...
2021	Aspden et al.	New Zealand, Auckland	174 BA of Pharmacy 2 <sup>nd</sup> yr students, 2 successive student cohorts (2016-2017), no control group	Development of person-centred communication, cultural competence and critical thinking 60% of participants thought about the VTS questions or used what they learned in VTS sessions in other sessions	Development of person-centred communication		Development of cultural competence	Development of crit. thinking		60% thought of VTS in other situations	
2021	Balhara & Irvin	US, Baltimore, Maryland	5 Emergency Medicine trainees	Increased intellectual curiosity about communities visited			Increased intellectual curiosity about other communities				

**Table 4** – Example of numbers of participants/publications per effect category

Visual literacy (as of 2004 to date)		Result						
Year of Publication	Author, year of publ.	preschool	Elementary school	High school	University students	Professionals		
Iran	Hastroodi et al. 2020					10		VTS method helps teachers to become much more visually literate
USA	Zapata et al. 2017		10	15				VTS offers a model for students to break down in parts when they engage to read visuals
Israel	Bentwich & Gilbey 2017				67			VTS contributes to development of visual literacy
Total no. of students			10	15	67	10		

### 6.7 NINE EFFECTS OF VTS

From the data, I distinguished nine categories of effects: *visual literacy, critical thinking & reasoning, observation, communication, group cohesion & class climate, cultural competence/perspective taking & empathy, imagination & creativity, self-awareness & self-esteem*. Initially, I added a category *VTS contributes to curriculum* to collect the findings that described qualitative remarks on the evaluation of VTS in educational curriculums by teachers and students. Also, I used a rest category *Other* to describe findings that initially could not be labeled in one of the nine categories. Through further analysis of the complete texts of the publications and the merging of adjacent and overlapping (sub-)categories, I was able to add the data in these categories to other categories instead. In the Appendix Ch. 4, lists of research articles per effect category can be found. Those lists of research articles include also details on the number of participants in the research of those publications. Table 5 below shows an example of a list with the numbers of participants per effect category.

After thorough categorization in this way, I brought together and paraphrased relevant text fragments from the research articles/publications. In such descriptions, when explicitly reported, I also included how VTS' design and components had influenced the reported effects. For example, Table 4 contains a description of the category of *Perspective Taking, Tolerance for Ambiguity, and Empathy*. The descriptions first start with a definition of the effect if such a definition was provided in the research articles.

■ **Table 5** – Narrative description example: VTS' Effect on Perspective Taking, Tolerance for Ambiguity, and Empathy

Definition	In their study, Bentwich and Gilbey define ambiguity as the acceptance of multiple meanings, and empathy as the ability to truly understand another individual's personal experiences and feelings, as well as his view of the world around him (2017:1). According to Bentwich and Gilbey, the ability to empathize is based on both cognitive and emotional competencies (2017:2). After an extensive literature search, in her PhD research, Sinuefield-Kangas chose De Waal's definition: Empathy is the ability to understand and share the feelings of another. Sinuefield-Kangas distinguishes two separate components in empathy: affective empathy, i.e., having a similar emotional experience to one being exhibited by an emotional stimulus, and cognitive empathy, i.e., the ability to understand this emotional experience (2019:3). Based on this, Sinuefield-Kangas states that empathy is assessed as either self-oriented and/or other-oriented feelings (2019:3).
Target group: <18	With this target group, no studies were found reporting effects on Perspective Taking, Tolerance for Ambiguity, and Empathy.

■ Table 5 Continued

Target group: Higher Education Students 18+	<p>Bentwich and Gilbey (2017) found that VTS contributes to the acceptance of multiple possible meanings. According to Bentwich and Gilbey, this relates to the enhancement of empathy and the ability for observing the feelings of others. In their study with 67 medical students, the students made personal connections through VTS, showing this ability (2017). The intervention consisted of one 90-minute VTS session of five images. The images depicted situations with patients and were displayed on a big screen. Before displaying the images, the lecturer gave a brief explanation regarding the idea of VTS and its application in other medical schools (Bentwich and Gilbey 2017:4).</p> <p>Balhara and Irvin (2021) described how, through VTS, a two-hour community mural tour provided a nuanced understanding of social determinants of health. Through raising greater curiosity about the communities in which they were situated, five trainees in Emergency Medicine were engaged in reflection and conversation about personal preconceptions (2021:60). Rating of participants' experience was done through Likert Scale.</p> <p>Campbell et al. studied the effect of two VTS workshops in the university museum with twenty graduate students in Engineering. Students expressed appreciation of the differences in perspective that VTS conversations tend naturally to draw out, and VTS' efficacy at helping them become more reflective (2021:3). Campbell et al.'s 2021 study consisted of two VTS sessions also led by an external VTS expert, and two mini-workshops at the university's museum led by two co-instructors with engineering backgrounds (2021, par. 3). Students typically received brief training in how to lead a VTS session with images in a classroom on screen, after which a two-day VTS practice was held in the museum galleries led by the instructors, with students taking turns facilitating. By the end of that week, the students completed a reflective writing assignment to explore how they had experienced the VTS method.</p> <p>Use of VTS may help gain new perspectives, while facilitating interpersonal relations (Hensel and Moorman 2017:365). Research participants were fourteen Doctorate of Nursing students enrolled in a leadership-based program, who participated in one VTS session led by a trained facilitator using three works of art. Following the session, participants voluntarily provided written feedback to open-ended questions: 1. <i>What was your impression of VTS?</i> and 2. <i>How might you use VTS in your nursing or leadership?</i> Data were analyzed using the qualitative descriptive approach of Sandelowski and Dedoose software (Hensel &amp; Moorman 2017)</p> <p>Not everyone sees the same things, is what students of two groups of a total of 60 nursing students shared in their response in Nanavaty's study (Nanavaty 2018:42). The research methodology was a two-hour visit to a local art gallery using VTS. In groups of three to four, students were asked to choose a piece of artwork that interested them and to respond to three statements on a written assignment sheet. Students were instructed to write down their initial impressions of the artwork and to explore the museum, then, to return to the artwork and describe any new impressions they had of the artwork. During a post-conference meeting?, data about their experience was collected right after the museum experience in a museum meeting area, also using VTS. A one-page reflection assignment on the art gallery experience was due two weeks after the art museum visit before the start of the next nursing and health class.</p>
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■ Table 5 Continued

Target group: Higher Education Students 18+	<p>Aspden et al. found that VTS improved the ability to consider different ideas and contrasting opinions with a more open attitude (2020:442). 98 pharmacy students participated in their study, no control group. Students received ten VTS sessions of 30 minutes each, while one to three images per session were discussed. Sessions were held in standard teaching spaces using projected images. The pre- and post-test at the beginning and end of the year consisted of answering VTS questions about a creative work. All participants answered a 38-item online reflective questionnaire, including Likert Scale, binary fixed choice and free-text responses. Responses were analyzed with Excel and categorization and inductive analysis, respectively.</p> <p>In the study by Visscher et al. (2019), most students agreed that paintings depicting radiology encounters with patients positively affected their understanding of the work of radiologists and challenged the negative stereotypes that they had. Students participated in a 45-minute session with two to four participants per session. The session started with five minutes discussing the objectives of the session including an introduction to VTS and its relevance to radiology. Three works of art, created by the researcher, were presented as digital images on a computer screen and analyzed using VTS, taking approximately ten to fifteen minutes to discuss each painting.</p> <p>In designing an empathy training for first-year osteopathic medical students with the use of VTS, Kruse and Kinde describe their educational aims of using VTS as a way to improve diagnostic skills development, to enhance communication and relationship building skills and empathy (2019:381). As a conclusion of their study (see also 5.2, Critical Thinking), their Art, Observation, and Medicine (AOM) course responds to the call for empathy training to be added to medical school curriculums (Kruse &amp; Kinde, 2019:383). They studied the effect of VTS with an unspecified number of first-year students in osteopathy and psychology in groups of ten to fifteen students. The study involved a museum visit under the guidance of a museum educator, using VTS with five artworks. Also debriefing sessions were provided, in groups of 45 students. Pre- and post-session surveys were made and the Interpersonal Reactivity Index subscales and Tolerance for Ambiguity Scale were used to measure empathic concern and perspective-taking.</p> <p>An increase of tolerance for ambiguity was reported by Klugman et al. (2011) in a study with 32 nursing students. Students were given three 90-minute VTS sessions and asked to do a pre- and post-test, that included the Geller et al.'s version of Budner's Tolerance of Ambiguity Scale, the Communication Skills Attitudes Scale, and some free responses to art and patient images. Statistical analyses compared pre- and post-time looking at images, the number of words used to describe images, and the number of observations compared to gender and discipline.</p>
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■ Table 5 Continued

Target group:  
Professionals 18+

Sinquefield-Kangas found that adult professional participants experienced empathetic behavior during a VTS workshop held during an educational conference (2019). They imagined how another person was thinking and feeling, were projecting themselves imaginatively into another person's situation and felt for another person who was suffering (Sinquefield-Kangas 2019). Transcriptions of video and audio recordings and data from a post-session questionnaire were analyzed, using Batsons's eight empathetic concepts (Sinquefield-Kangas 2019:7). The questionnaire asked participants to indicate whether they felt they had engaged in any of the empathic concepts during either the art-viewing (VTS exercise) or the art-making activity that was held after the VTS session. Voyant's Cirrus tool was used to assist in generating a visual representation of the unique word frequency count. Sinquefield-Kangas stresses the importance for empathy of images and imagination, as the gateway through which meanings and values become interwoven as our consciousness works to create understanding of the old and the new (2019:24). Through VTS, participants were asked to imagine how somebody else was thinking and feeling and to imaginatively project themselves into the other person's situation. According to Sinquefield-Kangas, imagination is a "visualization of thought, where the broader construction of meanings and purposes begin" (2019:4). Moreover, quoting Sartre, "imagining can be seen as a form of playing with our knowledge" (2019:5).

Increased empathy toward other cultures is also found by Chapman and Hall in their longitudinal study about VTS with middle and high school teachers, working with undocumented Latino/Latina immigrants (2014, 2016). They found how the images used in their pilot's elicited openness and reflection with their students, and improved beliefs about parental involvement (2014:456). However, Chapman and Hall measured a decline in the increased ethnocultural empathy between post-test and nine-month follow-up (Chapman & Hall 2016:185). They suggest that the intervention might only be effective over time with certain contextual support (2016:186). Treatment of teachers consisted of training in VTS in a two-day training program called YoVeo with Latino students' migration experiences as a subject. Each pilot involved photographs, self-report questionnaires as pre-test and post-test. A follow-up test was offered after nine months. Findings from each of the two pilots were reported separately because of some revising after the first pilot. Questionnaires used were the Bridges Teacher Questionnaire (BTQ), regarding multiculturalism in school (5-point Likert scale), the Positive Strategies Subscale of the Teacher Strategies Questionnaire and the School-Family-Community Partnerships Survey. The BTQ was used to measure teachers' awareness of symptoms of mental health problems and mental health competency, as well as to assess teachers' knowledge of barriers preventing students and their families from accessing mental health services. In the second pilot, the Teacher Multicultural Attitude Survey, the Illegal Aliens Scale and the Scale of Ethno-cultural Empathy were used. Missing data were handled using the expectation maximization algorithm and a series of one-way repeated measures ANOVA were performed to test the within-subject effects or the equality of means across the three time points. Furthermore, Mauchly's test of sphericity was used as well as the Greenhouse-Geisser correction, applied to correct for violations of sphericity assumption. Bonferroni post hoc pairwise comparisons were used to identify significant differences in scores between time points.

From the descriptions, I made a summary of the data per effect category, including the role of VTS' components in developing the effect when reported. These summaries can be found below.

### 6.7.1 Aesthetic Understanding & Visual Literacy

Early empirical research up to and including 2003 on VTS confirmed VTS' envisaged efficacy by Housen and Yenawine for enhancing aesthetic understanding. Participants were in a total of 1,127 school children aged six to sixteen and 48 schoolteachers in the USA and Eastern Europe. Among them were 105 special needs and at-risk students (dyslexia, language deficiency and gifted). Cultural differences turned out not to influence VTS' effects in the target group: elementary education. Moreover, in situations in which language could be a problem in learning, students who scored the lowest in language at the beginning were reported to have gained the most through VTS.<sup>519</sup> Aesthetic understanding is developed through VTS through the repeated exposure to art and the on-going experience of trying to make sense of a work of art.<sup>520</sup>

The extension of VTS' effect on aesthetic understanding to the broader concept of visual literacy was theorized by Hailey, Miller and Yenawine in 2015. In three of the forty-six studies as of 2004 to date, VTS is explicitly reported to help students to become more visually literate. Those studies included in total 67 medical students in Israel,<sup>521</sup> ten English Language professors in Iran,<sup>522</sup> and (at least) ten elementary school children and fifteen high school students in the US.<sup>523</sup> As can be concluded, VTS offers a model to structure the 'reading', i.e. trying to understand, of visuals into several small steps.<sup>524</sup>

### 6.7.2 Critical Thinking

Early empirical research up to and including 2003 on VTS also confirmed VTS' positive effect on critical thinking skills, and the transfer of the method to other subjects and situations. The study was specially designed to combine the research on aesthetic development and critical thinking. The study involved a total of 1,127 schoolchildren aged six to sixteen and 48 schoolteachers in the US and Eastern Europe. No influence on the results through cultural differences was reported. Supported observations and speculations as well as creative thinking were mentioned as perceived behavior that show the act of critical thinking. However, multiyear experience of VTS and development to aesthetic stage II proved to be essential for enhancing critical thinking.<sup>525</sup>

Empirical research as of 2004 to date corroborates these early findings. A positive effect of VTS on critical thinking has been found in 21 studies with, in total, 860 participants: 111 elementary and high school students, 638 university students and 111 classroom teachers. Most of the research

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519 DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002, Housen 2001

520 Housen in Bresler & Ellis 2000-2001:5

521 Bentwich & Gilbey 2017

522 Hashtroudi et al. 2020

523 Zapata et al. 2017

524 Zapata et al. 2017

525 DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002, Housen 2001

was done in the US: sixteen studies. In Canada, Australia, New Zealand, Ghana and Finland, one study has been conducted in each of those countries.

VTS develops critical thinking and critical thinking skills<sup>526</sup> or is suggested to do so.<sup>527</sup> Through VTS, teachers improved their perceived knowledge of critical thinking concepts.<sup>528</sup> Furthermore, with students, a growth in depth and quality of reflections could be observed through VTS,<sup>529</sup> as well as the use of complex concepts.<sup>530</sup> The VTS process aligns with the practice of Kahneman's System 1 thinking and the development of System 2 thinking. In their study, Kruse and Kinde describe how students reported drawing an initial conclusion about an image based on their immediate, first impression (System 1 process). Listening to their classmates, however, and understanding the reasons why they had other thoughts made them value those other views and reconsider their own initial opinions (System 2 process).<sup>531</sup>

System 1 operates automatically and quickly, with little or no effort and no sense of voluntary control. System 2 allocates attention to the effortful mental activities that demand it, including complex computations. The operations of System 2 are often associated with the subjective experience of agency, choice, and concentration.<sup>532</sup>

Images used in VTS elicit reflection.<sup>533</sup> With nursing students, a positive relationship between the thinking process and the clinical assessment process has been reported, which made VTS effective for problem identification.<sup>534</sup> Students perceived gaining cognitive skills<sup>535</sup> and noticed that they assess their patients more critically.<sup>536</sup> With special needs students, VTS helped mapping and explaining how their thinking was connected to the text.<sup>537</sup> Besides an evident enhancement of Supported Observations (SO), a category of critical thinking where students explicitly support an idea with evidence, a new type of critical thinking was reported, called Evidentiary Reasoning, i.e., students using subtlety in their descriptions of which information is related to their claim.<sup>538</sup>

### 6.7.3 Observation

In the empirical research as of 2004 to date, ample evidence is described that VTS develops observational skills. This effect of VTS has been found in eighteen studies in seven different countries: ten in the USA, three in Japan, and one each in Australia, Canada, Ghana, Ireland and

526 Aspden et al. 2022; Campbell et al. 2021, Mani 2019; Brackley & Petersen 2018; Rautiainen & Jäppinen 2017; Baker 2015; DeSantis 2009; Vancil 2009

527 Campbell et al. 2017; Hensel & Moorman 2017

528 Smolkowski et al. 2020

529 Poirier et al. 2020

530 Allison et al. 2017

531 Kruse & Kinde 2019:382

532 Kahneman 2012: excerpt by D. Kahneman, no page numbering available

533 Chapman & Hall 2014, 2016

534 Nanavaty 2018; Nease & Haney 2018

535 Moorman et al. 2017

536 Moorman 2013

537 Zapata et al. 2017

538 Grohe & Egan 2016

Israel. In total, 1004 participants were involved: 125 elementary and high school students, 858 university students and 21 classroom teachers.

Besides enhancement of observational skills in general,<sup>539</sup> perceiving more nuance and detail,<sup>540</sup> an increased number of observations is also reported.<sup>541</sup> Through VTS, an increase is also reported in the words used.<sup>542</sup> One study, however, reported a mixed result: a decrease in the number of words used, but an increase in supported inferences.<sup>543</sup> Furthermore, the amount of time students spent observing increased through VTS,<sup>544</sup> while sustained and selective attention increased,<sup>545</sup> regardless of the type of paintings<sup>546</sup> or educational setting.<sup>547</sup> Female students seemed to use more time when observing than males.<sup>548</sup> Students became critically aware of their own observational skills vs. their peers<sup>549</sup> and the development of those skills.<sup>550</sup> Furthermore, VTS was found to be related to the ability of observing the feelings of others.<sup>551</sup>

#### 6.7.4 Communication

In the empirical research to date, ample evidence is described that VTS develops communication skills. I found this effect of VTS in twenty studies in five different countries: sixteen in the USA and one each in Canada, Finland, Singapore and New Zealand. In total 907 participants took part: 15 preschool children, 215 elementary and high school students, 579 university students and 98 classroom teachers.

Through VTS, students increased their positive views toward health care professional communication skills<sup>552</sup> and learnt to express ideas.<sup>553</sup> Studies report communication skills in general<sup>554</sup> or self-expressive skills,<sup>555</sup> or communicative language skills (listening, speaking about what they see/think/feel, reading and writing), and social skills (verbal and non-verbal gestures).<sup>556</sup> Through VTS, students developed group discussion skills, like listening, paraphrasing and not jumping to conclusions.<sup>557</sup> VTS engaged participants in discussion, elicited openness and

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539 Campbell et al. 2021; Mani 2019/Mani et al. 2021; Brackley & Petersen 2018; Nanavaty 2018; Nease & Haney 2018; Moorman et al. 2017

540 Zapata et al. 2017; Moorman 2013

541 Agarwal et al. 2020; Poirier et al. 2020; Nease & Haney 2018; Klugman et al. 2011

542 Lee et al. 2021

543 Lee et al. 2021

544 Agarwal et al. 2020; Ishiguro et al. 2019; Klugman et al. 2011

545 Mendonça 2020

546 Ishiguro et al. 2021

547 Ishiguro et al. 2020

548 Klugman et al. 2011

549 Keogh & Gibbon 2020

550 Mani 2019; Mani et al. 2021

551 Bentwich & Gilbey 2017

552 Klugman et al. 2011

553 Allison et al. 2017

554 Mitzova-Vladinov & Torrents 2020

555 Rautiainen & Jäppinen 2017

556 Baker 2015; Lye et al. 2017; Vancil 2009

557 Nanavaty 2018; Campbell et al. 2021



person-centered communication, and increased empathy.<sup>558</sup> Through VTS, students increased the number of descriptive words used to describe art and patient images<sup>559</sup> and increased sentence complexity and cohesion of narratives.<sup>560</sup> Students used more supported observations<sup>561</sup> and evidentiary reasoning.<sup>562</sup> They used more speculations<sup>563</sup> and improved their argument writing skills.<sup>564</sup> A transfer of VTS skills into practice was found: students noticed they were more precise in providing details to other team members.<sup>565</sup>

I only found one study in which VTS did not have any effects, the early study by Zelvis.<sup>566</sup> Students with low motivation did not perform significantly better when VTS was used as an instruction method, nor could any effect on vocabulary or interaction be measured.

### 6.7.5 Perspective Taking, Tolerance of Ambiguity and Empathy

In the empirical research to date, evidence is described that VTS develops perspective taking, tolerance of ambiguity and empathy. I found this effect of VTS in twelve studies in six different countries: seven in the USA, two in Finland, one in Canada, Israel, Singapore and New Zealand. In total 418 participants took part: fifteen preschool children, 361 university students and 42 classroom teachers.

VTS contributes to increasing tolerance of ambiguity and acceptance of multiple possible meanings, related to the enhancement of empathy and ability to recognize the feelings of other people.<sup>567</sup> Through VTS, participants imagined how others were thinking and feeling and projected themselves into the situation of the other. Moreover, they felt for others who were suffering.<sup>568</sup> Children's comments featured affect and personal connections.<sup>569</sup> Through VTS, participants improve their ability to consider different ideas and contrasting opinions with a more open attitude.<sup>570</sup> VTS leads to exploration of biases and sharing perspectives<sup>571</sup> and appreciating perspectives of others.<sup>572</sup> VTS may help gain new perspectives, facilitating interpersonal relations.<sup>573</sup> Furthermore, VTS could help elementary school teachers focus on the learner's linguistic ability.<sup>574</sup> Analyzing paintings depicting other medical roles helps enhancing understanding and valuation

558 Chapman & Hall 2014, 2016; Aspden et al. 2022

559 Klugman et al. 2011; Nease & Haney 2018; Agarwal et al. 2020; Bomgaars & Bachelor 2020

560 Lee et al. 2021

561 Grohe & Egan 2016; DeSantis 2009

562 Grohe & Egan 2016

563 DeSantis 2009

564 Smolkowski 2020

565 Moorman 2013

566 Zelvis 2008

567 Bentwich & Gilbey 2017; Klugman et al. 2011

568 Sinquefield-Kangas 2019

569 Lye et al. 2017

570 Aspden et al. 2022

571 Balhara & Irvin 2021

572 Campbell et al. 2021; Nanavaty 2018

573 Hensel & Moorman 2017

574 Rautiainen & Jäppinen 2017

of those roles.<sup>575</sup> The images in VTS increase empathy, but a decline between post-test and the follow-up after nine months was found for ethnocultural empathy, suggesting the need to regularly practice the skill.<sup>576</sup> VTS can be used as “empathy training” to be added to (medical) school curriculums.<sup>577</sup>

### 6.7.6 Imagination & Creativity

In the empirical research to date, some evidence can also be found that VTS develops imagination and creativity. This effect of VTS has been found in three studies in three different countries: one in the USA, Singapore,<sup>578</sup> and Finland.<sup>579</sup> In total, 45 participants took part: 15 preschool students, 20 university students and 10 classroom teachers. In a VTS conversation, participants use their imagination to think about how others are thinking and feeling while projecting themselves into the other person’s situation.<sup>580</sup>

### 6.7.7 Group Cohesion & Class Climate

In the literature, a positive effect of VTS on group cohesion and class climate is also described. I found this effect of VTS in fourteen studies in four different countries: ten in the USA, two in Canada, and one in Finland and New Zealand. In total, 532 participants took part: 107 elementary and high school students, 336 university students and 89 classroom teachers and non-specified adults.

VTS increases group cohesion and fosters a positive class climate.<sup>581</sup> VTS helps students to express ideas in a supportive, small group environment,<sup>582</sup> to experience empathy,<sup>583</sup> and, when focusing on dyslexic students, to especially engage those students with special needs.<sup>584</sup> The role of the facilitator is a key component of feeling safe.<sup>585</sup> VTS contributes to positive strategies for classroom management, while the images in VTS elicit openness and increase empathy.<sup>586</sup> Being in the art museum, a neutral and relaxing environment, added to that.<sup>587</sup> VTS provides possibilities for collaboration,<sup>588</sup> communication,<sup>589</sup> and interpersonal relations with other students and colleagues.<sup>590</sup> Participants of VTS sessions validated the use of VTS as an enjoyable learning

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575 Visscher et al. 2019

576 Chapman & Hall 2014, 2016

577 Kruse & Kinde 2019

578 Campbell et al. 2017; Lye et al. 2017

579 Sinquefield-Kangas 2019

580 Sinquefield-Kangas 2019

581 Aspden et al. 2020

582 Allison et al. 2017

583 Sinquefield-Kangas 2019

584 Baker 2015

585 Moorman 2013

586 Chapman & Hall 2014, 2016

587 Moorman 2013

588 Mitzova-Vladinov & Torrents 2020; Nanavaty 2018

589 Nanavaty 2018

590 Hensel & Moorman 2017; Moorman et al. 2017

experience.<sup>591</sup> VTS increases professionalism of teachers: they improved their ability to teach critical thinking concepts and to perceive and analyze artistic work.<sup>592</sup>

In the literature to date, I only found one study in which VTS did not develop the effect that had been theorized. It was the early study by Zelvis about reading achievement with fourth-grade students.<sup>593</sup> In this study, students did not perform significantly better when VTS was used as the instructional method. However, there was a significant effect on motivation of the comprehension subtest for highly motivated students.

### 6.7.8 Cultural Competence

In the empirical research to date, evidence is described that VTS develops cultural competence as well. I found this effect of VTS in ten studies in five different countries: six in the USA and one in Canada, Finland, New Zealand, and the Netherlands. In total, 381 participants took part: 25 elementary school students, 324 university students and 32 classroom teachers.

Through VTS, students develop (inter-)cultural competence.<sup>594</sup> Students become more aware of their knowledge of broader contexts like culture, values, or politics.<sup>595</sup> VTS also promotes and supports diversity<sup>596</sup> and increases intellectual curiosity about other communities and cultures.<sup>597</sup> VTS provided a framework for students to navigate complex discussions like those focused on social justice.<sup>598</sup>

However, through VTS, a reduction in personal and professional intercultural sensitiveness was also found. It is suggested that this is caused by a higher awareness of this aspect.<sup>599</sup> Declines between post-test and the nine-month follow-up were also found,<sup>600</sup> suggesting a recommendation for regular repetition.

### 6.7.9 Self-Awareness & Self-Esteem

In the empirical research to date, evidence was reported that VTS develops self-awareness and self-esteem. I found this effect of VTS in seven studies in two different countries: six in the USA, one in Ireland. In total, 192 participants took part: 28 elementary school students, 156 university students and 8 classroom teachers.

591 Poirier et al. 2020; Visscher et al. 2019

592 Smolkowski et al. 2020

593 Zelvis 2008:i: 104 fourth-grade students (of an upper high school)

594 Aspden et al. 2022; Deunk et al. 2020

595 Campbell et al. 2017

596 Campbell et al. 2017

597 Balhara & Irvin 2021; Chapman & Hall 2014, 2016

598 Zapata et al. 2017

599 Deunk 2020a

600 Chapman & Hall 2014, 2016

VTS increased students' self-concept, self confidence and self-esteem<sup>601</sup> and elicited an increased self-awareness of a person's own observational style vs. peers.<sup>602</sup> Students observed that not everyone sees the same<sup>603</sup> which produced new and critical insights.<sup>604</sup> Through VTS, students perceived that they gained intrapersonal skills.<sup>605</sup> Students also noticed that they were able to assess patients more critically and to provide more precise details to team members in practice.<sup>606</sup> VTS helped students understand how to improve their observational and listening skills.<sup>607</sup>

## 7. EVALUATION OF THE RESEARCH ABOUT VTS

"Data analysis is more subjective than is often made out," Field states in his well-known book about statistics.<sup>608</sup> However, a research design that is both internally and externally valid adds to the reliability of the reported findings. Such research is designed in such a way that the design contributes to reliable findings, for example, through inclusion of clear definitions of concepts, and makes it possible to replicate the study with similar findings, respectively. This section provides an overview of the research methodologies used in the selected empirical studies about VTS.

### 7.1 INTERNAL VALIDITY THREATS: LACK OF DEFINITIONS & GROUP THREATS

Precise, unambiguous, and objective definitions of what is being measured is important for the internal validity of a study. It maximizes its reliability.<sup>609</sup> In the selected literature, definitions could be found of Critical Thinking, Observation, Tolerance for Ambiguity, Empathy, and Imagination. The definitions provided by the selected literature are listed in Table 6 below.

■ **Table 6** – Definitions of the findings reported

Finding	Concept definition
Visual Literacy	Building on Debes, Hailey et al. define visual literacy as <i>the ability to differentiate and interpret the things one sees and to appreciate masterworks of visual communication, as well as the ability to communicate creatively applying these skills.</i> <sup>610</sup>
Critical Thinking	Housen defined critical thinking as a <i>higher order of thinking, an active persistent and careful consideration of any belief, with the following characteristics of behavior: making observations, speculating, synthesizing, and supporting observations with evidence.</i> <sup>611</sup>

601 Baker 2015

602 Keogh & Gibbon 2020

603 Nanavaty 2018

604 Zapata et al. 2017

605 Moorman et al. 2017

606 Moorman 2013

607 Mitzova-Vladinov & Torrents 2020

608 Field 2013:xix

609 Field & Hole 2003:57-58

610 Hailey, Miller and Yenawine 2015:51; Debes 1969:27

611 Housen in Bresler & Ellis 2000-2001:8; Housen 2001:5-6

■ Table 6 Continued

Finding	Concept definition
Observation	Mani defined observation as the <i>search to collect data through the use of the human sense organs such as the sense of sight, touch, taste, hearing or smelling whatever is to be observed.</i> <sup>612</sup>
Communication	In the selected literature, no definition could be found, only a subdivision in <i>written and oral communication</i> <sup>613</sup> and <i>written and verbal communication.</i> <sup>614</sup>
Perspective Taking, Tolerance for Ambiguity, and Empathy	Perspective taking as a concept has not been defined in the selected literature. Bentwich & Gilbey define tolerance of ambiguity as <i>the recognition of the option to interpret something in two or more distinct ways.</i> <sup>615</sup> They describe how they find VTS's focus on students' exposure to different interpretations of the same art image as corresponding with the definition for tolerance of ambiguity. <sup>616</sup> Bentwich & Gilbey define empathy as <i>the ability to truly understand another individual's personal experiences and feelings, as well as his view of the world around him.</i> <sup>617</sup> Sinuefield-Kangas defines empathy as <i>the ability to understand and share the feelings of another, divided in affective empathy, i.e., having a similar emotional experience to one being exhibited by an emotional stimulus, and cognitive empathy, i.e., the ability to understand this emotional experience.</i> <sup>618</sup>
Imagination and Creativity	Sinuefield-Kangas defines imagination as follows: <i>Within our imagination is where the broader construction of meanings and purposes begin. We role-play mental images that function as displays for the possibilities, associations, and construction of our ideas. We form images in our 'mind's eye' attempting to conceptualize possibilities or attainable outcomes. Imagining as a form of playing with our knowledge allows us to create and/or assign both our social and emotional experiences to the phenomena being explored playing with our knowledge.</i> In Sinuefield-Kangas' conclusion: <i>Imagination provides a gateway through which meanings and values become interwoven as our consciousness works to create an understanding of the old and the new.</i> <sup>619</sup> No definition of Creativity could be found.
Group Cohesion and Class Climate	For neither Group Cohesion nor Class Climate could a definition be found in the selected literature.
Cultural Competence	For Cultural Competence, no definition could be found in the selected literature, either. However, in her study, Deunk did define the concept of intercultural competence referring to Chen's definition for intercultural sensitivity, as intercultural sensitivity is a precondition for intercultural competence: <i>an individual's ability to develop a positive emotion towards understanding and appreciating cultural differences that promotes appropriate and effective behavior in intercultural communication.</i> The concept was described in six dimensions: <i>empathy, interaction and engagement, propriospect, being non-judgmental, open-mindedness and self-confidence.</i> <sup>620</sup>
Self-Awareness and Self-Esteem	No definition of those concepts could be found in the selected literature. However, Baker did define self-concept as <i>the concept one has of oneself through the interpretations of others and the perceived perceptions of others.</i> <sup>621</sup>

612 Mani 2019:105

613 Moorman 2017

614 <sup>589</sup> Aspden et al. 2020:443

615 Bentwich & Gilbey 2017:2

616 Bentwich & Gilbey 2017:2

617 Bentwich & Gilbey 2017:1

618 Sinuefield-Kangas 2019:3

619 Sinuefield-Kangas 2019:5, 23

620 Deunk 2020a:6

621 Baker 2015:7

No definitions have been provided of the reported effects of Group Cohesion and Class Climate and Creativity. Moreover, I did not find a precise definition of visual literacy in any of the articles in which enhancement of visual literacy has been reported as a finding. However, in Hailey, Miller and Yenawine's 2015 review about VTS, it is theorized how the broader concept of visual literacy of VTS could also be derived from the findings of research in the past that report aesthetic development and observational skills.<sup>622</sup> For Communication, I only found a division into oral and written communication in the selected literature, not a definition. Furthermore, Deunk's definition of Intercultural Competence<sup>623</sup> was the nearest thing to a definition for Cultural Competence, for which no other definition could be found in the selected literature. However, Deunk's definition seems appropriate for cultural competence as well. Lastly, in the category of Self-Awareness and Self-Esteem, only a definition of Self-Concept could be found, which was considered closely related to the concept of self-awareness.<sup>624</sup> In some reports, the concepts that were being measured were not defined at all. This was the case in the reports by Agarwal et al., Bomgaars & Bachelor, Grohe & Egan, Hashtrودي et al., Ishiguro et al., Keogh & Gibbon, Mendonça, Nease & Haney, Smolkowski et al., Vancil, and Zelvis.<sup>625</sup>

Another difficulty that was encountered in some of the empirical research methodologies used was the omission of control groups. Omitting a control group can be considered a threat to a study's internal validity because it could unintentionally influence the results. This phenomenon is referred to as *group threats*. Other group threats are time, possible life events and maturation during treatment.<sup>626</sup> As it turned out, only 26 studies of the 60 selected studies had a control group in the study design. Of the literature selected for my study, four studies did not mention the total number of participants. These include: Baker, Keogh and Gibbon, Kruse & Kinde, and Zapata et al.<sup>627</sup> To secure internal validity, measurements should have a direct link with the experimental condition and report only what is intended to be measured. Reliability in this regard can also be enhanced through test-retest, i.e., the measuring of consistency between two tests conducted with the same participants at two different points in time, mostly a pre- and a post-test.

Table 7 contains an overview of the 26 studies about VTS with a control group and/or a pre- and post-test in their design (1 = in study design, 0 = not in study design). Publications that had neither control groups nor pre-tests and post-tests have not been included in this Table.

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622 Hailey, Miller and Yenawine 2015:51

623 Deunk 2020a:6

624 Baker 2015:7

625 Vancil 2009; Zelvis 2008; Nease & Haney 2018; Grohe & Egan 2016; Agarwal et al. 2020; Bomgaars & Bachelor 2020; Hashtrودي et al. 2020; Keogh & Gibbon 2020; Mendonça 2020; Smolkowski et al. 2020; Ishiguro et al. 2021

626 Field & Hole 2003:57-58

627 Keogh & Gibbon 2020; Kruse & Kinde 2019; Zapata et al. 2017; Baker 2015

■ **Table 7** – Overview of studies about VTS with pre- and post-test

Year of publication	Researcher	Control group	Pre- and post-test
1988-2003	Housen & DeSantis 1991	0	1
1988-2003	Housen & DeSantis '91-'94	1	1
1988-2003	Housen & DeSantis 1993	1	1
1988-2003	Housen & DeSantis '93-98	1	1
1988-2003	Housen & DeSantis 1994	1	1
1988-2003	Housen & DeSantis '94-'95	1	1
1988-2003	Housen & DeSantis '95-'96 Russia	1	1
1988-2003	Housen & DeSantis '95-'96 Kazakhstan	1	1
1988-2003	Housen & DeSantis '95-'96 US	1	1
1988-2003	Housen & DeSantis '96-97	1	1
1988-2003	Housen & DeSantis '97-00	1	1
1988-2003	Housen & DeSantis '00-'02	1	1
2007	DeSantis & Housen	1	1
2008	Zelvis	1	1
2009	Vancil	1	1
2009	DeSantis	1	1
2016	Grohe & Egan	1	1
2018	Nease & Haney	1	1
2019	Ishiguro et al.	1	1
2020	Smolkowski et al.	1	1
2020	Ishiguro et al.	1	1
2020	Mendonça	1	1
2020	Bomgaars & Bachelor	1	1
2020	Agarwal et al.	1	1
2020	Mani et al.	1	1
2021	Ishiguro et al.	1	1

## 7.2 EXTERNAL VALIDITY: REPLICABILITY AND GENERABILITY

Valid results are results that are replicable in other situations as well.<sup>628</sup> A limited number of participants is a threat to reliable study results: the bigger the difference between participants with the same effect, the more confident a researcher can be that the experiment is externally valid as well.<sup>629</sup> An adequate sample size to obtain data saturation in studies using semi-structured interviews is seventeen participants or more.<sup>630</sup> Of the sixty selected studies, thirteen studies had fewer than seventeen participants. Table 8 contains an overview of those studies including their numbers of participants.

628 Field & Hole 2003:63

629 Field & Hole:62

630 Francis et al. 2009:1229

■ **Table 8** – Overview of studies about VTS with <17 participants

Year of publication	Researcher	Number of participants
1988-2003	Housen & DeSantis 2000	5
1988-2003	Housen & DeSantis 2001-2003	6
2015	Baker	3
2017	Allison et al.	8
2017	Campbell et al.	12
2017	Hensel & Moorman	14
2017	Lye et al.	15
2017	Rautiainen & Jäppinen	7
2018	Brackley & Petersen	13
2019	Sinquefield-Kangas	8
2020	Hashtrودي et al.	10
2020	Keogh & Gibbon	15
2021	Balhara & Irvin	5

Only sixteen of the sixty studies that were selected turned out to meet the standards of internal and external validity. Their findings were considered reliable because these studies matched standards for good empirical research: they included definitions of what was measured, a number of participants higher than seventeen, a control and a treatment condition, as well as a research design that included both pre-tests and post-tests. These studies are listed in Table 9 below.

■ **Table 9** – Overview of studies about VTS considered internally and externally valid

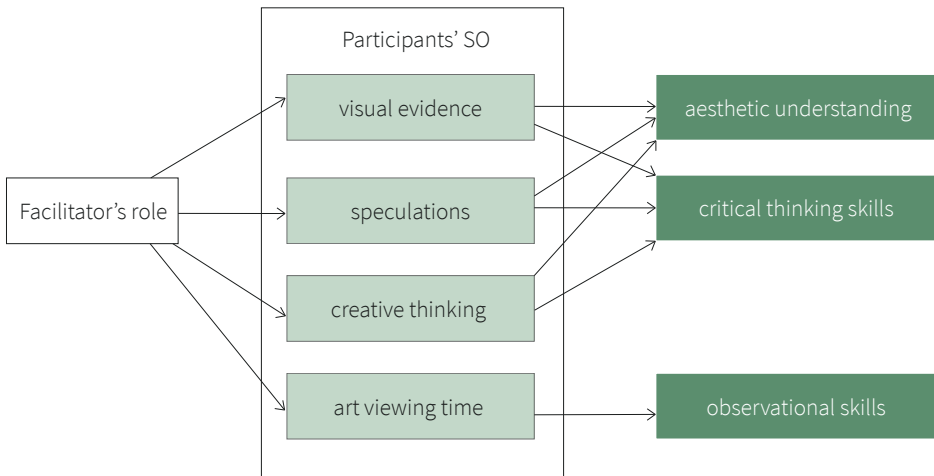
Year of publication	Researcher
1988-2003	Housen & DeSantis '91-'94
1988-2003	Housen & DeSantis 1993
1988-2003	Housen & DeSantis '93-98
1988-2003	Housen & DeSantis 1994
1988-2003	Housen & DeSantis '94-'95
1988-2003	Housen & DeSantis '95-'96 Russia
1988-2003	Housen & DeSantis '95-'96 Kazakhstan
1988-2003	Housen & DeSantis '95-'96 US
1988-2003	Housen & DeSantis '96-97
1988-2003	Housen & DeSantis '97-00
1988-2003	Housen & DeSantis '00-'02
2007	DeSantis & Housen
2009	DeSantis
2019	Ishiguro et al.
2020	Ishiguro et al.
2020	Mani et al.



Through VTS, students developed aesthetic understanding and critical thinking through stimulating Supported Observations (SO), which are their expressions of ideas about an artwork supported with visual evidence, speculations, and creative thinking. VTS also has a positive effect on developing observational skills. Regardless of the educational setting, VTS is reported to increase participants’ art viewing time. The development of both critical thinking and observational skills turned out to have a transfer to other situations as well.

I designed a theoretical model about how VTS promotes aesthetic understanding, critical thinking skills (CTS) and observational skills through stimulating SO and through an increase of art viewing time, see Figure 5a below.

■ **Figure 5a** – Overview of VTS effect on aesthetic understanding, CTS & observational skills



The relationships are clarified with arrows: the facilitator influences participants’ behavior, which has an effect on their understanding and skills.

In the sixteen valid studies about VTS, reliable evidence was found that VTS develops critical thinking skills. This was suggested as a finding in several other studies about VTS.<sup>631</sup> It was suggested that VTS increases the depth and quality of reflections and, as a result, aligns with the practice of Kahneman’s System 1 thinking and the development of System 2 thinking.<sup>632</sup> Moreover, images used in VTS seem to elicit reflection.<sup>633</sup> The findings also suggest VTS’ efficacy for problem identification because of the suggested positive relationship between thinking and the

631 Those were considered less reliable and/or critical thinking skills were found as a bycatch in the research: Aspden et al. 2022; Campbell et al. 2017 & 2021; Brackley & Petersen 2018; Rautiainen & Jäppinen 2017; Hensel & Moorman 2017; Baker 2015; DeSantis 2009; Vancil 2009

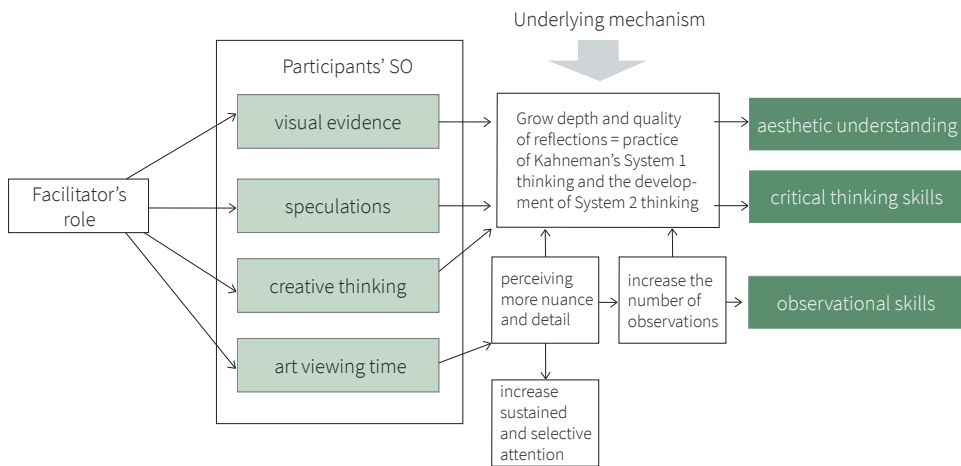
632 Kruse & Kinde 2019

633 Chapman & Hall 2014, 2016

assessment process in nursing,<sup>634</sup> and VTS' support in helping children with learning disabilities through mapping and explaining how thinking is connected to text.<sup>635</sup>

The aforementioned reliable evidence for development of observational skills in some studies about VTS is strengthened by findings in other studies which suggest the same positive effect on observational skills.<sup>636</sup> Studies suggest that VTS helps perceiving more nuance and detail and increases the number of observations<sup>637</sup> as well as the number of words used to describe a conversation.<sup>638</sup> Furthermore, VTS also seems to increase sustained and selective attention,<sup>639</sup> regardless of type of painting.<sup>640</sup> The findings reveal information about the underlying mechanisms in VTS. This information was added to the model of VTS' efficacy, see Figure 5b below.

■ **Figure 5b** – Overview of VTS' efficacy and underlying mechanisms



Ample studies report that VTS develops communicational skills. They suggest an enhancement with participants of self-expressive and language skills, as well as social and group discussion skills.<sup>641</sup> As was reported, through VTS, participants used more descriptive words and more complex sentences and there was more cohesion in their narratives. This information has also been added to the model about VTS' efficacy, see Figure 5c below. However, this evidence cannot be considered reliable, because of flaws in the internal validity of the methodology used in those studies. Therefore, in the model, communication skills are depicted in a lighter color green.

634 Nanavaty 2018; Nease & Haney 2018

635 Zapata et al. 2017

636 Campbell et al. 2021; Mani 2019; Mani et al. 2021; Brackley & Petersen 2018; Nanavaty 2018; Nease & Haney 2018; Moorman et al. 2017; Poirier et al. 2020.

637 Agarwal et al. 2020; Poirier et al. 2020; Nease & Haney 2018; Klugman et al. 2011

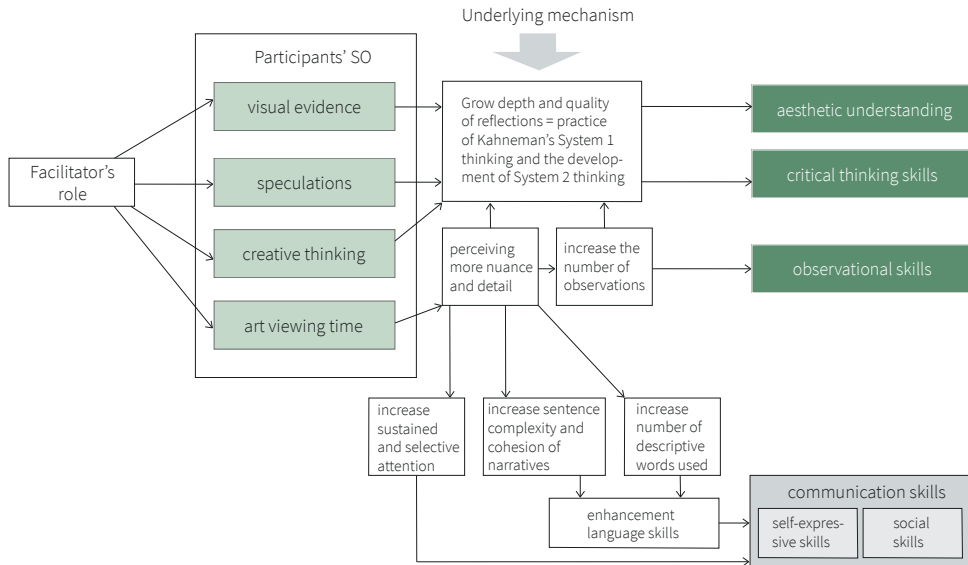
638 Lee et al. 2021

639 Mendonça 2020

640 Ishiguro et al. 2021

641 Baker 2015; Lye et al. 2017; Vancil 2009

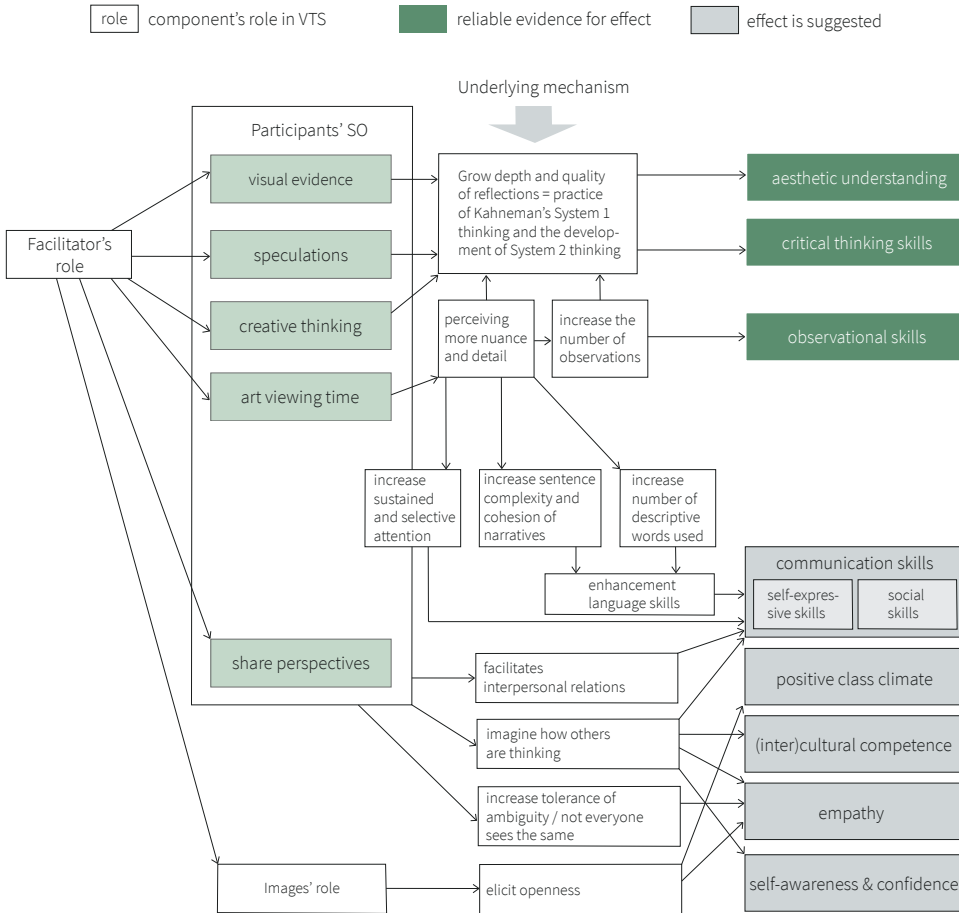
■ **Figure 5c** – VTS' effects and underlying mechanisms



Perspective taking, tolerance of ambiguity and empathy through VTS are also described as findings in empirical research to date. VTS promotes sharing perspectives, invites participants to imagine how others are thinking and facilitates interpersonal relations.<sup>642</sup> This requires that participants use their imagination and creativity. Both have also been reported as being enhanced through VTS. Unfortunately, those studies were evaluated as less valid, but their findings do shed light on the mechanisms in VTS that cause its efficacy. Another finding was that images in VTS are found to elicit openness and increase empathy.<sup>643</sup> Moreover, VTS' small group environment adds to a positive class climate,<sup>644</sup> for which the role of the facilitator is suggested to be a key component.<sup>645</sup> Research suggests that VTS also increases professionalism of teachers through improving both the teaching of critical thinking and the perception and analysis of artworks.<sup>646</sup> Students seem to develop (inter)cultural competence and self-awareness by becoming more aware of their own knowledge, values and context.<sup>647</sup> Through VTS, students seem to build self-confidence and become aware that not everyone sees the same<sup>648</sup> These findings are added to the theoretical model about VTS' efficacy in Figure 5d below.

642 Bentwich & Gilbey 2017; Sinquefield-Kangas 2019  
 643 Chapman and Hall 2014 -2016  
 644 Allisson et al. 2017; Aspden et al. 2020  
 645 Moorman 2013  
 646 Smolkowski et al. 2020  
 647 Aspden et al. 2022; Deunk et al. 2020, Campbell et al. 2017  
 648 Nanavaty 2018

**Figure 5d** – VTS’ effects and underlying mechanisms suggested in the literature component’s role in VTS reliable evidence for effect effect is suggested point out the relation between items



## 8. OVERVIEW OF EMPIRICAL RESEARCH 2022 – 1 AUGUST 2024

To find the latest empirical studies about VTS from 2021 up to and including July 2024 and to see if they might bring any changes to the list of VTS’ effects found in my earlier literature study, I conducted a new literature research in the first six months of 2024. I conducted a Google Scholar search with title search words “Visual Thinking Strategies” and “Yenawine”. In this way, in this second round of literature research, I found a total of 264 publications, published in the years 2022, 2023 and 2024, from all continents in the world. From the EU, there were 45 publications from sixteen countries (Austria, Czechia, Finland, France, Greece, Germany, Iceland, Italy, Netherlands, Norway, Portugal, Romania, Spain, Sweden, Turkey, Ukraine), in North-America, four studies were published in Canada and 182 in the US, in South America, there were four publications from four countries (Argentina, Brazil, Colombia, Peru), in Australia, I found two publications, in Africa, three studies were published in Egypt, and lastly from Asia, I identified 24 publications from thirteen

countries (China, Indonesia, Iraq, Iran, Japan, Jordan, Malaysia, Philippines, Russia, Saudi Arabia, South Korea, Taiwan, Thailand).

To determine which publications I would include in the review, I used the same criteria as in the first round. I included publications if they reported empirical studies on the use of VTS in education with target groups of all ages in any circumstances. I also included publications on studies in which VTS had been used as the educational method in a study with another focus of attention than VTS itself. I excluded publications that turned out not to be available in any way, were about the same study as another reference, referred to poster presentations, or did not contain empirical data, such as theoretical or journalistic articles or descriptions of pedagogical practice and experiments. I also excluded publications that referred to VTS as a method of health treatment, papers about strategies of visual thinking other than VTS, or which only mentioned VTS as a reference in their theoretical section and/or reference list. I likewise excluded publications of studies in which VTS was combined with other educational methods, or publications of studies that were in languages other than Dutch, English, German (one study) or French (two studies). Because of this language constraint, I excluded a total of 33 publications: six in Portuguese, four in Japanese and Spanish each, three each in Arabic and Italian, two in Finnish, Korean, Russian, Czech and Ukrainian, and one reference in Catalan, Icelandic and Thai.

From a total of 264 studies published in 2022, 2023 and 2024 until 1 August, I included a total of 33 studies about VTS. I listed and analyzed those studies, briefly, only to find out whether or not those studies reported any of the nine effects found in the first round of the literature research and to see if any other effects, positive or negative, were reported.

VTS' positive effect of VTS on *visual literacy* was suggested in two studies,<sup>649</sup> as was its effect on *critical thinking skills (CTS) & reasoning* in two studies for developing the skill.<sup>650</sup> A positive effect on the participation of “low-performing” and “high-performing” students was found.<sup>651</sup> However, one study mentioned participants reporting a decreased ability to critically analyze what they saw.<sup>652</sup> However, in two studies, VTS was not found effective in CTS. One of the two even found another method more effective than VTS in both visual literacy and CTS.<sup>653</sup> A significant improvement was

649 Nickel 2022: Visual and reading literacy skills were enhanced in a group of 5th grade students through a virtual museum tour (USA). In the study by Akers et al. (2022:309), medical students in their first and second years, 50 groups with 6 students each, were offered training in visual literacy through VTS to help students make better online infographics about medical information debunking a COVID-19-related myth.

650 Bachmann 2022, 2023: VTS enhance the critical-argumentative skills of 16-year old students in upper secondary education (Austria). A positive effect on the participation of “low-performing” and “high-performing” students was also found. Choi et al. 2022: A post-test only study with 60 second-year undergraduate nursing students who were enrolled in a health assessment course (Korea).

651 Bachmann 2022, 2023.

652 Gallagher Worthley & Trudell 2022: Study on VTS with 33 occupational therapy students, four works, pre-test/post-test, one session. Students did report decreased ability to critically analyze what they saw, but felt that learning how to observe was beneficial to them and to their future as practitioners.

653 Hu & Hwang 2024: Study of 2x26 students (Shanghai) in which visual literacy and critical thinking were found to be better served by a different method of concept mapping/problem posing. Ferrara & Wilkins 2022: In a study with 27 US undergraduate students, experiment fully online due to COVID-19, no expected significant improvements in critical thinking and observation skills was found, but only in linguistic expression and problem solving.

found through VTS in *observation* in three studies,<sup>654</sup> as well as an improvement on attention span<sup>655</sup> and engaging viewers.<sup>656</sup> VTS' effect on *communication* was found in three studies,<sup>657</sup> including an improvement in storytelling<sup>658</sup> and reading ability.<sup>659</sup> Several studies reported a positive effect on *group cohesion & class climate*.<sup>660</sup> VTS' effect on *cultural competence/perspective taking & empathy* was found in six studies,<sup>661</sup> on *imagination & creativity* in one study (significant effect on problem

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- 654 Hülya et al. 2023: Study with ten second-year medical students enrolled in a module "Medicine and Art History" (Turkey). Feen-Calligan et al. 2023: Study with 28 medical & art therapy students, quantitative & qualitative research & focus group (US); Enoch et al. 2023: Study with 133 high school students (Phillippines).
- 655 Mendonça & Charbonneau 2022: Study with 75 students in primary education (Canada); Mendonça et al. 2023: Study with 98 primary school children (Canada).
- 656 Van Leeuwen et al. 2023: VTS engages viewers with artworks, which measurably shapes people's visual exploration patterns.
- 657 Hülya et al. 2023: see footnote 629; Choi et al. 2022, see footnote 627 above for details; Ferrara & Wilkins 2022: Finding: significant improvement in linguistic expression; Hartle et al. 2022: Study in group of 2x11 English second-language learners, two sessions, qualitative research (Italy), through Zoom.
- 658 Lee 2023: Study with 1<sup>st</sup> grade Korean-English bilingual students using wordless picturebooks.
- 659 Seethongsuk & Tenca 2021-2022: A qualitative & quantitative study with 45 participants, 20 first-year learners and 25 third-year learners (Thailand).
- 660 Connors & Piro 2024: Study qualitative research in two groups (n = 22 & 24), teachers practicing VTS in and outside Kindergarten-Grade 12 (K-12) setting. VTS fosters a humanistic teaching style. Nickel 2024: VTS creates supporting environment, six participants, health care provider leaders, three sessions: in a museum, virtual and at a hospital. Quantitative pre- & post-test. Pratiwi 2024: Study with 416 students in 12 classes, grades 11-12, consisting of 32 students. Pre- & post-test, no control group (Indonesia). VTS makes students more active in learning and they enjoy the process of understanding a narrative. Clegorne et al. 2023: Experiment in five-week honors course, 22 deeply motivated high-achieving students majoring in engineering, qualitative \* quantitative research. Effects of VTS increase teamwork skills. Ferrara et al. 2023: VTS improves student-teacher relationship. Study with groups of seven students of Medicine (20-25 yrs old), five meetings of 90 minutes, oral & written VTS, pre- and post-test, online because of COVID-19. Paul et al. 2023: Study with 211 students, one (1) 90 minutes VTS session by art museum educator + reflections in small groups. VTS is helpful for developing collaborative competencies.
- 661 Nickel et al. 2024: VTS encourages cultural humility and fosters appreciation of diverse perspectives. See footnote 635 for details on the study; Feen-Calligan et al. 2024: VTS helped make art therapists more aware of their own cultural biases (see footnote 629 for research details). Koop 2023: explorative qualitative study about VTS in sexuality education. VTS is found to ensure subjective and context-specific learning because of its story-based approach, essential for developing sexual agency and awareness of dominant and deviant sexual scripts. Liang et al. 2023: Study with 92 Chinese students in grades 3-6 living in Spain, qualitative research. VTS is found to have positive impact on heritage culture expression, participation in school activities and interpersonal intelligence. Aspden et al. 2022: Study with 98 students in second year of a Bpharm program. It was found that VTS supports development and transference of key skills and attitudes relating to the provision of inclusive person-centered care. Ryznar et al. 2022: Qualitative study about one VTS session with two first-year and two third-year students of psychiatry/residents. It was found that through VTS students appreciate multiple perspectives and consider the culture of psychiatry and medicine.

solving),<sup>662</sup> and on *self-awareness & self-esteem* six studies.<sup>663</sup> In one study, a lack of familiarity with art and the open-ended nature of observations through VTS were reported to be a challenge,<sup>664</sup> which could even lead to avoiding a closer look, and a tendency to move to another work of art.<sup>665</sup>

Some studies were conducted about VTS assessment and methodology. A VTS skills scoring manual was developed by Ferrara & Wilkins.<sup>666</sup> The role of the facilitator was challenged by one study in which VTS was executed without a facilitator. This changed the groupwork into sharing common understanding rather than as an opportunity to change their views and thinking.<sup>667</sup> Adding to the knowledge about the facilitator's role was the study by Van Leeuwen et al. who found that the quality of the facilitator's performance as well as earlier experiences with art and reactions by peers influence group climate. However, their research was not conducted in a mainstream educational setting, so was formally not included in this literature research.<sup>668</sup> More information on Van Leeuwen et al.'s study can be found below.

## 9. HIGHLIGHTING TWO STUDIES ABOUT VTS & EMPATHY

In recent years, two studies have been published whose findings elaborate on how VTS might have an effect on empathy. The phenomenological study by Sinquefield-Kangas highlights how the process in VTS relates to Batson's eight empathic phenomena, whereas Van Leeuwen et al. provide neurobiological grounding of the VTS method in the social brain. Below, I briefly introduce both empirical studies.

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662 In only one study, VTS might have helped creativity, but this was mentioned as a significant improvement in problem solving. It is the study by Ferrara & Wilkins 2022, see footnote 635 for details.

663 Nickel et al. 2024: VTS intervention developed leadership skills, see footnote 637 for details; Aluri et al. 2023: Qualitative study on ten medical students who participated in a five-day online course featuring visual arts-based group activities through VTS. Findings suggest an impact on professional identity formation (in this study taken as a growth in self-esteem/self-confidence) as well as the possible enrichment of students' reflection and the provision of a space for learners to be vulnerable. Ferrara et al. 2023: Study on an unspecified number of groups of seven medical students (20-25 yrs old), five meetings of 90 minutes, oral & written VTS, questionnaires were applied before and after the workshop. Due to the pandemic, the experiment had to be carried out with a small number of people to be able to work virtually. Students find this technique to have a great educational impact. They perceive it as an effective method for the development of clinical skills (in this study taken as a growth in self-esteem/self-confidence). Lin et al. 2023: Study in Taiwan about 100 students of a first-year and . . . of a two-year undergraduate nursing program to obtain their nursing baccalaureate degree. Convenience sampling: students were enrolled in a compulsory course. VTS was reported to increase students' learning confidence. Gallagher Worthley & Trudell 2022: Study on VTS with 33 occupational therapy students, four works, pre-test/post-test, one session. Students did report decreased ability to critically analyze what they saw but also felt that learning how to observe was beneficial to them and to their future as practitioners; Ryznar et al. 2022: Participants think VTS can provide an opportunity to practice skills and gain personal insight. See footnotes 639 and 663 for more details on the study.

664 Choi et al. 2022: see footnote 627 for details.

665 Van Leeuwen et al. 2022, see footnote 638 for details.

666 Ferrara & Wilkins 2022, see footnote 635 for details.

667 Tokida & Abe 2022: A study with eighteen adults including university students and an elderly person, 20 to 66 years old. The groupwork consisted of two sessions.

668 Van Leeuwen et al. 2022: No empirical research on education, but lab study about the brain. Findings, however, are considered important for my study.

## 9.1 VTS & BATESON'S EIGHT EMPATHIC PHENOMENA

In her 2019 article, Sinuefield-Kangas theorized on how VTS exercises might elicit empathy. Her theory was based on Batson's list of descriptions of eight empathic phenomena, called *Concepts*: 1. *Knowing another's internal state, including his/her thoughts and feelings*, 2. *Adopting the posture or matching the neural responses of an observed other*, 3. *Coming to feel similar feelings as another*, 4. *Intuiting or projecting oneself into another's situation*, 5. *Imagining how another is thinking and feeling*; 6. *Imagining how one would think and feel in another's place*, 7. *Feeling distress at witnessing another person's suffering*, and 8. *Feeling for another who is suffering*.<sup>669</sup> In the questionnaire used in her field research, Sinuefield-Kangas limited the list to six concepts by combining four of the concepts into two, to avoid confusion by participants about the meaning of some of Batson's concepts: concepts 4 and 6 were combined into 4. *Imaginatively projecting yourself into another's situation*, and 7 and 8 into 6. *Feeling for another who is suffering*.<sup>670</sup> The results of her research align with Batson's theory that it is through a process in which empathetic phenomena are combined that one can come to know how another is thinking and feeling.<sup>671</sup> Sinuefield-Kangas reports how all eight participants in her study experienced empathetic behavior as described through Batson's concept 5. *Imagining how another is thinking and feeling*,<sup>672</sup> and concludes that the VTS method affords strong potential as a methodology to foster empathy development.<sup>673</sup> However, her study's sample size is very small, which makes it hard to extrapolate the findings.

## 9.2 VTS AND THE SOCIAL BRAIN

In 2022, in neuropsychological research about VTS, Van Leeuwen et al. found empirical evidence that VTS enhances the visual attention for social cues through directing the gaze toward salient social cues in artworks and complex imagery.<sup>674</sup> According to Van Leeuwen et al. the brain processes art on four levels, in short the Perception, Animation, Interaction and Construction Networks.<sup>675</sup> It is through this process that art mediates social cognition. Construction in our brain of models about the mental states of other people can inform us about the internally constructed

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669 Batson 2009:4-9; Sinuefield-Kangas 2019:7, 2023:21; Sinuefield-Kangas found that eight adult professional participants experienced empathic behavior during a VTS workshop held during an educational conference (2019). They imagined how another was thinking and feeling, were projecting themselves imaginatively into another's situation and felt for another who was suffering (Sinuefield-Kangas 2019). Transcriptions of video and audio recordings and data from a post-session questionnaire were analyzed, using Batson's eight empathic concepts (Sinuefield-Kangas 2019:7).

670 Sinuefield-Kangas 2019:7

671 Sinuefield-Kangas 2019:21

672 Sinuefield-Kangas 2019:20-21

673 Sinuefield-Kangas 2019:23

674 Van Leeuwen et al. 2022; Van Leeuwen et al. 2023: 1, 13

675 Van Leeuwen et al. 2023: 2 – The four levels of brain processing are the following: 1. Perceptual analysis, i.e. the “process of coding complex visual phenomena, such as the ambiguity and incongruity in artworks and social scenes, which is essential for understanding art and inter-personal interactions. 2. Animating dynamics, i.e. the process of “imagining and selecting potential responses which are influenced by familiarity and emotional value, which forms rapidly the subjective feelings of aesthetics when engaging with art.” 3. Interactive significance, the influence of memory, i.e. the activation of “stored norms and perceived beauty and personal homeostatic state,” i.e. our understanding of our personal state of that moment. The process also involves the “understanding and evaluation of the behavior of other people,” which results in an experience of conformation to a norm or rather a violation. This determines whether we find the artwork salient, which in turn is essential for emotional appraisal. 4. Symbolic and personal meaning, the giving of meaning to mental states and the artist's intent.



models in our own brains, Van Leeuwen argues, and also those of others in context, the world around us.

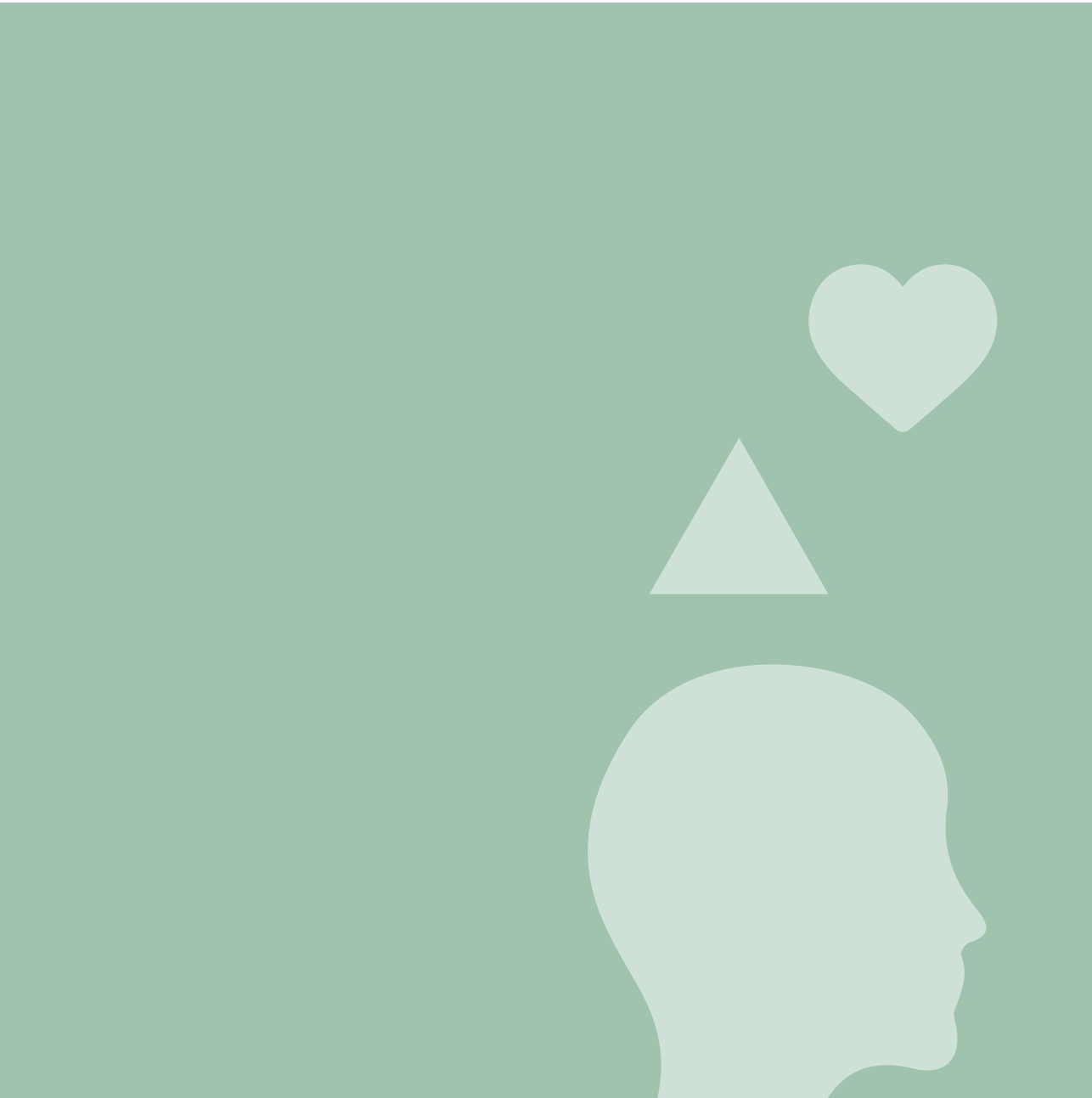
## 10. CONCLUSION

This chapter aimed to list and review the existing empirical research to date (1 August 2024). The aim was to elaborate the effects and efficacy of VTS. Ample and reliable evidence turns out to be available in the literature that VTS develops aesthetic understanding, critical thinking and reasoning, and observational skills. Furthermore, evidence is reported that VTS promotes communication skills, group cohesion and a positive class climate, and supports the development of cultural competence, perspective taking and empathy, imagination and creativity, as well as self-awareness and self-esteem. However, only a quarter of the existing empirical research about VTS was found internally and externally valid. Methodological flaws were the omission of control groups and pre-tests, as well as small sample sizes. Moreover, in a large number of studies, it was not clearly defined what was being measured. Many authors probably felt this was not necessary as Carden et al. suggested in their review of management studies.<sup>676</sup>

The literature research about VTS in this study shows that, over the years, publications about VTS have been published on all continents, albeit the most in the US. This review provided an overview of the effects of VTS reported to date including perspective taking and empathy, highlighting the studies by Sinquefield-Kangas about VTS and Batson's eight empathic phenomena, and by Van Leeuwen et al. about VTS and the social brain.

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676 Carden et al. 2022



## CHAPTER 5

# Developing Empathy through VTS: a Theoretical Model

## 1. INTRODUCTION

As can be concluded from Chapter 4, in recent research, findings in the empirical research to date suggest that VTS provokes and enhances empathy. Through VTS, participants said they were imagining how somebody else was thinking and feeling and were imaginatively projecting themselves into the other's situation.<sup>677</sup> Furthermore, VTS contributes to the acceptance of multiple possible meanings, which is related to the enhancement of empathy and the ability to observe the feelings of others.<sup>678</sup> Moreover, a recent study with medical students concludes that VTS responds to the call for empathy education.<sup>679</sup>

This chapter aims to theorize how VTS might influence empathy, what components and mechanisms in the method would be effective in this respect. For this, effective components and mechanisms in the methods that are reported to enhance empathy will be related to VTS' components and underlying mechanisms. About this relation, a theoretical model will be made.

## 2. BUILDING A THEORETICAL MODEL OF VTS' EFFECT ON EMPATHY

### 2.1 APPROACH

In Chapter 4, section 8.2, a model about VTS was presented which summarized the findings of the empirical research about VTS to date. The model showed an overview of how those findings might result in the effects of VTS reported in those studies. Those effects were: aesthetic understanding, critical thinking including reasoning, observational skills, communicational skills (self-expressive and social skills), a positive class climate, (inter-)cultural competence, self-awareness & confidence, and empathy. As the first step in designing a model about the mechanisms in VTS which could possibly influence empathy, I stripped the model of other effects than empathy. I added empathy's components *cognitive understanding*, *feeling one's own affects*, *sharing affects/adopting views* and *self-other differentiation*,<sup>680</sup> and also the key elements and characteristics of VTS' main components *facilitator*, *images* and *participants* as listed in Chapter 4.<sup>681</sup>

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677 Sinquefield-Kangas (2019), see also Chapter 4, section 10.1.

678 In their study with 67 medical students, the students made personal connections through VTS, showing this ability (Bentwich and Gilbey 2017). The intervention consisted of one 90 minutes VTS session of 5 images. The images depicted situations with patients and were displayed on a big screen. Before displaying the images, the lecturer gave a brief explanation regarding the idea of VTS and its application in other medical schools (Bentwich & Gilbey 2017:4).

679 In designing an empathy training for first-year osteopathic medical students with the use of VTS, Kruse and Kinde describe their educational aims of using VTS as diagnostic skill development, enhancement of communication skills, relationship building and empathy (2019:381). As a conclusion of their study (see also 5.2 Critical Thinking), their Art, Observation, and Medicine (AOM) course responds to the call for empathy training to be added to medical school curriculums (Kruse & Kinde 2019:383). They studied the effect of VTS with a not specified number of first-year students in osteopathy and psychology in groups of 10-15 students. Treatment was a museum visit under guidance of a museum educator, using VTS with five artworks. Also debriefing sessions were provided, in groups of 45 students. Used were pre- and post-session surveys and to measure empathic concern and perspective-taking the Interpersonal Reactivity Index subscales and Tolerance for Ambiguity Scale.

680 See Chapter 1, section 2.3

681 See Chapter 4, section 4

To find how those components of VTS might influence empathy, I linked components of empathy to components and their characteristics and elements as originally described by VTS founders Housen and Yenawine. With the collected text fragments, I conducted two comparisons: a comparison of components of empathy with VTS' components, and a comparison of empathy training methods and VTS methodology. From the synthesis of those comparisons, five exercises emerged as mechanisms in VTS methodology, which appear to be effective in enhancing empathy. These exercises can, thus, be considered at the core of VTS and are thought to be responsible for effects of VTS on empathy and related findings as openness to ambiguity and other perspectives, that have been reported in the literature to date. In the next sections, I will describe the comparisons and synthesis.

## 2.2 LITERATURE REVIEW COMPONENTS OF EMPATHY VS. VTS

To enhance the understanding of how the mechanisms in VTS influences empathy, I compared the four components of empathy: *understanding/mentalizing*, *feeling*, *sharing/adopting* and *self-other differentiation*, with three components of VTS: *facilitator*, *participants*, and *images*. For this, I collected text fragments from the literature by VTS founders Housen and Yenawine, to stay in the comparison as close as possible to the original design of VTS. Per component of empathy, I assigned relevant text fragments from VTS literature. Below, in Table 1, I listed those text fragments.

■ **Table 1** – Comparison empathy components with components VTS

Components of Empathy	Components of VTS		
	VTS-facilitator	VTS-participants	VTS-images
<p><b>Understanding</b> through imagination of the state of another person/ mentalizing, i.e., activating personal, neural, and mental representations of that other person's state</p>	<p>The facilitator shows understanding of the role participants by asking 3 standard questions to engage participants in the experience and to activate their thinking.</p> <p>- <i>The questions aim to motivate and maintain the inquiry</i> (Hailey, Miller &amp; Yenawine et al, 2015:8; Yenawine &amp; Miller, 2014:4; Housen, 2001:4).</p> <p>- <i>The 1st question is designed to fit the frame of mind of beginner viewers, by inviting them to do something they can already do very well: record their observations and storytelling. In this way, they are drawn into the conversation and get engaged</i> (Housen, 2001:4).</p> <p>- <i>The 2nd question What do you see that makes you say that? encourages participants to cite evidence for their interpretative comments</i> (Housen, 2001:4).</p> <p>- <i>The 3rd question What more can you/we find? is designed for reopening the exchange of ideas</i> (Hailey, Miller &amp; Yenawine, 2015:8; Yenawine, 2013:25-26; Housen in Bresler &amp; Ellis, 2000-2001:7-8).</p> <p>- <i>Skillful rephrasing and summarizing offer additional vocabulary and grammar to students for expressing their ideas. In this way, it assists language development</i> (Yenawine, 2013:29).</p> <p>- <i>Paraphrasing has also a rather practical aim: it ensures that all participants can hear each comment</i> (Yenawine, 2013:28).</p> <p>3. Pointing can be seen as visual paraphrasing. It helps the facilitator to check if they understood the participants correctly, and in turn helps paraphrasing the participants understand each other.</p> <p>- <i>Pointing out to observations as students comment helps the VTS-facilitator remember what is been mentioned</i> (Yenawine, 2018:36).</p>	<p>Participants' is activated by facilitator's questions. Invited to speculate and to answer the questions, participants will actively use their critical thinking and language skills to understand what's going on in the picture and the thoughts of peers.</p> <p>- <i>Answering in particular the 2nd question What do you see that makes you say that? helps the student return from the world within their own thoughts, the world of associations and imagination, to the work itself. The question encourages participants to support their hypotheses with visible clues to help others to understand them</i> (Housen, 2001:4).</p> <p>- <i>Discovery is core constructivist developmental philosophy and as such considered an effective learning strategy</i> (Housen in Bresler &amp; Ellis, 2000-2001:7&amp;10).</p> <p>- <i>Pointing out one's child observation draws others' eyes to a spot another might have missed and gives everyone a chance to discover more while there. For those learning English, it anchors words with images, a powerful way to increase vocabulary. (...) Teachers of English as a second language find the whole VTS process an efficient means of helping kids build both competency and confidence</i> (Yenawine, 2013:28)</p>	<p>Images' narratives engage participants in relating to the contents because they are specifically chosen to be of interest of the participants, and to be intriguing because of their ambiguity.</p> <p>- <i>Thinking always needs subject matter as a medium for its exercise and development. Art could be such subject matter</i> (Housen, 2001:101).</p> <p>- <i>Images need to be ambiguous, contain several narratives</i> (Yenawine, 2013:167)</p> <p>- <i>Images used in VTS contain a narrative that is layered, are ambiguous with room for interpretation</i> (Yenawine, 2018:61; Yenawine &amp; Miller, 2014; Housen in Bresler &amp; Ellis, 2000-2001).</p> <p>- <i>Images used in VTS conversations contain a subject that is accessible/ familiar and of interest of participants</i> (Yenawine, 2018:61; Yenawine &amp; Miller, 2014; Housen in Bresler &amp; Ellis, 2000-2001).</p>

■ Table 1 Continued

Components of Empathy	Components of VTS		
	VTS-facilitator	VTS-participants	VTS-images
<p><b>Feeling</b> (s) of one's own because of that state</p>	<p>The facilitator is a role model for being able to see a situation from different angles by keeping a non-judgmental stance, refraining from evaluating answers.                      - <i>The VTS-facilitator's uses conditional language to ensure the participants' experience of a non-evaluative environment</i> (Yenawine, 2013:29; Housen, 2000-2001:7).</p> <p>The facilitator provides a moment of silent looking, for the participants to look longer and more carefully than they would without this prompt.                      - <i>Given enough time for silent looking, art viewers guide themselves into the stories told in the images, while using their ability to look, figure out the meaning of what they see, and turn that into communication</i> (Yenawine, 2013:42).</p>	<p>Participants use the moment of silent looking for reflecting on their thoughts about the image's narrative.                      - This moment of silent and careful looking at the work of art provides students with an opportunity to reflect, dive deeper in the work of art's narrative and prepare communication (Yenawine, 2013:42).</p> <p>- <i>Central to aesthetic growth are habits of mind like observing carefully, evaluate, synthesize, justify, and speculate, which have a long history in education</i> (Housen, 2001:101).</p>	<p>Content of images provoke thoughts and feelings with the participants, who mostly are beginner viewers.                      -<i>The Stage I (IS: Beginner) viewer starts with a random concrete observation (...) then immediately interprets the other figure, not as an image in the mirror but as another person, a man, who is being hugged. The viewer does not look more closely to see if this really is another person, or if it makes sense that it is a man. From this immediate interpretation, arrived at without any further deliberation or reflection, the viewer launches into story telling. The image becomes the basis for constructing a narrative, one that has a rather inexact connection to the painting, rooted in the first quick interpretation. Our viewer's aesthetic experience is the story, which flows forward in a easy and unselfconscious way, spanning from one imaginative association, which is quite idiosyncratic, to another</i> (Housen in Bresler &amp; Ellis, 2000-2001:5)</p>

■ **Table 1** Continued

Components of Empathy	Components of VTS		
	VTS-facilitator	VTS-participants	VTS-images
<p><b>Sharing</b> of affects/<b>Adopting</b> views because of that state</p>	<p>The facilitator ensures neutral stance and a safe environment in which views can be shared and adopted or rejected without judgment:                      - <i>This is supported by the VTS-facilitator by not evaluating responses, but by promoting that everybody feels comfortable sharing their observations</i> (Housen, 2001:4).                      - <i>Refraining by the facilitator from evaluating answers also builds the intensity of engagement, insisting that each shared observation is supported by evidence in the work</i> (Housen, 2001:3).</p> <p>The facilitator provides language for the participants to be able to express their views and feelings.                      - <i>Skillful rephrasing and summarizing offer additional vocabulary and grammar to students for expressing their ideas. In this way, it assists language development</i> (Yenawine, 2013:29).</p>	<p>The second question builds with the participants the motivation to generate multiple observations, and to share them, while providing visual evidence to make sure other participants can follow thoughts and feelings. They learn that it is alright to change your view.                      - <i>Answering in particular to the 2nd question What do you see that makes you say that? helps the student return from the world within their own thoughts, the world of associations and imagination, to the work itself. The question encourages participants to support their hypotheses with visible clues to help others to understand them</i> (Housen, 2001:4).                      - <i>Participants experience that it is alright to make mistakes, that the more you look the more you see, that it is alright to change your mind, and that it is enjoyable to engage in this kind of problem solving. All of this is, of course, good inquiry behavior, useful throughout a student's education</i> (Housen in Bresler &amp; Ellis, 2000-2001:8).</p>	<p>Images chosen by the facilitator engage participants in exchanging views.                      - <i>Images used in VTS contain a narrative that is layered, are ambiguous with room for interpretation</i> (Yenawine, 2018:61; Yenawine &amp; Miller, 2014; Housen in Bresler &amp; Ellis, 2000-2001).</p>



■ Table 1 Continued

Components of Empathy	Components of VTS		
	VTS-facilitator	VTS-participants	VTS-images
<p><b>Self-other differentiation</b> (awareness of the distinction between the other and the self)</p>	<p>Facilitators support participants to understand each other and value their own feelings and thoughts, by pointing, paraphrasing, and linking answers while maintaining a neutral stance.</p> <p>- <i>Facilitators refrain from giving information about the work of art, pointing out why the exercise was necessary or by summarizing the conversation. Such closures are not part of the VTS-methodology, for it undermines valuing each answer in the same way</i> (Yenawine, 2013:31).</p> <p>- <i>Through paraphrasing, the VTS-facilitator not only indicates the student has been heard, but is understood as well, which builds students' sense of being valued and capable</i> (Yenawine, 2013:28).</p> <p>- <i>This paraphrasing is important, for it validates that every contribution is worthy of repetition</i> (Housen, 2001:3).</p>	<p>Participants learn that their contribution to the conversation, their views, are as valuable as those of others. They learn that it is okay to feel or think differently, because of the safe environment for exchange of views, ensured by the facilitator.</p> <p>- <i>Facilitators refrain from giving information about the work of art, pointing out why the exercise was necessary or by summarizing the conversation. Such closures are not part of the VTS-methodology, for it undermines valuing each answer in the same way</i> (Yenawine, 2013:31).</p> <p>- <i>Through paraphrasing, the VTS-facilitator not only indicates the student has been heard, but is understood as well, which builds students' sense of being valued and capable</i> (Yenawine, 2013:28).</p>	<p>Images chosen by the facilitator engage participants in exchanging views.</p> <p>- <i>Images used in VTS contain a narrative that is layered, are ambiguous with room for interpretation</i> (Yenawine, 2018:61; Yenawine &amp; Miller, 2014; Housen in Bresler &amp; Ellis, 2000-2001).</p>

**2.2.1 Empathy Component Understanding vs. Components VTS**

The empathy component *Understanding* can be described as imagination of the state of another person or mentalizing, i.e., activating personal, neural, and mental representations of that other person's state.<sup>682</sup> The empathy component *Understanding* turns out to relate to all three components of VTS. *Facilitators* show they understand the participants through the choice of the images. They choose images in such a way that the images' narratives engage participants to relate to the (content of the) image.<sup>683</sup> In VTS, *images* are specifically chosen to be familiar and of interest of the participants, and to be intriguing for them because of the images' ambiguity.<sup>684</sup> While choosing images for VTS, facilitators also consider participants' aesthetic developmental stage. The *facilitator* also shows an understanding of the participants by guiding them gently through all

682 See Chapter 1, section 2.3.

683 Yenawine 2018: 61; Yenawine & Miller 2014; Housen in Bresler & Ellis 2000-2001

684 ibidem

phases of the VTS process. To achieve this, the facilitator uses VTS' three standard questions which engage participants in the experience and activate their thinking.<sup>685</sup> Invited to answer the three standard questions and share their perspectives, *participants* will actively use critical thinking and language skills to understand the situation depicted in the image, and to understand the thoughts of peers who share their thoughts in the VTS conversation.<sup>686</sup> By paraphrasing, verbally and non-verbally through pointing, *facilitators* ensure contributing participants being heard,<sup>687</sup> which is in a way also a certain understanding, namely of each contributor and of the situation in class. While paraphrasing and leading the conversation, *facilitators* show they understand the participants' thoughts and the participants' task of expressing their thoughts. In their paraphrasing, *facilitators* show their understanding for the participants in offering language assistance to the participants by using words that expand their vocabulary in order to help them communicate.<sup>688</sup> *Facilitators'* pointing also shows their understanding: it supports *participants* in two ways. On the one hand, the pointing helps participants to better use their vision to discover all narratives in an image and to draw attention to something participants otherwise would have missed and, on the other hand, it helps those participants with a learning disability or when learning a language, for pointing anchors words with images.<sup>689</sup>

### 2.2.2 Empathy Component Feeling vs. Components VTS

Empathy's component *Feeling* is about the feelings of one's own because of the state of someone else.<sup>690</sup> The empathy component *Feeling* turns out also to relate to all three components of VTS. *Images* in VTS conversation are chosen in such a way that they provoke feelings and thoughts. Through facilitator's providing for a moment of silent looking, *participants* are engaged to look longer and more carefully than they would have without this prompt.<sup>691</sup> In this moment of silent looking, the image becomes the basis for constructing a narrative, which has a rather inexact connection to the artwork, for it is rooted in the first quick interpretation, and it is associative,<sup>692</sup> provoking thoughts and feelings. The *facilitator* uses conditional language to make sure that the *participants* experience a non-evaluative environment, a safe space, for expressing feelings.<sup>693</sup>

### 2.2.3 Empathy Component Sharing/Adopting vs. Components VTS

The empathy component *Sharing/Adopting* is about the sharing of own thoughts and feelings when actively contributing to a VTS conversation, or adopting thoughts and feelings of others, when passively contributing. This *Sharing/Adopting* turns out to relate in several ways to all three components of VTS. *Facilitators* choose ambiguous images to which *participants* would be able to relate to, which contain several narratives.<sup>694</sup> Implicitly, *facilitators* show empathy through this,

685 Hailey, Miller & Yenawine et al. 2015:8; Yenawine & Miller 2014:4; Housen, 2001:4

686 Housen, 2001:4; Yenawine, 2013:28

687 Yenawine, 2013:28

688 Yenawine, 2013:29

689 Yenawine, 2013:28

690 See Chapter 1, section 2.3

691 Yenawine, 2013:42

692 Housen in Bresler & Ellis 2000-2001:5

693 Yenawine 2013:29; Housen 2000-2001:7

694 Yenawine 2018:61; Yenawine & Miller 2014; Housen in Bresler & Ellis, 2000-2001

share their feeling into their students through choosing an appropriate image. *Images* chosen by the facilitator engage *participants* in exchanging views. They might show world views or situations, that provoke the sharing or adopting of feelings because of the depicted situations. *Facilitator's* second question engages *participants* to generate multiple observations, and to share them, while providing visual evidence to make sure the other *participants* can follow their interpretations,<sup>695</sup> and, through this, possibly adopt their thoughts or feelings. *Participants* also learn that it is alright to also share views when those are different than those of others, and that it is alright to change your view when you draw the conclusion from the offered visual evidence that views of others are better underpinned than yours, or when you just like their ideas better than your own. *Facilitators* keep a non-judgmental stance, and through this, ensure a safe environment in which all participants feel comfortable sharing their observations and views.<sup>696</sup> Furthermore, *facilitators' paraphrasing* provide language, vocabulary and grammar, for the participants to be able to express their views and feelings,<sup>697</sup> while *facilitators' pointing* clarifies words to the participants even more. Pointing and paraphrasing aid *participants* with expressing their feelings and share them with others, supporting them to better understand each other and fostering own emotional engagement with views of others, which aids sharing and adopting.

#### 2.2.4 Empathy Component Self-Other Differentiation vs. Components VTS

The empathy component *Self-Other Differentiation* is about the realization that views can differ per person, that that is okay, and that one can change perspectives when one imaginatively steps in the shoes of others, and that that is okay as well. This *Self-Other Differentiation* also turns out to relate to all three components of VTS. *Images* chosen by the *facilitator* engage participants in exchanging views because they are layered, are ambiguous with room for interpretation.<sup>698</sup> *Facilitators* indicate through paraphrasing to the participants that they are heard, and understood as well.<sup>699</sup> *Participants* learn in this way that their contributions to the conversation, their views, are valued and as important as those of others.<sup>700</sup> In this way, they learn that it is okay to feel or think differently, because of the safe environment for the exchange of views, ensured by the *facilitator*. To this end, *facilitators* refrain from giving information about a work of art, nor about why the exercise is necessary or summarizing a VTS conversation at the end, for this undermines valuing every contribution equally.<sup>701</sup>

### 2.3 LITERATURE REVIEW EMPATHY TRAINING METHODS VS. VTS

As elaborated in Chapter 1,<sup>702</sup> in the literature to date, eight methods to train empathy of (medical) students were described. Those were: 1. *early clinical exposure*, 2. *a workshop about diversity*, 3. *role play in which students play a client's role*, 4. *contact with role models*, 5. *training of skills associated*

695 Housen 2001: 4

696 Housen 2001:4

697 Yenawine 2013:29

698 Yenawine 2018:61; Yenawine & Miller 2014; Housen in Bresler & Ellis, 2000-2001

699 Housen, 2001:3

700 Housen, 2001:3

701 Yenawine 2013:31

702 See section 2.2.4

with empathic ability like communication & narrative skills, 6. training in emotion regulation and stress management, 7. mindfulness meditation, 8. contact with the arts like literature, film and the visual arts. In this section, I compare those eight approaches to train empathy development with the VTS methodology, its components and underlying mechanisms. As a reference, I choose relevant text fragments from VTS literature of Housen and Yenawine. Below in Table 2, those text fragments are listed.

■ **Table 2** – Comparison empathy training methods with VTS methodology

Approaches to enhance empathy	VTS-methodology
1. Early clinical exposure	<p>VTS's process is an iterative process of observing, critical thinking, speculating, sharing and providing evidence. This resembles the clinical diagnosing process.</p> <p>- <i>Central to aesthetic growth are habits of mind like observing carefully, evaluate, synthesize, justify, and speculate, which have a long history in education</i> (Housen, 2001:101).</p>
2. A workshop about diversity	<p>1. Art engages students into play and presenting a variety of images builds confidence with students they can understand a variety of situations.</p> <p>- <i>Subjects vary to make sure that a variety of student backgrounds and interests are called into play. Style and medium also vary: a diversity of visual vocabulary builds the sense that students can decode a range of images (...). Once learned with art, the ability to learn from discussions carries over to other inquiries</i> (Yenawine, 2013:24).</p> <p>2. During the exchange of views in VTS phases sharing &amp; providing evidence, participants learn that views differ about a particular situation, and that it is alright to have a different opinion.</p> <p>- <i>By letting the students go through their own process, they learn how knowledge is created: that it's not simply 'delivered' by a teacher, parent or medi. They learn to think things through on their own, and find that they can rely on their peers for help, letting different ideas provide stimulation and different knowledge get factored in. Meanwhile, they come to realize that scrutiny and debate of ideas provide valid ways of testing hypotheses. This way, disagreement becomes interesting and valuable, not threatening, and most problems suggest not one solution but many or at least multifaceted answers</i> (Yenawine, 2013:30)</p> <p>- <i>The VTS-facilitator uses conditional language to ensure the participants' experience of a non-evaluative environment</i> (Yenawine, 2013:29; Housen, 2000-2001:7).</p> <p>- <i>By linking ideas that disagree, they (IS: facilitators) indicate equally clearly that it's also possible for different people to respond differently to something they see "We have a variety of opinions here"</i> (Yenawine, 2013:30).</p>
3. Role play in which students play a patient's role	<p>By looking at art well-chosen for the target group, that might also be medical students, beginner viewers immediately start storytelling, and relate with persons in the picture. Art engages into play.</p> <p>- <i>Art is the hook that engages students. It is selected in the same way that sensitive parents and educators choose books to appeal to their children. The subjects are familiar so that students have much to recognize</i> (Yenawine, 2013:24)</p>
4. Contact with role models	<p>In VTS, both facilitator and peers act as role models: the facilitator shows what questions can be asked to start and maintain inquiry in complex situations, as well as how to stay non-judgmental. More knowledgeable peers can accelerate own thinking.</p> <p>- <i>In this way, the learner gets a lot of opportunity to try to build meaning one way and then another. He also gets exposure to the thinking of peers, which can accelerate shifts in his own thinking</i> (Housen, 2000-2001:7).</p> <p>- <i>The viewer is encouraged to speculate and perhaps to interpret (...). New observations, peer comments, and the teacher facilitation all assist in this process</i> (Housen, 2000-2001:8)</p>

Table 2 Continued

Approaches to enhance empathy	VTS-methodology
5. Training of communication and narrative skills (i.e., skills associated with empathic ability)	<p>Through silent looking and having, students are given time to reflect and think critically about the story or stories that they think the image displays as well as preparing communication. Through pointing and paraphrasing, VTS promotes language development, important for communication. Furthermore, the responding to the questions invites students to tell a story and encourages to keep on searching for deeper meaning. Through VTS, students grow from sharing personal associations to cultural or conventional associations</p> <p><i>- If the teacher is careful and skillful, she can turn a student's halting answer into something crisper, clearer, or more exact. She helps him expand vocabulary, improve grammar, and/or increase the accuracy of language, but importantly, students don't feel corrected; they feel smart hearing their idea expressed in the teacher's words (Yenawine, 2013:29)</i></p> <p><i>- Responding to the first question is relatively effortless for students since it invites them to begin with their natural inclination to record their observations or tell a story, but it also invites them to re-examine the image carefully, mining for deeper meaning. The second question, 'What do you see that makes you say that?' challenges students by calling for learners to cite evidence for their interpretative comments. And the third question 'What more can you find?' encourages students to keep on searching (Housen, 2001:100).</i></p> <p><i>- We see a movement (...) from personal or idiosyncratic associations to one's own cultural or conventional associations (...) from fanciful, personal imagination (egocentric ideas) to an increase in observations with a concrete point of reference which others can see and refer to (Housen, 2000-2001:6).</i></p> <p><i>- Given enough time for silent looking, art viewers guide themselves into the stories told in the images, while using their ability to look, figure out the meaning of what they see, and turn that into communication (Yenawine, 2013:42).</i></p>
6. Contact with the arts like literature, film, and the visual arts	<p>VTS can not only be used with the visual arts, but literature and other subjects.</p> <p><i>- The VTS also affects more than aesthetic stage. The learning skills fostered by the VTS – making observations, supporting observations with evidence and speculating – all of which are measures of aesthetic growth, also comprise the fundamental building blocks of critical thinking skills. So, as the VTS curriculum invites students to freely share their interpretations of works of art, to articulate and support their point of view and to come to understand, appreciate and build upon the varying perspectives of their classmates, it is simultaneously and by its very nature nurturing the development of critical thinking. The non-evaluative environment of the VTS encourages students to build these skills as they are accelerating through their growth in aesthetic stage (Housen, 2000-2001:8)</i></p>
7. Training in emotion regulation and stress management	<p>Students learn how to approach difficult and complex situations in a structured way, as well as expressing their thoughts and emotions in a way others can understand them. The safe environment which VTS provides adds to this.</p> <p><i>- The kid's experience discussing images gives them skills necessary to approach unfamiliar territory in a variety of lessons with enthusiasm and confidence (Yenawine, 2013:41)</i></p>
8. Mindfulness meditation: increased sense of social emotional connectedness with others and of positive affect and self-compassion, while decreasing stress and negative affect	<p>VTS' second question grounds the students in the now, by asking to provide visual evidence, that can be seen in the image itself by others, too. Those students are also drawn into the now, trying to follow their peer's trail of thought.</p> <p><i>- VTS gives students confidence and clarity that, with the help of peers, they can comprehend what they encounter around them, learn from it, and move on from a grounded position (Yenawine, 2013:38).</i></p> <p><i>- In supporting her own hypotheses, the viewer is encouraged to speculate and perhaps to interpret. She must revise, edit ideas, and provide evidence for her interpretation of the image, grounding her remarks in what she sees in front of the image, grounding her remarks in what she sees in front of her, not what she learned two weeks ago (Housen, 2000-2001:8).</i></p>

### 2.3.1 Method Early Clinical Exposure vs. VTS: Observation & Critical Thinking

The process in VTS resembles *Clinical Exposure* in the way such exposure contains clinical reasoning, i.e., the process by which clinicians collect cues, process the information, come to an understanding of a patient's problem or situation, plan and implement interventions, evaluate outcomes, and reflect on and learn from the process.<sup>703</sup> Clinical reasoning can be broken down into the following steps: *look, collect, process, decide, plan, act, evaluate and reflect*. Those steps align with the steps *observing carefully, evaluate, synthesize, justify, and speculate*, which are reportedly fostered by Visual thinking Strategies as critical thinking steps as well as habits of mind central to aesthetic growth.<sup>704</sup>

### 2.3.2 Method Workshop Diversity vs. VTS: Perspective Taking

The process in VTS resembles a *Workshop about Diversity* in the way they both contain the presenting of a variety of situations. Through using a diverse set of images, the facilitator helps participants to build confidence that they can understand such variety of situations depicted in the images. Furthermore, participants ability to learn from discussions, exchanges of views, is reported to transfer from art to other inquiries.<sup>705</sup> In this way, images support participants to become open to diversity also in other subjects or situations. During the exchange of views in VTS, in its phases *sharing and providing evidence*, participants learn that views about a particular situation can differ, and that it is alright to have a different perspective than others.

### 2.3.3 Method Role Play vs. VTS: Perspective Taking

The process in VTS resembles *Role Play* in the way they both contain persons in situations to identify with. Participants identify with figures in the picture in VTS, when images are well-chosen to the target group. Art engages participants into the VTS conversation. Through facilitators' non-judgmental stance, participants experience there is no right or wrong, every perspective is valuable when interpreting, which fosters daring to share thoughts and feelings. Furthermore, the process in VTS guides participants into relating to the persons in the picture. Participants will start storytelling at once,<sup>706</sup> will identify themselves with the person(s) or situation depicted in the image, and imagine that they are in the situation depicted, a natural way of doing.

### 2.3.4 Method Role Models vs. VTS: Role modeling & ZPD

The process in VTS resembles *Role Modeling* in the way they both contain persons who model the desired attitude, behavior, showing adapting and learning. In VTS, both facilitator and peers act as role models for the participants: the facilitator shows what questions could be asked to start an inquiry, and how to maintain this inquiry in complex situations, while keeping a non-judgmental stance. Participants get exposed to more knowledgeable peers (Zone of Proximal

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703 Clinical Reasoning Instructor Resources (no date):3

704 Housen 2001:101

705 Yenawine 2013:24

706 Yenawine 2013:24

Development)<sup>707</sup> and experience that this accelerates their own thinking.<sup>708</sup> Furthermore, the facilitator's paraphrasing and non-judgmental stance show students what empathic behavior looks like.<sup>709</sup> Participants experience what feelings this empathic behavior evokes. This might promote copying the facilitator's actions.

### 2.3.5 Method Communication & Narrative Skills vs. VTS: Language/Communication

The process in VTS resembles *Communication & Narrative Skills* in the way they both contain exercise in communication as well as in designing and formulating narratives. Through silent looking, participants are given time to reflect and to find a narrative(s) in the image. The first question *What is happening in this picture?* is a prompt that guides participants to do so. At the same time, participants will be preparing communication to be able to answer the VTS questions about their thoughts.<sup>710</sup> Through facilitator's pointing and paraphrasing, the VTS process promotes language development, which is important for communication. Furthermore, responding to the questions invites students to talk about the story, the narrative(s), they see in the picture. It encourages and stimulates them to keep on searching in the picture for new and/or deeper meaning.<sup>711</sup> Through this, students will grow from communicating personal associations to communicating cultural or conventional associations, developing aesthetic understanding (Housen's Stage Theory) while finding and learning vocabulary to do so.<sup>712</sup>

### 2.3.6 Method Contact with the Arts vs. VTS: Art at the Core

The process in VTS is *Contact with the Arts*. Art is at the core of VTS.<sup>713</sup> Originally designed to help beginner viewers understand art, VTS, is also useful to understand other subjects as well, like literature.<sup>714</sup> Its transfer to other situations and objects has reportedly positive effects on critical thinking skills, observation and communication skills.

### 2.3.7 Method Emotion Regulation & Stress Management vs. VTS: Non-Judgmental Stance

The process in VTS resembles *Emotion Regulation & Stress Management* in the way they both contain the learning how to handle difficult and complex situations in a structured way.<sup>715</sup> Moreover, through VTS, participants learn to express thoughts and feelings in a way others can understand, learn to postpone judgment and to cope with feelings of unease and non-closure the VTS process might cause. The safe environment VTS supports the expression of thoughts

707 See Chapter 6, sections 5.2 and 5.2 for an elaboration of this concept. In short: a ZPD is the gap between the knowledge and skills students already have and the potential knowledge and skills that are within their reach)

708 Housen, 2000-2001:7-8

709 Wiseman (1996:1165) distinguished four attributes for empathy to occur. Besides Nonjudgmental stance, the others were See the world as others see it, Understanding another's feelings and Communicate the understanding.

710 Yenawine 2013:42

711 Housen 2001:100

712 Housen 2000-2001:6

713 Chapman & Hall 2014, 2016

714 Housen 2000-2001:8

715 Yenawine 2013:41-43

and feelings. For this, facilitator's nonjudgmental stance is very important.<sup>716</sup> This might diminish stress in class.

### 2.3.8 Method Mindfulness Meditation vs. VTS: Active Listening

The process in VTS resembles *Mindfulness Meditation* in the way they both contain grounding participants in the now. In VTS, when asking to provide visual evidence in the image itself through the second standard question *What do you see that makes you say that?*, participants are drawn from thinking to an increase in observation, using the image and parts of it as a concrete point of reference which others can see and refer to.<sup>717</sup> In this way, all other participants are drawn into experiencing what is happening in the now, looking at the work of art, while comparing what is actual depicted with their own thoughts about it. Participants also tend to check the correctness of the paraphrasing and pointing of the facilitator, who through active listening helps them coming back into the now from being in their thoughts, their imagination. The other participants are also drawn in the now because they try to follow the trail of thought of the participant answering the VTS questions and facilitator's paraphrasing and pointing.

## 3. RESULTS: PRESENTATION OF THE THEORETICAL MODEL

Through synthesis of the findings in the two comparisons, five exercises in VTS methodology emerged, which appear to be effective in enhancing empathy: exercises in *observation*, *critical thinking including speculating*, *language/communication*, *perspective taking/mentalizing* and *active listening* including *non-judgmental stance* and *emotion regulation skills*. In Figure 1 below, a theoretical model is presented which includes those five exercises as well as the possible relation with several effects of VTS found in the literature to date and the way those exercises, through those effects, influence each of the components of empathy.

Below, I will elaborate on the way VTS methodology might influence each of the four components of empathy. Several VTS components with their tasks and characteristics together provide a methodology that is likely to be effective in developing empathy.

### 3.1 EFFECT OF VTS ON COGNITIVE UNDERSTANDING

Doing an exercise in observation skills makes participants focus, which enhances the quantity of observations (increases the number of observations) as well as the quality of their observations (more nuance and detail is perceived). In the process, facilitators act as a role model, showing how *active listening* helps to extend observation: how to increase time and attention of viewing by asking the three standard questions. Through this, they provide a ZPD in developing the skill of observation,<sup>718</sup> By improving the quantity and quality of their observations, participants will likely improve their *cognitive understanding* of the artwork that they are observing.

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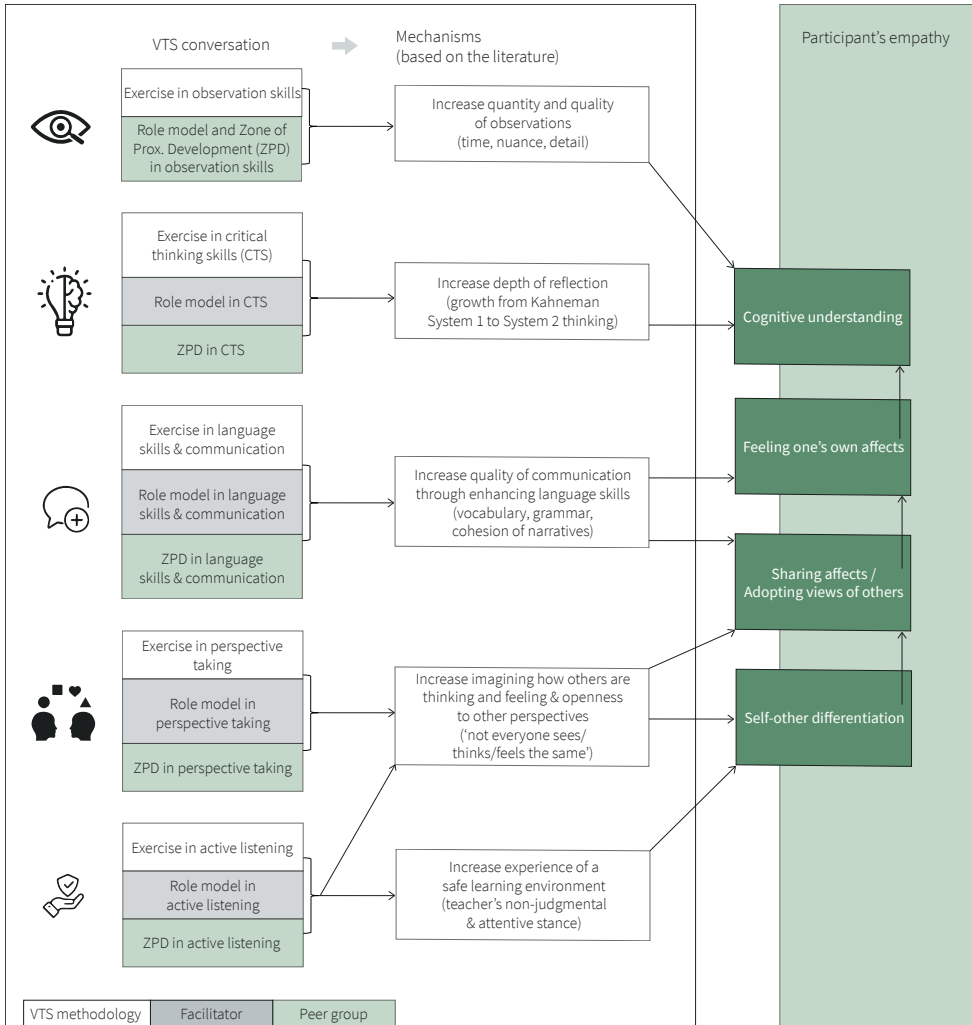
716 Housen 2000-2001:8

717 Housen 2000-2001:6

718 Concept Zone of Proximal Development as theorized by Vygotsky, see Chapter 4, section 5 Building Blocks of VTS.



■ **Figure 1** – Theoretical model VTS’ effect on empathy



Doing an exercise in critical thinking skills develops in participants Kahneman’s System 2 thinking: listening to classmates, reflecting about and understanding of the reasons why other think differently, value other views and evaluate own opinions.<sup>719</sup> The images used in VTS elicit reflection,<sup>720</sup> and facilitators’ standard questions facilitate the process of thinking. Facilitators explicitly form a role model in critical thinking through asking questions which can guide participants to deeper layers of reflection. Participants’ answers to those standard questions

719 See Chapter 4, section 6.7.2 for an elaboration on the theory; Kruse & Kinde 2019  
 720 Chapman & Hall 2014, 2016

show the result of such deeper thinking and offer their peers a ZPD, the next step in critical thinking skills. By improving the depth of reflection, VTS can enhance participants' cognitive understanding of the situation depicted in the image.

### 3.2 EFFECT OF VTS ON FEELING ONE'S OWN AFFECTS

Through the exercise in language skills and communication in VTS, participants enhance the quality of communication through enhancing language skills consisting of a growth in vocabulary, enhancement of the knowledge and use of grammar, and an increase in the cohesion of narratives. Gestures, like facilitators' pointing, as well as speech facilitate language development and have a positive effect on argumentation skills.<sup>721</sup> This increases the cohesion of narratives,<sup>722</sup> which enhances participants' own emotional understanding of the artwork.

### 3.3 EFFECT OF VTS ON SHARING AND ADOPTION OF PERSPECTIVES

The exercise in language skills and communication helps participants to understand how their peers interpret the depicted situation. The exercise in perspective taking facilitated by facilitator's standard questions, paraphrasing and pointing, helps participants to imagine how others are thinking and feeling,<sup>723</sup> using their imagination and creativity.<sup>724</sup> The openness to other perspectives leads to the experience of 'not everyone sees the same.'<sup>725</sup> This enhances participants' tolerance of ambiguity, i.e., their acceptance that other people might have other views about an artwork or situation,<sup>726</sup> and their ability to share and/or adopt views of others.

### 3.4 EFFECT OF VTS ON SELF-OTHER DIFFERENTIATION

The experience of a 'self' being different than other people, which is promoted through the VTS exercise in perspective taking, enhances participants' self-awareness<sup>727</sup> and promotes participants' experience of *self/other differentiation*. This experience is fostered by the safe and supporting environment for expressing thoughts and feelings provided by facilitators. Their nonjudgmental attitude and paraphrasing relate to an earlier definition of empathy in which *objectivity* or being *non-judgmental* was explicitly mentioned as a component of empathy,<sup>728</sup> which also emphasizes facilitators' role modeling in empathizing.<sup>729</sup>

Facilitator's paraphrasing is related to *active listening*, for it indicates that facilitators have not just heard (repeating would prove that), but also understand what has been said.<sup>730</sup> Their comprehension is expressed in both verbal and non-verbal ways, including displaying emotion.

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721 Grohe & Egan 2016; DeSantis 2009

722 Lee et al. 2021

723 Sinquefield-Kangas 2017

724 Campbell et al. 2017; Lye et al. 2017

725 Nanavaty 2018

726 Aspden et al. 2022; Balhara & Irvin 2021; Bentwich & Gilbey 2017; Klugman et al. 2011

727 Aspden et al. 2022

728 Wiseman 1996:1165

729 Wiseman 1996:1165: In those early definitions, the component Nonjudgmental Stance was considered more tentative than the other ones, and also implicit in the other components.

730 Yenawine 2013:28

Active listening surpasses passive listening or simple hearing to establish a deeper connection between speaker and listener as the listener give the speaker full attention via inquiry, reflection, respect and empathy.<sup>731</sup>

*Active listening* strengthens relationships through genuinely connecting with others, understanding their needs and make them feel heard, and, through this, enables to handle difficult situations.<sup>732</sup> Participants learn that their contribution to the conversation is valued, that views differ, and that it is okay to change a view. Experiencing such *self/other differentiation* turns out to be a flywheel to developing the other components of empathy. It increases students' self-concept, self confidence and self-esteem,<sup>733</sup> and elicits an increased self-awareness of own observational style vs. peers.<sup>734</sup> This supports daring to sharing views, and the freedom of adopting another view without the feeling of 'losing oneself,' giving in. Eventually, this develops a meta-cognition of a situation, to be able to see, understand, and feel more than one perspective at the same time.

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#### 4. DEVELOPMENT OF EMPATHY THROUGH VTS VS DÖKMEN'S THEORY

In the theoretical model and in VTS practice, the exercises in VTS follow the same order as the stages in the development of empathy which Dökmen described. The author described a *They*-, an *I*-, and a *You*-stage, the first stage being judgmental from others point of view, the second from one's own perspective and the third stage, from the other's perspective.<sup>735</sup> In VTS, participants are invited to take all three positions: first looking for oneself, 'I,' in silence and interpret privately in the mind while exercising observation and critical thinking skills. After that, participants are invited to share their interpretations with the facilitator and other participants through facilitator's first question *What is happening in this picture?*, which focuses on their own interpretation, and the second VTS' question, *What do you see that makes you say that?* This asks the contributing participants to change focus to the group, 'You'. The third stage *They* might be emphasized by VTS' third and last question *What more can we find?*, which pinpoints to the team effort to make meaning. However, participants can also experience *They* in another way, when they notice that they have different views than other participants.

#### 5. HIGHLIGHTING ACTIVE LISTENING FOR LAW

In the model, *active listening* including *nonjudgmental stance* and *emotion regulation* is important because of its positive effect on facilitator's provision of a safe space for learning. Facilitators' role modeling *active listening* is a flywheel to set the development of *self-other differentiation* in motion,

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731 Spataro & Bloch 2018:168

732 Leonardo 2020

733 Baker 2015

734 Keogh & Gibbon 2020

735 For an elaboration on the theory, see also Chapter 1, section 2.2.4.

which is the highest stage of empathy,<sup>736</sup> and which is considered essential as a competency for law practice.<sup>737</sup> *Active listening*, synonym of *convincing listening*, is important for judges,<sup>738</sup> for it includes the thorough observing of the speaker and interpreting with all senses what is being said.<sup>739</sup> *Active listening*, as a concept coined by humanist psychologist Rogers,<sup>740</sup> is also defined as *nonjudgmental, empathic and creative listening*,<sup>741</sup> through which listeners mirror back to speakers what they have understood, without adding their own viewpoint, advice or judgment,<sup>742</sup> and communicate that they have come to see the world as the speaker sees it.<sup>743</sup> Paraphrasing is one of the overt signals of *active listening*. Other signals are asking relevant and open-ended questions as well as asking for clarification or repetition when needed.<sup>744</sup> Those are all elements of the *facilitator's* role in VTS, which makes the facilitator a role model for empathetic behavior of law practitioners.

## 6. CONCLUSION

In this chapter, it is theorized in what way VTS might influence empathy. A theoretical model is presented about this relation. VTS' three components *Facilitator*, *Participants* and *Art* including their characteristics were compared with the four components of empathy *Understanding*, *Feeling*, *Sharing/Adopting*, and *Self/other-differentiation* and the eight methods to enhance empathy found in the literature to date. As can be concluded, all VTS' components turn out to have characteristics or elements that can be linked to one or more components of empathy. Furthermore, empathy training methods have been compared to VTS' methodology to investigate which mechanisms in VTS could be effective in enhancing empathy. VTS methodology turns out to provide exercise in five skills which appear to be effective in empathy training: *observation*, *critical thinking including arguing a case*, *language/communication*, *perspective taking/mentalizing* and *active listening* including *paraphrasing* and *emotion regulation*. Facilitator and participants act like role models and provide ZPD's in all those five skills. Moreover, in VTS methodology participant experience all three of Dökmen's stages *They*, *I*, and *You*, which might add to its possible effectiveness in enhancing empathy. Lastly, facilitators' *active listening* can be considered a role model for empathetic behavior of law practitioners.

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736 According to De Waal & Preston (2017), see Chapter 1, section 2.2. In an earlier definition of empathy by Wiseman (1996:1165), the nonjudgmental or neutral stance was even considered part of empathy itself, not a way to develop the skill. Wiseman (1996:1165) distinguished four attributes for empathy: *Nonjudgmental stance*, *See the world as others see it*, *Understand another's feelings* and *Communicate the understanding*.

737 See Chapter 2, section 3.3.

738 Active listening is also called integral listening (Asscher 1995)

739 Witteveen 1997, n.p.

740 Rogers 1942; Meyerhuber 2019:94

741 Rogers & Farson 1987:123; Rogers 1942, 1951, 1961

742 Gordon 1970:49, 2000

743 Rogers & Farson 1987:5

744 Kluger & Itzchakov 2022:123





## CHAPTER 6

# Empathy Education for first-year Law Students through VTS

## 1. INTRODUCTION

As described in Chapter 2, empathy is considered an important competency for law professionals, and thus for law students essential to develop.<sup>745</sup> That is why the newest competency models for modern law curriculums suggested empathy as a learning goal.<sup>746</sup> In Chapter 3, I described theories and initiatives about empathy education in legal curriculums and elaborated on the reasons, why empathy education is still only piloted, not a valued and implemented obligatory part of academic legal curriculums. Those were time and budget constraints and overfull curriculums.<sup>747</sup> As theorized in Chapter 5, VTS is likely to enhance law students' empathy.<sup>748</sup> Through VTS, students become more open to ambiguity and other perspectives,<sup>749</sup> and become more sensitive to cultural differences.<sup>750</sup> However, to date, the empirical proof to date has not been reliable, in contrast to VTS' effect on critical thinking and observational skills.<sup>751</sup> Moreover, the empirical studies on VTS which reported positive effects on openness to ambiguity and other perspectives mainly took place with health students.<sup>752</sup> To date, no research has been conducted about the possible effects of VTS on law students as a target group, nor on specifically law students' empathy. In Chapter 5, hypothesized is how VTS might enhance law students' empathy through five mechanisms in the method: exercises in observation, critical thinking skills including arguing a case, language development, personal skills including mentalizing, and active listening. In this Chapter 6, I describe the study consisting of two field experiments using VTS as a teaching method with first-year Bachelor of Law students. Aim was to respond to the sixth research question, whether a VTS conversation would have a positive effect on the empathy of participating law students. Therefore, research questions of those two field experiments were: 1. What is the effect of VTS on the empathy scores of first-year Bachelor of Law students? 2. Are there any correlations between empathy scores and students' characteristics or student groups? 3. How do those students evaluate VTS as a teaching? and 4. What would the students think they would learn from VTS? Below, the methodology of this field experiment is described as well as the data-analysis and results.

## 2. METHODOLOGY

### 2.1 RESEARCH STRATEGY

The aim was to test hypotheses about VTS' effect on empathy with as much statistical power as possible. Therefore, to maximize the number of participants, the study was designed as within-group, i.e., the same students were asked to participate in both control and intervention session. Moreover, the preferred target group was a group of first-year Bachelor of Law students because of their greater numbers compared to students in subsequent years. Using first-year students as

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745 Hamilton & Bilionis 2022; Hamilton 2021 & 2013; Kayne 2020; Runyon & Carrell 2019

746 Hamilton & Bilionis 2022; Kayne 2020; Runyon & Carrell 2019; Carrel 2019

747 Hamilton & Bilionis 2022; Jones & Cownie 2021; Stolker 2014

748 see Chapter 5, Sinquefield-Kangas 2017; Bentwich & Gilbey 2017; Kruse & Kinde 2019

749 Bentwich & Gilbey 2017; Kruse & Kinde 2019

750 Deunk 2020a

751 See Chapter 4: e.g. Hailey et al. 2015; Housen 2001-2002; Mani 2019; Yenawine 2018 & 2013

752 Albert et al. 2022; Mukunda et al. 2019



participants could also possibly maximize the profit students might gain from the VTS experience during their time in law school.

This study's participants were first-year law students of the cohort 2022-2023 following the course *Inleiding Bestuursrecht (IB, Introduction to Administrative Law)* and of the cohort 2023-2024 following the course *Inleiding Rechtswetenschap (IR, Introduction to Legal Science)*, both obligatory courses in the first-year Bachelor of Law curriculum. Both courses were structured as usual: nine weeks with each a lecture about a juridical topic by a professor for the whole student group (300+ students), and in the same week also a seminar (Dutch: *werkcolleges*) in smaller groups (maximum 60 students) in which an assistant professor elaborated the topic of the week including answering questions of students about the topic and the exam at the end of the course. In each course, the experiment took place in two of the seminars both scheduled as part of the course. In this way, no extra time was needed of the students to participate, which was considered to work positive on participant numbers. Students' attendance of the seminars in those courses is recommended but not mandatory.

## 2.2 SAMPLE

As mentioned in the previous section, the participants were first-year Bachelor of Law students with some months of study experience, except for the participants of the control session in *IR* who were in their first week of study. Planned were eight to eleven groups of 35-50 students, all registered as participants in the seminars of the courses *IB* and *IR*. Expected total number of participants was 280-550 per course, the definite number was 667 participants in total.<sup>753</sup>

## 2.3 PROCEDURE

### 2.3.1 Planning of the seminars (both control & experimental condition)

Of the two courses which were included in the research, the course *IB* was scheduled January-March 2023, in course weeks 1 and 5 of the semester. The other course, *IR*, was scheduled from September to December 2023, in week 1 and 7 of the semester. There were two more weeks in between the seminars included in the research in the course *IR* compared to *IB*, for in *IR* week 5 turned out to be unavailable due to program constraints. To take into account order effects, in *IB* the experimental seminar was planned in week 1 of the course and the control seminar in week 5, whereas in *IR*, the control seminar was planned in week 1 and the experimental seminar later in the course, week 7. Underneath, in Table 1, the research planning over time can be found.

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<sup>753</sup> See section 4, Results, for the exact details on the number of participants.

■ **Table 1** - Research planning Pilot VTS with 1st year law students in 2023

Inleiding Bestuursrecht ( <i>IB</i> ), Jan.-March 2023 Cohort 2022-2023	Inleiding Rechtswetenschap ( <i>IR</i> ), Sept.-Nov. 2023 Cohort 2023-2024
Seminar 1, week 1 (experimental session)	Seminar 1 (control session)
1. Students receive a questionnaire (pre-test)	1. Students receive a questionnaire (pre-test)
2. Students get an experimental seminar session of 3 VTS conversations	2. Students get a regular seminar session about law
3. Students receive a questionnaire (post-test)	3. Students receive a questionnaire (post-test)
Seminar 5 (control session)	Seminar 7 (experimental session)
1. Students receive a questionnaire (pre-test)	1. Students receive a questionnaire (pre-test)
2. Students get a regular seminar session about law	2. Students get an experimental seminar session of 3 VTS conversations
3. Students receive a questionnaire (post-test)	3. Students receive a questionnaire (post-test)

The experimental seminar session consisted of a session of three VTS conversations and two tests, before and after those conversations. The control seminar session consisted of a teaching in which juridical content was discussed and two tests, before and after this teaching. In both experimental and control seminar sessions, the 1.5-hour seminars were structured as follows:

1. The provision of information about the research in the lecture prior to the seminars of week 1 and 7, respectively. The case of the *Childcare Benefits Scandal* was used as an example for which VTS was introduced as a new and helpful method to look at complex situations. This is a recent political scandal in the Netherlands in which the Dutch Tax Organization had acted towards the public upon regulations in a harsh, non-empathic manner.
2. An online pre-test, accessed through a QR code or URL. The validated Dutch translation of the BES was used as well as a non-validated self-made Dutch translation of the JSE-LS. For analysis, students were also asked to provide information on gender and age well as the first four numbers of their telephone number to be able to match the results of both experimental and control seminar. In *IB* the students were also asked for their seminar number, in *IR*, the QR code had been altered so that every seminar group had its own QR code. This was thought to be more efficient and would possibly also prevent any mistakes made by students.
3. An experimental seminar: Introduction about the learning objective ‘Learning a special juridical method including among others observational skills.’ In *IB*, this was done very briefly without information about VTS, in *IR* the introduction included information about VTS and gave short information about the Delta-model, the new legal competency model as the reason for this pilot with VTS. Control seminar: Brief introduction about the learning objective ‘Administrative law and possibilities to meet special circumstances’(*IB*) and ‘Introduction to Law’ including more information about the research and the Delta-model (*IR*);
4. In the experimental seminar session: 3 VTS conversations of 10-15 minutes each, facilitated by a VTS trainer. In the control seminar session, a ‘normal’ seminar session was held, in which the teacher would inform the class about the answers to the questions the class had earlier to prepare as homework. Those questions were about theory and information about juridical decisions and the possible room for own choices legal professional would have had in those matters.
5. An online post-test: same procedure as the pre-test. Added were some qualitative questions about how students liked the seminar session, and whether they had some remarks on the research.

6. After the final post-test in the last seminar of the series, in the online course learning environment in Canvas, a thank-you was expressed, and information was provided about researcher's email address in case they want to contact researcher about the research.

The seminars about VTS were led and facilitated by experienced VTS facilitators. The language of instruction was Dutch. In each VTS conversation, one image would be shown on a large screen and discussed using the exact VTS methodology as described in Chapter 1, no alterations.

### 2.3.2 Selection of Images used in VTS

For each of the three VTS conversations in the VTS experimental seminar session, an image with juridical content had been chosen. All three images complied with the conditions for 'good' images to be used in a VTS conversation: 1. images are adjusted to participants' knowledge and viewing skills, 2. the image's subject is accessible/ familiar and not being harmful in any way to the target group, 3. the images' subject is of interest of participants and 4. the images' narrative is ambiguous with room for interpretation, to spark the exchange of views.<sup>754</sup> In this research, the images needed to be adjusted to first-year Bachelor of Law students. Their aesthetic stage was considered to be Stage 1, *Beginner* viewers, who list what they see and tell stories about those observations colored by associations and own emotions.<sup>755</sup> Very few were expected to be in Stage 2, *Constructive* viewers, who judge images based on own values and norms of what is realistic and good. As was expected, only occasionally students would show to be Stage 3, *Classifying* behavior, when sharing thoughts about the artist who, how, when and where an image would be made. None were expected to be in higher stages because of their age and expectedly limited education in art. Furthermore, students were expected to be rational, higher educated, and theory-minded, and also possibly be idealistic. As most students would be of Generation Z, they were expected to be proficient in digital media, and used to looking at visuals, but would have a rather short attention span.<sup>756</sup> To meet the requirements of being of interest, two images did have content linked to the legal practice, although first-year students were not expected to already have much knowledge and experience about legal situations. Therefore, VTS Netherlands image selection experts advised to start the session with a rather neutral work of art to begin with, with content that was considered to spark feelings of happiness and participants' curiosity in a more neutral and broader way. From their experience, they advised to show such a work of art before having students look at images with more juridical content, for this might narrow their view.<sup>757</sup> Images were also selected based on their ambiguous content, which was reported to spark the exchange of views. Those images also were considered not to be harmful in any way and interesting for the target group of first-year law students. For this, besides VTS Nederland's image selection experts, also some law professors, seminar teachers and student representatives assisted in the choice of the images.

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754 See Chapter 4, section 5.5.2 for an extensive elaboration on this topic

755 See Chapter 4: Housen's Stage Theory of Aesthetic Development, Appendix Chapter 4/1.1.

756 Dolot 2018; Schwieger & Ladwig 2018

757 Yenawine 2013; Personal contact of researcher in December 2022/January 2023 with VTS-experts Florentine Peijnenburg, Adelijn van Huis and Marielle Osté

Discussed and decided on was also the sequence in which the three images should be used during the experimental VTS seminar session. The choice of images and their sequence was done in three steps: 1. First step was a choice of twelve images, which VTS Netherlands experts and researcher herself had thought suitable and which had been proven successful in earlier VTS conversations, 2. second step was the choice of six out of those twelve chose images by a larger group of VTS trainers during a masterclass about the subject *VTS and Empathy*, and 3. third and last step was to choose three images out of those six images. This last choice was done by a group of law professors, law seminar teachers and second year law students invited by one of the law seminar teachers. To this group, also two image selection experts of VTS Netherlands were added. As said, this last group also decided on the sequence in which the images would be shown.

The following images were chosen, depicted below in the same order as they have been used during the experimental VTS seminar sessions: 1. *Aashiana (Hearth and Home)* by Salman Toor (oil on canvas, 2012), 2. *Court sketch of Ghislaine Maxwell* by Jane Rosenberg (December 2021, pastels on Canson Paper), and 3. *The Judgment of Solomon* by Nicolas Poussin (oil on canvas, 1649).



### 2.3.3 Protection of Participants

Measures that were taken to protect the participants (e.g., insurance, debriefing, etc.) were the following:

1. Data was collected and analyzed anonymously to prevent the linking of data to specific participating students.
2. Participating students were not told that the research was about empathy, to avoid stress or feelings of pressure to react in a socially desirable way.
3. To avoid any influence on the participants that may come from mentioning 'Visual Thinking Strategies' or 'empathy', those words have not been mentioned in the consent form and the information provided prior to the tests.
4. Students were informed beforehand that the courses' seminars would not be mandatory, so neither the experimental seminar would be.
5. In each experimental seminar, through a consent form, students were informed about the way they could withdraw from the experiment or could get more information about the experiment and the research as a whole, through the provision of researcher's contact data.
6. Following the analysis of *IB*'s results, we implemented minor adjustments to the *IR* study's design. To reduce possible unease and agitation in students' because of a lack of information about the research's aim and VTS, two things were added to the design: 1. an introduction about the research as a whole in both conditions and, in the experimental condition, also an introduction about VTS (directly at the start of the first seminar before the pre-test), and 2. in the experimental VTS condition, short reflections after each VTS conversation.<sup>758</sup>

### 2.3.4 Measurement of Empathy

From the literature to date, it was concluded that a good way to assess empathy is through administering questionnaires.<sup>759</sup> Although self-report questionnaires are criticized for their reported lack of accuracy,<sup>760</sup> there are no alternatives available to be used with large groups in combination with limited research time. Until August 2022, several self-report tests have been evaluated for their ability to validly measure empathy. To choose the one that would be used in my study, I investigated several empathy tests together with an expert in social-scientific research. Those were all tests which have been reported to be suitable for adults: the Basic Empathy Scale

758 A third option, which was recruiting volunteers instead of law students in tutorials in the regular curriculum was investigated but considered impossible to execute because of the time constraints of the research.

759 There are several ways to score the level of empathy (Bloom 2016). The first is assessing brain activation in the neural areas associated with empathy, but this is expensive, and difficult to execute (Bloom 2016:77). Second, empathy can be assessed through the so-called yawn-test, in which research participants look at a video about people yawning. Contagious yawning is related to empathy (Franzen & Mader 2018:2). Measured is how long it takes before they imitate the yawning. However, both aforementioned tests that assess brain activation and yawning have been excluded for use in my study because of the design of my research, which included a large number of participants in combination with limited testing time. Questionnaires as a test were thought to be better suitable.

760 See Murphy & Lilienfeld 2019: The accumulated evidence indicates that self-report questionnaires are not a trustworthy method for assessing an individual's cognitive empathy abilities.

(BES),<sup>761</sup> the Empathy and Systemizing Quotient (ESQ),<sup>762</sup> the Interpersonal Reactivity Index (IRI),<sup>763</sup> the Toronto Empathy Questionnaire (TEQ),<sup>764</sup> the Jefferson Scale of Empathy (health students) and the Jefferson Scale of Empathy for Law Students (JSE-LS) which is a translation of the JSE especially for law.<sup>765</sup>

From those tests, excluded was the ESQ, due to its extensive length of 60 items, deemed too time-consuming for the available timeframe for this pilot. Also excluded was the TEQ, because of the explicitness of its questions about empathy, which would it make hardly possible to hide the aim of the research for the students. This was considered necessary to minimize the risk of response bias, i.e., the inaccuracy of data because of 1. participants' tendency to 'yeasay/naysay,' 2. the perception of the (un-) desirability of the given trait (in this case empathy), and 3. the need for social approval.<sup>766</sup>

Three empathy tests turned out to be suitable for this research: 1. the IRI, which had been used in earlier research concerning VTS with health students,<sup>767</sup> 2. the BES, which had been used in a study with law students<sup>768</sup> and 3. the JSE-LS, which had only been used in two validation studies of this test with law students.<sup>769</sup> From this shortlist, the IRI was excluded, for the test had not been used in earlier research with law students, which is the focus of this research. Excluded as a test to be used to measure empathy was also the JSE-LS, for its validity had been questioned in the literature to date, only validating two factors out of three.<sup>770</sup>

Because of the above-mentioned exclusion of IRI and JSE-LS, the BES turned out to be the best test to measure empathy. The BES is a 20-item self-report questionnaire designed to measure both cognitive and affective components of empathy in adolescents. The cognitive scale of the BES consists of nine items and measures the ability to understand another person's emotions and feelings. The affective scale consists of eleven items and measures the degree to which a person can share and experience another's emotions and feelings. Participants rated the extent to which they agree with each statement through a 5-point Likert Scale, ranging from 1 *Strongly*

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761 Jolliffe & Farrington 2006; Cabedo-Peris et al. 2021

762 Groen et al. 2015

763 De Corte 2007

764 Spreng et al. 2009

765 Samra & Jones 2019, Spivak et al. 2018; Williams et al. 2016

766 Gove & Geerken 1977:1289

767 See Kruse & Kinde 2019

768 See Lawton & al., 2022

769 Spivak et al. 2018; Williams et al. 2016

770 Spivak et al. 2018. In the literature to date, no validation study about a Dutch translation was found. However, the JSE-LS was still considered interesting, its purpose being measuring law students' empathy in particular. As such, it could be even more useful than the BES, as turned out in an exploratory factor analysis for this research, see Appendix 1. Therefore, added to this research was a study whether Spivak et al.'s conclusion from their validation study of the JSE-LS in English (Spivak et al. 2018) could be confirmed, and/or a Dutch translation could be validated as a preparatory study for further research. This preparatory validation study took place in the course IB. However, its results showed that the Dutch JSE-LS was not reliable enough as it was. More alterations and research would be necessary to validate this test. Therefore, also the Dutch JSE-LS was excluded as a possible questionnaire for this research. See Appendix 1 for a report about the validation study in this research of a Dutch translation of the JSE-LS.

*disagree* to 5 *Strongly agree*. Used was the validated Dutch translation of the BES of Van Langen et al.<sup>771</sup> Van Langen et al.'s validation study reported that their Dutch BES test achieved a better fit with their participant group of *non-offenders* than their participant group of *offenders*. As this research' target group law students were supposed to be *non-offenders*, Van Langen et al.'s Dutch BES test was assumed to be an appropriate fit as an empathy test for this target group.

To create and administer the questionnaires, the digital tool Qualtrics was used.<sup>772</sup> Regarding the questionnaire design, we have considered several response order effects and response biases aiming to optimize the response process:<sup>773</sup>

- *Primacy effect*: Survey respondents tend to select the options presented at the beginning of the list of answer options (written).<sup>774</sup>
- *Left-side selection bias*: Survey respondents, used to reading text from left to right, tend to select what is on the left side of the option list. This also applies to the first option in a vertical list, as in our case.<sup>775</sup>
- *Acquiescence or Acceptance bias (yes-say bias)*: Survey respondents are more likely to agree than disagree with the statement given to them.<sup>776</sup>
- *Social desirability bias*: Respondents tend to choose an option that is more socially desirable (most likely a positive option) than an option that is not socially desirable.<sup>777</sup>

We considered that if *totally agree* came first, all four of these effects would cause *totally agree* to be selected more often. If *completely disagree* comes first, primacy effect and left-side selection bias would lead to more choice for *completely disagree*, and acquiescence and social desirability bias lead to more *completely agree*. Thus, method effects are better balanced when we start with *completely disagree*. Therefore, it has been decided that answer options would be starting with disagreement and ending with agreement.

To be able to investigate whether empathy scores differed across gender and age, we added additional questions to the BES. Choices for gender were: *Male, Female, Other, Do rather not want to say*. Students were also asked to indicate their year of birth. Furthermore, we added the question whether, during the seminar, they had been actively contributing to a VTS conversation or not, to investigate whether that would affect change in empathy scores as well.

To access the tests in Qualtrics, a URL-address translated into a QR code was made available on one of PowerPoint-slides that were used in class. All data that were collected through the tests in

771 Van Langen et al. 2012 & 2014

772 Through Qualtrics data could be collected digitally which was considered efficient for both students and researchers. Qualtrics is reported to be the more competitive option against other platforms and has been widely adopted by leading research universities (Douglas, Ewell, & Brauer 2023; Tharp & Landrum 2017). The choice for Qualtrics was also pragmatic because of earlier experience of methodologist Esther Maassen with the tool.

773 Yonnie Chyung, Kennedy & Campbell 2018; Krosnick 1999

774 Sadeghi et al. 2022.

775 Krosnick 1999

776 Primi et al. 2019

777 Larson 2019

Qualtrics were analyzed through the software program R.<sup>778</sup> This program was chosen because of its free availability and better suitability than SPSS for calculating probabilities of distributions.<sup>779</sup>

### 2.3.5 Qualitative research

In the research, students were asked to give their opinion several times:

1. Through Qualtrics, at the end of the experimental VTS seminar sessions in *IB* in week 1
2. Through Qualtrics, at the end of the control seminar sessions in *IB* in week 5
3. Through Qualtrics, at the end of the control seminar sessions in *IR* in week 1
4. Through Qualtrics, at the end of the experimental VTS seminar session in *IR* in week 7

To the post-tests, a question was added asking students what they believed they could learn from VTS, and another question sought their opinions on the seminar itself, to learn more about the students' experience.<sup>780</sup> Furthermore, a small group of participants of *IR* also took part in an interview about their experience in the week after the VTS/experimental week. The interview was videotaped, and a list was made of the comments of participating students. Both data from the interview as textual answers given in the questionnaires were analyzed qualitatively. The findings from those data were considered to add to the quantitative data on empathy scale scores, enhancing the understanding of law students' experience of VTS.

## 3. PREPARATION OF THE DATA

### 3.1 CLEANING AND MATCHING OF THE BES DATA

A social-scientific research methodologist analyzed the data through R.<sup>781</sup> Before the data of the BES measurement could be analyzed, all data needed to be cleaned and participant scores needed to be matched across sessions. Data cleaning consisted of excluding questionnaires that were considered test responses or in which participants did not give consent or consented but did not answer any further questions. Excluded also were questionnaires in which all answers were the same which was considered not reliable. We did not exclude any participants at any point based on their response time. An overview of the number of respondents after this cleaning of the data, i.e., total sample size, per testing moment/time point (T), can be found in Table 2, below.

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778 R Core Team 2021

779 Krijnen 2013

780 See Appendix 2.2 for details on those questions.

781 The programming in R, cleaning and matching of the data, and the statistical analysis have been executed by Esther Maassen: R versions 2023.03.0+386 (*IB*) and 4.3.2 (*IR*). Furthermore, Esther has co-executed the administering of the digital tests to the participants.



■ **Table 2** - Total sample size per time point (T)

Inleiding Bestuursrecht ( <i>IB</i> )		Inleiding Rechtswetenschap ( <i>IR</i> )	
Seminars Week 1 (experimental VTS session)		Seminars Week 1 (control session)	
T1 = pre-test:	N = 312	T1 = pre-test:	N = 355
T2 = post-test:	N = 286	T2 = post-test:	N = 327
Seminars Week 5 (control session)		Seminars Week 7 (experimental VTS session)	
T3 = pre-test:	N = 176	T3 = pre-test:	N = 91
T4 = post-test:	N = 98	T4 = post-test:	N = 74

Some participants did not finish the survey but did answer some of the items in the questionnaire. We have included these participants in the subsequent analyses, and they are included in the total sample size estimates mentioned before. Participants who had an Intra-individual Response Variability (IRV) with more than 2 standard deviations from the mean were removed from analyses. After excluding questionnaires as described above, participants were selected that were flagged as outliers. For this, the Robust Mahalanobis Distance and the Generalized Cook's Distance were used.<sup>782</sup> For more detailed information about this selection procedure see the Appendix 4.

The matching consisted of linking pre-test and post-test data of each individual participant: ID (last 4 numbers of mobile phone number), year of birth, gender and seminar number. Next, we used other survey variables to match participants that did not match automatically, for example, because of typing errors in the responses of identifying variables. This had to be done for each of ten experimental VTS seminars of *IB*, as well as each of fourteen control seminars of *IR*. Data of pre- and post-tests were also matched per individual participant from the experimental seminar *IB* with the data of the control seminar in *IB*. The challenge in *IB* in this stage of the data analysis was that students had frequently changed groups, so they did often not attend the same seminar in Week 1 of the course (experimental VTS seminars), as they did in Week 5 of the course (control seminars).

The sample sizes of both T3 and T4 of both *IB* and *IR* were considered too small to conduct a factor analysis over time and, therefore, to conduct reliable quantitative data analysis.<sup>783</sup> Therefore, we did also not match T3 and 4 of *IR*, nor did we conduct a matching of T3 and T4 with T1 or T2 of *IR*, as the number of participating students in T3 and T4 of *IR* was again too small to conduct a reliable quantitative analysis over time.

### 3.2 FACTOR ANALYSIS BES

To determine whether the BES could be used effectively with the available data, its factor structure was tested through checking of inter-item correlations via a correlation matrix. Multiple items had small to moderate correlation with at least two other items, but some items had strong correlations with only one other item, which is problematic as factors are ideally measured by

782 E. Maassen conducted these analyses. Generalized Cook's Distance Cook's distance is a measurement of a data point's influence. It's a way to find influential outliers in a set of predictor variables when performing a least-squares regression analysis. See the report in Appendix 6.

783 For analysis, at least 100 observations need to be available (Comrey & Lee 1992; MacCallum, Widaman, Zhang & Hong 1999), or at least 10 observations for each item in the instrument being used (Garson 2022), in this case the BES, which has 20 items.

three items. There were also three items that are not strongly correlated with any of the other items. Furthermore, the correlations were increasing over time, with timepoint 2 and timepoint 3 being more similar to each other than timepoint 1. This could be due to increased familiarity of the questions.

The final factor structure of *IR* turned out to be just like the original BES study. Therefore, we assumed a factor structure of nine items on the *cognitive* scale, and eleven items on the *affective* scale<sup>784</sup> when estimating the mean scores. We conducted measurement invariance testing to assess the stability of these two factors over time. We found acceptable fit for the configural and metric invariance model. However, the model fit decreased significantly between the metric and scalar invariance model. We rejected scalar invariance and therefore cannot be certain that the difference in latent means is due to true empathy difference, instead of other differences (e.g., differences in measurement).<sup>785</sup>

### 3.3 QUESTIONS TO THE DATA

Several questions about empathy scores have been formulated to be answered through analysis of the data derived from the BES. As it turned out from the data of *IB* and *IR*, we could not test for measurement invariance across time, because the numbers of participating students in T3/4 of both *IB* and *IR* were too small. During measurement invariance testing of T1 and T2 in *IB*, the model fit decreased significantly between the configural and metric invariance model, resulting in a rejection of metric invariance. Questions that could be answered through analysis of the data were the following:

1. To what extent do mean empathy scores of a group of Bachelor of Law students change after a VTS intervention?
2. Is there a difference in mean empathy scores across seminar session?
3. Is there a difference in mean empathy scores across gender?
4. Is there a difference in mean empathy scores across age?
5. Is there a difference in mean empathy scores between participants who actively engaged in the VTS session and those who did not?
6. What did participants think of the VTS method?
7. What do participants indicate they think they learn from VTS?

### 3.4 PREPARATION DATA QUALITATIVE RESEARCH

To analyze the remarks which students made at the end of the post-test in a 'open answer'-box that had been put there in the questionnaire, qualitative research has been conducted on these remarks. For this, all such remarks of both *IB* and *IR* have been summarized and labeled. Those labels were evaluated as positive remarks with 'J' and as negative remarks with 'N', and with 'J/N'

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784 *Cognitive* scale: items 3, 6, 9, 10, 12, 14, 16, 19, 20), *affective* scale: items 1, 2, 4, 5, 7, 8, 11, 13, 15, 17, 18, see Appendix 2 Chapter 6.

785 Source is the quantitative analysis of Esther Maassen including measures of sampling adequacy through KMO Kaiser-Meyer-Olkin (KMO) and Bartlett's Test of Sphericity (BTS).

when an evaluation 'J' or 'N' was not possible, and/or both 'J' and 'N' would be applicable. Below, as an example of this summarizing and labeling, the dataset of T2 of *IR* is shown, showing a part of the list of *other remarks* to the question how students would appreciate the seminar about VTS, including coding.<sup>786</sup>

■ **Table 3** - Dataset T4-*IR* – Appreciation VTS seminar, other remarks, including coding

## 14 anders dan ik had verwacht	anders	J/N
## 16 Apart	anders	J/N
## 19 Interactief	Interactief	J
## 6 Heel duidelijk en op een leuke actieve manier	leuk	J
## 37 Oke	leuk	J
## 3 Lastig te volgen	moeilijk	N
## 4 Ingewikkeld	moeilijk	N

At the end of the experimental VTS seminars of week 7 of *IR*, the students were asked to contribute to the research through participating in an interview with researcher. Three students agreed and participated in the interview which took place one week after the seminar. The interview duration was one hour. During the interview, a list was made of the remarks of the students about VTS and the research. At the end of the interview, this list of remarks was shared with the students to get their approval. After the interview, those remarks were labeled. As an example, the remarks about image selection were described and summarized and labeled as follows:

Art does not fit well with students, they state. They propose to replace artworks by case texts that are somewhat controversial and therefore invite debate/exchange of ideas. For example, the Urgenda case study.

*Label: Case texts instead of images*

## 4. RESULTS

### 4.1 QUANTITATIVE RESEARCH

#### 4.1.1 Data analysis BES - *IB*

To examine the participants' average empathy scores following the experimental VTS seminar sessions in *IB*, we initially assessed the change in empathy scores between T1 and T2 based on estimates from the factor model applied for measurement invariance testing. This analysis was conducted without controlling for additional variables. We found a statistically significant

<sup>786</sup> See Appendices Chapter 6, section 2.5 for more data.

difference between T1 and T2 on the *cognitive empathy* factor ( $est = -0.132$   $se = 0.061$ ,  $p = 0.03$ ). The *cognitive empathy* scores after one hour decreased with 0.132 standard deviations.<sup>787</sup>

Our findings indicated that the same items corresponded to the *cognitive* and *affective* factors as identified in previous research. Consequently, we used these items for the scales and constructed unweighted scale mean scores for use in subsequent analyses. If participants only answered 10 items, their mean score was calculated on the 10 items.

Below, in Table 3, an overview can be found of the data of the total empathy scores, as well as *cognitive* and *affective* empathy scores of participants *IB*. In this table, also an overview can be found about the correlations of empathy with session, gender and age.

We first investigated if the average empathy scores at T2 (i.e., after the VTS session) differed across gender, age and session. We analyzed if the empathy scale scores differed significantly across gender, age and session at T2. We did so for the full 20-item BES scale at T2, and for the *affective* and *cognitive* scale separately.

- Gender: As it turned out, there is a statistically significant difference in gender on the total BES scale scores; women in T2 are more likely to score higher on the total BES scale in T2 ( $M$  male = 3.54,  $M$  female = 4.00,  $p < .001$ ). Furthermore, there is a statistically significant difference in gender on the *affective* BES scale scores; women in T2 are more likely to score higher on the *affective* BES scale in T2 ( $M$  male = 3.10,  $M$  female = 3.83,  $p < .001$ ).<sup>788</sup>
- Correlations of age with empathy scores were positive, but small to negligible.
- Session: We did not find a statistically significant difference of empathy scale scores in T2 across session, for either the full scale or the two scales separately.

As mentioned in the above, the questionnaire that was used as post-test after the experimental VTS seminar, also contained some questions about participants' contribution to the conversation and their appreciation of the method, besides questions of BES and JSE-LS. Below, in Table 5 and 6, an overview can be found of correlations of the total empathy scores and *cognitive* and *affective* empathy scores of participants *IB* correlated with their appreciation of the method, and thoughts on possible educational benefits of VTS, respectively.

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787 Furthermore, there was a small negative difference between time T1 and T2 on the *affective* empathy factor, but this effect was not statistically significant ( $est = -0.039$   $se = 0.026$ ,  $p = 0.143$ ). As we could not be certain that the difference in latent means would be due to true empathy difference, we chose not to analyze the factor model's results further.

788 The scores on the *cognitive* empathy scale are also higher for female participants ( $M = 4.20$ ) than for male participants ( $M = 4.09$ ), but this difference was not statistically significant ( $p = 0.0695$ ).

■ **Table 4:** Correlation of empathy with variables Session, Gender, Age – BES/*Inl. Bestuursrecht*

Variable	T1	T2	T3	T4	Correlation with empathy (total, cognitive, affective)
BES score total scale	3.87 N=283	3.84 N=258	3.09 N=157	3.08 N=92	<i>cognitive</i> empathy scale decreased (est = -0.132 se = 0.061, p = 0.03)
BES score Cogn. scale	4.25 N=283	4.16 N=258	3.60 N=157	3.61 N=92	<i>affective</i> empathy scale decreased (est = -0.039, se = 0.026, p = 0.143)
BES score Affect. scale	3.55 N=283	3.57 N=258	2.67 N=157	2.64 N=92	The difference in <b>cognitive empathy</b> between T1 and T2 is negative and statistically <b>significant</b> . In <i>affective</i> empathy a small negative difference is found between T1 & T2.
Session	Total scale	Total scale	Total scale	Total scale	Method: one-way ANOVA
1	3.15 N= 58	3.12 N= 52	3.16 N=39	3.11 N=10	T2 Session vs empathy full scale p = 0.789
2	3.17 N=20	3.18 N=21	3.00 N=16	3.13 N=10	Vs <i>cognitive</i> scale p = 0.978
3	3.19 N=42	3.15 N=39	3.58 N= 3	3.50 N= 1	Vs <i>affective</i> scale p = 0.731
4	3.08 N=69	3.08 N=56	2.99 N=23	3.01 N=16	The difference between sessions is small and not statistically significant.
5	3.06 N=17	3.13 N=14	3.12 N= 9	3.18 N= 7	
6	3.13 N=30	3.07 N=29	3.05 N=15	3.00 N=11	
7	3.03 N=38	3.01 N=34	2.99 N=22	2.96 N=14	
8	3.18 N=13	3.25 N=11	3.16 N= 9	3.24 N= 7	
9	3.12 N=23	3.10 N=22	3.22 N=12	3.17 N= 8	
10	----- N= 0	----- N= 0	3.02 N= 9	2.99 N= 8	
Gender – Median	Median = F	Median = F	Median = F	Median = F	Method: one-way ANOVA
Median	F = 66 %	F = 64 %	F = 64 %	F = 59 %	T1 <b>Gender</b> vs total scale empathy: M male = 3.57, M female = 4.02, p < 0.001
M, F, Other,	M = 33 %	M = 34 %	M = 31 %	M = 37 %	The difference is <b>statistically significant</b> .
Rather not say	RNS = 1 %	RNS = 2 %	RNS = 4 %	RNS = 4 %	T1 <i>Gender</i> vs <i>affective</i> empathy: M male = 3.10, M female = 3.78, p < 0.001
			O = 1 %		The difference is <b>statistically significant</b>
					T1 <i>Gender</i> vs <i>cognitive</i> empathy: M female = 4.30 M male = 4.14, p < 0.001
					The difference is not statistically significant
					T2 <i>Gender</i> vs total scale empathy: M male = 3.54, M female = 4.00, p = 0
					The difference is <b>statistically significant</b> .
					T2 <b>Gender</b> vs <i>affective</i> empathy: M male = 3.10, M female = 3.83, p = 0
					The difference is <i>statistically significant</i>
					T2 <i>Gender</i> vs <i>cognitive</i> empathy: M female = 4.20 M male = 4.09, p = 0.0565
					The difference is not statistically significant
					T3: no statistically significant correlation between gender and any of the scales
					T4 <b>Gender</b> vs <i>affective</i> empathy: M male = 3.21, M female = 3.72, p = 0.0281
					The difference is <b>statistically significant</b>
Age Median	2003 (20 years old)	2003 (20 years old)	2003 (20 years old)	2003 (20 years old)	Method: Correlation Coefficient
18-25 years old: 1996-2005 (asked was year of birth)					Age vs empathy full scale r = 0.09, p = 0.14
					Vs <i>cognitive</i> scale r = 0.05, p = 0.44
					Vs <i>affective</i> scale r = 0.09, p = 0.17:
					The difference is not statistically significant

■ **Table 5:** Correlation of empathy with participants' appreciation of VTS / IB / T2

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, <i>cognitive</i> , <i>affective</i> ) Method: Point-Biserial Correlation Coefficient
Appreciation: <i>Interessant</i> (Interesting)	271	89	182	33%	67%	Total scale: Correlation $r = 0.06$ ( $p = 0.34$ ) • <i>Cognitive</i> scale: Correlation $r = 0.2$ ( $p = 0$ ) • <i>Affective</i> scale: Correlation $r = -0.04$ ( $p = 0.56$ ) = <b>significant</b> for cognitive empathy
Appreciation: <i>Leerzaam</i> (Educational)	271	46	225	17%	83%	Total scale: Correlation $r = 0.19$ ( $p = 0$ ) • <i>Cognitive</i> scale: Correlation $r = 0.13$ ( $p = 0.05$ ) • <i>Affective</i> scale: Correlation $r = 0.16$ ( $p = 0.01$ ) = <b>significant</b> for the total and affective empathy scales
Appreciation: <i>Leuk</i> (Fun)	271	35	236	13%	87%	Total scale: Correlation $r = 0.08$ ( $p = 0.18$ ) • <i>Cognitive</i> scale: Correlation $r = 0.12$ ( $p = 0.06$ ) • <i>Affective</i> scale: Correlation $r = 0.04$ ( $p = 0.55$ ) = not significant for any of the empathy scales
Appreciation: <i>Irritant</i> (Irritating)	271	62	209	23%	77%	Total scale: Correlation $r = -0.06$ ( $p = 0.38$ ) • <i>Cognitive</i> scale: Correlation $r = -0.05$ ( $p = 0.4$ ) • <i>Affective</i> scale: Correlation $r = -0.04$ ( $p = 0.54$ ) = not significant for any of the empathy scales
Appreciation: <i>Saai</i> (Boring)	271	133	138	49%	51%	Total scale: Correlation $r = -0.09$ ( $p = 0.17$ ) • <i>Cognitive</i> scale: Correlation $r = -0.07$ ( $p = 0.26$ ) • <i>Affective</i> scale: Correlation $r = -0.07$ ( $p = 0.28$ ) = not significant for any of the empathy scales

As it turned out, there was no statistically significant correlation between participating actively and any of the empathy scale scores at T2. On the contrary, we found positive and significant correlations on the total as well as *affective* empathy scale with participants indicating the VTS session as *leerzaam* (total scale:  $r = .19$ ,  $p < .001$ ; affective scale:  $r = .16$ ,  $p = .01$ ). Another statistically significant correlation was found between *interessant* and *cognitive* empathy scale scores ( $r = .20$ ,  $p < .001$ ). We did not find significant correlations with the items *Leuk*, *Irritant*, *Saai*.

■ **Table 6:** Correlation of empathy with participants' thoughts on educational benefits VTS / IB/T2

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, <i>cognitive</i> , <i>affective</i> ) Method: Point-Biserial Correlation Coefficient
Creativiteit (Creativity)	260	143	117	55%	45%	Total scale: Correlation $r = 0.04$ ( $p = 0.54$ ) • <i>Cognitive</i> scale: Correlation $r = 0.03$ ( $p = 0.62$ ) • <i>Affective</i> scale: Correlation $r = 0.03$ ( $p = 0.63$ ) = not significant for any of the empathy scales
Observatie- vaardigheden (Observational Skills)	260	190	70	73%	27%	Total scale: Correlation $r = 0.15$ ( $p = 0.02$ ) • <i>Cognitive</i> scale: Correlation $r = 0.08$ ( $p = 0.24$ ) • <i>Affective</i> scale: Correlation $r = 0.15$ ( $p = 0.02$ ) = <b>significant</b> for total and affective empathy scales

■ Table 6: Continued

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, cognitive, affective) Method: Point-Biserial Correlation Coefficient
Kritisch denken (Critical Thinking)	260	133	127	51%	49%	Total scale: Correlation $r = 0.1$ ( $p = 0.12$ ) • Cognitive scale: Correlation $r = 0.11$ ( $p = 0.08$ ) • Affective scale: Correlation $r = 0.06$ ( $p = 0.34$ ) = not significant for any of the empathy scales
Communicatie- vaardigheden (Communicational Skills)	260	75	185	29	71	Total scale: Correlation $r = 0.15$ ( $p = 0.02$ ) • Cognitive scale: Correlation $r = 0.13$ ( $p = 0.04$ ) • Affective scale: Correlation $r = 0.11$ ( $p = 0.1$ ) = <b>significant</b> for the total and cognitive empathy scales
Veilig Klasklimaat (Safe Class Climate)	260	57	203	22%	78%	Total scale: Correlation $r = 0$ ( $p = 0.94$ ) • Cognitive scale: Correlation $r = -0.04$ ( $p = 0.55$ ) • Affective scale: Correlation $r = 0.02$ ( $p = 0.8$ ) = not significant for any of the empathy scales
(Inter-)culturele competentie (Inter-)cultural competency	260	23	237	9%	91%	Total scale: Correlation $r = 0.09$ ( $p = 0.16$ ) • Cognitive scale: Correlation $r = 0.06$ ( $p = 0.39$ ) • Affective scale: Correlation $r = 0.08$ ( $p = 0.2$ ) = not significant for any of the empathy scales
Verbeelding (Imagination)	260	138	122	53%	47%	Total scale: Correlation $r = 0.01$ ( $p = 0.93$ ) • Cognitive scale: Correlation $r = -0.09$ ( $p = 0.16$ ) • Affective scale: Correlation $r = 0.06$ ( $p = 0.37$ ) = not significant for any of the empathy scales
Empathie (Empathy)	260	47	213	18%	82%	Total scale: Correlation $r = 0.12$ ( $p = 0.06$ ) • Cognitive scale: Correlation $r = 0.15$ ( $p = 0.02$ ) • Affective scale: Correlation $r = 0.06$ ( $p = 0.33$ ) = <b>significant</b> for the cognitive empathy scale
Zelfinzicht (Self- understanding)	260	52	208	20%	80%	Total scale: Correlation $r = -0.04$ ( $p = 0.54$ ) • Cognitive scale: Correlation $r = 0.03$ ( $p = 0.69$ ) • Affective scale: Correlation $r = -0.06$ ( $p = 0.33$ ) = not significant for any of the empathy scales
Zelfvertrouwen (Self-confidence)	260	29	231	11%	89%	Total scale: Correlation $r = 0$ ( $p = 0.99$ ) • Cognitive scale: Correlation $r = -0.04$ ( $p = 0.49$ ) • Affective scale: Correlation $r = 0.02$ ( $p = 0.71$ ) = not significant for any of the empathy scales
Inlevingsvermogen (Empathic Sensitivity)	260	104	156	40%	60%	Total scale: Correlation $r = 0.13$ ( $p = 0.04$ ) • Cognitive scale: Correlation $r = 0.03$ ( $p = 0.59$ ) • Affective scale: Correlation $r = 0.14$ ( $p = 0.03$ ) = <b>significant</b> for the total and affective empathy scales
Begrijpen van kunst (Understanding art)	260	127	133	49%	51%	Total scale: Correlation $r = 0.16$ ( $p = 0.01$ ) • Cognitive scale: Correlation $r = 0.09$ ( $p = 0.16$ ) • Affective scale: Correlation $r = 0.15$ ( $p = 0.02$ ) = <b>significant</b> for the total and affective empathy scales

Furthermore, participants were asked to indicate what they thought they would learn from VTS. Several answers turned out to correlate significantly with empathy scale scores at T2. Participants who scored high on both total and *affective* empathy scale, also scored higher on the *observatievaardigheden* item. A positive significant correlation was also found between participants who scored high on both total and *cognitive* empathy scale, and the *communicatievaardigheden* item. Participants who scored high on the *cognitive* empathy scales also scored higher on the *empathie* item. Participants who scored high on the total and *affective* empathy scales also scored higher on the *inlevingsvermogen* and the *begrijpen van kunst* item. None of the other items in the list: *Creativiteit, Kritisch denken (inclusief argumenteren), het verkrijgen van een veilig klasklimaat, (Inter-)culturele competentie, Verbeelding, Zelfinzicht, Zelfvertrouwen, Inlevingsvermogen*, had statistically significant correlations for any of the empathy scales.

#### 4.1.2 Regression analysis *IB*

We conducted separate multiple regression analyses to examine the determinants of empathy, measured at two different points in time. For both *cognitive* and *affective* empathy, we investigated how these scores changed across time (i.e., T1 and T2) and explored the influence of session, gender, and age on these empathy scores. In our model, the dependent variables were the *cognitive* and *affective* empathy scores. The independent variables included time, gender, and age.<sup>789</sup>

Controlling for age and gender, *cognitive* empathy scores were significantly lower in T2 compared to T1 ( $b = -0.083, p = 0.031$ ). No statistically significant effect on *affective* empathy in T2 was found, controlled for age and gender. Additionally, controlling for age and time, female participants on average had higher, positive and statistically significant ( $b = 0.106, p = 0.005$ ) scores in *cognitive* empathy compared to male participants, as well as in *affective* empathy ( $b = 0.569, p < .001$ ). Age did not have a statistically significant effect on *affective* empathy.

The model explains a small but significant portion of the variance in *cognitive* empathy scores (Adjusted R-squared = 0.020,  $p = 0.005$ ), which suggests other unmeasured factors may also be influential.

#### 4.1.3 Data analysis BES – *IR*

As with *IB*, to examine the participants' average empathy scores following the experimental VTS seminar sessions in *IR*, we initially assessed the change in empathy scores between T1 and T2 based on estimates from the factor model applied for measurement invariance testing. We did so for the full 20-item scale, and also for the *affective* and *cognitive* scale separately. This analysis was conducted without controlling for additional variables. As it turned out, there was a statistically significant difference between T1 and T2 on the *affective* empathy factor ( $est = -0.092, se = 0.03, p = 0.002$ ). The *affective* empathy scores after one hour decreased with 0.09 standard deviations. The difference between T1 and T2 on the *cognitive* empathy factor was not statistically significant.

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789 Model Fit: The model for affective empathy is a better fit than the cognitive empathy model, with an Adjusted R-squared of 0.187, indicating that almost 19% of the variance in affective empathy scores is explained by the model.



Because we could not establish measurement invariance across time, we could not be certain that the difference in latent means would be due to true empathy difference. In further analyses, we used the unweighted BES mean scores. To further investigate the average empathy scores of the participants, we investigated if the average empathy scores differed significantly across session, gender and age at each time point.

Below, in Table 7, descriptive statistics of the total, *cognitive* and *affective* empathy scores, as well as session, gender and age can be found.

■ **Table 7:** Correlation of empathy-variables Session/Gender/Age-BES / *Inl. Rechtswetenschap IR*

Variable	T1	T2	T3	T4	Correlation with empathy (total, cognitive, affective)
BES mean	3.85 N=334	3.82 N=303	3.14 N=88	3.12 N=72	<i>affective</i> empathy factor (est = -0.09 se = 0.003, p = 0.03) <i>cognitive</i> empathy factor (est = -0.037 se = 0.049, p = 0.449) = strong negative difference affective empathy between T1 and T2, and small negative difference cognitive empathy between T1 & T2
score entire	4.24 N=334	4.21 N=303	3.71 N=88	3.69 N=72	
sample	3.52 N=334	3.50 N=303	2.68 N=88	2.66 N=72	
total scale					
<i>cogn.scale</i>					
<i>affect.scale</i>					
Session/ workgroup no.	M Total scale	M Total scale	M Total scale	M Total scale	Method: one-way ANOVA The difference between sessions is small and not statistically significant.
1	3.91 N=27	3.93 N=25	N = 0	N = 0	
2	3.84 N=31	3.84 N=28	3.14 N=50	3.08 N=31	
3	3.82 N=33	3.89 N=24	3.14 N= 8	3.13 N= 9	
4	3.86 N=18	3.83 N=18	3.27 N= 7	3.23 N= 9	
5	3.88 N=25	3.72 N=23	3.04 N= 7	3.04 N= 7	
6	3.83 N=25	3.81 N=27	3.09 N= 5	3.24 N= 5	
7	3.90 N=24	3.84 N=23	N = 0	N = 0	
8	3.93 N=23	3.88 N=24	3.17 N=11	3.14 N=11	
9	3.88 N=22	3.67 N=19	N = 0	N = 0	
10	3.92 N=20	3.93 N=18	N = 0	N = 0	
11	3.81 N=22	3.72 N=13	N = 0	N = 0	
12	3.90 N=21	3.92 N=20	N = 0	N = 0	
13	3.79 N=26	3.81 N=23	N = 0	N = 0	
14	3.48 N=17	3.55 N=17	N = 0	N = 0	

Table 7: Continued

Variable	T1	T2	T3	T4	Correlation with empathy (total, cognitive, affective)
Gender	N = 354	N = 326	N = 91	N = 74	Method: one-way ANOVA
Male, Female,	M 120/34 %	M 111/34 %	M 30/33 %	M 29/39 %	Statistically significant differences:
Other, Rather	F 229/65 %	F 213/65 %	F 61/67 %	F 45/61 %	T1:
Not Say	O 1/0.3 %	O --	O -	O -	• Gender & Total scale empathy:
	RNS 4/1 %	RNS 2/0,6 %	RNS -	RNS -	• Gender & <i>Cognitive</i> scale empathy
	Total:	Total:	--	--	T2:
	<i>M</i> male = 3.6	<i>M</i> male = 3.55			• Gender & Total scale empathy
	<i>M</i>	<i>M</i>			• Gender & <i>Cognitive</i> scale empathy
	female = 3.98	female = 3.96			• Gender & <i>Affective</i> scale empathy
		<i>Cognitive:</i>			We did not find a statistically
		<i>M</i> male = 3.09			difference of empathy scale scores
		<i>M</i>			in T3 and T4 across gender, for either
		female = 3.72			the total scale or the two scales
		<i>Affective:</i>			separately.
		<i>M</i> male = 4.11			
		<i>M</i>			
		female = 4.26			
Age	N = 346	N = 321	N = 88	N = 72	Year of birth range 1995-2007, 16-28 years old
	M = 2003.4 (20 years old)	M = 2003.4 (20 years old)	M = 2003.8 (20 years old)	M = 2003.9 (20 years old)	
	Total:	Total:	Total:	Total:	Method: Correlation Coefficient
	<i>r</i> = 0.18	<i>r</i> = 0.11	<i>r</i> = 0.05	<i>r</i> = 0.07	Statistically significant differences
	<i>p</i> = 0	<i>p</i> = 0.07	<i>p</i> = 0.63	<i>p</i> = 0.58	in control condition/regular group
	<i>Cognitive:</i>	<i>Cognitive:</i>	<i>Cognitive:</i>	<i>Cognitive:</i>	tut.:
	<i>r</i> = 0.22	<i>r</i> = 0.2	<i>r</i> = -0.08	<i>r</i> = -0.14	T1: Age & total empathy scale
	<i>p</i> = 0	<i>p</i> = 0	<i>p</i> = 0.46	<i>p</i> = 0.24	T1: Age & <i>cognitive</i> empathy scale
	<i>Affective:</i>	<i>Affective:</i>	<i>Affective:</i>	<i>Affective:</i>	T2: Age & <i>cognitive</i> empathy scale
	<i>r</i> = -0.02	<i>r</i> = -0.09	<i>r</i> = 0.12	<i>r</i> = 0.19	No statistically significant
	<i>p</i> = 0.75	<i>p</i> = 0.12	<i>p</i> = 0.26	<i>p</i> = 0.12	differences in T3 and T4
					(experimental VTS condition).

No statistically significant difference of empathy scale scores in any of the time points was found across sessions, for either the full scale or the two scales separately. We also investigated whether gender differed significantly across empathy scores. As it turned out, there is a statistically significant difference in gender on the total BES scale scores; female participants in T1 are more likely to score higher on the total BES scale in T1 compared to male participants ( $M$  male = 3.6,  $M$  female = 3.98,  $p < .001$ ). Furthermore, there is a statistically significant difference in gender on the *cognitive* BES scale scores in T1; female participants are more likely to score higher on the *cognitive* BES scale compared to male participants ( $M$  male = 3.11,  $M$  female = 3.74,  $p < .001$ ).

Also, in T2, empathy scores differed significantly across gender. Female participants score higher on the total BES scale ( $M$  male = 3.55,  $M$  female = 3.96,  $p < .001$ ), as well as on the *cognitive* and *affective* empathy scales separately (with mean scores for females at 3.72 and 4.26, and for males 3.09 and 4.11, respectively). This difference was also statistically significant ( $p < .001$ ). In T3 and T4, no statistically significant differences of empathy scale scores across gender could be found in any of the scales.

Age correlated significantly with empathy scores in T1 for the total and *cognitive* scale (total scale  $r = 0.18$ , *cognitive* scale  $r = 0.22$ , both  $p < .001$ ). A significant correlation between empathy and age also could be found in T2, but only on the *cognitive* scale ( $r = 0.2$ ,  $p < .001$ ). In T3 and T4, no statistically significant differences of empathy scale scores across age could be found in any of the scales.

As mentioned in the above, the questionnaires that were used as post-test after the control regular seminar and the experimental VTS seminar also contained some questions about how participants experienced the seminars: whether they actively contributed to the conversation and how they appreciated the seminar and what they thought they would have learned from it. In Table 8 and 9 below, an overview can be found of the data of the total empathy scores and *cognitive* and *affective* empathy scores of participants *IR* correlated with their experience in T2 (after a regular seminar session) and T4 (after the VTS session), respectively.

■ **Table 8:** Correlation of empathy with participants' appreciation of reg.seminar / *IR* / T2

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, cognitive, affective) Method: Point-Biserial Correlation Coefficient
Appreciation: <i>Interessant</i> (Interesting)	308	194	114	63 %	37 %	Total scale: $r = -0.02$ ( $p = 0.68$ ) • <i>Cognitive</i> scale: $r = -0.04$ ( $p = 0.44$ ) • <i>Affective</i> scale: $r = 0.03$ ( $p = 0.59$ ) = not significant for any of the empathy scales
Appreciation: <i>Leerzaam</i> (Educational)	308	213	95	69 %	31 %	Total scale: $r = 0$ ( $p = 0.95$ ) • <i>Cognitive</i> scale: $r = 0$ ( $p = 0.95$ ) • <i>Affective</i> scale: $r = 0.02$ ( $p = 0.69$ ) = not significant for any of the empathy scales
Appreciation: <i>Leuk</i> (Fun)	308	86	222	28 %	75 %	Total scale: $r = -0.04$ ( $p = 0.53$ ) • <i>Cognitive</i> scale: $r = -0.05$ ( $p = 0.37$ ) • <i>Affective</i> scale: $r = 0.01$ ( $p = 0.85$ ) = not significant for any of the empathy scales
Appreciation: <i>Irritant</i> (Irritating)	308	3	305	1 %	99 %	Total scale: $r = -0.07$ ( $p = 0.2$ ) • <i>Cognitive</i> scale: $r = -0.03$ ( $p = 0.64$ ) • <i>Affective</i> scale: $r = -0.11$ ( $p = 0.06$ ) = not significant for any of the empathy scales
Appreciation: <i>Saai</i> (Boring)	308	18	290	6 %	94 %	Total scale: $r = -0.13$ ( $p = 0.03$ ) • <i>Cognitive</i> scale: $r = -0.07$ ( $p = 0.24$ ) • <i>Affective</i> scale: $r = -0.16$ ( $p = 0.01$ ) = statistically <b>significant</b> correlation total & <i>affective</i> empathy & <i>Saai</i>
Other	31					

As it turned out, in T2 at the end of the regular seminar, there was a statistically significant negative correlation between the appreciative item *saai* (i.e., boring) and total and *affective* empathy scores; those who indicate they found the seminar *saai* tend to score lower on the BES total ( $r = -0.13$ ,  $p = 0.03$ ) and *affective* scale scores ( $r = -0.16$  resp.,  $p = 0.01$  resp.). In T4 at the end of the VTS seminar, none of the items were found statistically significant correlated to any of the empathy scales (items: *saai* (boring), *leuk* (fun), *interessant* (interesting), *leerzaam* (educational), *irritant* (irritating)).

Other than in *IB*, in T2, we added the possibility *Other*, an open box in which students could fill in words that would describe their experience. There were 31 students who filled in that box. Of those students, eight filled in a reaction that could also be summarized as *saai*, for example *langdradig*, or *sloom*, six students filled in *difficult*. Other answers could be summarized as *nice* (four times, for example *prima*, *top*), *not interactive* as well as *interactive* (four and two times resp.), *Haven't learnt anything* (four times) as well as *Learnt a lot more than in other lectures* (one time), *confusing* (four times), and *tiring* (two times). See Appendix 6 for a complete list.

As it turned out, there are no statistically significant correlations between any of the scales and any of the answer options to the question how participants appreciated the VTS seminar sessions in T4. Like in T2, in T4, we added the possibility *Other*, an open box in which students could fill in words that would describe their experience. There were sixteen students who filled in that box. Of those students, seven filled in a reaction that could be summarized as *Haven't learnt anything* (for example *nutteloos*, or *tijdverspilling*), four students filled in *saai*, three *leuk* and one *verwarrend* (*confusing*). See Appendix 6 for a complete list.

Below in Table 9, an overview is given about what students indicate they would learn from VTS, in T4. As it turns out, there is a statistically significant positive correlation between *Observatievaardigheden* and the total scale as well as the cognitive scale.

■ **Table 9:** Correlation of empathy with participants' thoughts on educational benefits of VTS / IR / T4

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, cogn., affect.) Method: Point-Biserial Correlation Coefficient
Creativiteit (Creativity)	70	30	40	43b%	57 %	Total scale: $r = 0.04$ ( $p = 0.77$ ) • Cognitive scale: $r = 0.04$ ( $p = 0.74$ ) • Affective scale: $r = 0.02$ ( $p = 0.9$ ) = not significant for any of the empathy scales
Observatie- vaardigheden (Observational Skills)	70	48	22	69 %	31 %	Total scale: $r = 0.3$ ( $p = 0.01$ ) • Cognitive scale: $r = 0.26$ ( $p = 0.03$ ) • Affective scale: $r = 0.18$ ( $p = 0.14$ ) = statistically <b>significant</b> correlation total & <b>cognitive</b> empathy & <b>Observatievaardigheden</b>

■ Table 9: Continued

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, cogn., affect.) Method: Point-Biserial Correlation Coefficient
Kritisch denken (Critical Thinking)	70	41	29	59 %	41%	Total scale: $r = -0.08$ ( $p = 0.52$ ) • Cognitive scale: $r = 0.03$ ( $p = 0.81$ ) • Affective scale: $r = -0.12$ ( $p = 0.3$ ) = not significant for any of the empathy scales
Communicatie- vaardigheden (Communicational Skills)	70	27	43	39 %	61%	Total scale: $r = 0.13$ ( $p = 0.30$ ) • Cognitive scale: $r = 0.24$ ( $p = 0.04$ ) • Affective scale: $r = -0.03$ ( $p = 0.82$ ) = statistically <b>significant</b> correlation <b>cognitive</b> empathy & <b>Communicatievaardigheden</b>
Veilig Klasklimaat (Safe Class Climate)	70	11	59	16%	84%	Total scale: $r = 0.08$ ( $p = 0.49$ ) • Cognitive scale: $r = 0.18$ ( $p = 0.13$ ) • Affective scale: $r = -0.03$ ( $p = 0.77$ ) = not significant for any of the empathy scales
(Inter-)culturele competentie (Inter-)cultural competency	70	5	65	7 %	93 %	Total scale: $r = 0.03$ ( $p = 0.8$ ) • Cognitive scale: $r = 0.15$ ( $p = 0.22$ ) • Affective scale: $r = -0.08$ ( $p = 0.53$ ) = not significant for any of the empathy scales
Verbeelding (Imagination)	70	35	35	50%	50%	Total scale: $r = -0.03$ ( $p = 0.8$ ) • Cognitive scale: $r = 0.02$ ( $p = 0.88$ ) • Affective scale: $r = -0.05$ ( $p = 0.66$ ) = not significant for any of the empathy scales
Empathie (Empathy)	70	11	59	16%	84%	Total scale: $r = -0.16$ ( $p = 0.18$ ) • Cognitive scale: $r = -0.15$ ( $p = 0.22$ ) • Affective scale: $r = -0.09$ ( $p = 0.44$ ) = not significant for any of the empathy scales
Zelfinzicht (Self- understanding)	70	16	54	23 %	77 %	Total scale: $r = 0.12$ ( $p = 0.3$ ) • Cognitive scale: $r = 0.08$ ( $p = 0.52$ ) • Affective scale: $r = 0.1$ ( $p = 0.42$ ) = not significant for any of the empathy scales
Zelfvertrouwen (Self-confidence)	70	11	59	16 %	84 %	Total scale: $r = -0.03$ ( $p = 0.82$ ) • Cognitive scale: $r = -0.03$ ( $p = 0.83$ ) • Affective scale: $r = -0.02$ ( $p = 0.9$ ) = not significant for any of the empathy scales
Inlevingsvermogen (Empathic Sensitivity)	70	23	47	33%	67%	Total scale: $r = -0.01$ ( $p = 0.96$ ) • Cognitive scale: $r = -0.01$ ( $p = 0.9$ ) • Affective scale: $r = 0$ ( $p = 0.98$ ) = not significant for any of the empathy scales
Begrijpen van kunst (Understanding art)	70	28	42	40 %	60 %	Total scale: $r = -0.05$ ( $p = 0.67$ ) • Cognitive scale: $r = 0.01$ ( $p = 0.94$ ) • Affective scale: $r = -0.07$ ( $p = 0.55$ ) = not significant for any of the empathy scales

In T4, an extra question had been added, one about self-awareness and self-knowledge through VTS. Below in Table 10, students' answers from this question can be found.

■ **Table 10:** Participants' thoughts on the effect of VTS on self-knowledge/IR / T4

Variable: Door het oefenen met VTS... (Through exercise in VTS...)	Tot. N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, cogn., affect.) Method: Point-Biserial Correlation Coefficient
heb ik ontdekt dat ik me soms minder goed kan inleven in anderen dan ik dacht. (I discovered that sometimes I cannot empathize with others as well as I thought I could)	69	1	68	1 %	99 %	Total scale: $r = -0.24$ ( $p = 0.04$ ) • Cognitive scale: $r = -0.12$ ( $p = 0.31$ ) • Affective scale: $r = -0.22$ ( $p = 0.07$ ) = not significant for any of the empathy scales
realiseer ik me dat mijn perspectief soms anders is dan die van anderen. (I realize that sometimes my perspective is different from others)	69	35	34	51 %	49 %	Total scale: $r = -0.05$ ( $p = 0.7$ ) • Cognitive scale: $r = 0.14$ ( $p = 0.24$ ) • Affective scale: $r = -0.17$ ( $p = 0.15$ ) = not significant for any of the empathy scales
zie ik in dat anderen soms situaties anders kunnen interpreteren dan ik. (I recognize that others can sometimes interpret situations differently from me)	69	38	31	55 %	45 %	Total scale: $r = 0.05$ ( $p = 0.7$ ) • Cognitive scale: $r = -0.02$ ( $p = 0.89$ ) • Affective scale: $r = 0.07$ ( $p = 0.54$ ) = not significant for any of the empathy scales
realiseer ik me dat ik nog wel kan groeien in empathie. (I realize that I can still grow in empathy)	69	5	64	7 %	93 %	Total scale: $r = -0.08$ ( $p = 0.7$ ) • Cognitive scale: $r = -0.01$ ( $p = 0.95$ ) • Affective scale: $r = -0.09$ ( $p = 0.45$ ) = not significant for any of the empathy scales
Other <sup>790</sup>	12					

Several answers turned out to significantly correlate with empathy scale scores at T4. Participants who scored high on both total and *cognitive* empathy scale, also scored higher on the *observatievaardigheden* item ( $r = 0.30$ ,  $p = 0.01$  and  $r = 0.26$ ,  $p = 0.01$ , respectively). A positive correlation could also be found between participants who scored high on *cognitive* empathy scale, and the *communicatievaardigheden* item ( $r = 0.24$ ,  $p = 0.04$ ). Of the other items in the list: *Begrijpen van kunst*, *Creativiteit*, *Kritisch denken* (inclusief *argumenteren*), *het verkrijgen van een veilig klasklimaat*, *(Inter-)culturele competentie*, *Verbeelding*, *Zelfinzicht*, *Zelfvertrouwen*, *Inlevingsvermogen*, none had statistically significant correlations for any of the empathy scales. Asked through an extra question in T4, what they realize after participating in the VTS

790 Twelve students also filled in the other remarks box. For an overview and analysis of those remarks see the data analysis of the qualitative research below in the Results section 4.4.2.

seminar about their self-knowledge, there is a significant negative correlation between participants who score low on the total BES scale scores and the experience of *inleven* ( $r = -.24, p = 0,04$ ).

Furthermore, we analyzed the possible correlation between active participation in class during the VTS sessions and empathy scores, see the details in Table 11 below. In T4, no significant correlations were found between active participation in class and any of the empathy scales.

■ **Table 11:** Correlation of empathy with participants' active contribution in class VTS / IB/ T4

Variable	Tot.N=	Yes N=	No N=	Y %	N %	Correlation with empathy (total, cognitive, affective) Method: Point-Biserial Correlation Coefficient
Active Participation in class	70	25	45	36 %	64 %	Total scale: $r = 0.03$ ( $p = 0.83$ ) • Cognitive scale: $r = -0.09$ ( $p = 0.48$ ) • Affective scale: $r = 0.1$ ( $p = 0.4$ ) = not significant for any of the empathy scales

#### 4.1.4 Regression analysis IR

Several separate multiple regression analyses have been conducted to examine the determinants of empathy, measured at two different points in time. For both *cognitive* and *affective* empathy, we looked at how these scores changed from T1 to T2 and explored the influence of session, gender, and age on these empathy scores. In our models, the dependent variables were the *cognitive* and *affective* empathy scores. The independent variables included time, gender and age.

As it turned out for *cognitive* empathy, controlling for gender and age, the effect of time, is not statistically significant. However, the effect of gender is positive and statistically significant ( $b = 0.607, p < .001$ ), the effect of age is negative and significant ( $b = -0.087, p < .001$ , respectively). The results indicate that controlling for time and age, female participants on average score higher on *cognitive* empathy compared to male participants. Controlling for time and gender, older participants score lower on *cognitive* empathy compared to younger participants. Results show that time, controlled for age and gender, has no significant effect on *affective* empathy, nor does age, controlled for time and gender. However, similar to *cognitive* empathy, the effect of gender on *affective* empathy is positive and statistically significant ( $b = 0.096, p = 0.01$ ), indicating that, controlling for time and age, female participants on average have higher scores on *affective* empathy compared to male participants.

#### 4.1.5 Comparing IB and IR

To conclude the data-analysis, we compared the data of *IB* and *IR*, and listed the significant correlations found in the data analysis:

1. In *IB*, controlling for age and gender, a statistically significant *decrease* was found on *cognitive* empathy scores: they were significantly lower in T2 compared to T1 (VTS seminar). Also in *IR*, between T1 and T2 (control seminar), a statistically significant *decrease* was found in the empathy scores, however, not on the *cognitive* but on the *affective* empathy scale.

2. Gender differences in empathy scores: In *IB*, a statistically significant difference in gender was found: compared to T1, women in T2 were more likely to score *higher* on the total and *affective* BES scale in T2 compared to male participants. Controlling for time and age, female participants on average had higher scores in *cognitive* empathy compared to male participants. In *IR*, compared to male participants, female participants in T1 were more likely to score higher on the total and *cognitive* BES scale in T1, and on the total, *cognitive* and *affective* empathy scales in T2.
3. In *IR*, age correlated significantly with empathy scores in T1 for the total and *cognitive* scale, but in T2 only on the *cognitive* scale. Controlling for age and gender, *cognitive* empathy scores were significantly lower in T2 compared to T1. Controlling for age and time, female participants have significant higher scores in *cognitive* empathy compared to male participants.
4. A correlation of empathy scores with appreciation of VTS was found: In *IB*, positive and statistically significant correlations were found on the total and *affective* empathy scale with participants indicating the VTS session as *leerzaam*. Also between *interessant* and *cognitive* empathy scale scores a significant correlation was found.
5. A correlation of empathy scores with participants' thoughts on educational benefits of VTS was found: In *IB*, a positive significant correlation was found between participants who scored high on both total and *affective* empathy scale and the *observatievaardigheden*, *inlevingsvermogen* and *begrijpen van kunst* items. A significant correlation was also found between participants who scored high on the *cognitive* empathy scales and the *empathie* item. A high score on both total and *cognitive* empathy scale in *IR* correlated significantly with the *empathie* item, and the *communicatievaardigheden* item.
6. Furthermore, both *IB* and *IR*, during the semester, students' empathy scores are decreasing on a total scale: in *IB*, the mean empathy score on a total scale decreased from 3.87 to 3.08, and in *IR* from 3.85 to 3.12. Hypothesized was that during the semester students' stress levels increase, as stress has been found to correlate negatively with empathy.<sup>791</sup> Moreover, we expect that this decrease of students' empathy levels might also be caused by the repeated confrontation with a questionnaire, the so-called practice-effect,<sup>792</sup> especially in the situation when they see less use for it and the course's exam is fast approaching. More information was thought to diminish stress in class and therefore its possible negative impact on empathy scores. However, provision of more information, both in the syllabus as in class, did not mitigate the negative empathy scores; in *IR*, empathy mean scores decreased in both the experimental VTS and the control condition. However, we did observe fewer negative responses to the final questions in *IR* compared to *IB*, along with fewer dropouts and outliers, as well as an increase in participation, possibly because of the increased provision of information.

## 4.2 QUALITATIVE RESEARCH

From the aforementioned findings collected through Qualtrics listed above, a ranking is made of what students think they might learn from VTS, listed in Table 12 below. Students of both *IB*

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791 Empathy is correlated with mental health and well-being, because of its positive effects on social life and relationships (Sifris, Williams & Kordouli, 2015; Spivak et al. 2018; Skead, Rogers, & Johnson, 2020).

792 Reeve & Lam 2005, pose the idea that practice introduces construct irrelevant variance into the testing situation.



and *IR* who participated in the experimental VTS seminars choose the same Top 5, including *observational skills, creativity, imagination, critical thinking/arguing a case* and *understanding the arts*, albeit in a different order.

■ **Table 12:** Ranking: what one might learn from VTS / *IB* & *IR*

	Ranking <i>IB</i>	<i>IB</i>	Ranking <i>IR</i>	<i>IR</i>
Observatievaardigheden (Observational Skills)	1	73 %	1	69 %
Creativiteit (Creativity)	2	55 %	4	59 %
Verbeelding (Imagination)	3	53 %	3	50 %
Kritisch denken (Critical Thinking)	4	51 %	2	43 %
Begrijpen van kunst (Understanding art)	5	49 %	5	40 %
Inlevingsvermogen (Empathic Sensitivity)	6	40 %	7	39 %
Communicatievaardigheden (Communicational Skills)	7	29 %	6	33 %
Veilig Klasklimaat (Safe Class Climate)	8	22 %	9	23 %
Zelfinzicht (Self-understanding)	9	20 %	8	16 %
Empathie (Empathy)	10	18 %	10	16 %
Zelfvertrouwen (Self-confidence)	11	11 %	11	16 %
(Inter-)culturele competentie (Inter-)cultural competency	12	9 %	12	7 %

Moreover, more than half the student group of both *IB* and *IR* indicated that, through VTS, they realized that sometimes their perspective is different than others (51%), and that they recognized that others can sometimes interpret situations differently from them (55%). Both realizations are important, because these feed self-other differentiation, which is a skill and component of empathy especially considered important for law students and law professionals, as elaborated in Chapter 2.

#### 4.2.1 Analysis of remarks section *IB*

Of 283 students of *IB* who filled in the post-test after the experimental VTS seminars in week 1 of *IB*, 37 students, i.e., 13 %, filled in the call for reaction at the end of the post-test. Of the 37 students, who filled in anything, 10 reacted positively or mixed positive/negative, which is 3.5 % of the total sample group of *IB* and 27 % of the reactions of those 37 students who filled in the call for reaction *other remarks*:

- 1 was explicitly positive, labeled 'J' in the list. The remark was an observation about the diverse ways classmates reacted during VTS, and
- 9 reacted positively but had some negative thoughts as well or the other way around, which is labeled 'J/N' in the list, for example the student who first thought VTS was 'floaty', but later could join and see the point.

The students who reacted negative, which were 17 of 37 students of *IB* who gave a reaction, i.e., 6 % of the total sample group of *IB* and 56 % of the reactions of those 37 students who filled in the call for reaction *other remarks*:

- 7 students reacted that they did not want to spend time on an activity like VTS, did not see it as a learning activity, 'N:time' in the list below, for example 'Is not very useful to us'.
- 2 reacted that VTS as a method did not resonate with them personally. For example: 'This is nothing for me'.
- 6 students would have wanted more information how VTS fitted into legal classes/practice, for example 'I do not see the link between this method and administrative law'.
- 5 students reacted negatively for they would have wanted to know beforehand that this seminar was a research activity, not about study material related to the final exam, for example 'Please give information beforehand, when research will be done. Than we know for what we come to school'.
- 4 students reacted negatively for diverse reasons, for example that in VTS, the seminar teacher only was allowed to contribute to the conversation, and not to teach.
- 1 student made a remark that had nothing to do with VTS, or anything related to legal classes or practice.

#### 4.2.2 Analysis of remarks section *IR*

Of 334 students of *IR* who filled in the pre-test T1 of the regular seminars of the control condition in week 1, seventeen students filled in the call for reaction at the end of the post-test, i.e., 5 %. Of those seventeen students, seven reacted positively or mixed positively/negatively, which is 2 % of all participating students and 41 % of those 17 students who filled in the call for reaction *other remarks*:

- Three were explicitly positive, labeled 'J' in the list in Appendix 6. Of those, one was a remark about awareness of being able to feel the feelings of friends, which was a reaction on one of the topics that the questionnaire addressed. The other two remarks expressed positive interest in the research as well as curiosity about its possible results.
- Three reactions were positive but included some negative thoughts as well, which is labeled 'J/N' in the list, of which one was about their own awareness of other person's emotions, and two expressed thoughts about the questions of the questionnaire.

The students who reacted negative in T1, were ten of seventeen students, i.e., 3% of the total number of participating students and 58 % of the seventeen *other remarks* about T1. They reacted as follows:

- One student thought the research pretentious.

- Seven students reacted that they did not appreciate (some of) the questions or thought the answers to be sufficient or matching adequately the questions: 'Answers are not always adequate.' Questions were found superficial or too abstract or even called 'weard' because the link with law was not evident 'I find the questions weard and do not get what they have to do with law.'
- Two of those negative reactions were about the fact that questions were thought a lot alike: 'There are rather a lot of the same questions, only formulated in a different way.'

In the post-test of the control condition T2 of *IR*, three students filled in a reaction in the remarks section of the questionnaire, which was 1 % of the students. One asked if the second questionnaire was the same as the first, one expressed interest in the research, and the third found the questions of both pre and post-test superficial.

In the pre- and post-test of the experimental VTS condition in week 7 of *IR*, T3 and T4, six out of 70 students made remarks, which is 8 %. Of those in total six students, three in T3 and three in T4, three reacted negatively. One student expressed in T3 not to see the added value (not further specified), and two thought negative about VTS: one found three images in VTS too much, and the other found the method 'wordy'. Other reactions were sharing thoughts about the content of the questionnaire and an opinion on one of the questions 'more explanation needed.'<sup>793</sup>

#### 4.2.3 Analysis of interview with three students *IR*

The remarks the students of *IR* made in the interview about VTS were the following:

1. Students indicated that they were not well prepared for the seminar which turned out to be so different from what they were used to. One student indicated that this caused frustration and that she had observed the same with other classmates. More information about why VTS was introduced in the course at this time and about the method itself would have been highly appreciated.
2. Students did see VTS as an opportunity to complement the classes in law, especially when learning to think more critically, to see other perspectives and to empathize with others. One student questioned whether VTS was efficient enough as a method because of its slow nature, while another student found that the slowness of VTS leads to critical thinking.
3. In the students' opinion, some changes should be made in the classes about VTS:
  - *Case texts instead of images*  
Art does not fit well with students, they state. They propose to replace artworks by case texts that are somewhat controversial and therefore invite debate/exchange of ideas. For example, the Urgenda case study.
  - *Good guidance*

<sup>793</sup> For details, see the Appendix of Chapter 6 – Data.

Extra attention should be given to the fact that people should listen to each other, to avoid chaos in class. Students prefer to have their own teacher as a facilitator to pose initial thoughts in case students do not provide input, as a starter to the exchange of views in VTS.

- *Smaller groups*  
The students think that smaller groups would be helpful, but they do not think this is doable in the classes as they are now.
- *Better focus: put away digital devices*  
The students support the request to the students to put away laptops and phones, even though such a prompt may be perceived as patronizing by other students.  
The students themselves also find them distracting.
- *Repeat VTS*  
To generate more impact, the students think it is important to do VTS more often than once.
- *Link to exam*  
A good link to the exam should also be made, for example by teaching the students how to facilitate VTS themselves. In this case, they would have a tool that might be useful when working together.
- *Better the questionnaire*

The questionnaire was not found clear in every aspect. However, one student recognized the questions from a questionnaire about personal psychological research (autism). This student was very enthusiastic about VTS for it might provide students with autism an opportunity to learn to empathize with others.

I concluded from the interview, that the students of *IR* who participated in the interview do see a role for VTS in legal education. However, in those students' opinions, students need more information about the method, the value of slow looking and the reason why VTS is implemented in the course. They emphasize this as important, because classes in VTS are so different than students are used to in legal education. This finding aligns with the remarks of some students in the questionnaires of both *IB* and *IR* mentioned above.

## 5. DISCUSSION

In my study, 667 first-year law students of two courses participated, in 2023. In both the experimental VTS seminar and the control regular seminar, a statistically significant decrease was found on mean empathy scores: Controlling for age and gender, in *IB* on the *cognitive* scale, in *IR* on the *affective* scale. Furthermore, during the semester in both *IB* and *IR*, students' empathy scores were decreasing. Moreover, in both courses, statistically significant differences in empathy scores for gender were found, controlling for time and age: female participants on average had higher empathy scores compared to male participants.

Furthermore, a statistically significant positive correlation of empathy scores with appreciation of VTS was found: on the *cognitive* empathy scale with participants indicating VTS as *interesting*, and on the total and *affective* empathy scale with participants indicating the VTS session as

*educational*. In that case, *affective* empathy scores correlated positively with participants thinking that VTS would teach them *observation skills*, *empathetic sensitivity*, and understanding art, and *cognitive* empathy scale scores correlated when they thought VTS would teach *empathy* and *communication skills*.

However, the findings suggest other unmeasured factors may also be influential. Hypothesized was that during the semester students' stress levels increase, as stress has been found to correlate negatively with empathy.<sup>794</sup> The decrease of students' empathy levels might also be caused by the repeatedly confrontation with a questionnaire, the so-called practice-effect,<sup>795</sup> especially in the situation when they see less use for it and the course's exam is fast approaching. The data suggest that empathy scores rebound somewhat because of the Christmas break, only to drop again in the second semester. *IB* started just after the Christmas break, *IR* early September. However, as the participating students of *IR* were not the same than those of *IB* and, therefore, this is a hypothesis that could not be tested with the data from this research. More information was thought to diminish stress in class and therefore its possible negative impact on empathy scores. However, provision of more information, both in the syllabus as in class, did not mitigate the negative empathy scores; in *IR*, empathy mean scores decreased in both the experimental VTS and the control condition. However, we did observe fewer negative responses to the final questions in *IR* compared to *IB*, along with fewer dropouts and outliers, as well as an increase in participation, possibly because of the increased provision of information.

Of the participating students, only 5 % reacted negatively on the research, either on VTS, the regular seminar, the questionnaire or the research as a whole. Students' remarks were that they did not want to spend time on an activity like VTS, or would need information how VTS would be useful for law and/or fitted in legal education. Others did not like the method for personal reasons, or found questions or answers in the questionnaire not adequate, superficial or too abstract or too much alike. Of the students who reacted positively, remarks were observations about the diverse ways classmates reacted during VTS, and expressions of positive interest in the research, and curiosity about its possible results. In the interview, students proposed some changes in the way VTS could be implemented in the course, including using texts instead of images to align better with legal education and law students' interests, more information about the link of VTS classes with the exam, and the scheduling of VTS more often for more impact. Moreover, students would also advise to have students put away their digital devices for a better concentration during VTS in class.

## 6. RECOMMENDATIONS FOR FURTHER RESEARCH

We acknowledge that this empirical study has several other limitations that call for future research. An important limitation of this research is the choice of images. The images used in

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794 Empathy is correlated with mental health and well-being, because of its positive effects on social life and relationships (Sifris, Williams & Kordouli, 2015; Spivak et al., 2018; Skead, Rogers, & Johnson, 2020).

795 Reeve & Lam, 2005, pose the idea that practice introduces construct irrelevant variance into the testing situation.

this research were chosen in a preliminary study by representants of all parties involved in this research, including students, but was limited by time constraints of the research. More research is needed to investigate the preconditions for images or texts. It is particularly in this component, possible gains are expected to be the highest, because the images in VTS theory are considered essential to spark the interest of the target group, which, as suggested by our findings, has a positive effect on empathy. Further research is recommended.

As was hypothesized, student stress levels were thought to have had a great impact on the empathy scores. Further research should elaborate on this stress: on the causes of the stress of first-year law students, on the way, this stress might have influenced VTS sessions, and how to overcome these causes of stress. Furthermore, recent research emphasizes that empathy needs cognitive strength and hard work,<sup>796</sup> as well as a clear, coherent and stable self-concept.<sup>797</sup> It is suggested that interventions aimed at increasing empathy may be futile when a sense of self is not enough developed or weak.<sup>798</sup> More research is recommended to investigate its correlation.

Regarding the empirical study, a limitation regarding the target group is that two-third were women, and one-third were men. As described in the data-analysis, there is a strong effect on empathy scores because of gender. However, also the fact that there are so many more women than men in the group might have impacted the empathy scores, as empathy scores are affected by context.<sup>799</sup> Future research is recommended to shed light on the differences in gender in the group of participants.

One of the things the students mentioned was more information about the merits of VTS for law. To address this, observational skills have been highlighted in both *IB* and *IR* as possible gain. This might have had an impact on the students and the results of my study. A significant positive correlation has been found between the empathy scores and students' interest and appreciation of the education. However, VTS' slow looking methodology has been mentioned as one of the reasons of students' lack of interest. Further research needs to be done to elaborate on possible factors in classes that may contribute to the change in empathy scores because of an increase in students' interest and appreciation.

Another limitation of this research is the way VTS is used in class. Aiming to measure the effect of 'orthodox' VTS conversations and to avoid any possible 'pollution' of the data, we minimized introductions and excluded reflections and debriefings. However, in VTS practice it is common practice to reflect on the method when participants have come to a certain age. The decision to conduct 'orthodox' VTS probably had a negative impact on the participants, for this might have

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796 Cameron et al. 2019

797 Krol & Bartz 2022

798 Krol & Bartz 2022

799 Christov-Moore et al. 2014; Löffler & Greitemeyer 2023

enhanced stress levels. Furthermore, debriefing<sup>800</sup> is reported to be a fundamental strategy in experimental learning and an essential element of role playing, which are important components of the VTS and important elements in empathy education.<sup>801</sup> Not only would it be interesting to know the effect of such interventions on the target group, also more information about the needs of the target group in this respect should be further investigated.

In addition, as mentioned, measuring empathy through self-report can be just reflecting students' orientation towards empathy and may not necessarily translate into action in (legal) practice.<sup>802</sup> Moreover, self-report questionnaires are not considered trustworthy as a method for assessment of cognitive empathy.<sup>803</sup> Triangularity of research methods is advised to enhance reliability. Peer-assessment during law education about empathetic ability is recommended besides quantitative and qualitative research.<sup>804</sup>

## 7. CONCLUSION

To date, initiatives to include empathy classes in legal education have not been successful mainly because of time and budget constraints and overfull curriculums. In this chapter, the empirical research is described about two experiments with VTS in the first-year law curriculum of Tilburg University Law School. Serving large amounts of students in these courses, aim was to examine whether it would be possible to implement empathy training through VTS in such a way that it could be part of the regular law curriculum. As was reported in earlier research on VTS,<sup>805</sup> also in this research, students stated that they became more open to other perspectives through VTS. Such openness is important for a well-developed self-other differentiation, a component of empathy which is considered essential for law students and modern legal practice, as elaborated in Chapter 2 about juridical practice and education. Law students' thoughts on what they learned

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800 Lederman defines debriefing as the *process in which people who have had an experience are led through a purposive discussion of that experience*. She describes the debriefing process as based on two assumptions: 1. the experience of participation has affected the participants in some meaningful way, 2. processing in the form of a discussion of that experience is necessary to provide insight into that experience and its impact; Peters & Vissers 2004, mention two elements required in debriefing for experimental learning: 1. participants need to 'cool down' to be able to leave their roles, and 2. An opportunity for enhancing learning for example linking the exercise to specific theory or content and skill-building techniques or re-establishment of the desired classroom climate, such as regaining trust, comfort and purposefulness; Weiss states that '*derolling addresses the affective dimension of the experience*'. According to Weiss, explicit discussion of their role is important for students to remind them of the impact of their behavior in negotiation, and to address possible negative emotion which might hinder learning from the experience.

801 Douglas & Coburn 2009:61

802 Bernardo et al. 2018, state that self-assessments of empathy in physicians 'training differ from patient assessments. They suggest that knowledge about empathy derived from self-assessment studies might not capture the patients' perspective, the real key stakeholders in patient-centered care. Researchers recommend future research in which patient perspectives are included in the development of physician empathy and in the desired outcomes of classes which promote empathy.

803 Murphy & Lilienfeld 2019

804 Spatoula 2019, n.p. In order to obtain meaningful conclusions, studies which examine changes in empathy scores should include more than one measure, a triangulation of methods. Self-reports can be used, but need to be complemented by patient perceptions, and possibly peer assessments.

805 Bentwich & Gilbey 2017; Kruse & Kinde 2019

from VTS in my study confirms that VTS provides exercise in observation, creativity, imagination, arguing a case as well as critical thinking and understanding the arts. Our research also confirmed the findings from earlier research that gender and age correlate with empathy scores as well as students' interest in the contents of the classes.

However, in contrast to the hypotheses in the theoretical model of Chapter 5, the results did not show enhancement on empathy scores in the VTS seminars, nor in the control seminars. In both courses, the decrease in mean empathy scores was higher in the first week of the course than in the second research week which was planned 4-6 weeks later in the course. Hypothesized was that this decrease was caused by students' high stress levels.

To better fit legal education, several small changes are suggested about the way, VTS is implemented in the course including using texts instead of images to align better with legal education and law students' interests, enhancement of the link of VTS classes with the exams, and scheduling VTS repeatedly instead of once in order to obtain more impact. Lastly, VTS is suggested as an exercise in empathizing with others for students with autism. Digital devices during VTS may hinder concentration and should, preferably, be excluded from class.







## CHAPTER 7

# Empathy Education for third-year Law Students through VTS

## 1. INTRODUCTION

In the previous chapter, two experiments were described of the empathy training in the legal curriculum of Tilburg Law School. The participants were two large groups of first-year Bachelor of Law students. In contrast to the hypothesis we formulated in Chapter 5, that VTS could enhance empathy, quantitative data showed that in both groups mean empathy scores decreased, both in the experimental VTS as control groups. We hypothesized that the negative results correlated with students' stress levels. Students reported insecurity about the applicability of the method VTS for legal practice, and a lack of interest in classes more in general and the research in particular. For this, evidence was also found in the quantitative data. However, in the qualitative research, students reported that they had become more open to ambiguity and other perspectives through VTS, which aligns with development of empathy described in the literature to date.<sup>806</sup> This result is interesting, for both competencies are considered essential for a well-developed self-other differentiation which is, as elaborated in Chapter 2 and 5, essential for law students and professionals in modern legal practice. Moreover, law students stated that they thought VTS has several educational benefits: observational skills, critical thinking, and arguing a case, and also creativity, imagination and understanding art. The findings motivated further research to elaborate the findings of the research in the courses of *IB* and *IR*.

This chapter describes this research and its results. Several changes were made in the way VTS was implemented in the curriculum. The aim was to respond to students' need for more information about the VTS method and the research, as found in the research of *IB* and *IR*, and to better fit legal education in general. Alterations in the design include enhancement of the link of VTS classes with the content of the legal curriculum and the course's exam, as well as the scheduling of VTS repeatedly in class instead of just once.

## 2. METHODOLOGY

### 2.1 RESEARCH STRATEGY

My study's aim was to test the theoretical model about VTS' effect on empathy with taking into account the results and recommendations from the research described in Chapter 5. Given the possibility to do research with third-year law students, also a comparison became possible of baseline mean empathy scores of first-year Bachelor of Law students with such baseline scores of third-year students. The study was designed as quasi-experimental research<sup>807</sup> with no control condition, i.e., all students were asked to participate in the experimental seminars, to maximize the number of participants. The course in which the research took place was considered traditional in the sense, that legal content was provided in seminars, and the assignments given were about this legal content. The teacher would also provide three interviews with three legal professionals each about their practice. Those legal professionals were administrative law professionals in

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806 Bentwich & Gilbey 2017; Kruse & Kinde 2019

807 Thomas 2021

general, administrative law solicitors, and administrative law judges. Research participants were third-year law students in the academic year 2023-2024<sup>808</sup> who took the course *Bestuursrecht in de Praktijk* (*BIP*, i.e., Administrative Law in Practice). This is a course of the minor Law in Practice, in the third-year Bachelor of Law curriculum.

The VTS experiment took place in four of the seminars as part of the course. In this way, no extra time was needed of students, which was also considered to positively influence participant numbers. Students' attendance of the seminars in the course was promoted but was not mandatory. Aiming to make sure all students would at least have some experience with VTS at the end of the course, contributing to a minimum of three online VTS discussions on the VTS webpage of the New York Times<sup>809</sup> was assigned as an exam entry assignment. Furthermore, as a course assignment, students were asked to reflect in writing on three of the four live VTS sessions in class in a text of 300 words including three perspectives: as a participant in the exchange of views, as an observer of the VTS process and as an observer of their own thoughts and feelings. In case, students had missed a class, a reflection on their contribution to an online VTS conversation could be written instead. Those student reflections about VTS have been used as qualitative research data.

## 2.2 SAMPLE

Participants were third-year Bachelor of Law students of *BIP*. Planned was one group of 109 students, all registered as participants in a semester-long weekly seminar about administrative law practice. Of the 109 students, about 60-70 students participated in the weekly seminars.

## 2.3 PROCEDURE

### 2.3.1 Planning

The course *BIP* was scheduled weekly in the semester September-November 2023, with the experimental VTS sessions in the seminars of course week 2, 4, 6, and 8. VTS sessions were planned just before of just after the break in the seminar (dependent from the time that was necessary for the legal content provided by the teacher) and consisted of one VTS conversation with a reflection on the process afterwards. On average, the duration of one VTS conversation was fifteen minutes. In the first VTS session, before starting the VTS conversation, an introduction to VTS and the research was offered. Besides those VTS conversations in class, as a course assignment, students were asked to contribute to (at least) three online VTS conversations on the VTS webpage of the

808 Most students started their studies in September 2021.

809 Access through <https://www.nytimes.com/column/learning-whats-going-on-in-this-picture>. Each Sunday from September to May, this website offers an ambiguous photograph without any further information about the situation depicted or photographer. Students are asked to think critically about what they see and add to the online conversation. VTS educators assist The New York Times to select photographs and facilitate the conversation with students from around the world in the comments section. Students can join the exchange of views until Thursday afternoons. Then the story that is depicted on the photograph is revealed. For educational guidelines, see <https://www.nytimes.com/2022/09/27/learning/how-to-teach-with-whats-going-on-in-this-picture.html>

New York Times, preferably executed in weeks 3, 5, and 7 of the semester. Below, in Table 1, the research planning can be found.

■ **Table 1** - Research planning Pilot BIP - VTS with 3rd year law students 2023

Bestuursrecht in de Praktijk (BIP) September – November 2023
Seminar 1, week 1 (seminar with legal content):
1. Students receive an introduction to the course and information about legal practice.
2. Students receive information about the research.
Seminar 2, week 2:
1. Students receive information about legal practice.
2. Students receive the first research questionnaire (pre-test).
3. Students receive information about the research and VTS as a method (10 minutes)
4. Students are asked to participate in 1 VTS conversation (10 minutes)
5. Students are asked to reflect on the process in the VTS conversation in class.
6. Students receive 2 assignments: 1. Contribute two-weekly to an online VTS session at the site of the New York Times (NYT, make a screen capture as proof), 2. Write a reflection of 100 words about the experience of VTS in class or online from one of the perspectives: 1. participant in the exchange of views, 2. observer of the VTS process and 3. observer of own thoughts and feelings (choice is free, but every perspective had to be chosen once during the weeks).
7. Students receive some more information about legal practice and course assignments with legal content.
Seminar 3,5,7, scheduled in week 3,5,7 of the semester, respectively.
1. Students receive information about legal practice.
2. Students are offered an interview with three law professionals led by the teacher.
Seminar 4 & 6, scheduled in week 4 & 6 of the semester, respectively.
1. Students receive information about legal practice.
2. Students are asked to participate in 1 VTS conversation (10-15 minutes)
3. Students are asked to reflect on the VTS process in class (5 minutes).
4. Students receive 2 assignments (see Week 2): online contribution VTS NYT, and written reflection (choice of another perspective of three in class or online).
5. Students receive some more information about legal practice.
Seminar 8, week 8
1. Students receive information about legal practice.
2. Students are asked to participate in 1 VTS conversation (10-15 minutes).
3. Students are asked to reflect on the VTS process in class (5 minutes).
4. Students receive 1 assignment: write reflection of 100 words about the experience of VTS in class or online, choice = the last perspective of 3.
5. Students receive the second research questionnaire (post-test).
6. Students receive some more information about legal practice and course assignments.
Seminar 9, week 9
1. Students are offered an interview with a client from legal administrative practice led by the teacher.
2. Students receive information about the exam.

All seminar sessions were 1.5-hour seminars. The seminars were led by the teacher, who is an expert in Administrative Law. VTS sessions were facilitated by me. In each VTS conversation, one image would be shown on a large screen and discussed following strictly the VTS procedure as described in Chapter 1.

### 2.3.2 Selection of Images used in VTS

For each of the four VTS conversations in the course, an image was chosen. Used as an image in the introductory VTS session was the painting *Sunset Yellow* of Koen Vermeule (2018). This image had been proven to be interesting for students and easy to work with in earlier VTS introductory sessions by researcher with the target group and law teachers.



The other images were the same as were used in the field research with *Inleiding Bestuursrecht* and *Inleiding Rechtswetenschap* (*IB* and *IR*, respectively) described in Chapter 5, and were used in the same sequence: 1. *Aashiana* (*Hearth and Home*) by Salman Toor (oil on canvas, 2012), 2. *Court sketch of Ghislaine Maxwell* by Jane Rosenberg (December 2021, pastels on Canson Paper), and 3. *The Judgment of Solomon* by Nicolas Poussin (oil on canvas, 1649).



### 2.3.3 Protection of participants

Like the field research in *IB* and *IR*, several measures have been taken to protect the participants:

1. Data was collected and analyzed anonymously to prevent the linking of data to specific participating students.
2. Participating students were not told that the research was about empathy, to avoid stress or feelings of pressure to react in a socially desirable way.
3. Students were informed beforehand that the courses' seminars would not be mandatory, so neither the VTS conversations in class would be.
4. In the pre-test, through a consent form, students were informed about the way they could withdraw from the experiment or could get more information about the study and experiment, through the provision of researcher's contact data.
5. To avoid possible irritation of participants, the number of questions per page have been set on a maximum of ten per page, to minimize the need for clicking while maximizing the number of questions per page that was considered acceptable, considering the maximum attention span of the participants.

### 2.3.4 Measurement of Empathy

The students received a pre-test at the start of the first VTS session in week 2, and a post-test after the final VTS session in week 8. The same pre- and post-tests were used as those in the field research of *IR* described in Chapter 6, which included empathy measurement through a Dutch translation of the Basic Empathy Scale (BES).<sup>810</sup> The cognitive scale of the BES consists of nine items and measures the ability to understand another person's emotions. The affective scale consists of eleven items and measures the degree to which a person can share and experience another's emotions and feelings. Participants rated the extent to which they agree with each statement using a 5-point Likert Scale, ranging from 1 *Strongly disagree* to 5 *Strongly agree*.

Added in both pre- and post-test were questions about gender and age, and an identification number, before the BES-questions. Like in the research in *IB* and *IR*, to access the tests in Qualtrics, a URL-address translated into a QR code was made available on one of PowerPoint-slides that were used in class. The data that were collected in this way, were analyzed by a social-scientific research methodologist through the software program R, like in the data analysis of *IB* and *IR*.<sup>811</sup>

### 2.3.5 Qualitative research

In the research in *BIP*, students were asked two times to reflect about VTS:

1. Through a course assignment: students' own reflections with a maximum of 3x100 words
2. Through Qualtrics, in the post-test at the end of the VTS seminar session in week 8

Like in the research in *IB* and *IR*, also some qualitative questions have been added to the post-test to learn more about what students think about VTS and what they experienced.<sup>812</sup> The questions that were added were asking about students' appreciation of VTS as a methodology and what they think that they might learn from VTS.<sup>813</sup> The findings would add to the quantitative data and enhance the understanding of the VTS experience of law students.

Students were also asked to reflect in writing on their experience of VTS as a course assignment of *BIP*. The assignment was to reflect from three perspectives and use a maximum of 100 words per perspective: 1. as a participant in the VTS conversation, 2. as an observer of the VTS process, and 3. as an observer of own thoughts and feelings. Textual analysis of those reflections would offer information about how students experienced VTS as a teaching method and what they learned from the classes. Latent analysis to an interpretive level was used to find the underlying meaning of the text.<sup>814</sup>

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810 BES is a 20-item self-report questionnaire designed to measure both cognitive and affective empathy in youth, validated by Van Langen et al. (2012 & 2014).

811 Analysis by Esther Maassen (2023/24): All data were analyzed in R Version 4.3.2.; R Core Team 2021.

812 Baarda 2019

813 See the Appendix 7 Data *BIP* for more details on the data.

814 Bengtsson 2016:10



### 3. PREPARATION OF THE DATA

#### 3.1 CLEANING OF THE BES DATA

The data cleaning consisted of excluding test responses, participants who did not give consent to participate in the questionnaire, participants who consented but did not answer any further questions or responded carelessly by answering all questions the same or in a certain order. Some participants did not finish the survey but did answer some of the items in the questionnaire. We have included these participants in the subsequent analyses, and they are included in the total sample size estimates mentioned before. The number of participants that did not finish the survey per time point is: T1: N = 1, T2: N = 5. Note, that we did not exclude any participants at any point based on their response time, meaning there are still participants in the data set with relatively long or short response times (e.g., shorter than three minutes).

Of the students attending the course *BIP*, after cleaning, the total number of datasets that was considered reliable for T1 was 58 and for T2 54 or 55 (some students did not answer all the questions). In the regression analyses, however, those number were somewhat lower: for *cognitive* empathy 55 participants in T1, and 51 in T2, and for *affective* empathy 55 participants in T1 and 52 in T2. Those numbers were considered too little for reliable analysis.<sup>815</sup> Therefore, assessing measuring invariance across time was not possible, and change scores could not be estimated. Instead, we compared scores of pre- and post-test, and analyzed only the data that were in the post-test.

#### 3.2 FACTOR ANALYSIS BES

Because the sample size was too small, for *BIP*, a factor analysis could not be performed. However, in the original BES study<sup>816</sup>, the two scales with corresponding items were established, which was found suitable in the analyses in Chapter 6. Consequently, we assumed the same scales and items for the analyses in this chapter: a factor structure of nine items corresponding to the *cognitive* scale and eleven items on the *affective* scale.<sup>817</sup> The mean scores of these two scales were used in the subsequent analyses. The items were not weighted, i.e., every item contributed the same to the mean score.

#### 3.3 RESEARCH QUESTIONS

Several research questions about empathy have been formulated. For *BIP*, the sample size was too small to conduct measurement invariance testing across time points. Consequently, we could not establish measurement invariance across time points. Like in *IB* and *IR*, for *BIP*, questions that could not be answered through analysis of the data were questions about mean change scores on empathy between participants that are male, female or other, or between participants in different age groups, nor could we compare the change scores of the experimental VTS seminar

815 Comrey & Lee 1992; MacCallum, Widaman, Zhang & Hong 1999; Garson 2022

816 Jolliffe & Farrington 2005

817 Cognitive scale (items 3, 6, 9, 10, 12, 14, 16, 19, 20), affective scale (items 1, 2, 4, 5, 7, 8, 11, 13, 15, 17, 18). For the questionnaire, see Appendix Ch. 6, section 4.4.2

with the control seminar. However, questions that could be answered through ANOVA and multiple regression analyses were the following:

1. To what extent do mean empathy scores of a group of Bachelor of Law students change after a repeated VTS intervention?
2. To what extent does gender affect empathy scores?
3. To what extent does age affect empathy scores?
4. What did participants think of VTS?
5. What do participants indicate they think they learn from VTS?
6. How does actively participating affect empathy scores?

### 3.4 DATA QUALITATIVE RESEARCH

The qualitative research in BIP was conducted through Qualtrics, analyzing the remarks students made at the end of the post-test in the *other remarks*-box. As a preparation, those remarks were summarized, labeled and coded in positive through 'J', not or both positive/negative 'J/N' or negative 'N'. In Table 2 below, examples of remarks [English translation, originally in Dutch], and the labeling and coding can be found.

■ **Table 2** - Dataset T2-BIP – Appreciation VTS tutorial, other remarks, including coding

Remarks	Summary & Coding
No remarks, but thanks for the sessions	J: appreciation VTS
I thought it was an interesting process. People think completely different than other people	J: appreciation VTS
What is the added value for law education?	N: insecure about value for law education
I think there are better alternatives than this	N: preference for other methods
I find it difficult to understand exactly what the research entails	N: insecure about research contents

From the students' reflections of 3x 100 words, text fragments were selected that seemed relevant to this study's aims and/or described the experience of a VTS conversation and its effects. Criteria were the number of times those thoughts were mentioned in students' reflections or the fact that those text fragments contained content which seemed interesting to note from researcher's perspective, based on her experience with VTS and the target group. Text fragments were summarized and sorted. Below, two examples of the list of text fragments and summaries can be found, with one or more short text fragments to illustrate its contents.

■ **Table 3** - Reflections about VTS: three perspectives (in Dutch)

Remarks	Summary
<i>After the first few comments were made and initial thoughts were exchanged, I also shared what struck me in the image. I thought it was an obvious and unadded comment. Still, it was good to add something to the conversation, because another student had made a comment about this later and also added something to the observation.</i>	Students experience that all responses matter
<i>When I joined the conversation, I felt uncomfortable at first. It feels a little unnatural to actually describe why you see something the way you see it. Normally I am used to thinking very quickly, so I don't even think about why I actually take something that way. I did notice that as several students started responding and a conversation started, it became much easier and felt more natural. Some kind of switch had to be turned, so I actually made a much better analysis of the image for myself than I normally would do</i>	Students learn to appreciate the gains of slow looking/ thinking
<i>I sometimes found it special to hear what other students saw as the meaning of an image, which sometimes gave me a reality check. That's why I noticed that I found it very educational to hear what other students think. I especially found it amusing to see that a seemingly simple image can be interpreted in so many different ways. It means that at times I first take a moment to think about what exactly I see in something before I start working on it.</i>	
<i>The longer the conversation lasts, the more details are discovered.</i>	

## 4. RESULTS

### 4.1 RESULTS QUANTITATIVE RESEARCH

#### 4.1.1 Data analysis BES - BIP

To investigate the empathy scores of the participants after the series of seminars of BIP, we analyzed data from T1 (week 2 of the course) and T2 (week 8 of the course). For this, we performed both ANOVA as multiple regression analyses. Below, in Table 1, an overview can be found of the total empathy scores, as well as *cognitive* and *affective* empathy scores of participants BIP. In Table 4, also an overview can be found about the correlations of empathy with session, gender and age.

■ **Table 4:** Correlation of empathy with variables Session, Gender, Age – BES / BIP

Variable	T1	T2	Correlation with empathy (total, cognitive, affective)
BES score total scale	3.10 <i>N</i> = 58	3.18 <i>N</i> = 55	Method: ANOVA and ANCOVA
<i>cognitive</i>	3.75 <i>N</i> = 58	3.75 <i>N</i> = 54	T1 <i>SD</i> = 0.25, 0.27, 0.37 resp.
<i>affective</i>	2.58 <i>N</i> = 58	2.73 <i>N</i> = 55	T2 <i>SD</i> = 0.27, 0.36, 0.35 resp.
Gender – Median	F	F	T1 Methods: one-way ANOVA and ANCOVA
Male	<i>N</i> = 15 25%	<i>N</i> = 14 25%	Gender vs Total scale empathy: <i>M</i> male = 3.03, <i>M</i> female = 3.13
Female	<i>N</i> = 44 75%	<i>N</i> = 43 75%	The difference is not statistically significant ( $p = 0.196$ ).
(choices: M, F, Other, Rather not say)			Gender vs <i>Cognitive</i> empathy: <i>M</i> male = 3.81 <i>M</i> female = 3.73
			The difference is not statistically significant ( $p = 0.286$ )
			Gender vs <b>Affective</b> empathy: <i>M</i> male = 2.39, <i>M</i> female = 2.64
			The difference is <b>statistically significant</b> ( $p = 0.0266$ )
			T2: no statistically significant difference on any of the scales.
Age Median 20-31 years old/ year of birth: 1992-2003	2002 (21 years old) <i>N</i> = 15 25%	2002 (21 years old) <i>N</i> = 13 24%	Methods: Correlation Coefficient and ANCOVA
			Age vs empathy total scale T1: $r = -0.07, p = 0.58$ , T2: $r = -0.04, p = 0.75$
			Vs <i>cognitive</i> scale T1: $r = -0.09, p = 0.49$ , T2: $r = -0.01, p = 0.94$
			Vs <i>affective</i> scale T1: $r = -0.04, p = 0.74$ , T2: $r = -0.08, p = 0.56$
			T1 and T2: The difference is not statistically significant on any of the scales.

Of the participants, 75% turned out to be female, and 25% male. Their age ranged from 20 to 31 years old, with a mean of 21 years. We investigated whether gender affected empathy scores. We analyzed if the empathy scale scores differed significantly across gender at T2. We did so for the full 20-item BES scale at T2, and for the *affective* and *cognitive* scale separately. As it turned out, there is a statistically significant difference in gender on the *affective* BES scale scores; women in T1 are more likely to score higher on the *affective* BES scale than males (*M* male = 2.39, *M* female = 2.64,  $p = 0.0266$ ). In T2, there was no statistically significant difference in gender on any of the scales.

We also investigated whether age affected empathy scores. We analyzed if age correlated significantly with empathy scale scores at T1 and T2. We did so for the full 20-item BES scale at T1 and T2, and for the *affective* and *cognitive* scale separately. All correlations were negative, but small to negligible.

Some questions were added to the questionnaire of *BIP* to test if VTS might make students aware of their lack of empathy, as was suggested in Chapter 5 to explain the decrease in empathy scores (for the BES questionnaire is a self-evaluation). However, analysis of the data, does not show such a correlation. Another hypothesis was that there would be a negative correlation between more weeks of study and mean empathy scores. The data of *BIP* did not support such a correlation. Furthermore, the post-test also contained some questions about participants' possible active contribution to a VTS conversation in class, and their appreciation of the method. No statistically

significant correlation between *participating actively* and any of the empathy scale scores could be found. The correlations were all positive, but small to negligible.

Participants were asked how they appreciated the VTS method. Below, in Table 6 an overview can be found of the data of the empathy scores of participants *BIP* correlated with their appreciation of the method (Table 5).

■ **Table 5:** Correlation of empathy with participants' appreciation of VTS / *BIP T2*

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation with empathy (total, <i>cognitive</i> , <i>affective</i> ) Methods: Point-Biserial Correlation Coefficient and ANCOVA
<i>Interessant</i> (Interesting)	54	26	28	48 %	52 %	Total scale: $r = 0.28$ ( $p = 0.03$ ) • <i>Cognitive</i> scale: $r = 0.23$ ( $p = 0.09$ ) • <i>Affective</i> scale: $r = 0.32$ ( $p = 0.02$ ) = <b>significant</b> for <b>total</b> and <b>affective</b> empathy scales
<i>Leerzaam</i> (Educational)	54	12	42	22 %	78 %	Total scale: $r = 0.14$ ( $p = 0.31$ ) • <i>Cognitive</i> scale: $r = 0.19$ ( $p = 0.15$ ) • <i>Affective</i> scale: $r = 0.05$ ( $p = 0.7$ ) = not significant for any of the empathy scales
<i>Leuk</i> (Fun)	54	13	41 4	24 %	76 %	Total scale: $r = 0.18$ ( $p = 0.18$ ) • <i>Cognitive</i> scale: $r = 0.18$ ( $p = 0.19$ ) • <i>Affective</i> scale: $r = 0.17$ ( $p = 0.21$ ) = not significant for any of the empathy scales
<i>Irritant</i> (Irritating)	54	2	52 5	4 %	96 %	Total scale: $r = 0.01$ ( $p = 0.93$ ) • <i>Cognitive</i> scale: $r = 0.03$ ( $p = 0.8$ ) • <i>Affective</i> scale: $r = -0.02$ ( $p = 0.09$ ) = not significant for any of the empathy scales
<i>Saaï</i> (Boring)	54	10	44	19 %	81 %	Total scale: $r = 0.08$ ( $p = 0.56$ ) • <i>Cognitive</i> scale: $r = 0.09$ ( $p = 0.48$ ) • <i>Affective</i> scale: $r = 0.05$ ( $p = 0.71$ ) = not significant for any of the empathy scales

As it turned out, there was a statistically significant positive correlation between total empathy and *affective* empathy with the variable *interessant* (total empathy  $r = 0.28$ ,  $p = 0.03$ ; *affective* empathy  $r = 0.32$ ,  $p = 0.02$ ); participants who scored high on the total or *affective* empathy scale at T2, also were more likely to indicate they found the VTS session interesting (and vice versa, participants who scored low on the total or *affective* empathy scale at T2, were less likely to indicate they found the VTS session interesting).

Participants were also asked to indicate what they thought they would learn from the method VTS. Below in Table 6, an overview can be found of the correlations that were found.

■ **Table 6:** Correlation empathy with participants' thoughts on educational benefits VTS / BIP T2

Variable	Tot.N =	Yes N =	No N =	Y %	N %	Correlation ( <i>r</i> ) with empathy (total, <i>cognitive</i> , <i>affective</i> ) Methods: Point-Biserial Correlation Coefficient and ANCOVA
Creativiteit (Creativity)	54	25	29	46 %	54 %	Total scale: $r = 0.23$ ( $p = 0.09$ ) • <i>Cognitive</i> scale: $r = 0.27$ ( $p = 0.04$ ) • <i>Affective</i> scale: $r = 0.15$ ( $p = 0.26$ ) = <b>significant</b> correlation for <b>cognitive</b> empathy scale
Observatievaardigheden (Observational Skills)	54	44	10	81 %	19 %	Total scale: $r = 0.48$ ( $p = 0$ ) • <i>Cognitive</i> scale: $r = 0.41$ ( $p = 0$ ) • <i>Affective</i> scale: $r = 0.52$ ( $p = 0$ ) = <b>significant</b> correlation for <b>all</b> empathy scales
Kritisch denken (Critical Thinking)	54	29	25	54 %	46 %	Total scale: $r = 0.27$ ( $p = 0.05$ ) • <i>Cognitive</i> scale: $r = 0.28$ ( $p = 0.04$ ) • <i>Affective</i> scale: $r = 0.22$ ( $p = 0.1$ ) = <b>significant</b> correlation for <i>cognitive</i> empathy scale
Communicatie- vaardigheden (Communicational Skills)	54	11	43	20 %	80 %	Total scale: $r = 0.11$ ( $p = 0.41$ ) • <i>Cognitive</i> scale: $r = 0.1$ ( $p = 0.44$ ) • <i>Affective</i> scale: $r = 0.11$ ( $p = 0.43$ ) = not significant for any of the empathy scales
Veilig Klasklimaat (Safe Class Climate)	54	16	38	30 %	70 %	Total scale: $r = 0.19$ ( $p = 0.15$ ) • <i>Cognitive</i> scale: $r = 0.12$ ( $p = 0.36$ ) • <i>Affective</i> scale: $r = 0.26$ ( $p = 0.05$ ) = not significant for any of the empathy scales
(Inter-)culturele competentie (Inter-)cultural competency	54	6	48	11 %	89 %	Total scale: $r = 0.04$ ( $p = 0.76$ ) • <i>Cognitive</i> scale: $r = 0.04$ ( $p = 0.79$ ) • <i>Affective</i> scale: $r = 0.04$ ( $p = 0.75$ ) = not significant for any of the empathy scales
Verbeelding (Imagination)	54	29	25	54 %	46 %	Total scale: $r = 0.29$ ( $p = 0.03$ ) • <i>Cognitive</i> scale: $r = 0.29$ ( $p = 0.03$ ) • <i>Affective</i> scale: $r = 0.26$ ( $p = 0.05$ ) = <b>significant for total and cognitive</b> empathy scales
Empathie (Empathy)	54	8	46	15 %	85 %	Total scale: $r = 0.08$ ( $p = 0.5$ ) • <i>Cognitive</i> scale: $r = 0.07$ ( $p = 0.59$ ) • <i>Affective</i> scale: $r = 0.08$ ( $p = 0.56$ ) = not significant for any of the empathy scales
Zelfinzicht (Self-understanding)	54	15	39	28 %	72 %	Total scale: $r = 0.15$ ( $p = 0.25$ ) • <i>Cognitive</i> scale: $r = 0.17$ ( $p = 0.2$ ) • <i>Affective</i> scale: $r = 0.11$ ( $p = 0.4$ ) = not significant for any of the empathy scales
Zelfvertrouwen (Self-confidence)	54	8	46	15 %	85 %	Total scale: $r = 0.09$ ( $p = 0.52$ ) • <i>Cognitive</i> scale: $r = 0.13$ ( $p = 0.33$ ) • <i>Affective</i> scale: $r = 0.02$ ( $p = 0.87$ ) = not significant for any of the empathy scales
Inlevingsvermogen (Empathic Sensitivity)	54	18	36	33 %	67 %	Total scale: $r = 0.23$ ( $p = 0.08$ ) • <i>Cognitive</i> scale: $r = 0.21$ ( $p = 0.12$ ) • <i>Affective</i> scale: $r = 0.24$ ( $p = 0.08$ ) = not significant for any of the empathy scales
Begrijpen van kunst (Understanding art)	54	30	24	56 %	44 %	Total scale: $r = 0.27$ ( $p = 0.04$ ) • <i>Cognitive</i> scale: $r = 0.35$ ( $p = 0.01$ ) • <i>Affective</i> scale: $r = 0.14$ ( $p = 0.31$ ) = not significant for any of the empathy scales

The data show that students who indicated that the seminar adds to learning *imagination* tend to score higher on the total and *cognitive* empathy scales (and vice versa,  $r = 0.29, p = 0.03$  for both total and cognitive empathy). A statistically significant and positive correlation was also found for *Understanding art* (total scale:  $r = 0.27, p = 0.04$ , *cognitive* scale  $r = 0.35, p = 0.01$ ). A significant and positive correlation was also found for *creativity* and *critical thinking* ( $r = 0.27, p = 0.04$  and  $r = 0.28, p = 0.04$ , respectively) on the *cognitive* empathy scale, and for *observation skills* and all the empathy scales (total scale score  $r = 0.48, p < .001$ , *cognitive* scale score  $r = 0.41, p < .001$ , *affective* scale score  $r = 0.52, p < .001$ ).

Students show the following ranking when it comes to what they think they might learn from VTS, see below in Table 7.

■ **Table 7:** Ranking what one might learn from VTS / BIP

	Ranking BIP	BIP
Observational skills	1	81%
Understanding art	2	56%
Imagination	3	54%
Critical thinking/arguing a case	4	54%
Creativity	5	46%
Empathic sensitivity	6	33%
Safe Class Climate	7	30%
Self-understanding	8	28%
Communicational Skills	9	20%
Empathy	10	15%
Self-confidence	11	15%
(Inter-)cultural Competence	12	11%

Students were also asked what they realize about their empathetic self-awareness and self-knowledge through VTS. Below in Table 8, students' answers from this question can be found.

There turned out to be a statistically significant positive correlation between realizing that their perspective is sometimes different from others ("*inzien mijn perspectief soms anders*") and the total and *affective* scale ( $r = 0.27, p = 0.04$  and  $r = 0.34, p = 0.01$ , respectively). A statistically significant positive correlation was also found between realizing that others sometimes interpret situations differently ("*inzien dat anderen situaties anders kunnen interpreteren*") and the total and *cognitive* scale ( $r = 0.28, p = 0.03$  and  $r = 0.3, p = 0.03$ , respectively). Almost all students reacted negative to the question whether they thought they could still grow in empathy.

■ **Table 8:** Participants' thoughts on the effect of VTS on self-knowledge & -awareness / BIP T2

Variable: Door het oefenen met VTS... (Through exercise in VTS...)	Tot. N =	Yes N =	No N =	Y %	N %	Correlation ( <i>r</i> ) with empathy (total, cogn., affect.) Method: Point-Biserial Correlation Coefficient and ANCOVA
Heb ik ontdekt dat ik me soms minder goed kan inleven in anderen dan ik dacht. (I discovered that sometimes I cannot empathize with others as well as I thought I could)	52	1	51	2 %	98 %	Total scale: $r = 0.08$ ( $p = 0.57$ ) • Cognitive scale: $r = 0.04$ ( $p = 0.77$ ) • Affective scale: $r = 0.11$ ( $p = 0.41$ ) = not significant for any of the empathy scales
realiseer ik me dat mijn perspectief soms anders is dan die van anderen. (I realize that sometimes my perspective is different from others)	52	31	21	60 %	40 %	Total scale: $r = 0.27$ ( $p = 0.04$ ) • Cognitive scale: $r = 0.18$ ( $p = 0.18$ ) • Affective scale: $r = 0.34$ ( $p = 0.01$ ) = <b>significant</b> for <b>total</b> and <b>affective</b> empathy scales
zie ik in dat anderen soms situaties anders kunnen interpreteren dan ik. (I recognize that others can sometimes interpret situations differently from me)	52	31	21	60 %	40 %	Total scale: $r = 0.28$ ( $p = 0.03$ ) • Cognitive scale: $r = 0.3$ ( $p = 0.03$ ) • Affective scale: $r = 0.23$ ( $p = 0.08$ ) = <b>significant</b> for <b>total</b> and <b>cognitive</b> empathy scales
realiseer ik me dat ik nog wel kan groeien in empathie. (I realize that I can still grow in empathy)	52	2	50	4 %	96 %	Total scale: $r = 0$ ( $p = 1$ ) • Cognitive scale: $r = 0.07$ ( $p = 0.62$ ) • Affective scale: $r = -0.08$ ( $p = 0.53$ ) = not significant for any of the empathy scales

Three students also filled in the *other remarks* box, of which one made a positive remark of appreciating being occupied with art. Another student made the remark that people often think the same, and one expressed the thought that there are other ways to make students more self-aware than VTS. See Appendix 4 for the complete list.

#### 4.1.2 Regression analyses

To examine the determinants of empathy measured at two different points in time, separate multiple regression analyses were conducted. Multiple regression analyses were carried out to predict two types of empathy, *cognitive* and *affective*, based on time, gender, and age. In our models, the dependent variables were the *cognitive* and *affective* empathy scores. The independent variables included time (coded as a dummy variable, with 0 = T1 and 1 = T2), gender (coded as a dummy variable, with 0 = male, 1 = female), and age.<sup>818</sup>

818 Esther Maassen: Model Fit: the Adjusted R-squared is 0.1466, indicating that 14.6% of the variance in affective empathy scores is explained by the model.



In the regression analysis for *cognitive* empathy, there were 55 participants in T1 and 51 participants in T2. In the regression analysis for *affective* empathy, there were 55 participants in T1 and 52 participants in T2. First, a multiple regression analysis of cognitive empathy on time, gender, and age was conducted. None of those independent variables significantly predicted *cognitive* empathy.

Next, a multiple regression analysis of *affective* empathy on time, gender, and age was conducted. The effect of gender (controlled for time and age) was statistically significant ( $b = 0.430, p < .001$ ), suggesting that female participants scored higher on *affective* empathy than male participants. Furthermore, we investigated the hypothesis that empathy in women could increase more quickly than in man in *BIP*. For this, we compared growth in the mean empathy scores on the total, *cognitive* and *affective* scale. In Table 9, this comparison can be found.

**Table 9:** Comparing the growth of empathy scores with respect to gender / *BIP*

Scale	Time points	Total	Men	Women
Total	T1	3.10	3.03	3.13
	T2	3.18	3.07	3.22
	Difference:	+0.08	+0.04	+0.09
	Growth women > men			
<i>Cognitive</i>	T1	3.75	3.81	3.73
	T2	3.75	3.70	3.77
	Difference:	0	-0.11	+0.04
	No difference			
<i>Affective</i>	T1	2.58	2.39	2.64
	T2	2.73	2.62	2.76
	Difference	+0.15	+0.23	+0.12
	Growth men > women			

Based on the limited number of participants in *BIP* (50-60), we found that women's mean empathy score on the total scale increased more quickly than men. On the *cognitive* scale, there was no difference, however, on the *affective* scale, men's mean empathy scores increased more quickly than women. This means, that during the classes in *BIP*, women became more quickly more empathic on the total scale than men, whereas men became more quickly more empathic on the *affective* scale than women. The difference in the magnitude of change between genders on empathy could indicate a non-linear effect of the VTS intervention on empathy. A reason for this could be baseline differences: Men starting with lower empathy scores might have more room for improvement, leading to a seemingly larger effect of the VTS intervention. This is sometimes referred to as a *regression to the mean* effect,<sup>819</sup> where individuals with extreme scores at the beginning tend to move closer to the average score with intervention. Another reason may be interaction effects: the effectiveness of VTS may depend on the interaction between the VTS session and participant characteristics (in this case, gender). This suggests that VTS does not uniformly affect all participants but has different effects based on certain group traits.

## 4.2 COMPARING BES DATA *BIP* WITH *IB* AND *IR*

To conclude the quantitative data-analysis, we wanted to compare the data of *IB*, *IR* and *BIP*. The aim was to analyze whether the inclusion of VTS repeatedly in traditional legal seminars would show another effect on mean empathy scores on any of the scales than the one seminar scheduling in *IB* and *IR*. As said, measuring empathy variance over time had not been possible. Therefore, questions about empathy scores over time could not be answered. Questions that could be answered were:

1. Is there a difference in mean empathy scores comparing the data from the pre-tests of the experimental VTS seminars of *IB* (T1) and *IR* (T3) and the pre-test of *BIP* (T1)?
2. Is there a difference in mean empathy scores comparing the post-tests of the experimental VTS seminars of *IB* (T2) and *IR* (T4) and the post-test of *BIP* (T2)?

To answer these questions, the mean empathy scores on the total scale of all above-mentioned time points have been put together in an overview, see Table 10 below.

■ **Table 10:** Overview mean empathy scores-statistically significant increase/decrease / *IB*, *IR*, *BIP*

Course	Time points / number of participants	Total Scale	Cognitive Scale	Affective Scale
Inleiding Bestuursrecht <i>IB</i>	<i>Week 1, Jan/Febr, VTS tutorial</i>			
	Pre-test = T1: N = 283	3.87	4.25	3.55
	Post-test = T2: N = 258	*3.84	*4.16	**3.57
	<i>Week 5, March, control/legal tutorial</i>			
Inleiding Rechtswetenschappen <i>IR</i>	Pre-test = T3: N = 157	3.09	4.60	3.67
	Post-test = T4: N = 92	*3.08	4.61	3.64
	<i>Week 1, September, control/legal tutorial</i>			
	Pre-test = T1: N = 334	3.85	4.24	3.52
Bestuursrecht in de Praktijk <i>BIP</i>	Post-test = T2: N = 303	*3.82	*4.21	*3.50
	<i>Week 7, November, VTS tutorial</i>			
	Pre-test = T3: N = 88	3.14	3.71	2.68
	Post-test = T4: N = 72	*3.12	3.69	2.66
Bestuursrecht in de Praktijk <i>BIP</i>	<i>Week 2, September, VTS in legal tutorial &amp; assignments</i>			
	Pre-test = T1: N = 58	3.10	3.75	2.58
	<i>Week 8, October</i>			
	Post-test = T2: N = 54/55	**3.18	3.75	**2.73

\*\* stat. significant increase \* stat. significant decrease

Furthermore, we analyzed the mean empathy scores differences because of gender in all time points of *IB*, *IR* and *BIP*, to see if these figures would offer any interesting correlations. For the overview, see Table 11 below.

■ **Table 11:** Overview mean empathy scores *IB*, *IR*, *BIP*, including gender differences

Course	Time points / number of participants	Total Scale		Cognitive Scale		Affective Scale	
		M	F	M	F	M	F
Inleiding Bestuursrecht <i>IB</i>	<i>Week 1, Jan/Febr, VTS seminar</i>						
	Pre-test = T1: N = 283	3.57	4.02	4.14	4.30	3.10	3.78
	Post-test = T2: N = 258	3.54	4.00	4.09	4.20	3.10	3.83
	<i>Week 5, March, control/legal seminar</i>						
Inleiding Rechtsweten- schappen <i>IR</i>	Pre-test = T3: N = 157	3.56	3.94	3.93	4.18	3.25	3.74
	Post-test = T4: N = 92	3.60	3.92	4.07	4.18	3.21	3.72
	<i>Week 1, September, control/legal seminar</i>						
	Pre-test = T1: N = 334	3.60	3.98	3.11	3.74	4.20	4.26
Bestuursrecht in de Praktijk <i>BIP</i>	Post-test = T2: N = 303	3.55	3.96	3.09	3.72	4.11	4.26
	<i>Week 7, November, VTS seminar</i>						
	Pre-test = T3: N = 88	3.11	3.16	3.69	3.71	2.63	2.71
	Post-test = T4: N = 72	3.11	3.13	3.72	3.68	2.62	2.68
Bestuursrecht in de Praktijk <i>BIP</i>	<i>Week 2, September, VTS in legal seminar &amp; assignments</i>						
	Pre-test = T1: N = 58	3.03	3.13	3.81	3.73	2.39	2.64
	<i>Week 8, October</i>						
	Post-test = T2: N = 54/55	3.07	**3.22	3.70	3.77	**2.62	2.76

As it turns out, there is a difference in empathy mean scores when comparing the data of pre- and post-tests of the VTS seminars of *IB* (T1 and T2 resp.) and *IR* (T3 and T4, resp.) with the data of pre- and post-tests of the VTS conversations in traditional seminars of *BIP* (T1 and T2 resp.). The null scores of *BIP* turned out to be much lower than those of *IB* and *IR*. However, as said, participants of *BIP* differed significantly in age and year of study, being third-year (*BIP*) instead of first-year Bachelor of Law students (*IB* and *IR*) and cohort. Students from *IB* and *IR* were cohort 2022/2023 and 2023/2024, respectively, students from *BIP* were cohort 2020/2021. Furthermore, in *BIP*, VTS classes were scheduled repeatedly and also included two home assignments. This was different from *IB* and *IR*, in which VTS was scheduled only one time and no assignments were given. Therefore, statistically, no comparison could be made.

The regression analyses of *BIP* underscored the findings in those of *IB* and *IR* that other than age and content of tutorials, whether control legal or VTS or a combination, the effect of gender is positive and statistically significant on *affective* empathy, indicating that female participants have on average higher scores on *affective* empathy compared to male participants. However, as said, sample size of *BIP* is small, which makes this conclusion less reliable than those of *IB* and *IR*.

In the comparison of the empathy mean scores of the pre- and post-tests of *IB*, *IR* and *BIP*, some things stand out:

- Baseline/null mean empathy scores of *BIP* are lower than those of *IB* and *IR*, on all scales.
- Mean empathy scores on the total scale of first-year students in a later week in the semester (week 5 *IB*/ week 7 *IR*) both show a decrease compared to week 1, in *IB* a small one (from T1: 3.87 to T4: 3.80), in *IR* a significant one (T1: 3.85 to T4: 3.12). In *BIP*, the mean empathy score

- shows an increase in a later week (T2) compared to the first measurement moment in week 2 of the course, on the total and the *affective* scale and stays the same on the *cognitive* scale.
- c. Both in *IB* and *IR*, mean empathy scores on the total scale decreased during the experimental VTS seminar, in *IB* with 0.03, and in *IR*, 0.02. In *BIP* mean empathy score increased on the total scale with 0.08.
  - d. In *IB* in the experimental VTS seminars, the mean empathy score shows a decrease on the total and the *cognitive* scale, and an increase on the *affective* scale. In the control legal seminars of *IB*, the mean empathy score show an increase on the *cognitive* scale, and a decrease on the total and *affective* scale. In *IR* in both the experimental VTS as the control legal seminars, the mean empathy scores show a decrease on all scales. In *BIP*, the mean empathy score shows an increase on the total and *affective* scale, and stays the same on the *cognitive* scale

As can be concluded from the data, in between sessions in *IR*, a strong decrease could be found on the total scale score of both first-year male and female students and even stronger on their *affective* scale scores. Furthermore, in *IR* in male students, *cognitive* scale score showed a strong increase. In *BIP*, a strong increase on the *affective* scale score was found in empathy scores of third-year male students compared to the smaller increase in female students, and also compared to the smaller increase on the total scale scores of both male and female third-year students.

Lastly, in the ranking about their thoughts on educational benefits of VTS, students of *BIP* choose the same Top 5 as students of *IB* and *IR*, see below in Table 14: 1. *observational skills, understanding the arts, imagination, critical thinking/arguing a case and creativity*, albeit in a different order. Below, in Table 12 a ranking can be found of students' thoughts on educational benefits of VTS of the courses *IB*, *IR*, and *BIP*.

■ **Table 12:** Ranking students' thoughts on educational benefits VTS / *IB*, *IR*, *BIP*

	<i>IB</i>		<i>IR</i>		<i>BIP</i>	
Observational skills	1	73%	1	69%	1	81%
Creativity	2	55%	4	59%	5	46%
Imagination	3	53%	3	50%	3	54%
Critical thinking/arguing a case	4	51%	2	43%	4	54%
Understanding art	5	49%	5	40%	2	56%
Empathic sensitivity	6	40%	7	39%	6	33%
Communicational Skills	7	--	6	33%	9	20%
Safe Class Climate	8	22%	9	23%	7	30%
Self-understanding	9	20%	8	16%	8	28%
Empathy	10	18%	10	16%	10	15%
Selfconfidence	11	11%	11	16%	11	15%
(Inter-)cultural competence	12	9%	12	7%	12	12%

### 4.3 RESULTS QUALITATIVE RESEARCH BIP

To analyze the remarks students made at the end of the post-test in a box that had been put there deliberately, qualitative research has been conducted. For this, all remarks of *BIP* have been summarized, labeled and coded. Furthermore, students' reflections in writing about their experience of VTS have been analyzed. For this, relevant fragments have been collected from all 102 student's reflections which were collected and labeled.

#### 4.3.1 Analysis of remarks section BIP

In the pre-test of *BIP*, three students filled in the *other remarks* box at the end of the test. One student made a positive remark of appreciating being occupied with art. Another student made the remark that people often think the same, and one expressed the thought that there are other ways to make students more self-aware than VTS.<sup>820</sup>

Of the 54 students of *BIP* who filled in the post-test in week 8 of the semester, five filled in the call for reaction at the end of the post-test, i.e., 9 %. Of those five students, two reacted positively which is 3.7 % of all participating students and 40 % of the reactions. Their reactions (labeled 'J' in the list) contained expression of students' appreciation of the sessions. Of the students who reacted negative, three students, i.e., 5.5 % of the total number of participating students and 60 % of the reactions, expressed one insecurity about the research, one insecurity about the value of VTS for education in administrative law, and one suggested that there were other and better methods than VTS.

#### 4.3.2 Analysis of students' reflections about VTS BIP

Of the students, 102 handed in their reflections (with a maximum of 300 words). Below, in Table 13, the list of text fragment labels can be found, with one or more short text fragments from the students' reflections to illustrate its contents.

■ **Table 13** – Textfragments & Labels *BIP*

	Text fragments	Label
1	<i>I experience a Greek/Roman atmosphere. (...) The man on the left is wearing a helmet, which reminds me of Greek times.</i>  <i>When I look at this photo, I get a warm and happy feeling. That's because the people in the photo look very happy.</i>	When asked to reflect on the experience in VTS, students often only recall what they saw in a picture and/or what feelings the image evokes. <sup>821</sup>
2	<i>In the second session I was an observer of my own experience. I thought this was a bit strange at first to observe my own experience, I have actually never done this before. And what struck me right away is that you can actually observe your own experience at the moment.</i>	Students describe that they are new to observing and reflecting about their own experience.

820 See Appendix Chapter 7 for the complete list.

821 This might be due to insufficient or unclear instructions, or as a result of writing the reflection already in class, so not afterwards/with some distance to the situation or writing a reflection without any experience of an in class VTS conversation.

■ Table 13 Continued

	Text fragments	Label
3	<i>I feel like I have the same train of thought as them.</i>	Students confuse reflecting, thinking and feeling.
4	<i>X has a different insight. I find this special, because I would never think of that myself. That last difference makes me feel like I'm assuming things too quickly, but that sometimes it can also be very different than I think. What struck me most is that individual parts are first studied and only later are discussed what together can make them into a story. And it strikes me that they all notice the same things, but can link a different story to it. Once someone says something, you see the ball start rolling and everyone sees more and more in the picture. The imagination of people who participated in the conversation also increased.</i>	Students reflection on the process in the group.
5	<i>What I feel during a VTS session is that I become very curious. I want to find out what really happened in the image or what the story is behind it. I also notice that I have much less imagination than others and am less able to empathize. When I compare this comment with mine, I see that this other person sees more things in the photo than I do. I also noticed that my input was somewhat influenced by what other people said about the image I notice that this makes me doubt my own intuition. The substantiation of others is neither stronger nor weaker than mine. I'm open to both hunches and think the odds are equally good as to who is right. Furthermore, I thought it was special to notice that other people notice something completely different. That gave an image more context and depth for me.</i>	Students perceive the difference between themselves and others and its effect.
6	<i>It was striking that many drew their conclusions based on assumptions. As an observer, I learned to appreciate the importance of diverse perspectives and not to jump to conclusions. As an observer of the entire process, it amazed me to see that everyone can have a completely different story about the image. I noticed that each person can focus on a specific detail in the image.</i>	Students notice how classmates react to each other and that different perspectives can coexist.
7	<i>I felt a bit insecure that I was seeing something completely different, but in the end I discovered that everyone was just trying to find out together what was happening so the atmosphere was positive. To be honest, the emotion that this VTS session has evoked in me is mainly frustration. Frustration because I don't know exactly what it is about probably, I think this leads to a feeling of powerlessness. I think I only enjoy analyzing things when I feel able to figure out exactly what is happening rather than just guessing.</i>	Students perceive VTS as difficult because it makes them feel insecure. <sup>822</sup>
8	<i>Although there is no right or wrong answer, I felt like I didn't look at the image closely enough and that others' thoughts fit the reality of the image better. I notice that I often and quickly go along with the story that others see in the image and consider my own interpretation as wrong or insufficient.</i>	Students notice that they more easily adopt thoughts of others when considering their own interpretations as inadequate.

822 Jacobs 2019: *Knowledge hurts*, explained Science philosopher Josette Jacobs of Wageningen University (2019), you become aware of your own lack of knowledge or inability and sometimes have to let go of beliefs. Kok 2023: Kok introduces the concept of Unhappy learning, i.e. the feeling of uncertainty that makes one feel unease. It is necessary for learning. <https://www.fontys.nl/nieuws/fontys-ace-onderzoekt-de-kunst-van-het-presteren/>.

■ Table 13 Continued

Text fragments	Label
<p>9 <i>During the last session I was an active participant, and I had actually deliberately postponed this because I found it a bit exciting. It's stepping out of your comfort zone to say something about an image you know nothing about. It feels a bit like coming up with something yourself and adopting it, which is something that not many lawyers like to do. Sharing my thoughts in front of a large group of people made me nervous. I initially felt resistance to speaking up. After sharing my vision of the image, I felt that there was still adrenaline in my body. On the other hand, a feeling of pride also emerged, as if it was a small victory over my fears.</i></p> <p><i>What I also noticed is that as the conversation progressed, more and more students felt more comfortable sharing their opinions. At first I didn't really feel comfortable sharing my opinion with the students, because there is the idea in your head that you are the only one who thinks that way. Fortunately, this was not the case, as several students were thinking along the same lines as me. This gave me the feeling that my view of the image was sort of approved. I might not be able to speak up again anytime soon, but in retrospect it was less annoying than I had expected.</i></p>	<p>Students perceive that active participating during VTS sessions, sharing views, is difficult and exciting. In hindsight, they appreciate the experience, become more comfortable in sharing their views.</p>
<p>10 <i>I found fulfilling this role [participant in the VTS conversation] the most difficult. You are no longer only focused on what is said and what you think about it, but you are also constantly thinking in your head about 'what am I going to say?' 'Am I repeating myself or is this a new addition?'. I notice that this makes me less focused on what my train of thought is.</i></p>	<p>Students notice that formulating thoughts as a reaction of those of others takes attention and time.</p>
<p>11 <i>I felt understood without having spoken, because the same thoughts I had about the painting were expressed to my fellow students. This gave me a certain satisfaction. Because this was the first thing that came to my mind, I felt confirmation. This mainly confirmed the feeling that I was doing well and this also gave me some recognition.</i></p>	<p>Students realize that recognition by others of one's thoughts feels good. Students also notice their seeking that recognition and affirmation of others and their feeling good because of it.</p>
<p>12 <i>There was only one lady who I saw as an independent thinker and who saw the image in a completely different light, which I actually respected, as she made her opinion heard for the time being, despite it being different from the rest.</i></p>	<p>Students appreciate the independency of others who dare to express a different meaning.</p>
<p>13 <i>Someone mentions that there is a Solomonic judgment. I actually thought this was a shame, because I immediately recognized this afterwards. This resulted in me no longer looking at the painting with an open mind, since I already knew the 'truth' anyway. This makes this session a little less interesting in my opinion. When others said something that did not fit with the Solomon judgment, I also thought that they were immediately wrong.</i></p> <p><i>Ultimately, knowledge about the title of the work colors how we view it.</i></p>	<p>Students notice that knowledge limits curiosity/interest/openness</p>

■ Table 13 Continued

	Text fragments	Label
14	<p><i>When you see an image for the first time, you immediately develop your own unique perspective. However, as soon as you actively participate in the conversation, you soon notice that you adapt your position to the views of other participants. It's striking how you work together to unravel different aspects of the photo, and I really enjoyed this interaction. You notice that together with others you help to explain different facets of the image. Your vision of the photo is constantly changing because everyone has a different interpretation of course.</i></p> <p><i>Most people in the comments thought this was the case. I then automatically start to have more doubts about my own answer. Did I actually see it correctly? If so many people have that answer, then mine can't be right, right? Still, I don't see it as a stretching exercise. I think it's also good that different people, different things stand out in a photo. Different insights about the same photo, for example, are important.</i></p>	Students realize that they may or may not adapt their views to those of others. Students notice that the VTS process contributes to collectively making meaning.
15	<p><i>As a participant in the conversation, I noticed that it is quite difficult to clearly communicate all your thoughts and everything you see to others. My thoughts when I see the image are much more extensive than what I ultimately share with the rest. Because you continue to look at the image, other thoughts and ideas keep coming to mind. As a result, I forgot to share certain details that I had seen and am therefore unable to share my interpretation of the image in its entirety with others. I have the feeling that my story was therefore not completely followable by the rest.</i></p>	Students perceive that communicating about own perceptions is difficult.
16	<p><i>After the first few comments were made and initial thoughts were exchanged, I also shared what struck me in the image. I thought it was an obvious and unadded comment. Still, it was good to add something to the conversation, because another student had made a comment about this later and also added something to the observation.</i></p>	Students experience that all responses matter.
17	<p><i>When I joined the conversation I felt uncomfortable at first. It feels a little unnatural to actually describe why you see something the way you see it. Normally I am used to thinking very quickly, so I don't even think about why I actually take something that way. I did notice that as several students started responding and a conversation started, it became much easier and felt more natural. Some kind of switch had to be turned, so I actually made a much better analysis of the image for myself than I normally would do.</i></p> <p><i>Still, I sometimes found it special to hear what other students saw as the meaning of an image, which sometimes gave me a reality check. That's why I noticed that I found it very educational to hear what other students think. I especially found it amusing to see that a seemingly simple image can be interpreted in so many different ways. It means that at times I first take a moment to think about what exactly I see in something before I start working on it.</i></p> <p><i>The longer the conversation lasts, the more details are discovered.</i></p>	Students learn to appreciate the gains of slow looking/thinking.



■ Table 13 Continued

	Text fragments	Label
18	<p><i>I found doing the VTS sessions a fun experience, because it taught me to look at images in a different way. By asking yourself questions while observing, you will pay attention to other things and try to make connections. I also normally don't think about why I interpret something in a certain way. By asking yourself this question and specifically stating why you think that, you will pay even more attention to details. In this session, we look at the Solomon Judgment. Regardless of the substantive knowledge I have about it, it is nice to hear how other students, who are less familiar with the story, view this image. Because they place a very specific emphasis on certain parts of the image, you focus on figures that you would otherwise pay less attention to, because they act more in the background in the story.</i></p> <p><i>This [the VTS sessions] ensured good interaction between the students during the lecture and it taught me to look at something from different perspectives, by which I don't just mean art or paintings, but also at situations where I encounter it in my daily life. Life sometimes runs into obstacles. To give an example: instead of being angry because the train is not running, listen to my traveling companions to find an alternative solution that works</i></p> <p><i>I have noticed that I hardly think about my emotions when I look at a work of art. (...)The longer I look at the image, the more intense my emotions become. I have learned to take time and reflect on my own emotions before blindly adopting the emotions of others. I learned to listen carefully to other participants in order to respond critically, yet respectfully, to what they saw. This broadened my own insights. I have learned to think critically about what I see and to properly substantiate my interpretations. Critical responses to my observations and perspectives of other participants have given me new insights.</i></p>	<p>Students experience VTS as fun and educational. Students notice that through VTS they learnt to question themselves while observing and arguing a case, and gained more insight and openness to other perspectives through extended and more detailed observation.</p>
19	<p><i>Then I saw the man watching and immediately thought of my grandfather. The posture looks exactly like my grandfather's posture. In addition, he always watched us play. This image took me back in time, which made me very happy.</i></p> <p><i>In addition, I got the impression that the man and the woman in the picture have a relationship, because they sit so close to each other and it feels like they need each other's support. This made me experience the emotion I felt when I broke up with my previous boyfriend. At the end of the relationship it felt as if we were in a hopeless and dark situation, and I immediately experienced that when I saw this image.</i></p>	<p>Students experience how situations and images might recall personal and sometimes sad memories.</p>
20	<p><i>I noticed that during the participants' conversation the word Solomon's judgment was mentioned. I didn't really know what this meant, so I looked it up. When reading the meaning, I immediately understood what the participant meant and saw it immediately in various aspects of the image.</i></p>	<p>Students notice that VTS also provides space to transfer knowledge from peer to peer and encourages seeking more information on a topic.</p>
21	<p><i>The facilitator really tried to get each individual's opinion. She asked each individual what she saw and how she interpreted the photo. Each participant added to a previously suggested argument. This resulted in an increasingly accurate picture of the image.</i></p> <p><i>She has said several times that there are no wrong answers and every response contributes to the conversation. I saw that this made many participants feel free to share their interpretation openly. I noticed that I's paraphrasing seemed to contribute to increasing the clarity of one participant's interpretation, making it easier for the other participant to respond to the story.</i></p>	<p>Students appreciate the role of the facilitator for providing for a deeper understanding of the image and others and a safe space for sharing thoughts.</p>

■ **Table 13** Continued

Text fragments	Label
22 <i>After completing my own answers, I regularly looked at the perspectives of people around the world on the same images. It was incredibly interesting to see how different people around the world think about the same image.</i>	Students appreciate the assignment of the online sessions on the website of The New York Times because of the possibility of exchange of thoughts in an international setting.

From the reflections, several findings emerge. Students reported experiencing through VTS the importance of slow looking and reflecting, and sharing views with others, to gain insights and to become open to other perspectives. When focusing on the VTS process alone, students would almost always mention reactions of classmates to each other. A safe space for daring to do so was considered important as well, for which students noticed and appreciated the role of the facilitator. Through VTS, students became aware of the differences between themselves and peers. They also mentioned how these differences have an impact on their own interpreting process. Students also noticed, however, that sharing of prior knowledge by others limits curiosity and openness to other perspectives.

Students appreciated VTS for supporting the meaning making process, in particular the facilitator's role, which they considered instrumental for a deeper understanding of the image and/or the views of others and for providing for a safe space for sharing thoughts. Students think VTS is fun and educational but difficult. When views are recognized by others, this feels good, but when not, and/or when doubting, VTS makes them feel powerless and/or insecure, perceiving own interpretations as insufficient or inadequate. In that case, students tend to adopt thoughts of others more easily and even to adapt their own views because of that. Active participating in VTS sessions can make anxious, however, as an experience it is appreciated in hindsight for provoking feelings of proudness having dared to share a view. Students consider repeated exercise in VTS important as well as exercise in reflection.

Lastly, students appreciated the assignment of the online sessions on the website of The New York Times because of the possibility of exchange of views and thoughts in an international setting. No remarks were made about possible differences students might have encountered between the online VTS conversations and those live in class.

## 5. DISCUSSION

### 5.1 THEORETICAL IMPLICATIONS

In this empirical study, the classes about VTS as a part of seminars with regular legal content of *BIP* seem to align with the positive impact on empathy scores we hypothesized in Chapter 5. As recommended by students in *IR*, the VTS classes were introduced as a regular and repeated part in regular legal seminars of the course Administrative Law in Practice (in Dutch: Bestuursrecht in de Praktijk, *BIP*). From the total group of 109 students, a group of 55 students participated in the quantitative pre- and post-tests using the validated Basic Empathy Scale to measure empathy scores on a total, *cognitive* and *affective* scale. Positive significant correlations were found between empathy scores and gender, especially on the *affective* scale. This correlation aligns with the literature on empathy, in which is reported that in self-reported empathy gender does make a difference. Female students tend to be more empathic than male students.<sup>823</sup> Third-year male students, who were found having the lower total empathy scores, tended to benefit the most from VTS, especially on the *affective* scale.

My study confirms the findings in *IB* and *IR* in which law students expressed thoughts about what they think they might learn from VTS. In the participating students' opinion, VTS' possible educational benefits are besides *understanding art, observational skills, critical thinking and arguing a case, and creativity and imagination*. Like in *IB* and *IR*, the data show a significant positive correlation of mean empathy scores with students' interest in the classes.

Participants in the qualitative study were 102 out of 109 students of *BIP* who reflected on their experience of VTS conversations in class and online. Main finding is that through VTS, students notice the differences between themselves and classmates and how these differences influenced their own train of thought and those of others. They noted that different perspectives can coexist, that all responses matter when collectively making meaning and that slow looking and reflecting is important to gain insights and to become open to other perspectives. Students thought VTS is fun and educational but also difficult. Through VTS, some students also experienced situations in which they felt powerless or insecure, because VTS left them guessing instead of knowing. Some students expressed the difficulty, anxiety, and reluctance they perceived when asked to share their thoughts, or to perceive good feelings because of the acknowledgement of their views by others.

### 5.2 LIMITATIONS & DIRECTIONS FOR FUTURE RESEARCH

There are, however, several things to consider. First, the number of participants that took part in the BES tests in T1 and T2 of *BIP* was too small to be able to generalize the results. Further research is recommended including more students to see if the results can be generalized. Second, no control group was part of the research design due to limited number of participating students and due to time constraints. This limits the reliability of the findings. Furthermore, because of the finding, that there was no correlation between sessions in *IB* and *IR*, it was suggested is that also in

823 Christov-Moore et al. 2014; Rochat 2022; Löffler & Greitemeyer 2023

*BIP*, the teachers would not impact significantly empathy scores and student experience. However, this has not been investigated. Moreover, this research' participants were third-year students instead of first-year students. No research has been done about differences in characteristics of both target groups that might have impacted empathy scores. Participants' Top 5 of educational benefits of VTS align between first-year and third-year but show some differences. Further research is recommended to investigate what caused these differences.

The choice of images to be used in VTS is the same as in the research in *IB* and *IR*, however, with one more used in an extra introduction lesson about VTS. Although, as said, all images used in this research have been chosen in a preliminary study by representants of all parties, as described in Chapter 5, further research is recommended to better match the characteristics and needs of the target group in this research, third-year law students.

To minimize possible stress, students perceive through VTS, as was hypothesized from the results of the research in *IB* and *IR*, an introduction on VTS had been part of the *BIP* seminars. Further research is recommended to investigate this introduction in order to answer the question what third-year students need as a proper introduction to VTS, and what the effects of such an introduction on the empathy scores would be. The same can be said about the reflections, which were added after each VTS conversation, and were also part of the course's assignments. As mentioned in Chapter 5, those reflections can be seen as debriefing and, thus, instrumental for learning.<sup>824</sup> Introduction and reflections possibly had an impact on the students and, thus, the results of my study. Further research is recommended to elaborate on this.

I acknowledge that this empirical study has several other limitations that call for future research. Regarding this study, like in *IB* and *IR*, a limitation is possibly that it was conducted in a single law school, which restricts the generalization of the findings. Another limitation is about the target group. Of the participants, 75 % were women, and 25 % were men which impacted empathy scores because of gender. However, like in *IB* and *IR*, also the fact that there are so many more women than men in the group might have impacted the empathy scores, as empathy scores are affected by context.<sup>825</sup> Further research is recommended to elaborate on this.

Furthermore, the mean age was twenty-one years old, which means that those students probably started their studies online because of the Covid19-pandemic. More research needs to be done to deepen the understanding of the pandemic's longitudinal impact on law students' empathy scores. Like age, there might be more differences between participants that might have influenced the results, such as study experience and/or personal circumstances. It is recommended to conduct further research investigating those characteristics and circumstances.

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824 Douglas & Coburn:61

825 Christov-Moore et al. 2014; Löffler & Greitemeyer 2023

Further research is also recommended to elaborate on the decrease in model fit during measurement invariance testing. The decrease suggests caution in interpreting these differences as true variations in empathy. It is possible that the observed differences may stem from other underlying factors rather than genuine disparities in empathy. Future research should prioritize testing for measurement invariance in larger samples to ensure that any detected differences are reflective of actual changes in empathy levels.

Lastly, as mentioned in the discussion section of *IB* and *IR*, self-report questionnaires are questionable as a method for assessment of cognitive empathy.<sup>826</sup> Triangularity of research methods is advised to enhance reliability. For this, in this research, besides testing through BES, also the analysis of students' reflections about VTS have been part of the methodology. However, some students indicated that they were new to self-reflection. This might have had an impact on the data and, therefore, the results. Peer-assessment about empathetic ability could be used as a third methodology. However, this has some limitations that need to be considered.<sup>827</sup>

Furthermore, the selection, summarizing and labeling of relevant text fragments has only been done by researcher, which means that researcher bias and expectations might have had an impact on the results.<sup>828</sup>

## 6. CONCLUSION

To see if it would be possible to design classes about VTS in such a way, that they would support the development of empathy, VTS was introduced in a third course, this time with third-year students. In this chapter, the research about these VTS classes was described.

The findings suggest that implementation of VTS in the Bachelor of Law curriculum, as a regular part of regular group tutorials with legal content, might have a positive effect on third-year students' empathy. Results show, how especially male students' affective empathy might benefit from classes in VTS. Through VTS, students became aware of the differences between themselves and classmates and how these differences influenced their own reflections and those of others. They noted that all responses matter when making meaning together, that different perspectives can coexist, and to gain insights and to become open to other perspectives that slow looking and reflecting are important. Besides fun and educational, students also experienced VTS as difficult because VTS left them guessing instead of knowing, feeling insecure. Further research is recommended to shed more light on the preconditions for a successful implementation of VTS in the law curriculum, including further research about image selection to better match the characteristics and needs of the target group which might have a positive impact on empathy scores.

826 Murphy & Lilienfeld 2019

827 Spatoula 2019: no page numbering available

828 Hammarberg et al. 2016



## CHAPTER 8

Results: How VTS could  
be of Added Value in  
the Law Curriculum

## 1. INTRODUCTION

In the previous chapters, I examined the use of VTS in three courses in the first- and third-year Bachelor of Law curriculums of Tilburg Law School in 2023. The aim of this chapter is to provide an overview of the main findings and, based on those findings, to theorize how VTS could be of added value in the law curriculum. First, I will list the findings and, second, I will elaborate VTS' possible suitability for law curriculums through elaborating the relation between my findings and Tsaoussi's and Samra and Jones' principles of empathy education for law, as well as the activities in empathy training as formulated by Gascon-Cuenca et al.<sup>829</sup>

## 2. OVERVIEW OF THIS STUDY'S MAIN FINDINGS

VTS has been implemented in higher education, mostly in medicine curriculums,<sup>830</sup> in various ways, ranging from only one VTS session<sup>831</sup> to ten to twelve monthly sessions.<sup>832</sup> As part of my study, I conducted three experiments with VTS sessions in the Bachelor of Law curriculum: two with first-year Bachelor of Law students, both consisting of one seminar including three VTS conversations, and one with third-year Bachelor of Law students, consisting of a bi-weekly series of sessions of one VTS conversation each (two homework assignments were also included in the series: participating in online VTS sessions and writing reflections on experiences of the VTS session). A total number of 722 Bachelor of Law students participated in the experiments: 620 first-year and 102 third-year students.

The quantitative analysis of the data of the first and second experiment, both with first-year students, showed that, in contrast to the hypotheses in the theoretical model of Chapter 5, the results did not show enhancement on empathy scores in the VTS seminars, nor in the control seminars. Even a statistically significant decrease was found in the VTS seminars of the first experiment in the course *IB* on the *cognitive* empathy scale (controlled for age and gender, ( $b = -0.083, p = 0.031$ ). The data analysis suggested, however, that other unmeasured factors may have been also influential. Therefore, I hypothesized that the decreases found were caused by high stress levels, which reportedly correlate negatively with empathy, based on the literature to date about this correlation.<sup>833</sup> I theorized that stress levels might be high among first-year students because they may feel anxious about starting law school. In the qualitative part of the experiments with first-year students, they mentioned a lack of information about VTS and the study, which also might have impacted the results.<sup>834</sup> However, it was part of the study approach, that I did not provide much information about VTS and my study beforehand, aiming to prevent the findings to be influenced by such information. This approach may have backfired, may have caused stress to students because of a lack of information which might have impacted the results. Furthermore,

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829 See Chapter 3 for an introduction about those principles and activities.

830 See Brackley et al. 2023 for the latest review; see Chapter 4 for a complete overview of the literature to date about VTS.

831 For example Mani 2020; Moorman 2017

832 For example Brackley et al. 2023

833 For the latest review on the subject of stress having a negative impact on empathy, especially affective empathy, see Nitschke & Bartz (2023).

834 See Chapter 6, section 4.2, about the results of the qualitative research in the courses *IB* and *IR*.



in the qualitative study, a small percentage of first-year students expressed their uncertainty about VTS as a method for legal practice, as well as a lack of interest in the research and classes in general. This may have negatively impacted the empathy scores. The statistically significant positive correlation that was found between students' interest and their mean empathy scores in the first experiment with first-year students<sup>835</sup> and the negative one between student's boredom and their mean empathy scores in the second experiment, seem to validate this hypothesis.<sup>836</sup>

However, at the same time, students also reported that they thought they became more open to ambiguity and other perspectives through VTS,<sup>837</sup> confirming the findings in several other studies about VTS to date.<sup>838</sup> Both competencies are considered essential for a well-developed *self-other differentiation*,<sup>839</sup> the component of empathy which is considered essential for law practice. Self-other differentiation is built on self-awareness and self-insight, knowing the boundaries between the self and the other. This prevents blurring of the line between a professional's own feelings and those of the client, and/or between a lawyer and a friend, which could lead to sympathy and thus to bias or the risk of being manipulated.<sup>840</sup>

Another finding was that students thought that VTS would have several educational benefits, that they would develop several skills through VTS. The students of all three experiments thought that VTS would foster *observational skills, critical thinking/arguing a case, imagination, creativity*, as well as the *understanding of art* (top 5-ranking, however, not in every experiment in the same order).<sup>841</sup> A statistically significant correlation with empathy scores was found with students' thoughts that VTS would foster *observation, critical thinking and arguing a case, perspective taking, imagination, and creativity*, as well as *developing an understanding of art*.<sup>842</sup> Of the skills students mentioned, four matched the skills mentioned in the theoretical model about the relation between VTS and empathy, presented in Chapter 5.<sup>843</sup> The theoretical model lists five skills for which VTS provides exercise that appear to be effective in enhancing empathy: *observation, critical thinking, communication, perspective taking, and active listening*. Those exercises result in *increasing the quantity and quality of observations, depth of reflection, communication through*

835 See Chapter 6, section 4.1: in *IB*, a significant positive correlation was found of the *interesting* item and *cognitive empathy* scale scores ( $r = .20, p < .001$ ), and of the *educational* item and empathy score on the total scale ( $r = .19, p < .001$ ) and on the *affective* scale ( $r = .16, p = .01$ ). In the control sessions of *IR*, a negative correlation was found between the *boring* item and total and *affective* empathy scores ( $r = -0.13, p = 0.03, r = -0.16, p = 0.01$ , resp).

836 See Chapter 6, section 4.1, about the results of the quantitative research in the courses *IB* and *IR* of first-year students and Chapter 7, section 4.4.,1 for the quantitative results of third-year students of the course *BIP*.

837 See Chapter 7, section 4.3, for the analysis of the extensive reflections of third-year students.

838 See for example the findings of Bentwich & Gilbey 2017; Kruse & Kinde 2019

839 See Chapter 2, section 3, for an elaboration on the importance of self-other differentiation for law professionals. A well-developed self-other differentiation is important for law professionals to be able to make informed decisions based on empathy, and not to let sympathy take over. Such sympathy is normal biological behavior to friends and family (Bloom 2016:69, 87, 93, 95). but it might hinder justice (Strauss et al. 2016:15) and might even cause law professionals, if they become too involved, to suffer from burn-out (Smith 2003:1207-1208)

840 Wheeler 2016:31

841 See Chapter 7, section 4.3, for the top 12 results of the comparison of the thoughts of the students of the courses *IB*, *IR* and *BIP* on VTS' educational benefits.

842 See Chapter 6, section 4.4.1, results of the quantitative study.

843 Chapter 5.5

enhancing language skills, imagining how others are thinking and feeling (including openness to ambiguity) and the experience of a safe learning environment, respectively.<sup>844</sup> Moreover, students noticed the importance of facilitators' non-judgmental stance and paraphrasing, i.e., *active listening*, for the safe space it provided for exchanging perspectives.<sup>845</sup>

In their reflections, the third-year students expressed that they experienced novelty, difficulty, anxiety and reluctance when they were asked to share their thoughts during VTS conversations and in writing their reflections afterwards.<sup>846</sup> At the same time, students also shared that they thought sharing views about an image, in class as well as online, was interesting.<sup>847</sup> Third-year students noted that, during a VTS conversation, classmates would build on each other's thoughts (one student even mentioned the experience in class that knowledge can lead to bias).<sup>848</sup> This finding might relate to Duyndam's theory of *potential* experiences in which the sharing of experiences in a situation adds details or other perspectives of the situation. Students could also have had experiences *by proxy*, i.e., learnt stories shared by classmates about experiences in life, through which those students learned about situations that were new to them.<sup>849</sup> Moreover, third-year students often expressed their experience in class that different perspectives can coexist, and that all responses matter when collectively making sense of a picture or object of art. They perceived that slow looking and reflecting are important to gaining insights and to opening up to other perspectives. In this respect, students emphasized the importance of the *safe space* the facilitator provided.<sup>850</sup>

Results of my study confirmed the correlation of empathy with gender found in the literature to date<sup>851</sup> in all three experiments: female students have higher total empathy scores than male students.<sup>852</sup> However, in the experiment with third-year students, male students showed a notable increase in mean empathy scores on the *affective* scale. It is my hypothesis that this might be because of 'stimulating backlog',<sup>853</sup> which has also been reported in other studies about VTS.<sup>854</sup> Another hypothesis is that it is a result caused by the change in educational design between the experiment with first-year (*IB*, *IR*) and third-year students (*BIP*). In the experiment with third-year students, VTS was scheduled every other week in class instead of once a week and VTS was also part of the home assignments: students had to participate in online exchanges of views through VTS on the website of the New York Times, and write reflections on how they experienced VTS.<sup>855</sup>

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844 See the theoretical model presented in Chapter 5, section 3.

845 See the results of the qualitative research with third-year students in *BIP*, Chapter 7, section 4.3.

846 See Chapter 7, section 4.3.

847 See Chapter 6, section 4.4.1, and Chapter 7, section 4.1, for quantitative results and 4.3 for their reflections.

848 See Chapter 7, section 4.3.

849 See Chapter 1, section 1.2.5, for Duyndam's theory and the *by proxy* theory.

850 <sup>846</sup> See Chapter 7, section 4.3, reflections by third-year students.

851 There is ample evidence in the literature to date that gender has an effect on empathy. Women turn out to have higher empathy scores than men. See Christov-Moore et al. 2014; Rochat 2022; Löffler & Greitemeyer 2023.

852 See Chapter 7, section 4.2, for a comparison of the results of *IB*, *IR* and *BIP*, including gender differences.

853 As theorized by Van der Hoeven 1980

854 Students with dyslexia made relatively more progress in language skills than students who did not have the disability: DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002, Housen 2001

855 For the procedure in the experiment with third-year students, see Chapter 7, section 2.2.3.

### 3. VTS ALIGNS WITH PRINCIPLES, ACTIVITIES AND AXES OF LEGAL EMPATHY EDUCATION

In this section, I elaborate on how VTS aligns with Samra and Jones' principles for legal education, the activities which Gascon-Cuenca et al. proposed for empathy education for law students, and with the four "axes" of CARE methodology for law teachers as proposed by Tsaoussi.<sup>856</sup>

#### 3.1 ALIGNING WITH SAMRA AND JONES' PRINCIPLES FOR LEGAL EMPATHY TRAINING

As mentioned in Chapter 3 about how empathy education could be implemented in the legal curriculum,<sup>857</sup> Samra and Jones listed five principles for empathy education for law students. In this section, I will elaborate on how VTS aligns with all five principles, underpinned by findings of this study.

##### 3.1.1 Principle 1 – Empathy defined as a multi-faceted concept

The first principle is *Empathy should be defined as a multi-faceted concept including both cognitive and affective elements*. Through literature research, part of this study, a definition of empathy was formulated based on the latest definitions of empathy. Four components could be distinguished, which was considered practical for operationalizing empathy in this study. Therefore, for the purposes of this study, empathy is defined through these four components: 1. *the ability to understand through imagination the state of another person*, 2. *the ability to be aware of one's own feelings because of that state*, and 3. *the ability to share affects and/or adopting views of that state with* 4. *self-other differentiation, i.e., awareness of the distinction between the other person and the self*.<sup>858</sup> The definition contains both *cognitive* and *affective* elements: the *understanding of the state of the other person* and the *ability to share affects* are cognitive and affective by nature, respectively. This aligns with the first principle.

Furthermore, an analysis of the VTS methodology through literature research about grounding theories, components and underlying mechanisms of VTS resulted in a theoretical model about how the VTS methodology might promote all four components of empathy.<sup>859</sup> In the field research, the model was put to the test, using the validated Basic Empathy Scale as a measurement for empathy. This BES test measures empathy through *cognitive* and *affective* items. Findings revealed several statistically significant correlations between students' interest in the classes and first-year students' *cognitive* empathy (control condition *IR*), and third-year students' *affective* empathy.<sup>860</sup> *Cognitive* empathy correlated statistically significantly with the third-year students when they thought they would learn *creativity, imagination and understanding art* through VTS and who

856 See Chapter 3, section 2, for a detailed overview of the theories of Samra & Jones (2019), Gascon-Cuenca et al., (2018) and Tsaoussi (2020).

857 See Chapter 3, section 2.

858 See Chapter 1, section 5.5.3, for the definition and components of empathy, built on the latest definitions in the literature.

859 In Chapter 5, section 3, the theoretical model is presented and described.

860 See Chapter 6, section 4.4.1, and Chapter 7, section 4.1 for a detailed overview.

realized through VTS that others sometimes interpret situations differently.<sup>861</sup> A positive and statistically significant correlation on empathy's *affective* scale was also found when third-year students realized, through VTS, that their perspective is sometimes different from that of others.<sup>862</sup>

### 3.1.2 Principle 2 - Empathy viewed as integral part of professionalism

Another finding of my study was that VTS appears to be effective in enhancing law students' self-awareness and their openness to the perspectives of others. In the experiment with the third-year students, looking at the same picture, students would mention they experienced differences between the views of others and themselves, and also how the views of others sometimes influenced their own view. Moreover, they also expressed finding it hard to reflect because of the novelty of the experience: they felt reluctance when asked to share thoughts, and/or appreciated others for having the courage to share their views.<sup>863</sup> This enhanced self-awareness and the openness to other perspectives complies with the third pillar about soft skills which was found in the literature to date, in all three modern legal competency models for law: *Delta*, *O-shaped Lawyer* and *Foundational Competencies*. These models describe, among other competencies, how self-awareness and client-centeredness are modern legal competencies, and an essential part of a successful legal practice.<sup>864</sup> In the literature, attention has been paid to empathic, *people-centered justice* and the *responsive* law approach for long. Especially in the Dutch discourse, however, this attention was stressed more recently because of the impact of the Childcare Benefits Scandal which caused severe hardship for tens of thousands of Dutch citizens.<sup>865</sup> In *responsive* law, the ability of perspective taking, empathy's component of *Sharing/Adopting Perspectives*, is key.

The findings of the qualitative study showed that practicing perspective taking is at the core of VTS. Third-year law students described how, through VTS, they often noted that different perspectives can coexist, that all responses matter when collectively making meaning and that slow looking and reflecting is important to gain insights and to open up to other perspectives.

### 3.1.3 Principle 3 - Empathy should include attention to self-awareness

As I elaborated in the previous section, the findings suggest a positive effect of empathy on self-awareness through VTS. In the theoretical model, I theorize how VTS might influence the empathy components of *Feeling (own feelings)* and *Self-Other Differentiation* especially through the *perspective taking* and *active listening* exercises, respectively. Findings of the qualitative study point out that, in their VTS experience during the experiments, 50 % of the participating first-

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861 See Chapter 6, section 4.4.1, and Chapter 7, section 4.1, quantitative results of the experiment with first-year students in two courses.

862 See Chapter 6, section 4.4.1 and Chapter 7, section 4.1.

863 See Chapter 7, section 4.3, qualitative results of the experiment with third-year students.

864 See Chapter 2, section 2.4.3, for a detailed description of the three legal competencies models.

865 See Chapter 1, section 1, for an introduction and the reaction of the highest court in the Netherlands, and Chapter 2, section 2.1, for a more detailed description of the Childcare Benefits Scandal.

year and 60 % of the third-year students noted that others can sometimes interpret situations differently than they, and that different views of the same situation can coexist.<sup>866</sup>

### 3.1.4 Principle 4 - Relationship between gender & empathy is explicitly acknowledged

In the literature to date, ample evidence is available that gender correlates significantly with empathy. The results of my study confirm these findings. The quantitative data of all three experiments showed that female students have higher total empathy scores than male students. Remarkably, findings also suggest a possible 'stimulating backlog'<sup>867</sup> for third-year male students in *affective* empathy. *Affective* empathy scores of third-year male students increased more than those of female students, suggesting that their affective empathy benefited most of the classes including VTS.<sup>868</sup>

### 3.1.5 Principle 5 - Clinical teaching should include specific learning strategies to develop empathy

In my study, I propose VTS as a *specific learning strategy* to develop empathy, as suggested by Samra and Jones. The experiments in two first-year and one third-year Bachelor of Law course show that it was possible to implement VTS as a method in those courses. In the first-year courses, one whole seminar was dedicated to VTS and, in the third-year course, VTS was taught every other week as part of a regular law course.<sup>869</sup> The group sizes differed from nine to sixty students, but this difference in size did not appear to impact empathy scores. When implemented repeatedly in traditional courses with legal content, VTS appears to be effective in enhancing empathy especially in male students.

## 3.2 VTS ALIGNS WITH GASCON-CUENCA ET AL.'S LEGAL EMPATHY TRAINING ACTIVITIES

From the findings in the literature research, I concluded that VTS seems to align well with four out of five activities which Gascon-Cuenca et al. mentioned as promoting empathy in law students.<sup>870</sup> The field research confirmed this conclusion, especially the qualitative part of it.

Gascon-Cuenca et al.'s activities *Inviting representatives of groups to come and share their stories with the students* and *Lessons in active listening* are executed by VTS *facilitators* when asking VTS' first standard question: *What is happening in this picture?*, using *active listening* when listening to, and paraphrasing, the thoughts expressed by the students. Students are invited to share with the group what narratives they think they see in the picture.<sup>871</sup> *Facilitators' active listening* consists of careful, non-judgmental paraphrasing of students' contributions. In this way, the facilitator

866 See Tables 8c and 9 in Chapters 6 and 7, respectively, "Participants' thoughts on the effect of VTS on self-knowledge & -awareness".

867 Van der Hoeven 1980

868 See Chapter 7, section 4.4.1, for results of the quantitative study, Table 10: Comparing the growth of empathy scores with respect to gender.

869 See Chapters 6 and 7, respectively, both sections 1.2.3, Procedure.

870 See Chapter 3, section 2; Gascon-Cuenca et al. 2018

871 For a detailed description of VTS' key elements and components, see Chapter 4, sections 3 and 4.

ensures a *safe space*, which Gascon-Cuenca et al. theorized to be essential for encouraging law students to share their thoughts and feelings. During paraphrasing, facilitators also point at the relevant parts of the image, which is considered to be a non-verbal way of paraphrasing and ensure that everyone's contribution is given equal attention and value. Their non-judgmental attitude and their use of conditional language while paraphrasing strengthens the *safe space*. This encourages a classroom atmosphere.<sup>872</sup> In their reflections, the third-year students explicitly mentioned the facilitator's role in providing a safe place for exchanging thoughts.<sup>873</sup>

The second standard question, *What do you see that makes you say that?*, provides the participants with the possibility to back up their interpretation with visual evidence found in the image or to present prior knowledge, so that their interpretation can be understood by the other participants.<sup>874</sup> In this way, the method ties in with Gascon-Cuenca's activity *Role plays, in which students must put themselves in the shoes of others*. This works both ways, for the other students are invited to put themselves in the shoes of their classmates through carefully listening to those students' stories. Sixty percent of the participating third-year students noticed this difference in views between themselves and classmates, also mentioning in their reflections the possible feelings of anxiety when views differ, or, in contrast, reassurance when views are shared.<sup>875</sup>

Lastly, VTS can obviously be classified as *Lessons in visual art and poetry*, which is the last activity Gascon-Cuenca et al. mentioned as promoting empathy in law students. As described in Chapter 4, VTS uses art as a starter for novice viewers.<sup>876</sup> However, the literature research also revealed that VTS not only promotes the understanding of art. It has a 'transfer' to other subjects as well, promotes skills like critical thinking and language.<sup>877</sup> In the reflections, I found that students noted how the facilitators ensured that everyone heard and understood what was being said. They therefore appreciated the paraphrasing and the nonjudgmental way in which it was done.<sup>878</sup>

### 3.3 VTS IS TSAOUSSI'S CARE METHODOLOGY FOR LAW EDUCATION

Tsaoussi proposed the CARE methodology to law teachers as a way to use *responsive*, student-centered teaching which Tsaoussi considered essential for modern law education: *Compassionate, Attentive, Reason-based and Empathetic teaching*.<sup>879</sup> In VTS, teachers show attentiveness and empathy using *active listening*. Their paraphrasing can be considered compassionate, helping students to deepen their own understanding of their interpretation of the image by framing and

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872 Yenawine 2013, Moorman, 2015.

873 See Chapter 7, section 4.4.3.

874 Yenawine 2013

875 See Chapter 7, sections 4.4.1 and 4.4.3, for quantitative and qualitative results respectively.

876 Founder of VTS Housen developed a stage theory of aesthetic development, which described the development of viewers of art from novice 'beginner' viewers until very experienced viewers, in five stages. See Chapter 4, section 5.1 for more information and Appendix Chapter 4/1.1 for an overview of the stages.

877 When used on other objects than art, VTS methodology turns out to have the same effect in understanding like on art: it 'transfers' understanding to other subjects, and promotes skills like critical thinking and language. See Chapter 4, section 7.4, about this transfer.

878 See Chapter 7, section 4.3, about the results of the qualitative research with third-year students.

879 Tsaoussi 2020:8-28

conceptualizing the interpretation. With the second question, *What do you see that makes you say that?*, teachers encourage students to support their interpretations.

In the qualitative study, students expressed their appreciation of VTS for supporting the meaning making process, in particular the facilitator's role, which they considered instrumental for a deeper understanding of the image and/or the views of others and for providing for a safe space for sharing thoughts.

## 4. AGAINST VTS: EXPECTANCY VIOLATIONS AND UNHAPPY LEARNING

### 4.1 EXPECTANCY VIOLATIONS THROUGH VTS

In this study, students expressed their interest in VTS and that they think VTS is of educational added value in several ways, mainly observation and critical thinking skills (50-80 % of the students), but also creativity and imagination, and understanding of art (40-60 % of the students).<sup>880</sup> However, students also found VTS difficult sometimes. VTS' slow looking methodology and open-endedness seems to fuel negative feelings as well, for example feeling bored (50 % of first-year students, 20 % of the third-year students).<sup>881</sup> In the qualitative research with third-year students, they expressed feeling good when their views were acknowledged by others, but when it wasn't or when they doubted their own view, VTS made them feel powerless and insecure, sometimes even perceiving their own interpretations as insufficient or inadequate.<sup>882</sup> Students also mentioned that they tended to adopt thoughts of others more easily because of such negative feelings. Students expressed that actively participating in VTS sessions made them anxious but, in hindsight, they appreciated the experience for provoking feelings of proudness when having had the courage to share a view.

From the literature research about VTS, I concluded that the method can be considered a *progressive* methodology as theorized by Dewey, for in such methodology, teachers do not teach but only facilitate. Moreover, like in VTS, continuity of experience and interaction are considered essential.<sup>883</sup> VTS differs from the traditional mainstream educational methodologies in legal education, in which a teacher mainly provides knowledge that students need to learn and reproduce, using this knowledge in a creative way. Most students are used to such traditional methodologies from childhood. Furthermore, law students are reluctant to take classes on humanities or arts subjects in legal curriculums if they are not informed beforehand about the positive effects of those classes. Therefore, VTS as a methodology opposes and possibly even *violates expectations* students may have of legal curriculums and social norms in class. Such expectancy violations, as theorized by Burgoon,<sup>884</sup> may cause agitation and

880 See in both Chapters 6 and 7, the section 4.1 about the quantitative part of the field research: Table Correlation of empathy with participants' thoughts on educational benefits

881 Ibidem

882 See Chapter 7, section 4.3, results of the qualitative research.

883 See Chapter 4, section 5, for a detailed overview of grounding theories; Dewey 1938

884 Burgoon 1978: *The Expectancy Violations Theory* was proposed by Burgoon in the late 1970s. The theory is about communication and the way individuals respond to unanticipated violations of social norms and expectations. Such violations cause agitation and urge the recipient to react: in a positive way when the exchange in communication was perceived positively, enhancing the attraction of the violator and, in a negative way, when the exchange was perceived negatively, decreasing the attraction of the violator.

stress and, as we have noted and observed in the field research, may lead to negative comments when evaluating VTS and the study.

However, literature to date reports that students evaluate teachers as credible when they show politeness and care for students.<sup>885</sup> Moreover, literature to date also mentions the appreciation by students of immediacy in their teachers' communication.<sup>886</sup> Non-verbal immediacy like leaning forward and smiling, and verbal immediacy such as verb tense and voluntarism in speech (for example 'want' vs. 'should'), are positively correlated with affective and cognitive learning, and a positive class climate.<sup>887</sup> Facilitators in VTS show conduct which can be considered both reliable and immediate through *active listening* and paraphrasing and pointing, respectively. Data analysis of the qualitative part of the field research showed, that students valued facilitators for providing a safe space for exchanging views, and for supporting the exchange of views in such a way that it resulted in a deeper understanding of the image and/or views of other participants.<sup>888</sup>

## 4.2 UNHAPPY LEARNING THROUGH VTS

The expression of irritation by some students during VTS sessions might also be evaluated as moments of *unhappy learning*.<sup>889</sup> *Unhappy learning* is a symptom of crisis experiences, experiencing new situations, which causes agitation, mostly in a negative way. Such crisis experiences, however, can induce learning, for they induce the need to acquire new knowledge and skills in order to adequately respond to the crisis and to prevent it from happening again. Therefore, crisis experiences should not be avoided but guided,<sup>890</sup> supporting the process of personal sense-making.<sup>891</sup>

A crisis experience might cause a reorganization of values, beliefs, theories and models and always has to do with *unhappy learning*. It includes *unlearning*, i.e., the realization that something that was previously assumed to be certain is not so at all. It can also include the discovery of incompetence, and that there is a body of knowledge that one should have known about but did not know about. This results in shame or sometimes even public humiliation. *Unhappy learning* is usually painful because it also means letting go of beliefs and letting go of the familiar, which is accompanied with mourning.<sup>892</sup> A common response to *unhappy learning* is to express anger at a person associated with the unhappy learning experience.

In their reflections, third-year students explicitly mentioned their moments of *unhappy learning* and what they gained by it. They stated that when their views were acknowledged by others, this

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885 Sidelinger & Bolen 2015

886 Bainbridge Frymier 1994

887 Bainbridge Frymier 1994

888 See for a description of the facilitator's role Chapter 4, section 3.2ff, and Chapter 7, for an overview of the findings of the qualitative part of the fieldresearch with third-year students.

889 Ketchum & Trist 1992:42-44

890 Credits theory (A. Kok 2024, through personal and unpublished communication dated March 6, 2024, following a prior lecture at Tilburg University), building on Ketchum & Trist (1992). A similar concept is 'Knowledge hurts', coined by Jacobs, WUR (2018: Original title in Dutch: "Kennis doet pijn").

891 Govender & Jacobs 2022

892 Ketchum & Trist 1992:42-44



felt good, but when they weren't or when they had doubts, VTS made them feel powerless and/or insecure, perceiving their own interpretations as insufficient or inadequate. Student expressed their tendency to adopt thoughts of others more easily at such moments. They experienced that actively participating in VTS sessions can make them feel anxious. However, students appreciated the experience in hindsight, expressing to have become more open to other perspectives and to feel proud when having had the courage to share a view. They also mentioned they appreciated others for sharing their views. Students noted that all responses matter when collectively making meaning and that, therefore, sharing is important.<sup>893</sup>

The positive learning experience that comes after *unhappy learning* can be considered an *eureka moment*, as theorized by De Regt & Dooremalen. The authors posited that the experience of happiness which comes with acquiring knowledge to solve a problem, or to gain knowledge to enhance the feeling of certainty about the world, is the same as the physical feeling of pleasure caused by neurotransmitters in the brain when drinking water as a way to solve the problem of thirst.<sup>894</sup> However, in VTS, an easily acquired *eureka moment* through the provision of knowledge by the facilitator is not included. VTS' open-endedness may cause feelings of discomfort, as expressed by students in the qualitative research, and thus constitute an *unhappy learning* experience. In contrast, however, in the qualitative part of the field research, students also expressed their appreciation for the exercise in slow looking and reflection, which they considered instrumental for a deeper understanding, the same exercises which also caused discomfort. Already valuing facilitators' providing of a safe space for exchanging thoughts, students might need more guidance and support to make sense of the *unhappy learning* experience VTS possibly also entails. More research is needed to see what preconditions could help students cope with *expectancy violation* and *unhappy learning*.

## 5. CONCLUSION

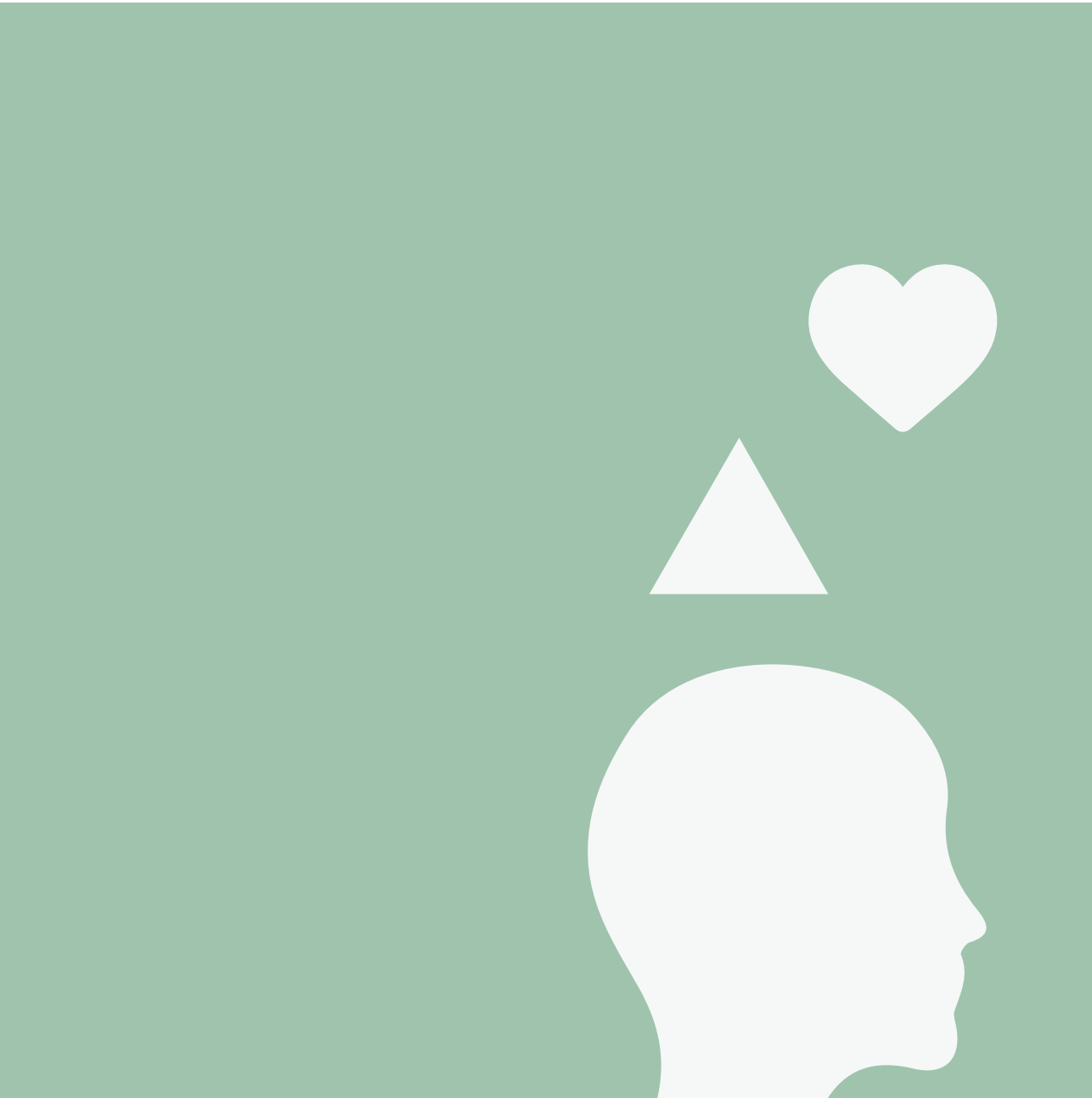
In this chapter, I provided for an overview of the main findings of this study and the special additions to law curriculums of the VTS methodology. I elaborated how VTS might be of added value in legal education and responded to Samra and Jones' principles of empathy education for law and the activities following those principles as formulated by Gascon-Cuenca et al. Furthermore, I elaborated on VTS' suitability for the CARE methodology in legal education as formulated by Tsoussi.

As possible sources of the negative feelings that some students experienced through VTS, I identified *expectancy violations* and *unhappy learning*. However, as *unhappy learning* is considered a symptom of crisis experiences that can induce learning, such experiences can also be welcomed as useful and transformative, for they induce the need to acquire new knowledge and skills in order to adequately respond to a crisis and to prevent it from happening again.

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893 See Chapter 7, section 4.3, for the qualitative research with third-year students.

894 De Regt & Dooremalen 2015:82-92



## CHAPTER 9

# | Discussion and Recommendations

## 1. INTRODUCTION

In this chapter, I will discuss the methodology used in the field research of this study including questions that arise from certain experiences during the process. Furthermore, I will suggest some recommendations for future research aiming to enhance the understanding about this study's findings and to extend the knowledge about the possible surplus value of VTS for law curriculums.

## 2. LIMITATIONS OF THE FIELD RESEARCH AND RECOMMENDATIONS

In this section, I identify some limitations of the field research of this study, i.e., omissions in the design of the field research, and offer some recommendations for future research based on those limitations.

### 2.1 EFFECT OF ATTENDANCE IN CLASS

In the quantitative part of the field research with first-year students, the correlation of students' active contribution to VTS conversations in class with empathy scores was investigated, but no statistically significant correlation was found.<sup>895</sup> However, in the field research with third-year students, the possible difference in empathy scores has not been investigated between students who actively contributed to VTS sessions in class and VTS conversations online, and students who only contributed to the VTS conversations online. Findings in the literature suggest that, in contrast to actual 'real-world' cognitive and affective empathy, virtual cognitive or affective empathy does not appear to contribute to emotional and cognitive social support<sup>896</sup> and, therefore, not influence empathy scores. Further research is needed to elaborate the possible differences in effects between online and on campus empathy education.

### 2.2 FACILITATOR'S EMPATHY SCORES

In the literature to date, the teacher's empathy score is suggested to foster student performance.<sup>897</sup> A positive correlation is also suggested between the way a teacher teaches and student appreciation,<sup>898</sup> which might be related. Therefore, empathy scores of facilitators and teachers and assistant professors might have impacted the results of this study. However, in this research, their empathy scores have not been measured, nor was their personal education style subject to investigation. Further research is recommended about the effect of facilitator and teacher characteristics on law students' empathy scores.

### 2.3 THE EFFECTS OF ADDING REFLECTION

The effect of adding reflection moments in VTS sessions has not been investigated. In the literature, medical students' reflections on clinical internships have been suggested to be effective

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895 See for the data analysis about active contributing to VTS conversations in class, Chapter 6, section 4.1.3, Table 'Correlation of empathy with participants' active contribution in class VTS / IB'

896 Law Wai Wa 2020

897 Goroshit & Hen 2016

898 Heng Tsai Tan et al. 2018

in maintaining empathy levels stable during health school.<sup>899</sup> Adding reflections about VTS in the VTS experiment with third-year students might have impacted the results. Further research is recommended to elaborate on the effect of adding reflection to VTS conversations on law students' empathy scores.

## 2.4 MIXED-METHOD

In contrast to the VTS only approach with first-year students, with third-year students, a mixed-method was used. Instead of offering one seminar dedicated to VTS, several short VTS sessions of one VTS conversation were included in the regular seminars, biweekly, and alternately with interviews with law professionals. This might have influenced the findings. Further research is necessary to elaborate on this difference in educational design.

## 2.5 LACK OF UNDERPINNING OF THE IMAGES USED IN VTS

The choice of the two works of art and the court sketch has only been subject to limited pre-research. Furthermore, no research was done about the similarities and differences between using text and images in VTS, while text might have been a more logical choice for lawyers. Scientific theory and empirical research on narratology and imageology turns out to be available,<sup>900</sup> as well as on the link between empathy, fiction and imagination. Therefore, future research should be conducted to shed light on the differences between text and images in VTS.

Furthermore, no research was done into what elements of images could be effective in enhancing empathy, nor about the possible differences between news photographs and art, although both were used in this study. Furthermore, no research was done into the possible effects of the narratives of the images.<sup>901</sup> Only limited research has been conducted into the topics considered best suited and most interesting for the target group. Moreover, the number of people involved in the image selection was limited and their choice pragmatic, for based on short term availability. More research is needed about VTS image selection when aiming to maximize its effect on empathy.

## 2.6 GENDER DIFFERENCES & VTS' AFFECTIVE EMPATHY STIMULATING EFFECT

Considered an interesting finding in the quantitative part of the field research with third-year students was that male students benefited more than female students of the VTS classes. This resulted in a significant increase in empathy scores on the *affective* scale during the course. As a possible cause for this gender difference, I hypothesize that VTS possibly offers an exercise in empathy which male students normally do not get, or get less due to gender differences based on culture, and/or that the empathic role model of the facilitator and classes about VTS effectively offers male students a structure to work with when empathizing. Further research is recommended to investigate this difference.

899 Imperato & Strano-Paul 2021

900 Bal 1990

901 Fasnacht 2023

## 2.7 AUTISM AND OTHER PERSONAL CHARACTERISTICS & CIRCUMSTANCES

One first-year student who stated to have autism suggested that VTS might be helpful especially to students with autism in their effort to understand people and to aid personal interactions with people. VTS' structured methodology might facilitate these interactions and situations, considered complex to people with autism. To my knowledge, to date no research has been conducted into this topic. Therefore, research about VTS' effects on the social development of this specific target group, students with autism, is recommended.

Besides personal characteristics like autism, it is likely that empathy scores may have been influenced by other personal characteristics and circumstances like possible illness or personal problems.<sup>902</sup> Future research to this correlation is recommended.

Furthermore, law students are likely to score lower on average on empathy than, for example, psychology and education students.<sup>903</sup> The effect of this difference on the development of empathy needs also to be further investigated.

## 2.8 ROBUSTNESS ACROSS CULTURES

As was reported by Housen, VTS is robust across cultures for aesthetic development, critical thinking and observation skills. This might be the same for empathy. In contrast to the declining empathy scores of medical students in the US, however, research among Japanese medical students reported an increase in empathy scores during medical school.<sup>904</sup> Further research is recommended to investigate whether cultural differences have an effect on VTS' suggested efficacy in developing empathy.

# 3. POSSIBLE SURPLUS VALUE OF VTS TO LAW CURRICULUMS

The exercises in VTS I distinguished in this study and presented in the theoretical model as effective in empathy development,<sup>905</sup> might also be effective in the development of other competencies which I consider to be of value for law students: dialogical conversation, narrative intelligence, rhetorical situations and visual literacy. Below, I elaborate on each of those competencies, which, together with empathy, I consider of possible surplus value of VTS for law curriculums. Future research is recommended to investigate VTS' effect on those competencies.

## 3.1 VTS PROVIDES DIALOGICAL CONVERSATION

VTS' methodology resembles *dialogical conversation*, i.e., a shared inquiry and reflecting through exchange of views. Through continuing dialogue, people construct their identities and those of

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902 Ferronha et al. 2019

903 Ferronha et al. 2019

904 Wilson et al. 2012:1; Kataoka et al. 2009: Compared to the US, in Japan, there are different entry requirements and a different curriculum. The humanities and arts are an obligatory part of the Japanese medical curriculum. Moreover, Japanese medical students are expected to have a lower baseline of empathy because they are more science oriented.

905 See Chapter 5, section 6.

others, from multiple narratives into stories about themselves and others.<sup>906</sup> People develop ideas and try to understand each other from the other one's perspective.<sup>907</sup> This fosters the development of mutual understanding in the conversation.<sup>908</sup> Understanding the other one's perspective is one of the four components of empathy.<sup>909</sup> Mainstream in legal practice, however, is *dialectic conversation* which, in contrast to *dialogic conversation* is not considered relational.<sup>910</sup>

*Dialectic conversation* aims to try to find a shared 'truth', to find common ground by listening to each other and by rephrasing the other's statement.<sup>911</sup> It is a resolution of differences, like the *fusion of horizons* philosopher Gadamer described, the coming to a shared understanding of participants in a hermeneutical dialogue.<sup>912</sup> In contrast to *dialectic* conversation, in *dialogic* conversation, the goal is not discovering common ground, but to expand reciprocal understanding. This fosters openness to ambiguity and other perspectives, and *out of the box*-thinking, which can also be considered an important competency in legal practice.<sup>913</sup> Through VTS, students learn to think about themselves as capable in seeing multiple perspectives, which fosters empathy.

### 3.2 VTS ENHANCES NARRATIVE INTELLIGENCE

Core of the VTS methodology is the exchange of interpretations, of the narratives which participants think that are depicted in the image. Besides adding to participants' repertoire of experiences, which enhances empathy, the exchange of narratives is suggested to foster the development of law students' *narrative intelligence*. In legal practice, judges must decide what the relevant facts and circumstances are and choose between narratives to which rules or legislation can be attached.<sup>914</sup> The way in which the facts of a case are narrated largely determines the outcome of a case.<sup>915</sup> Language and communication skills, therefore, are important. As found in this study, VTS offers exercise in those skills.

### 3.3 VTS PROVIDES RHETORIC SITUATIONS

As mentioned above, narratives and law are inseparately related, for it is through the frame provided by a narrative that cases can be studied and judged. Narratives, or storytelling, are at the basis of legal rules, which have the form of *Rhetorical Situations*.<sup>916</sup> *Rhetorical situations* are situations which evoke rhetoric expression in the exchange of interpretations, free and structured at the same time, and in which rules are monitored through good guidance.<sup>917</sup> VTS provides such situations.

906 Anderson 2012

907 Anderson & Burney 1997; Tinsley Mau & Sheats Harkness 2020

908 Anderson & Gehart 2007; Tinsley Mau & Sheats Harkness 2020:179

909 See Chapter 1, section 2.3.

910 Anderson 2012: 10

911 Matteucci 2024:8; Wegerif 2008

912 Malpas 2003

913 Roels 2001

914 Gaakeer 2017:356-357

915 Gaakeer 2017:331

916 Paskey 2021:180

917 IJzermans 2012:60; Bitzer 1968

A *Rhetorical Situation* is defined as a situation in which three elements are present: an *exigence*, i.e., a need, something wanting, an *audience* and *rhetorical constraints*, i.e., the features of the audience's ways of thinking and belief systems.<sup>918</sup> The *exigence* in VTS is the need of the audience to make meaning of an image, which calls forth answering facilitator's standard questions. The students are the *audience*, who look at the work of art. They want to know its meaning 'what are we looking at?' and listen to the arguments of their peers who answer to the standard questions. Possible *rhetorical constraints* in VTS are met by choosing a work of art to look at which is appropriate and of interest for the participating students. *Audiences, constraints* and *exigences* in VTS methodology are created by the participating students.<sup>919</sup> In the VTS process, those students can be considered *rhetors*,<sup>920</sup> who choose to activate those *constraints* and *exigences* through incorporating them into their argumentation, when answering VTS' second question *What do you see that makes you say that?*

### 3.4 VTS ENHANCES VISUAL LITERACY

As theorized in Chapter 5, like experience, also observation is important for the development of empathy. Understanding starts with perception, observation of (person in) a situation. Visual literacy is considered an essential competency for law professionals as well. Originally defined as *a set of visual competencies or cognitive skills and strategies one needs to make sense of visual images*,<sup>921</sup> for VTS, Hailey, Miller and Yenawine defined visual literacy as *the ability to differentiate and interpret the things one sees and to appreciate masterworks of visual communication, as well as the ability to communicate creatively applying these skills*.<sup>922</sup> A more recent and broader definition is the one formulated by Statton Thompson et al.: *a set of abilities that enables an individual to effectively find, interpret, evaluate, use, and create images and visual media that equip a learner to understand and analyze the contextual, cultural, ethical, aesthetic, intellectual, and technical components involved in the production and use of visual materials*.<sup>923</sup> There is a need for visual education in higher education, because unlike primary and secondary education, in higher education, there is hardly any attention paid to images. Academic education is based on text and text-based assignments. However, nowadays, images play a prominent role especially in the lives of young people for communication is mainly in images.<sup>924</sup>

*Responsiveness* in legal practice, i.e., client-centeredness of law professionals, cannot without visual literacy. Only when visual literate, law professionals can interpret and question images,<sup>925</sup> or to be of assistance properly for clients who cannot read or write or do not have sufficient language skills.<sup>926</sup> Increasingly, photo and video footage is raised as evidence and seen as

918 Bitzer 1968; Covino & Jolliffe 2014

919 Covino & Jolliffe 2014:133

920 Vatz 1976; Covino & Jolliffe 2014:133

921 Serafini 2017

922 Hailey, Miller and Yenawine 2015:51; Debes 1969:27

923 Defined by the Association of College and Research Libraries, 2011 (Statton Thompson et al. 2022:3).

924 Blaikie 2019:52. The advice of ACRL is to add visual education to higher education as well (Association of College and Research Libraries 2011 in Statton Thompson et al. 2022).

925 Sherwin 2018

926 Murray 2020



decisive.<sup>927</sup> Through classes about visual literacy, law students would learn to more critically read and understand visuals and multimodal texts,<sup>928</sup> a necessary skill to understand the litigants' situation and to understand all evidence in a case, also through visuals.

VTS is reported to enhance visual literacy.<sup>929</sup> Future research is recommended to investigate the need for visual literacy and training in this skill for law students, and the way, VTS could be implemented in law curriculums to provide such training.

#### 4. SUMMARY OF THE RECOMMENDATIONS FOR FUTURE RESEARCH

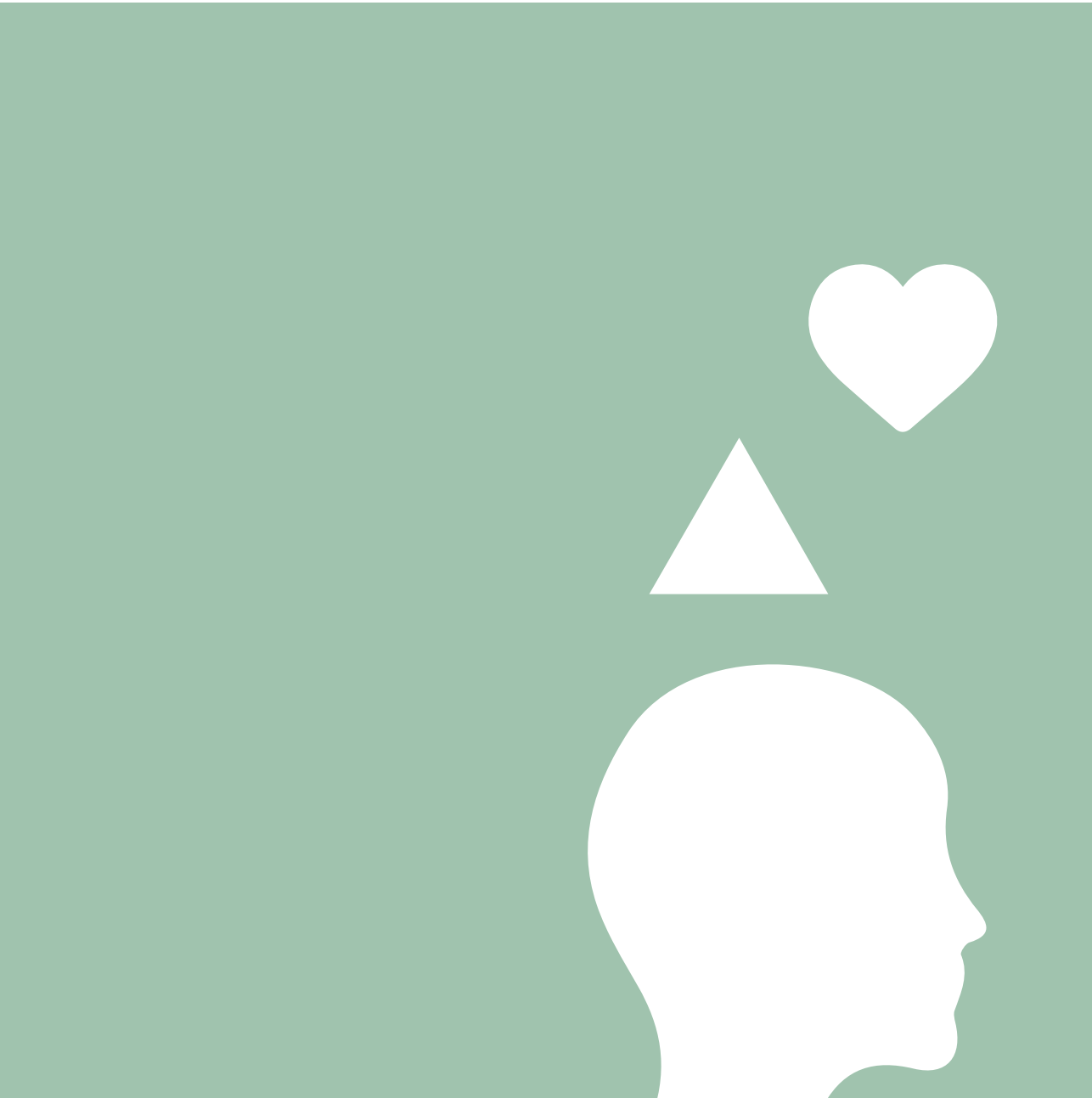
In this chapter, I reviewed this study. Future research is recommended to investigate whether components of VTS methodology could be used more effectively to foster the development in law curriculums, such as research about the possible effects of facilitator's/teacher's empathy scores, and of image selection with a special focus to empathy development. Furthermore, I recommended research about the difference between seminars VTS in class and online, and with or without adding reflection. Other recommendations include future research about the differences in gender and other personal characteristics and circumstances of students, including cultures. This section also provided an overview of a possible surplus value for law curriculums VTS could provide, besides empathy development: exercises in dialogical conversations and rhetoric situations, as well as narrative intelligence and visual literacy.

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927 E.g. Scott v. Harris 2007; Mezey 2013

928 Statton Thompson et al. 2022

929 See Chapter 4, section 7.1.



# CHAPTER 10

## | Conclusion

## 1. INTRODUCTION

In this PhD study, I investigated the possible influence of VTS on academic law students' empathy, motivated by the recent call for 'the human dimension' in law and citizen-centeredness in justice in the Netherlands in the wake of the Dutch Childcare Benefits Scandal.<sup>930</sup> Although the literature to date offered sufficient underpinning to theorize that law students' empathy could be developed through VTS, I have not been able to prove this through empirical research. The findings in the empirical study, however, do show that VTS promotes several skills essential for empathy and offer starting points for future research.

To answer the main research question, I formulated several sub questions to investigate the subject. In this section, I will summarize the literature and field research I conducted to answer those sub questions in order to elaborate on the main conclusion.

## 2. THE IMPORTANCE OF EMPATHY FOR LAWYERS

I investigated the role of empathy in legal practice. Through literature research, I found how empathy is not only seen as essential for legal practice but is, at the same time, feared by many law professionals.

Although, through the practice of *pathos* in rhetoric, empathy has always been an essential part of legal practice, a good knowledge of laws, regulations, and case law and proficiency in effective argumentation are considered core and traditional legal skills.<sup>931</sup> As so-called legal technical or *hard* skills, they are emphasized as basic requirements to get a job in the legal profession. However, in the last two decades, there have been reports in the literature on changes in tasks of legal practitioners which demand good *soft* skills as well, caused by growing interdisciplinarity and ethical dilemmas in legal practice. To be emotionally intelligent, and to be able to collaborate, empathize, and communicate with clients is considered important in order to be able to judge equal cases in an equal way, and to provide justice while taking into account context and individual circumstances.

However, the fear for empathy is still strong, resulting in law curriculums focusing on *positivist* law with a focus solely on legal technical skills, instead of *responsive* law which, besides such hard skills, also takes context into account and is client- and citizen-centered.<sup>932</sup> This fear for empathy consists of three elements: fear for emotions, as if they were not knowledge to be taken into account, fear for *Style over Substance*, i.e., the fear that manipulating an audience or a judge is more important than legal content, and, lastly, mistakenly confusing empathy with sympathy.<sup>933</sup> In legal practice, sympathy is indeed a feeling legal professionals should be aware of and avoid. To

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930 A political scandal concerning unfair allegations of fraud made by the Dutch Tax and Customs Administration (TCA) between 2005 and 2019, which came fully to light in 2019-2020. Tens of thousands of Dutch citizens suffered severe hardship for they had to pay back all of the allowance for childcare received although minor administrative mistakes had been made.

931 See Chapter 2, section 2.4 for an elaboration of legal hard and soft skills, and empathy as a modern legal competency.

932 See Chapter 2, section 2.3, for information about the five views on law, including positivist law and *responsive* law.

933 See Chapter 2, section 3, for information about fear for empathy in legal practice.

this end, well-developed *self-other differentiation* is essential, which is a higher-level component of empathy.<sup>934</sup>

### 3. IS EMPATHY EDUCATION ALREADY PART OF LAW CURRICULUMS?

Empathy has recently been suggested as a learning goal in the latest competency models for modern law curriculums, resulting in the most recent *Foundational Competencies Model*. Besides traditional legal knowledge and skills and business skills, this model contains a third pillar, in which competencies are included like client-centeredness and understanding of clients' context, as well as communication skills adapted to clients, creativity in problem-solving and the professional judgment to use all those skills in the right way and appropriate situation. Empathy can be considered to be at the core of this third pillar. To date, however, empathy education has not been implemented as a learning goal in law curriculums. There is a lack of empirical research on this subject. Moreover, no research has been done about two existing legal educational methods which are suggested to have an effect on empathy: Clinical Legal Education (CLE) and Law and Literature. Time and budget constraints and overfull curriculums are suggested to be problematic, for the implementation of these methods in the curriculum as well as for research about their possible effectiveness to enhance empathy.

### 4. EMPATHY: COMPONENTS AND TRAINING METHODS

From the literature research I conducted, I have learned that empathy is a multi-faceted concept which, over the years, has been defined in different ways. Based on an analysis of six of the latest definitions, including IJzermans' definition for the legal context, I concluded that empathy consists of four components: the ability to understand through imagination the emotional state of another person, to be aware of one's own feelings because of that state, and to share affects and/or adopting views of that state, with self-other differentiation, i.e., awareness of the distinction between the other person and the self.<sup>935</sup>

Empathy increases with familiarity and similarity with another person's situation, which makes self-other differentiation for law professionals especially important. Law professionals need to realize the actual difference between their emotions and those of litigants, to prevent sympathy and prosocial behavior. Besides age, the most important factor for developing empathy turns out to be experience: the more and the more diverse the better, through both *actual* experiences, i.e., one's own experiences in life, and those of others: *potential* experiences and *by proxy* experiences.<sup>936</sup>

934 See also section 1.3 of Chapter 10.

935 See Chapter 1, section 2.3, for information about empathy and its mechanisms.

936 See Chapter 1, section 2.4, for information about methods to develop empathy.

In medical curriculums, several training approaches to develop empathy have been used since the 1970s. They include contact with the arts like literature, film and the visual arts.<sup>937</sup> Empathy might be fostered through the use of imagination and memory (and vice versa). On the subject of developing empathy in law students, I only found anecdotal reports or theories about Clinical Legal Education (CLE), role play and Law and Literature and poetry activities in the literature since 1983. As guidelines for legal empathy education, I adopted the activities as theorized by Gascon-Cuenca et al. to promote empathy in law students, and the principles of fostering empathy in clinical legal education defined by Samra and Jones, as well as the pedagogical principles of teaching law formulated by Tsaoussi.<sup>938</sup>

## 5. VTS' COMPONENTS AND THEORETICAL UNDERPINNING

In this study, I suggest Visual Thinking Strategies (VTS) as a method to enhance empathy in law students. The method is already being used worldwide, mostly in health education, for its positive effects on communication and observation skills of students in medical professions, like nurses, physicians and pharmacists. The development of empathy is reported as a side effect. In Chapter 4, I identified the three main components of VTS: a facilitator, participants/peers, and artworks, and their characteristics and tasks. I also elaborated on the design of VTS, through a description of several educational and psychological theories which founder Abigail Housen used when designing the method. As I concluded from this literature research, the VTS method can be considered *good*, *true* and *progressive* education, as theorized by scholars like Piaget, Chomsky, and Dewey, respectively. Furthermore, in VTS methodology, Vygotsky's *Zone of Proximal Development* is important, offered by a VTS facilitator to the participants through the choice of an appropriate work of art, and by more knowledgeable other participants.<sup>939</sup>

Furthermore, I conducted extensive literature research to find all empirical studies to date about VTS in mainstream educational settings. I found ample evidence that, besides aesthetic understanding, VTS develops observational skills (visual literacy) and critical thinking including reasoning. Moreover, six other effects of VTS were mentioned in the literature as well: communication skills, a positive class climate, imagination and creativity, self-awareness and self-esteem, (inter)cultural competence, and openness to other perspectives/ambiguity and empathy.<sup>940</sup>

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937 Ibidem. The other training approaches found in the literature about empathy training in medical education are: early clinical exposure, a workshop about diversity, role play in which students play a patient's role, contact with role models, training of skills associated with empathic ability/communication and narrative skills, training in emotion regulation and stress management, and mindfulness meditation. See Chapter 4, section 2.3, for a comparison of VTS with those eight training methods.

938 See Chapter 3, section 2, about principles and activities suggested to be effective in law curriculums for developing empathy, and sections 3-5 about CLE, Law and Literature and experiments with role play and poetry in legal education.

939 See Chapter 4, sections 3 and 4 for key elements and components of VTS, and section 5 for an overview of the grounding theories. A *Zone of Proximal Development* (ZPD) is the gap between the knowledge and skills students already have and the potential knowledge and skills that are within their reach.

940 See Chapter 4 section 6-9, for an overview and review of the empirical research about VTS in mainstream education to date. These effects are important in the development of empathy, see also Chapter 2 about empathy.

## 6. THEORETICAL MODEL ABOUT VTS' EFFECT ON EMPATHY AND NECESSARY (PRE)CONDITIONS

Based on the literature research about empathy and VTS described in Chapters 2 and 4, respectively, I designed a model which shows my theory about the way in which VTS' components and mechanisms underlying VTS might promote the development of empathy. From the findings in the literature, I concluded that VTS aligns with all eight empathy training methods that are mentioned in the literature and analyzed that VTS helps train five sorts of skills: observation, critical thinking, communication/language, perspective-taking and active listening, the latter including a non-judgmental stance and emotion regulation. These skills are reported to be important in the development of empathy's four components: cognitive understanding, feeling one's own affects, sharing those of others, and self-other differentiation. In the process, the facilitator's task of paraphrasing including a non-judgmental stance seems to be especially important for law students. The facilitator is a role model in active listening and in providing a safe space in class, which is important for students to be able to develop empathy.<sup>941</sup>

## 7. FIELD RESEARCH: EFFECT OF A VTS SESSION ON LAW STUDENTS' EMPATHY

As part of my study, I conducted three experiments with VTS in first- and third-year Bachelor of Law curriculums. In 2023, a total of 722 Bachelor of Law students in three courses participated in VTS conversations. Data analysis showed that mean empathy scores on the total scale decreased in the two experiments with first-year students, both in the experimental VTS and control sessions which contained regular legal content. In the third experiment with third-year students, I changed the educational design and found neither a decrease nor an increase. The data suggest the importance of giving the students adequate information about the reasons for introducing VTS in the course and the curriculum. The data showed a positive and statistically significant correlation between interest in the classes with mean empathy scores. I hypothesized that a possible lack of interest in the classes might have had a negative impact on empathy scores. Another hypothesis was the possible negative impact of stress because of the VTS classes, for which I built on findings of the qualitative part of my study. In this part, besides positive learning outcomes like critical thinking and perspective taking, students expressed that VTS sometimes caused feelings of incompetence and confusion. Preventing expectancy violations and unhappy learning by providing the participants with more information about the possible benefits of VTS for law students might diminish stress. This might have a positive effect on empathy scores. The quantitative data of the third experiment seemed to validate this hypothesis. In this course, VTS was more embedded through biweekly short sessions of one VTS conversation. Students were also asked to join online VTS discussions and to reflect on their experience with VTS. Findings suggest an increase of mean empathy scores on the affective scales, especially of male students, even more strongly so than with female students. This is the more remarkable because this study's

941 See Chapter 5 about the designing of the theoretical model about the mechanisms in VTS which appear to develop empathy, as well as information about the importance of active listening for law.

quantitative data also confirm the correlation between empathy and gender found in the literature to date: women tend to be more empathic than men.<sup>942</sup> Further research is recommended to investigate the personal circumstances and characteristics which might influence students' empathy levels in law school, like gender, autism and cultural differences.<sup>943</sup>

## 8. CONCLUSION

I conclude that empathy is important for legal practice but at the same time, to date, law schools have not implemented empathy as a learning goal in curriculums. Methodologies like CLE and Law and Literature are suggested to contain empathy training, but no empirical research is available to shed light on this possible positive effect of these two methodologies in legal education. Moreover, these methodologies face time and budget constraints when used with large groups of students like in law school. The experiments in my study show that VTS does not face such constraints when implemented in a regular law course. With the help of VTS, five types of skills can be practiced which appear to develop empathy as well as other academic skills of interest to law students, including narrative intelligence and visual literacy. Furthermore, I analyzed VTS as a way to implement the CARE methodology for teachers in classes as suggested by Tsaoussi, and theorized how VTS aligns with the principles of empathy education for law as formulated by Samra and Jones, and with the activities as suggested by Gascon-Cuenca et al.<sup>944</sup>

Lastly, I identified some limitations of the field research of this study and provided recommendations for further research, aiming to elaborate this study's findings and to determine preconditions for a successful implementation of VTS in the law curriculum.<sup>945</sup>

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942 See Chapters 6 for the two experiments with first-year law students, and Chapter 7, for the experiment with third-year students.

943 See Chapter 9 for an overview of the recommendations for future research.

944 See Chapter 8, section 3, for an elaboration of how VTS aligns with the principles of Tsaoussi and Samra & Jones, and the activities suggested by Gascon-Cuenca et al.

945 See Chapter 9 for an overview of the limitations and recommendations.







# SUMMARIES

## SCIENTIFIC SUMMARY

### INTRODUCTION

Motivated by the call for ‘the human dimension’ in law and citizen-centeredness in justice in the Netherlands in the wake of the Dutch Childcare Benefits Scandal,<sup>946</sup> I investigated how the method of Visual Thinking Strategies (VTS) could influence academic law students’ empathy. In the literature to date, I not only found sufficient underpinning for empathy to be added as a learning objective to law curriculums,<sup>947</sup> but for theorizing that law students’ empathy could be developed through VTS as well. To test the theoretical model I designed, I conducted a combination of qualitative and quantitative empirical study. Although the quantitative data analyses of the Basic Empathy Scale (BES) questionnaires did not show statistically significant proof that VTS could enhance empathy, other findings of this study do show that VTS promotes the development of several skills which are considered essential for well-developed empathy. They offer starting points for future research.

### OBJECTIVE AND THEORETICAL FRAMEWORK

Through a review of the literature, I investigated empathy’s role for lawyers in legal practice and the way empathy training might already be part of the legal curriculum. Empathy turns out not only to have been mentioned as essential for legal practice since ancient times<sup>948</sup> but is at the same time feared by many law professionals. I distinguished three elements in the fear for empathy:

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946 A political scandal concerning unfair allegations of fraud made by the Dutch Tax and Customs Administration (TCA) between 2005 and 2019 came to light in 2019-2020. Tens of thousands of Dutch citizens suffered severe hardship when they had to pay back all of the childcare allowance they had received even when minor administrative mistakes had been made (Van Dam & Freriks 2020; Herstel.toeslagen.nl 2024; Nationale Ombudsman 2017; Henley 2021).

947 Already in 1983, Barkai and Fine designed empathy training for law students, pointing to medical teaching practices as an inspiring example for empathy training also for law schools. The authors advocated lessons in *active listening* to law students. Twenty years later, in 2002, Rosenberg described another program, called *Interpersonal Dynamics for Lawyers*, a skills class on empathy as a motivator of moral behavior. Around the same time and based on a review of the literature to date at that time, Gerdy argued for lawyers to develop the capacity to empathize with others to increase their effectiveness and improve their relationship with clients (2008-2009). In 2018, Gascon-Cuenca et al. theorized on how to promote empathy in law students. Like Rosenberg, they advocated a safe space for learning, a learning environment in which students feel free to explore their own emotions and share their thoughts. In 2019, Samra and Jones defined five other principles for fostering empathy in clinical teaching and learning environments for both medical and law students including seeing empathy as a multifaceted concept and as an integral part of professionalism, contextualizing empathy with ethical and moral dimension and including attention to self-awareness, acknowledging the relationship between empathy and gender and including specific empathy training in clinical teaching. In the Netherlands, in 2017, Van Klink, De Vries and Bleeker advocated adding empathy to the academic law curriculum, and to study law in a broad, social, moral and theoretical context. In 2020, Tsaoussi advocated paying more attention to soft skills in legal education and proposed a set of pedagogical principles: *compassionate, attentive, reason-based* and *empathetic* teaching (2020:8-28). The aim was to encourage law teachers to provide a more inclusive learning environment for their students and to become more *responsive* teachers, in order to improve students’ and teachers’ experience in legal education (Tsaoussi 2020:7).

948 Already in 340 BC, the Greek philosopher Aristotle described and analyzed rhetoric, the skill of speech in public with the aim of convincing an audience. He emphasized that an orator must be empathic, be able to put himself in the shoes of the people he wants to convince, to evoke the right feelings in the audience. Aristotle called this empathic ability *pathos* (Barnes 1992; Ross & Smith 1908; Broekers-Knol & Van Klink 2000-2008; IJzermans 2011).

fear for emotions, as if emotions should not be taken into account in legal practice,<sup>949</sup> fear for *Style over Substance*, i.e., the fear that an audience or a judge will be misguided by empathy,<sup>950</sup> and, lastly, mistakenly confusing empathy with sympathy.<sup>951</sup> In legal practice, sympathy is indeed a feeling legal professionals should be aware of and avoid. To this end, well-developed *self-other differentiation* is essential, i.e., an awareness of the distinction between the other person and the self.<sup>952</sup> This is a higher-level component of empathy<sup>953</sup> and one of the four components of empathy I distinguished through an analysis of six of the latest definitions, including IJzermans' definition for the legal context. The other three components are the ability to understand through imagination the emotional state of another person, to be aware of one's own feelings because of that state, and to share affects and/or adopting views about that state.<sup>954</sup>

The fear for empathy has resulted in law curriculums concentrating on *positivist* law<sup>955</sup> with a focus solely on legal technical skills, rather than on *responsive* law, i.e. client- and citizen-centered law practice in which their context is explicitly taken into account.<sup>956</sup> However, the rise of interdisciplinarity and ethical dilemmas in legal practice have caused legal competencies to be extended with several soft skills like client-centeredness and an understanding of clients' contexts, as described in the most recent model of legal competencies: the *Foundational Competencies Model* of Hamilton & Bilionis<sup>957</sup> (see Figure 1 below).

949 IJzermans 2011:197-198

950 IJzermans 2011:200; Huys 2004:1354b:9-12; Garver 1994:137

951 Empathy can easily be distinguished from sympathy and compassion since these concepts are other-related and involve a feeling for the other person besides empathic affect sharing (Lamm et al. 2019:52). As already suggested by Aristotle, strong sympathetic feelings for a client or litigant might cause lawyers to almost identify themselves with their client and/or take over their emotions, blurring the line between lawyer and friend, or because of heroism, wanting to rescue them and to act to alleviate suffering. This could lead to the risk of being manipulated and to bias (Wheeler 2016:31), because it is normal biological behavior to favor friends and family over strangers (Bloom 2016: 69, 87, 93, 95). This might not only be problematic to justice (Strauss et al. 2016:15) but, in caring so much, some lawyers might also even risk suffering a burn-out (Smith 2003:1207-1208).

952 People who show a well-differentiated sense of self are characterized by the capability to maintain an independent judgment adhering to personal conviction, also when pressured by others. Poorly differentiated people tend to be more vulnerable to evaluation by others and to over-rely on them for criteria of self-worth (Ingoglia et al. 2018:40).

953 A transfer of emotions provides a built-in reward to helping but also carries the risk of blurring the line between the self and the other. This undermines the distinction between selfish and altruistic motives (De Waal & Preston 2017:502). Well-developed self-other differentiation is also called "adequate self-other distinction" for which self-concept clarity (SCC) is needed, i.e., the extent to which the self is clearly defined, coherent, and temporally stable (Krol and Bartz 2021:1).

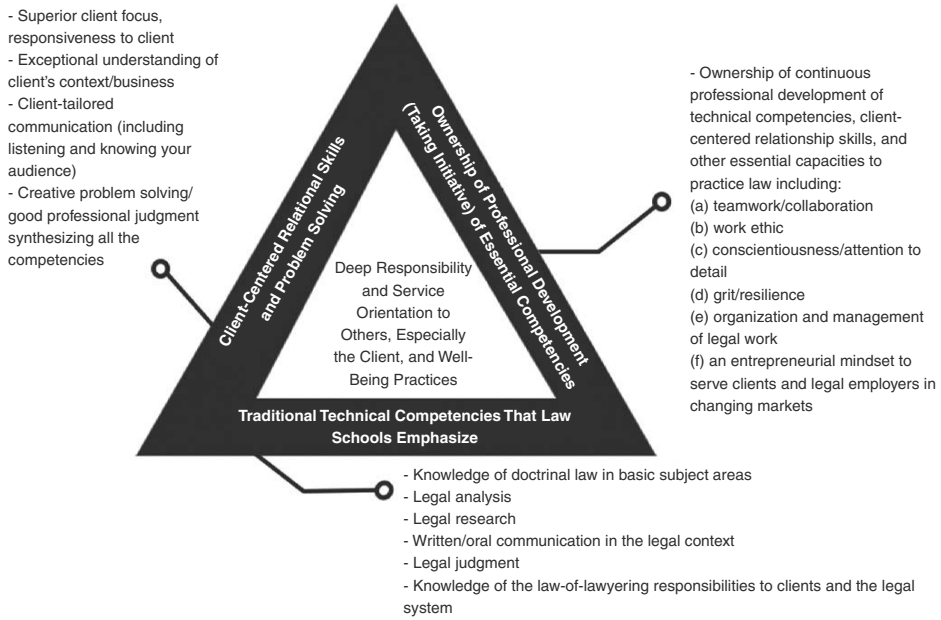
954 For this synthesis, I analyzed the definitions of Bloom (2016:16, analysis of 43 definitions:144), Cuff et al. (2016:150), De Waal & Preston (2017:507), Eklund & Meranius (2021:300), Lamm et al. (2019:50) and IJzermans 2018:196.

955 *Legal Positivism* is the view on law, which interprets law as a system of laws and regulations that were formulated by authorities assigned to formal legislation and jurisdiction. The aim of *Legal Positivism* is to diminish the problem of openness and contradicting legal principles to which *Natural law* could be prone, and to maximize legal certainty. The positivist theoretical legal system is logical in an abstract sense and cleansed of feelings and emotions (and principles or norms) to provide complete theoretical clarity (Hoffman 2011:230, Henderson 1987:1575).

956 Recently, in the Netherlands, Barendrecht (an expert in and innovator of conflict resolution systems) has defined *responsive law* as the law which consists of doing as much as possible to deploy interventions that promote procedural justice and increase the likelihood of fair outcomes. Barendrecht makes law professionals responsible for citizens' 'justice experience'. Through creative interventions, active listening and mediating, these law professionals have to solve conflicts together with the people involved (Barendrecht 2024:24).

957 Hamilton & Bilionis 2022

■ **Figure 1** - Foundational Competencies Model – Hamilton & Bilonis, 2022



These traditional competencies reflect ABA Accreditation Standard 302(a)–(c)

In the model, several soft skills have been suggested as a third pillar in legal curriculums, besides traditional legal knowledge and skills, and business skills. Empathy can be considered to be at the core of the model and its third educational pillar, being their very base. To date, however, empathy education for law students has only been theorized and piloted, but not been implemented as a learning objective in law curriculums.<sup>958</sup>

Besides age, the most important factor for developing empathy turns out to be experience: the more and the more diverse the better. Those experiences can be obtained through both *actual* experiences (i.e., one’s own experiences in life), *potential* experiences (i.e. the same experiences but lived by others and, as such, observed and experienced from a different perspective<sup>959</sup>) and *by proxy* experiences (i.e., experiences of others, narrated in such a way that one can relate to this experience<sup>960</sup>).

958 For details on the literature, see footnote 949.

959 According to philosopher Duyndam, one’s experiences in real life can be called actual experiences. They consist of an internal perception and an external visible aspect, which can be shared with others through language. Other people complete our actual experience of the present through adding potential experiences. This is done by empathizing (2024:27). Actual and potential experiences together give meaning to a situation. This confirms the feeling of ‘self’ (Duyndam 2024:40).

960 The mechanism of taking over affective processes of another person is a normal human skill and happens over a lifetime (Engelen 2011:2; De Waal & Preston 2017: 499, 502). One can add experiences to one’s own repertoire without having undergone that experience. Such an experience could be called *by proxy* for it is analogous to how this term is used in the English language: a proxy is a person who you choose to do something officially for you, for example to vote at a meeting or in an election when you are not able to vote yourself (<https://dictionary.cambridge.org/nl/woordenboek/engels/proxy>; Floridi 2015:489). You don’t have to live through an experience yourself but it is, or has been, lived through by someone else and you become part of their experience. *By proxy* is the general biological fact that cooperation and human relationship provide mutual ‘exploitation’ (Meerlo 1953).

In medical curriculums, several training approaches to develop empathy have been used since the 1970s. They include contact with the arts, i.e., literature, film and the visual arts.<sup>961</sup> For law, Gascon-Cuenca et al. suggested several activities to promote empathy in law students including contact with the arts. Moreover, several principles of fostering empathy were defined by Samra and Jones for clinical legal education, as well as for teaching law formulated by Tsaoussi.<sup>962</sup> In my study, I considered those activities and principles to be guidelines in the search for a method of empathy training for law professionals.

Through literature research, I found that the method of Visual Thinking Strategies (VTS) includes most of the activities and principles proposed and, thus, fits these guidelines. VTS' consists of a conversation about art by participants structured by a teacher who does not teach, but only facilitates the conversation.<sup>963</sup> I conducted a review of the empirical studies to date about VTS in mainstream educational settings. In total, I identified nine effects of VTS. Besides aesthetic development<sup>964</sup> and the fostering of a positive class climate,<sup>965</sup> VTS develops observation (to the extent of visual literacy)<sup>966</sup> and critical thinking skills including reasoning.<sup>967</sup> It also promotes communication skills,<sup>968</sup> imagination and creativity,<sup>969</sup> self-awareness and self-esteem,<sup>970</sup> (inter) cultural competence,<sup>971</sup> openness to other perspectives and ambiguity, and empathy.<sup>972</sup>

Based on the literature review of both VTS and empathy, I theorized about the way in which VTS' components and the mechanisms underlying VTS could possibly promote the development of

961 Ziólkowska-Rudowicz & Kladna 2010, summ. part i; Hojat 2009. In their review of thirteen studies in 2006, Stepien & Baernstein found the greatest quantitative impact on participants reported in studies that used communication skills workshops (2006:524). The other training approaches found in the literature about empathy training in medical education are early clinical exposure and contact with role models (Ahmadzadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Ziólkowska-Rudowicz & Kladna 2010, summ. parts i-iv; Hojat 2009), a workshop about diversity (Levett-Jones et al. 2019:1), role play in which students play a patient's role (Levett-Jones et al. 2019:8), training of skills associated with empathic ability/communication and narrative skills (Ahmadzadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Hojat 2009), training in emotion regulation and stress management (Womer et al. 2014:4; Ziólkowska-Rudowicz & Kladna 2010, summ. parts i-iv; Hojat 2009), and mindfulness meditation (Luberto et al. 2018:715).

962 See footnote 949.

963 A detailed overview of the method is described by Yenawine 2013, 2018 and Hailey, Miller & Yenawine 2015.

964 Housen in Bresler & Ellis 2000-2001:5

965 As reported by Aspden et al. 2020 in their review and Moorman 2013. Furthermore, VTS provides possibilities for collaboration (Mitzova-Vladinov & Torrents 2020; Nanavaty 2018), communication (Nanavaty 2018), and interpersonal relations with other students and colleagues (Hensel & Moorman 2017; Moorman et al. 2017). Participants of VTS sessions validate the use of VTS as an enjoyable learning experience (Poirier et al. 2020; Visscher et al. 2019).

966 Hailey, Miller & Yenawine 2015. Besides enhancement of observational skills in general (reported by Campbell et al. 2021; Mani 2019; Mani et al. 2021; Brackley & Petersen 2018; Nanavaty 2018; Nease & Haney 2018; Moorman et al. 2017) perceiving more nuance and detail is also reported (Zapata et al. 2017; Moorman 2013), as well as an increased number of observations (Agarwal et al. 2020; Poirier et al. 2020; Klugman et al. 2011; Nease & Haney 2018).

967 DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002, Housen 2001; Aspden et al. 2022; Campbell et al. 2021, Mani 2019; Brackley & Petersen 2018; Rautiainen & Jäppinen 2017; Baker 2015; DeSantis 2009; Vancil 2008. A growth in depth and quality of reflections could be observed through VTS (Poirier et al. 2020).

968 Klugman et al. 2011; Allison et al. 2017; Mitzova-Vladinov & Torrents 2020 ; Rautiainen & Jäppinen 2017; Baker 2015; Lye et al. 2017; Vancil 2009

969 Campbell et al. 2017; Lye et al. 2017; Sinquefield-Kangas 2019

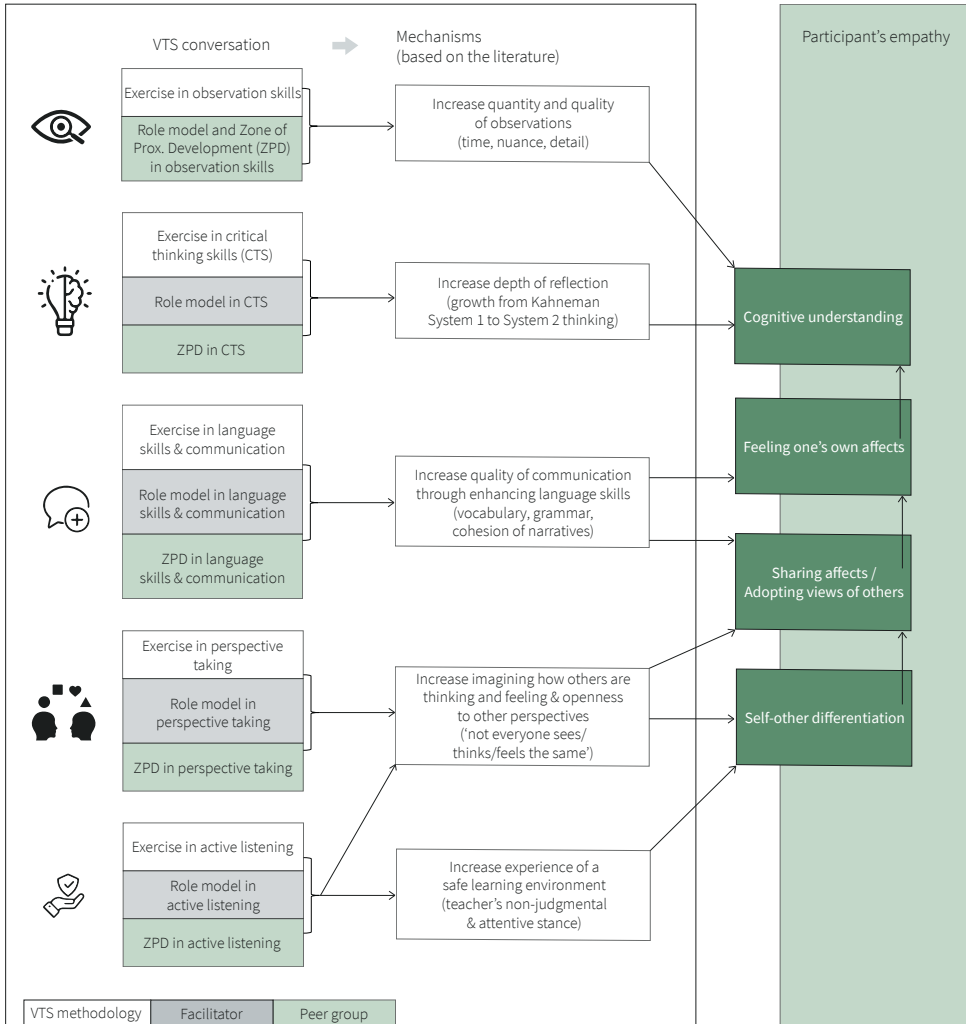
970 Baker 2015; Keogh & Gibbon 2020; Mitzova-Vladinov & Torrents 2020

971 Aspden et al. 2022; Deunk et al. 2020 ; Campbell et al. 2017&2021; Balhara & Irvin 2021; Chapman & Hall 2014 & 2016

972 Bentwich & Gilbey 2017; Klugman et al. 2011; Sinquefield-Kangas 2019; Aspden et al. 2022; Balhara & Irvin 2021 ; Campbell et al. 2021; Nanavaty 2018; Chapman & Hall 2014&2016; Kruse & Kinde 2019

empathy in academic legal education. From this theory, I designed a theoretical model. It is depicted in Figure 2 below.

■ **Figure 2** – Theoretical model VTS’ effect on empathy



Through a conceptual analysis of the methodology and the effects of VTS, I distinguished five skills that are trained by the VTS methodology: observation, critical thinking, communication/language, perspective-taking and active listening, the latter including a non-judgmental stance and emotion regulation. These skills are reported to be important in the development of empathy's four components: cognitive understanding, feeling one's own affects, sharing those of others, and self-other differentiation. In the process, the facilitator's task of paraphrasing including a



non-judgmental stance seems to be especially important for law students. The facilitator can be considered a role model in active listening and in providing a safe space. This is important for students to be able to develop empathy for legal practice.

## METHOD

To test the theoretical model, I conducted a VTS experiment with first- and third-year Bachelor of Law students at Tilburg University Law School in three courses in 2023 and evaluated its effect on students' empathy. Three experiments with VTS were conducted, two in first-year courses and one in a third-year course of the Bachelor of Law curriculum at Tilburg University. A total of 620 first-year and 102 third-year Bachelor of Law students participated in VTS conversations. To maximize the number of participants, the two experiments with first-year students were designed as within-group research. As such, students in these experiments participated in both the experimental and the control group. The experiment took place in February-March and September-November 2023. The third experiment, with third-year students, was designed as experimental research in September-November 2023. Training in VTS was added to the courses, which were series of seminars with regular legal content, in two ways. For the first-year students, classes in VTS were offered in one seminar dedicated to VTS, and a control seminar with regular legal content. For the third year students, classes in VTS were offered as a part of the seminars with regular legal content, scheduled every other week of the course. Third-year students were also asked to contribute three times to the online VTS conversations on the website of the New York Times. Quantitative data were collected through a pre- and posttest questionnaire, consisting of a validated Dutch translation of the Basic Empathy Scale<sup>973</sup> in Qualtrics. To both pre- and posttest questionnaires, some qualitative questions were added to gain more insight into students' evaluation of VTS. Furthermore, a small group of first-year students participated in a non-structured interview about their VTS experience. The reflections which third-year students were asked to write about their VTS experience were also subject to a qualitative data analysis.

## RESULTS

The quantitative analysis of the data of the first and second experiment, both with first-year students, showed that, in contrast to the hypotheses in the theoretical model, the results did not show enhancement on empathy scores in the VTS seminars, nor in the control seminars. In the VTS seminars of the first experiment, even a statistically significant decrease was found on the *cognitive* empathy scale (controlled for age and gender,  $b = -0.083$ ,  $p = 0.031$ ). The data analysis suggested, however, that other unmeasured factors may also have been influential. I hypothesized that the decreases found were caused by high stress levels, which reportedly correlate negatively with empathy, based on the literature to date about this correlation.<sup>974</sup> I theorized that stress levels might have been high among first-year students because they may

973 Van Langen et al. 2012 & 2014

974 For the latest review on the subject of stress having a negative impact on empathy, especially affective empathy, see Nitschke & Bartz (2023).

feel anxious about starting law school. Moreover, in the qualitative part of the experiments with first-year students, the students themselves mentioned experiencing a lack of information about VTS and the study, which may also have impacted the results. However, part of the study approach was that I did not provide much information about VTS and the study beforehand, aiming to prevent the findings from being influenced by such information. This approach may have backfired, may have caused stress to students because of a lack of information. This might have impacted the results. Furthermore, in the qualitative study, a small percentage of first-year students expressed their uncertainty about VTS as a method for legal practice, as well as a lack of interest in the research and classes in general. This may have negatively impacted the empathy scores as well. This hypothesis seemed to be validated by the statistically significant positive correlation that was found between first-year students' interest and their mean empathy scores in the first experiment<sup>975</sup> and a negative correlation between students' boredom and their mean empathy scores in the second experiment. As possible sources of the negative feelings of students with respect to VTS, I also identified *expectancy violations* (i.e., the expectations students may have had of legal curriculums and social norms in class<sup>976</sup>), as the method differed from regular legal education because of its *progressive education* design (i.e. educational theory in which continuity of experience and interaction are considered key to learning<sup>977</sup>), and *unhappy learning* (i.e., the theory that crisis experiences can induce learning). However, *unhappy learning* can also be welcomed as useful and transformative.<sup>978</sup>

Another finding was that students of all three experiments thought that they would develop several skills through VTS. According to the students, VTS would foster *observational skills, critical thinking/arguing a case, imagination, creativity*, as well as an *understanding of art*. Such thoughts

975 In the first experiment, a significant positive correlation was found of the interesting item and cognitive empathy scale scores ( $r = .20, p < .001$ ), and of the educational item and empathy score on the total scale ( $r = .19, p < .001$ ) and on the affective scale ( $r = .16, p = .01$ ). In the control sessions of IR, a negative correlation was found between the boring item and total and affective empathy scores ( $r = -0.13, p = 0.03, r = -0.16, p = 0.01$ , respectively).

976 Burgoon 1978: The *Expectancy Violations Theory* was proposed by Burgoon in the late 1970s. The theory is about communication and the way individuals respond to unanticipated violations of social norms and expectations. Such violations cause agitation and urge the recipient to react: in a positive way when the exchange in communication was perceived positively, enhancing the attraction of the violator and, in a negative way, when the exchange was perceived negatively, decreasing the attraction of the violator.

977 Social constructivist Dewey posited that learning is a social activity and opposed the idea of learning being "acquisition of what already is incorporated in books and in the heads of the elders, taught as a finished product", assuming that would make the future like the past (Dewey 1938:19). Dewey opposed *traditional* education against *progressive* education, in which personal experiences in the present are considered as important as the knowledge and skills of adults or more matured persons (p. 21). As an important principle of *progressive* education, Dewey promotes continuity of experience, because of the way it forms habits and attitudes (p. 35), and interaction (p. 43). Judgment of experiences puts together what is observed and what is recalled from a person's own experiences and those of others, to see what they signify, being "the consequences that will result when what is seen is acted upon" (p. 68). Dewey stressed that, in the process of interpretation and judgment, a suggestion from one who has a larger experience should not be considered more valid as a suggestion "arising from some more or less accidental source" (p. 71).

978 Crisis experiences induce the need to acquire new knowledge and skills in order to adequately respond to a crisis and to prevent it from happening again. "Knowledge hurts", explained science philosopher Josette Jacobs of Wageningen University (2019): you become aware of your own lack of knowledge or inability and sometimes have to let go of beliefs. Kok introduced the concept of *Unhappy Learning*, i.e. the feeling of uncertainty that makes one feel uneasy. It is necessary for learning because it stimulates the wish to change the self and/or circumstances to avoid such unease in the future (Kok 2023).

even correlated positively with empathy scores.<sup>979</sup> The skills students mentioned matched four out of five skills mentioned in the theoretical model about the relation between VTS and empathy: *observation, critical thinking, communication, perspective taking*. The fifth skill, *active listening*, was also noticed by the students. They mentioned the importance of facilitators' non-judgmental stance and paraphrasing for the safe space it provided for exchanging perspectives.

In the third experiment, third-year students reported that they thought they had become more open to ambiguity and other perspectives through VTS, confirming the findings in several other studies about VTS to date.<sup>980</sup> Both competencies are considered essential for a well-developed *self-other differentiation*, the component of empathy which is considered essential for law practice.<sup>981</sup> In their reflections, the third-year students expressed that they experienced novelty, difficulty, anxiety and reluctance when they were asked to share their thoughts during VTS conversations and in writing their reflections afterwards. At the same time, students also shared that they thought sharing views about an image, in class as well as online, was interesting. Third-year students also noted that, during a VTS conversation, classmates would build on each other's thoughts (even to the extent of bias). This finding might relate to Duynham's theory of *potential* experiences in which the sharing of experiences in a situation adds details or other perspectives to the situation. Students could also have had experiences *by proxy*, i.e., learnt stories shared by classmates about experiences in life, through which those students learned about situations that were new to them. Moreover, third-year students often describe their experience in class that, to their surprise, different perspectives can coexist, and that all responses matter when collectively making sense of a picture or object of art. They perceived that slow looking and reflecting are important to gaining insights and to opening up to other perspectives. In this respect, students emphasized the importance of the *safe space* the facilitator provided.

Results of my study confirmed the correlation of empathy with gender found in the literature to date<sup>982</sup> in all three experiments: female students have higher total empathy scores than male students. However, in the experiment with third-year students, male students showed a notable increase in mean empathy scores on the *affective* scale. I hypothesized that this might be because of 'stimulating backlog' (i.e., the fact that experiencing backlog might trigger extra steps in

979 A statistically significant correlation with empathy scores was found with students' thoughts that VTS would foster observation, critical thinking and arguing a case, perspective taking, imagination, and creativity, as well as developing an understanding of art.

980 See for example the findings of Bentwich & Gilbey 2017; Kruse & Kinde 2019

981 *Self-other differentiation* is built on self-awareness and self-insight, knowing the boundaries between the self and the other. This prevents blurring of the line between a professional's own feelings and those of the client, and/or between a lawyer and a friend, which could lead to sympathy and thus to bias or the risk of being manipulated (Wheeler 2016:31).

982 There is ample evidence in the literature to date that gender has an effect on empathy. Women turn out to have higher empathy scores than men. See Christov-Moore et al. 2014; Rochat 2022; Löffler & Greitemeyer 2023.

development),<sup>983</sup> which has also been reported in other studies about VTS.<sup>984</sup> Another hypothesis is that it is a result caused by the change in educational design between the experiments with first-year and third-year students.

## CONCLUSION

Whereas empathy can be considered important for legal practice, to date, it has not been implemented as a learning objective in law curriculums. In this study, I theorized how VTS offers exercise in five skills which could possibly influence all four components of empathy. Although this theory could not be confirmed by the quantitative data, in the qualitative research, students acknowledged that VTS might foster such skills. Moreover, students also expressed their becoming more open to other perspectives through VTS. Statistically significant correlations were found between empathy and gender, and empathy and interest in the classes. However, although students already seem to value facilitators' providing a safe space for exchanging thoughts, students might need more guidance and support to make sense of the *unhappy learning* they also seem to have encountered during their VTS experience. More research is needed to see what preconditions could help students cope with such *unhappy learning*. Future research is also recommended to investigate the correlations of empathy with differences in gender found in the data as well as with other personal characteristics of students. It is also recommended to investigate other possible added value that VTS could bring to law curriculums, such as fostering *narrative intelligence*<sup>985</sup> and *visual literacy*.

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983 As theorized by Van der Hoeven 1980.

984 Students with dyslexia made relatively more progress in language skills than students who did not have the disability: DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002, Housen 2001. Moreover, in her study with 16-year old students, Bachmann found a positive effect on the participation of "low-performing" and "high-performing" students (2022&2023).

985 The way in which the facts of a case are narrated largely determines the outcome of a case. Language and communication skills, therefore, are important. As found in this study, VTS offers exercise in those skills.

## WETENSCHAPPELIJKE SAMENVATTING

Aanleiding voor mijn onderzoek was de roep in Nederland in de nasleep van het Kinderopvangtoeslagenschandaal<sup>986</sup> om ‘de menselijke maat,’ aandacht voor de burger in de juridische praktijk. Ik heb onderzocht hoe de methode Visual Thinking Strategies (VTS) mogelijk empathie van academische rechtenstudenten zou kunnen beïnvloeden. In de literatuur vond ik niet alleen voldoende onderbouwing voor het toevoegen van empathie als leerdoel aan juridische curricula,<sup>987</sup> maar ook voor de theorie dat empathie van rechtenstudenten ook door VTS ontwikkeld zou kunnen worden. Door middel van een combinatie van kwalitatief en kwantitatief empirisch onderzoek heb ik het theoretisch model dat ik maakte getest. Voor het meten van empathie heb ik de Basic Empathy Scale (BES) vragenlijst gebruikt. De kwantitatieve data bleken echter geen statistisch significant bewijs te leveren dat VTS empathie zou kunnen vergroten. Mijn onderzoek toonde wel aan dat door VTS verschillende vaardigheden kunnen worden geoefend die essentieel zijn voor goed ontwikkelde empathie. Dit biedt aanknopingspunten voor vervolgonderzoek.

## DOELSTELLING EN THEORETISCH KADER VAN DIT ONDERZOEK

Het doel van mijn onderzoek was een voorstel te doen voor een onderwijsmethode voor het trainen van empathie in het juridische onderwijs. Doel daarvan was tegemoet te komen aan de roep om meer empathie in de juridische praktijk

986 In de jaren 2019-2020 kwam in Nederland een politiek schandaal aan het licht over onterechte beschuldigingen van fraude door de Nederlandse Belastingdienst (TCA) tussen 2005 en 2019. Tienduizenden Nederlanders kregen het zwaar te verduren toen ze alle kinderopvangtoeslag die ze hadden ontvangen moesten terugbetalen, zelfs als er kleine administratieve fouten waren gemaakt (Van Dam & Freriks 2020; Herstel.toeslagen.nl 2024; Nationale Ombudsman 2017; Henley 2021).

987 Al in 1983 ontwierpen Barkai en Fine een empathietraining voor rechtenstudenten, waarbij ze naar de medische onderwijspraktijk verwezen als inspirerend voorbeeld voor empathietraining in juridisch onderwijs. De auteurs pleitten voor lessen in actief luisteren voor rechtenstudenten. Twintig jaar later, in 2002, beschreef Rosenberg een ander programma, *Interpersonal Dynamics for Lawyers* genaamd, een vaardigheidstraining over empathie als de motivator van moreel gedrag. Rond dezelfde tijd, op basis van de literatuur tot dan toe, pleitte Gerdy ervoor dat advocaten het vermogen ontwikkelen om zich in te leven in anderen om hun effectiviteit te vergroten en hun relatie met cliënten te verbeteren (2008-2009). In 2018 theoretiseerden Gascon-Cuenca et al. over hoe empathie bij rechtenstudenten zou kunnen worden bevorderd. Net als Rosenberg pleitten zij voor een veilige ruimte om te leren, een leeromgeving waarin studenten zich vrij voelen om hun eigen emoties te verkennen en hun gedachten te delen. In 2019 definieerden Samra en Jones vijf andere principes voor het bevorderen van empathie in klinisch onderwijs en leeromgevingen voor zowel studenten geneeskunde als rechten, waaronder empathie zien als een veelzijdig concept en als integraal onderdeel van professionaliteit, empathie contextualiseren met een ethische en morele dimensie en aandacht voor zelfbewustzijn, de relatie tussen empathie en gender erkennen en specifieke empathietraining opnemen in klinisch onderwijs. In Nederland pleitten Van Klink, De Vries en Bleeker er in 2017 voor empathie toe te voegen aan het academische rechtencurriculum en om het recht te bestuderen in een brede, sociale, morele en theoretische context. In 2020 pleitte Tsaoussi voor meer aandacht voor soft skills in het juridisch onderwijs. Tsaoussi stelde een reeks pedagogische principes voor waaraan de houding van de docent zou moeten voldoen om empathie te vergroten bij rechtenstudenten: meelevend, aandachtig, redenerend en empathisch onderwijs (2020:8-28) en moedigde docenten in de rechten aan om een meer inclusieve leeromgeving te bieden aan hun studenten. Ze moesten responsievere docenten worden, wat de ervaring van zowel studenten als docenten in het juridisch onderwijs zou verbeteren (Tsaoussi 2020:7).

Door middel van literatuuronderzoek heb ik onderzocht welke rol empathie speelt in de rechtspraak voor juristen en ook op welke manier empathietraining mogelijk al onderdeel zou kunnen zijn van het juridische curriculum. Al sinds de oudheid heeft empathie een belangrijke rol in de rechtspraak, zo blijkt.<sup>988</sup> Tegelijkertijd bestaat er bij veel juristen ook juist angst voor empathie. Die angst voor empathie blijkt uit drie componenten te bestaan: angst voor emoties vanuit de veronderstelling dat daarmee in de juridische praktijk geen rekening mag worden gehouden,<sup>989</sup> angst voor *Style over Substance* (Nederlandse vertaling: *Stijl gaat vòòr Inhoud*), wat angst behelst dat het publiek of een rechter zich laat misleiden door empathie,<sup>990</sup> en tenslotte het ten onrechte verwarren van empathie met sympathie.<sup>991</sup> In de juridische praktijk dienen juridische professionals zich inderdaad bewust te zijn van mogelijke gevoelens van sympathie om acties op basis van die sympathie te kunnen vermijden. Hiervoor is een goed ontwikkeld gevoel voor het verschil tussen het zelf en de ander erg belangrijk.<sup>992</sup> Dit verschil is een van de vier componenten van empathie en een aanwijzing dat er sprake is van een hogere mate van vaardigheid in deze competentie.<sup>993</sup> De componenten van empathie heb ik bepaald door analyse van zes van de op dat moment recent geformuleerde definities, waaronder die van IJzermans voor de juridische context.<sup>994</sup> De andere drie componenten van empathie zijn het vermogen om de emotionele toestand van een ander te begrijpen door middel van verbeelding, het zich bewust zijn van de eigen gevoelens vanwege die toestand, en het delen van emoties en gevoelens en/of het overnemen van gedachten over die toestand.

988 Al in 340 voor Christus beschreef en analyseerde de Griekse filosoof Aristoteles de retorica, de vaardigheid om in het openbaar te spreken met als doel een publiek te overtuigen. Hij benadrukte dat een redenaar empathisch zou moeten zijn, in staat moet zijn om zich te verplaatsen in de mensen die hij wil overtuigen om de juiste gevoelens op te roepen bij het publiek. Aristoteles noemde dit *pathos* (Barnes 1992; Ross & Smith 1908; Broekers-Knol & Van Klink 2000-2008; IJzermans 2011).

989 IJzermans 2011:197-198

990 IJzermans 2011:200; Huys 2004:1354b:9-12; Garver 1994:137

991 Empathie kan gemakkelijk worden onderscheiden van sympathie en compassie, omdat deze beide concepten gerelateerd zijn aan de ander en een gevoel voor de ander met zich meebrengen naast het delen van empathisch affect (Lamm et al. 2019:52). Zoals Aristoteles al suggereerde, kunnen sterke sympathieke gevoelens voor een cliënt of rechtzoekende ertoe leiden dat advocaten zich bijna identificeren met hun cliënt en/of hun emoties overnemen, waardoor de grens tussen advocaat en vriend vervaagt, of dat ze de held of redder uit willen hangen en handelen om lijden te verlichten. Dit kan leiden tot het risico om gemanipuleerd te worden en tot vooringenomenheid (Wheeler 2016:31), omdat het normaal biologisch gedrag is om vrienden en familie te bevoorstellen boven vreemden (Bloom 2016: 69, 87, 93, 95). Dit zou niet alleen problematisch kunnen zijn voor de rechtspraak (Strauss et al. 2016:15), maar door zoveel te geven zouden sommige advocaten zelfs het risico kunnen lopen op een burn-out (Smith 2003:1207-1208).

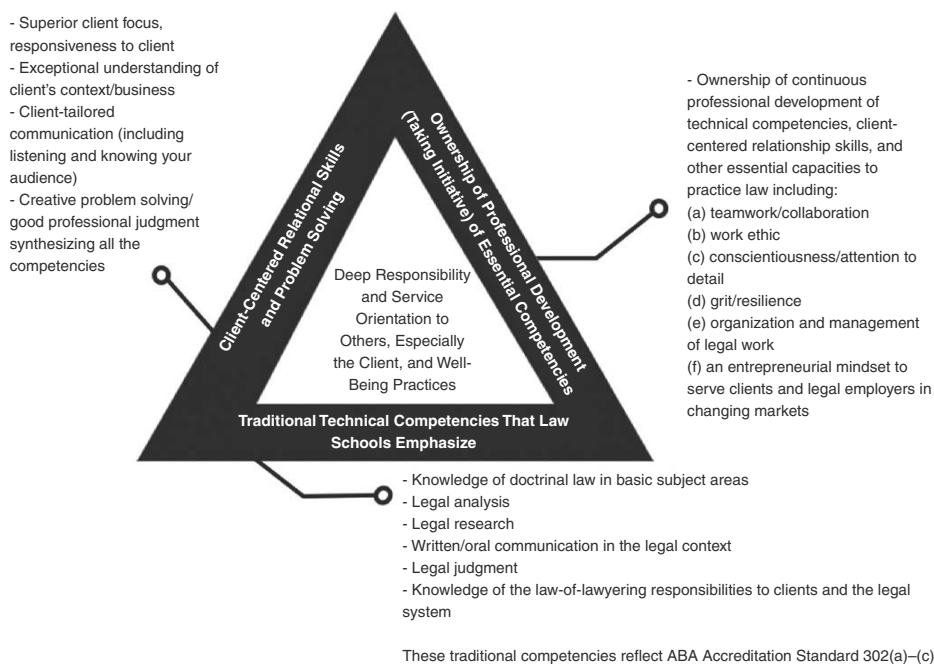
992 Mensen met een goed gedifferentieerd zelfgevoel worden gekenmerkt door het vermogen om vast te houden aan een onafhankelijk oordeel dat raakt aan hun persoonlijke overtuiging, ook wanneer ze onder druk worden gezet door anderen. Mensen die een minder goed gedifferentieerd zelfgevoel hebben, hebben de neiging kwetsbaarder te zijn voor het oordeel van anderen en neigen te veel op hen te vertrouwen voor eigenwaarde (Ingoglia et al. 2018:40).

993 Overdracht van emoties draagt een intrinsieke beloning in zich voor het helpen van anderen, maar brengt ook het risico met zich mee dat de grens tussen het zelf en de ander vervaagt. Dit ondermijnt het onderscheid tussen egoïstische en altruïstische motieven (De Waal & Preston 2017:502). Een goed ontwikkeld verschil tussen het zelf en de ander wordt ook wel "adequate zelf-ander differentiatie" genoemd waarvoor *self-concept clarity* (SCC) nodig is, dat wil zeggen, de mate waarin het zelf duidelijk is gedefinieerd, en coherent en temporeel stabiel is (Krol en Bartz 2021:1).

994 Voor deze synthese analyseerde ik de definities van Bloom (2016:16, analyse van 43 definities:144), Cuff et al. (2016:150), De Waal & Preston (2017:507), Eklund & Meranius (2021:300), Lamm et al. (2019:50) en IJzermans 2018:196.

De angst voor empathie heeft ertoe geleid dat juridische curricula zich vooral concentreren op *positivistisch* recht,<sup>995</sup> waarin de focus veelal uitsluitend op juridische technische vaardigheden gericht is. Dit in tegenstelling tot *responsief* recht, dat cliënt- en burgergericht is en waarin expliciet rekening wordt gehouden met de context en de mogelijke consequenties van beslissingen.<sup>996</sup> De groeiende aandacht voor interdisciplinariteit en ethische dilemma's in de rechtspraktijk met daarin juist aandacht voor klantgerichtheid en het begrip van de context van cliënten heeft geleid tot uitbreiding van gewenste juridische vaardigheden met verschillende soft skills zoals empathie. Een overzicht van deze vaardigheden is beschreven in het meest recente model over juridische competenties: het Foundational Competencies Model van Hamilton & Bilionis (zie figuur 1 hieronder).<sup>997</sup>

■ **Figuur 1** - Foundational Competencies Model – Hamilton & Bilionis, 2022



995 Rechtspositivisme is de visie op het recht, die het recht interpreteert als een systeem van wetten en regels die zijn geformuleerd door autoriteiten op het gebied van formele wetgeving en rechtspraak. Het doel van het rechtspositivisme is om het probleem van openheid en tegenstrijdige rechtsprincipes te verminderen waar het natuurrecht vatbaar voor zou kunnen zijn, met als doel de rechtszekerheid te maximaliseren. Het positivistische theoretische rechtssysteem is in abstracte zin logisch en ontdaan van gevoelens en emoties (en principes en normen) met als doel volledige theoretische duidelijkheid te verschaffen (Hoffman 2011:230, Henderson 1987:1575).

996 Recent heeft Barendrecht (expert en innovator van conflictoplossingssystemen) in Nederland *responsief* recht gedefinieerd als het recht dat bestaat uit het zo veel mogelijk doen van interventies die procedurele rechtvaardigheid bevorderen en de kans op eerlijke uitkomsten vergroten. Barendrecht maakt juridische professionals verantwoordelijk voor de 'rechtvaardigheidsbeleving' van burgers. Door creatieve interventies, actief luisteren en bemiddelen moeten deze juridische professionals conflicten oplossen samen met de betrokkenen (Barendrecht 2024:24).

997 Hamilton & Bilionis 2022

In dit model worden verschillende soft skills gezamenlijk voorgesteld als derde pijler in juridische curricula, naast de pijlers van traditionele juridische kennis en vaardigheden en die van algemene professionele vaardigheden. Empathie kan worden beschouwd als de kern van dit model en de basis van de derde onderwijspijler. Tot nu toe zijn er echter vooral theoretische studies over empathieonderwijs voor rechtenstudenten gepubliceerd, naast wat experimenten. Empathie is echter nog nergens als leerdoel in juridische curricula opgenomen.<sup>998</sup>

Naast ouder worden blijkt de belangrijkste factor in het ontwikkelen van empathie het opdoen van ervaringen te zijn: hoe meer en hoe diverser, hoe beter. Deze ervaringen kunnen worden opgedaan door middel van eigen ervaringen in het leven, *actuele* ervaringen genoemd, door *potentiële* ervaringen, dat wil zeggen dezelfde ervaringen maar dan door anderen beleefd en als zodanig waargenomen en ervaren vanuit dat andere perspectief,<sup>999</sup> en door *by proxy*-ervaringen, de ervaringen van anderen die op zo'n manier verteld worden dat men zich deze ervaring goed kan voorstellen.<sup>1000</sup>

Sinds de jaren 1970 worden in medische curricula verschillende trainingsmethoden gebruikt om empathie te ontwikkelen, onder andere contact met de kunsten, d.w.z. literatuur, film en beeldende kunst.<sup>1001</sup> Voor het juridische onderwijs beschreven Gascon-Cuenca et al. inmiddels al wel verschillende activiteiten om empathie te vergroten, waaronder ook dit contact met kunst. Volgens Samra en Jones dienen een aantal beginselen als uitgangspunt genomen te worden voor juridisch praktijkonderwijs met daarin empathie als onderwijsdoel. Ook Tsaoussi beschreef een aantal uitgangspunten, en dan met name over de houding die docenten in het

998 Voor gedetailleerde informatie over de desbetreffende literatuur, zie voetnoot 990.

999 Volgens de filosoof Duyndam kunnen iemands ervaringen in het echte leven *actuele* ervaringen worden genoemd. Ze bestaan uit een interne perceptie en een extern zichtbaar aspect, die door middel van taal met anderen gedeeld kunnen worden. Andere mensen vullen onze *actuele* ervaring aan door *potentiële* ervaringen toe te voegen. Dit gebeurt door empathie (2024:27). *Actuele* en *potentiële* ervaringen geven samen betekenis aan een situatie. Dit bevestigt het gevoel van 'zelf' (Duyndam 2024:40).

1000 Het mechanisme van het overnemen van affectieve processen van een ander is een normale menselijke vaardigheid en gebeurt een leven lang (Engelen 2011:2; De Waal & Preston 2017: 499, 502). Men kan aan het eigen repertoire ervaringen toevoegen zonder die ervaring zelf te hebben ondergaan. Zo'n ervaring zou je *bij volmacht* kunnen noemen, in het Engels *by proxy*, want het is analoog aan hoe deze term in de Engelse taal wordt gebruikt: een *proxy* is een persoon die je kiest om iets officieel voor je te doen, bijvoorbeeld om te stemmen op een vergadering of bij een verkiezing als je zelf niet in staat bent om te stemmen (<https://dictionary.cambridge.org/nl/woordenboek/engels/proxy>; Floridi 2015:489). Je hoeft een ervaring niet zelf mee te maken, maar het wordt, of is, door iemand anders doorleefd. Door het delen word je deel van hun ervaring. *By proxy* is overigens een algemeen biologisch gegeven. Samenwerking en menselijke relatie zorgen voor een soort wederzijdse 'uitbuiting' (Meerloo 1953).

1001 Ziótkowska-Rudowicz & Kladna 2010, samenvatting deel i; Hojat 2009. In hun review van dertien studies, 2006, vonden Stepien & Baernstein de grootste kwantitatieve impact op deelnemers in studies die workshops in communicatievaardigheden gebruikten als methode om empathie te vergroten (2006:524). De andere trainingsmethoden die in de literatuur over empathietraining in het medisch onderwijs gevonden konden worden zijn: vroege klinische blootstelling en contact met rolmodellen (Ahmadzadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Ziótkowska-Rudowicz & Kladna 2010, samenv. delen i-iv; Hojat 2009), een workshop over diversiteit (Levett-Jones et al. 2019:1), rollenspellen waarin studenten de rol van een patiënt spelen (Levett-Jones et al. 2019:8), training van vaardigheden die samenhangen met empathisch vermogen/communicatie en narratieve vaardigheden (Ahmadzadeh et al. 2019; Patel et al. 2019:1; Womer et al. 2014:4; Batt-Rawden et al. 2013:1171; Hojat 2009), training in emotieregulatie en stressmanagement (Womer et al. 2014:4; Ziótkowska-Rudowicz & Kladna 2010, samenv. delen i-iv; Hojat 2009), en mindfulness meditatie (Luberto et al. 2018:715).



juridisch onderwijs zouden moeten aannemen om empathie bij studenten te bevorderen.<sup>1002</sup> Deze activiteiten, beginselen en uitgangspunten heb ik als richtlijnen overgenomen in mijn onderzoek in de zoektocht naar een methode voor empathietraining voor juristen.

Uit literatuuronderzoek naar de methode Visual Thinking Strategies (VTS) bleek, dat deze methode goed binnen deze richtlijnen past. Kern van de VTS-methode is een gestructureerd gesprek over kunst, waarbij de docent geen kennisoverdracht verzorgt maar slechts het gesprek faciliteert volgens een bepaalde methodiek.<sup>1003</sup> Uit een overzicht van alle empirische studies over VTS in het reguliere onderwijs tot nu toe bleken negen effecten van VTS te kunnen worden gedestilleerd. Naast esthetische ontwikkeling<sup>1004</sup> en het bevorderen van een positief klimate,<sup>1005</sup> ontwikkelt VTS in studenten observatievaardigheden (en visuele geletterdheid)<sup>1006</sup> en kritisch denken inclusief argumenteren.<sup>1007</sup> Daarnaast bevordert VTS ook communicatieve vaardigheden,<sup>1008</sup> verbeelding en creativiteit,<sup>1009</sup> zelfbewustzijn en eigenwaarde,<sup>1010</sup> (inter-)culturele competentie,<sup>1011</sup> openheid voor andere perspectieven en ambiguïteit, en empathie.<sup>1012</sup>

Op basis van literatuuronderzoek naar zowel VTS als empathie heb ik een theoretisch model gemaakt over de manier waarop de componenten van, en de mechanismen binnen, VTS mogelijk de ontwikkeling van empathie zouden kunnen bevorderen, zie Figuur 2 hieronder.

Via een conceptuele analyse van de methodologie en de effecten van VTS hebt ik vijf vaardigheden onderscheiden die door de VTS-methode worden getraind: observatie, kritisch denken, communicatie/taal, perspectief nemen en actief luisteren. De laatste bevat ook een niet-oordelende houding en emotieregulatie. Deze vaardigheden worden belangrijk geacht voor de ontwikkeling van de vier componenten van empathie. In het proces lijkt vooral de taak van de facilitator belangrijk voor rechtenstudenten. De facilitator kan worden beschouwd als een

1002 Zie voetnoot 990.

1003 Een gedetailleerd overzicht van de methode wordt beschreven in Yenawine 2013, 2018 en Hailey, Miller & Yenawine 2015.

1004 Housen in Bresler & Ellis 2000-2001:5

1005 Zoals gerapporteerd door Aspden et al. 2020 in hun review, en in Moorman 2013. VTS biedt bovendien mogelijkheden voor samenwerking (Mitzova-Vladinov & Torrents 2020; Nanavaty 2018), communicatie (Nanavaty 2018) en interpersoonlijke relaties met andere studenten en collega's (Hensel & Moorman 2017; Moorman et al. 2017). Deelnemers aan VTS-sessies valideren het gebruik van VTS als een plezierige leerervaring (Poirier et al. 2020; Visscher et al. 2019).

1006 Hailey, Miller & Yenawine 2015. Naast verbetering van observatievaardigheden in het algemeen (gerapporteerd door Campbell et al. 2021; Mani 2019; Mani et al. 2021; Brackley & Petersen 2018; Nanavaty 2018; Nease & Haney 2018; Moorman et al. 2017) wordt ook het waarnemen van meer nuance en detail gerapporteerd (Zapata et al. 2017; Moorman 2013), evenals een verhoogd aantal observaties (Agarwal et al. 2020; Poirier et al. 2020; Klugman et al. 2011; Nease & Haney 2018).

1007 DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Huis 2001-2002, Huis 2001; Aspden et al. 2022; Campbell et al. 2021, Mani 2019; Brackley & Petersen 2018; Rautiainen & Jäppinen 2017; Bakker 2015; DeSantis 2009; Vancil 2008. Via VTS kon een groei worden waargenomen in diepte en kwaliteit van reflecties (Poirier et al. 2020).

1008 Klugman et al. 2011; Allison et al. 2017; Mitzova-Vladinov & Torrents 2020; Rautiainen & Jäppinen 2017; Baker 2015; Lye et al. 2017; Vancil 2009

1009 Campbell et al. 2017; Lye et al. 2017; Siquefield-Kangas 2019

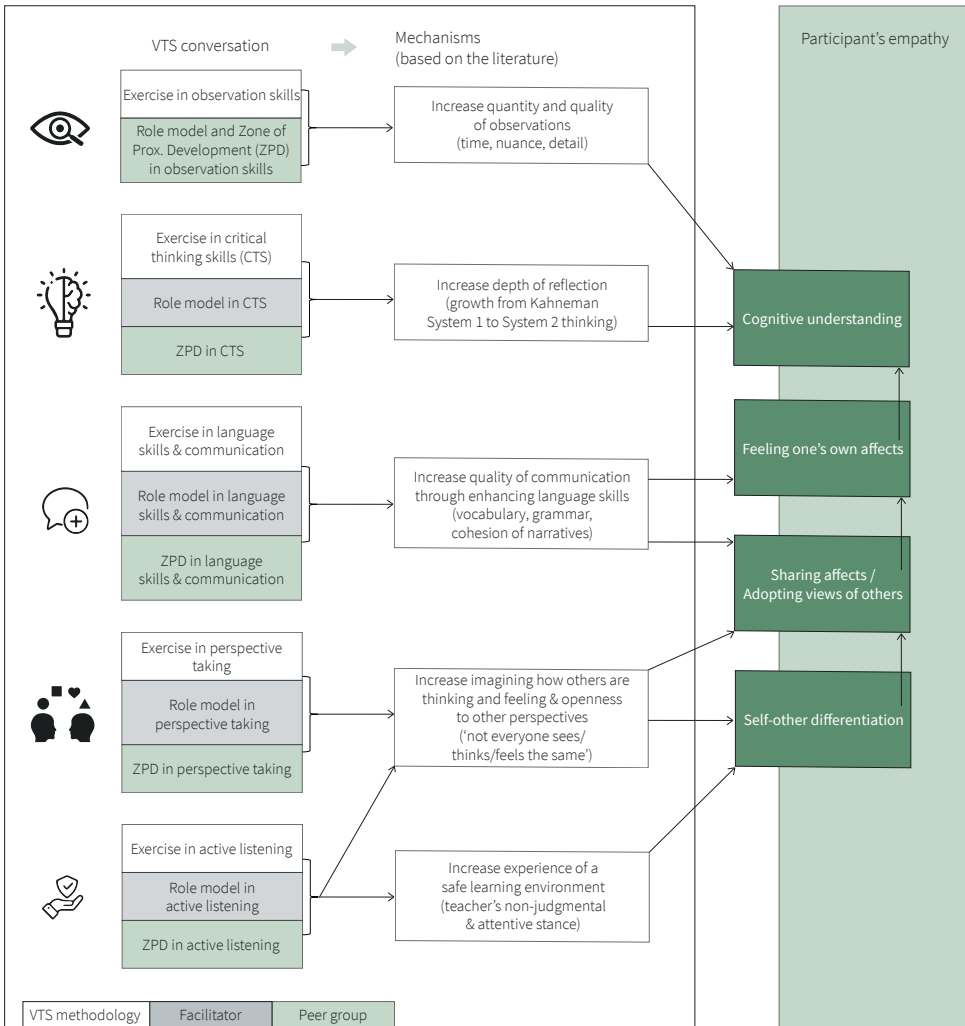
1010 Baker 2015; Keogh & Gibbon 2020; Mitzova-Vladinov & Torrents 2020

1011 Aspden et al. 2022; Deunk et al. 2020; Campbell et al. 2017&2021; Balhara & Irvin 2021; Chapman & Hall 2014 & 2016

1012 Bentwich & Gilbey 2017; Klugman et al. 2011; Siquefield-Kangas 2019; Aspden et al. 2022; Balhara & Irvin 2021; Campbell et al. 2021; Nanavaty 2018; Chapman & Hall 2014&2016; Kruse & Kinde 2019

rolmodel in actief luisteren en in het bieden van een veilige ruimte, belangrijk voor studenten voor het ontwikkelen van empathie voor de juridische praktijk. Klasgenoten (peers), die verder in hun ontwikkeling zijn, zijn een voorbeeld voor de eerstvolgende stap die studenten kunnen zetten: De ‘zone van dichtstbijzijnde ontwikkeling’ (in het Engels ‘Zone of proximal development’).<sup>1013</sup>

■ **Figuur 2:** Theoretisch model over het effect van VTS op empathie (origineel uit het proefschrift: model in het Engels)



## METHODE

Om het theoretische model te testen, heb ik een VTS-experiment uitgevoerd met eerste- en derdejaars bachelorstudenten Rechtsgeleerdheid van Tilburg University Law School, in drie

1013. Vygotsky, 1978.

cursussen in 2023. Ik heb het effect ervan op de empathie scores van studenten gemeten en geëvalueerd. Er werden drie experimenten met VTS uitgevoerd, twee in eerstejaars vakken en één in een derdejaars vak. In totaal namen 620 eerstejaars en 102 derdejaars bachelorstudenten deel aan VTS-gesprekken. Om het aantal deelnemers te maximaliseren werden de twee experimenten met eerstejaarsstudenten opgezet als *within-group*-onderzoek: studenten in deze experimenten namen zowel deel aan de experimentele als de controlegroep. De experimenten vonden plaats in februari-maart en september-november 2023. Het derde experiment, met derdejaarsstudenten, werd opgezet als experimenteel onderzoek en vond plaats in september-november 2023. De VTS-lessen werd op twee manieren toegevoegd aan de cursussen. Aan de eerstejaarsstudenten werden lessen in VTS in één werkcollege aangeboden, dat geheel gewijd was aan VTS. Daarnaast was er een controlewerkcollege met reguliere juridische inhoud. Bij de derdejaarsstudenten werden de lessen VTS aangeboden als onderdeel van de interactieve colleges met reguliere juridische inhoud, tweewekelijks ingepland. Derdejaarsstudenten werden ook gevraagd om drie keer een bijdrage te leveren aan de online VTS-gesprekken op de website van de New York Times (het posten van deze bijdrage was overigens niet verplicht).

Kwantitatieve data werden verzameld door middel van pre- en posttest vragenlijsten, een gevalideerde Nederlandse vertaling van de Basic Empathy Scale.<sup>1014</sup> De lijsten werden digitaal in Qualtrics aangeboden. Om meer inzicht te krijgen in hoe de studenten VTS waardeerden werden aan zowel de pre- als posttestvragenlijsten enkele kwalitatieve vragen toegevoegd. Bovendien nam een kleine groep eerstejaarsstudenten deel aan een niet-gestructureerd interview over hun VTS-ervaring. Derdejaarsstudenten dienden als oefening reflecties te schrijven over hun VTS-ervaring. Die teksten werden ook geanalyseerd.

## RESULTATEN

Uit de kwantitatieve data-analyse van twee eerste experimenten met eerstejaarsstudenten bleek in tegenstelling tot het gestelde in het theoretische model geen verbetering in empathiescores van de studenten. De verandering in de scores waren in zowel de VTS-colleges als in de controlecolleges voor het grootste deel negatief. In de VTS-colleges van het eerste experiment werd zelfs een statistisch significante afname gevonden op de schaal van cognitieve empathie (gecontroleerd voor leeftijd en gender,  $b = -0,083$ ,  $p = 0,031$ ). De data-analyse gaf echter wel aanleiding om te vermoeden dat er mogelijk andere, ongemeten, factoren van invloed zijn geweest. Mijn hypothese was dat de dalingen die werden gevonden veroorzaakt zijn door hoge stressniveaus. In de literatuur wordt namelijk tussen stress en empathie een negatieve correlatie beschreven.<sup>1015</sup> Mogelijk dat het stressniveau bij eerstejaarsstudenten hoog is geweest door onzekerheid tijdens deze eerste studiem maanden, de start van hun rechtenstudie. Bovendien meldden verschillende studenten dat zij naar hun mening onvoldoende informatie over VTS en het onderzoek ervaren hebben, wat ook van invloed kan zijn geweest op de resultaten. Het

1014 Van Langen et al. 2012 & 2014

1015 Zie voor het meest recente overzicht over het onderwerp stress en de negatieve invloed ervan op empathie, met name affectieve empathie: Nitschke & Bartz (2023).

onderzoekontwerp bevatte namelijk expliciet de instructie om vooraf niet veel informatie te geven over VTS en het onderzoek, om te voorkomen dat de resultaten door dergelijke informatie beïnvloed zouden worden. Deze aanpak kan mogelijk averechts hebben gewerkt, stress hebben veroorzaakt bij de studenten en zo mogelijk van invloed zijn geweest op de resultaten. Bovendien uitte een klein percentage van de eerstejaarsstudenten in het kwalitatieve onderzoek dat ze niet ervan overtuigd waren dat VTS als methode relevant zou kunnen zijn voor de juridische praktijk. Ook gebrek aan interesse in het onderzoek en de lessen in het algemeen werd gemeld. Deze verminderde interesse kan een negatieve invloed hebben gehad op de empathiescores, wat leek te worden bevestigd door de statistisch significante positieve correlatie die is gevonden tussen de interesse van eerstejaarsstudenten en hun gemiddelde empathiescores in het eerste experiment<sup>1016</sup> en een negatieve correlatie tussen de verveling van eerstejaarsstudenten en de gemiddelde empathiescores in het tweede experiment.

De kwalitatieve data gaven aanleiding om de door studenten geuite negatieve gevoelens over VTS te wijten aan *expectancy violations*, d.w.z. het niet voldoen aan de verwachtingen die studenten kunnen hebben gehad van juridische curricula en ook van sociale normen in de klas.<sup>1017</sup> Mogelijk doordat de methode zo verschilde van regulier juridisch onderwijs vanwege het *progressieve* karakter van VTS als onderwijsmethode. In *progressief* onderwijs staat de continuïteit van ervaring en interactie centraal, wat echter wel als essentieel wordt gezien voor leren.<sup>1018</sup> Als mogelijk andere oorzaak werd de mogelijkheid van *unhappy learning* geïdentificeerd, d.w.z. de theorie

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1016 In het eerste experiment werd een significante positieve correlatie gevonden tussen de scores van het 'interessant' item en de cognitieve empathieschaal ( $r = .20, p < .001$ ), en van het educatieve item en de empathiescore op de totale schaal ( $r = .19, p < .001$ ) en op de affectieve schaal ( $r = .16, p = .01$ ). In de controlesessies van *IR* werd een negatieve correlatie gevonden tussen het 'saai' item en de scores van de totale en affectieve empathie ( $r = -0.13, p = 0.03$ , resp.  $r = -0.16, p = 0.01$ ).

1017 Burgoon 1978: *The Expectancy Violations Theory* werd eind jaren '70 door Burgoon geformuleerd. De theorie gaat over communicatie en de manier waarop individuen reageren op onverwachte schendingen van sociale normen en verwachtingen. Zulke schendingen veroorzaken agitatie en sporen de ontvanger aan om te reageren: op een positieve manier wanneer de uitwisseling in communicatie positief werd ervaren waardoor de aantrekkingskracht van de schender werd vergroot en, op een negatieve manier, wanneer de uitwisseling negatief werd ervaren waardoor de aantrekkingskracht van de schender juist werd verminderd.

1018 Sociaal constructivist Dewey stelde dat leren een sociale activiteit is en verzette zich tegen het idee dat leren "acquisition of what already is incorporated in books and in the heads of the elders, taught as a finished product" [Het verwerven is van wat al is opgenomen in boeken en in de hoofden van ouderen, en onderwezen wordt als een product" - Nederlandse vertaling], ervan uitgaande dat dit de toekomst als het verleden zou maken (Dewey 1938:19). Dewey verzette zich tegen traditioneel onderwijs en pleitte voor *progressief* onderwijs, waarin persoonlijke ervaringen in het heden net zo belangrijk worden geacht als de kennis en vaardigheden van volwassenen of meer volwassen personen (p. 21). Als een belangrijk principe van *progressief* onderwijs promoot Dewey continuïteit van ervaring, vanwege de manier waarop het gewoontes en houdingen vormt (p. 35), en interactie (p. 43). Het beoordelen van ervaringen zet bij elkaar wat wordt waargenomen en wat uit iemands eigen ervaringen en die van anderen wordt herinnerd, om te zien wat ze betekenen (p. 68). Dewey benadrukte dat in het proces van interpretatie en oordeel een suggestie van iemand met een grotere ervaring niet als geldiger beschouwd mag worden als een suggestie "arising from some more or less accidental source" [Nederlandse vertaling: die voortkomt uit een min of meer toevallige bron] (p. 71).

dat crisiservaringen tot leermomenten kunnen leiden, wat ook juist kan worden verwelkomt als transformatief.<sup>1019</sup>

Naar de mening van de studenten zou VTS echter ook een aantal vaardigheden bevorderen: observatievaardigheden, kritisch denken/een zaak beargumenteren, verbeelding, creativiteit en begrip van kunst. Er bleek een statistisch significante positieve correlatie te zijn tussen zulke gedachten en de empathiescores. De genoemde vaardigheden komen overeen met vier van de vijf vaardigheden in het theoretisch model over de relatie tussen VTS en empathie: observatie, kritisch denken, communicatie, perspectief nemen. De vijfde vaardigheid, actief luisteren, werd ook opgemerkt door de studenten. Zij benoemden het belang van de niet-oordelende houding en parafaseren van de facilitator vanwege de veilige ruimte die dit volgens hen bood voor het uitwisselen van perspectieven.

In het kwalitatieve onderzoek van het derde experiment met derdejaarsstudenten rapporteerden de studenten dat ze door VTS meer open waren komen te staan voor ambiguïteit en andere perspectieven. Dit bevestigt bevindingen in verschillende andere onderzoeken naar VTS.<sup>1020</sup> Beide competenties worden als essentieel beschouwd voor het goed ervaren van het verschil tussen zichzelf en de ander, de component van empathie dat zoals gemeld als essentieel wordt beschouwd voor de rechtspraktijk.<sup>1021</sup> In hun reflecties gaven de derdejaarsstudenten aan dat ze ook wel last hadden van het voor hen onbekende format van VTS, en zelfs angst en tegenzin ervoeren toen hen gevraagd werd hun gedachten te delen, zowel tijdens VTS-gesprekken als bij het schrijven van hun reflecties achteraf. Tegelijkertijd meldden de studenten ook dat ze het uitwisselen interessant vonden van de verschillende meningen over een beeld, zowel in de klas als online. Derdejaarsstudenten merkten verder ook op dat klasgenoten tijdens een VTS-gesprek op elkaars gedachten voortbouwden (zelfs zo dat studenten dit als bias ervoerden). Dit houdt mogelijk verband met Duyndam's theorie over *potentiële* ervaringen, waarin het met elkaar delen van daadwerkelijke eigen *actuele* ervaringen over een situatie details of andere perspectieven aan die situatie toevoegt. Studenten kunnen ook ervaringen *by proxy* hebben opgedaan, d.w.z. ervaringen uit het leven van andere klasgenoten beschreven hebben gekregen, waardoor die studenten leerden over situaties die nieuw voor hen waren. Derdejaarsstudenten beschreven ook hun ervaring in de klas dat tot hun verrassing verschillende perspectieven naast elkaar kunnen bestaan, kijkend naar hetzelfde beeld, en dat alle reacties ertoe doen wanneer ze samen betekenis geven aan een afbeelding of een

1019 Crisiservaringen wekken de behoefte op om nieuwe kennis en vaardigheden te verwerven om adequaat te kunnen reageren op een crisis en te voorkomen dat deze zich opnieuw voordoet. "Kennis doet pijn", legde wetenschapsfilosoof Josette Jacobs van Wageningen University (2019) uit: je wordt je bewust van je eigen gebrek aan kennis of onvermogen en moet soms overtuigingen loslaten. Kok introduceerde het concept van *Unhappy Learning*, oftewel het gevoel van onzekerheid waardoor men zich ongemakkelijk voelt. Het is nodig om te leren omdat het de wens stimuleert om het zelf en/of de omstandigheden te veranderen om dergelijk ongemak in de toekomst te voorkomen (Kok 2023).

1020 Zie bijvoorbeeld de bevindingen van Bentwich & Gilbey 2017; Kruse & Kinde 2019.

1021 *Self-other differentiation*, het verschil tussen het zelf en de ander, is gebaseerd op zelfbewustzijn en zelfinzicht, het kennen van de grenzen tussen het zelf en de ander. Dit voorkomt dat de grens tussen de eigen gevoelens van een professional en diens cliënt vervagen, wat kan leiden tot sympathie en dus tot vooringenomenheid of het risico om gemanipuleerd te worden (Wheeler 2016:31).

kunstvoorwerp. Ze merkten ook op dat langzaam kijken en reflecteren belangrijk zijn om inzichten te verwerven en zich open te kunnen stellen voor andere perspectieven. In dit verband benadrukten de studenten het belang van de veilige ruimte die de facilitator bood.

De resultaten van mijn onderzoek bevestigden ook de uit de literatuur bekende correlatie van empathie met gender,<sup>1022</sup> in alle drie de experimenten: vrouwelijke studenten hebben over het algemeen hogere empathiescores dan mannelijke studenten. In het experiment met derdejaars studenten vertoonden mannelijke studenten echter wel een opmerkelijke stijging in de empathiescores op de affectieve schaal. Mijn hypothese is dat dit te wijten is aan een *stimulerende achterstand*, d.w.z. het feit dat het ervaren van een achterstand extra stappen in de ontwikkeling zou kunnen uitlokken.<sup>1023</sup> Dit is in andere studies over VTS ook gerapporteerd.<sup>1024</sup> Een andere hypothese is dat het een gevolg is van de verandering in het onderwijsontwerp tussen de experimenten met eerstejaars en derdejaars studenten, en dat herhaaldelijk aanbieden van VTS daarbij belangrijk is.

## CONCLUSIE

Hoewel empathie voor de juridische praktijk van wezenlijk belang kan worden beschouwd, is het tot op heden in juridische curricula niet als leerdoel geformuleerd. In dit onderzoek heb ik getheoretiseerd hoe VTS oefening biedt in vijf vaardigheden die mogelijk een positieve invloed hebben op alle vier de componenten van empathie. Hoewel deze theorie door de kwantitatieve data uit dit onderzoek niet kon worden bevestigd, spraken studenten in het kwalitatieve onderzoek uit dat ze van mening waren dat VTS verschillende vaardigheden zou kunnen aanleren. Bovendien gaven studenten ook aan dat ze meer open waren gaan staan voor andere perspectieven door VTS. Er werden statistisch significante correlaties gevonden tussen empathie en gender, en tussen empathie en interesse in de lessen. Hoewel studenten het op prijs lijken te stellen dat VTS-facilitators een veilige plek bieden voor het uitwisselen van gedachten, lijken studenten meer begeleiding en ondersteuning nodig te hebben om de mogelijke ervaring van *unhappy learning* te kunnen begrijpen die ze soms tijdens hun VTS-ervaring lijken te hebben ervaren. Nader onderzoek is nodig om te zien welke randvoorwaarden studenten hiervoor nodig hebben. Vervolgonderzoek wordt ook aangeraden naar de correlaties van empathie met genderverschillen die in de data gevonden zijn, evenals met mogelijke andere persoonlijke kenmerken van studenten. Aanbevolen wordt ook om te onderzoeken welke extra toegevoegde waarde VTS mogelijk zou kunnen bieden aan juridische curricula, zoals het bevorderen van *narratieve intelligentie*<sup>1025</sup> en *visuele geletterdheid*.

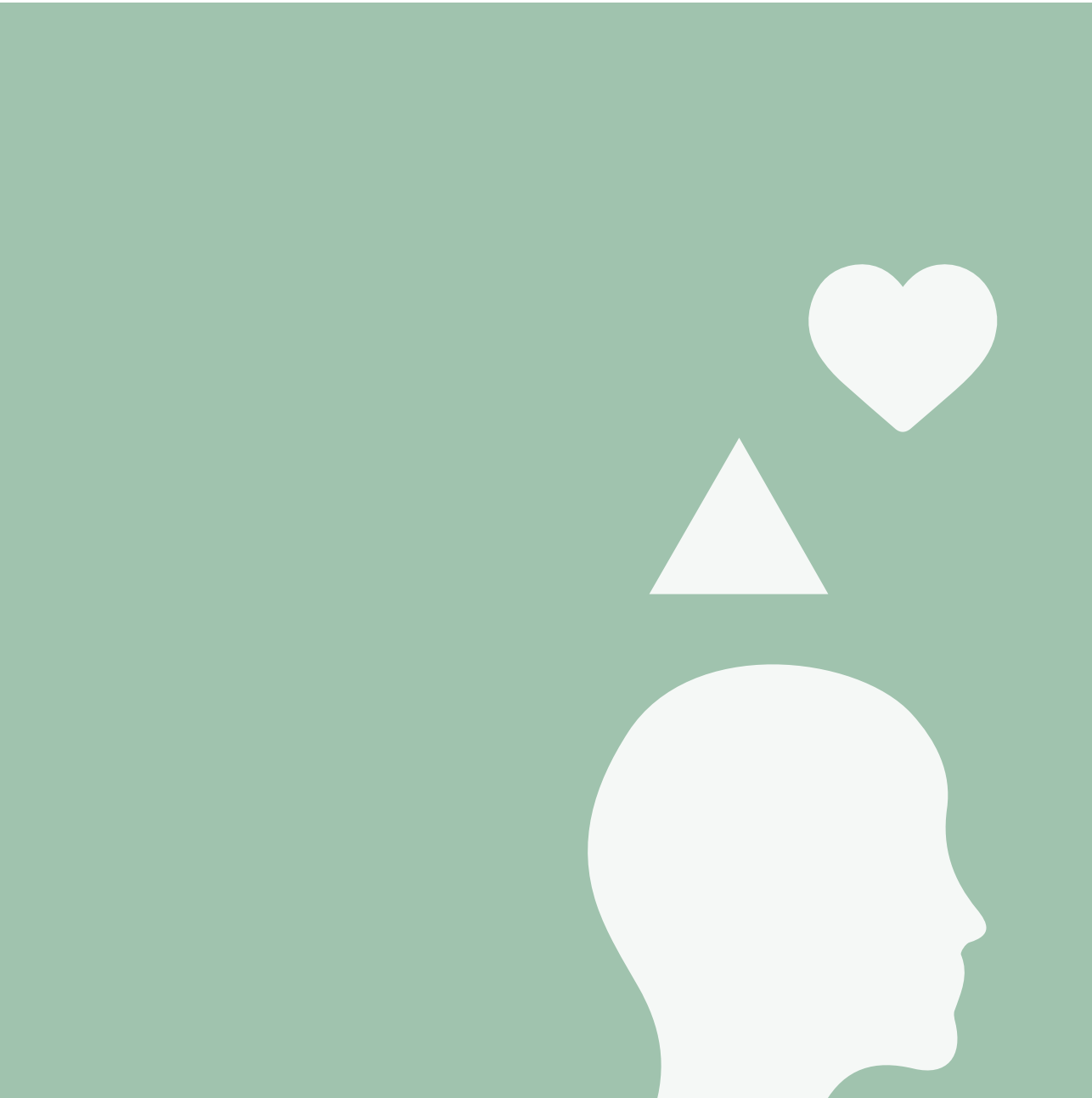
1022 Er is ruim voldoende bewijs in de literatuur tot nu toe dat sekse een effect heeft op empathie. Vrouwen blijken hogere empathiescores te hebben dan mannen. Zie bijvoorbeeld Christov-Moore et al. 2014; Rochat 2022; Löffler & Greitemeyer 2023.

1023 Van der Hoeven 1980.

1024 Leerlingen met dyslexie boekten relatief meer vooruitgang in taalvaardigheden dan leerlingen die geen dyslexie hadden: DeSantis & Housen 2007; Housen & DeSantis 1988-2003; Housen 2001-2002, Housen 2001. Bovendien vond Bachmann in haar onderzoek met 16-jarige leerlingen een positief effect op de participatie van "laag presterende" en "hoog presterende" leerlingen (2022&2023).

1025 De manier waarop de feiten van een zaak worden verteld bepaalt grotendeels de uitkomst van een zaak. Taalen communicatievaardigheden zijn daarom belangrijk (Gaakeer 2017:331). Zoals in deze studie is gebleken, biedt VTS oefening in die vaardigheden.







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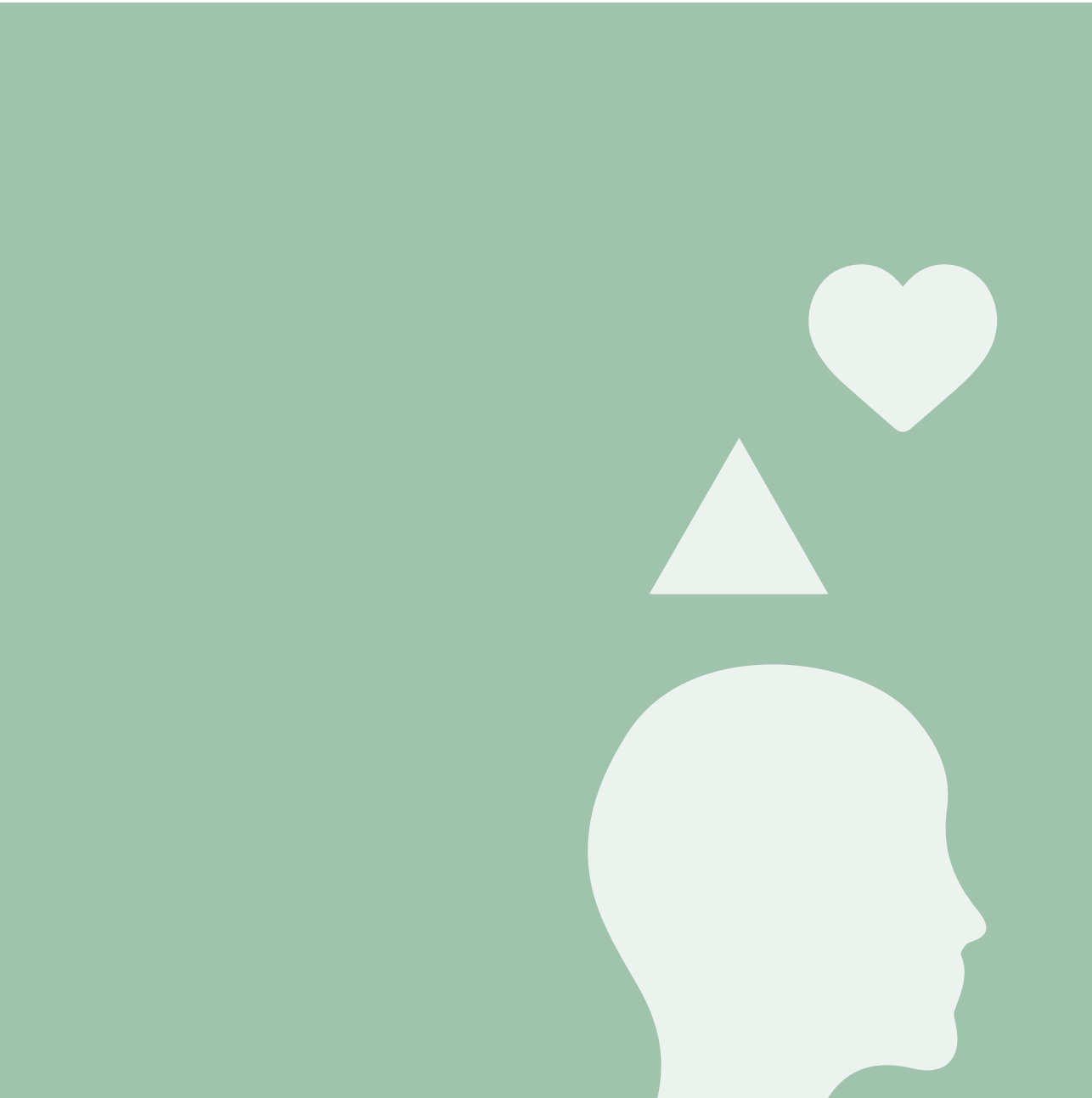
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# APPENDICES

## 1. APPENDICES CHAPTER 4

### 1.1 Appendix Ch. 4 - Abigail Housen's Five Stages of Aesthetic Development

In the literature, three different descriptions of the stages of aesthetic development can be found. Housen described the different stages herself in three different text versions. In the literature, the version below is the one quoted in full most frequently.<sup>1025</sup>

**Stage I/Accountive:** Can be termed the egoistic realist. This mode is pre-analytical: the viewer looks at a work of art in terms of his own personal history, likes and dislikes. A scene which is an accurate copy of a personal event from his past is judged to be “good,” a poor copy is “bad.” “Good” copies are preferred.

**Stage II/Constructive:** Has a more utilitarian frame of reference. In this more analytical mode, the viewer bases his judgments on skeletal pieces of information picked up here and there. He judges a work of art in terms of its worth or value. Value is determined by the practical uses to which the object can be put. Art is often seen as a means to some abstract but valued end. The viewer becomes aware of the intentional aspect of a work of art, but unaided by an analytical framework, he guesses at the artist's message by using perceptual clues.

**Stage III/ Classifying:** Is connected both with the categorical placement & formal articulation of the object. The work is seen as a particular statement by the artist which requires attention to specific details. Such features as the juxtaposition of lines and colors and the composition of formal elements are noted as keys to the work's meaning. The message is then weighed against whatever knowledge of school, period, or style is known by the viewer. The assignment of a work of art to a place, time, or school, is a continuation of the viewer's prior interest in intentionality. Now he wants to see the object in terms of both the artist's own development, as well as the broader stylistic developments of the period.

**Stage IV/Interpretive:** Responds to the work of art in an individualistic and symbolic fashion. In this post-analytical mode, the work of art helps create a meaning which emerges at the moment of encounter with the object. The work triggers a set of thoughts and feelings, combining new experience with prior knowledge and understanding.

**Stage V/Creative-Reconstructive:** Views the art object as significant in its own right, as consisting of an internal logic to which the viewer must bring diverse perspectives, feelings, and insights. This is a semblancing mode of perception in which the viewer knowingly accepts, translates, and interiorizes the art

The other descriptions are referred to one time each. In 1987, Housen published a fully rephrased version (1987:2-3):

**Stage I, The Accountive Stage:** The mode of viewing is by making random observations. The viewer notices the more concrete and obvious aspects of the content, subject matter or color

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<sup>1025</sup> The description quoted here is the version that is quoted the most, in three articles: Housen in Bresler & Ellis 2001-2002:126-128; Housen 2001:29; Housen 1980:17-18.

in the painting (for example, “It’s a dog.” or “It’s brown.”) The viewer is guided by personal and idiosyncratic associations. For example, if the person likes dogs, the painting of a dog will be judged good. The viewer’s preferences, beliefs, and past history form the basis for making evaluations.

**Stage II, The Constructive Stage:** The viewer tries to build a framework for looking at works of art. With little exposure to art, the viewer matches the work to his own set of experiences and compares the painting to the world he sees and knows around him. This interest in realism is paralleled by a practical outlook. A work of art must serve a functional purpose. The function may vary from the moral and didactic to the mundane and worldly. A painting may reflect the good and joyous life or it may be worth a huge amount of money. In either case, the work is measured by its “worth.”

**Stage III, The Classifying Stage:** The viewer classifies the work of art. He decodes the artist’s intentions and historical influences by analyzing the clues left by the artist on the canvas. Those clues, the formal elements of line, color, and composition, form the criteria by which he perceives, decodes, and judges a work of art. For the first time the viewer confronts the work of art directly and objectively. His personal history and affect are suppressed. His detective work results in the correct placement of a work of art in terms of a period, school, style, or particular place within the artist’s oeuvre.

**Stage IV, The Interpretive Stage:** The viewer responds to a work of art in an individualized and immediate way. Fully able to decode, analyze and classify works of art, he now seeks less literal and objective goals than at the previous stage. He searches for a more meaningful message from the work of art and this time decodes symbols, not dots of color. He is aware of the role affect-laden memories play in his interpretation of those symbols and gives license to his thoughts and feelings. He may say, for example, “The artwork gives me feelings of being in New York with my father when I was young.” Every fresh encounter with the work of art becomes a catalyst for the viewer, occasioning a new consciousness of both self and work.

**Stage V, The Creative Reconstructive Stage:** The viewer, suspending disbelief, treats the object as if it had a life of its own, with its own lawful properties and rules. While the viewer knows that the sailboat in the painting is not going to sail away, he may respond to the boat as if it could. The painting becomes semblant of reality. The viewer approaches the painting as a “friend,” a phrase he often mentions. The work is looked at from many different perspectives, with each new encounter colored by past insights. Everything in the painting’s history is considered: formal elements as well as museum acquisition dates warrant acknowledgment, since each detail reflects an intricate facet of the work as a whole. The encounter with the work demands that the viewer make equal use of all his faculties: perceptual, analytical, emotional. In the end, based on what he sees, what he knows, and what he feels, the viewer reconstructs the work of art for himself, again and anew.

Another rephrasing was found in DeSantis & Housen (2000:13-14), which turned out to have been quoted in Hailey, Miller & Yenawine (2015:69-70) as well, albeit not completely the same for Stages I and II:

**Stage I Accountive viewers** are list makers and storytellers. Using their senses, memories, and personal associations, they make concrete observations about the work of art and weave them into

a narrative. Here, judgments are based on what is known and what is liked. Emotions color their comments, as viewers seem to enter the work of art and become part of the unfolding narrative.<sup>1026</sup>

Sampling of thoughts: At stage I, accountive viewers make simple, concrete observations: lines, ovals, squares. . . . At times, the stage I viewer makes observations and associations that appear idiosyncratic and imaginative: A giraffe's back. . . a dog's face. Likewise, the stage I viewer may incorporate people and objects into an idiosyncratic narrative: I see two ladies, holding each other. It seems to me he is going home now, and he cannot find his clothes. Judgments are based on what the viewer knows and likes: The wallpaper is beautiful. Emotions color the comments, as the stage I viewer animates the image with words and becomes part of an unfolding drama: Like he is hurt [his arms] when he was swimming or like he was mad or something the way he was holding his arms. The stage I viewer (the "storyteller") and the image (the "story") are one. The viewer engages in an imaginatively resourceful, autonomous aesthetic response.

**Stage II Constructive viewers** set about building a framework for looking at works of art, using the most logical and accessible tools: their own perceptions, their knowledge of the natural world, and the values of their social, moral, and conventional world. If the work does not look the way it is "supposed to"—if craft, skill, technique, hard work, utility, and function are not evident, or if the subjects seem inappropriate—then this viewer judges the work to be "weird," lacking, and of no value. The viewer's sense of what is realistic is a standard often applied to determine value. As emotions begin to go underground, this viewer begins to distance him or herself from the work of art. (quotation DeSantis & Housen 2000 until this point).

Sampling of thoughts: At stage II, constructive, viewers' observations have a concrete, known reference point: And they have five fingers, just like us. Aspects of images that do not conform to expectations can be seen as "weird": The hair on the first person is blond, and it is true, but there is no such thing as a purple face. As this viewer strives to map what she sees onto what she knows from her own conventions, values, and beliefs, her observations and associations become more linked and detailed. The viewer looks carefully and puzzles. An interest in the artist's intentions develops: The person has chosen; instead of using circles for the background, he used lots of diamonds.

**Stage III Classifying viewers** adopt the analytical and critical stance of the art historian. They want to identify the work as to place, school, style, time, and provenance. They decode the work using their library of facts and figures that they are ready and eager to expand. This viewer believes that properly categorized, the work of art's meaning and message can be explained and rationalized.

**Stage IV Interpretive viewers** seek a personal encounter with a work of art. Exploring the canvas, letting the meaning of the work slowly unfold, they appreciate the subtleties of line and shape and color. Now, critical skills are put in the service of feelings and intuitions as these viewers let underlying meanings of the work—what it symbolizes—emerge. Each new encounter with a work of art presents a chance for new comparisons, insights, and experiences. Knowing that the work of art's identity and value are subject to reinterpretation, these viewers see their own processes subject to chance and change.

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1026 As quoted in DeSantis & Housen 2000, up to this point.



**Stage V Re-creative viewers**, having established a long history of viewing and reflecting about works of art, now “willingly suspend disbelief.” A familiar painting is like an old friend who is known intimately, yet full of surprise, deserving attention on a daily level but also existing on an elevated plane. As in all important friendships, time is a key ingredient, allowing stage V viewers to know the ecology of a work—its time, its history, its questions, its travels, and its intricacies. Drawing on their own history with one work in particular, and with viewing in general, this viewer combines personal contemplation with views that broadly encompass universal concerns. Here, memory infuses the landscape of the painting, intricately combining the personal and the universal.

## 1.2 APPENDIX CH. 4 - VTS BUILDING BLOCKS PER SCHOLAR IN DETAIL

Scholar	Grounding theory	Building blocks in Stage Theory & VTS: social constructivist and developmental approaches as guides to aesthetic appreciation
Rudolf Arnheim 1904-2007	Psychologist - Applied Gestalt psychology to art. - Theorized about “nakedness” of linguistic signs: they are without meaning, unless they are endowed with connotations by us. - Language is needed at an advanced level of thinking for it supplies thought with a medium that frees it from the unmanageable complexity of the experienced natural world. - Critiques the assumption that language goes before perception: the only access to reality we have is through our senses. Argues that perception is strongly identified with thinking, and that artistic expression is another way of reasoning. - The rich meanings for which language is commonly given credit are owed to the perceptual and intellectual concepts which draw on life’s sensory experience.	- Relation between language and learning. - Interconnection between language, thought and perception, new ways of how to gather information can lead to new understandings.
James Baldwin 1861-1934	Constructivist / psychologist - Theorizes that aesthetic development is related to age and to human cognitive development in general, interaction between innate abilities and environmental feedback. - 3 stages: Pre-Logical Stage: childish phase of make-believe and imagination, Quasi-Logical: occurs as the child begins to pay more attention to the object itself, Logical Stage: the capacity for reflection and interpretation of self as the subject of experience emerges. - Refers to ‘re-creating’ activity: mental activity of experienced viewers similar to that of the artist who ‘created’ it: try to fit together the significance of aesthetic objects and their parts, being both of the natural world and the world of ideas’. - Through differentiation between the natural and a parallel symbolic or imaginative world and the development of imagination, aesthetic development fosters the development of self-understanding.	Different: aesthetic development related to exposure to art over time turns out to be the only way to develop aesthetically, not age or education. - Stage 1 resembles first Pre-Logical Stage, Stages 2 and 3 resemble Quasi-Logical Stage, Stages 4 and 5 refer to Logical Stage. - Labeling of most experienced viewers in Stage 5 as ‘re-creative’: activity of experienced art viewers, similar to that of the artist who ‘created’ it, when they ‘try to fit together the significance of aesthetic objects and their parts, being both of the natural world and the world of ideas.’ - VTS’ second question encourages the viewer to “return from a world of associational imagination to the work itself to have a second look (...) for evidence.”



Scholar	Grounding theory	Building blocks in Stage Theory & VTS: social constructivist and developmental approaches as guides to aesthetic appreciation	
Jerome Bruner 1915-2016	Constructivist	<ul style="list-style-type: none"> <li>- In cognitive development, after a physical phase, language plays an important role</li> <li>- not just the response to a stimulus is important, but also the perception of it, its internal interpretation.</li> <li>- Scaffolding: skilled activity required of a teacher to get learners to discover on their own modeling</li> </ul>	<ul style="list-style-type: none"> <li>- Gestures and language are important for interpretation.</li> <li>- Internal interpretation is important</li> <li>- Scaffolding.</li> <li>- Modeling.</li> </ul>
Cornelia Brunner 1950(?) - present	Linguist /cognitive scientist	<ul style="list-style-type: none"> <li>- Children of all age groups prefer realistic paintings as much as or more than non-objective paintings.</li> </ul>	<ul style="list-style-type: none"> <li>- Ideal images are adjusted to Stage I/ II viewers.</li> <li>- Ideal images contain subjects that are familiar and of interest of viewers.</li> </ul>
Noam Chomsky 1928 - present	American linguist, philosopher, and cognitive scientist	<ul style="list-style-type: none"> <li>- In human language, combined with "surface" structures, deep structures of an innate linguistic capacity can be found, connecting words and meaning. Like walking, language is both innate and learned</li> <li>- Students need proper guidance and examples: this is called <i>modeling</i>.</li> </ul>	<ul style="list-style-type: none"> <li>- Learning of language/vocabulary.</li> <li>- Guidance and examples: modeling.</li> </ul>
Ann (Weisberger) Coffey 1944 - present	Psychologist	<ul style="list-style-type: none"> <li>- Aesthetic development is related to cognitive developmental stages.</li> <li>- In the process, curiosity and discovery are important.</li> </ul>	<ul style="list-style-type: none"> <li>- Process of discovery is at the heart of Housen's research methodology, Stage Theory, and VTS.</li> <li>- VTS questions empower students to contribute to the social process of discovery.</li> </ul>
John Dewey 1859 - 1952	Psychologist	<ul style="list-style-type: none"> <li>- Learning should not be solely providing knowledge from the past, personal experiences in the here and now are as important as the knowledge and skills of mature persons.</li> <li>- A suggestion arising from some more or less accidental source should be at least as valid as a suggestion by a person who has more experience and a wider horizon.</li> <li>- Education needs to be devoted to objective conditions and those in the learners.</li> <li>- Progressive education has 2 principles: continuity of experience and interaction.</li> <li>- Empowering students to contribute to the process, taking into account their capacities, needs and past experiences.</li> <li>- Ideal aim of education is creating self-control. The combination of observation and memory effects the internal control of impulse.</li> </ul>	<ul style="list-style-type: none"> <li>- Combines personal experience in the now with reminiscing and sharing knowledge.</li> <li>- Everybody's input is important.</li> <li>- The VTS facilitator aligns with the participants' situation (conditions, knowledge, former experiences), and</li> <li>- starts the VTS conversation by questions through which participants are invited to describe own observations and support hypotheses with visible clues to help others understand them.</li> <li>- The VTS questions foster the exchange of ideas and that it is enjoyable to engage in this kind of problem solving.</li> <li>- Empowerment of students to contribute to the social process of discovery. VTS questions, open-ended, guide the exchange of views and support viewers' self-sufficiency and confidence VTS facilitator does not evaluate responses, but promotes that everybody feels comfortable sharing their observations.</li> <li>- VTS starts with a moment of silent looking. Paraphrasing slows down the exchange of ideas.</li> </ul>

Scholar		Grounding theory	Building blocks in Stage Theory & VTS: social constructivist and developmental approaches as guides to aesthetic appreciation
Lawrence Kohlberg 1927 - 1987	Educational Psychologist	<ul style="list-style-type: none"> <li>- Stage theory in moral development, based on Piaget's developmental theory.</li> <li>- Stages: pre-conventional, conventional, and post-conventional.</li> <li>- When children are more prompted to imagine how others experience things, they are able to function well in cooperative human interactions more quickly.</li> <li>- Developing both intellectually and morally should be the aim of education: 'democratic educational end for all humans must be "development of a free &amp; powerful character."</li> <li>- Development through Socratic dialogue.</li> </ul>	<ul style="list-style-type: none"> <li>- Dialogue among participants.</li> <li>- Teach students to imagine how others experience things to foster cooperation.</li> <li>- Development of free character as aim for education.</li> </ul>
Jane Loevinger 1918 - 2008	Developmental psychologist	<ul style="list-style-type: none"> <li>- Ego development is distinct human trait, only partly linked to age.</li> <li>- Ego development can be measured separately.</li> <li>- Rating method &amp; manuals, which require training for correct application.</li> <li>- stage theory:                             <ul style="list-style-type: none"> <li>'Presocial/symbiotic' in which no self can be measured, 'Impulse ridden', 'Opportunistic', 'Conformist', 'Conscientious', 'Autonomous', 'Integrated', eventually demonstrating a fully developed autonomous self.</li> </ul> </li> <li>- Milestones: impulse control, interpersonal relationships, and conscious preoccupation</li> <li>- Strategies of earlier stage(s) are integrated into the following which makes those stages consecutive. Skipping of stages is considered not possible.</li> <li>- Personal development occurs through interacting with the world and the people in it, while trying to make sense of it.</li> <li>- Learning occurs through social and cultural interaction, instead of knowledge being passively transmitted by teachers to students.</li> </ul>	<ul style="list-style-type: none"> <li>- Aesthetic development is distinct human trait, not linked to age</li> <li>- Development can be measured separately.</li> <li>- Rating method &amp; manuals, which require training for correct application.</li> <li>- Stage theory: Accountive, Constructive, Classifying, Interpretive, Re-creative.</li> <li>- Milestones: listing &amp; storytelling, judging, classifying, relating, befriending &amp; surprising.</li> <li>- Strategies of earlier stage(s) are integrated into the following which makes those stages consecutive. Skipping of stages is considered not possible.</li> <li>- Learning in and through images/art, teacher and group members.</li> <li>- Learning occurs through social and cultural interaction, instead of knowledge being passively transmitted by teachers to students.</li> </ul>
Jean Piaget 1896-1980	Cognitive constructivist	<ul style="list-style-type: none"> <li>- Four stages in cognitive development, related to age: sensorimotor (infancy), pre-operational (toddler), concrete-operational (elementary and early adolescence), and formal-operational (adolescence and adulthood).</li> <li>- Ego and aesthetic development is part of cognitive development.</li> <li>- Four factors contribute to the development of intellectual capacity: maturation of the nervous system, encounters with experience, social transmission, and equilibration/ autoregulation through accommodation or assimilation.</li> <li>- Strategies of earlier stage(s) integrated into the following, consecutive, skip stages not possible.</li> <li>- Learning occurs through social and cultural interaction, instead of knowledge being passively transmitted by teachers to students.</li> </ul>	<ul style="list-style-type: none"> <li>- 5 stages in aesthetic development, not related to age or ego- or cognitive development</li> <li>- Open-ended VTS questions support viewers' self-sufficiency and confidence.</li> <li>- Three factors contribute to the development of aesthetic understanding: encounters with experience, social transmission and equilibration/autoregulation through accommodation or assimilation.</li> <li>- Strategies of earlier stage(s) integrated into the following, consecutive, skip stages not possible.</li> <li>- Learning occurs through social and cultural interaction, instead of knowledge being passively transmitted by teachers to students.</li> </ul>



Scholar	Grounding theory	Building blocks in Stage Theory & VTS: social constructivist and developmental approaches as guides to aesthetic appreciation
Lev Vygotsky 1896 - 1934	social constructivist	
	<ul style="list-style-type: none"> <li>- Relationship between language (also inner speech) and thinking.</li> <li>- While human visual perception is integral, speech is analytical, requires sequential processing.</li> <li>- Strategies of earlier stage(s) integrated in the following, consecutive, skip stages not possible.</li> <li>- Learning occurs when a situation is within a person's capabilities, and includes the help of a more capable peer, adult, or expert: ZPD.</li> <li>- Building on one's own experience is essential, not trying to appropriate an expert's way of seeing things</li> <li>- Scaffolding</li> </ul>	<ul style="list-style-type: none"> <li>- Gestures and language are important for interpretation of images.</li> <li>- Only when children are ready can they learn the cognitive concepts of a later stage.</li> <li>- Building on one's own experience is essential, not trying to appropriate an expert's way of seeing things.</li> <li>- ZPD: ideal images are adjusted to the viewer's knowledge and viewing skills, contain strong narratives, but they are layered and ambiguous, in order to inspire debate.</li> <li>- Peer interaction, scaffolding, and modeling are important ways to facilitate individual cognitive growth and knowledge acquisition.</li> </ul>

### 1.3 APPENDIX 4 – FINDINGS PER VTS' EFFECT, PUBLICATIONS 2004-2021

#### 1. VTS' Effect on visual literacy

2020 - Hashtroodi et al., Iran - VTS method helps teachers to become much more visually literate and produce more successful vodcasts, whether or not they were capable of producing vodcasts. 10 English Language professors

2017 – Zapata et al., US - VTS offers a model for students to break down and attend to the processes they engage to read visuals. 6-10 6th grade students of 11 yrs old, and 12-15 high school students of 14-17 yrs old, all needing additional reading support

2017 – Bentwich & Gilbey, Israel - contribute to development of visual literacy. 67 1st yr medical students, in two consecutive rounds of first-year students

#### 2. VTS' Effect on critical thinking and reasoning

2021 – Aspden et al. – New Zealand - development of critical thinking. 174 Bachelor of Pharmacy, year 2 students, 2 Successive student cohorts 2016-17

2021 – Campbell et al. US - development of critical thinking . 20 graduate students environmental/ Chemical & Bio engineering, in 3 groups

2021 – Mani & Tachie-Menson, Ghana - developing students' critical thinking skills. 234 students Anatomy of School of Medicine and Health Sciences of the University for Development Studies

2020 – Poirier et al., US - Growth in depth & quality of some students' reflections. 17 undergraduate health professions students: juniors or seniors, also pre-pharmacy sophomores

2020 – Smolkowski et al., US - Teachers improved perceived knowledge of critical thinking concepts. 20 experimental group teachers/ 34 control group teachers

2019 – Kruse & Kinde – US - VTS process aligns with the practice of System 1 thinking and development of System 2 thinking. Year 1 Osteopathic Medical Students in groups of 10-15 students, some sessions include medical and clinical psychology students.

2018 – Brackley & Peterse, Australia - development of critical thinking competencies. 13 hospital pharmacy technicians

2018 – Nanavaty, US - evident in this study: relationship between thinking process and assessment process in nursing. 60 licensed practical, nursing students of a nursing & health class, 2 classes of 30, convenience sample

2018 – Nease & Haney, US - • Art-based education is effective for problem identification, were able to identify more clinical problems than the nurses who did not attend the educational program. 36 practicing nursing students in adult acute care in-patient units or emergency department, convenience sample of 250-bed tertiary care hospital

2017 – Allison et al., Canada - • students were beginning to apply, analyze, and evaluate complex concepts in global health, all higher-level cognitive outcomes. 8 1st- and 2nd-year medical students of Memorial.

2017 – Campbell et al. US - may help engineering students to become more reflective, participants might use VTS for changing thinking in practice. 12 3rd & 4th yr civil &

2017 – Henel & Moorman US - may help go deeper into own thinking, participants might use VTS for changing thinking in practice. 14 Doctorate of Nursing students enrolled in a leadership-based program.

2017 – Moorman et al., US - Students perceived gaining cognitive skills from the VTS session. 55 baccalaureate nursing students enrolled in an entry level healthy population course in groups of 10-15 participants

2017 – Rautiainen & Jäppinen, Finland - thinking skills have further developed. 7 American elementary school teachers

2017 – Zapata et al. US - VTS helped students map and explain how their thinking was connected to the text. 6-10 6th grade students of 11 yrs old, and 12-15 high school students of 14-17 yrs old, all needing additional reading support.

2016 – Grohe & Egan, US - treatment group had higher critical thinking skills scores than the control students, Treatment students scored high in Supported Observations (SO), a category of critical thinking where students explicitly support an idea with evidence: oral triple the number of SO than the control group, in writing 1,5 times, • Intervention students exhibited a new type of critical thinking, now called Evidentiary Reasoning, subtlety in describing what information is related to their claim. 8 intervention students, 10 control students, 17/18 yrs old

2015 Baker, US - evidence of growth in Critical Thinking. 3 students 10-11 yrs old with dyslexia/ Specific Learning Disability who were in a VTS program for 3 yrs,

2014, 2016 – Chapman & Hall, US - images elicit reflection, improvements on knowledge of barriers to mental health service access. 25 experienced teachers of students K6-9, 12-15 yrs old, from 2 schools

2013 – Moorman – US -students noticed that they were able to assess their patients more critically. 8 students of 7th semester BSc in Nursing, who had participated in 1 optional VTS session during a 6th semester obstetrical course.

2009 – DeSantis – US - 3-fold increase of CTS. 7 teachers and 20 students in Treatment group, 5 teachers and 13 students in Control group.

2009 – Vancil, US - CT developed in the context of group oral practice. 57 elementary school students of 8-12 yrs old (3-6 K). Study corroborates DeSantis & Housen's (2007) study, which found that critical thinking developed in the context of group oral practice and transfers to an individual written context

### **3. VTS' Effect on observation**

Campbell et al. 2021 - development of observation skills. 20 graduate students environmental/ Chemical & Bio engineering, in 3 groups

Ishiguro et al. 2021 - Increase amount of time spent viewing art, regardless of the type of paintings, VTS not affect art-viewing strategies/evaluations of artworks. 43 undergraduate students Tamagawa University, majoring in various courses (art & science, art, literature, agriculture, engineering)

Lee et al. 2021 - increase in number of words used to discuss the image , decrease in detailed observations but increase in supported inferences noted. 82 final year Speech & Language Therapy students

Mani & Tachie-Menson 2021 - effective in enabling students to observe critically developing students' observational skills, even medical students with background knowledge in visual art have to be re-trained to develop a critical eye for looking and looking well to see details. 234 students Anatomy of School of Medicine and Health Sciences of the University for Development Studies

Agarwal et al. 2020 - increased time spent analyzing images. increased number of clinically relevant observations. 101 students in total

Mendonça, 2020 - increase in sustained and selective attention. 125 Elementary school children, age 8-10 year

Ishiguro et al. 2020 - Increased art viewing time regardless of educ. Setting. 53 under-graduate students

Keogh & Gibbon 2020 - increased self-awareness of own observational style vs. their peers. 8 Facilitators & 7 4th year university students in final semester of their studies of 1 cohort of Speech and Language Therapy

Poirier et al. 2020 - Student observations for two of the three images increased. 17 undergraduate health professions students

Ishiguro et al. 2019 - Increase of amount of time spent viewing the artworks. undergraduate students (32 in art education, 4 in agriculture, 2 in education, 2 in art, 1 in arts & science, 1 in literature, and 1 in engineering)

Brackley & Petersen 2018 - development of observational competencies. 13 hospital pharmacy technicians

Nanavaty 2018 - help nursing students to improve their observational skills. 60 licensed practical, nursing students of a nursing & health class, 2 classes of 30, convenience sample

Nease & Haney 2018 - Art-based education is effective for improving observation, were able to make more observations. 36 practicing nursing students in adult acute care in-patient units or emergency department, convenience sample of 250-bed tertiary care hospital

Bentwich & Gilbey 2017 - related to ability for observing the feelings of others. 67 1st yr medical students, in two consecutive rounds of first-year students

Moorman et al. 2017 - students perceived gaining observational skills from the VTS session. 55 baccalaureate nursing students enrolled in an entry level healthy population course in groups of 10-15 participants

Zapata et al. 2017 - Students notice details in illustrations. 6-10 6th grade students of 11 yrs old, and 12-15 high school students of 14-17 yrs old, all needing additional reading support

Moorman 2013 - students noticed that they noticed more nuances and detail. 8 students of 7th semester BSc in Nursing, who had participated in 1 optional VTS session during a 6th semester obstetrical course

Klugman et al. 2011 - increased the amount of time spent looking at art and patient images, and the number of observations made of art and patient images, • Females increased the time spent observing significantly more than did. 32 students

#### **4. VTS' Effect on communication**

2021 Aspden et al. development of person-centred communication. 174 Bachelor of Pharmacy, year 2 students, 2 Successive student cohorts 2016-17

2021 Campbell et al. - development of group discussion skills, listening & paraphrasing. 20 graduate students environmental/Chemical & Bio engineering, in 3 groups

2021 Lee et al. - increase in use of subordinate clauses and cohesive devices, indicating increase in sentence complexity and cohesion of the narratives. 82 final year Speech & Language Therapy students

2020 Agarwal et al. - increased number of words used to describe clinical images. 1st year medical students 101 students in total

2020 Bomgaars & Bachelor - growth in writing: word types used and number of words and clauses per sentence, growth in speaking: number of words used per utterance. 32 High school L2 students in Spanish intermediate

2020 Mitzova-Vladinov & Torrents - VTS helps understand how to hone observational & listening skills, improvement communication skills. 26 Nurse anesthesia, medical, physical therapy, nursing, and psychology students,

2020 Smolkowski et al. - Students: improved their argument writing skills. 54 teachers

Nanavaty 2018 - increased communication, promotion of teamwork, listening skills, and not jumping to conclusions. 60 licensed practical, nursing students of a nursing & health class, 2 classes of 30, convenience sample.

Nease & Haney 2018 - Art-based education is effective for improving description, used more descriptive words. 36 practicing nursing students in adult acute care in-patient units or emergency department, convenience sample of 250-bed tertiary care hospital

Allison et al. 2017 - help students to express ideas. 8 1st- and 2nd-year medical students of Memorial

Rautiainen & Jäppinen 2017 - communicative, self-expressive skills have further developed. 7 American elementary school teachers

Lye et al. 2017 - children respond to artworks visually, cognitively and somatically, in that they talk about what they see, think and feel. 15 preschool students aged 5-6 yrs



Grohe & Egan 2016 - Treatment students scored high in Supported Observations (SO), a category of critical thinking where students explicitly support an idea with evidence: oral triple the number of SO than the control group, in writing 1,5 times. 8 intervention students, 10 control students, 17/18 yrs old

Baker 2015 - Evidence of growth in Language skills (listening, speaking, reading and writing), evidence of growth in Social skills (verbal and non-verbal gestures). 3 students 10-11 yrs old with dyslexia/Specific Learning Disability who were in a VTS program for 3 yrs,

Chapman & Hall 2014, 2016 - Images engage participants in discussion, elicit openness, and increase empathy. 25 experienced teachers of students K6-9, 12-15 yrs old, from 2 schools

Moorman 2013 - Students noticed they were more precise in providing details to other members of the healthcare team when they went into the clinical setting. 8 students of 7th semester BSc in Nursing, who had participated in 1 optional VTS session during a 6th semester obstetrical course

Klugman et al. 2011 - Increased number of words used to describe art and patient images. Students significantly increased their positive views toward health care professional communication skills. 32 students

DeSantis 2009 - More supporting observations and more speculations

Zelvis 2008 - No main effect or interaction effect on vocabulary

### **5. VTS' Effect on group cohesion and class climate**

Aspden et al. 2020 - increased group cohesion and foster positive class climate. 98 Pharmacy students

Mitzova-Vladinov & Torrents 2020 - VTS has merit with regards to collaborative practice. 26 Nurse anesthesia, medical, physical therapy, nursing, and psychology students

Poirier et al. 2020 -Use of VTS was an enjoyable learning experience. 17 undergraduate health professions students:

Smolkowski et al. 2020 - Teachers improved ability to teach critical thinking concepts, knowledge of concepts related to argument writing. Teachers improved their ability to perceive and analyze artistic work and understand characteristics used to convey intent and meaning. 54 teachers

Sinquefield-Kangas 2019 - experience of empathetic behaviors. 10 adults (9 female, 1 male), workshop participants during the InSEA Regional Conference held in Vienna, Austria in 2016.

Visscher et al. 2019 - 82% found the experience "very enjoyable". 50 3rd year medical students in intervention groups, no control group

Nanavaty 2018 - provides for collaboration and communication. 60 licensed practical, nursing students of a nursing & health class, 2 classes of 30, convenience sample

Allison et al. 2017 - help students to express ideas in a supportive small group environment. 8 1st- and 2nd-year medical students of Memorial

Hensel & Moorman 2017 - facilitating interpersonal relations/communication with patients students and colleagues. 14 Doctorate of Nursing students enrolled in a leadership-based program

Moorman et al. 2017 - Students perceived gaining interpersonal skills from the VTS session. 55 baccalaureate nursing students enrolled in an entry level healthy population course in groups of 10-15 participants

Bake, 2015 - engaging dyslexic students, evidence of growth in Student Engagement. 3 students 10-11 yrs old with dyslexia/Specific Learning Disability who were in a VTS program for 3 yrs,

Chapman & Hall 2014, 2016 - images elicit openness, and increase empathy, improvements on positive strategies for classroom management. 25 experienced teachers of students K6-9, 12-15 yrs old, from 2 schools

Moorman 2013 - role of facilitator identified as key component of feeling safe, being in the art museum added to that: neutral, relaxing, comfortable and welcoming territory. 8 students of 7th semester BSc in Nursing, who had participated in 1 optional VTS session during a 6th semester obstetrical course

Zelvis 2008 - Students with low motivation did not perform significantly better when VTS was used as the instructional method. 104 elementary school students 9-10 yrs old (K 4) in experimental and control group, divided among 8 classrooms an 4 elementary schools in the district

## **6. VTS' Effect on Cultural Competence**

2021 – Aspden et al. New Zealand - development of cultural competence. 174 Bachelor of Pharmacy, year 2 students, 2 Successive student cohorts 2016-17,

2021 Balhara & Irvin, US - intellectual curiosity about communities, increase understanding of effect on health of environment/soc. (SDOH). 5 Emergency Medicine trainees

2021 Campbell et al., US - promotion/support diversity in engineering. 20 graduate students environmental/Chemical & Bio engineering, in 3 groups

2020 Deunk et al. – NL - Growth of personal and professional intercultural sensitiveness. Diminishment of personal and professional intercultural sensitiveness, possibly as a result of a higher awareness of this aspect. 49 University students in elementary teaching, in groups of 8-9 students

2019 Visscher et al., Canada - analyzing paintings depicting radiology encounters with patients can challenge negative stereotypes that medical students have of the radiology profession and radiologists. 50 3rd year medical students in intervention groups, no control group

2017 Campbell et al. US - help students become more aware of their knowledge of broader contexts like culture, values, or politics, 12 3rd & 4th yr civil &

2017 Hensel & Moorman - facilitating interpersonal relations/communication with patients students and colleagues. 14 Doctorate of Nursing students enrolled in a leadership-based program

2017 Rautiainen & Jäppinen, Finland - Participants focused their assessment on the learner's linguistic ability and in being able to write about an image

2017 – Zapata et al. US - VTS provided a framework to navigate the complexities of discussions focused on issues of social justice. 6-10 6th grade students of 11 yrs old, and 12-15 high school students of 14-17 yrs old, all needing additional reading support

2014, 2016 Chapman & Hall, US - Yo Veo was effective in influencing educators' attitudes, knowledge, and behavior regarding Latino/Latina immigrants; however, the effects may be moderated by the school context. improvements on measures of cultural competency, multicultural teaching practices, improvements attitudes toward undocumented immigrants, • declines between post-test and 9-month follow-up were found for multicultural attitudes, ethnocultural empathy. 25 experienced teachers of students K6-9, 12-15 yrs old, from 2 schools

### **7. VTS' Effect on perspective taking, tolerance of ambiguity and empathy**

Aspden et al., 2020 - Improved ability to consider different ideas and contrary opinions with a more open attitude. 98 Pharmacy students

Balhara & Irvin, 2021 - VTS led to sharing perspectives and exploration of biases. 5 Emergency Medicine trainees

Bentwich & Gilbey, 2017 - contribute to development of tolerance of ambiguity/ acceptance of multiple possible meanings, related to the enhancement of empathy/ ability for observing the feelings of others. 67 1st yr medical students, in two consecutive rounds of first-year students

Campbell et al., 2021 - "Appreciating Others' Perspectives". 20 graduate students environmental/ Chemical & Bio engineering, in 3 groups

Chapman & Hall, 2014-1016 - images increase empathy, declines between post-test and 9-month follow-up were found for attitudes toward undocumented immigrants, and ethnocultural empathy. 25 experienced teachers of students K6-9, 12-15 yrs old, from 2 schools.

Hensel & Moorman, 2017 - may help gain new perspectives, facilitating interpersonal relations. 14 Doctorate of Nursing students enrolled in a leadership-based program

Klugman et al., 2011 - Students significantly increased their tolerance for ambiguity and positive views toward health care professional communication skills. 32 students

Kruse & Kinde, 2019 - course responds to the call for “empathy training” to be added to medical school curriculums. Year 1 Osteopathic Medical Students in groups of 10-15 students, some sessions include medical and clinical psychology students

Nanavaty, 2018 - Students shared that not everyone sees the same. 60 licensed practical, nursing students of a nursing & health class, 2 classes of 30, convenience sample

Rautiainen & Jäppinen, 2017 - Participants focused their assessment on the learner’s linguistic ability and in being able to write about an image. 7 American elementary school teachers

Sinquefield-Kangas, 2019 - experience of empathetic behaviors: 1. Imagining how another is thinking and feeling 2. Imaginatively projecting yourself into another’s situation 3. Feeling for another who is suffering. 10 adults (9 female, 1 male), workshop participants during the InSEA Regional Conference held in Vienna, Austria in 2016.

Visscher et al., 2019 - 86% agreed that paintings positively affected their understanding of how radiologists provide care to patients, analyzing paintings depicting radiology encounters with patients can challenge negative stereotypes that medical students have of the radiology profession and radiologists.; 50 3rd year medical students in intervention groups, no control group

2017 Lye et al., Singapore - children’s comments featured affect and personal connections, as 2/3 of their responses. 15 preschool students aged 5-6 yrs

### **8. VTS’ Effect on imagination and creativity**

2021 Campbell et al. US - development of imagination/creativity. 20 graduate students environmental/Chemical & Bio engineering, in 3 groups

2019 – Sinquefield-Kangas, Finland -1. Imagining how another is thinking and feeling 2 .Imaginatively projecting yourself into another’s situation. 10 adults (9 female, 1 male), workshop participants during the InSEA Regional Conference held in Vienna, Austria in 2016.

2017 – Lye et al., Singapore - children’s comments featured creativity and imagination. 15 preschool students aged 5-6 yrs.

### 9. VTS' Effect on self-awareness & self-esteem

2020- Keogh & Gibbon, Ireland - increased self-awareness of own observational style vs. their peers. 8 Facilitators & 7 4th year university students in final semester of their studies of 1 cohort of Speech and Language Therapy

2018- Nanavaty, US - Students shared that not everyone sees the same, reflecting on the process and experience can help the student internalize the experience, resulting in self-growth and application of learned experiences to clinical practice. 60 licensed practical, nursing students of a nursing & health class, 2 classes of 30, convenience sample

2017 – Moorman et al., US - Students perceived gaining intrapersonal skills from the VTS session. 55 baccalaureate nursing students enrolled in an entry level healthy population course in groups of 10-15 participants

2017 Zapata et al., US - • Students produce new and critical insights to explore. 6-10 6th grade students of 11 yrs old, and 12-15 high school students of 14-17 yrs old, all needing additional reading support

2015 – Baker, US - increase in students' self-concept. 3 students 10-11 yrs old with dyslexia/Specific Learning Disability who were in a VTS program for 3 yrs,

2014- 2016 Chapman & Hall, US - improvements on beliefs about parental involvement, mental health competency, • Awareness of mental health symptoms was the only variable where there were no statistically significant changes. 25 experienced teachers of students K6-9, 12-15 yrs old, from 2 schools

2011 – Klugman et al. , US – 32 students - Students significantly increased their positive views toward health care professional communication skills. • 18 students medical school (8 1st-year, 8 2nd-year, and 2 3rd year) and 14 nursing school (5 undergraduates, 9 graduates

## 2. APPENDICES CHAPTER 6

- 2.1 Validation study of Dutch translation JSE-LS
- 2.2 Details about organization and execution of field research Inleiding Bestuursrecht in January - February and March 2023
- 2.3 Details about organization and execution of field research Inleiding Rechtswetenschap in September and November 2023
- 2.4 Details about data preprocessing: cleaning & matching data, factor analysis BES
- 2.5 Ethical Clearance: briefing/debriefing texts students, questions BES and JSE-LS test
- 2.6 Data

### 2.1 APPENDIX CH. 6 - VALIDATION OF DUTCH TRANSLATION OF JSE-LS

#### 2.1.1 Translation of JSE-LS

For this re-validation study of the JSE-LS, the JSE-LS questionnaire was used, in a Dutch translation. Therefore, the study was at the same time also a validation study for a Dutch translation of the JSE-LS. This Dutch translation of the JSE-LS was made through DeepL and personal alterations as well as feedback of two Dutch professional translators in English, resulting in the final version of the Dutch translation used in this study. Of the JSE-LS, two versions have been tested of the Dutch translation, one using the translation of the word *lawyer* to the Dutch word *advocaat*, which refers to *solicitor* or *attorney*, and *jurist*, which is used in Dutch to refer to a legal expert or legal professional more in general. The word *advocaat* was used in both pre-and post-tests in week 1 of *IB*, and the word *jurist* in both pre-and post-tests in week 5 of *IB*.

As it turned out in the exploratory factor analysis, no difference with earlier studies on the JSE-LS could be found. This means that the translation can be considered validated. However, items 18 and 19 do not seem to load to any factor. Recommended is to leave those two items out of the JSE-LS to minimize the number of questions in the questionnaire. Compared to the other JSE studies, we found items to be stable, which means that our results could be compared to the earlier studies, as well as unstable and varying, which means that in our study, they varied over time:

- *Stable items: 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 20*
- *Unstable items: 2, 5, 16*
- *Varying items 1, 3, 6, 18, 19*

#### 2.1.2 Validation of Dutch JSE-LS

We determined the number of factors through estimating the eigenvalues, examining the scree plot, and running parallel analysis. Note that the questionnaire of T3 differs from the questionnaires in T1 and T2; in T3, the word *advocaat* was replaced by *jurist*, for this translation would make the Dutch translation more suitable for a broader range of legal professional.

As a start of the validation, careless responding of those questions was assessed, in two ways:

1. Longstring: participants answering the same answer 20 times were removed from analyses (N = 2, 10, 2, 3 participants across four time points, respectively).
2. Intra-individual Response Variability: Participants with an IRV with more than 2 standard deviations from the mean were removed from analyses (N = 12, 14, 5, 3 participants across four time points, respectively).

No participants at any point were removed based on their response time. As a result, there are still participants in the data set with relatively short response times (e.g., shorter than three minutes).

■ **Table:** Descriptives JSE-LS variables Age, Gender – *Inleiding Bestuursrecht*

Comparison with Study on JSE-LS of Spivak et al. 2018 N= 276, mean age 21 years, 73 % female, 27 % male, majority 45 % in 2nd, 26 % in 3rd year of degree					
	T1	T2	T3	T4	
Sample size: Total	N=296	N=247	N=141	N=80	Timepoint 4 does not have enough participants to continue with the analyses <sup>1027</sup>
Complete cases	N=293	N=245	N=135	N=74	
<i>Variable</i> Age Median	N=290	N=243	N=139	N=80	2002-2004 (19-21 years old) = 73 %, rest 27 %
Range is 18-25 years old = 1998-2005 (asked was year of birth)	2003 (20 years old)	2003 (20 years old)	2003 (20 years old)	2003 (20 years old)	
<i>Variable</i> Gender – Median	N=296	N=247	N=141	N=80	Mean = F
M, F, Other, Rather not say	F 66% N=196 R 1% N=3	M 36% N=88 F 63% N=155 R 2% N=4	M 31% N=44 F 66% N=93 O <1% N=1 R 1% N=3	M 39% N=31 F 59% N=47 R 3% N=2	Male = 33-39 % Female = 59-66 % Other = <0 % Rather not specified = 1-3%

In order to (more or less) safely consider an ordinal predictor continuous, a test should have at least 5 to 7 points (Rhemtulla et al. (2012<sup>1028</sup>)). The JSE-LS has a 7-point Likert scale ranging from 1 = strongly disagree to 7 = strongly agree.

Before performing a robustness check, participants were excluded that were flagged as outliers by a Robust Mahalanobis Distance and a Generalized Cook’s Distance: T1: N=8, T2: N=20, T3: N=2, T4: N=3. After this, the inter-item correlations were checked via a correlation matrix. From the literature, it was found that there should be at least several small-moderate sized correlations e.g.,  $r > .30$ . Multiple items have  $r > .33$  with at least two other items, but some items have strong



1027 Some recommendations based on sample size or subjects-to-variables (STV) ratio:  
 • At least 100 observations, ideal ranges from 300-1000 (e.g., Comrey & Lee 1992; MacCallum, Widaman, Zhang & Hong 1999)  
 • 51 more observations than the number of variables, to support chi-square testing (Lawley & Maxwell, 1971)  
 • Sample size larger than 5 times the number of items (Hatcher 1994). More subjects are needed when communalities are low and/or few variables load on each factor (in Garson 2022).  
 • At least 10 observations for each item in the instrument being used. (e.g., Garson 2022)  
 • STV ratio no lower than 5 (e.g., Garson 2022)

1028 <https://doi.org/10.1037/a0029315>

correlations with only one other item, which is problematic as factors are ideally measured by three items. There are also three items that are not strongly correlated with any of the other items. We clearly see the correlations increasing over time, with timepoint 2 and timepoint 3 being more similar to each other than timepoint 1. This could be due to increased familiarity of the questions. Furthermore, through Kaiser-Meyer-Olkin (KMO, Kaiser, 1974) and Bartlett's Test of Sphericity (BTS) the sampling adequacy was measured. Results were in line with the findings on the 2016 and 2018 studies on the JSE-LS in English. Based on the KMO, it was concluded that a factor analysis reasonably could be conducted. Furthermore, the BTS turned out to be statistically significant, rejecting the null hypothesis of orthogonal (i.e., uncorrelated) items. In the 2016, a four-factor solution with eigenvalues >1.25 was found (Williams et al. 2016). In this study, through a scree plot, it was found that, across all time points, there was ambiguity between two, three, and four factors. The scales showed suitability for use in performing an exploratory analysis. Parallel analysis showed 6 factors, eigenvalues either 4 or 6 factors. We ran an ESEM analysis on the 4-factor, 5-factor, and 6-factor solution. The 6-factor model fitted best. ESEM analysis T1 showed strong factor loadings for the following factors and items from previous studies:

2016 results	2018 results
Responding to client's experiences and emotions: 1* 2 7* 8* 11* 12* 14*	1. Responding to clients' experiences: 1* 7* 8* 11* 12* 14* 16 20
Understanding the client's perspective: 9 10 16 17 20	A mixture of "understanding the client's perspective" and "responding to client's cues and behaviours": 2 4 10 13 15
Responding to clients' cues and behaviors: 4 5 13 15	No name given: 9, 17
Standing in client's shoes: 3* 6* [factor 2]	Standing in client's shoes: 3* 6* [factor 2]
Not loading on any factor: 18* 19*	Not loading on any factor: 5 18* 19*

(\* indicates reverse coded)

Comparison with previous studies of the T1 6-factor model:

1. Factor 1 in our solution belongs to "Responding to client's experiences [and emotions]" from both studies.
2. Factor 2 is found in both the 2016 and 2018 study: "Standing in client's shoes".
3. Factor 3 belongs to "Responding to clients' cues and behaviors" in study 2016, and in the mixture of "understanding the client's perspective" and "responding to client's cues and behaviours" factor in study 2018.
4. Factor 4 in our solution belongs to "Responding to client's experiences [and emotions]" from both studies, just as factor 1.
5. Factor 5 overlaps with "Responding to clients' cues and behaviors" and "Understanding the client's perspective" from 2016, and it does not coincide with the 2018 study (2 items in "No name given", 1 item not loading, 1 item in the mixture factor).
6. Factor 6 also overlaps with "Responding to clients' cues and behaviors" and "Understanding the client's perspective" from 2016, and coincides with a mixture of "understanding the client's perspective" and "responding to client's cues and behaviours" from 2018.



Comparison with previous studies of the T1 5-factor model:

1. Factor 1 in our solution belongs to “Responding to client’s experiences [and emotions]” from both studies.
2. Factor 2 is found in both the 2016 and 2018 study (“Standing in client’s shoes”).
3. Factor 3 is found in “Responding to clients’ cues and behaviors” in the 2016 study, and the mixture factor in the 2018 study.
4. Factor 4 in our solution belongs to “Responding to client’s experiences [and emotions]” from both studies, just like factor 1.
5. “Responding to client’s experiences [and emotions]” from both studies seems to be covered by our factor 3 and factor 4.
6. Factor 5 overlaps with “Understanding the client’s perspective” from 2016, and not really covered by study 2018.

Comparison with previous studies of the T1 4-factor model:

1. Factor 1 in our solution covers the “Responding to client’s experiences [and emotions]” from both studies.
2. Factor 2 is found in both the 2016 and 2018 study (“Standing in client’s shoes”).
3. Factor 3 does not cover any of the factors in the study clearly, has some overlap with “responding” variables.
4. Factor 4 overlaps with “Responding to clients’ cues and behaviors” and “Understanding the client’s perspective” from study 2016, and mixes with “Responding to clients’ experiences” and the mixture variable of 2018.

Factor correlations showed that there were no strong correlations among any of the factors and almost zero or negligible correlations F2 with all other scales. All other correlations were weak (see the Appendix for the Table). The reliability of the instrument was estimated using internal consistency by calculating Cronbach’s alpha. As it turned out, the total scale reliability was good: 0.759. However, the internal consistency of the individual scales was weak, with factor 2 showing the highest reliability ( $\alpha = 0.666$ ). Given the low internal consistency of the scale and the fact that none of the scales really coincided with previous studies, it was decided to also interpret the 5-factor model and 4-factor model. They fitted worse than the 6-factor model.

## 2.2 APPENDIX CH. 6 - ORGANIZATION AND EXECUTION FIELD RESEARCH INL. BESTUURSRECHT 2023

### 2.2.1 Fieldresearch IB - Experimental condition/VTS

- *Preparation in the syllabus*

Information in the syllabus on the first lecture which introduced the fieldresearch, by Prof. J.W. Wolswinkel, course week 1, 31 januari 2023, subject: Introduction Better Administrative Law.

The first lecture provides an introduction to administrative law as a field of law. The lecture focuses on a number of current developments in administrative law, such as (the aftermath of) the childcare allowance affair. The aim is to give you a first impression of administrative law and to make clear which legal issues arise here.

*Educational aims:*

After reviewing the literature, you are expected to:

- *be able to give a brief characterization of administrative law;*
- *be aware of current issues within administrative law;*

- *be able to reflect on what character traits an administrative lawyer should have.*

#### Seminar assignments:

The working lecture is devoted to character development of the administrative lawyer. You do not need to prepare anything for this. Literature, proposed as preparation for the lecture:

- *Hoofdzaken van het bestuursrecht \* Hoofdstuk 1*
- *L.F.M. Besselink, Hoogste rechter, hoogste onrecht: over de rechter en de wet in de toelagenaffaire - Nederland Rechtsstaat <https://www.nederlandrechtsstaat.nl/hogsterechter-hoogste-onrecht-over-de-rechter-en-de-wet-in-de-toelagenaffaire/>*
- *Pre-consultatie wetsvoorstel versterking waarborgfunctie Awb (Aanbiedingsbrief bij teksten voor de preconsultatie van het wetsvoorstel versterking waarborgfunctie Awb | Kamerstuk | Rijksoverheid.nl) <https://www.rijksoverheid.nl/onderwerpen/bezwaar-en-beroep/documenten/kamerstukken/2023/01/20/aanbiedingsbrief-tk-toezending-ter-kennisname-teksten-pre-consultatie>*
- *Raad van State, Lessen uit de kinderopvangtoeslagzaken - Raad van State <https://www.raadvanstate.nl/lessen-uit-de-kinderopvangtoeslagzaken/>*
- *VAR Vereniging voor bestuursrecht, #Bestuursrechtbeter: zes projecten om het bestuursrecht beter te maken (verenigingbestuursrecht.nl) <https://verenigingbestuursrecht.nl/2021/10/bestuursrechtbeter-zes-projecten-om-het-bestuursrecht-beter-te-maken/>*

#### Contents lecture:

This lecture introduces Administrative Law by discussing the childcare allowance affair, what the role of Administrative Law Judges has been and what the lessons learned are from the affair:

- *Most important are a more critical attitude towards the correctness and completeness of the information.*
- *The importance of internal contradiction and learning the accompanying skills as well as dialogue with the outside world.*
- *In addition, legal rule in practice should leave room for a just outcome in individual cases.*

Seminar leaders have been informed in a Zoom meeting about the procedure. They also have been asked to join the team who chose the images, as well as some law students.

#### Introduction of the tests:

Introduction: I'm going to briefly explain to you what we're going to do today. We're going to build on information in the lecture, where the childcare allowance case was cited. This case shows that administrative lawyers, administrative law experts and other lawyers need to develop certain skills that they don't currently have enough of. For example, those that can help with seeing more perspectives and thinking critically about whether sticking tightly to a rule is such a good idea. That's what we're going to work on today. We are going to look at 3 images and discuss them with each other in class. You don't have to take notes, don't have to write anything down. We won't have a break, but we'll finish earlier. We will begin with a questionnaire. You may complete this questionnaire in a moment on your laptop or your smartphone, whichever you prefer. Your

contribution to this study is important so it would be nice if you would participate. The survey will take about 10 minutes to complete and we will, of course, handle the data securely. Also, don't over think a question but fill in whatever comes to your mind first. I would ask you not to consult with each other and to fill out this questionnaire silently and alone. When you are done, please wait in silence also until everyone else is done. You can scan the QR code or enter the link. If you have a question or something doesn't work out, raise your hand and I'll stop by! Thanks for filling it out! You may now put away your laptop/phone.

### **Planning IB (in Dutch)**

Tuesday 31 Jan.

Lecture by Johan Wolswinkel, Auditorium

Wednesday 1 Febr.

14.45 uur in MDZ2: intro door Remko, daarna doet Esther de pre-test, en Ingemarie VTS. Esther doet de post-test, Remko sluit af.

Donderdag 2 Febr.

8.45 uur MDZ2: intro door Remko, Esther pre-test, Ingemarie VTS sessie, Esther post-test, Remko sluit af. Ondertussen vangt Ingemarie VTS trainer Marielle op.

10.45 uur MDZ 2: Intro door Remko, Esther pre-test, Marielle VTS sessie, Esther post-test, Remko sluit af. Tijdens die post-test gaat Ingemarie met Marielle naar AZ201. Esther sluit aan wanneer ze klaar is in MDZ2. Ik ga zodra Esther er is naar mijn locatie, Cube 216.

12.45 uur in AZ 201: introductie door Johan, Esther pre-test, Marielle VTS sessie, en Esther post-test en afsluiting

12.45 uur in Cube 216: introductie door Remko, Ingemarie pre-test, VTS sessie en post-test, Remko sluit af.

Vrijdag 3 Febr.

8.45 uur CZ7: intro door Sophie, daarna Esther met pre-test, en Ingemarie VTS sessie en post-test. Sophie sluit af. Na de pre-test gaat Esther naar MDZ2 en vangt VTS trainer Adelijndaar op. Ingemarie gaat na afloop van de post-test naar MDZ2.

10.45 uur MDZ2: Rens/Ingemarie (?) doet de introductie, Esther pre en later post-test, Adelijnde VTS sessie. Ingemarie gaat weer terug naar C halverwege de sessie.

12.45 uur MDZ2: Introductie door Sophie, Esther doet pre en post-test, Adelijnde VTS sessie.

12.45 uur CZ112: Ingemarie/Rens? doet de introductie, Ingemarie doet de pre-test, VTS sessie en post-test en afsluiting en gaat dan weer terug naar MDZ2.

14.45 uur in MDZ2: Rens/Ingemarie doet de introductie, Esther pre- en post-test, Ingemarie de sessie. Rens/Ingemarie sluit af.

### **Personal report fieldresearch IB**

The conversations sometimes take a while to get going but are lively. Students show that they can look at things from different angles and regularly bring in relevant prior knowledge, some more than others. Exactly as expected and hoped for. The efforts of VTS trainer MO also went well, as expected. She teaches MBO students and uses VTS in her lessons with this target group. MO therefore had no trouble at all with the commotion and talking that sometimes occurred between

some students (neither did I by the way). That commotion and talking was actually as expected, especially in the larger groups. However, we understood from both teacher Remko, and from some students, that the research, and especially the nature of it, does overwhelm the students a bit and that some do not understand why the lesson they are being taught could be useful to them. A few are bothered by it; one girl even ran away because of it. She explained, when I asked her about it, that she is doing the course for the second time and therefore was really waiting for the content. She expressed irritation that so much time was spent on the test (she left right after the pre-test). There appears to be more students participating who did not pass the course last year, and they indicated that it is a difficult course. Further, not all students appear to identify with the target group of law students. RM, after consulting with me and EM after the first meeting on Wednesday afternoon today, put some more information into his introduction, and made the link with Administrative Law clear again. This is tricky, though, because of course we can't talk exactly about the purpose of the research. We keep it mostly to exchange perspectives. RM has informed the other lecturers in the group app that a bit more introduction is important for support in the group for tomorrow's seminars. Nevertheless, the experimental nature of the working group lecture, combined with the 2x10 minutes of empathy tests, naturally requires some flexibility from students, which not everyone finds easy to muster. However, most students do participate bravely, and also do their best in the interviews. EM and I hope, that the reactions of the students who find it a bit difficult to participate, will not color the results of the survey too much. Friday went as Thursday, with the difference that most groups were considerably less occupied than expected. RK turned out still to be sick with Covid. Therefore, he did his introduction through Zoom, we managed to get that working in class. Our impression is that the appreciation of VTS is greater among the smaller groups than among the larger, of 35+ students. There was often some turmoil in those groups. This also suits the school setting, for which this method is actually designed. In hind sight, I cannot help but conclude that the size of the group had the most influence on whether or not we experienced resistance from (some of) the students.

*Reaction supervisors:*

1. Based on your report, I would say that this is going well. That some students experience some resistance is not extraordinary to me; there are some utility thinkers among them, for whom education and passing exams should coincide as much as possible.
2. I recognize the different reactions of the students. You get these with all skills teaching. The negative students do not participate because they find it unnecessary and it does not count for the exam. I hoped that the link to the childcare allowance affair would make it sufficiently clear that a legal education not only includes knowing the law, but also how to deal with it. The latter requires the training of many skills. And this training leads a very precarious existence in the law school curriculum.

**Reaction VTS experts:**

Enjoyed participating: is interested in the topic of the study, wants to contribute to research, also enjoys working with this target group. Preconditions she saw: size group and age of participants: have fear of saying something. 3 images important because like HL. But doing every week can also

be done. 1st time do 2 images and then reflect on nature of conversation + content/theoretical follow-up question (administrative law). Sometimes an image doesn't work, they can't do anything with it (reaction of student when asked why she didn't contribute to the conversation). Students: you have no control over whether they want to participate/ whether they get it. Ernst & Young experience: called "the art of watching. Introduction is crucial: what do people need to feel it could be relevant to them? Enough to get involved? Uni = Wild West: what is the learning context like in uni? Large groups work lecture + 1 lecture: too scary/unsafe to think for yourself/show something of yourself, especially if you know nothing about the subject. Doing this in 1st lecture is pretty intense because they don't know the lecturer yet. Better warm up is better. Top: good introduction by Rens, he made it very clear why observational skills are relevant for lawyers. Tip: add interaction/questioning as with Sophie, that seems even better. Also: develop system for image selection for target audience. VTS experience Adelijn: it is extremely important to tune in to what interests the target group. Do this possibly in consultation with the target group.

### Other topics:

- Linking respondents within session with ID/phone number is possible, works.
- Even though students can skip some or all of the questions, almost none do.
- If questions are skipped it is at the end of the survey; we have more answers for the BES than for the JSE-LS.

### Reactions students:

288 student filled in the post-test, of whom 37 filled in the call for reaction at the end. See the appendix for the complete list. This means that 251 students did not fill in anything, or '-', 'not applicable' or 'no', i.e., 87%. Of the 37 students, who filled in anything, 10 reacted positively or mixed positive/negative and 16 negative, 1 other:

- 1 was explicitly positive, labeled 'J' in the list below. The remark was an observation about the diverse ways classmates reacted during VTS, and
- 9 reacted positively but had some negative thoughts as well or the other way around, which is labeled 'J/N' in the list, for example the student who first thought VTS was 'floaty', but later could join and see the point.

Of the students who reacted negative,

- 7 students reacted that they did not want to spend time on an activity like VTS, did not see it as a learning activity, 'N/time' in the list below, for example 'Is not very useful to us'.
- 2 reacted that VTS as a method did not resonate with them personally, 'N: does not res.' For example: 'This is nothing for me'.
- 6 students would have wanted to get information how VTS fitted into legal education/practice, 'N:info', for example 'I do not see the link between this method and administrative law'.
- 5 students reacted negatively for they would have wanted to know beforehand that this seminar was a research activity, not about study material related to the final exam, labeled

'N:res', for example 'Please give information beforehand, when research will be done. Than we know for what we come to school'.

- 4 students reacted negatively for diverse reasons, for example that the seminar teacher only was allowed to contribute to the VTS conversation, and not to teach, labeled 'N:div.' and
- 1 student made a remark that had nothing to do with VTS, or anything related to legal education or practice, labeled 'Div.' in the list.

Het toont denk ik aan dat sommige mensen simpelweg observeren, zonder na te denken wat de betekenis is, terwijl anderen meer analyseren.	J
Ik vond het in het begin een beetje te zweverig, maar kon er later wel mee ingaan en het nut er van inzien.	J/N
Interessant en saai spreekt elkaar tegen dus zodoende: het is prima interessant om ernaar te kijken en er inzichten uit op te halen, maar uitvoerige bespreking heeft naar mijn inziens niet veel toegevoegde waarde	J/N
Hoewel dit onderzoek erg interessant was, heb ik niet het gevoel dat dit gezien de grote hoeveelheid stof die moet worden behandeld de meest productieve besteding van onze lestijd is.	J/N
1 plaatje was voldoende	J/N
Kies de volgende keer een beetje fatsoenlijke kunst. 1 en 2 waren technisch erg slecht gemaakt	J/N
Leuk opzich omdat je toch met elkaar in gesprek bent en je bent een beetje creatief bezig. Irritant omdat ik vroeg ben opgestaan met het idee iets juridisch inhoudelijks te doen en uiteindelijk iets super zweverigs voorgeschoteld te krijgen.	J/N
Veel van hetzelfde	J/N
veel van hetzelfde	J/N
Heb niet het idee heel veel geleerd te hebben, wel gelachen	J/N
Wat heeft dit met bestuursrecht te maken?	N: info
dit is niks voor mij	N:dsn't res.
Welk niveau is dit?	N:dsn't res.
Dit is naar mijn mening een slechte en nutteloze manier van lesgeven. Ik vind dit heel zonde van mijn kostbare tijd.	N:time
doe dit niet in een werkcollege, ik had echt betere dingen kunnen doen met m'n tijd	N:time
niet meer opnieuw aub	N:time
Niet heel nuttig voor ons	N:time
Heeft niets met Bestuursrecht te maken, beetje onnodig en onzin om dit te geven op een rechtenstudie.	N:time
Ik vind het zonde dat ik college geld betaal voor dit soort onzin, ik kom hier om te leren.	N:time
Vreselijke les. Kwam hier naar toe voor een werkcollege bestuursrecht en dan moeten we zo'n wazige dingen over een schilderij beantwoorden. Spijt dat ik überhaupt naar dit werkcollege ben gegaan voor deze onzin.	N:time
Ik vond het apart dat Remco geen opmerkingen mocht maken, terwijl Esther dit wel mocht doen. Bovendien denk ik dat zijn opmerkingen wat toegevoegd hadden aan de manier van les geven. Het was immers ook een deel van de tijd dat we op elkaars inzichten reageerden. Dit had anders/eerlijker gekonnen.	N:div.
Naar mij mening niet een hele effectieve methode om aan te leren dat je ook vanuit andere perspectieven moet kijken.	N:div.

Ik begrijp niet zo goed waarom we zowat dezelfde vragenlijst na de klassikale opdracht moesten maken gezien de opdracht naar mijn mening, mijn standpunten niet veranderde	N:div.
Wederom ontkenende vragen kunnen verwarrend zijn, bijvoorbeeld 'geen' of 'niet'.	N:div.
Pretentieusiteit is niet goed.	N:div.
Wellicht in de toekomst aankondigen dat het werkcollege in meer filosofische insteek heeft. Dan kunnen dan ongemotiveerde/irritante studenten thuis blijven.	N:info
verhouding mbt vragenlijst voor mij onduidelijk	N:info
jullie hebben niet echt toegelicht wat het verband is tussen deze methode en bestuursrecht dus ik zie het nut nog steeds niet in.	N:info
Wat heeft het met bestuursrecht te maken?	N:info
Ik zie niet direct in waar deze methode nuttig voor zou kunnen zijn bij juristen	N:info
Begrijp de link tussen dit college en bestuursrecht niet.	N:info
Dit had ook thuis gekund, we zijn heel vroeg naar school gekomen om les te volgen en doen nu zonder dat we het weten mee aan een onderzoek.	N:res
Graag volgende keer van tevoren aangeven als er een onderzoek gedaan wordt. Dan weten we waarvoor we naar school komen	N:res
Ik vind dat er vooraf aangegeven had behoren te worden dat deze tijd besteed zou gaan worden aan een onderzoek en niet aan studiegelateerde les ten aanzien van het tentamen.	N:res
Ik vind de manier hoe wij deelnemen aan dit onderzoek niet kunnen. We zijn allemaal vroeg naar school gekomen in de gedachte dat we bestuursrecht zouden volgen en we zitten zonder dat we dit wisten in een onderzoek. Ik vind dit erg vervelend en niet bijdragen aan mijn ontwikkeling.	N:ond
Ik wil gewoon bestuursrecht volgen en geen vragenlijsten invullen. Dank u.	N:ond
Die vrouw die voor de klas stond lijkt op Dieuwertje Blok	Other

## 2.2.2 Field research /B - Control condition

### Information in the syllabus - Introduction

This course week will cover two topics.

1. The first topic deals with the allocation of administrative powers to administrative bodies. The focus is then on powers by virtue of which the administrative body can perform public law legal acts, that is, it can unilaterally determine rights and duties of citizens. If duties are imposed on citizens, the legality requirement dictates that the power to do so must have a legal basis. The concepts of attribution, delegation and mandate are discussed in the context of this acquisition of authority. When exercising administrative powers, the legislator can give an administrative body room for maneuver when this is necessary to make a good decision in a concrete case.
2. The second topic deals with the different forms of administrative discretion: policy discretion and discretion.

### Studiedoelen

After studying this topic, you are expected to be able to:

- define the concepts of attribution, delegation and mandate;
- indicate when there is attribution, delegation and mandate of an administrative power;
- specify the conditions under which delegation and mandate of authority are permitted;
- can explain the extent to which civil servants can exercise powers;
- can explain what is meant by latitude in policy and what is meant by discretion;
- can indicate whether there is room for policy or discretion in a specific case.

### Assignments

Question 1 - In Main Issues of Administrative Law, the legality requirement is associated with the concepts of attribution, delegation and mandate of administrative power.

- State how this requirement permeates the requirements of (i) attribution, (ii) delegation, and (iii) mandate.
- Explain why a field of tension arises with attribution of managerial powers to civil servants and how the General Administrative Law Act deals with it.

Question 2 - A four-day book fair is held annually in the municipality of Ter Sluis. To occupy a stall at the book market, a stall permit is required based on the municipal market ordinance. For reasons of efficiency, the Municipal Executive is considering placing the processing of applications for a stand permit in the hands of an official at the municipal Public Works Department. However, engaging the Stichting De Boekenbende - a collaborative platform of booksellers, municipality and hospitality operators - is also an option.

1. Does the municipal government have a free choice to delegate or mandate management authority to The Book Gang Foundation?
2. Does the city council have the free choice of delegating or mandating board authority to the official in the Public Works Department?

### Question 3

- a. Explain why the degree of policy discretion of an administrative body is relevant for judicial review of administrative action. In the judgment of ABRvS October 23, 2019, ECLI:NL:RVS:2019:3536 (childcare allowance), Article 26 of the General Income Support Act is central: If a revision of an allowance or a revision of an advance payment leads to an amount to be recovered or a set-off of an advance payment against an allowance leads to this, the interested party shall owe the amount of the recovery in its entirety.
- b. Explain why, in the Division's opinion, this provision contains decision latitude.

Question 4 - A new marina has opened in the municipality of Twikkel. The influx of water sportsmen in large numbers causes quite a nuisance in the initially quiet village. The town council decides to put a stop to this invasion. A new article 20a was added to the municipal General Municipal Bye-Law (APV) that read as follows: Article 20a

1. A permit is required for occupying a berth with a pleasure craft in the marina for more than 24 hours.
2. The Municipal Executive is authorized to grant a permit upon application.



3. The Municipal Executive will decide within nine weeks after receipt of the application for a Answer to the following questions:

- a. By what means did the College of B&W acquire the authority granted in article 20a paragraph 2 APV? A) Attribution b) Delegation c) Mandate
- b. Is the provision of article 20a paragraph 3 of the APV permissible in the light of the Awb?
- c. What form of discretion is at issue in article 20a paragraph 4 APV?
- d. Reword article 20a subsection 4 APV so that it expressly shows discretion.
- e. Is the revocation of a mooring permit a decision?
- f. May the harbor master who is employed by the municipality as a civil servant act on behalf of the college? permit.

### Contents lecture

Lecture by Prof. Dr. Maurice Adams about the Toeslagen-affaire, translation: the child support allowance affair, which led to the resignation of the Dutch government in 2019. The affair is a Dutch political affair resulting from unjustified suspicions of allowance fraud and a strict recovery policy by the central government. The affair made headlines with childcare allowances, but also other allowances turned out to have the same problems. The issue was known since 2004, but did not receive attention until 2017 and became a political scandal. As it turned out, in some cases, there was institutional racism, institutional bias and violation of the basic principles of the rule of law.

### Planning

- One teacher did feel it was important to better prepare the students for the questionnaires this time, because he personally had critical reactions from students about it. There were some who felt too much forced to contribute, in addition to students not seeing the link with public administration enough. Johan expects by doing more expectation management that questionnaires will be less irritating to students and also because there is now a relationship between students and working lecturers. The link with public administration will be made possible in a reflection after the seminar. The teacher was also keen to emphasize to use expectation management: that week 5 is about “real” public administration content. I advised against that, asked him to bring this more neutrally, i.e., to communicate that the questionnaires are meant to serve the overall educational innovation in the course, so not just the VTS workcollege and a control workcollege. The teacher and EM agreed.
- Seminar teachers are asked to take the tests, what would be doable in the teacher’s opinion. I will be there in the background to jump in when problems arise. Seminar teachers are also asked to keep strictly to the above program contents.

### Introduction of the tests (in Dutch)

Introductie door Ingemarie

- Weer een vragenlijst die onderdeel is van het testen van effect van onderwijs
- Fijn als jullie weer mee willen doen.

- Dit is de laatste vragenlijst, dus nog 10 minuutjes van je tijd, dat zou ons in dit onderwijskundig onderzoek in deze cursus erg helpen.
- Belangstelling om mee te denken, geef je naam door

Vraag van student naar menselijke maat: aan Johan zeggen, student uitgenodigd om mee te denken.

Voorbeeld gemeente: casus gemeente Twikkel:

- wat gebeurt er in deze situatie?
- Waaraan zie je dat? Bevoegdheid
- Wat kunnen we nog meer ontdekken?

N.B. Invullen vragenlijst op de laptop is juist niet zo veilig als je burens kunnen meekijken!

Post-test: vertellen over informatie in hoorcollege. En daar ook oproep doen om mee te denken over onderzoek.

### **Personal report fieldresearch control condition IB**

Lecturers have been explicitly asked not to talk about a possible individual interpretation of legal professionals of the rules and legislations and possible space/freedom they may feel to stretch the limits a bit. However, all seminar teachers introduced such thoughts to the group nevertheless, one more than others.

#### **2.2.3 Field research IR - Control condition**

*Information in the syllabus - Introduction IR*

Information in the syllabus on the first lecture which introduced the fieldresearch, by Prof. Maurice Adams, course week 7, 1 November 2023, subject: Childcare allowance affair.

- *Assignments*
- *Contents Lecture*
- *Planning*
- *Introduction of the tests*
- *Personal report fieldresearch control condition IB*

#### **2.2.4 Field research IR – Experimental/VTS condition**

*Information in the syllabus - Introduction IR*

Information in the syllabus on the first lecture which introduced the fieldresearch, by Prof. Maurice Adams, course week 7, 1 November 2023, subject: Childcare allowance affair.

- *Assignments*
- *Contents Lecture*
- *Planning*
- *Introduction of the tests*
- *Personal report fieldresearch control condition IR*

## 2.3 APPENDIX CH. 6 – DETAILS OF DATA PREPROCESSING

### 2.3.1 Cleaning and Matching of the Data

Before the data could be analyzed, all data needed to be cleaned and matched. The cleaning consisted of excluding questionnaires that were considered test responses or in which participants did not give consent (in *IR*: T1: 1, T2: 1, T3: 1, T4: 2) or consented but did not answer any further questions. Excluded also were questionnaires in which all answers were the same which was considered not-reliable. Note that we did not exclude any participants at any point based on their response time, meaning there are still participants in the data set with relatively short response times (e.g., shorter than three minutes). Some participants did not finish the survey but did answer some of the items in the questionnaire. We have included these participants in the subsequent analyses, and they are included in the total sample size estimates mentioned before. The number of participants that did not finish the survey per time point is (incomplete cases) in *IB*: T1: N=3, T2: N=14, T3: N=32, T4: N=17; in *IR*: T1: N=6, T2: N=19, T3: N=4, T4: N=5.

Participants who were thought to have carelessly responded through (longstring) answering the same answer 20 times were removed from analyses (*IR*: N = 0, 1, 0, 1 participants across four time points, respectively). Furthermore, also participants were removed from analyses who had an Intra-individual Response Variability (IRV) with more than 2 standard deviations from the mean (N = 20, 8, 3, 1 participant(s) across four time points, respectively).

The matching consisted of linking pre-test T1 and post-test T2 data of each individual participant. This had to be done for each experimental VTS seminar of *IB*, as well as each control seminar of *IR*. Data of pre- and post-tests were also matched per individual participant from the experimental seminar with the data of the control seminar in *IB*. The challenge in *IB* in this stage of the data analysis was that students had frequently changed seminars, did often not attend the same seminar in Week 1 of the course, with experimental VTS seminars, as they did in Week 5 of the course, with normal seminars. To address this, at the start of each control seminars of Week 5, students were asked to fill in not only the number of their current seminar, but also the number of the seminar they attended in Week 1. To address this in a more efficient way, in *IR*, QR codes have been used that were altered per seminar, so that the seminar number would be added digitally through Qualtrics instead of manually through all participating students themselves. Matching of the data costed a lot of time, for students changed seminars between week 1 and week 5 in *IB*, and/or sometimes made a mistake in filling in the right seminar number in week 5. Some did not fill in a seminar number at all. Therefore, we had to manually match the data a lot, more than expected. It was a learning point. To avoid this problem for the data analysis of the data of *IR* in the fall, in the second half of the field research, with *IR*, we added the seminar numbers per seminar in the QR code through which students would enter the pre- and post-tests. The matching procedure was as follows. We first matched the participants on time 1 (T1) and time 2 (T2), based on three variables: ID, year of birth, and session. Next, we used other survey variables to match participants that did not match automatically. For instance, if a participant in a session indicated their ID in both T1 and T2, but only their year of birth in T1, they would not be matched. In these

cases, we matched participants manually. Next, we repeated the same procedure by matching participants on time 3 (T3) and time 4 (T4) (i.e., Week 5). Lastly, and only for *IB*/not for *IR*, we matched participants from Week 1 to Week 5 of *IB*, repeating the same procedure.

T4 was considered not to have enough participants do continue with the analyses. For analysis, at least 100 observations need to be available (Comrey & Lee, 1992; MacCallum, Widaman, Zhang & Hong, 1999), or at least 10 observations for each item in the instrument being used (David Garson 2022), in this case the BES, which has 20 items.<sup>1029</sup> As this was a learning point from the research with *IB*, the timeconsuming manually matching of data was compared to the limited use of those data. Therefore, due to the again limited number of students in T3 and T4 of *IR*, we did not match T3 and 4 of *IR*, nor did we match T3 and T4 to T1 or T2 of *IR*.

After matching, cleaning and excluding incomplete questionnaires, and those were considered been filled in carelessly, we selected participants that were flagged as outliers. For this, we used the Robust Mahalanobis Distance and the Generalized Cook's Distance as a measurement of a data point's influence to find influential outliers in a set of predictor variables. Analyses were first run with all respondents, and then a robustness check was performed without the outliers. We found the following amounts of outliers for *IB*: T1: N=12, T2: N=13, T3: N=5, T4: N=4, and for *IR*: T1: N=15, T2: N=23, T3: N=4, T4: N=3.

### 2.3.2 Factor analysis BES - *IB*

Factorability is the assumption that there are at least some correlations amongst the variables so that coherent factors can be identified. The inter-item correlations were checked via a correlation matrix. There should be at least several small to moderate sized correlations e.g.,  $r > .30$ . Multiple items had  $r > .33$  with at least two other items, but some items have strong correlations with only one other item, which is problematic as factors are ideally measured by three items. There are also three items that are not strongly correlated with any of the other items. We clearly see the correlations increasing over time, with timepoint 2 and timepoint 3 being more similar to each other than timepoint 1. This could be due to increased familiarity of the questions. See the quantitative analysis of Esther Maassen in the Appendix for information about measures of sampling adequacy through KMO Kaiser-Meyer-Olkin (KMO). This estimates how weak partial correlations in the data are relative to the full correlations. Bartlett's Test of Sphericity is another measurement which checks to see if there is a certain redundancy between the variables that

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1029 Some recommendations from the literature based on sample size or subjects-to-variables (STV) ratio, research of Esther Maassen (2023):

At least 100 observations, ideal ranges from 300-1000 (e.g., Comrey & Lee 1992; MacCallum, Widaman, Zhang & Hong 1999)

51 more observations than the number of variables, to support chi-square testing (Lawley & Maxwell 1971)

Sample size larger than 5 times the number of items (Hatcher 1994). More subjects are needed when communalities are low and/or few variables load on each factor (in Garson 2022).

At least 10 observations for each item in the instrument being used. (e.g., Garson 2022)

STV ratio no lower than 5 (e.g., Garson 2022)

could be summarized with a few number of factors. Also for this test, see the quantitative analysis of Esther Maassen in the Appendix.

The first decision that needed to be taken in the factor analysis was the decision which number of factors needed to be extracted, in order to achieve the most parsimonious (but still interpretable) factor structure. Through determining the eigenvalues for all the factors and plotting them in a so-called scree plot, the number of factors that needed to be extracted per time point was determined. Parallel analysis was used to evaluate the scree plots per time point. As it turned out, six factors were found, and two eigenvalues. The scales showed suitability for use in performing an exploratory analysis. In the original BES study<sup>1030</sup>, two scales with corresponding items were developed:

- Cognitive scale (items 3, 6, 9, 10, 12, 14, 16, 19, 20)
- Affective scale (items 1, 2, 4, 5, 7, 8, 11, 13, 15, 17, 18)

Through a chi-square test, CFI, RMSEA and SRMR was determined that the BES-model did not fit this study's data very well. Addition of several residuals was used to improve its reliability, see Annex for details. Determined was that in this study, items belong to each of the two factors in the following way.:

- Items that always load on factor 1: items 1, 2, 4, 5, 7, 8, 11, 13, 15, 18
- Items that always load on factor 2: items 6, 10, 12, 14, 16, 19, 20
- Items that switch their factor over time: items 3 (time 2 differs), 9 (time 2 differs), 17 (time 3 differs).

### 2.3.3 Data-analysis

As it turned out, the median duration of the filling in of the test in *IB* was: T1: 6,15 minutes, T2: 4, 92 minutes, T3: 5, 34 minutes, T4: 3,6 minutes. This is a mean of 5 minutes for filling in the BES and the JSE-LS, as well as the *Other Questions*. Therefore, we changed the expected duration in the introduction text of the BES test of *IR* from 10 to 5 minutes.

## 2.4 APPENDIX CH. 6 – DOCUMENTS ETHICAL CLEARANCE

### 2.4.1 Stimulus Material

Designed as a method to enhance aesthetic understanding in museums, the art educational method Visual Thinking Strategies (VTS) is nowadays also effectively being used in elementary, secondary, and higher education (Hailey et al. 2015; Yenawine and Miller 2013). Three main components of VTS can be distinguished: a group of students as peers, a well-trained VTS facilitator who provides an inviting and empowering learning environment, and well-chosen works of art to talk about, that are interesting for the target group and ambiguous enough to inspire an exchange of views. All three components contain certain specific tasks and characteristics.

1030 <https://sci-hub.se/https://doi.org/10.1016/j.adolescence.2005.08.010>

The exchange of views and experiences in the group conversation create a situation of *progressive* education as theorized by Dewey (1938:19), in which students experience continually and interact with peers and models. Such education is opposed to traditional education, in which teachers provide the knowledge students should learn. This interactive method contributes to the process of discovery of other group members and fosters curiosity. The process is carefully scaffolded by well-trained VTS facilitators, using well-chosen works of art, that are ambiguous and suitable for the target group. VTS facilitators do not teach, only provide a suitable learning environment. In this way, VTS forms a *Zone of Proximal Development*, as was described by Vygotsky: the distance between students' own actual developmental level and their potential level (DeSantis & Housen 2009:6). In the process, building on one's own experience is encouraged, instead of appropriating to the VTS facilitator's way of seeing (Housen, 1997:5).

During the session, the VTS facilitator will present the participants with an image, have participants look at it for 1 minute and will ask if the participants have any thoughts related to the picture using the standard question 'What is going on in this picture?'. When a participant responds with their thoughts or comments, the facilitator will subsequently paraphrase, i.e., summarize this response using new words and concepts. Then the facilitator will invite to elaborate on the shared interpretation with the standard question 'What do you see that makes you say that?'. After paraphrasing of this answer, the facilitator will open up the exchange of thoughts again asking the group the third and last standard question 'What more do we find?'. This interaction between participants, and between participants and facilitator will continue for approximately 10-20 minutes, after which the facilitator will thank all participants for their contribution and will present another image. Each session will consist of a maximum of 3 images (Housen 2001-2002; Hailey et al. 2015; Yenawine and Miller 2013).

#### **2.4.2 Information Letter**

As an information letter, information about the research and the content of the experimental seminar will be provided to the students through adding information to the course descriptions in the Canvas environment of both courses: Inleiding Bestuursrecht en Inleiding Rechtsgeleerdheid. The following information will be added:

This course is part of a research study on educational innovation of the law curriculum in order to meet the latest educational standards. During one of the seminars, you will be taught skills that will aid you in this course's exam and throughout the rest of your studies. The method used in the seminar is called Visual Thinking Strategies (VTS), which has been reported to enhance skills considered important for law students, including reading, critical thinking, and emotional intelligence. Your attendance is not obligatory but highly appreciated and recommended.

#### **2.4.3 Consent**

Dear student,

Thank you for participating in our study. This survey aims to shed light on the different effects the educational method Visual Thinking Strategies has on first-year Bachelor of Law students. Most participants take between 10 and 15 minutes to complete the survey.

This project is conducted by prof. dr. Maurice Adams, Ingemarie Sam MEd, Esther Maassen MSc, and Dr. Hans van Dijk in collaboration with prof. dr. Johan Wolswinkel, and approved by the Ethics Review Board of Tilburg University (under project number: TLS\_RP782). Your personal responses will be anonymized and processed by the research team only and will not be shared with third parties. You may withdraw from the study at any time.

The method taught today is not part of the learning objectives, nor the examination material. You may opt out of participating in the study by not giving consent and not taking the pre- and post-tests. However, as VTS has been shown to have a positive effect on among other things critical thinking and observational skills, the method could have a positive effect on your performance during the exam. This is, however, not part of the research.

If you have any questions or comments or require any further information about this research project, please contact us via [i.s.sam@tilburguniversity.edu](mailto:i.s.sam@tilburguniversity.edu). If you have any remarks or complaints regarding this research, you may also contact the Ethics Review Board of Tilburg Law School via [ERB-TLS@uvt.nl](mailto:ERB-TLS@uvt.nl).

Before you start, please indicate whether you have read the above and agree to participate.

Background info

- Yes, I agree to participate
- No, I do not agree to participate

My age

- 18-19
- 20-21
- 22-23
- >23

My gender

- M
- V
- X

### 2.4.4 Questionnaire

Basic Empathy Scale BES- gevalideerde Nederlandse vertaling:

De gevoelens van mijn vrienden doen mij niet zo veel.

Nadat ik bij een vriend ben geweest die ergens verdrietig over is, voel ik me meestal ook verdrietig.

Ik begrijp dat mijn vrienden blij zijn als ze iets goed hebben gedaan.

Ik word bang wanneer ik naar een griezelfilm kijk.

Ik laat me gemakkelijk meeslepen in de gevoelens van anderen.

Ik vind het moeilijk om in te schatten wanneer mijn vrienden bang zijn.

Ik word niet verdrietig als ik andere mensen zie huilen.

De gevoelens van andere mensen doen me helemaal niets.

Wanneer iemand zich rot/'down' voelt, begrijp ik hoe diegene zich voelt.

Ik kan zien wanneer mijn vrienden bang zijn.

Ik word verdrietig wanneer ik zielige (nare) dingen zie op tv of in films.

Ik begrijp hoe mensen zich voelen, vaak al voordat zij dit mij vertellen.

Als ik iemand zie die boos is, doet me dat niets.

Ik zie meestal wel wanneer mensen blij zijn.

Als ik met vrienden ben die bang zijn, voel ik me ook bang.

Ik heb het snel door als mijn vriend/vriendin kwaad is.

Ik ga mee in de gevoelens van mijn vrienden.

Als mijn vrienden ongelukkig zijn, doet dit mij niets.

Ik heb vaak door hoe mijn vrienden zich voelen.

20. Ik vind het moeilijk om te snappen wanneer mijn vrienden blij zijn.

Basic Empathy Scale BES – translation into English:

The feelings of my friends don't matter much to me.

After being with a friend who is sad about something, I usually feel sad too.

I understand that my friends are happy when they have done something good.

I get scared when I watch a horror movie.

I get easily carried away by the feelings of others.

I find it hard to assess when my friends are scared.

I don't get sad when I see other people crying.

Other people's feelings don't bother me at all.

When someone feels rotten/'down,' I understand how they feel.

I can tell when my friends are scared.

I get sad when I see sad (nasty) things on TV or in movies.

I understand how people feel, often even before they tell me.

When I see someone who is angry, I don't care.

I can usually tell when people are happy.

When I'm with friends who are scared, I feel scared too.

I catch on quickly when my friend is angry.

I go along with my friends' feelings.

When my friends are unhappy, it doesn't bother me.

I often understand how my friends feel.

20. I find it hard to understand when my friends are happy.



Te valideren Nederlandse vertaling JSE-LS

1. Het begrip van advocaten voor de gevoelens van hun cliënten en die van hun familie is niet van invloed op de juridische uitkomst.
2. Cliënten voelen zich beter wanneer hun advocaten hun gevoelens begrijpen.
3. Het is moeilijk voor een advocaat om dingen te bekijken vanuit het perspectief van cliënten.
4. Lichaamstaal begrijpen is even belangrijk als verbale communicatie in de relatie tussen advocaat en cliënt.
5. Het gevoel voor humor van een advocaat draagt bij tot een betere juridisch uitkomst.
6. Omdat mensen verschillend zijn, is het moeilijk om dingen vanuit het perspectief van cliënten te zien.
7. Aandacht voor de emoties van cliënten is niet belangrijk in gesprekken met cliënten.
8. Rekening houden met de persoonlijke ervaringen van cliënten heeft geen invloed op de juridische uitkomst.
9. Advocaten moeten proberen zich in hun cliënten in te leven wanneer zij hen juridisch advies geven.
10. Cliënten waarderen het begrip van een advocaat voor hun gevoelens, wat op zichzelf al therapeutisch is.
11. De juridische problemen van cliënten kunnen alleen worden opgelost door gerichte aandacht en daarom hebben emotionele banden van advocaten met hun cliënten geen significante invloed op de juridische uitkomst.
12. Cliënten vragen naar hun privéleven draagt niet bij aan het begrijpen van hun juridische problemen.
13. Advocaten moeten proberen te begrijpen wat er in de hoofden van hun cliënten omgaat door aandacht te besteden aan hun non-verbale signalen en lichaamstaal.
14. Ik ben van mening dat voor emotie geen rol is weggelegd bij het aanpakken en oplossen van juridische problemen.
15. Empathie is een therapeutische vaardigheid en zonder die vaardigheid is een advocaat minder succesvol.
16. Bij het aanpakken van juridische problemen is het begrip van advocaten voor de emotionele gesteldheid van hun cliënten en die van hun familie een belangrijk onderdeel van de relatie tussen advocaat en cliënt.
17. Om beter juridisch advies te kunnen geven, moeten advocaten proberen te denken zoals hun cliënten.
18. Bij het aanpakken van juridische problemen mogen advocaten zich niet laten beïnvloeden door sterke persoonlijke banden met cliënten en hun familieleden.
19. Ik lees niet graag niet-juridische literatuur.
20. Ik ben van mening dat empathie een belangrijke factor is bij het aanpakken en oplossen van juridische problemen van cliënten.

- Antwoordschaal:
- 1= helemaal mee oneens
  - 2 = beetje mee oneens
  - 3 = niet mee eens, niet mee oneens
  - 4 = beetje mee eens
  - 5 = helemaal mee eens

Gevalideerde Engelstalige JSE-LS

1. Lawyers' understanding of their clients' feelings and the feelings of their clients' families does not influence legal outcomes.
2. Clients feel better when their lawyers understand their feelings.
3. It is difficult for a lawyer to view things from clients' perspectives.
4. Understanding body language is as important as verbal communication in lawyer-client relationships.
5. A lawyer's sense of humor contributes to a better legal outcome.
6. Because people are different, it is difficult to see things from clients' perspectives.
7. Attention to clients' emotions is not important in client interviews.
8. Attentiveness of clients' personal experiences does not influence legal outcome.
9. Lawyers should try to stand in their clients' shoes when providing legal advice to them.
10. Clients value a lawyer's understanding of their feelings which is therapeutic in its own right.
11. Clients' legal issues can be resolved only by targeted attention therefore, lawyers' emotional ties with their clients do not have a significant influence on legal outcomes.
12. Asking clients about what is happening in their personal lives is not helpful in understanding their legal issues.
13. Lawyers should try to understand what is going on in their clients' minds by paying attention to their nonverbal cues and body language.
14. I believe that emotion has no place in dealing with and resolving of legal issues
15. Empathy is a therapeutic skill without which a lawyers' success is limited.
16. When dealing with legal issues, lawyers' understanding of the emotional status of their clients, as well as that of their families is an important component of the lawyer-client relationship.
17. Lawyers should try to think like their clients in order to render better legal advice.
18. When dealing with legal issues, lawyers should not allow themselves to be influenced by strong personal bonds between clients and their family members.
19. I do not enjoy reading nonlegal literature.
20. I believe that empathy is an important factor in dealing with and resolving clients' legal issues.

- Response scale:
- 1= completely disagree
  - 2 = somewhat disagree
  - 3 = not agree, not disagree
  - 4 = somewhat agree
  - 5 = completely agree

### 2.4.5 Debriefing

Dear student,

Thank you for participating in our study, which aims to shed light on the different effects the educational method Visual Thinking Strategies has on empathy levels of first-year Bachelor of Law students.

The study is conducted by prof. dr. Maurice Adams, Ingemarie Sam MEd, Esther Maassen MSc, and Dr. Hans van Dijk, in collaboration with prof. dr. Johan Wolswinkel, and approved by the Ethics Review Board of Tilburg University (under project number TLS\_RP782). The study is part of a PhD research study on educational innovation of the law curriculum in order to meet the latest educational standards.

In the latest law school competency model, emotional intelligence is one of the three pillars besides juridical knowledge and skills, and business operations and data organization (Hamilton & Billionis 2022; Runyon & Carrel, 2019). Emotional intelligence, and more in particular empathy is considered essential in law (Samra & Jones 2021; Westaby and Jones 2018). Law professionals need empathy to be able to fully understand their clients' needs and, through this understanding, to be able to provide a better service (Foqué, 2012; Gascon-Cuenca et al. 2018) and to build a lawyer-client relationship (Westaby & Jones 2018; Fletcher & Weinstein 2002). Empathic considerations of judges are also important (Bloom, 2016), for they need empathy to be able to take right decisions (IJzermans 2018:183). Moreover, in their practices, lawyers, attorneys, and judges need to recognize emotions of others and mirror those emotions, or confirm them in court (IJzermans 2011; Vranken 2008; Mertz 2007). Therefore, empathy is considered important for law professionals. Although in modern law schools, empathy is part of the learning goals, empathy training has not been included in academic juridical curriculums until now.

The method used in the seminar you participated in, is called Visual Thinking Strategies (VTS). VTS has been reported to enhance several skills besides understanding art, including reading, critical thinking and emotional intelligence including empathy (Sinquefield-Kangas 2017; Bentwich & Gilbey 2017; Kruse & Kinde, 2019). Through VTS, students become more open to ambiguity and other perspectives (Bentwich & Gilbey 2017; Kruse & Kinde, 2019), and become more sensitive to cultural differences (Deunk, 2020). Empirical research to date found strong evidence that VTS enhances critical thinking and observation and communication skills (Mani, 2019; Yenawine and Miller 2013; Hailey et al. 2015; Housen 2001-2002). Those studies mainly took place among academic medicine students in renowned universities like Harvard and Yale (Mukunda et al. 2019). However, to date, no research has been conducted about the possible effects of VTS on law students in general, nor on law students' empathy in particular.

We have developed a theoretical model outlining why VTS is likely to enhance empathy among law students. This needed to be put to the test, which is what we did with your cooperation in this study.

You can be sure that your personal responses will be anonymized and processed by the research team only and will not be shared with third parties. Following the Tilburg University retention protocol, the research data will be retained for at least 10 years. If you have any questions or comments or would want to receive any further information about this study and/or its results, please contact us via [i.s.sam@tilburguniversity.edu](mailto:i.s.sam@tilburguniversity.edu). If you have any remarks or complaints regarding this research, you may also contact the Ethics Review Board of Tilburg Law School via [ERB-TLS@uvt.nl](mailto:ERB-TLS@uvt.nl).

Thank you for your kind cooperation in this research project!  
 With kind regards,  
 Prof. dr. Maurice Adams and Ingemarie Sam MEd

## 2.5 APPENDIX CH. 6 – DATA

■ **Table:** Correlation of empathy with participants’ appreciation of VTS seminar/ IR / T4

Variable	N =	Yes No.	No No.	Y %	N %	Correlation with empathy (total, cognitive, affective) Method: Point-Biserial Correlation Coefficient
Appreciation: <i>Interessant</i> (Interesting)	70	28	42	40 %	60 %	Total scale: $r = -0.15$ ( $p = 0.23$ ) • Cognitive scale: $r = -0.03$ ( $p = 0.82$ ) • Affective scale: $r = -0.17$ ( $p = 0.17$ ) = not significant for any of the empathy scales
Appreciation: <i>Leerzaam</i> (Educational)	70	12	58	17 %	83 %	Total scale: $r = 0.01$ ( $p = 0.92$ ) • Cognitive scale: $r = 0.14$ ( $p = 0.26$ ) • Affective scale: $r = -0.09$ ( $p = 0.44$ ) = not significant for any of the empathy scales
Appreciation: <i>Leuk</i> (Fun)	70	12	58	17 %	83 %	Total scale: $r = 0$ ( $p = 0.98$ ) • Cognitive scale: $r = 0.09$ ( $p = 0.46$ ) • Affective scale: $r = -0.07$ ( $p = 0.54$ ) = not significant for any of the empathy scales
Appreciation: <i>Irritant</i> (Irritating)	70	11	59	16 %	84 %	Total scale: $r = 0.07$ ( $p = 0.57$ ) • Cognitive scale: $r = -0.01$ ( $p = 0.91$ ) • Affective scale: $r = 0.1$ ( $p = 0.41$ ) = not significant for any of the empathy scales
Appreciation: <i>Saaï</i> (Boring)	70	24	46	34 %	66 %	Total scale: $r = 0.05$ ( $p = 0.66$ ) • Cognitive scale: $r = -0.06$ ( $p = 0.65$ ) • Affective scale: $r = 0.11$ ( $p = 0.36$ ) = not significant for any of the empathy scales
Other	16x					



### 2.5.1 Dataset T2-IR – Appreciation regular seminar, other remarks, including coding

---

## 14 anders dan ik had verwacht	anders
## 16 Apart	anders
## 19 Interactief	interactief
## 27 Interactief	interactief
## 6 Heel duidelijk en op een leuke actieve manier	leuk
## 12 top	leuk
## 18 Prima	leuk
## 37 Oke	leuk
## 3 Lastig te volgen	moeilijk
## 4 Ingewikkeld	moeilijk
## 8 moeilijk	moeilijk
## 13 Onduidelijk	moeilijk
## 15 lastig maar te doen	moeilijk
## 21 Ingewikkeld	moeilijk
## 7 Geen actieve houdingen	niet interactief
## 29 beetje langdradig en niet interactief	niet interactief
## 30 Had het anders verwacht. Er is niet veel interactie dat vind ik wel jammer.	niet interactief
## 35 Niet heel actief en naar mijn mening ook niet zeer professioneel	niet interactief
## 5 ik snap niet zo heel goed wat we hier daadwerkelijk hebben geleerd.	niets geleerd
## 9 Ik heb dit al een keer gehad, dus niet nieuw voor mij	niets geleerd
## 26 Nutteloos de vragen gingen niet overheen met de vragen die ik volgens canvas-	niets geleerd
## 36 De opdrachten zijn niet echt besproken. Alleen de 10 vragen van het arrest. ~	niets geleerd
## 11 Een beetje rommelig	verwarrend
## 10 eentonig	saai
## 20 Langdradig	saai
## 23 Sloom en onduidelijk	saai
## 24 Huiswerk was niet besproken, langzame uitleg	saai
## 32 Monotonig	saai
## 33 Langdradig	saai
## 34 af en toe een beetje langdradig/eentoning, maar nog wel interessant	saai
## 38 Langdradig	saai
## 22 meer geleerd in dit werkcollege dan alle hoorcolleges van deze week	veel geleerd
## 2 Vermoeiend	vermoeiend
## 25 Vermoeiend door de vrijdagmiddag	vermoeiend
## 17 Verwarrend.	verwarrend
## 28 Verwarrend	verwarrend
## 31 Verwarrend	verwarrend

---

### 2.5.2 Dataset T4-IR – Appreciation VTS seminar, other remarks, including coding

## 14 anders dan ik had verwacht	J/N anders
## 16 Apart	J/N anders
## 19 Interactief	J interactief
## 27 Interactief	J interactief
## 6 Heel duidelijk en op een leuke actieve manier	J leuk
## 12 top	J leuk
## 18 Prima	J leuk
## 37 Oke	J leuk
## 3 Lastig te volgen	N moeilijk
## 4 Ingewikkeld	N moeilijk
## 8 moeilijk	N moeilijk
## 13 Onduidelijk	N moeilijk
## 15 lastig maar te doen	N moeilijk
## 21 Ingewikkeld	N moeilijk
## 7 Geen actieve houdingen	N niet interactief
## 29 beetje langdradig en niet interactief	N niet interactief

### 2.5.3 Dataset T4-IR - Other remarks what is learnt /self-consciousness through VTS

## 9 Ik kreeg hiervan een uitgebreidere look op inzichten	breder perspectief
## 1 Heb ik ontdekt dat dit niks voor mij is en ik beter eerder naar huis had kun~	niets geleerd
## 3 Heb ik niet zoveel geleerd	niets geleerd
## 4 ik heb tot mijn spijt niets geleerd	niets geleerd
## 5 Niks	niets geleerd
## 7 Heb ik niks van toegevoegde waarde geleerd	niets geleerd
## 10 had ik toch thuis kunnen blijven	niets geleerd
## 12 ik realiseer me dat ik moet werken aan mijn geduld	realisatie (moet werken aan geduld)
## 8 dat ik het vaak wel weet maar niet zeg	realisatie (niet altijd open)
## 6 Heb ik me gerealiseerd dat onderzoeken met willende participanten geen appli~	realisatie (vrijwilligheid onderzoek)
## 2 ja ik begrijp niet zo goed wat ik net heb gedaan	verwarrend
## 11 Ik was me van deze zaken al redelijk bewust. Ik heb niet het idee dat ik iet~	was al zelfbewust

### 2.5.4 Dataset T1 & T2-IR - Other remarks about the questionnaire/research in total

---

T1	
1 Bij mijn beste vrienden merk ik eigenlijk meteen als het kut gaat en dan gaa~	J content/own feelings
4 Ik ben erg benieuwd naar de relatie tussen kunst en dan de juridische kwalit~	J interest in research
6 Ik vind het een interessant onderzoek, hier zouden best wel bijzondere resul~	J interest in research
10 Ik voel me	J/N content/own feelings
15 De verschillende emoties verschillen per persoon/hoe goed ik ze ken/ hoe goed~	J/N content/own feelings
2 De vragen kunnen iets gedetailleerder. Emoties als blij, bang, boos zijn wat~	J/N questions vs answers
9 De vragen circuleerden vooral om elkaar heen, op snelheid kan je vandaar sne~	J/N questions vs answers
11 Pretentius onderzoek	N interest in research
12 Sommige vragen spreken over 'mensen' en bveenvraag als 'wordt je verdrieti~	N questions vs answers
13 Misschien dat er meer een situatie kan worden geschetst en dat de opties dan~	N questions vs answers
14 Antwoorden zijn niet altijd toereikend.	N questions vs answers
16 Ik vind het allemaal erg oppervlakkige vragen om heel eerlijk te zijn	N questions vs answers
17 Ik vind de vragen raar en snap niet wat ze te maken hebben met het rechten~	N questions vs answers
3 De antwoorden zijn raar geformuleerd tegenover de vragen	N/questions vs answers
5 Vond het vrij abstract waardoor het moeilijk was concrete antwoorden te geven	N/questions vs answers
7 Best vaak dezelfde vraag maar op een andere manier gesteld	N/questions vs answers
8 Ik vind het geen prettig onderzoek. Weet op veel vragen ook niet goed wat ik~	N/questions vs answers
T2	
1 Ik heb deze vragen lijst 2 keer moeten invullen?	J/N -2x same questionnaire?
2 Ik ben benieuwd naar wat uit dit onderzoek word gehaald	J interest in research
3 Nog steeds oppervlakkige vragen	N- questions superficial

---

### 2.5.5 Dataset T3 & T4-IR - Other remarks about the questionnaire/research in total

---

T3	
1 ik snap de meerwaarde niet	N - value for law?
2 Dingen zoals herkennen wanneer mensen bang zijn neemt aan dat je regelmatig g~	J/N - thoughts on topic addressed/empathy
3 Over de vraag van de griezelfilm zou er misschien meer uitleg gegeven kunnen~	J/N - question in questionnaire not clear
T4	
1 In de toekomst niet nog eens drie foto's ter observatie tonen. Dit is enorm s~	N - VTS is boring
2 Ja zie mijn antwoord op de vorige vraag.	J/N
3 volgende keer even aankondigen en minder langdradig maken.	N- VTS is slow, please inform beforehand

---

## 3 APPENDICES CHAPTER 7

### 3.1 APPENDIX CH. 7 – EXPERIMENT IN *BIP* – DOCUMENTS ETHICAL CLEARANCE

Prior to starting the field research in the course *BIP* with third-year students extension to *BIP* was asked of the Ethical Clearance that had been granted for the courses *Inleiding Bestuursrecht* en *Inleiding Rechtswetenschappen*.

#### 3.1.1 Stimulus Material

Designed as a method to enhance aesthetic understanding in museums, the art educational method Visual Thinking Strategies (VTS) is nowadays also effectively being used in elementary, secondary, and higher education (Hailey et al. 2015; Yenawine and Miller 2013). Three main components of VTS can be distinguished: a group of students as peers, a well-trained VTS facilitator who provides an inviting and empowering learning environment, and well-chosen works of art to talk about, that are interesting for the target group and ambiguous enough to inspire an exchange of views. All three components contain certain specific tasks and characteristics.

The exchange of views and experiences in the group conversation create a situation of *progressive* education as theorized by Dewey (1938:19), in which students experience continually and interact with peers and models. Such education is opposed to traditional education, in which teachers provide the knowledge students should learn. This interactive method contributes to the process of discovery of other group members and fosters curiosity. The process is carefully scaffolded by well-trained VTS facilitators, using well-chosen works of art, that are ambiguous and suitable for the target group. VTS facilitators do not teach, only provide a suitable learning environment. In this way, VTS forms a *Zone of Proximal Development*, as was described by Vygotsky: the distance between students' own actual developmental level and their potential level (DeSantis & Housen 2009:6). In the process, building on one's own experience is encouraged, instead of appropriating to the VTS facilitator's way of seeing (Housen, 1997:5).

During the session, the VTS facilitator will present the participants with an image, have participants look at it for 1 minute and will ask if the participants have any thoughts related to the picture using the standard question 'What is going on in this picture?'. When a participant responds with their thoughts or comments, the facilitator will subsequently paraphrase, i.e., summarize this response using new words and concepts. Then the facilitator will invite to elaborate on the shared interpretation with the standard question 'What do you see that makes you say that?'. After paraphrasing of this answer, the facilitator will open up the exchange of thoughts again asking the group the third and last standard question 'What more do we find?'. This interaction between participants, and between participants and facilitator will continue for approximately 10-20 minutes, after which the facilitator will thank all participants for their contribution and will present another image. Each session will consist of a maximum of 3 images (Housen 2001-2002; Hailey et al. 2015; Yenawine and Miller 2013).

### 3.1.2 Information Letter

As an information letter, information about the research and the content of the experimental seminar will be provided to the students through adding information to the course descriptions in the Canvas environment of both courses: Inleiding Bestuursrecht en Inleiding Rechtsgeleerdheid. The following information will be added:

This course is part of a research study on educational innovation of the law curriculum in order to meet the latest educational standards. During one of the seminars, you will be taught skills that will aid you in this course's exam and throughout the rest of your studies. The method used in the seminar is called Visual Thinking Strategies (VTS), which has been reported to enhance skills considered important for law students, including reading, critical thinking, and emotional intelligence. Your attendance is not obligatory but highly appreciated and recommended.

### 3.1.3 Consent

Dear student,

Thank you for participating in our study. This survey aims to shed light on the different effects the educational method Visual Thinking Strategies has on first-year Bachelor of Law students. Most participants take between 10 and 15 minutes to complete the survey.

This project is conducted by prof. dr. Maurice Adams, Ingemarie Sam MEd, Esther Maassen MSc, and Dr. Hans van Dijk in collaboration with prof. dr. Johan Wolswinkel, and approved by the Ethics Review Board of Tilburg University (under project number: TLS\_RP782). Your personal responses will be anonymized and processed by the research team only and will not be shared with third parties. You may withdraw from the study at any time.

The method taught today is not part of the learning objectives, nor the examination material. You may opt out of participating in the study by not giving consent and not taking the pre- and post-tests. However, as VTS has been shown to have a positive effect on among other things critical thinking and observational skills, the method could have a positive effect on your performance during the exam. This is, however, not part of the research.

If you have any questions or comments or require any further information about this research project, please contact us via [i.s.sam@tilburguniversity.edu](mailto:i.s.sam@tilburguniversity.edu). If you have any remarks or complaints regarding this research, you may also contact the Ethics Review Board of Tilburg Law School via [ERB-TLS@uvt.nl](mailto:ERB-TLS@uvt.nl).

Before you start, please indicate whether you have read the above and agree to participate.

Background info

- Yes, I agree to participate
- No, I do not agree to participate



My age

- 18-19
- 20-21
- 22-23
- >23

My gender

- M
- V
- X

### 3.1.4 Questionnaire

<p>Basic Empathy Scale BES- gevalideerde Nederlandse vertaling:</p> <p>20. De gevoelens van mijn vrienden doen mij niet zo veel.</p> <p>21. Nadat ik bij een vriend ben geweest die ergens verdrietig over is, voel ik me meestal ook verdrietig.</p> <p>22. Ik begrijp dat mijn vrienden blij zijn als ze iets goed hebben gedaan.</p> <p>23. Ik word bang wanneer ik naar een griezelfilm kijk.</p> <p>24. Ik laat me gemakkelijk meeslepen in de gevoelens van anderen.</p> <p>25. Ik vind het moeilijk om in te schatten wanneer mijn vrienden bang zijn.</p> <p>26. Ik word niet verdrietig als ik andere mensen zie huilen.</p> <p>27. De gevoelens van andere mensen doen me helemaal niets.</p> <p>28. Wanneer iemand zich rot/'down' voelt, begrijp ik hoe diegene zich voelt.</p> <p>29. Ik kan zien wanneer mijn vrienden bang zijn.</p> <p>30. Ik word verdrietig wanneer ik zielige (nare) dingen zie op tv of in films.</p> <p>31. Ik begrijp hoe mensen zich voelen, vaak al voordat zij dit mij vertellen.</p> <p>32. Als ik iemand zie die boos is, doet me dat niets.</p> <p>33. Ik zie meestal wel wanneer mensen blij zijn.</p> <p>34. Als ik met vrienden ben die bang zijn, voel ik me ook bang.</p> <p>35. Ik heb het snel door als mijn vriend/vriendin kwaad is.</p> <p>36. Ik ga mee in de gevoelens van mijn vrienden.</p> <p>37. Als mijn vrienden ongelukkig zijn, doet dit mij niets.</p> <p>38. Ik heb vaak door hoe mijn vrienden zich voelen.</p> <p>20. Ik vind het moeilijk om te snappen wanneer mijn vrienden blij zijn.</p>	<p>Basic Empathy Scale BES – translation into English:</p> <p>20. The feelings of my friends don't matter much to me.</p> <p>21. After being with a friend who is sad about something, I usually feel sad too.</p> <p>22. I understand that my friends are happy when they have done something good.</p> <p>23. I get scared when I watch a horror movie.</p> <p>24. I get easily carried away by the feelings of others.</p> <p>25. I find it hard to assess when my friends are scared.</p> <p>26. I don't get sad when I see other people crying.</p> <p>27. Other people's feelings don't bother me at all.</p> <p>28. When someone feels rotten/'down,' I understand how they feel.</p> <p>29. I can tell when my friends are scared.</p> <p>30. I get sad when I see sad (nasty) things on TV or in movies.</p> <p>31. I understand how people feel, often even before they tell me.</p> <p>32. When I see someone who is angry, I don't care.</p> <p>33. I can usually tell when people are happy.</p> <p>34. When I'm with friends who are scared, I feel scared too.</p> <p>35. I catch on quickly when my friend is angry.</p> <p>36. I go along with my friends' feelings.</p> <p>37. When my friends are unhappy, it doesn't bother me.</p> <p>38. I often understand how my friends feel.</p> <p>20. I find it hard to understand when my friends are happy.</p>
<p>Antwoordschaal:</p> <p>1= helemaal mee oneens</p> <p>2 = beetje mee oneens</p> <p>3 = niet mee eens, niet mee oneens</p> <p>4 = beetje mee eens</p> <p>5 = helemaal mee eens</p>	<p>Response scale:</p> <p>1= completely disagree</p> <p>2 = somewhat disagree</p> <p>3 = not agree, not disagree</p> <p>4 = somewhat agree</p> <p>5 = completely agree</p>



## 3.2 APPENDIX CH. 7 – DATA BIP

### 3.2.1 Dataset T2-BIP – Appreciation VTS seminar, other remarks, including coding

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## 14 anders dan ik had verwacht	anders
## 16 Apart	anders
## 19 Interactief	interactief
## 27 Interactief	interactief
## 6 Heel duidelijk en op een leuke actieve manier	leuk
## 12 top	leuk
## 18 Prima	leuk
## 37 Oke	leuk
## 3 Lastig te volgen	moeilijk
## 4 Ingewikkeld	moeilijk
## 8 moeilijk	moeilijk
## 13 Onduidelijk	moeilijk
## 15 lastig maar te doen	moeilijk
## 21 Ingewikkeld	moeilijk
## 7 Geen actieve houdingen	niet interactief
## 29 beetje langdradig en niet interactief	niet interactief

---

### 3.2.2 Data - Reflections about VTS: three perspectives (in Dutch)

Texts of appr. 300 words each of 102 students have been received through email and analyzed. For this, text fragments have been collected that contained new contents/subjects or added information to subjects mentioned before. The text fragments were summarized in 25 topics, see below (in Dutch). In a second round, some topics were merged.

1. Studenten vinden reflecteren op zichzelf vaak moeilijk, beschrijven niet wat ze ervaren maar wat ze deden of dachten. Mogelijk is dit het gevolg van dat ze dit reflecteren op zichzelf nog te weinig hebben geleerd bijvoorbeeld *In de tweede sessie was ik observeerder van mijn eigen ervaring. Ik vond dit eerst een beetje gek om mijn eigen ervaring te observeren, dit heb ik eigenlijk nog nooit eerder gedaan. En wat me gelijk opviel is dat je je eigen ervaring op het moment zelf wel degelijk kunt observeren* en/of het al in de klas schrijven van de reflectie, dus niet achteraf/met enige afstand. B.v. *Ik ervaar een Griekse/Romeinse sfeer. Op de afbeelding zie ik mensen in groepen aan beide zijden, mogelijk gewapend met een zwaard. De man aan de linkerkant draagt een helm, wat me aan de Griekse tijd doet denken.* Toch zijn er ook die dat wel goed doen, b.v. *Wat ik voel bij een VTS sessie is dat ik heel nieuwsgierig word. Ik wil erachter komen wat er echt gebeurd is op de afbeelding of wat het verhaal erachter is. Ik merk ook dat ik veel minder fantasie heb dan anderen en me minder goed kan inleven. Het maakt me een beetje jaloers als zij er een heel verhaal bij kunnen bedenken of iets heel anders zien dan ik. Ik zou dan willen dat ik me zo goed in kon leven.* En: *X heeft een ander inzicht. Dit vind ik bijzonder, omdat ik*

daar zelf nooit aan zou denken. Dat laatste verschil geeft mij het gevoel alsof ik te snel uitga van dingen, maar dat het soms ook heel anders kan zijn dan ik denk. Reflecteren op zichzelf wordt regelmatig uitgelegd op melden wat er gebeurde en dan alleen gevoelens beschrijven, niet verder uitleggen. B.v. *Ik vind het lastig om hierbij te bedenken wat de echte gebeurtenis in deze afbeelding is en wat het verhaal hierachter is. Voor nu denk ik dat de ouders gestraft worden voor iets en dat hun kinderen daarvoor daarvoor moeten boeten. aak vind ik afbeeldingen waarbij kinderen lijden erg naar om te zien, zelfs als het een schilderij is.*

2. Studenten beperken hun reflectie ook vaak tot wat ze ervaren door het kijken naar de afbeelding, terwijl er in het sociale contact met anderen natuurlijk ook van alles gebeurt, dat dan niet benoemd wordt: *Als ik kijk naar deze foto, dan krijg ik een warm en vrolijk gevoel. Dat komt omdat de mensen op de foto er heel gelukkig uitzien. Het zijn twee meisjes op de schoot van een vrouw. Ik denk dat het hun moeder is. Ze leest voor uit een boek. Echter, krijg ik ook een raar gevoel als ik inzoom in het plaatje. Ik zie namelijk rechtsonder mensen van wie ik niet kan plaatsnemen wie ze zijn. Het lijkt wel alsof ze kritiek hebben. Dat vind ik naar. Ik kan concluderen dat ik gemengde gevoelens krijg.*
3. Studenten verwarren denken regelmatig met voelen b.v. In vergelijking tot andere opmerkingen merk ik op dat andere ook vanuit dezelfde richting denken als hoe ik kijk naar bovenstaande afbeelding. Ik heb het gevoel erbij dat ik dezelfde gedachtegang heb als zij. Vaak is er wel een mooie ontwikkeling te zien in observeren, en wordt er wel in reflecties ingegaan op hoe dat observeren in de groep verloopt. B.v. *Ik merk dat mensen eerst vooral observeren, dus vooral kijken naar wat ze zien en ze daarna conclusies trekken. Het valt me op dat ze allemaal dezelfde dingen opmerken, maar er een ander verhaal aan kunnen koppelen. Als iemand eenmaal iets zegt, zie je dat de bal gaat rollen en iedereen steeds meer in de afbeelding ziet. En Wat mij vervolgens opviel, was dat bij elke opmerking die volgde mensen steeds meer in detail treden over de afbeelding. Ook werd de fantasie van mensen die deelnamen aan het gesprek steeds groter. In de eerste paar opmerkingen legden de deelnemers uit wat echt feitelijk te zien was in de afbeelding. De laatste paar deelnemers gebruikten echt meer hun fantasie. En: Het is mij vooral opgevallen dat dus eerst losse onderdelen bestudeerd worden en pas later wordt gepraat over wat dit tezamen tot een verhaal kan maken.*
4. Ook zien ze daarin verschil tussen zichzelf en de ander, b.v. De volgende studente wijst op kledingverschillen die mij ontgaan waren, maar dat de persoon op de troon een hiërarchische relatie heeft met betrekking tot de rest, was mij ook meteen opgevallen. En Als ik dit commentaar vergelijk met die van mij dan zie ik dat deze andere persoon wel meer dingen in de foto ziet dan ik. En Ik merkte ook dat mijn inbreng enigszins beïnvloed werd door wat andere mensen vertelden over de afbeelding (...) Zelf zag ik het in eerste instantie niet zo maar ik dacht wel een tweede keer na over wat ik zelf vond door die opmerkingen EN Ik merk dat ik hierdoor ga twijfelen aan mijn eigen ingeving. De onderbouwing van andere is niet sterker of zwakker dan die van mij. Ik sta open voor beide ingevingen en denk dat de kansen even groot zijn over wie gelijk heeft. En ook: In dit gesprek was ik deelnemer en het verbaasde me keer op keer wat voor opmerkingen er werden genoemd. En ook: Verder vond ik het bijzonder te maken dat andere mensen iets heel anders opvalt. Dat zorgde ervoor dat een afbeelding meer context en diepgang voor mij kreeg.

5. Studenten hebben een enkele keer op de methode VTS zelf gereflecteerd. b.v. De facilitator probeerde echt de mening van ieder individu te krijgen. Zij vroeg ieder individu wat zij zag en hoe zij de foto interpreteerde. Iedere deelnemer vulde aan op een eerder geopperd argument. Dit zorgde ervoor dat er een steeds nauwkeuriger beeld ontstond van de afbeelding. En Echter, een medestudent suggereerde dat deze figuur wellicht een sigaret aanstak. Dit moment toonde hoe perspectieven veranderen na het horen van anderen, en de impact van externe meningen op onze interpretatie van beelden. Het illustreerde de dynamiek van gedeelde interpretatie in een VTS gesprek. En sessies vergeleken: Ik merkte dus dat er na het eerste scenario meer de breedte in gedacht werd en dat mensen naar nieuwe dingen in de afbeelding gingen zoeken die iets zouden kunnen toevoegen aan het al bestaande verhaal. In de andere VTS sessies was dit naar mijn idee minder het geval, er waren toen meer verschillende scenario's. En Opvallend was dat veel deelnemers terughoudend waren, waardoor de gespreksleidster de dialoog moest beginnen door vragen te stellen. Ze heeft meerdere keren gezegd dat foute antwoorden niet bestaan en elke reactie bijdraagt aan het gesprek. Ik zag dat veel deelnemers zich hierdoor vrij voelden om hun interpretatie openlijk te delen. De reacties werden door de gespreksleidster herhaald en verduidelijkt zodat anderen daar op konden reageren. En ook: Het viel mij daarbij op dat het parafraseren van Ingemarie leek bij te dragen aan het vergroten van de duidelijkheid van de interpretatie van de ene deelnemer, waardoor het makkelijker was voor de andere deelnemer om op het verhaal in te haken.
6. Als ze reflecteren op hun rol als observator, beschrijven ze vrijwel altijd hoe klasgenoten op elkaar reageerden. Winst hier is dat ze wel vaak opmerken dat verschillende perspectieven naast elkaar kunnen bestaan maar dat dat ook gevoelens kan oproepen. *B.v. X denkt dat de mensen niet enthousiast zijn, maar de mensen kijken m.i. neutraal en niet perse verveelt o.i.d. Zij geeft ook aan dat de mensen heel netjes gekleed zijn, dat zie ik ook. X heeft dus een redelijk ander inzicht dan dat ik heb. Ik vind het apart dat je zou denken dat het om een bruiloft gaat, aangezien de mensen op de foto toch duidelijk heel jong zijn. Ik voel daar wat frustratie bij maar ook vind ik het raar dat iemand zo'n ander beeld kan hebben bij hetzelfde plaatje. Ander voorbeeld: Opvallend was dat velen hun conclusies trokken op basis van aannames. Als observator leerde ik het belang van diverse perspectieven waarderen en niet te snel conclusies te trekken. En Als observator van het gehele proces verbaasde het me om te zien dat iedereen een compleet ander verhaal kan hebben bij de afbeelding. Ik heb gemerkt dat elk persoon zich kan focussen op een specifiek detail in de afbeelding.*
7. Studenten melden regelmatig dat ze zien dat klasgenoten vaak op elkaars ideeën doorbouwen. *B.v. Het viel op dat de eerste student begon over de baby in de afbeelding [afbeelding Salomonsoordeel] en dat op die gedachte werd voortgeborduurd. En ook: Het was interessant om te zien hoe iedereen langzaam steeds meer details ontdekt in de afbeelding. De details in de afbeelding stapelden zich op tot er een verhaal om de afbeelding werd gevormd.*
8. Het VTS gesprek biedt ook ruimte om kennis over te dragen binnen de peergroup, *B.v. Wat een 'Salomonsoordeel' inhoudt weet ik niet. Of moedigt aan tot het zoeken van meer informatie over een onderwerp, b.v. Ik merkte dat tijdens het gesprek van de deelnemers het woord salomonsoordeel viel. De betekenis hiervan wist ik eigenlijk niet helemaal, dus ik zocht het op. Bij het lezen van de betekenis begreep ik direct wat de deelnemer bedoelde en zag het zelf ook*

*direct aan allerlei aspecten in de afbeelding. En Toen ik later de reveal las [online discussie NYT], stond er aangegeven dat het een foto is van een feest waar iedereen verkleed is als Helen Roper, een karakter in de serie 'Three's Company'. Zelf heb ik nog nooit van deze serie of dit karakter gehoord, maar toen ik deze naam googelde zag ik zeker de gelijkenissen! Meer willen weten hangt ook samen met de behoefte om 'gelijk te hebben', b.v. Ik had het dus juist met betrekking tot het feest, maar het verhaal over de Teletubbie klopte niet, ze is verkleed als alien. En Ik zat deze keer dus best dicht in de buurt!*

9. Dat VTS ook als lastig wordt ervaren, qua observatievaardigheden en gevoelens die ervaren worden blijkt uit de volgende reflectie over de eigen ervaring: *Deze reflectie gaat over de afbeelding met de man op de verhoging die naar beide kanten wijst. Ook hier vond ik het enorm lastig om er een context uit te halen. Het speelt zich duidelijk af in het verleden, dit leid ik af uit de kledingstijlen die de mensen op de afbeelding dragen. Later bij het gesprek wijzen mijn medestudenten op het feit dat er twee babylijkjes in de afbeelding voorkomen, die waren mij nog niet opgevallen toen. De emotie die deze VTS sessie bij mij heeft opgeroepen is eerlijk gezegd vooral frustratie. Frustratie omdat ik niet weet waar het precies over gaat waarschijnlijk, dit leidt dan denk ik tot een gevoel van onmacht. Ik vind het denk ik alleen leuk om dingen te analyseren als ik me in staat voel om precies te achterhalen wat er gebeurt dan dat ik enkel maar een beetje zit te gissen.* Kennis doet pijn, verklaarde Wetenschapsfilosoof Josette Jacobs, je wordt je bewust van je eigen gebrek aan kennis of onvermogen en moet soms overtuigingen loslaten. Unhappy learning noemt Kok dat, bouwend op Slice, en is volgens hen noodzakelijk voor leren. Wat ook lastig is voor de studenten is om hun eigen mening te laten horen: *Er was maar één dame die ik als onafhankelijke denker zag en die de afbeelding in een totaal ander licht zag, wat ik eigenlijk wel respecteerde, aangezien zij haar mening vooralsnog liet horen, ondanks dat het afweek van de rest.* Ook komen er soms door de afbeeldingen heel persoonlijke gevoelens naar boven (mogelijk zitten die in de weg, voortaan aandacht aan besteden) *Tijdens het VTS gesprek kreeg ik bij het zien van dit plaatje meteen een somber gevoel. Doordat het zo donker is en de mensen zich gesloten opstellen kwam bij mij sterk het gevoel naar boven dat de man en de vrouw in het plaatje ontroerd zijn en een emotioneel gesprek hebben. Daarnaast kreeg ik de indruk dat de man en de vrouw in het plaatje een relatie hebben, omdat ze zo dicht tegen elkaar aan zitten en het voelt alsof ze elkaars steun nodig hebben. Hierdoor ervaarde ik de emotie die ik voelde toen het uitging met mijn vorige vriend. Aan het einde van de relatie voelde het namelijk alsof we ons begaven in een uitzichtloze en donkere situatie, en dat ervaarde ik gelijk bij het zien van deze afbeelding.* En ook *Ik voelde mij een beetje onzeker dat ik iets heel anders zag, maar uiteindelijk kwam ik erachter dat iedereen gewoon samen zoekende was wat er nu gebeurde dus de sfeer was positief.*
10. Duidelijk merkbaar is het als een student niet bij de live sessies erbij was, vooral waar het gaat om de reflecties op de rollen. die blijft dan erg mager en oppervlakkig. Ook dat moet kennelijk geleerd worden.
11. Opvallend: kledingstijl van de foto met de pruiken wordt jaren 90 geschat door behoorlijk wat studenten. Hoe komt dat? Was dat wellicht in de eerste comment? Of hebben ze contact gehad met elkaar?

12. Mooie reflectie over hoe veilige leeromgeving voelt: Ik voelde mij begrepen zonder dat ik gesproken had, omdat dezelfde gedachtes die ik had over het schilderij werden uitgesproken voor mijn medestudenten. Dit zorgde voor een bepaalde voldoening voor mijzelf. Doordat iemand het schilderij herkende werd ik niet meer verast door iemand met een andere mening bijvoorbeeld.
13. Voorbeeld van student die nut van slow looking leert: Toen ik deelnam aan het gesprek voelde ik me eerst ongemakkelijk. Het voelt een beetje onnatuurlijk om daadwerkelijk te beschrijven waarom je iets ziet zoals je het ziet. Normaliter ben ik gewend om heel snel te denken, waardoor ik niet eens stil sta bij de gedachte waarom ik iets daadwerkelijk zo opvat. Ik merkte wel dat naarmate er meerdere studenten gingen reageren en er een gesprek op gang kwam, het veel makkelijker werd en natuurlijker voelde. Er moest een soort knop omgezet worden, waardoor ik eigenlijk voor mezelf een veel betere analyse maakte van de afbeelding dan ik normaal zou doen. Het was goed om eens een keer een realisatiemoment te hebben dat ik ook bij alledaagse afbeeldingen die misschien in het eerste opzicht heel simpel lijken, toch even stil moet staan bij wat ik nu daadwerkelijk zie en waarom ik dat zie. En een andere: Toch vond ik het dan soms bijzonder om te horen wat andere studenten als betekenis van een afbeelding zagen, waardoor ik soms een reality check kreeg. Daarom merkte ik dat ik het heel leerzaam vond om eens te horen hoe andere studenten denken. Ik vond het vooral ook vermakelijk om te zien dat je een op het eerste gezicht simpele afbeelding op zoveel verschillende manieren kan opvatten. Het zorgt ervoor dat ik nu op sommige momenten eerst even stil sta wat ik ergens nu precies in zie, voor ik ermee aan de slag ga. En ook: Hoe langer het gesprek duurt hoe meer details worden ontdekt.
14. Waarom VTS ook lastig is: Deze rol [deelnemer] vervullen vond ik het lastigste. Je bent niet meer alleen gefocust om wat er wordt gezegd en wat je zelf hiervan denkt, maar ook constant in je hoofd bezig met 'wat ga ik zeggen?' 'Val ik in herhaling of is dit een nieuwe toevoeging?'. Het valt me op dat ik hierdoor minder gefocust ben op wat mijn gedachtegang is. Ander voorbeeld: Alhoewel er geen goed of fout antwoord is, kreeg ik het gevoel dat ik niet goed genoeg naar de afbeelding heb gekeken en dat de gedachten van de anderen beter bij de realiteit van de afbeelding passen. Ik merk dat ik dus vaak en snel meega met het verhaal die anderen in de afbeelding zien en mijn eigen interpretatie als fout of onvoldoende beschouw. Ander voorbeeld: Ik vond het in het begin niet erg prettig om mijn mening met de studenten te delen, omdat er toch het idee in je hoofd zit dat jij de enige bent die zo denkt. Gelukkig was dit niet het geval, aangezien verschillende studenten in dezelfde richting dachten als ik. Hierdoor kreeg ik wel het gevoel dat mijn kijk op de afbeelding een soort van goedgekeurd werd. Ik zou misschien niet snel weer uit mezelf opspreken, maar het was achteraf minder vervelend dan dat ik had verwacht.
15. Voorbeeld van realisatie dat kennis meteen een bias geeft: Iemand benoemt dat er sprake is van een Salomonsoordeel. Dit vond ik eigenlijk jammer, want hierna herkende ik dit ook meteen. Dit resulteerde in dat ik niet meer met een open blik keek naar het schilderij, gezien ik de 'waarheid' nu toch al wist. Dit maakt deze sessie voor mijn gevoel wat minder interessant. Als andere toch nog iets zeiden wat niet paste bij het Salomonsoordeel, vond ik ook dat zij meteen geen gelijk hadden. En ook: Het was interessant om te zien dat er een soort onderscheid kwam tussen mensen die dit verhaal wel en niet kenden, omdat hun mening

- over de afbeelding hier vervolgens anders door was. En ook: Uiteindelijk kleurt de kennis over de titel van het werk hoe we ernaar kijken.
16. Studenten realiseren zich ook dat ze hun standpunten al dan niet aanpassen aan die van anderen en dat het proces bijdraagt aan gezamenlijk tot betekenis komen, bijv: *Ik vond het leuk om deel te nemen aan het gesprek. Immers, wanneer je voor het eerst een afbeelding ziet, ontwikkel je onmiddellijk je eigen unieke kijk. Echter, zodra je actief deelneemt aan het gesprek, merk je al snel dat je je standpunt aanpast aan de visies van andere deelnemers. Het is opvallend hoe je gezamenlijk werkt om verschillende aspecten van de foto te ontrafelen, en ik genoot echt van deze interactie. Je merkt sterk dat je samen met anderen helpt om verschillende facetten van de afbeelding te verklaren. Je visie op de foto verandert voortdurend omdat iedereen natuurlijk een andere interpretatie heeft. En ook: De meeste mensen in de reacties dachten dat dit wel zo was. Ik ga dan automatisch meer twijfelen over mijn eigen antwoord. Heb ik het dan eigenlijk wel goed gezien? Als zoveel mensen dat antwoord hebben dan kan die van mij toch niet kloppen? Toch blijf ik het niet zien als stretchoefening. Ik denk dat het ook goed is dat verschillende mensen, verschillende dingen opvallen in een foto. Verschillende inzichten over bijvoorbeeld dezelfde foto zijn wel belangrijk.*
  17. Actief meedoen tijdens VTS sessies is spannend: *Tijdens de laatste sessie was ik een actieve deelnemer, en dit had ik eigenlijk bewust uitgesteld omdat ik het toch wat spannend vond. Het is toch uit je comfortzone stappen om iets te zeggen over een afbeelding waar jezelf niks vanaf weet. Het voelt toch een beetje als zelf iets verzinnen en aannemen, wat iets is dat niet veel juristen graag doen. Maar door de druk van een verplichting heb ik toch meegedaan aan de sessie. Ik merkte dat ik redelijk inspeelde op de verhalen van anderen, om het een verhaal te maken. Dit gebeurde ook wel omdat mijn gedachten vanaf het begin al aansloten met de denkwijzen van anderen. Ander voorbeeld: Wat mij ook opviel is dat naarmate het gesprek vorderde, steeds meer studenten zich comfortabeler voelden in het delen van hun mening. En ook: Het delen van mijn gedachten voor een grote groep mensen maakte mij zenuwachtig. Ik voelde in eerste instantie weerstand om te spreken. Toen ik mijn visie op de afbeelding had gedeeld, voelde ik dat er nog adrenaline in mijn lichaam aanwezig was. Aan de andere kant kwam er ook een trots gevoel naar boven, alsof het een kleine overwinning was op mijn angsten.*
  18. Communiceren over wat je waarneemt is lastig. B.v. *Als deelnemer van het gesprek heb ik gemerkt dat het redelijk lastig is om al je gedachten en al dat wat je ziet duidelijk te communiceren naar de anderen. Zo zijn mijn gedachten bij het zien van de afbeelding veel uitgebreider dan hetgeen dat ik uiteindelijk deel met de rest. Doordat je continu naar de afbeelding blijft kijken, komen er ook steeds andere gedachten en ideeën naar boven. Hierdoor vergat ik het om bepaalde details die ik had gezien te delen en lukt het dus niet om mijn interpretatie van de afbeelding in zijn volledigheid met de anderen te delen. Ik heb het idee dat mijn verhaal daarom niet helemaal te volgen was door de rest.*
  19. Studenten ervaren de sessies ook als leuk en leerzaam: *ik genoot echt van deze interactie. Je merkt sterk dat je samen met anderen helpt om verschillende facetten van de afbeelding te verklaren En: Ik krijg er een blij gevoel van als ik deelneem aan de VTS sessies. En: Ik vond zelf de VTS sessies doen een leuke ervaring, omdat het mij heeft geleerd om op een andere manier naar afbeeldingen te kijken. Door jezelf vragen te stellen bij het observeren ga je toch op andere dingen*

letten en proberen connecties te leggen. Ook dacht ik normaal niet na bij waarom ik iets op een bepaalde manier interpreteer. Door je dit juist af te vragen en specifiek te benoemen waarom je dat denkt ga je nog meer op details letten. En nog een: We kijken deze sessie naar het Salomons Oordeel. Los van de inhoudelijke kennis die ik daarover heb, is het leuk om te horen hoe andere studenten, die minder bekend zijn met het verhaal, kijken naar deze afbeelding. Omdat zij een hele specifieke nadruk leggen op bepaalde onderdelen van de afbeelding, ga je jezelf focussen op figuren waar je anders minder aandacht aan zou schenken, omdat deze in het verhaal wat meer op de achtergrond acteren. En: Het was interessant om te zien dat elke deelnemer een andere interpretatie van de gebeurtenis op de foto had. Tevens werd er met respect naar elkaar geluisterd. Ik had het gevoel alsof alle deelnemers het als een fijne ervaring ervaarden. Een student vatte samen wat die geleerd had: Ik vond het een interessante ervaring. Ik heb hierdoor gemerkt dat ik nauwelijks stil sta bij mijn emoties als ik naar een kunstwerk kijk. (...)Hoe langer ik naar het beeld kijk hoe intenser mijn emoties worden. Ik heb geleerd om tijd te nemen en stil te staan bij mijn eigen emoties, voordat ik blindelings de emoties van anderen overneem. Ik heb geleerd om aandachtig naar andere deelnemers te luisteren om zo kritisch, maar toch respectvol, te reageren op wat zij zagen. Hierdoor werden mijn eigen inzichten verbreed. Ik heb geleerd om kritisch na te denken over hetgeen wat ik zie en mijn interpretaties goed te onderbouwen. Kritische reacties op mijn observaties en perspectieven van andere deelnemers hebben mij nieuwe inzichten gegeven. En ook: Tijdens het vak Bestuursrecht in de Praktijk hebben we kennisgemaakt met Visual Thinking Strategies (VTS), een concept waar ik nog niet eerder van had gehoord. Ik werd positief verrast door de impact ervan. Gedurende de colleges hebben we samen gereflecteerd op wat we zien in bepaalde afbeeldingen en hoe verschillend onze perspectieven kunnen zijn bij het bekijken van dezelfde afbeelding. Ik vond dit ontzettend interessant en het verbaasde mij hoeveel verschillende dingen we kunnen zien in dezelfde afbeelding. En ook Ik vond het een interessante manier van lesgeven, omdat dit heel erg nieuw is voor iedereen. Ook vond ik de gesprekken interessant, omdat je merkt dat iedereen een andere blik op een afbeelding heeft.

20. Studenten zoeken naar erkenning en bevestiging en vinden dat als ze hun gedachten gedeeld worden door anderen: Doordat dit ook als eerste in mijn gedachten opkwam, voelde ik een bevestiging. Dit bevestigde vooral het gevoel dat ik het goed had en dit gaf mij ook een stukje erkenning En: Ik vond het leuk om te horen wat zij in de afbeelding zagen. Ook om te controleren of mijn gedachten overeenkomen met die van andere studenten. Zodra iemand een gedachte deelde die ik ook in mijn hoofd had zitten voelde ik mij goed. Ik zag dit als een soort bevestiging dat mijn denkwijze overeenkomt met die van andere mensen. En: ondervinden studenten dat alle reacties ertoe doen: Nadat de eerste paar opmerkingen gemaakt waren en de eerste gedachten uitgewisseld waren heb ik ook meegedeeld wat mij opviel in de afbeelding. Ik vond het zelf een voor de hand liggende en weinig-toevoegende opmerking. Toch was het goed om iets aan het gesprek toe te voegen, omdat een andere student hier later nog een opmerking over gemaakt had en daarbij ook weer wat toevoegde aan de observatie. Naast de colleges kregen we ook de kans om te reageren op afbeeldingen via de Amerikaanse (online) krant New York Times. Na het invullen van mijn eigen antwoorden heb ik regelmatig gekeken naar de perspectieven van mensen over de hele wereld op dezelfde afbeeldingen. Het was ontzettend interessant om te zien hoe verschillende mensen over de hele wereld denken over eenzelfde afbeelding.



21. De keuze van de afbeeldingen is belangrijk, het effect heel individueel: *Mijn oog viel gelijk op de grotere details en de gelukkige moeder met haar kinderen. Het lijkt erop dat de kinderen een leuke tijd doorbrachten met hun moeder en samen een boek aan het lezen waren. Dit deed me denken aan mijn eigen kinder>jd waarin ik vaak speelde met mijn moeder. Vervolgens zag ik de toekijkende man en moest ik direct aan mijn opa denken. De houding lijkt namelijk precies op de houding van mijn opa. Daarnaast keek hij keek altijd toe hoe wij aan het spelen waren. Deze afbeelding heeft mij terug de tijd in gebracht, wat me erg gelukkig heeft gemaakt. En: Daarbij viel het me ook op dat de deelnemers weinig op zichzelf te vertellen hadden, ze vulden elkaars meningen voornamelijk aan. Aan de andere kant begreep ik dit ook wel, omdat het niet een afbeelding is met veel aspecten erin verwerkt. En: In deze afbeelding zijn veel elementen verwerkt, daardoor viel er veel over te spreken. Ik was blijbaar niet de enige die zo dacht, Want mijn medestudenten waren me voor! Ik hoorde vaak precies wat door mijn hoofd heen ging. En: Wat ik vooral merkte deze keer, is dat ik meer tijd nodig had om de gehele afbeelding tot me op te nemen en alle elementen goed te zien. In tegenstelling tot vorige VTS sessie, is deze afbeelding veel gedetailleerd en is er veel meer afgebeeld enerzijds. Anderzijds spreekt dit afbeelding veel meer emotionele geladen boodschap uit, waardoor je telkens stil blijft bij bepaalde gedachtes die dan opkomen bij het zien van deze informatie uit de afbeelding.*
22. Duidelijk is dat er niet gereflecteerd wordt maar slechts feiten beschreven, dat wat er gebeurde. Eruit geconcludeerd zou kunnen worden dat deze studenten tot nog toe in hun opleiding onvoldoende geleerd hebben om te reflecteren: *Er werd gesteld dat er nog sprake was van de pandemie en dit werd gezien door de mondkapjes. De linker man had een bepaalde lichaamshouding waardoor het leek volgens sommige dat hij zich niet goed voelde. Iemand anders stelde dat er juist sprake was van een liefdevolle omhelzing en dat de 3e persoon ook mee wilde knuffelen. Het soort tekening werd herkend als een soort tekening wat vaak in de rechtszaal wordt gemaakt. Dit werd herkend aan de style van het tekenen en de formele kledingstyle. Ook stelde nog iemand dat de meest rechterpersoon een bodyguard was.*
23. En ook het reflecteren van de eigen ervaring is regelmatig vertaald naar gedachten over wat er te zien is: *Observeerder van je eigen ervaring - Het is eerste idee dat ik hierbij krijg is een oude rechter. Het lijkt alsof er een schuldige is en een slachtoffer waarbij het lijkt alsof het persoon die wijst een dood kind in zijn handen heeft. Daarbij staat er veel publiek omheen als toeschouwers. Het lijkt alsof de man op de troon boven iedereen staat in een hiërarchische manier en de verhalen aanhoort en daarna erover gaat oordelen. Daarna zie ik ook dat er links in het beeld een baby op de kop wordt vastgehouden. Hoe langer ik er naar kijk hoe meer ik het idee krijg dat het persoon die wijst de andere persoon beschuldigd van de dood van haar kinderen.*
24. In de reflecties lijkt het mogelijk om terug te kunnen zien of studenten er bij de livesessies bij waren. Waren ze er niet dan zijn de reflecties plat, worden vaak alleen feiten genoemd. Die live-sessie zijn daarom m.i. ook belangrijk om te leren reflecteren, dieper te gaan dan de waarneembare feiten met interpreteren van een complexe situatie en het overzien wat je ergens van leert.
25. Studenten zijn kritisch op VTS, regelmatig verveeld en ongeduldig gemaakt, maar ook gematigd positief, en enthousiast: (...) blij dat deze colleges afgewisseld werden met de leuke

VTS sessies van u, mevrouw Sam. Dit zorgde voor een goede interactie tussen de studenten tijdens het college en het heeft mij geleerd om vanuit verschillende perspectieven naar iets te kijken, hiermee bedoel ik niet alleen kunst of schilderijen, maar ook naar situaties waar ik in het dagelijks leven soms tegen aan loop. Om als voorbeeld te noemen: in plaats van boos zijn omdat de trein niet rijdt, luisteren naar mijn reisgenoten om tot een alternatieve oplossing te komen die wel werkt. Ik wil jullie graag bedanken voor de colleges en de tijd die jullie in ons als studenten willen steken. Ik vond het een genoegen. (...)

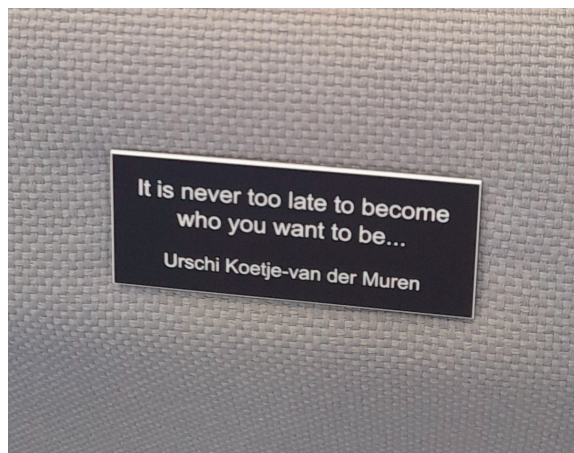




# ACKNOWLEDGMENTS

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Underneath the chair I always sat during the lectures of Maurice Adams in Cube 1, Tilburg University Campus...

## EEN SPECIAAL DANKJEWEL

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